2017

# Legislative Digest


California District Attorneys Association

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CALIFORNIA
DISTRICT
ATTORNEYS
ASSOCIATION

# Legislative Digest

## — 2017 Edition —

**by**

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# Business and Professions Code

**B&P 146**
(Amended)
(Ch. 454) (AB 1706)
and
(Ch. 775) (SB 798)
(Section 4.5)
(Effective 1/1/2018)

Adds B&P 2474 and 2570.3 to the list of misdemeanor crimes that may instead be prosecuted as infractions. B&P 2474 is the misdemeanor crime of advertising as a podiatrist without a license. B&P 2570.3 prohibits practicing occupational therapy without a license; pursuant to existing B&P 2570.23, it is a misdemeanor crime punishable by up to one year in jail and/or by a fine of up to $5,000.

**B&P 2533.1**
(Amended)
(Ch. 454) (AB 1706)
(Effective 1/1/2018)

Adds cross-references to P.C. 1203.4a and 1203.41 to this section that previously cross-referenced only P.C. 1203.4. Continues to authorize the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board to use a conviction relating to the qualifications, functions, and duties of a speech-language pathologist or audiologist to impose discipline or to deny a license, even if the defendant has been permitted to withdraw his/her guilty or nolo contendere plea and the conviction has been dismissed.

[P.C. 1203.4a permits the dismissal of a misdemeanor where probation was not granted, or the dismissal of an infraction, after the defendant has complied with the sentence and lived a law-abiding life. P.C. 1203.41 permits the dismissal of a P.C. 1170(h) Realignment felony one or two years after completion of the sentence. P.C. 1203.4 permits the dismissal of a felony or misdemeanor after probation is successfully completed.]

**B&P 6054**
(Amended)
(Ch. 422) (SB 36)
(Effective 1/1/2018)

Authorizes the State Bar to require current members to resubmit fingerprints to the Dep't of Justice (DOJ). Provides that a member who fails to be fingerprinted may be enrolled as an inactive member. Requires the State Bar to request subsequent arrest notification service from DOJ. Requires the State Bar to report its compliance with B&P 6054 to the California Supreme Court by March 15, 2018.

**B&P 6074**
(New)
(Ch. 401) (AB 360)
(Effective 1/1/2018)

Requires the State Bar to administer a program to coordinate pro bono civil legal assistance to veterans and their families who cannot afford legal services. Among other things, requires the State Bar to compile a list, organized by city and county, of local bar associations, legal aid organizations, veterans' service providers, and volunteer attorneys willing to provide pro bono legal services, and post the list on its Internet Web site.

**B&P 6103.7**
(Amended)
(Ch. 489) (AB 291)
(Effective 1/1/2018)

Adds civil and administrative actions regarding residential real property to those civil and administrative actions (relating to employment) for which an attorney is subject to suspension, disbarment, or other discipline for reporting or threatening to report the suspected immigration status of a witness or party to a civil or administrative action, or a family member, to a federal, state, or local agency because the witness or party exercises or has exercised a right related to his or her employment or related to the hiring of residential real property.

**B&P 6140**
(New)
(Ch. 422) (SB 36)
(Effective 1/1/2018)

Sets the base State Bar annual membership fee at $315 for 2018. With additional authorized fees of up to $75, total dues for 2018 would be $390 for active members. The additional $75 comes from $40 for the client security fund (B&P 6140.55), $25 for the disciplinary system (B&P 6140.6), and $10 for the lawyer assistance program (B&P 6140.9).

**B&P 7200**
(Repealed & Added)
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**B&P 7217**
(Repealed)
(Ch. 669) (AB 1705)
(Effective 1/1/2018)

Repeals Chapter 9.5 of Division 3 of the Business and Professions Code entitled "Guide Dogs for the Blind," which had 31 code sections, and adds a new Chapter 9.5 with the same title, which has only three code sections. In the old version, B&P 7213 had provided that any violation of Chapter 9.5 was a misdemeanor. New Chapter 9.5 provides that a violation of B&P 7200 "is subject to a fine or civil penalty" but does not specify the enforcing entity.

New B&P 7200 contains several prohibitions for which the penalty for violation is a fine or civil penalty. New B&P 7201 defines "guide dog instructor" and "guide dog." New B&P 7202 requires a guide dog school to annually submit to the Dep't of Consumer Affairs a list of trainers and guide dog instructors employed or contracted by the school.

B&P 7200 prohibits the following:

1. Using a sign, business card, letterhead, or ad with the words "guide dog instructor," "certified guide dog instructor," or any other terms implying that a person is an instructor trained in the utilization of guide dogs for the blind; or
2. Representing or holding one's self out as a guide dog instructor, without having knowledge of the special problems of the visually impaired and being able to teach them, without being able to demonstrate the ability to train guide dogs with which blind or visually impaired people would be safe under various traffic conditions, or without being employed by a guide dog school certified by the International Guide Dog Federation, or a successor entity.

**B&P 17533.6.5**
(New)
(Ch. 293) (AB 492)
(Effective 1/1/2018)

Permits a person, firm, corporation, or association that is a non-governmental entity to solicit a fee from an individual person, residence, or business location, for providing a copy of a public record if the solicitation contains a clear and conspicuous disclosure and does not imply that the solicitation is from a governmental entity or is approved by a governmental entity.

Requires the disclosure to contain a disclosure statement in at least 24-point type that the solicitation is an advertisement and is not being made by a government agency, that the recipient is not required to make any payment, what the fee is that a state or local agency would charge for a copy of the record, the information necessary to contact the state or local agency that actually has custody of the record, and the name and physical address of the non-governmental entity soliciting the fee. Prohibits the above information being surrounded by symbols, terms, or other content that results in the disclosures not being conspicuous, and prohibits symbols or terms that modify, qualify, or explain the text of the disclosures. Prohibits the solicitation from being in a form or containing language or content that could be interpreted or construed as implying it is from a government agency, or is approved by a government agency, or that the consumer has a legal duty or is required to make a payment to the non-governmental entity.

Authorizes a district attorney, the Attorney General, or a city attorney to bring a civil action against a violator of this section. Permits the court to order the violator to refund moneys paid by a victim. Requires the court to impose a civil penalty of up to $100 for each solicitation document distributed in violation of this section and up to $200 for each "subsequent document" distributed in violation of this section. Provides that the civil penalty is payable to the general fund of whichever governmental entity brings the action. Specifically provides that this section is *not* subject to any criminal penalty or to B&P 17534 (which provides that a violation of B&P 17500–17606 is a misdemeanor crime).

Defines "solicit" as direct advertising or marketing through writing or graphics and via mail, telefax, or email to an individually identified person, residence, or business location. Provides that "solicit" does *not* include communicating through a mass advertisement, such as a catalog, radio or television broadcast, or Internet Web

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site; or communicating via telephone, mail, or electronic communication if initiated by the consumer; or advertising the sale of public data to other businesses or entities for a legitimate business purpose, including to government agencies.

Provides that this new section does *not* apply to a title insurance company authorized to do business in California, or to the title company's authorized agent.

[Uncodified Section One of this bill contains the Legislature's findings and declarations about the increasing number of complaints to the California Dep't of Justice regarding misleading solicitations mailed to consumers' homes, and that most of the complaints involve companies impersonating the office of the Secretary of State.]

[Existing B&P 17533.6 continues to be the misdemeanor crime of a non-governmental entity unlawfully using a seal, emblem, insignia, brand name, term, or symbol that reasonably could be interpreted or construed as implying a federal, state, or local government, or military approval or endorsement of a product or service.]

**B&P 17602**
(Amended)
(Ch. 356) (SB 313)
(Effective 7/1/2018)

Strengthens protections for consumers relating to automatic renewal offers and continuous service offers. Requires that if an offer includes a free gift or trial, the offer must include a clear and conspicuous explanation of the price that will be charged after the trial ends, or the manner in which the subscription or purchasing agreement pricing will change when the trial ends.

Prohibits the charging of a consumer's credit or debit card without first obtaining the consumer's affirmative consent to the terms of an automatic renewal offer or continuous service offer that is made at a promotional or discounted price for a limited period of time.

Requires that if an automatic renewal offer or continuous service offer includes a free gift, the business must disclose in the acknowledgment how to cancel, and must permit cancellation before the consumer pays for the goods or services.

Requires that a consumer who accepts an automatic renewal or continuous service offer online, be allowed to terminate the service online.

**B&P 19300–19360**
(Repealed)
(Ch. 27) (SB 94)
(Effective 6/27/2017)

**T**he Medical Cannabis Regulation & Safety Act (MCRSA: B&P 19300–19360) is repealed.

It had been in Chapter 3.5 of Division 8 of the Business and Professions Code and had established a licensing and regulatory framework for the cultivation, manufacturing, testing, dispensing, distribution, and transportation of *medical* marijuana.

This bill changes the name of Division 10 of the Business and Professions Code (B&P 26000–26231.2) from "Marijuana" to "Cannabis" and is now known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). It applies to *both* non-medical and medical marijuana. See B&P 26000–26231.2, below.

**B&P 19961.05**
(New)
(Ch. 244) (SB 654)
(Effective 1/1/2018)

Permits a city or county, notwithstanding B&P 19961 and 19962, to amend its ordinance to increase the operating hours of a gambling establishment to up to 24 hours a day, seven days a week, without having to submit the issue to the voters.

[Existing law in B&P 19961 requires an increase of 25 percent or more in the hours of operation of a gambling establishment to be submitted to the voters. Existing law in B&P 19962(b) provides that a gambling ordinance in effect on January 1, 1996, cannot be amended to expand gaming beyond that permitted on January 1, 1996.]

**B&P 25600**
(Amended)
(Ch. 226) (AB 711)
(Effective 1/1/2018)

Permits a beer manufacturer to provide directly to consumers free or discounted rides through taxicabs, transportation network companies, or any other ride service, for the purpose of furthering public safety. Permits the rides to be provided by vouchers, codes, or any other method. Prohibits a free or discounted ride from being conditioned on the purchase of an alcoholic beverage.

**B&P 25608**
(Amended)
(Ch. 119) (SB 228)
(Effective 1/1/2018)

Adds beer produced by a brewery that is owned or operated as part of an instructional program in brewing, as an exception to the misdemeanor crime of possessing, consuming, or selling an alcoholic beverage on public schoolhouse grounds. This amendment is made to subdivision (a)(1), which previously specified as an exception only wine produced by a winery that is owned or operated as part of an instructional program in viticulture and enology. The numerous other exceptions in B&P 25608(a)(2)–(17) are not affected by this bill.

**B&P 26000–26231.2**
(New, Amended, or Repealed & Added)
(Ch. 27) (SB 94)
(Effective 6/27/2017)
and
(Amended)
(Ch. 253) (AB 133)
(Effective 9/16/2017)

SB 94 changes the name of Division 10 of the Business & Professions Code (B&P 26000–26231.2) from "Marijuana" to "Cannabis." Provides that Division 10 is now known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). There is now only one regulatory scheme for cannabis, because Division 10 now applies to *both* non-medical and medical cannabis.

[SB 94 repeals the Medical Cannabis Regulation & Safety Act (MCRSA) which had been in Chapter 3.5 of Division 8 (B&P 19300–19360) and had established a licensing and regulatory framework for the cultivation, manufacturing, testing, dispensing, distribution, and transportation of *medical* marijuana.]

Proposition 64, passed by voters at the November 2016 election, created new B&P 26000–26211 to regulate *non*-medical marijuana for adults age 21 and older. Now B&P 26000–26211, together with new B&P 26220–26231.2, make up Division 10 of the Business & Professions Code and apply to medical and *non*-medical marijuana/cannabis. Many repealed provisions of MCRSA (B&P 19300–19360) are merged into B&P 26000–26231.2.

**A Brief Overview**: Amended B&P 26010 creates a Bureau of Cannabis Control within the Dep't of Consumer Affairs, to administer MAUCRSA. Amended B&P 26012 provides that the Bureau will control and regulate microbusinesses, transportation, storage, distribution, testing, and sales. The Dep't of Food and Agriculture will administer provisions related to the cultivation of cannabis. The State Dep't of Public Health will administer provisions related to the manufacturing of cannabis products. All three entities are authorized to issue, deny, renew, suspend, or revoke licenses pertaining to their areas of cannabis authority.

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Amended B&P 26032 provides for immunity from arrest, prosecution, civil fines, and seizure and forfeiture of assets for actions by a licensee, its employees, and its agents, that are permitted pursuant to a state license, permitted pursuant to a local license or permit if any is required, and conducted in accordance with the requirements of Division 10 and any regulations adopted pursuant to it. Provides the same immunity for a person who in good faith allows his or her property to be used by a licensee or its employees or agents, as permitted by a state license or, if required, as permitted by a local license or permit.

Former B&P 19319 is now amended B&P 20633 and continues to provide that qualified medical cannabis patients and primary caregivers (both defined in existing H&S 11362.7) whose cannabis activities are for the personal use of the patient (or up to five patients in the case of a caregiver) are exempt from licensure.

New B&P 26135 permits a peace officer to seize cannabis and cannabis products if either is (1) subject to recall or embargo by any licensing authority; or (2) is subject to destruction pursuant to Division 10; or (3) is seized related to an investigation or disciplinary action for a violation of Division 10.

B&P 26200 is amended to add a new subdivision (b) providing that Division 10 (Cannabis: B&P 26000–26231.2) shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

New B&P 26220–26231.2 is in Chapter 22 of Division 10 and is entitled "Cannabis Cooperative Associations." New B&P 26223 permits three or more persons who are engaged in the cultivation of any cannabis product to form an association for the purpose of cultivating, marketing, selling, growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling the cannabis product of its members. Pursuant to new B&P 26222, the purpose of this new chapter is to "promote, foster, and encourage the intelligent and orderly marketing of cannabis product through cooperation," eliminate speculation and waste, make cannabis distribution as direct as possible, and stabilize the marketing of cannabis product.

# Civil Code

**Civil Code 52.6**
(Amended)
(Ch. 547) (AB 260)
and
(Ch. 565) (SB 225)
(Section 1.5)
(Effective 1/1/2018)

Adds hotels, motels, and bed and breakfast inns to the list of entities (e.g., airports, train stations, bus stations, truck stops, emergency rooms, roadside rest areas) that are required to post a human trafficking resources notice.

Adds to the human trafficking notice a number that can be texted, in addition to the existing number that can be called. The text number is 233-733 (Be Free).

Requires the Dep't of Justice to revise the model notice to include the text number and to make the model notice available for download on its Internet Web site, by January 1, 2019. Provides that a business or establishment required to post the notice is not required to post the updated notice until on or after January 1, 2019.

Continues to provide that a business or entity failing to post the notice is liable for a civil penalty of $500 for a first offense and $1,000 for a subsequent offense. Continues to provide that a district attorney, county counsel, city attorney, or the Attorney General may bring an action to impose the civil penalty if the business or entity fails to correct the violation within 30 days of being notified about it.

**Civil Code 1550.5**
(New)
(Ch. 530) (AB 1159)
(Effective 1/1/2018)

Provides that commercial activity relating to medicinal cannabis or adult-use cannabis conducted in compliance with California law and any applicable local regulations is deemed to be all of the following:

1. A lawful object of a contract;
2. Not contrary to an express provision of law, or any policy of express law, or good morals; and
3. Not against public policy.

(Existing Civil Code 1667 provides that an unlawful contract is one that is contrary to an express provision of law, or contrary to the policy of express law, or contrary to good morals.)

[This bill also amends Evidence C. 956 to provide that the crime/fraud exception to the attorney-client privilege does not apply to legal services rendered in compliance with

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state and local laws on medicinal cannabis or adult-use cannabis issues, and that confidential communications for the purpose of rendering cannabis services are confidential lawyer-client communications, if the attorney also advises the client about conflicts with federal law. In other words, it is legal for an attorney to provide advice about conducting cannabis business operations in compliance with state and local laws, without violating ethical duties or compromising the attorney-client privilege, despite the conflict with federal law.]

**Civil Code 1670.9**
(New)
(Ch. 494) (SB 29)
(Effective 1/1/2018)

Restricts the ability of a city, county, and local law enforcement agency to contract for the housing or detention of non-citizens for purposes of civil immigration custody.

Prohibits a city, county, or local law enforcement agency that does **not**, as of January 1, 2018, have a contract with the federal government or a federal agency or a private corporation to house or detain non-citizens for purposes of civil immigration custody, from entering into a contract to house or detain in a locked detention facility non-citizens for purposes of civil immigration custody. Thus, if no immigration housing/detention contract exists on January 1, 2018, that city, county, or agency is banned from entering into any such contract.

Prohibits a city, county, or local law enforcement agency that **has**, as of January 1, 2018, an existing contract with the federal government or a federal agency or a private corporation to detain non-citizens for purposes of civil immigration custody, from renewing or modifying the contract in order to increase the number of contract beds that may be used to house or detain in a locked detention facility non-citizens for purposes of civil immigration custody. Thus, if a city, county, or agency does have an immigration detention contract on January 1, 2018, it cannot thereafter be expanded.

Requires public notice and hearings before land or buildings may be used by a private entity to house or detain non-citizens for purposes of civil immigration proceedings. Prohibits a city, county, or public agency, on or after January 1, 2018, from approving or signing a document relating to a conveyance of land or from issuing a permit for the building or reuse of existing buildings by any private corporation,

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contractor, or vendor to house or detain non-citizens for purposes of civil immigration proceedings, unless the city, county, or public agency has done both of the following:

1. Provided notice to the public of the proposed conveyance or permit action at least 180 days before execution of the conveyance or permit; and
2. Solicited and heard public comments on the proposed conveyance or permit action in at least two separate meetings open to the public.

[Uncodified Section One of this bill contains the Legislature's declaration that California does not tolerate profiting from the incarceration of Californians held in immigration detention and also contains the Legislature's intent to ensure the uniform treatment of individuals detained in immigration facilities.]

[Similar provisions are in Gov't C. 7310 and 7311, which became effective June 27, 2017 as a part of AB 103.]

**Civil Code 1670.10**
(New)
(Ch. 761) (AB 1491)
(Effective 1/1/2018)

Provides that a contract entered into on or after January 1, 2018, to transfer ownership of a dog or cat where payments are made over a period of time after possession of the dog or cat is transferred, is void as against public policy. Also provides that a contract entered into for the lease of a dog or cat that provides for, or offers the option of, transferring ownership of the dog or cat at the end of the lease term is void as against public policy. Thus, this new section prohibits retail installment contracts, rent-to-own contracts, and lease contracts in order to transfer ownership of a dog or cat. Provides that a consumer who takes possession of a dog or cat under this type of contract is deemed the owner of the animal and is entitled to the return of all amounts paid under the contract. Does not affect contracts for the temporary possession of a dog or cat for breeding purposes.

[The concerns expressed in the legislative history of this bill include the large amount of interest some consumers end up paying because they are unaware they are entering into a lease contract rather than a purchase contract, and the high likelihood that an animal will end up in a shelter if the consumer defaults on payments and the animal is repossessed by a third-party financing company.]

**Civil Code 1694**
**Civil Code 1694.1**
**Civil Code 1694.2**
**Civil Code 1694.3**
(Amended)
(Ch. 578) (AB 314)
(Effective 1/1/2018)

Amends the Dating Service Contract chapter of the Civil Code to add provisions relating to online dating services. Provides that cancellation of a contract with an online dating service occurs when the buyer gives written notice of cancellation by email to an email address provided by the seller. Permits additional electronic means of cancellation to be provided by the seller. Provides that an online dating service contract may be an electronic writing made available for viewing online. Permits an online dating service to provide a copy of a contract by having it available through a direct link on the Internet Web page where the buyer consents to the agreement. Requires an online dating service, upon request by the buyer, to provide a PDF format or retainable digital copy of the contract.

Provides that an online dating service may comply with obligations to inform a buyer about his or her right to cancel a dating contract within three days, by including cancellation information in a stand alone first paragraph of the contract.

Provides that online dating services that are generally available to users on a regional, national, or global basis are not subject to cancellation if a buyer moves his or her residence.

Requires online dating services to maintain a reference or link to dating safety awareness information, and a means to report issues or concerns relating to the behavior of other users of the online dating service.

**Civil Code 1939.23**
(Amended)
(Ch. 163) (SB 466)
(Effective 1/1/2018)

Adds a rental vehicle that is the subject of an Amber Alert (Gov't C. 8594) to the list of circumstances under which a rental car company may use electronic surveillance technology (e.g., GPS) to locate the vehicle. Rental companies continue to be able to use electronic surveillance technology to locate stolen, missing, or abandoned rental vehicles. With this amendment, rental car companies are able to use GPS to locate a vehicle before it is reported stolen and without being subject to civil liability, if there is an Amber Alert. Requires a rental car company, if it uses the surveillance technology in connection with an Amber Alert, to notify law enforcement that one of its vehicles is the subject of an Amber Alert unless law enforcement has already notified the company about the alert.

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[Gov't C. 8594 permits law enforcement to request that the Emergency Alert System be activated if a child or an individual with a mental or physical disability has been abducted or taken and is in imminent danger of serious bodily injury or death. Note that Silver Alerts (Gov't C. 8594.10) are not mentioned in this bill. A Silver Alert may be activated if a person 65 years of age or older, or developmentally disabled, or cognitively impaired, is missing.]

**Civil Code 1940.05**
**Civil Code 1940.35**
(New)
(Ch. 489) (AB 291)
(Effective 1/1/2018)

Civil Code 1940.35 makes it unlawful for a landlord to disclose to an immigration authority, law enforcement agency, or local, state, or federal agency, information about the immigration or citizenship status of a tenant, occupant, or person known to the landlord to be associated with a tenant or occupant, for the purpose or intent of harassing or intimidating a tenant or occupant, or retaliating against a tenant or occupant for the exercise of his or her rights, or influencing a tenant or occupant to vacate a dwelling, or recovering possession of a dwelling, irrespective of whether the tenant or occupant currently resides in the dwelling.

Requires a court, if a violation is found, to do three things:

1. Order the landlord to pay damages of between 6 and 12 times the monthly rent of the dwelling the tenant or occupant resides or resided in; and
2. Issue injunctive relief to prevent the landlord from engaging in similar conduct with other tenants and occupants; and
3. Notify the *district attorney* of a potential violation of P.C. 519 (extortion).

Provides that a landlord is not in violation if he or she is complying with a legal obligation under federal law, or a subpoena, warrant or order issued by the court.

New Civil Code 1940.05 provides that "immigration and citizenship status" includes a *perception* that a person has a particular immigration or citizenship status, or that a person is *associated* with a person who has or is perceived to have, a particular immigration or citizenship status.

[*Note*: P.C. 518 defines extortion (i.e., the obtaining of property or other consideration from another with consent,

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induced by a wrongful use of force or fear). P.C. 519 sets forth the types of fear that may constitute extortion, and P.C. 520 provides the punishment for extortion. P.C. 519 specifies five fears, including fear induced by a threat to report immigration status or suspected immigration status.]

# Code of Civil Procedure

**C.C.P. 223**
(Repealed & Added)
(Ch. 302) (AB 1541)
(Effective 1/1/2018)

Repeals existing C.C.P. 223 regarding criminal jury voir dire and adds a new version, adopting much of the new language from existing C.C.P. 222.5, which governs voir dire in civil cases. The intent is to expand the substance and length of voir dire for both the prosecution and the defense. Trial judges still control voir dire, but that control is more limited with the new version of C.C.P. 223. Retains the provision that the examination of prospective jurors shall be conducted only in the aid of the exercise of challenges for cause (i.e., not for peremptory challenges.)

Requires the court to permit "liberal and probing examination calculated to discover bias or prejudice with regard to the circumstances of the particular case or the parties before the court."

Provides that the fact that a topic has been included in the trial judge's examination does not preclude appropriate follow-up questions in the same area by counsel.

Prohibits a court from imposing "unreasonable or arbitrary time limits" or from establishing "an inflexible time limit policy for voir dire."

Requires a judge, as voir dire proceeds, to "permit supplemental time for questioning based on individual responses or conduct of jurors that may evince attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case."

Requires a judge, in his or her sound discretion, to consider using a written questionnaire when requested by counsel. If a questionnaire is used, a judge must give the parties reasonable time to evaluate the responses before oral questioning begins.

Requires a judge, "at the earliest practical time," to provide the parties "with the list of prospective jurors in the order in which they will be called."

Provides that a judge "should" permit counsel to conduct voir dire without requiring prior submission of questions unless a particular attorney engages in improper questioning.

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Defines an improper question as a question whose dominant purpose is to attempt to precondition the prospective jurors to a particular result or to indoctrinate the jury.

Provides that the "scope of the examination conducted by counsel shall be within reasonable limits prescribed by the trial judge in the judge's sound discretion …."

Provides that in exercising his or her "sound discretion," a trial judge must consider all five of the following: the amount of time requested by counsel, any unique or complex legal or factual elements in the case, the length of the trial, the number of parties, and the number of witnesses.

[This bill had bipartisan support in the Legislature and was supported by the California District Attorneys Association, the California Public Defenders Association, and the American Civil Liberties Union.]

**C.C.P. 271**
(Repealed & Added)
(Ch. 532) (AB 1450)
(Effective 1/1/2018)

Requires that a court reporter deliver a transcript in electronic form unless the requestor asks for the transcript in paper form, or unless, prior to January 1, 2023, the court or the reporter lacks the technical ability to use or store a transcript in electronic form. Thus, reporters and courts are given five years to modernize their equipment and technical abilities. (Previously, this section provided that a transcript may be delivered in computer-readable form and that an original transcript must be on paper.)

Provides that an electronic transcript shall be deemed to be an original transcript for all purposes, including any obligation of an attorney to maintain or deliver a file to a client.

Provides that if a paper transcript is provided instead of an electronic transcript, then within 120 days and upon request, the reporter must provide a copy of the original transcript in full text-searchable portable document format (PDF) if the proceedings were produced with computer-aided transcription equipment. Provides that a copy of the original transcript in full text-searchable PDF format shall not be deemed to be an original transcript.

Provides that a reporter shall not be required to use a specific vendor, technology, or software in order to comply

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with C.C.P. 271. Provides that in adopting transcript format requirements for the California Rules of Court, consideration must be given on a technology-neutral basis to the availability of relevant vendors of transcript products, technologies, and software.

Provides that after January 1, 2023, if new or updated rule of court format requirements for electronic transcripts necessitate a significant change in equipment or software owned by reporters, they must be given at least one year to comply with the new format requirements. Provides that if a change is necessary to address a security issue, then a "reasonable time" for compliance by reporters must be given.

**C.C.P. 527.6**
(Amended)
(Ch. 384) (AB 953)
(Effective 1/1/2018)

Authorizes a court, upon the petition of a minor or minor's legal guardian, to order that information about a minor be kept confidential when issuing a civil restraining order to prevent harassment, if the court makes four findings: (1) the minor's right to privacy overcomes the right of public access to the information; (2) there is a substantial probability that the minor's interest will be prejudiced if the information is not kept confidential; (3) the confidentiality order is narrowly tailored; (4) and no less restrictive means exist to protect the minor's privacy. Information such as a minor's name, address, and the circumstances surrounding a protective order with respect to the minor, would be maintained in a confidential case file and would not be part of the public file.

Provides that disclosure or misuse of the confidential information is punishable as civil contempt by a fine of up to $1,000, but not by imprisonment.

Requires that the confidential information be made available to law enforcement for the purpose of enforcing the restraining order. Requires that when a law enforcement officer provides verbal notice of a restraining order in a case where a minor's information is confidential, that notice must identify the specific information that has been made confidential and must include a statement that disclosure or misuse of confidential information is punishable as contempt of court.

[This bill also creates new Family Code 6301.5 with almost identical provisions for minor confidentiality when a domestic violence protective order is issued. See the Family Code section of this digest.]

**C.C.P. 1010.6**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)
and
(Ch. 319) (AB 976)
(Effective 1/1/2018)

Adds a new subdivision (h) to require the Judicial Council, by June 30, 2019, to adopt uniform rules for the electronic filing and service of documents. Makes a number of changes to electronic filing provisions, such as providing that a document that is served electronically between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed served on that court day, and a document served electronically on a non-court day shall be deemed served on the next court day.

[AB 976 also creates new P.C. 690.5 to provide that C.C.P. 1010.6, subdivisions (a) and (b), "pertaining to the permissive filing and service of documents," are applicable to criminal actions, except as otherwise provided in P.C. 959.1 or any other Penal Code provision. P.C. 690.5 also requires the Judicial Council to adopt uniform rules for the electronic filing and service of documents in criminal cases. Existing P.C. 959.1 permits a criminal prosecution to be commenced by filing an accusatory pleading in electronic form. It also permits a notice to appear to be received and filed by a court in electronic form. AB 976 amends several provisions in the Code of Civil Procedure, numerous provisions in the Probate Code, and a number of provisions in the Welfare and Institutions Code in order to expand electronic filing and delivery of documents to criminal, juvenile, and probate courts.]

**C.C.P. 1279.5**
(Repealed & Added)
(Ch. 856) (SB 310)
(Effective 9/1/2018)

As of September 1, 2018, repeals the current prohibitions on state prison inmates and supervisees under the jurisdiction of the California Dep't of Corrections & Rehabilitation (CDCR) being able to change their names unless they have approval from the Director of Corrections or from their parole agent or probation officer.

Retains the current prohibition on a person required to register as a sex offender changing his or her name unless a court determines that is in the best interest of justice to permit the name change and that doing so will not adversely affect public safety.

Beginning September 1, 2018, this section provides that a person under the jurisdiction of CDCR or sentenced to county jail has the right to petition the court to obtain a name or gender change pursuant to existing C.C.P. 1275–1279.6 (name changes) or existing H&S 103425–103445 (gender changes). Requires a person under the jurisdiction of CDCR

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to provide a copy of the name change petition to CDCR and requires a person sentenced to county jail to provide a copy of the petition to the sheriff's department.

Provides that in all documents, the new name of a person who obtains a name change shall be used, with the prior name being listed as an alias.

[The legislative history indicates that the purpose of the bill is to make it easier for transgender offenders to change their names and genders. But the new name change provisions apply to all offenders under the jurisdiction of CDCR (i.e., state prison inmates and parolees) and all offenders sentenced to county jail. The word "sentenced" is not defined so it is not clear whether the Legislature is using the word technically to mean an offender who had a jail sentence imposed (e.g., a P.C. 1170(h) Realignment sentence) or whether the term is meant more generically and applies to county jail inmates serving a jail sentence as a condition of probation. (When probation is granted, the imposition of sentence is suspended.) The September 1, 2018, version of C.C.P. 1279.5 continues to limit name changes for persons required to register as sex offenders. They may obtain a name change if the court finds it is in the best interest of justice and will not adversely affect public safety. Existing P.C. 290.014 continues to require that a sex offender who does obtain a name change, inform the law enforcement agency with which he or she is registered, within five working days.]

# Education Code

**Educ. C. 44010**
(Amended)
(Ch. 167) (AB 872)
(Effective 1/1/2018)

Purports to expand the list of sex crime convictions for which a teaching credential cannot be issued or renewed, for which a teaching credential is required to be suspended, and for which employment at a school in any capacity is prohibited, by cross-referencing any offense defined in P.C. 290(c) and by adding P.C. 288.2 (sending harmful matter to a minor with the intent to seduce the minor). The new cross-references to P.C. 290(c) and the addition of P.C. 288.2 are in subdivision (a) of Educ. C. 44010. However, Educ. C. 44010 already lists, in subdivision (j), "[a]ny conviction for an offense resulting in the requirement to register as a sex offender pursuant to Section 290 of the Penal Code." Therefore, the offenses specified in P.C. 290(c) were already included in the list of Educ. C. 44010 sex offenses. The one substantive addition this bill makes to section 44010 is all violations of P.C. 288.2, both misdemeanor and felony. P.C. 290(c) specifies only felony violations of P.C. 288.2, so adding P.C. 288.2 without limitation to Educ. C. 44010 means that misdemeanor violations of P.C. 288.2 are included.

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# Elections Code

**Elections C. 316**
**Elections C. 340**
**Elections C. 1000**
**Elections C. 1001**
**Elections C. 1201**
**Elections C. 1202**
(Amended)
(Ch. 335) (SB 568)
(Effective 1/1/**2019**)

Beginning January 1, 2019, advances California's direct primary and presidential primary elections from June to the first Tuesday after the first Monday in March.

**Elections C. 2105.5**
(Amended)
**Elections C. 2105.6**
(New)
(Ch. 796) (AB 1344)
(Effective 1/1/2018)

New Elections C. 2105.6 requires CDCR to provide a parolee, upon the completion of parole and upon the parolee's request, with information from the Secretary of State about voting rights for persons with a criminal history.

Encourages county probation departments to notify supervisees that a printed version of information about voting rights for persons with a criminal history is available upon request.

Requires county probation departments to provide voting rights information from the Secretary of State, to supervisees if they request it.

Elections C. 2105.5 continues to require CDCR and probation departments, on their Internet Web sites, to maintain a hyperlink to voting information on the Secretary of State's Internet Web site. Continues to require parole offices and probation offices to post a notice that contains the Internet Web address for voting information. The wording of these provisions is amended to require that the voting information that CDCR and probation departments are to make accessible be about the voting rights of "persons with a criminal history" instead of voting rights for "incarcerated persons."

**Elections C. 13107**
(Amended)
(Ch. 512) (SB 235)
(Effective 1/1/2018)

Limits the ballot designations for candidates for judicial office. Permits a candidate for a judicial office to use one of these three designations, with some qualifiers that are explained below. The three designations:

1. Words designating the city, county, district, state, or federal office held by the candidate at the time nomination documents are filed; or
2. The word "incumbent"; or
3. No more than three words designating either the current principal professions, vocations, or occupations of the candidate or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents.

Provides that if the candidate is an active member of the State Bar employed by a city, county, district, state, or by the United States, the designation shall appear as one of the following:

1. Words designating the actual job title, as defined by statute, charter, or other governing instrument; or
2. One of the following designations: "Attorney," "Attorney at Law," "Lawyer," or "Counselor at Law."

Provides that "Attorney" and "Lawyer" may be used in combination with one other current principal profession, vocation, or occupation, or the principal profession, vocation, or occupation of the candidate during the calendar year immediately preceding the filing of nomination documents.

Requires that if a candidate is an official or employee of a city, the name of the city must appear preceded by the words "City of." If the candidate is an official or employee of a county, the name of the county must appear preceded by the words "County of." And if the candidate is an official or employee of a city and county, the name of the city and county must appear preceded by the words "City and County." Also requires that if a candidate performs quasi-judicial functions for a government agency, the full name of the agency must be included.

Provides that if a candidate for superior court judge is an active member of the State Bar and practices law as one of his or her principal professions, he or she shall use one of

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the following ballot designations: "Attorney," "Attorney at Law," "Lawyer," or Counselor at Law." Provides that "Attorney" and "Lawyer" may be used in combination with one other current principal profession, vocation, or occupation, or the principal profession, vocation, or occupation of the candidate during the calendar year immediately preceding the filing of nomination documents.

Provides that these new rules apply to all judicial elections held on or after January 1, 2018.

[While these new rules apply to all candidates for judicial office, whether running from the public or private sector, the legislative history shows that the goal of the bill is to eliminate the various designations used by some prosecutors who have run for judge over the last few years in California. The purpose is to prohibit ballot designations such as "Hardcore Gang Prosecutor," "Sex Crimes Prosecutor," Government Corruption Prosecutor," and "Violent Crimes Prosecutor" and to require more generic designations such as "County of ******* Deputy District Attorney" or "County of ******* Assistant District Attorney."]

**Elections C. 18320**
(Amended)
(Ch. 715) (AB 1104)
(Effective 1/1/2018)

Expands California's Political Cyberfraud Abatement Act beyond ballot measures to also apply to candidates for public office. Thus, the following is prohibited with respect to both ballot measures and candidates for public office: intentionally diverting or redirecting access from a political Web site to another person's Internet Web site, intentionally preventing or denying exit from a political Web site, registering a domain name that is similar to another domain name for a political Web site, or intentionally preventing the use of a domain name for a political Web site by registering or holding the domain name or by reselling it to another with the intent of preventing its use.

[An example of a concern expressed in the legislative history of this bill is a Web site that contains a candidate's name and thus the site appears to be owned or maintained by that candidate, but the site is actually operated by those opposed to that candidate.]

**Elections C. 18660**
(Amended)
(Ch. 848) (AB 1367)
(Effective 1/1/2018)

Creates new misdemeanor crimes, in subdivision (b), pertaining to a person who directs or permits another person who circulates an initiative, referendum, or recall petition, to make false affidavits concerning the petitions.

**Elections C. 18660(b)(1)**: A person, company, organization, company official, or organizational officer in charge of a person circulating an initiative, referendum, or recall petition, knowingly directing an affiant to make a false affidavit concerning the initiative, referendum, recall petition or attached signatures.

**Elections C. 18660(b)(2)**: A person, company, organization, company official, or organizational officer in charge of a person circulating an initiative, referendum, or recall petition, who knew or reasonably should have known that an affiant has made a false affidavit concerning the initiative, referendum, recall petition or attached signatures, and who then submits the section of the petition that contains the false affidavit.

Both misdemeanor crimes are punishable by up to one year in jail and/or by a fine of up to $5,000.

[Elections C. 18660(a) already contains the existing felony/misdemeanor crime of making a false affidavit concerning an initiative, referendum, recall petition or the attached signatures. It remains punishable pursuant to P.C. 1170(h) by 16 months, two years, or three years in jail, or by up to one year in jail, and/or by a fine of up to $5,000.]

[The legislative history expresses concern about paid signature gatherers misleading voters into signing initiative, referendum, or recall petitions.]

# Environmental Law

**Fish & Game C. 2128**
(New)
(Ch. 234) (SB 1062)
*(2016 Legislation)*
(Effective 1/1/2018)

Prohibits the use of a bullhook, ankus, baseball bat, axe handle, pitchfork, or other device designed to inflict pain for the purpose of training or controlling an elephant. Provides that "use" includes brandishing, exhibiting, or displaying such a device in the presence of an elephant.

Specifically provides that a violation is *not* subject to the criminal penalties in the Fish and Game Code. Provides instead that a violation is subject to a civil penalty in Fish & Game C. 2125 of between $500 and $10,000 per violation, to be recovered in a civil action brought by a district attorney, city attorney, county counsel, or the Attorney General.

Also provides that this section is in addition to any other laws protecting animal welfare and does not limit any state law protecting animals. [Thus, Penal Code crimes prohibiting animal cruelty or abuse still apply. One example is the misdemeanor crime of elephant abuse in P.C. 596.5. It prohibits the abuse of elephants using electricity, deprivation of food or water, physical punishment resulting in scarring or skin breakage, insertion of an instrument into a bodily orifice, the use of martingales (straps that prevent the raising of the head too high) or the use of block and tackle.]

**H&S 25249.7**
(Amended)
(Ch. 510) (AB 1583)
(Effective 1/1/2018)

Requires the Attorney General to review the factual information that supports the certificate of merit that is required in order for a private person to bring an action for a violation of H&S 25249.5 or 25249.6. [These Health and Safety Code sections are part of the Safe Drinking Water and Toxic Enforcement Act of 1986 (H&S 25249.5–25249.13) and prohibit a business from knowingly and intentionally exposing an individual to a chemical known to cause cancer or reproductive toxicity, without first giving a clear and reasonable warning. A private person is permitted to bring an action against a violator if the Attorney General, a district attorney, or a city attorney has not commenced an action. The certificate of merit that a private person is required to submit when filing a notice of violation must state that the private person has consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts and data and believe that there is a reasonable and meritorious case for the private action.]

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The Attorney General is now required to review the factual information that is the basis for the certificate of merit and confer with the private party. If the Attorney General believes the action has no merit, the Attorney General must serve a letter to the private person and the alleged violator stating this. Provides that the Attorney General not serving a letter is not to be construed as an endorsement of the merit of the action.

Also adds that the basis of the certificate of merit is discoverable to the extent the information is relevant to the subject matter of the action and if it is not subject to the attorney-client privilege, the attorney work product privilege, or any other legal privilege.

Corrects an erroneous cross-reference to the Code of Civil Procedure by changing C.C.P. 128.7 to 128.5, so that the section for frivolous law suits (C.C.P. 128.5) is correctly referenced. (Existing provisions in H&S 25249.7 provide that if a court finds that there is no credible factual basis for the certifier's belief that an exposure to a listed chemical has occurred or was threatened, the action shall be deemed frivolous.)

**H&S 25299.05**
(New)
(Ch. 524) (AB 355)
(Effective 1/1/2018)

Provides that notwithstanding existing H&S 25299.02 and 25299.03 (providing that a civil action for a violation of Underground Storage of Hazardous Substances laws (H&S 25280–25299.8) shall be brought by a district attorney, city attorney, or the Attorney General), the State Water Resources Control Board may impose civil liability administratively for a violation of H&S 25299(a), (b), (c), (e), or (f) (underground tank violations).

**H&S 42400**
(Amended)
(Ch. 136) (AB 617)
(Effective 1/1/2018)

Amends subdivision (a) to increase the maximum fine, from $1,000 to $5,000, for this misdemeanor crime pertaining to specified non-vehicular air pollution violations. Retains the option of a maximum six-month jail sentence in addition to, or instead of, a fine.

**H&S 42402**
(Amended)
(Ch. 136) (AB 617)
(Effective 1/1/2018)

Amends subdivision (a) to increase the maximum civil penalty, from $1,000 to $5,000, for specified non-vehicular air pollution violations.

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| **Pub. Res. C. 14306.5**<br>(New)<br>(Ch. 659) (AB 864)<br>(Effective 1/1/2018) | Authorizes the Director of the California Conservation Corps to select as corps members, applicants who are on probation, postrelease community supervision, or mandatory supervision. |
| **Pub. Res. C. 17003**<br>(New)<br>(Ch. 659) (AB 864)<br>(Effective 1/1/2018) | Authorizes a school district or county office of education that operates a community conservation corps, to select persons who are on probation, postrelease community supervision, or mandatory supervision. |

# Evidence Code

**Evidence C. 956**
(Amended)
(Ch. 530) (AB 1159)
(Effective 1/1/2018)

Provides that the crime/fraud exception to the attorney-client privilege does not apply to legal services rendered in compliance with state and local laws on medicinal cannabis or adult-use cannabis issues, and that confidential communications for the purpose of rendering cannabis services are confidential lawyer-client communications, if the attorney also advises the client about conflicts with federal law. In other words, it is legal for an attorney to provide advice about conducting cannabis business operations in compliance with state and local laws, without violating ethical duties or compromising the attorney-client privilege, despite the conflict with federal law.

[This bill also creates new Civil Code 1550.5 to provide that commercial activity relating to medicinal cannabis or adult-use cannabis conducted in compliance with California law and any applicable local regulations is deemed to be all of the following: (1) a lawful object of a contract; (2) not contrary to an express provision of law, or any policy of express law, or good morals; and (3) not against public policy.]

**Evidence C. 1010**
(Amended)
(Ch. 573) (SB 800)
(Effective 1/1/2018)

Changes the title "marriage and family therapist intern" to "*associate* marriage and family therapist" in order to be consistent with existing B&P 4980.09. Makes a similar change from "clinical counselor intern" to "associate professional clinical counselor" to be consistent with amendments made to B&P 4999.53 by this bill. [Evidence C. 1010 defines "psychotherapist" for purposes of the psychotherapist-patient privilege. Included in the definition of psychotherapist is an associate marriage and family therapist who is under the supervision of a specified licensed professional, and an associate professional clinical counselor who is under the supervision of a specified licensed professional.] Also makes a technical amendment to correct a cross-reference to the Business and Professions Code regarding licensed clinical social workers.

**Evidence C. 1037.1**
(Amended)
(Ch. 178) (SB 331)
(Effective 1/1/2018)

Expands the definition of "domestic violence victim service organization" beyond non-governmental entities to include programs on public or private college campuses with the primary mission to provide support or advocacy services to victims of domestic violence. Thus, communications between college campus domestic violence counselors and victims will be confidential and subject to the domestic violence counselor-victim privilege. [Existing Evidence C. 1037.1(a)(1) defines a domestic violence counselor as a person employed by a domestic violence victim service organization, whether financially compensated or not.]

**Evidence C. 1107.5**
(Amended)
(Ch. 269) (SB 811)
(Effective 1/1/2018)

Clarifies that "human trafficking victim" is defined *as a victim of an offense described* in P.C. 236.1 rather than simply providing that "human trafficking victim" is defined in P.C. 236.1. (No formal definition of "human trafficking victim is in P.C. 236.1.) [Evidence C. 1107.5 continues to permit expert testimony by either side regarding the effects of human trafficking on human trafficking victims, including the nature and effect of physical, emotional, or mental abuse on the beliefs, perceptions, or behavior of human trafficking victims.]

**Evidence C. 1108**
(Amended)
(Ch. 805) (SB 230)
(Effective 1/1/2018)

Adds P.C. 236.1(b) and (c) (both pertaining to human sex trafficking) to the list of sex crimes for which propensity/character evidence is admissible. (The list of crimes, which now includes P.C. 236.1(b) and (c) operates as both a list of prior sex crimes that may be admissible in a current sex trial, and as a list of current sex crimes that qualify a case for the introduction of Evidence C. 1108 evidence.)

**Evidence C. 1120**
(Amended)
(Ch. 60) (SB 217)
(Effective 1/1/2018)

Adds the financial disclosures required by Family Code 2104 and 2105 in a divorce proceeding to those disclosures that are admissible in another proceeding and subject to discovery even if prepared pursuant to a mediation or a mediation consultation. Thus, financial disclosures in a divorce proceeding are not subject to the general mediation confidentiality rules of Evidence C. 1119. (Evidence C. 1120 specifies what is *not* limited by mediation confidentiality rules.)

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[Section Two of this bill provides that is the intent of the Legislature to codify the holding in *Lappe v. Superior Court* (2014) 232 Cal.App.4th 774. In *Lappe*, the appellate court held that financial disclosures prepared for a divorce mediation were admissible in a later civil case after the wife found out that the husband sold his business (started during the marriage) for much more than what it was valued at during mediation.]

**Evidence C. 1157**
(Amended)
(Ch. 775) (SB 798)
(Effective 1/1/2018)

Adds licensed midwife review committees and licensed midwife associations and societies to the list of committees, peer review bodies, associations, and societies whose proceedings and records are generally not subject to discovery. (Evidence C. 1157(a) specifies a number of entities, including medical, podiatric, psychological, therapist, social worker, clinical counselor, pharmacist, and veterinary committees.)

# Family Code

**Family Code 400**
(Amended)
(Ch. 42) (AB 430)
(Effective 7/10/2017)

Eliminates the prohibition on judges being able to accept a fee for performing a marriage, and makes this section consistent with P.C. 94.5, which permits sitting judges to accept a fee for performing a marriage on a Saturday, Sunday, or legal holiday, and permits retired judges to accept a fee for performing a marriage on any day.

[When Family Code 400 was amended in 2016 to expand the list of persons eligible to perform marriages to include persons who hold or formerly held an elected office of a city or county (e.g., current or former elected district attorneys, current or former elected public defenders, and current or former county sheriffs), former members of the California Legislature, former constitutional officers for California, and former members of Congress who represented a California district, a subdivision was added that prohibited any person specified in Family Code 400 (including judges) from accepting a fee to perform a marriage. However, P.C. 94.5 already permitted retired judges to accept fees for performing a marriage on any day, and it already permitted sitting judges to accept a fee for performing a wedding after hours (e.g., on a Saturday, Sunday, or legal holiday). AB 430 resolves the conflict between P.C. 94.5 and Family Code 400 by permitting judges to accept reasonable compensation, including payment of actual expenses "[c]onsistent with Section 94.5 of the Penal Code," and by having the prohibition on compensation apply to the *non-judge* categories specified in Family Code 400 while those persons hold office.]

**Family Code 6301.5**
(New)
(Ch. 384) (AB 953)
(Effective 1/1/2018)

Authorizes a court, upon the petition of a minor or minor's legal guardian, to order that information about a minor be kept confidential when issuing a domestic violence protective order, if the court makes four findings: (1) the minor's right to privacy overcomes the right of public access to the information; (2) there is a substantial probability that the minor's interest will be prejudiced if the information is not kept confidential; (3) the confidentiality order is narrowly tailored; and (4) no less restrictive means exist to protect the minor's privacy. Information such as a minor's name, address, and the circumstances surrounding a protective order with respect to the minor, would be maintained in a confidential case file and would not be part of the public file.

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Provides that disclosure or misuse of the confidential information is punishable as civil contempt by a fine of up to $1,000, but not by imprisonment.

Requires that the confidential information be made available to law enforcement for the purpose of enforcing the restraining order.

Provides that to the extent necessary for the enforcement of the order and to allow the respondent to comply with and respond to the order, confidential information shall be included in the notice sent to the respondent. Requires this notice to identify the specific information that has been made confidential and to include a statement that disclosure or misuse of the information is punishable as contempt of court.

[This bill also amends C.C.P. 527.6 to add almost identical provisions for minor confidentiality when a civil harassment restraining order is issued. See the Code of Civil Procedure section of this digest.]

**Family Code 6450**
**Family Code 6451**
**Family Code 6452**
**Family Code 6453**
**Family Code 6454**
**Family Code 6455**
**Family Code 6456**
**Family Code 6457**
**Family Code 6458**
**Family Code 6459**
**Family Code 6460**
(New)
(Ch. 98) (SB 204)
(Effective 1/1/2018)

Adds a new Part 6 to Division 10 of the Family Code entitled the "Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act," in order to authorize the enforcement in California of a valid Canadian domestic violence protection order *issued in English in a civil proceeding* by a Canadian court.

[The legislative history of this bill recognizes that it does not apply to domestic violence protection orders issued by a Canadian *criminal* court, but does not provide a satisfactory reason for this. The legislative history simply states that it is unclear whether civil or criminal courts issue the majority of Canada's domestic violence protection orders and that the bill's application to only civil orders "reduces the difficulties inherent in enforcing criminal orders of another jurisdiction."]

Applies to orders that relate to domestic violence and that prohibit: (1) being in physical proximity to a protected person; (2) directly or indirectly contacting or communicating with a protected person; (3) being within a certain distance of a specified place or location; or (4) molesting, annoying, harassing, or engaging in threatening conduct directed at a protected person.

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Applies to Canadian orders issued before, on, or after January 1, 2018 and to violations of a Canadian order occurring before, on, or after January 1, 2018. (New Family Code 6459.)

New Family Code 6452 requires a law enforcement officer who determines that there is probable cause to believe a valid Canadian domestic violence protection order exists and that it has been violated, to enforce the terms of the order as if the order were issued in California. Provides that the presentation to a law enforcement officer of a "record" of a Canadian order that identifies both a protected person and a respondent and on its face is in effect, constitutes probable cause to believe that a valid order exists. Also provides that presentation to a law enforcement officer of a certified copy of a Canadian order is *not* required. Defines "record" as "information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form." Provides that if a "record" is not presented to a law enforcement officer, that officer may consider other information in determining whether probable cause to believe a valid Canadian order exists. (The bill does not specify or define what "other information" means.)

Requires a law enforcement officer to inform the protected person about available local victim services.

Provides that if a law enforcement officer determines that a Canadian order cannot be enforced because the respondent (offender) has not been notified or served with the order, the officer is required to make a reasonable effort to inform the respondent of the terms of the order, provide a record of the order to the respondent, and allow the respondent the opportunity to comply with the order before the officer enforces it. Provides that verbal notice of the terms of the order is sufficient.

New Family Code 6455 provides a law enforcement officer with immunity from civil liability, from false arrest, and from false imprisonment, for an arrest made based on a Canadian order that is regular upon its face and if the officer acts in good faith and has reasonable cause to believe the person against whom the order is issued has notice of the order and has committed an act in violation of that order. However, this section specifically states that an officer is still liable for the unreasonable use of force in the enforcement of an order.

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New Family Code 6457 provides the order of enforcement where there are multiple orders:

1. If there is more than one order and one of them is an emergency protective order, the law enforcement officer must enforce the emergency order.
2. If there is more than one order, and there are no emergency orders, and one of the orders is a no-contact order, the officer must enforce the no-contact order.
3. If there is more than one civil order involving the same parties and none of the orders is an emergency order or a no-contact order, the officer must enforce the order that was issued last.
4. If there are civil and criminal orders involving the same parties and none of the orders is an emergency order or a no-contact order, the officer must enforce the criminal order that was issued last. (However, the definition in new Family Code 6451(a) of a "Canadian domestic violence protection order" is a judgment or order issued in a *civil* proceeding by a Canadian court.)

New Family Code 6453 provides that a California tribunal (defined as a court, agency, or other entity authorized by law to establish, enforce, or modify a domestic protection order) may issue an order enforcing or refusing to enforce a Canadian domestic violence protection order, on application of a protected party, a respondent, or other person authorized by California law to seek enforcement of a domestic protection order. Provides that a Canadian order is enforceable if all of the following apply:

1. the order identifies a protected person and a respondent;
2. the order is valid and in effect;
3. the issuing (Canadian) court had jurisdiction over the parties and the subject matter under law applicable in the issuing court; *and*
4. the order was issued after either the respondent had reasonable notice and had an opportunity to be heard, or, in the case of an ex parte order, the respondent was given notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with due process.

New Family Code 6454 provides that a Canadian order may be registered in California by presenting a certified copy to a court so that the order can be entered into

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the Domestic Violence Restraining Order (DVRO) System established under Family Code 6380. (Existing Family Code 6380(e) requires the California Dep't of Justice to maintain a DVRO system that provides to law enforcement and the courts computer access to protective order and restraining order information.) Also provides that the registration of a Canadian order is not required for its enforcement.

# Government Code

**Gov't C. 1031.1**
(Amended)
(Ch. 89) (AB 1339)
(Effective 1/1/2018)

Adds applicants for a position *other than* a sworn peace officer in a law enforcement agency to those persons (applicants for a peace officer position) for whom an employer is required to disclose information relating to a current or former employee upon the request of a law enforcement agency. Thus, a law enforcement agency will be able to do a thorough background check for prospective non-peace officer employees seeking jobs in areas such as evidence retention or dispatch. And, employers providing information about persons seeking non-peace officer jobs will have immunity from civil liability for providing that information, pursuant to existing Gov't C. 1031.1(b), just as they already have immunity for providing information about peace officer applicants. [Existing Gov't C. 1031.1(b) immunizes an employer from civil liability for providing information to a law enforcement agency about an applicant unless the employer engages in fraud or malice.]

**Gov't C. 3003**
(Amended)
(Ch. 576) (AB 153)
(Effective 1/1/2018)

Revises this provision that requires an elected officer of the state, a city, a county, or a district to forfeit his or her office upon conviction of a crime pursuant to the federal Stolen Valor Act (18 U.S.C. 704) or the California Stolen Valor Act (P.C. 532b) by changing the requirement of a "false" claim to a "fraudulent" claim, and by deleting the requirement of an "intent to defraud" and instead requiring an intent to "obtain money, property, or other tangible benefit." Defines "tangible benefit" as financial remuneration, an effect on the outcome of a criminal or civil court proceeding, or a benefit relating to military service that is provided by a federal, state, or local governmental entity. Thus, forfeiture of office is required for a conviction under either Act that involves a fraudulent claim made with the intent to obtain money, property, or other tangible benefit.

[This change makes California law consistent with the federal Stolen Valor Act in 18 U.S.C. 704. This bill also amends P.C. 532b. See the Penal Code section of this digest for more information.]

**Gov't C. 6205**
**Gov't C. 6205.5**
**Gov't C. 6206**
**Gov't C. 6206.7**
**Gov't C. 6208.5**
**Gov't C. 6209.5**
**Gov't C. 6209.7**
(Amended)
(Ch. 570) (SB 597)
(Effective 1/1/2018)

Adds human trafficking victims to those victims (domestic violence, sexual assault, stalking) who may participate in the Secretary of State's Address Confidentiality program. Also makes household members of victims of these crimes eligible for address confidentiality, except where the household member is the perpetrator of the crime that provides the basis for a victim to apply for address confidentiality. Defines "household member" as an adult person who resides at the same residential address as the applicant or participant and is related by blood, marriage, registered domestic partnership, adoption, or is a cohabitant.

**Gov't C. 6254.4.5**
(New)
(Ch. 291) (AB 459)
(Effective 1/1/2018)

Provides that the California Public Records Act does not require disclosure of a video or audio recording (e.g., a police officer body-worn camera) that was created during the commission or investigation of a rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim. Provides that an agency may justify withholding such a recording by demonstrating, pursuant to Gov't C. 6255, that on the facts of the particular case, the public interest served by not disclosing the recording clearly outweighs the public interest served by disclosure.

[Gov't C. 6255(a) permits an agency to withhold a record from disclosure if the record is exempt from disclosure, or if, on the facts of the particular case, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure. Gov't C. 6255(b) provides that a response to a written request for inspection or copies of public records where the request is denied in whole or in part, must be in writing.]

Requires the agency to consider the following two factors when balancing the public interests:

1. The constitutional right to privacy of the person or persons depicted in the recording; and
2. Whether the potential harm to the victim that would be caused by disclosure could be mitigated by redacting the recording to obscure intimate body parts or identifying characteristics of a victim or by distorting the victim's voice.

Requires that any redaction not prevent the viewer from being able to fully and accurately perceive the events

*continued*

captured on the recording. Prohibits any other editing or alteration.

Provides that a victim of the crime, or the parent or legal guardian of a minor victim, or a deceased victim's next of kin, or a victim's legally authorized designee, is permitted to inspect the recording and to obtain a copy of it.

Provides that an agency's disclosure of a recording to a victim or victim's representative does not require public disclosure.

[Existing P.C. 832.18 continues to set forth the best practices that law enforcement agencies should consider when establishing policies and procedures for the downloading and storage of body-worn camera data.]

**Gov't C. 7282**
(Amended)
(Ch. 495) (SB 54)
(Effective 1/1/2018)

Replaces the definition of "immigration hold" with definitions for "hold request," "notification request," and "transfer request." Provides that "hold request," "notification request," and "transfer request" have the same meanings as provided in existing Gov't C. 7283 and that these requests include requests issued by U.S. Immigrations and Customs Enforcement (ICE), by U.S. Customs and Border Protection, and by any other immigration authorities.

[Gov't C. 7283 defines "hold request" as a federal ICE request that a local law enforcement agency maintain custody of a non-citizen currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to ICE and includes, but is not limited to, Dep't of Homeland Security (DHS) Form I-247D. "Notification request" is defined as an ICE request that a local law enforcement agency inform ICE of the release date and time in advance of the public, of a non-citizen in its custody and includes, but is not limited to, DHS Form I-247N. "Transfer request" is defined as an ICE request that a local law enforcement agency facilitate the transfer of a non-citizen in its custody to ICE, and includes, but is not limited to, DHS Form I-247X.]

The definition of "immigration hold" that was deleted was as follows: an immigration detainer issued by an authorized immigration officer, that requests that the law enforcement official maintain custody of the inmate for up to 48 hours,

*continued*

excluding Saturdays, Sundays, and holidays, and advise the immigration officer before the inmate is released.

[SB 54 is referred to by many as the "sanctuary state" bill. It also amends Gov't C. 7282.5, adds Gov't C. 7284–7284.12, and repeals H&S 11369. See below.]

**Gov't C. 7282.5**
(Amended)
(Ch. 495) (SB 54)
(Effective 1/1/2018)

Restricts a law enforcement official's cooperation with immigration authorities to that permitted by the new "California Values Act" (Gov't C. 7284–7284.12, see below.) Also continues to restrict cooperation to that permitted by local policy, local law, and state law. Provides that the prohibited activities specified in new Gov't C. 7284.6(a)(1)(C) (providing information regarding a non-citizen's release date or responding to requests for notification by providing release dates not available to the public) and new Gov't C. 7284.6(a)(4) (transferring a non-citizen to immigration authorities without a judicial warrant or judicial probable cause determination) ***are permitted*** with respect to the crimes already listed in Gov't C. 7282.5, with some modifications to the list made by SB 54. In other words, the release date of a non-citizen may be provided to federal authorities even if not provided to the public, and a non-citizen may be transferred to federal authorities even without a judicial warrant or judicial probable cause determination, for specified criminals.

The following is a list of convictions and circumstances for which providing information/notification about a non-citizen's release date and/or transferring a non-citizen to immigration authorities ***is permitted***:

1. Conviction of a serious (P.C. 1192.7(c)) or violent (P.C. 667.5(c)) felony; or

2. Conviction of a felony punishable by imprisonment in state prison; or

3. Conviction within the past five years of a misdemeanor for a crime that is punishable as either a misdemeanor or a felony (i.e., conviction of a misdemeanor for a wobbler crime), ***or***, conviction within the past 15 years of a felony. The following are the crimes that apply under either scenario:

*continued*

a. Assault, as specified in, but not limited to, P.C. 217.1, 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5, 4500, and 4501;
b. Battery, as specified in, but not limited to, P.C. 242, 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and 4501.5;
c. Use of threats, as specified in, but not limited to, P.C. 71, 76, 139, 140, 422, 601, and 11418.5;
d. Sexual abuse, sexual exploitation, or crimes endangering children, as specified in, but not limited to, P.C. 266, 266a, 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288, 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6;
e. Child abuse or endangerment, as specified in, but not limited to, P.C. 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278;
f. Burglary, robbery, theft, fraud, forgery, or embezzlement, as specified in, but not limited to, P.C. 211, 215, 459, 463, 470, 476, 487, 496, 503, 518, 530.5, 532, and 550;
g. Driving under the influence of alcohol or drugs but only if the conviction is for a felony;
h. Obstruction of justice, as specified in, but not limited to, P.C. 69, 95, 95.1, 136.1, and 148.10;
i. Bribery, as specified in, but not limited to, P.C. 67, 67.5, 68, 74, 85, 86, 92, 93, 137, 138, and 165;
j. Escape, as specified in, but not limited to, P.C. 107, 109, 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536;
k. Unlawful possession or use of a weapon, firearm, explosive device, or weapon of mass destruction, as specified in, but not limited to, P.C. 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3, 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750, 18755, and 26100(c) and (d);
l. Possession of an unlawful deadly weapon, under the Deadly Weapons Recodification Act of 2010 (Part 6 (commencing with P.C. 16000);
m. An offense involving the felony possession, sale, distribution, manufacture, or trafficking of controlled substances;
n. Vandalism with prior convictions, as specified in, but not limited to, P.C. 594.7;
o. Gang-related offenses, as specified in, but not limited to, P.C. 186.22, 186.26, and 186.28;

*continued*

p. An attempt, as defined in P.C. 664, or a conspiracy, as defined in P.C. 182, to commit an offense specified in this list;
q. A crime resulting in death, or involving the personal infliction of great bodily injury, as specified in, but not limited to, P.C. 187, 191.5, 192, 192.5, P.C. 245.6(d), 12022.7, 12022.8, and 12022.9;
r. Possession or use of a firearm in the commission of an offense;
s. An offense that would require the person to register as a sex offender pursuant to P.C. 290, 290.002, or 290.006;
t. False imprisonment, slavery, and human trafficking, as specified in, but not limited to, P.C. 181, 210.5, 236, 236.1, and 4503;
u. Criminal profiteering and money laundering, as specified in, but not limited to, P.C. 186.2, 186.9, and 186.10;
v. Torture and mayhem, as specified in, but not limited to, P.C. 203;
w. A crime threatening the public safety, as specified in, but not limited to, P.C. 219, 219.1, 219.2, 247.5, 404, 404.6, 405a, 451, and 11413;
x. Elder and dependent adult abuse, as specified in, but not limited to, P.C. 368;
y. A hate crime, as specified in, but not limited to, P.C. 422.55;
z. Stalking, as specified in, but not limited to, P.C. 646.9;
aa. Soliciting the commission of a crime, as specified in, but not limited to, P.C. 286(c), 653j and 653.23 [*Note*: P.C. 286(c) appears to be incorrectly listed in this category but also appears in the sex crimes listed below];
bb. An offense committed while on bail or released on one's own recognizance, as specified in, but not limited to, P.C. 12022.1;
cc. Rape, sodomy, oral copulation, or sexual penetration, as specified in, but not limited to, P.C. 261(a)(2), 261(a)(6), 262(a)(1), 262(a)(4), 264.1, 286(c), 286(d), 288a(c), 288a(d), 289(a), and 289(j);
dd. Kidnapping, as specified in, but not limited to, P.C. 207, 209, and 209.5;
ee. A violation of V.C. 20001(c) (hit & run with injury); or

4. The non-citizen is a current registrant in the California Sex and Arson Registry; or

*continued*

5. The non-citizen has been convicted of a federal crime that meets the definition of an aggravated felony as set forth in 8 U.S.C. 1101(a)(43)(A)–(P) or is identified by the U.S. Dep't of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant; or

6. The non-citizen is *charged* with a serious (P.C. 1192.7(c)) or violent (P.C. 667.5(c)) felony, *or* a felony punishable by imprisonment in the state prison, and the magistrate makes a finding of probable cause pursuant to P.C. 872 (i.e., the defendant is held to answer at a preliminary hearing for any of these crimes but has not been convicted).

Specifically provides the following: "In no case shall cooperation occur pursuant to this section for individuals arrested, detained, or convicted of misdemeanors that were previously felonies, or were previously crimes punishable as either misdemeanors or felonies, prior to the passage of the Safe Neighborhoods and Schools Act of 2014 [Proposition 47] as it amended the Penal Code." [This wording is not as clear as it should be, but the intent appears to be to eliminate misdemeanor convictions from the above list, if the misdemeanor conviction is for a crime that was a felony or was a wobbler before Proposition 47 was enacted.]

[SB 54 is referred to by many as the "sanctuary state" bill. It also amends Gov't C. 7282, adds Gov't C. 7284–7284.12, and repeals H&S 11369. See above and below.]

**Gov't C. 7284**
**Gov't C. 7284.2**
**Gov't C. 7284.4**
**Gov't C. 7284.6**
**Gov't C. 7284.8**
**Gov't C. 7284.10**
**Gov't C. 7284.12**
(New)
(Ch. 495) (SB 54)
(Effective 1/1/2018)

Adds a new Chapter 17.25 to Division 7 of Title 1 of the Government Code, entitled "The California Values Act," for the purpose of restricting the cooperation of local and state law enforcement agencies and school police/security departments with federal immigration authorities.

**Gov't C. 7284.6(a)—The Prohibitions**
Prohibits the use of agency or department money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes (both federal civil immigration law and federal criminal immigration law), including these seven actions:

*continued*

1. Inquiring into a person's immigration status.

2. Detaining a person on the basis of a hold request. (Gov't C. 7283 defines "hold request" as a federal Immigration and Customs Enforcement (ICE) request that a local law enforcement agency maintain custody of a non-citizen currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to ICE and includes, but is not limited to, Dep't of Homeland Security (DHS) Form I-247D.)

3. Providing information regarding a person's release date or responding to requests for notification by providing release dates or other information, that is not available to the public.

   *However,* providing this type of information *is permitted* if it is information that is made public (such as by posting release dates on a website that is accessible to everyone), or, if the release date notification pertains to a person who has been convicted of a crime specified in Gov't C. 7282.5, or is a sex offender or arson registrant, or is charged with a serious (P.C. 1192.7(c)) or violent (P.C. 667.5(c)) felony or a felony punishable by imprisonment in the state prison and a magistrate has made a probable cause determination as to the charge. (See Gov't C. 7282.5, above, for the list of crimes and circumstances that permit a law enforcement agency to provide release date information even if it is not available to the general public.)

4. Providing personal information about a person, including, but not limited to, the person's home or work address, unless that information is available to the public.

5. Making or intentionally participating in arrests based on *civil* immigration warrants. (New Gov't C. 7284.4(b) defines "civil immigration warrant" as any warrant for a violation of federal civil immigration law, including civil immigration warrants entered in the National Crime Information Center database.)

6. Assisting immigration authorities in the activities described in 8 U.S.C. 1357(a)(3) (i.e., boarding and searching vessels within the territorial waters of the

*continued*

U.S., or boarding and searching railway cars, aircraft, or vehicles within 25 miles of the U.S. border).

7. Performing the functions of an immigration officer pursuant to federal law, or any other law, regulation, or policy, whether formal or informal.

Prohibits placing peace officers under the supervision of federal agencies for purposes of immigration enforcement.

Prohibits using immigration authorities as interpreters for law enforcement matters relating to persons in agency or department custody.

Prohibits transferring a person to immigration authorities *unless* authorized by a judicial warrant or a judicial probable cause determination, or authorized pursuant to Gov't C. 7282.5.

New Gov't C. 7282.4(i) defines "judicial warrant" as a warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or federal magistrate that authorizes a law enforcement officer to arrest and take into custody the subject of the warrant.

New Gov't C. 7282.4(h) defines "judicial probable cause determination" as a determination made by a federal judge or federal magistrate that probable cause exists that a person has violated federal criminal immigration law and that authorizes a law enforcement officer to arrest and take the person into custody.

The third method for the permissible transfer of a non-citizen to immigration authorities is when the non-citizen has been convicted of a crime specified in Gov't C. 7282.5, or is a sex offender or arson registrant, or is charged with a serious (P.C. 1192.7(c)) or violent (P.C. 667.5(c)) felony or a felony punishable by imprisonment in the state prison and a magistrate has made a probable cause determination as to the charge. (See Gov't C. 7282.5, above, for the list of crimes and circumstances that permit a law enforcement agency to transfer a non-citizen to immigration authorities even without a federal judicial warrant or a federal judicial probable cause determination.)

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Prohibits providing office space "exclusively dedicated" for immigration authorities to use within a city or county law enforcement facility.

Prohibits contracting with the federal government for the use of California law enforcement agency facilities to house persons as federal detainees, except pursuant to new Gov't C. 7310–7311, which prohibit any such contract if there was not one in existence as of June 15, 2017, and, if there was a contract in place as of June 15, 2017, prohibit any increase in the number of beds contracted for. (See Gov't C. 7310 and 7311, below.)

**Gov't C. 7284.6(b)—What is Permissible**
Provides that a law enforcement agency is not prevented from doing the following, if it does not violate agency policy, or a local law, or the policy of the jurisdiction the agency is in:

1. Investigating, enforcing, detaining, or arresting for a violation of 8 U.S.C. 1326(a) (a previously removed or deported non-citizen entering or attempting to enter the U.S.) that may be subject to the enhancement specified in 8 U.S.C. 1326(b)(2) (up to 20 years' imprisonment if removal was subsequent to an aggravated felony conviction) and that is detected during an unrelated law enforcement activity. Provides that any transfer to immigration authorities of such a non-citizen is only permitted if there is a judicial warrant or a judicial probable cause determination, or if the non-citizen is convicted of, or charged with, a crime specified in Gov't C. 7282.5.

2. Responding to a request from immigration authorities for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information accessed through the California Law Enforcement Telecommunications System (CLETS), where otherwise permitted by state law.

3. Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations, if:
   a. The primary purpose of the joint task force is not immigration enforcement; and

*continued*

b. The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement; and
c. Participation in the task force by a California law enforcement agency does not violate any local law or policy.

4. Making inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T Visa or a U Visa.

5. Giving immigration authorities access to interview a person in custody. Requires that the interview access comply with the requirements of the TRUTH Act (Gov't C. 7283–7283.2, which became effective 1/1/2017). (TRUTH = Transparent Review of Unjust Transfers and Holds). Gov't C. 7283.1 requires that in advance of any ICE interview of an inmate about a *civil* immigration violation, the local law enforcement agency must provide the inmate with a written form that explains the purpose of the interview, states that the interview is voluntary, and advises the inmate that he or she may decline to be interviewed or may choose to be interviewed with an attorney present.

Gov't C. 7284.6(e) provides that Gov't C. 7284.6 does not prohibit or restrict any government entity or official from sending to, or receiving from, or requesting from, federal immigration authorities, *information* regarding the citizenship or immigration status of a person. Also not prohibited is the exchange of citizenship or immigration information with other federal, state, or local government entities. (Existing 8 U.S.C. 1373 and 8 U.S.C. 1644 are cross-referenced in this subdivision and provide that a state or local government entity cannot prohibit or restrict the sending to, or receiving from, the Immigration and Naturalization Service (now ICE) information about the citizenship or immigration status of any person.)

Gov't C. 7284.6(f) provides that "Nothing in this section shall prohibit a California law enforcement agency from asserting its own jurisdiction over criminal law enforcement matters."

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**Gov't C. 7284.8—Attorney General Responsibilities**
Requires the Attorney General, by October 1, 2018, to publish "model policies limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law" at public schools, public libraries, courts, shelters, health facilities operated by the state or a political subdivision of the state, Division of Labor Standards Enforcement facilities, the Agricultural Labor Relations Board, and the Division of Workers Compensation. Requires courthouses, public schools, and health facilities operated by the government to implement the model policy or an equivalent policy. The other entities specified above are encouraged to adopt the model policy.

Requires the Attorney General, by October 1, 2018, to publish guidance, audit criteria, and training recommendations for ensuring that databases operated by local and state law enforcement agencies limit the availability of information for purposes of immigration enforcement. Encourages all local and state law enforcement agencies to adopt necessary changes to database policies consistent with the guidance provided by the Attorney General.

Provides that notwithstanding the rulemaking provisions of the Administrative Procedure Act (Gov't C. 11340–11361) the Dep't of Justice (DOJ) "may implement, interpret, and make specific this chapter without taking any regulatory action." (This appears to mean that DOJ will not be required to comply with Administrative Procedures Act requirements such as public comment periods and hearings.)

**Gov't C. 7284.10—California Dep't of Corrections & Rehabilitation (CDCR)**
Requires CDCR, before an interview between U.S. Immigration and Customs Enforcement (ICE) and a state prison inmate regarding a *civil* immigration violation, to give the inmate a written consent form stating the purpose of the interview, that the interview is voluntary, and that the inmate may decline to be interviewed or choose to be interviewed with his/her attorney present.

[This already applies to local law enforcement agencies in Gov't C. 7283.1(a), which is a part of the TRUTH Act that became effective January 1, 2017.]

*continued*

Requires CDCR, upon receiving an ICE hold, notification, or transfer request, to provide a copy of the notice to a state prison inmate and to inform the inmate whether CDCR intends to comply with the request.

[This already applies to local law enforcement agencies in Gov't C. 7283.1(b), which is a part of the TRUTH Act that became effective January 1, 2017.]

Prohibits CDCR from restricting access to in-prison educational or rehabilitative programming, or credit-earning opportunities, solely on the basis of citizenship or immigration status, or whether an inmate is in removal proceedings or immigration authorities have issued a hold request, transfer request, or civil immigration warrant against the inmate. Prohibits CDCR from considering citizenship and immigration status as a factor in determining an inmate's custodial classification level.

[SB 54 is referred to by many as the "sanctuary state" bill. It also amends Gov't C. 7282 and 7282.5, and repeals H&S 11369. See above for the Gov't Code sections and see the Health and Safety Code section of this digest for the repeal of H&S 11369.]

**Gov't C. 7285.1**
**Gov't C. 7285.2**
**Gov't C. 7285.3**
(New)
(Ch. 492) (AB 450)
(Effective 1/1/2018)

**Gov't C. 7285.1**: Prohibits an employer from choosing to cooperate with Immigration and Customs Enforcement (ICE) by prohibiting the employer from voluntarily consenting to an immigration enforcement agent entering any non-public areas of the employer's business. Provides that this prohibition does not apply if the agent has a judicial warrant. Provides that a violation subjects an employer to a civil penalty of $2,000 to $5,000 for a first violation and of $5,000 to $10,000 for a subsequent violation. Provides that the Attorney General or the Labor Commissioner has the authority to enforce this section. Provides that the penalty does not apply if an immigration agent is permitted to enter a non-public area of a place of business without the consent of the employer. (e.g., an employee with no authority over the business grants access without contacting the manager or owner.)

**Gov't C. 7285.2**: Prohibits an employer from choosing to cooperate with Immigration and Customs Enforcement (ICE) by prohibiting the employer from voluntarily

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consenting to an immigration enforcement agent accessing, reviewing, or obtaining the employer's employee records without a subpoena or judicial warrant. Does not apply to I-9 Employment Eligibility Verification forms and other documents for which a Notice of Inspection has been provided to the employer. Provides that a violation subjects an employer to a civil penalty of $2,000 to $5,000 for a first violation and of $5,000 to $10,000 for a subsequent violation. Provides that the Attorney General or the Labor Commissioner has the authority to enforce this section. Provides that the penalty does not apply if an immigration agent is permitted access to employee records without the consent of the employer (e.g., an employee with no authority over the business grants access without contacting the manager or owner.)

**Gov't C. 7285.3**: Provides that nothing in these sections shall be interpreted, construed, or applied to restrict or limit an employer's compliance with a memorandum of understanding governing the use of the federal E-Verify system.

[This bill also enacts other immigration-related requirements on employers that are enforceable only by the Labor Commissioner. New Labor Code 90.2 requires employers to post a notice of any inspections of I-9 Employment Eligibility Verification forms or other employment records conducted by an immigration agency within 72 hours of receiving notice of the inspection. (All U.S. employers must ensure proper completion of the I-9 form for each person hired, both citizens and non-citizens. On the form, an employee must attest to his or her employment authorization and the employee must present the employer with acceptable documents evidencing identity and employment authorization. Acceptable forms of evidence include a U.S. passport, a permanent resident card, a driver's license and social security number, a foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine readable immigrant visa, an employment authorization document that contains a photograph (Form I-766), etc.).]

**Gov't C. 7310**
(New)
(Ch. 17) (AB 103)
(Effective 6/27/2017)
and
(Amended)
(Ch. 363) (SB 112)
(Effective 9/28/2017)

Prohibits a city, county, or local law enforcement agency that does *not*, as of June 15, 2017, have a contract with the federal government or a federal agency to detain an adult non-citizen for purposes of civil immigration custody, or to house or detain a minor in the custody of the Office of Refugee Resettlement or U.S. Immigration and Customs Enforcement (ICE), from entering into a contract with the federal government to house or detain an adult non-citizen or minor in a locked detention facility, for immigration purposes.

**Gov't C. 7311**
(New)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Prohibits a city, county, or local law enforcement agency that *already has*, as of June 15, 2017, an existing contract with the federal government or a federal agency to detain adult non-citizens for purposes of civil immigration custody, or to house or detain a minor in the custody of the Office of Refugee Resettlement or U.S. Immigration and Customs Enforcement (ICE), from renewing or modifying the contract to expand the maximum number of contract beds.

[Similar provisions were enacted as Civil Code 1670.9 in SB 29, effective January 1, 2018.]

**Gov't C. 8310.3**
(New)
(Ch. 826) (SB 31)
(Effective 10/15/2017)

Creates the California Religious Freedom Act.

Prohibits a state or local agency or public employee acting under color of law from doing any of the following:

1. Providing or disclosing to federal government authorities the religious beliefs, practices, or affiliation of any individual for the purpose of compiling a list, database, or registry based on religious affiliation, national origin, or ethnicity;
2. Using agency money, facilities, property, equipment, or personnel to assist in creating or enforcing a government program involving compiling a list, database, or registry based on religion, national origin, or ethnicity, for law enforcement or immigration purposes; or
3. Making personal information from agency databases available to a government program that compiles a list, database, or registry based on religion, national origin, or ethnicity, for law enforcement or immigration purposes.

Prohibits local and state law enforcement agencies and their employees from doing the following:

*continued*

1. Collecting information on the religious beliefs or practices of an individual except:
   a. As part of a targeted investigation where there is reasonable suspicion that the individual has engaged in, or been the victim of, criminal activity and there is a clear nexus between the criminal activity and the specific information collected about religious belief, practice, or affiliation; or
   b. Where necessary to provide religious accommodations.

2. Using agency money, facilities, property, equipment, or personnel to investigate or enforce any criminal, civil, or administrative violation, "or warrant for a violation," of a requirement that an individual register with the federal government based on religion, national origin, or ethnicity.

Provides that an agency or employee will only be deemed to be in violation of this new section if the agency or employee acted with actual knowledge that the information shared would be used for purposes prohibited by this section. However, the bill does not contain a penalty for violation.

[According to the legislative history, this bill is a preemptive strike in case the federal government creates a registry or database based on religion.]

**Gov't C. 8545.6**
(New)
(Ch. 406) (AB 562)
(Effective 1/1/2018)

Provides that any officer, employee, or person who, with the intent to deceive or defraud, commits obstruction of the California State Auditor in the performance of his or her official duties relating to an audit required by statute or requested by the Joint Legislative Audit Committee is subject to a fine not to exceed $5,000.

[Note that this new section does not label this conduct as an infraction or misdemeanor, or as any sort of crime. However, existing P.C. 15 provides that a crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it, that upon conviction results in a punishment of a fine, imprisonment, removal from office, disqualification to hold office, or death.]

*continued*

[The legislative history states that the impetus for this bill was a concern about the University of California Office of the President interfering in the 2017 audit of the University of California by the State Auditor.]

**Gov't C. 12525.5**
(Amended)
(Ch. 328) (AB 1518)
(Effective 1/1/2018)

Adds dates by which law enforcement agencies must begin collecting data pursuant to the Racial and Identity Profiling Act of 2015 (RIPA), and retains the existing deadline dates for agencies to issue their first round of reports.

Agencies employing 1,000 or more peace officers must begin collecting data by July 1, 2018, and issue the first round of reports by April 1, 2019.

Agencies employing between 667 and 999 peace officers must begin collecting data by January 1, 2019, and issue the first round of reports by April 1, 2020.

Agencies employing between 334 and 666 peace officers must begin collecting data by January 1, 2021, and issue the first round of reports by April 1, 2022.

Agencies employing between 1 and 333 peace officers must begin collecting data by January 1, 2022, and issue the first round of reports by April 1, 2023.

Delays, until January 1, 2018, the date by which the Attorney General must issue regulations regarding the collection and reporting of RIPA data.

Adds that law enforcement agencies are solely responsible for ensuring that the personally identifiable information of the individual stopped, or any other information that is exempt from disclosure, is not transmitted to the Attorney General in an open text field.

[RIPA was enacted in 2015 and requires each state and local agency that employs peace officers to annually report to the Attorney General data on all stops conducted by peace officers during the preceding calendar year.

Reports are required to include the following information:

1. The time, date, and location of the stop;
2. The reason for the stop;
3. The result of the stop, such as, no action, warning, citation, property seizure, or arrest;

*continued*

4. If a warning or citation was issued, the warning provided or violation cited;
5. If an arrest was made, the offense charged;
6. The "perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped"; and
7. Actions taken by the peace officer during the stop, including, but not limited to:
    a. Whether the officer asked for consent to search and if so, whether consent was given;
    b. Whether the officer searched the person or any property and if so, the basis for the search and the type of contraband or evidence discovered, if any;
    c. Whether the officer seized any property, and if so, the type of property seized and the basis for seizing the property.

Prohibits the inclusion in the report of the name, address, social security number, or other unique personally identifying information of persons stopped or searched. Provides that the data and reports shall be available to the public, except for the badge number or other unique identifying information of the officer involved.]

**Gov't C. 12532**
(New)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Tasks the Attorney General with conducting reviews of county, local, and private locked detention facilities in which non-citizens are being housed or detained for purposes of civil immigration proceedings. Requires that the review include the conditions of confinement, the standard of care and due process provided to detainees, and the circumstances of their apprehension and transfer to the facility. Requires the Attorney General to report to the Legislature and the Governor by March 1, 2019.

**Gov't C. 12952**
(New)
(Ch. 789) (AB 1008)
(Effective 1/1/2018)

Prohibits private and public employers with five or more employees from asking about, and/or using, the criminal history of a prospective employee in specified ways, but makes some exceptions such as for jobs that require a criminal history background check and jobs in a health facility.

*continued*

1. Prohibits including on an employment application a question that seeks disclosure of an applicant's conviction history;

2. Prohibits inquiring into or considering conviction history until after an employer has made a conditional offer of employment; and

3. Prohibits an employer from even considering any of the following types of criminal history:
   a. Arrests not followed by conviction;
   b. Referral to or participation in a pre-trial or post-trial diversion program; and
   c. Convictions that have been sealed, dismissed, expunged, or "statutorily eradicated pursuant to law."

Provides that a conviction does not include a juvenile adjudication (and therefore cannot be considered by an employer), but does include an arrest for which an applicant is out on bail or on his or her own recognizance pending trial (and therefore may be considered by an employer).

Requires an employer intending to deny an applicant a job solely or in part because of the applicant's conviction history, to make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job that justify denying the applicant that job.

Requires an employer making a preliminary decision that the applicant's conviction history is disqualifying, to notify the applicant in writing, and then the applicant has five business days to respond, before the employer is permitted to make a final decision.

Requires an employer making a final decision to deny employment solely or in part because of the applicant's conviction history to notify the applicant in writing, which must include notice to the applicant that he or she has the right to file a complaint with the Dep't of Fair Employment and Housing.

Provides that the remedies under this new section are in addition to all other rights and remedies an applicant may have under any other law, including a local ordinance.

*continued*

[This bill also repeals Labor Code 423.9, which prohibited a public employer from asking a prospective employee about his or her conviction history until the agency had determined the applicant met the minimum employment qualifications. This prohibition is included in new Gov't C. 12952.]

**Gov't C. 13963.1**
(Amended)
**Gov't C. 13963.2**
(New)
(Ch. 587) (AB 1384)
(Effective 1/1/2018)

Recognizes the Trauma Recovery Center at the San Francisco General Hospital, University of California, San Francisco, as the State Pilot Trauma Recovery Center (State Pilot TRC). Requires the California Victim Compensation Board to use the "evidence-informed Integrated Trauma Recovery Services model" that was developed by the State Pilot TRC, when it selects, establishes, and implements Trauma Recovery Centers (TRCs). Requires that all TRCs funded through the Restitution Fund or the Safe Neighborhoods and Schools Fund (Prop. 47) do a number of things, including:

1. Provide outreach and services to crime victims who typically are not able to access traditional services, such as the homeless, the chronically mentally ill, immigrants, refugees, the disabled, and juvenile victims;
2. Serve victims of a wide range of crimes;
3. Offer evidence-based and evidence-informed mental health services and support services; and
4. Deliver services that include assertive outreach and case management, such as accompanying victims to court proceedings and medical appointments, assisting with the filing of applications for assistance with the California Victim Compensation Board and the filing of police reports or restraining orders, and the obtaining of safe housing and financial benefits.

**Gov't C. 24000**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Adds "a chief probation officer" to the list of county officers. Already included in the list are the district attorney, sheriff, county clerk, controller, etc. This bill also creates new Gov't C. 27770–27773, pertaining to chief probation officers. See below.

**Gov't C. 25132**
(Amended)
(Ch. 405) (AB 556)
(Effective 1/1/2018)

Increases the fines for an infraction violation of a county ordinance pertaining to event permits. A violation of an event permit requirement that is an infraction is punishable by up to $150 for a first violation, by up to $700 for a second violation within three years, and by up to $2,500 for a third or additional violation within three years of the first violation. (Previously the infraction fines were a maximum of $100, $200, and $500.) Defines "violation of an event permit" as the failure to obtain a permit required for a professionally organized special event on private property that is commercial in nature, or from which the owner or operator derives a commercial benefit. Defines "commercial in nature" as charging admission or selling merchandise. [Gov't C. 25132 continues to provide that the violation of a county ordinance is a misdemeanor unless by ordinance it is made an infraction, and that the violation of a county ordinance may be prosecuted by county authorities in the name of the people of the State of California, or redressed by civil action.]

[According to the legislative history of this bill, an increase in fines is necessary because event organizers find that it is cheaper to not get a permit and to pay the fine, rather than to pay for the permit.]

**Gov't C. 27757**
(Amended)
(Ch. 678) (SB 190)
(Effective 1/1/2018)

Provides that this section does not apply to a minor who is adjudged a ward of the court, or who is the subject of a petition to declare the minor a ward of the court, or who is the subject of a program of supervision pursuant to W&I 654 (disposition in lieu of filing a petition), or who is placed on probation pursuant to W&I 725 (permitting up to six months on probation without being adjudged a ward of the court).

Thus, this section that permits a county financial officer to investigate a minor's assets or the assets of a minor's parent or guardian in order to determine what the family can pay towards the various costs and fees for the minor's involvement in the juvenile system, no longer applies to the four categories of minors listed above. Gov't C. 27757 continues to apply to other minors, such as dependent children of the court.

[This bill also makes a number of amendments to Welfare and Institutions Code sections to eliminate various fees and costs for these four categories of minors. See the Juvenile Delinquency section of this digest for more information, in particular W&I 900–904.]

**Gov't C. 27770**
**Gov't C. 27771**
**Gov't C. 27772**
**Gov't C. 27773**
(New)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Adds new Chapter 16 of Part 3 of Division 2 of Title 3 of the Government Code, entitled "Chief Probation Officer." Requires that a chief probation officer be appointed in every county. Details the duties of a chief probation officer, including community supervision of offenders (probationers, juveniles, mandatory supervisees, and postrelease community supervisees), operation of juvenile halls and camps and ranches, administration of community-based corrections programming, and making recommendations to the court such as pre-sentence investigative reports. Authorizes the chief probation officer to appoint deputies and assistants.

**Gov't C. 68150**
**Gov't C. 68152**
**Gov't C. 68153**
(Amended)
(Ch. 172) (AB 1443)
(Effective 1/1/2018)

Adds records of gun violence restraining orders to the types of restraining orders (civil harassment, domestic violence, elder abuse, workplace violence) that must be retained permanently by the courts.

Updates court record retention/destruction provisions regarding H&S 11357 crimes (possession of cannabis and/or concentrated cannabis) by updating cross-references to H&S 11357 to be consistent with amendments made to H&S 11357 by Proposition 64 in November 2016.

[Note that with respect to H&S 11357, Gov't C. 68152 specifies only subdivisions (b), (c), and (d) of H&S 11357, and not subdivision (a), which is the infraction crime of possessing up to 28.5 grams of cannabis or up to 8 grams of concentrated cannabis. However, existing H&S 11361.5 provides that records of all H&S 11357 violations must be destroyed after two years, except for the records for H&S 11357(d) (possession by a minor of up to 28.8 grams of cannabis or up to 8 grams of concentrated cannabis on school grounds), which must be retained until the offender reaches age 18.]

Eliminates in Gov't C. 68153 the requirement that a court provide a list of destroyed records to the Judicial Council.

**Gov't C. 68500.3**
(New)
(Ch. 36) (AB 452)
(Effective 1/1/2018)

Provides that any reference to the Administrative Office of the Courts in state law means the Judicial Council.

[According to the legislative history of this bill, in 2014 the Judicial Council retired the term "Administrative Office of the Courts" (AOC) in order to eliminate confusion over the relationship between the Judicial Council and the AOC, thus uniting both offices under the title of Judicial Council. The AOC is referenced over 26,000 times in California's statutes. Adding this new Government Code section is much more efficient than amending numerous statutes.]

**Gov't C. 68530**
(New)
(Ch. 595) (SB 339)
(Effective 1/1/2018)

Requires the Judicial Council, **if** it receives funding, to conduct a study of veterans and veterans treatment courts, and to report to the Legislature by June 1, 2020. Requires the study to include an assessment of veterans' treatment courts currently in operation and a survey of counties that do not operate these courts. Requires the report to include recommendations regarding the expansion of veterans' treatment courts or services to counties without these courts, and to explore the feasibility of regional model veterans' treatment courts through the use of service coordination or technological resources.

**Gov't C. 69619.6**
(New)
(Ch. 330) (AB 1692)
(Effective 1/1/2018)

Ratifies the authority of the Judicial Council to convert 10 subordinate judicial officer positions to judgeships in the 2017–2018 fiscal year, if the conversion results in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer, pursuant to Gov't C. 69615(c)(1)(C). [Existing Gov't C. 69615(c)(1)(C) provides that up to 10 subordinate judicial officer positions in eligible superior courts may be converted to judgeships if the conversion results in a judge being assigned to a family law or juvenile court assignment previously presided over by a subordinate judicial officer.]

# Harbors and Navigation Code

**H&N 652.5**
(Amended)
(Ch. 103) (AB 78)
(Effective 1/1/2018)

Adds fire department vessels and fire protection district vessels to those vessels (law enforcement vessels) that are authorized to use a distinctive blue light. Permits fire vessels to use the blue light when conducting "public safety activities" where identification of the vessel is desirable or necessary for safety reasons. [For example, a fire department vessel could use a blue light when engaged in a rescue operation on the water.]

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# Health and Safety Code

**H&S 1278.5**
(Amended)
(Ch. 275) (AB 1102)
(Effective 1/1/2018)

Increases the maximum fine, from $20,000 to $75,000, for the misdemeanor crime of a health facility violating whistleblower protections by discriminating or retaliating against a patient, nurse, medical staff member, or health care worker who makes a complaint about the quality of care, service, or conditions at the facility. Also adds that this misdemeanor fine is in addition to the civil penalty authorized by H&S 1278.5 (up to $25,000).

**H&S 1439.50**
**H&S 1439.51**
**H&S 1439.52**
**H&S 1439.53**
**H&S 1439.54**
**H&S 1569.318**
(New)
(Ch. 483) (SB 219)
(Effective 1/1/2018)

Creates new misdemeanor crimes and adds a new Chapter 2.45 to Division 2 of the Health and Safety Code (H&S 1439.50–1439.54), entitled "Lesbian, Gay, Bisexual, and Transgender Long-Term Care Facility Residents' Bill of Rights." New H&S 1569.318 provides that the LGBT Long-Term Care Facility Residents' Bill of Rights also applies to residential care facilities for the elderly.

Prohibits a long-term care facility or its staff, or a residential care facility for the elderly or its staff, from taking specified actions wholly or partially on the basis of a person's actual or perceived sexual orientation, gender identity, gender expression, or HIV status. The specified prohibited actions include denying admission to the facility, denying a request by residents to share a room, willfully and repeatedly failing to use a resident's preferred name or pronouns, denying or restricting medical or non-medical care that is appropriate to a resident's organs and bodily needs, denying a resident the right to wear clothing or accessories that are permitted for any other resident, and prohibiting a resident from using a restroom available to other persons of the same gender identity.

New H&S 1439.54 provides that a violation of this new chapter shall be "treated as a violation under" Chapter 2 (H&S 1250–1339.59: Health Facilities), Chapter 2.4 (1417–1439.8: Quality of Long-Term Health Facilities) or Chapter 3.2 (1569–1569.889: Residential Care Facilities for the Elderly).

The phrase "treated as a violation under" is not defined or explained, but there are existing statutes in these three cross-referenced chapters that contain penalties for violations of those chapters:

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1. Existing H&S 1290 (in Chapter 2) provides that a violation is a misdemeanor punishable by up to 180 days in jail and/or by a fine of up to $1,000.
2. Existing H&S 1424 (in Chapter 2.4) sets up a system of citations and civil penalties for violations.
3. Existing H&S 1569.40 (in Chapter 3.2) provides that a violation is a misdemeanor punishable by up to one year in jail and/or by a fine of up to $1,000.

**H&S 1621.5**
(Repealed)
(Ch. 537) (SB 239)
(Effective 1/1/2018)

Repeals the felony crime of a person donating blood, tissue, semen, or breastmilk, knowing that he or she has AIDS or knowing that he or she has tested reactive to HIV. (This felony crime had been punishable by two, four, or six years in jail pursuant to P.C. 1170(h).)

[See below for amendments made to H&S 120290, 120291, and 120292 by this bill.]

[Because punishment is eliminated, this amendment will apply to all crimes that are not yet final on appeal as of January 1, 2018. *In re Estrada* (1965) 63 Cal.2d 740 provides that when the Legislature amends a statute so as to lessen or eliminate punishment, the amendment applies to acts committed before the effective date of the amendment, if the defendant's conviction is not yet final.]

**H&S 11018**
(Amended)
(Ch. 27) (SB 94)
(Effective 6/27/2017)

Changes "marijuana" to "cannabis", thus making the definition of cannabis in H&S 11018 *the same* as it was for marijuana: Cannabis means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. Cannabis does not include industrial hemp as defined in H&S 11018.5 or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

[This bill amends a number of Health and Safety Code sections to change "marijuana" to "cannabis."]

**H&S 11054**
(Amended)
(Ch. 27) (SB 94)
(Effective 6/27/2017)

Amends the list of Schedule One controlled substances to change "marijuana to "cannabis" in subdivision (d)(13).

**H&S 11165.1**
(Amended)
(Ch. 607) (AB 40)
(Effective 10/9/2017)

Requires the Dep't of Justice (DOJ), by October 1, 2018, to make prescription drug records contained in its Controlled Substance Utilization Review and Evaluation System (CURES) electronically accessible to health care practitioners and pharmacists through integration with their health information technology systems. CURES monitors the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances. Schedule II includes codeine, hydrocodone, oxycodone, morphine, and fentanyl and other specified opiates. According to the legislative history of this bill, CURES currently can only be accessed through a secure online portal through an Internet Web browser. The purpose of the bill, in the face of increasing numbers of opioid overdose deaths, is to make CURES easier, faster, and more efficient for health care practitioners and pharmacists to use.

**H&S 11350**
(Amended)
(Ch. 269) (SB 811)
(Effective 1/1/2018)

Consolidates the two different versions of H&S 11350 (possession of a controlled substance, such as cocaine or heroin) that are currently in effect, into one single version without substantive amendment. Subdivisions (a), (b), and (c) remain as they are in existing law in the Proposition 47 version of H&S 11350. The additions made to H&S 11350 by AB 2603 effective January 1, 2015, are in subdivisions (d) and (e) in the consolidated version of H&S 11350.

[AB 2603, effective January 1, 2015, added an exception to the crime of possessing a controlled substance without a prescription: the possession of the controlled substance is at the direction or with the express authorization of the prescription holder **and** the sole intent of the possessor is to deliver the prescription to the prescription holder for its prescribed use or to discard the substance in a lawful manner. Thus, a family member or caregiver can pick up a prescription and deliver it to the prescription holder. Provides that the use of a controlled substance by a person other than the prescription holder is not permitted and that the distribution or sale of a controlled substance that is inconsistent with the prescription is not permitted. These provisions are now in subdivisions (d) and (e) of the consolidated version of H&S 11350.]

**H&S 11357**
(Amended)
(Ch. 27) (SB 94)
(Effective 6/27/2017)

Changes "marijuana" references to "cannabis" in the various infraction and misdemeanor crimes of possessing cannabis or concentrated cannabis.

(Amended)
(Ch. 253) (AB 133)
(Effective 9/16/2017)

Increases, from four to eight, the threshold number of grams of concentrated cannabis for determining what punishment applies. Also makes non-substantive changes by re-wording "under the age of 18" to "under 18 years of age" and by re-wording "18 years of age or over" to "18 years of age or older." Does **not** make any changes to the 28.5 gram threshold for **non**-concentrated cannabis.

By increasing the threshold concentrated cannabis amount from four to eight grams, punishment is lessened for the possession of over four and up to eight grams of concentrated cannabis pursuant to H&S 11357(a) and H&S 11357(b). For example, a minor who now possesses over four and up to eight grams of concentrated cannabis on a first offense is required to complete four hours of drug education and up to 10 hours of community service, whereas this same minor, before September 16, 2017, would have been required to do eight hours of drug education and up to 40 hours of community service for a first offense. A person age 19 who now possesses over four and up to eight grams of concentrated cannabis is punishable by a fine of up to $100, whereas the same offense committed before September 16, 2017, was punishable by up to six months in jail and/or by a fine of up to $500. Because this bill lessens punishment, it most likely will be applied by the courts retroactively to all cases not yet final on appeal, pursuant to *In re Estrada* (1965) 63 Cal.2d 740.

Amends both H&S 11357(c) and H&S 11357(d) (possession of cannabis or concentrated cannabis on school grounds when school is open for classes or programs) to change "not more than four grams of concentrated cannabis" to "not more than eight grams of concentrated cannabis." Does **not** make any changes to the 28.5 gram threshold for **non**-concentrated cannabis.

[This bill also changes the name of Article 2 in Chapter 6 of Division 10 of the Health and Safety Code from "Marijuana" to "Cannabis."]

**H&S 11358**
**H&S 11359**
**H&S 11360**
**H&S 11361**
**H&S 11361.1**
**H&S 11361.5**
**H&S 11362.1**
**H&S 11362.2**
**H&S 11362.3**
**H&S 11362.4**
**H&S 11362.45**
**H&S 11362.7**
**H&S 11362.71**
**H&S 11362.715**
**H&S 11362.765**
**H&S 11362.768**
**H&S 11362.77**
**H&S 11362.785**
**H&S 11362.79**
**H&S 11362.795**
**H&S 11362.8**
**H&S 11362.81**
**H&S 11362.83**
**H&S 11362.85**
**H&S 11362.9**
**H&S 11364.5**
(Amended)
(Ch. 27) (SB 94)
(Effective 6/27/2017)

Amends these crimes and provisions to change "marijuana" to "cannabis," without substantive amendments.

Makes a few amendments not related to the change in terminology from "marijuana" to "cannabis."

H&S 11358 (cannabis cultivation) is amended to add an additional factor that supports a felony charge when a person age 18 or older plants, cultivates, harvests, dries, or processes more than six living plants: the offense resulted in a violation of Fish & Game C. 2000 relating to the unlawful taking of fish and wildlife. (Fish & Game C. 2000 is the crime of unlawfully taking a bird, mammal, fish, reptile, or amphibian.)

Amends H&S 11362.3 to provide a definition of "volatile solvent," rather than simply listing the names of organic compounds. Provides that "volatile solvent" means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. (H&S 11362.3 contains a number of cannabis crimes, including manufacturing concentrated cannabis using a volatile solvent.)

**H&S 11369**
(Repealed)
(Ch. 495) (SB 54)
(Effective 1/1/2018)

Repeals all of H&S 11369: "When there is reason to believe that any person arrested for a violation of Section 11350, 11351, 11351.5, 11352, 11353, 11355, 11357, 11359, 11360, 11361, 11363, 11366, 11368 or 11550, may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters."

[SB 54 restricts law enforcement cooperation with federal immigration authorities and is referred to by many as the "sanctuary state" bill. It also amends Gov't C. 7282 and 7282.5, and adds Gov't C. 7284–7284.12. See the Government Code section of this digest for more information.]

**H&S 11370.2**
(Amended)
(Ch. 677) (SB 180)
(Effective 1/1/2018)

Eliminates all but one of the Health and Safety Code prior convictions that trigger a three-year enhancement when a defendant is charged with a specified drug crime. No longer will prosecutors be able to charge possession for sale priors, transportation for sale priors, sales priors, manufacturing priors, or possession with intent to manufacture priors, as three-year enhancements pursuant to H&S 11370.2. The following crimes are *eliminated* as applicable prior convictions: H&S 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6, and 11383. *The only prior conviction that triggers a three-year H&S 11370.2 enhancement is H&S 11380 or conspiracy to violate H&S 11380.* H&S 11380 applies to specified controlled substances and prohibits using a minor as an agent; or soliciting, inducing, encouraging, or intimidating a minor with the intent that the minor violate a controlled substance offense; or furnishing, offering to furnish, or attempting to furnish a specified controlled substance to a minor. [The underlying drug crimes that H&S 11370.2 may enhance have not changed.]

Absolute probation ineligibility pursuant to P.C. 1203.07 and presumptive probation ineligibility pursuant to P.C. 1203.073 are **not** affected. For example, a defendant convicted of H&S 11352 for selling cocaine who has a prior conviction for H&S 11351, 11351.5, 11352, 11378, 11378.5, 11379, or 11379.5 is still absolutely ineligible for probation pursuant to P.C. 1203.07(a)(11), which is required to be alleged in the accusatory pleading. A defendant convicted of H&S 11379.6 for manufacturing methamphetamine who has a prior conviction for H&S 11378, 11379, 11379.6, etc., involving methamphetamine, is still presumptively ineligible for probation pursuant to P.C. 1203.073(b)(5), which is required to be alleged in the accusatory pleading.

[Because this bill lessens or eliminates punishment for a defendant who has had time imposed for one or more H&S 11370.2 enhancements, it is to be expected that this amendment will be treated by the courts as being retroactive, meaning that it will apply to all defendants whose convictions are not yet final as of January 1, 2018. For example, it will apply to a H&S 11370.2 case pending on January 1, 2018 even if the crime occurred before January 1, 2018, and to a H&S 11370.2 case that is on appeal as of January 1, 2018, and to a H&S 11370.2 defendant sentenced approximately November 2, 2017, or later because the case will still be within the 60-day period during which an appeal may be filed, when this bill takes effect on January 1, 2018. *In re Estrada* (1965) 63 Cal.2d 740 provides that when the

*continued*

Legislature amends a statute so as to lessen or eliminate punishment, the amendment applies to acts committed before the effective date of the amendment, if the defendant's conviction is not yet final.]

[The vote totals show that there was significant opposition to this bill in both the Assembly and the Senate. There was also major opposition from a variety of law enforcement agencies and groups. The legislative history of the bill makes a number of inaccurate claims about deterrence and recidivism, including this: "Sentencing enhancements do not prevent or reduce drug sales, but do have destabilizing effects on families and communities. Research finds that the length of sentences does not provide any deterrent or significant incapacitation effect…." The legislative history also states this as one of the reasons for the amendment to H&S 11370.2: "Research shows that people incarcerated for selling drugs are quickly replaced by other people."]

**H&S 11377**
(Amended)
(Ch. 269) (SB 811)
(Effective 1/1/2018)

Consolidates the two different versions of H&S 11377 (possession of a controlled substance, such as methamphetamine or phencyclidine) that are currently in effect, into one single version without substantive amendment. Subdivisions (a) and (b) remain as they are in existing law in the Proposition 47 version of H&S 11377. The additions made to H&S 11377 by AB 2603 effective January 1, 2015, are in subdivisions (c) and (d) in the consolidated version of H&S 11377.

[AB 2603, effective January 1, 2015, added an exception to the crime of possessing a controlled substance without a prescription: the possession of the controlled substance is at the direction or with the express authorization of the prescription holder **and** the sole intent of the possessor is to deliver the prescription to the prescription holder for its prescribed use or to discard the substance in a lawful manner. Thus, a family member or caregiver can pick up a prescription and deliver it to the prescription holder. Provides that the use of a controlled substance by a person other than the prescription holder is not permitted and that the distribution or sale of a controlled substance that is inconsistent with the prescription is not permitted. These provisions are now in subdivisions (c) and (d) of the consolidated version of H&S 11377.]

**H&S 11470**
**H&S 11478**
**H&S 11479**
**H&S 11479.2**
**H&S 11480**
**H&S 11485**
**H&S 11532**
**H&S 11553**
(Amended)
(Ch. 27) (SB 94)
(Effective 6/27/2017)

Amends these seizure and forfeiture provisions to change "marijuana" to "cannabis," without substantive amendments.

**H&S 103050**
(Amended)
(Ch. 187) (AB 356)
(Effective 1/1/2018)

Increases, from 20 to 30, the number of miles that human remains found within 50 miles of the California border may be transported into an adjacent state without a death certificate or a permit for disposition, if the coroner authorizes the release of the remains.

[According to the legislative history of this bill, which was sponsored by the State Sheriffs' Association, there are funeral service providers in the state of Nevada that are closer to residents of northern California counties like Alpine County, but they are more than 20 miles from the California-Nevada border. This bill will permit those California residents to use a Nevada funeral home that might be closer than a California funeral home.]

[H&S 7055(a) is a misdemeanor/infraction crime pertaining to the unlawful removal of human remains. H&S 7055(b) provides an exception to this crime, permitting a funeral director of a licensed out-of-state funeral establishment to transport human remains out of California without a removal permit if the removal meets the requirements of H&S 103050(b). Thus, the amendment to H&S 103050(b) increases the distance a funeral director may transport remains out of state and not be in violation of H&S 7055.]

**H&S 120290**
(Repealed & Added)
**H&S 120291**
**H&S 120292**
(Repealed)
(Ch. 537) (SB 239)
(Effective 1/1/2018)

Repeals the misdemeanor crime of a person afflicted with a contagious, infectious, or communicable disease willfully exposing himself or herself to another person (H&S 120290). Repeals the felony crime of knowingly exposing another person to HIV by engaging in unprotected sexual activity without disclosing the HIV status and with the specific intent to infect the other person (H&S 120291, which was punishable by three, five, or eight years in state prison.)

*continued*

Creates new misdemeanor crimes relating to the intentional transmission of all infectious or communicable diseases, including HIV. The purpose of the bill is to lower penalties for the transmission of HIV and make penalties the same for all infectious or communicable diseases. Also makes the new crimes more difficult to prove than the repealed ones and limits punishment to 90 days or six months in jail.

H&S 120290 now contains three misdemeanor crimes.

1. H&S 120290(a)(1) is the misdemeanor crime of intentionally transmitting an infectious or communicable disease. Punishable by up to six months in jail, it requires that:
   A. the defendant knows that he or she or a third party is afflicted with an infectious or communicable disease; and
   B. the defendant acts with the specific intent to transmit or cause an afflicted third party to transmit the disease; and
   C. the defendant or third party engages in conduct that poses a substantial risk of transmission; and
   D. the defendant or third party *actually transmits* the disease to the victim; and
   E. if exposure occurs through interaction with the defendant and not a third party, the victim did not know the defendant was afflicted.

2. Attempted H&S 120290(a)(1): Attempting to transmit an infectious or communicable disease is a misdemeanor crime that is almost identical to the crime of intentional transmission except that the actual transmission of the disease to the victim is not required (i.e., elements A, B, C, and E, above, are required, but not D.) Attempted transmission is punishable by up to 90 days in jail.

3. H&S 120290(a)(2) is the misdemeanor crime of willful exposure to an infectious or communicable disease. It requires that a health officer, under circumstances that make securing a quarantine or health officer order infeasible, instruct the defendant not to engage in particular conduct that poses a substantial risk of transmitting an infectious or communicable disease, and the defendant engages in that conduct within 96 hours of instruction. Punishable by up to six months in jail. Also provides that "A health officer, or the

*continued*

health officer's designee, may issue a maximum of two instructions to a defendant that may result in a violation of this paragraph." [This is not as clear as it should be, and appears to mean that if a health officer issues more than two instructions that the defendant violates, the defendant can be charged with only two violations of H&S 120290(a)(2).]

Restricts how the element of specific intent may be proved by providing that:

1. A defendant's failure to take practical means to prevent transmission is alone not sufficient to prove specific intent to transmit;
2. A defendant's medical records and medications cannot be used as the sole basis for establishing specific intent; and
3. "Surveillance reports and records maintained by state and local health officials shall not be subpoenaed as the sole basis of establishing" specific intent.

Requires a court "to take judicial notice of any fact establishing an element of the offense upon the defendant's motion or stipulation." [It appears that the intent here is to keep the jury from hearing certain pieces of evidence in detail.]

Requires that before sentencing, a defendant be assessed for placement in one or more community-based programs that provide counseling, supervision, education, and "reasonable redress to the victim or victims."

Includes in H&S 120290 several provisions that were in repealed 120291, regarding victim confidentiality. For example, requires the victim's name and identifying characteristics to be kept confidential in court documents and in papers filed by the parties, and requires the court to issue an order prohibiting the parties, law enforcement, and court staff from publicly disclosing the victim's name and identifying characteristics.

Requires the court, unless the defendant requests otherwise, to order that the parties, law enforcement, and court staff, before a finding of guilt, not publicly disclose the defendant's name or identifying characteristics.

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Requires the court, upon a finding of probable cause that a defendant has violated H&S 120290, to order the production of the defendant's medical records or the attendance of a person with knowledge of the records. Require the court to examine the records or the person in camera, and if the records or the proffered testimony are relevant to the charged offense, the court must order disclosure to the prosecutor.

[Because punishment is lessened or eliminated, these amendments will apply to all crimes that are not yet final on appeal as of January 1, 2018. *In re Estrada* (1965) 63 Cal.2d 740 provides that when the Legislature amends a statute so as to lessen or eliminate punishment, the amendment applies to acts committed before the effective date of the amendment, if the defendant's conviction is not yet final.]

**H&S 122354.5**
(New)
(Ch. 740) (AB 485)
(Effective 1/1/**2019**)

Prohibits a pet store operator from selling a dog, cat, or rabbit in a pet store unless it was obtained from a public animal control agency or shelter, a society for the prevention of cruelty to animals shelter, a humane society shelter, or a rescue group. Requires pet stores to maintain records for at least one year documenting where each dog, cat, or rabbit was obtained and post on each cage or enclosure the name of the agency, shelter, or non-profit from which each dog, cat, or rabbit was obtained. Provides for a civil penalty of $500 for each animal offered for sale in violation of this section.

[According to the legislative history, the purpose of this bill is to have animal shelters and humane societies be the source for dogs, cats, and rabbits sold in pet stores, instead of commercial breeders, puppy mills, or kitten farms. The goal is to have fewer animals housed or killed in taxpayer-funded county animal shelters.]

# Juvenile Delinquency

**P.C. 1170.22**
(New)
(Ch. 537) (SB 239)
(Effective 1/2/2018)

Permits a defendant serving a sentence on January 1, 2018, for a violation of P.C. 647f to petition for recall or dismissal of the sentence. (This bill repeals P.C. 647f, which is the felony crime of a defendant being convicted of P.C. 647(b) (prostitution), and having a prior conviction for P.C. 647(b) or for a specified sex offense, and a positive AIDS test.)

Provides that the provisions of new P.C. 1170.22 apply to juvenile adjudications for P.C. 647f.

(However, because the Legislature decriminalized P.C. 647(b) prostitution for minors as of January 1, 2017, by providing that it does *not apply* to a minor under age 18, there are probably very few, if any, of these cases either in juvenile court or for which juveniles are still serving sentences.

Requires a court to vacate the conviction and resentence the defendant for any remaining counts. Prohibits resentencing from resulting in a sentence longer than the original sentence. Provides that upon completion of a sentence for P.C. 647f, the provisions of P.C. 1170.21 apply. [This bill also creates new P.C. 1170.21 to provide that all convictions for P.C. 647f are invalid and vacated, to require that all charges of 647f be dismissed, and to provide that all arrests for 647f are deemed never to have occurred.]

**W&I 207.2**
(Amended)
(Ch. 678) (SB 190)
(Effective 1/1/2018)

Eliminates the financial liability of a minor's parent or guardian to pay the reasonable costs of transporting the minor to a juvenile facility and the costs of the minor's food, shelter, and care at the juvenile facility. (These costs applied when a parent or guardian refused to pick up a minor scheduled for release from a law enforcement facility, thus necessitating the minor's transportation to a juvenile facility.)

**W&I 208.3**
(New)
(Ch. 726) (SB 1143)
*(2016 Legislation)*
(Effective 1/1/2018)
and
(Amended [*technical amendments only*])
(Ch. 561) (AB 1516)
(*2017 Legislation*)
(Effective 1/1/2018)

Limits to four hours the time a minor or ward can be held in "room confinement" (i.e., isolation, solitary confinement) in a juvenile hall or ranch, or in a local, regional, or state juvenile facility, or in a facility of the Dep't of Corrections & Rehabilitation (CDCR), Division of Juvenile Facilities. Does *not* apply to court holding facilities or adult facilities. Does *not* apply to single-person rooms or cells for housing minors, or to normal sleeping hours, or during a natural disaster or facility-wide threat, or when a minor is sick and needs to be isolated to protect against the spread of disease. Defines "minor" as a person under age 18, or a person under the maximum age of juvenile court jurisdiction who is confined in a juvenile facility, or a person under the jurisdiction of the Division of Juvenile Facilities. Defines "ward" as a person who has been declared a ward of the court pursuant to W&I 602.

Defines "room confinement" as the placement of a minor or ward in a locked sleeping room or cell with minimal or no contact with persons other than correctional facility staff and attorneys.

Authorizes room confinement only after less restrictive options have been attempted and exhausted, unless attempting those options poses a threat to the safety and security of a minor, ward, or staff. Prohibits room confinement from being used for punishment, coercion, convenience, or retaliation by staff. Prohibits room confinement to the extent it compromises the mental and physical health of the minor or ward.

Provides that after a minor or ward has been held in room confinement for four hours, staff must return the minor or ward to the general population, or consult with mental health or medical staff, or develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward into the general population.

Provides that if room confinement must be extended beyond four hours, staff must:

1. Document the reason for room confinement, the basis for its extension, the date and time the minor or ward was first placed in room confinement, and when he or she is eventually released from room confinement; and
2. Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward into the general population; and

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3. Obtain documented authorization by the facility superintendent or his or her designee every four hours thereafter.

**W&I 210.6**
(New)
(Ch. 660) (AB 878)
(Effective 1/1/2018)

Limits the use of restraints to transport a minor outside of a juvenile facility, or during a juvenile court proceeding.

**Transportation Outside of a Juvenile Facility**: Provides that mechanical restraints, including but not limited to, handcuffs, chains, irons, straitjackets, or cloth or leather restraints may be used on a juvenile detained in or committed to a secure juvenile facility during transportation outside of the facility only upon a determination made by the probation department, in consultation with the transporting agency, that mechanical restraints are necessary to prevent physical harm to the juvenile or another person, or due to a substantial risk of flight. If restraints are used, requires the least restrictive form of restraint to be used. Requires probation departments that use mechanical restraints other than handcuffs, to establish procedures to document their use and the reasons for their use. Provides that the limitation on restraints does not apply to medical care providers in the course of medical care or transportation.

**During a Juvenile Court Proceeding**: Permits the use of mechanical restraints on a juvenile during a court proceeding if the court determines that the juvenile's behavior in custody or in court "establishes a manifest need to use mechanical restraints to prevent physical harm to the juvenile or another person or due to a substantial risk of flight." Puts the burden on the prosecution to establish the need for restraints in court. Provides that if restraints are used, the least restrictive form of restraint must be used, and the reasons for using restraints must be "documented in the record."

[Note that the restraint limitation applies "during transportation outside of the facility" and "during a juvenile court proceeding" and does not appear to limit the use of restraints in other settings, such as upon arrival at the destination to which the juvenile is being transported, or being in a holding cell awaiting a court hearing.]

[Existing W&I 222(b), which cross-references existing P.C. 3407, continues to provide that a pregnant female juvenile ward of the court, or one who is in recovery after

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giving birth, shall not be restrained by the use of leg irons, waist chains, or handcuffs behind the body, and that a ward in labor shall not be restrained by the wrists or ankles unless deemed necessary for the safety and security of the ward, the staff, or the public.]

**W&I 212.5**
(New)
(Ch. 319) (AB 976)
(Effective 1/1/2018)

Permits the electronic filing and serving of juvenile court documents as prescribed in C.C.P. 1010.6 if a county and the court permit electronic service and if the party being served has consented to electronic service. Prohibits electronic service on a party or person under age 10. Permits electronic service on a party or person between age 10 and 15 with the express consent of the minor and the minor's attorney. Permits electronic service on a minor age 16 or 17 if the minor, after consultation with an attorney, consents. Generally prohibits the electronic service of psychological or medical documentation related to a minor.

[This bill adds new P.C. 690.5, amends several provisions in the Code of Civil Procedure, numerous provisions in the Probate Code, and a number of provisions in the Welfare and Institutions Code in order to expand electronic filing and delivery of documents to criminal, juvenile, and probate courts. A number of the W&I sections amended by this bill are amended to cross-reference new W&I 212.5 and some are amended to specifically prohibit certain notices being served electronically.]

**W&I 625.6**
(New)
(Ch. 681) (SB 395)
(Effective 1/1/2018)

Requires that a youth age 15 or younger consult with legal counsel in person, by telephone, or by video conference before a custodial interrogation and before waiving *Miranda* rights. Provides that the consultation with legal counsel cannot be waived.

[Does not provide for who is supposed to facilitate the legal consultation, but it will probably be up to law enforcement to locate an attorney for a youth in custody it seeks to question. Each county is apparently free to set up its own system, such as having a deputy public defender on call.]

Provides that in adjudicating the admissibility of statements during or after a custodial interrogation, a court "shall" consider the effect of a failure to comply with the legal counsel consultation requirement.

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New W&I 625.6 does not contain the words "suppress" or "suppression" and does not provide that a violation of W&I 625.6 may result in suppression. Even if it did, the California Constitution would not permit suppression based on a violation of W&I 625.6 because SB 395 did not receive a two-thirds vote in both the California Assembly and the California Senate. California Constitution Article I, Section 28(f)(2) ("Right to "Truth-in-Evidence," a part of 1982's Proposition 8) provides that relevant evidence shall **not** be excluded in any criminal proceeding or in any trial or hearing of a juvenile for a criminal offense, except where 2/3 of the members of both houses of the Legislature enact a statute to provide for exclusion. While SB 395 received 29 votes in California's 40-member Senate (27 votes is the 2/3 threshold), it received only 46 votes in the 80-member Assembly (54 votes is the 2/3 threshold.) In *In re Lance W.* (1985) 37 Cal.3d 873, the California Supreme Court interpreted this part of Proposition 8 and held that evidence cannot be excluded based on a violation of California law where it is admissible under federal law.

However, it may be the case that a violation of W&I 625.6 could subject the questioner/interrogator to civil liability. And a court could use a violation of the consultation requirement as a factor in deciding whether a minor's statements are voluntary or involuntary.

[Uncodified Section One of this bill contains the Legislature's findings and declarations on the topic of custodial interrogation, stating that minors have a lesser ability than adults to understand their rights and the consequences of waiving their rights, and that children and adolescents are much more vulnerable to "psychologically coercive interrogations and in other dealings with the police than resilient adults experienced with the criminal justice system."]

Provides some exceptions to the legal consultation requirement:

1. **Emergency situations**: New W&I 625.6 does not apply when the officer who questions a youth reasonably believes the information he/she seeks is necessary to protect life or property from an imminent threat, and the questions are limited to those reasonably necessary to obtain that information.

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2. **Probation officers**: New W&I 625.6 exempts probation officers from the legal consultation requirement in the "normal performance" of their duties pursuant to W&I 625, 627.5, or 628. (W&I 625 and 627.5 require an officer or probation officer taking a minor into custody to advise the minor of his or her constitutional rights, including the right to remain silent, the right to have counsel present during questioning, and the right to have counsel appointed if unable to afford counsel. W&I 628 requires a probation officer to immediately investigate the circumstances of a minor who is taken into temporary custody and the facts surrounding his or her being taken into custody.)

3. The questioning is not custodial or the minor is age 16 or older.

Provides that new W&I 625.6 will be repealed on 1/1/2025 unless extended.

Requires the Governor to convene a panel of at least seven experts, including a representative of the California District Attorneys Association, a representative of the California Public Defenders Association, a representative of a statewide association representing law enforcement, a representative of the judiciary, a member of the public who as a youth was involved in the criminal justice system, a criminologist with experience in interpreting crime data, and a member of the public possessing expertise and experience in juvenile delinquency, child development, special needs children, or the representation of children in juvenile court. Requires the panel to review the implementation of W&I 625.6, and examine its effects and outcomes, including the appropriate age of youth to whom this section should apply, and to report to the Legislature by April 1, 2024.

**W&I 628**
(Amended)
(Ch. 732) (AB 404)
(Effective 1/1/2018)

Adds information about becoming a resource family home to the types of information that a probation officer is required to provide to a minor's adult relatives when a minor is detained and the probation officer believes the minor is at risk of entering foster care placement. (Continues to require that information be provided about caring for the minor, about how to become a foster family home, and how to become an approved relative or non-relative extended family member.)

**W&I 634**
**W&I 652.5**
**W&I 654**
**W&I 654.6**
**W&I 656**
**W&I 659**
**W&I 700**
(Amended)
(Ch. 678) (SB 190)
(Effective 1/1/2018)

Eliminates the liability of a parent or guardian to pay the costs and fees associated with the minor's involvement in the juvenile court system: the cost of legal fees, service programs, sheltered-care facilities, or crisis resolution homes; and the cost of a program of supervision pursuant to W&I 654 or 654.2.

Eliminates the requirement of notice to a parent or guardian that he or she is liable for these costs involving a minor: the care, support, and maintenance of the minor in a county institution or other court-ordered placement; legal services rendered by a court-appointed attorney; and, the cost to the county of supervision by a probation officer.

**W&I 727**
(Amended)
(Ch. 732) (AB 404)
(Effective 1/1/2018)

Adds group homes to the list of authorized placements for a juvenile ward. (W&I 727 continues to specify the home of a relative, the home of a non-relative extended family member, a foster home, the home of a resource family, a licensed community care facility, and a short-term residential therapeutic program.)

**W&I 729.9**
**W&I 729.10**
(Amended)
(Ch. 678) (SB 190)
(Effective 1/1/2018)

Eliminates the fees that a minor could previously be charged if ordered to submit to drug testing.

Eliminates the liability of a parent or guardian to pay the fees for a minor's participation in an alcohol or drug education program.

**W&I 781**
(Amended)
(Ch. 679) (SB 312)
(Effective 1/1/2018)

Changes Proposition 21's ban on sealing a juvenile record pertaining to a W&I 707(b) offense committed at age 14 or older by now permitting the sealing of these records, *except* for W&I 707(b) offenses requiring registration as a sex offender pursuant to P.C. 290.008. (P.C. 290.008 requires a minor who was adjudicated a ward of the juvenile court for a specified sex crime to register as a sex offender following discharge or parole from the Dep't of Corrections & Rehabilitation (CDCR). The list of P.C. 290.008 sex crimes includes both W&I 707(b) and non-W&I 707(b) crimes.)

The W&I 707(b) sealing provisions apply only to offenders whose cases were adjudicated in juvenile court and not to offenders prosecuted in adult court, by providing that the offense must have resulted in an adjudication of wardship by a juvenile court.

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Authorizes the filing and consideration of a sealing petition for a W&I 707(b)/non-P.C. 290.008 offense when the offender has reached age 21 or age 18 and has completed supervision. If the offender was committed to the Division of Juvenile Facilities and has completed his or her "period of probation supervision" after release, the sealing petition may be filed and considered after the offender reaches age 21. If the offender was *not* committed to the Division of Juvenile Justice and has completed probation supervision, the sealing petition may be filed and considered after the offender reaches age 18.

The existing W&I 781(a)(1)(A) standards for the court granting a sealing petition still apply: The court must find that the offender has not been convicted of a felony or of any misdemeanor involving moral turpitude, and the court must be satisfied that "rehabilitation has been attained."

Provides that a sealed W&I 707(b) record may be accessed, inspected, or utilized in a subsequent proceeding against the offender under the following circumstances:

1. By the prosecuting attorney:
   A. To make appropriate charging decisions;
   B. To initiate prosecution in a court of criminal jurisdiction (i.e., adult court) for a subsequent felony offense;
   C. To determine the appropriate sentence for a subsequent felony offense;
   D. To initiate a juvenile court proceeding to determine whether a minor shall be transferred from juvenile court to adult court pursuant to W&I 707. [If a sealed W&I 707(b) record is being accessed it necessarily means that the offender is now an adult, since sealing cannot occur until age 18 or 21. An example of a sealed record being relevant for the juvenile court prosecution of an adult would be a crime committed by a minor that is not discovered or filed until the minor is an adult. The case starts out in juvenile court because the offender was a minor when the crime was committed.];
   E. Upon a subsequent finding by the juvenile court that the minor has committed a felony offense, for the purpose of determining the appropriate disposition in the case (e.g., a crime committed by a minor that is not discovered or filed until the minor is an adult);

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F. For the purpose of proving a prior serious or violent felony conviction and determining the appropriate sentence pursuant to P.C. 667 (e.g., for the purpose of proving a strike prior or a five-year Proposition 8 P.C. 667(a) prior, and/or for deciding whether strike priors should be dismissed.); or

2. By the probation department upon a subsequent finding by the juvenile court that the minor has committed a felony offense, for the purpose of determining the appropriate disposition in the case (e.g., a crime committed by a minor that is not discovered or filed until the minor is an adult).

3. By a juvenile court in order to determine whether a minor should be transferred from juvenile court to adult court pursuant to W&I 707, or, upon a subsequent finding by the juvenile court that the minor has committed a felony offense, for the purpose of determining the appropriate disposition in the case (e.g., a crime committed by a minor that is not discovered or filed until the minor is an adult).

4. By a court of criminal jurisdiction (i.e., adult court) in order to determine the appropriate sentence for a subsequent felony offense, or, for the purpose of proving a prior serious or violent felony conviction and determining the appropriate sentence pursuant to P.C. 667 (e.g., for the purpose of proving a strike prior or a five-year Proposition 8 P.C. 667(a) prior, and/or for deciding whether strike priors should be dismissed).

Also authorizes access, inspection, and utilization of sealed W&I 707(b) records by a prosecutor for the purpose of meeting statutory (e.g., P.C. 1054–1054.10 discovery) and constitutional (e.g., *Brady* evidence) obligations to disclose favorable or exculpatory evidence to a defendant in a criminal case in which "the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation." Provides that the prosecutor is to submit the request for access to the juvenile court. Requires the juvenile court to approve the request if it determines that access to the record is necessary to enable the prosecutor to comply with disclosure obligations. Also requires the juvenile court to state on the record the limits on access, inspection, and utilization in order to protect the confidentiality of the subject of the sealed record.

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[It appears that for purposes of discovery and/or *Brady* evidence, the sealed records that may be accessed are not necessarily those of the defendant. The prosecution may need to access the sealed W&I 707(b) record of a witness. In contrast, the language for access in **non**-discovery and/or **non**-*Brady* scenarios does appear to be limited to a sealed record that pertains to the defendant currently being prosecuted. W&I 781(a)(1)(D)(ii) provides that, "A record … that has been sealed … may be accessed, inspected, or utilized in a subsequent proceeding against the person under any of the following circumstances …."]

Provides that any access, inspection, or utilization pursuant to W&I 781 is *not* deemed an unsealing of the record and does not require notice to any other entity.

Provides that these new sealing provisions for W&I 707(b) offenses do not apply if the W&I 707(b) offense was dismissed or reduced to a misdemeanor. Instead, the regular sealing provisions for non-W&I 707(b) offenses apply (e.g., a petition to seal may be filed five years or more after the juvenile court's jurisdiction has terminated or at any time after the offender reaches age 18.)

[Proposition 21, the Gang Violence and Juvenile Crime Prevention Act of 1998, was passed by voters at the March 2000 election and became effective on March 8, 2000. Among other things, it amended W&I 781 to prohibit the sealing of a record pertaining to a W&I 707(b) offense committed by a minor age 14 or older. Before Prop. 21, a court could seal the records of a W&I 707(b) offense six years after the crime was committed. Section 39 of Prop. 21 provides that it may be amended by the voters or by 2/3 of the California Assembly and Senate. It appears that SB 312 meets the 2/3 vote requirement: 33 of 40 senators voted for SB 312, as did 54 of 80 Assembly members.]

**W&I 786**
(Amended)
(Ch. 679) (SB 312)
(Section 2)
and
(Ch. 685) (AB 529)
(Section 2.5)
(Effective 1/1/2018)

Permits the dismissal of a petition and the sealing of a record involving a W&I 707(b) offense if the 707(b) offense has been reduced to a misdemeanor. Previously this section permitted dismissal and/or sealing of a W&I 707(b) record only if the crime had been dismissed, or reduced to a lesser offense not listed in 707(b).

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[W&I 786 permits dismissal and sealing after a ward of the juvenile court has satisfactorily completed (1) an informal program of supervision pursuant to W&I 654.2; or (2) probation pursuant to W&I 725; or (3) a term of probation for any offense.]

Adds a new subdivision (e) to provide that if a juvenile petition is dismissed on motion of the prosecution or on the court's own motion, or if a petition is not sustained by the court after an adjudication hearing, the court is required to order the sealing of all records pertaining to the petition in the custody of the juvenile court, law enforcement agencies, the probation department, and the Dep't of Justice. Requires the court to send a copy of the order to each agency, directing that its records be sealed and specifying a date by which the sealed records must be destroyed. Requires each agency to seal its records, advise the court of its compliance, and then seal the copy of the court order that was received. Requires the court to also provide notice to the offender and the offender's attorney about dismissal and sealing, along with the advisement contained in existing subdivision (b): that the arrest and proceedings are deemed not to have occurred and the offender may reply accordingly to an inquiry by employers, educational institutions, or other persons or entities.

Provides that when a record has been sealed based on a dismissed petition pursuant to new subdivision (e), the prosecutor, within six months of the dismissal date, may petition the court to access, inspect, or utilize the sealed record for the limited purpose of refiling the dismissed petition based on new circumstances, including, but not limited to, new evidence or witness availability. Provides that the court must determine whether the new circumstances alleged by the prosecutor provide sufficient justification for accessing, inspecting, or utilizing the sealed record in order to refile the dismissed petition.

[SB 312 also amends W&I 781. See above. AB 529 also creates new W&I 786.5. See below.]

**W&I 786.5**
(New)
(Ch. 685) (AB 529)
(Effective 1/1/2018)

Requires a probation department to seal its records of a juvenile case after a minor has satisfactorily completed a program of diversion or supervision that he or she was referred to in lieu of filing a petition, including a program of informal supervision pursuant to W&I 654. Requires a probation department to seal the arrest records and records relating to participation in the diversion or supervision program.

Provides that "satisfactory completion" means substantial compliance with the reasonable terms of program participation that are within the capacity of the offender to perform.

Requires a probation department to determine, within 60 days of program completion, whether completion was satisfactory or unsatisfactory.

Also requires the probation department to notify a public or private agency operating a diversion program to which the juvenile was referred, to seal its records. Requires the noticed agency to promptly seal its records.

Requires a probation department to notify the offender that his or her record has been sealed, or, if the record is not sealed, why it has not been sealed.

Permits an offender to petition the juvenile court to review a probation department's determination that a program was not satisfactorily completed.

Provides that upon sealing, the arrest or offense will be deemed not to have occurred and the offender may respond accordingly to an inquiry, application, or process in which disclosure of the information is sought.

Permits a probation department to access a sealed record for the sole purpose of complying with W&I 654.3(e), i.e., for the purpose of determining whether a minor is eligible for a program of supervision pursuant to W&I 654 or 654.2. (Existing W&I 654.3 makes specified minors not eligible for a program of supervision, except in unusual cases. One of the specified disqualifiers is previous participation in a W&I 654 program.)

**W&I 827**
(Amended)
(Ch. 269) (SB 811)
and
(Ch. 683) (SB 625)
and
(Ch. 732) (AB 404)
(Effective 1/1/2018)

Expands the lists of entities and persons who may inspect a juvenile court case file.

Adds the Dep't of Justice (DOJ) to the list of those persons and entities who may inspect a juvenile court case file. (W&I 827 already specifies district attorneys, court personnel, the minor who is the subject of the proceedings, county counsel in a dependency action, child protective service agencies, attorneys for the parties; and law enforcement officers, judges, and probation officers actively participating in criminal or juvenile proceedings involving the minor.)

In the case of DOJ, the authority to inspect a juvenile court case file is for the purpose of DOJ carrying out its duties pursuant to P.C. 290.008 and 290.08 as the repository of sex offender registration and notification in California. [P.C. 290.008 requires the destruction of records relating to juvenile sex registration in the custody of DOJ and other agencies when a registrant's records are sealed pursuant to W&I 781. P.C. 290.08 requires DOJ and district attorneys to retain for 75 years records relating to a person convicted of an offense that requires registration as a sex offender.]

Adds a probation officer who is preparing a report pursuant to W&I 1178 on behalf of an offender who was in the custody of the Dep't of Corrections & Rehabilitation, Division of Juvenile Facilities (DJF) and who has petitioned the Board of Juvenile Hearings for an honorable discharge. [See W&I 1177–1772, below, for new provisions regarding honorable discharges from DJF.]

Expands the entities/persons specified in W&I 827(a)(1)(J) beyond employees of the State Dep't of Social Services to include authorized staff of entities licensed by the State Dep't of Social Services, as necessary to the performance of their duties related to resource family approval.

**W&I 827.12**
(New)
(Ch. 462) (SB 462)
(Effective 1/1/2018)

Permits records in a juvenile delinquency case file to be accessed by a law enforcement agency, probation department, court, the Dep't of Justice, or other state or local agency that has custody of the case file and juvenile record, for the limited purpose of complying with data collection or data reporting requirements that are imposed under the terms of a grant or by state or federal law. Prohibits personally identifying information contained in the juvenile file from being released, disseminated, or published.

Also permits a court to authorize a probation department to access and provide data contained in juvenile delinquency case files and related juvenile records in the possession of the probation department for the purpose of data sharing or conducting or facilitating research on juvenile justice populations, practices, policies, or trends, if the court is satisfied there is a sound methodology to protect juvenile confidentiality and if personally identifying information of juveniles is not released, disseminated, or published by the probation department or by a program evaluator, researcher, or research organization hired by the probation department for research or evaluation purposes.

**W&I 871**
(Amended)
(Ch. 678) (SB 190)
(Effective 1/1/2018)

Eliminates the requirement that a minor must request an ability-to-pay determination in order to obtain an evaluation of his or her ability to pay for a damaged or discarded electronic monitor. Now a minor is entitled to an ability-to-pay evaluation in every case involving a damaged or discarded electronic monitor, whether or not the evaluation is requested.

**W&I 900**
**W&I 902**
**W&I 903**
**W&I 903.1**
(Amended)
**W&I 903.15**
(Repealed)
**W&I 903.2**
**W&I 903.25**
**W&I 903.4**
**W&I 903.45**
**W&I 903.5**
**W&I 904**
(Amended)
(Ch. 678) (SB 190)
(Effective 1/1/2018)

Eliminates the fees and costs associated with a minor who is adjudged a ward of the court, or who is the subject of a petition to declare the minor a ward of the court, or who is the subject of a program of supervision pursuant to W&I 654 (disposition in lieu of filing a petition), or who is placed on probation pursuant to W&I 725 (permitting up to six months on probation without being adjudged a ward of the court). These fees and costs continue to apply to other minors, such as dependent children.

Eliminates fees and costs such as the costs of detention in a juvenile facility; legal services; probation supervision, home supervision, and electronic monitoring; the costs of food, shelter, and care of a minor who remains in a juvenile facility after a parent or guardian receives notice of release; and the cost of out-of-home placements.

[AB 976 also amends W&I 903.45 to add a cross-reference to electronic filing pursuant to new W&I 212.5. See W&I 212.5, above.]

**W&I 1008**
(Repealed)
(Ch. 774) (SB 613)
(Effective 1/1/2018)

Repeals this section that had required the Youth Authority to cooperate with the U.S. Bureau of Immigration in arranging "for the deportation of all aliens who are committed to it." [This bill also repeals similar provisions pertaining to the State Dep't of State Hospitals and the State Dep't of Developmental Services. See W&I 4118 and 4458 in the Welfare and Institutions Code section of this digest.]

**W&I 1177**
**W&I 1178**
(Repealed & Added)
**W&I 1179**
**W&I 1719**
**W&I 1766**
**W&I 1772**
(Amended)
(Ch. 683) (SB 625)
(Effective 1/1/2018)

Repeals W&I 1177 and 1178 in their entirety and adds new versions of both, permitting offenders discharged from the Division of Juvenile Facilities (formerly the Youth Authority) to petition for an honorable discharge. When legislation effective October 2010 transferred supervision of juvenile offenders from the Juvenile Parole Board to local probation departments, the state juvenile authorities no longer made a determination of whether a discharge from state control was honorable, because offenders were now being supervised at the local level. Thus, when discharge occurred, it was a discharge from local supervision. Also, no amendments were made to authorize anyone at the local level to grant honorable discharges. This bill re-establishes an honorable discharge process. [*In re J.S.* (2015) 237 Cal.App.4th 452

*continued*

found that a trial court did not have the authority to grant an honorable discharge.]

Old W&I 1177 read as follows: "When any person so paroled has proved his or her ability for honorable self-support, the Youth Authority Board shall give him or her honorable discharge. Any person on parole who violates the conditions of his or her parole may be returned to the Youth Authority." Old W&I 1178 read as follows: "The Youth Authority Board may grant honorable discharge to any person committed to or confined in any such school. The reason for that discharge shall be entered in the records."

**New W&I 1178**
Permits an offender who was previously committed to the Dep't of Corrections & Rehabilitation, Division of Juvenile Facilities (DJF) (formerly the Youth Authority) to petition the Board of Juvenile Hearings for an honorable discharge if the offender has completed local probation supervision following discharge from DJF, and it has been at least 18 months since discharge.

Requires the "county of commitment" to inform DJF offenders currently or previously under its supervision about the opportunity to petition for an honorable discharge and requires a county to send a letter to the offender's last known residence.

Upon receiving a petition for an honorable discharge, the Board of Juvenile Hearings is required to request the county of commitment to provide a summary report of the offender's performance while on probation after release from DJF, and the county is required to provide it.

**New W&I 1177**
Authorizes the Board of Juvenile Hearings (Board) to grant an honorable discharge if the offender has proven his or her "ability to desist from criminal behavior and to initiate a successful transition into adulthood." Requires the Board to consider, in deciding whether to grant an honorable discharge:

1. The offender's "offense history" while the offender was the under the jurisdiction of DJF, or during or after completion of local probation supervision; and

*continued*

2. Efforts made by the offender toward successful community reintegration, including employment history, educational progress, vocational training, volunteer work, community engagement, positive peer and family relationships, and any other relevant indicators of successful reentry and rehabilitation.

**W&I 1179**
Continues to provide that an honorable discharge releases an offender from penalties and disabilities related to employment and occupational licenses, and specifically adds "access to education" to those provisions. Specifically provides that an honorable discharge does not affect an offender's duty to register as a sex offender pursuant to P.C. 290.008.

Requires DJF to transmit the honorable discharge certificate to the committing court. Requires the court to recognize receipt of an honorable discharge as evidence of rehabilitation. Continues to require the court to dismiss the charges against an offender who has been granted an honorable discharge.

**W&I 1766**
Provides that the Board has continuing jurisdiction over a discharged offender in order to make honorable discharge determinations.

W&I 1177 and 1766 require the Board to notify an offender about the opportunity for an honorable discharge at initial case reviews, annual reviews, and discharge consideration hearings.

**W&I 1772**
Continues to permit a discharged offender to petition the court for a dismissal of charges and release from penalties and disabilities. [W&I 1179 requires a court to dismiss charges and release honorably discharged offenders from penalties and disabilities. W&I 1772 permits offenders without an honorable discharge to petition the court for dismissal and release from penalties and disabilities.]

# Military and Veterans Code

**Mil. & Vet. C. 715**
(New)
(Ch. 599) (SB 776)
(Effective 1/1/2018)

Requires the Dep't of Veterans Affairs to provide one trained employee for every five state prisons, in order to assist incarcerated veterans in applying for and receiving any federal benefits or veterans' benefits for which they or their families may be eligible. Requires the VA to cooperate and collaborate with the Dep't of Corrections & Rehabilitation (CDCR) to ensure that VA employees have the greatest access and effectiveness practicable.

[This bill also adds new P.C. 2066, with similar language, which requires CDCR to provide VA employees with computer access so they can perform their duties while at a state prison.]

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# Miscellaneous

**AB 683**
(Chapter 45)
(Uncodified Legislation)
(Effective 1/1/2018)

Authorizes the Counties of Alameda, Imperial, Los Angeles, Riverside, San Diego, Santa Clara, and San Joaquin to establish a pilot program to provide re-entry services and support to inmates released, or scheduled to be released, from county jail. Requires that the pilot program include all of the following:

1. Support services for parents;
2. A mentorship program that "employs a culturally relevant, population-specific approach" that has been used by non-profit organizations such as the National Compadres Network and the Brotherhood of Elders;
3. A collaborative body of training and technical advisers.
4. A Youth Advisory Council to help inform and guide program leaders;
5. Leadership opportunities, particularly for youth;
6. Services to address mental health issues, including mental health issues relating to sexual exploitation, racial and ethnic disparities, and trauma; and
7. An advisory committee to oversee the establishment and implementation of the pilot program.

Requires that service providers:

1. Have a proven track record of providing meaningful, culturally based programming, including the support of gender-specific and gender-fluid approaches;
2. Offer services that support culturally based family strengthening, character development, and community mobilization; and
3. Offer services both before and after an inmate's release from a county jail.

Requires each county implementing this program to conduct a study and submit it to the Legislature by January 1, 2023.

Section One of this bill sets forth the Legislature's findings and declarations that prisoners who maintain close family contact have better post-release outcomes and lower recidivism rates; that revising visitation polices to facilitate family visits, implementing less restrictive mail policies, and reducing jail phone rates would enable prisoners to maintain close family relationships; and that positive fatherhood involvement improves a child's life. Section One

*continued*

also sets forth the Legislature's intent to create culturally competent programs that increase opportunities for family friendly contact during and after imprisonment; that support fatherhood involvement and family reunification; and that support innovation for culturally relevant parenting, fatherhood support, and young male mentorship to decrease violence and suicide.

[The original version of the bill contained a $1.5 million appropriation from California's General Fund to the California Dep't of Corrections & Rehabilitation for allocation to the counties that chose to implement this pilot program, but that appropriation was later deleted.]

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# New Misdemeanors

**Elections C. 18660**
(Amended)
(Ch. 848) (AB 1367)
(Effective 1/1/2018)

Creates new misdemeanor crimes, in subdivision (b), pertaining to a person who directs or permits another person who circulates an initiative, referendum, or recall petition, to make false affidavits concerning the petitions.

**Elections C. 18660(b)(1)**: A person, company, organization, company official, or organizational officer in charge of a person circulating an initiative, referendum, or recall petition, knowingly directing an affiant to make a false affidavit concerning the initiative, referendum, recall petition or attached signatures.

**Elections C. 18660(b)(2)**: A person, company, organization, company official, or organizational officer in charge of a person circulating an initiative, referendum, or recall petition, who knew or reasonably should have known that an affiant has made a false affidavit concerning the initiative, referendum, recall petition or attached signatures, and who then submits the section of the petition that contains the false affidavit.

Both misdemeanor crimes are punishable by up to one year in jail and/or by a fine of up to $5,000.

[Elections C. 18660(a) already contains the existing felony/misdemeanor crime of making a false affidavit concerning an initiative, referendum, recall petition or the attached signatures. It remains punishable pursuant to P.C. 1170(h) by 16 months, two years, or three years in jail, or by up to one year in jail, and/or by a fine of up to $5,000.]

[The legislative history expresses concern about paid signature gatherers misleading voters into signing initiative, referendum, or recall petitions.]

**H&S 1439.50**
**H&S 1439.51**
**H&S 1439.52**
**H&S 1439.53**
**H&S 1439.54**
**H&S 1569.318**
(New)
(Ch. 483) (SB 219)
(Effective 1/1/2018)

Creates new misdemeanor crimes and adds a new Chapter 2.45 to Division 2 of the Health and Safety Code (H&S 1439.50–1439.54), entitled "Lesbian, Gay, Bisexual, and Transgender Long-Term Care Facility Residents' Bill of Rights." New H&S 1569.318 provides that the LGBT Long-Term Care Facility Residents' Bill of Rights also applies to residential care facilities for the elderly.

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Prohibits a long-term care facility or its staff, or a residential care facility for the elderly or its staff, from taking specified actions wholly or partially on the basis of a person's actual or perceived sexual orientation, gender identity, gender expression, or HIV status. The specified prohibited actions include denying admission to the facility, denying a request by residents to share a room, willfully and repeatedly failing to use a resident's preferred name or pronouns, denying or restricting medical or non-medical care that is appropriate to a resident's organs and bodily needs, denying a resident the right to wear clothing or accessories that are permitted for any other resident, and prohibiting a resident from using a restroom available to other persons of the same gender identity.

New H&S 1439.54 provides that a violation of this new chapter shall be "treated as a violation under" Chapter 2 (H&S 1250–1339.59: Health Facilities), Chapter 2.4 (1417–1439.8: Quality of Long-Term Health Facilities) or Chapter 3.2 (1569–1569.889: Residential Care Facilities for the Elderly).

The phrase "treated as a violation under" is not defined or explained, but there are existing statutes in these three cross-referenced chapters that contain penalties for violations of those chapters:

1. Existing H&S 1290 (in Chapter 2) provides that a violation is a misdemeanor punishable by up to 180 days in jail and/or by a fine of up to $1,000.
2. Existing H&S 1424 (in Chapter 2.4) sets up a system of citations and civil penalties for violations.
3. Existing H&S 1569.40 (in Chapter 3.2) provides that a violation is a misdemeanor punishable by up to one year in jail and/or by a fine of up to $1,000.

**H&S 120290**
(Repealed & Added)
(Ch. 537) (SB 239)
(Effective 1/1/2018)

Creates new misdemeanor crimes relating to the intentional transmission of all infectious or communicable diseases, including HIV. The purpose of the bill is to lower penalties for the transmission of HIV and make penalties the same for all infectious or communicable diseases. Also makes the new crimes more difficult to prove than the repealed ones and limits punishment to 90 days or six months in jail.

H&S 120290 now contains three misdemeanor crimes:

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1. H&S 120290(a)(1) is the misdemeanor crime of intentionally transmitting an infectious or communicable disease. Punishable by up to six months in jail, it requires that:
   A. The defendant knows that he or she or a third party is afflicted with an infectious or communicable disease; and
   B. The defendant acts with the specific intent to transmit or cause an afflicted third party to transmit the disease; and
   C. The defendant or third party engages in conduct that poses a substantial risk of transmission; and
   D. The defendant or third party *actually transmits* the disease to the victim; and
   E. If exposure occurs through interaction with the defendant and not a third party, the victim did not know the defendant was afflicted.

2. Attempted H&S 120290(a)(1) is attempting to transmit an infectious or communicable disease is a misdemeanor crime that is almost identical to the crime of intentional transmission except that the actual transmission of the disease to the victim is not required (i.e., elements A, B, C, and E, above, are required, but not D.) Attempted transmission is punishable by up to 90 days in jail.

3. H&S 120290(a)(2) is the misdemeanor crime of willful exposure to an infectious or communicable disease. It requires that a health officer, under circumstances that make securing a quarantine or health officer order infeasible, instruct the defendant not to engage in particular conduct that poses a substantial risk of transmitting an infectious or communicable disease, and the defendant engages in that conduct within 96 hours of instruction. Punishable by up to six months in jail. Also provides that "A health officer, or the health officer's designee, may issue a maximum of two instructions to a defendant that may result in a violation of this paragraph." [This is not as clear as it should be, and appears to mean that if a health officer issues more than two instructions that the defendant violates, the defendant can be charged with only two violations of H&S 120290(a)(2).]

[For more information on these new misdemeanors, including the restrictions on how specific intent may be

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proved, see H&S 120290 in the Health and Safety Code section of this digest. This bill also repeals the felony crime of knowingly exposing another person to HIV by engaging in unprotected sexual activity without disclosing the HIV status and with the specific intent to infect the other person (H&S 120291, which was punishable by three, five, or eight years in state prison.)]

**P.C. 532b(d)–(h)**
(New)
(Ch. 576) (AB 153)
(Effective 1/1/2018)

Adds five new misdemeanors to California's Stolen Valor Act. (See P.C. 532b in the Penal Code section of this digest for other amendments made to P.C. 532b.)

New subdivision (d) is the misdemeanor crime of forging documentation reflecting the awarding of a military decoration that has not been received, for the purposes of obtaining money, property, or receiving a tangible benefit.

New subdivision (e) is the misdemeanor crime of knowingly, with the intent to impersonate and to deceive, for the purposes of obtaining money, property, or receiving a tangible benefit, misrepresenting one's self as a member or veteran of the U.S. Armed Forces, the California National Guard, the State Military Reserve, or the Naval Militia, by wearing the uniform or military decoration authorized for use by the members or veterans of those forces.

New subdivision (f) is the misdemeanor crime of knowingly utilizing falsified military identification for the purposes of obtaining money, property, or receiving a tangible benefit.

New subdivision (g) is the misdemeanor crime of knowingly, with the intent to impersonate, for the purposes of promoting a business, charity, or endeavor, misrepresenting one's self as a member or veteran of the U.S. Armed Forces, the California National Guard, the State Military Reserve, or the Naval Militia, by wearing the uniform or military decoration authorized for use by the members or veterans of those forces.

New subdivision (h) is the misdemeanor crime of knowingly, with the intent to gain an advantage for employment purposes, misrepresenting one's self as a member or veteran of the U.S. Armed Forces, the California National Guard, the State Military Reserve, or the Naval Militia, by wearing the uniform or military decoration authorized for use by the members or veterans of those forces.

**P.C. 29180**
(New)
(Ch. 60) (AB 857)
*(2016 Legislation)*
(Effective 7/1/2018)
and
(Amended [*technical amendments only*])
(Ch. 561) (AB 1516)
*(2017 Legislation)*
(Effective 7/1/2018)

Legislation in 2016, with a delayed effective date of July 1, 2018, created the new misdemeanor crime of violating provisions relating to the assembly, manufacture, or possession of "ghost guns" (i.e., guns without serial numbers). If the firearm is a handgun, punishment is up to one year in jail and/or a fine of up to $1,000. If the firearm is any other type of gun, punishment is up to six months in jail and/or a fine of up to $1,000. Provides that each firearm is a distinct and separate offense. Provides that prosecution under any other law providing for a greater penalty is not precluded. [See P.C. 29180–29184 in the Penal Code section of this digest for more information.]

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# Penal Code

**P.C. 136.2**
(Amended)
(Ch. 270) (AB 264)
(Effective 1/1/2018)

Extends a court's authority to issue a post-conviction restraining order for up to 10 years to protect a victim, to cases where a defendant is convicted of a violation of P.C. 186.22 (gang crimes). P.C. 136.2(i)(1) continues to permit a court to issue a restraining order to protect a victim for up to 10 years in domestic violence cases; in P.C. 261, 261.5, and 262 cases; and in cases where a defendant is required to register as a sex offender pursuant to P.C. 290. This bill adds "a violation of Section 186.22." It is clear from the legislative history of this bill that the Legislature intends this phrase to encompass the crime of actively participating in a criminal street gang (P.C. 186.22(a)), and any crime to which is attached a gang enhancement (P.C. 186.22(b)), as well as a misdemeanor crime elevated to a felony pursuant to P.C. 186.22(d).

Adds a new paragraph (2) to P.C. 136.2(i) to permit a court in domestic violence cases, sexual assault/P.C. 290(c) cases, and gang cases to issue a post-conviction restraining order for up to 10 years to protect a "percipient witness" if it can be established by clear and convincing evidence that the witness has been harassed by the defendant, as defined in C.C.P. 527.6(b)(3). [C.C.P. 527.6(b)(3) defines harassment as "unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner."]

[Note that a showing of harassment is *not* required in order to obtain a restraining order for a victim pursuant to P.C. 136.2(i)(1).]

[Existing P.C. 646.9(k)(1) (stalking) and P.C. 368(*l*) (physical and financial elder abuse) continue to permit a court to issue a post-conviction restraining order for up 10 years to protect a crime victim.]

**P.C. 172**
(Amended)
(Ch. 224) (AB 400)
(Effective 9/11/2017)

Adds another exception to the crime of selling or exposing for sale, an alcoholic beverage on the grounds of the State Capitol: an event organized and operated by a nonprofit organization in the City of Sacramento for the purpose of increasing awareness of the Sacramento region and promoting education about the food and wine of the Sacramento region, where tickets are pre-sold and not available for sale at the event, where each attendee has purchased a ticket regardless of whether the attendee consumes any food or alcohol at the event, and where alcohol is not sold at the event. Also updates the language in this statute by changing "intoxicating liquor" to "alcoholic beverage."

[The purpose of this amendment is to ensure that the "Legends of Wine" event held on State Capitol grounds in September each year, is legal. Attendees are age 21 and older and must pre-purchase tickets for the event, which involves wine, cheese, and dessert sampling.]

**P.C. 186.34**
**P.C. 186.35**
(Repealed & Added)
**P.C. 186.36**
(New)
(Ch. 695) (AB 90)
(Effective 1/1/2018)

The Fair and Accurate Gang Database Act of 2017.

New P.C. 186.36 requires the California Dep't of Justice (DOJ) to establish regulations governing the use, operation, and oversight of shared gang databases, including policies and procedures for entering, reviewing, and purging documentation, and criteria for designating a person as a gang member or associate. Transfers the oversight and administration of the CalGang database from the CalGang Executive Board to DOJ. Requires DOJ to establish a Gang Database Technical Advisory Committee. New P.C. 186.36 contains details about the Advisory Committee and what the regulations must address.

P.C. 186.36(s) provides that beginning January 1, 2018, any *shared* gang database operated by law enforcement in California, including the CalGang database, *"shall be under a moratorium."* During the moratorium, prohibits data from being added to a gang database and prohibits data from being accessed or shared. Provides that the moratorium will not be lifted until gang databases have been purged of information based on specified criteria (i.e., the new regulations) and have been audited to ensure that all fields in the databases are accurate. P.C. 186.36(r) requires gang databases to purge the records of persons who do not meet

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the criteria for entry as gang members or associates, or whose entry in the database was based upon jail classification, or frequenting gang neighborhoods, or information from an untested informant.

The current procedures in P.C. 186.34 and 186.35 for notifying persons of their inclusion in a shared gang database and for persons to contest that designation are almost identical to the procedures in the new versions of P.C. 186.34 and 186.35.

**P.C. 186.34**
Adds a number of definitions ("criminal street gang," "gang database," "shared gang database," "law enforcement agency"). Defines "criminal street gang" as an ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of crimes specified in P.C. 186.22(e)(1)–(25) and (31)–(33), who have a common identifying sign, symbol, or name, and whose members individually or collectively engage in or have engaged in a "pattern of definable criminal activity." Defines "gang database" as a database accessed by a law enforcement agency that designates a person as a gang member or associate, or includes or points to information, including, but not limited to, fact-based or uncorroborated information, that reflects a designation of that person as a gang member or associate. Defines "shared gang database" as a gang database that is accessed by an agency or person outside of the agency that created the records that populate the database.

Provides that these two types of databases are ***not*** subject to the Gang Database Act of 2017:

1. Databases that designate persons as gang members or associates using only criminal offender record information or information collected pursuant to P.C. 186.30 (gang registration); or
2. Databases accessed solely by jail or custodial facility staff for classification or operational decisions in the administration of the facility.

P.C. 186.34(c)–(f) in the new version of P.C. 186.34 are almost identical to subdivisions (d)–(g) in the repealed version. Continues to require a law enforcement agency, before designating a person in a shared gang database as a suspected gang member, to provide written notice to the

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person, and, if the person is a minor, to the minor's parents, of the designation and the reason for the designation. Continues to require that the notice explain the procedure for contesting a gang designation. Continues to permit a person, parent or guardian of a minor, or attorney, to make a written request to a law enforcement agency for information about whether the person is designated as a gang member or associate in a shared gang database accessible by that law enforcement agency and the reason for that designation. Continues to require a law enforcement agency to respond within 30 days and to provide this information unless doing so would compromise an active criminal investigation or the health or safety of a minor. Continues to permit persons designated as gang members or associates to contest those designations. Continues to provide that if the law enforcement agency denies the request for removal from the database, the person may petition a court to review that denial pursuant to P.C. 186.35. (Previously this was termed an "appeal." It is now referred to as a "petition.")

**P.C. 186.35**

The new version of P.C. 186.35 is substantially the same as the repealed version. Continues to require that a petition to request a court to review a law enforcement agency's denial of a request for removal from a shared gang database be filed within 90 days. Adds that the petition (previously referred to as an "appeal") be filed either in the county where the law enforcement agency is located, or, if the person lives in California, in the county where he or she resides. Continues to provide that the evidentiary record for the court's determination is limited to the law enforcement agency's statement about the reasons for its designation and the documentation provided by the person contesting the designation. Continues to provide that the law enforcement agency has the burden of proof to show by clear and convincing evidence the person's active gang membership, associate status, or affiliate status.

[This bill also amends Gov't C. 70615 to provide that the fee is $25 for the filing of a court petition challenging a person's inclusion in a shared gang database.]

**P.C. 189.1**
(New)
(Ch. 214) (AB 1459)
(Effective 1/1/2018)

Sets forth the Legislature's declaration that all unlawful killings that are willful, deliberate, and premeditated and in which the victim was a peace officer engaged in the performance of his or her duties and the defendant reasonably knew or should have known this, are "considered murder of the first degree for all purposes, including the gravity of the offense and the support of the survivors." Subdivision (b) of this new section provides that new P.C. 189.1 is declarative of existing law. [Existing P.C. 189 already provides that all murder perpetrated by any willful, deliberate, and premeditated killing is murder of the first degree.]

[Uncodified Section One of this bill recites statistics for peace officer deaths:

1. In the United States in 2016, 144 peace officers died in the line of duty, the highest number in five years. Almost half were fatally shot.
2. In California, 11 officers died in the line of duty in 2016, a 50 percent increase over 2015.

Section One also contains a statement that the Legislature recognizes the dangers that peace officers face and contains the Legislature's intent to "reiterate that California law protects all victims of violent crime, including when the victim is a peace officer."]

[The original version of this bill actually made substantive changes to laws regarding the murder of a peace officer. It amended P.C. 189 to make all murders of a peace officer where the peace officer was engaged in the performance of his or her duties and the defendant knew or reasonably should have known this, murder of the first degree (i.e., it made second-degree non-premeditated murder of a peace officer a first-degree murder). It also amended P.C. 190 to add death as a punishment for the murder of a peace officer if the defendant specifically intended to kill the officer, or the defendant specifically intended to inflict great bodily injury, or the defendant personally used a dangerous or deadly weapon or a firearm. All of this was deleted from the bill and new P.C. 189.1 was created instead. Existing law in P.C. 190(b) continues to provide that the second-degree murder of a peace officer is punishable by 25 years to life, and P.C. 190(c) continues to provide that the second-degree murder of a peace officer is punishable by life in prison

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without the possibility of parole if the defendant specifically intended to kill the officer, or the defendant specifically intended to inflict great bodily injury, or the defendant personally used a dangerous or deadly weapon or a firearm.]

**P.C. 264.2**
(Amended)
(Ch. 692) (AB 1312)
(Effective 1/1/2018)

Amends this section, having to do with the rights of sexual assault victims (e.g., having a sexual assault counselor and support person present at a medical evidentiary or physical examination), to cross-reference new P.C. 680.2(a), which requires law enforcement agencies to develop a card specific to sexual assault victims that explains their rights. (See P.C. 680.2, below, for more information.)

Continues to require a law enforcement officer, in specified domestic violence cases (P.C. 243(e), 273.5) and specified sexual assault cases (P.C. 261, 261.5, 262, 286, 288a, 289), to provide the victim with a card detailing his or rights as a victim, but now permits the officer to provide either the already-existing Victims of Domestic Violence card (as specified in P.C. 13701), or the Victims of Sexual Assault card specified in new P.C. 680.2, whichever is more applicable.

Revises the required notice a medical provider must give a sexual assault victim before a medical evidentiary or physical examination begins, by requiring the medical provider to give the victim a P.C. 680.2 Victims of Sexual Assault card, if a law enforcement agency has provided that card to the medical provider.

(Previously, the medical provider was required to notify the victim either orally or in writing that the victim has the right to have a sexual assault counselor and support person present during the examination.)

Adds that after conducting an examination, the medical provider must give the victim an opportunity to shower or bathe at no cost to the victim, unless a showering or bathing facility is not available.

Requires a medical provider, within 24 hours of obtaining sexual assault forensic evidence from the victim, to notify the law enforcement agency that has jurisdiction over the offense, or, if that agency is not known, the local law enforcement agency.

**P.C. 290**
(Amended)
(Ch. 526) (AB 484)
(Effective 1/1/2018)

Adds P.C. 261(a)(5) (rape by fraud) and P.C. 261(a)(7) (rape by threatening to use the authority of a public official) to the list of crimes that require registration as a sex offender. Previously only P.C. 261(a)(1), (a)(2), (a)(3), (a)(4), and (a)(6) were specified. Now all P.C. 261 crimes require registration as a sex offender.

and

(Amended)
(Ch. 541) (SB 384)
(Effective 1/1/**2021**)

Beginning January 1, 2021, converts lifetime registration for sex offenders into a complex *tiered* system of sex offender registration. Tier One offenders must register for a minimum of 10 years, Tier Two offenders for a minimum of 20 years, and Tier Three offenders for life. Permits Tier One and Tier Two offenders to petition the court to have their registration obligations terminated at the 10- or 20-year mark and, if termination is denied, offenders may continue to seek termination every one to five years, at the court's discretion.

At this time, no changes are made to the list of offenses that require registration, beyond the addition of P.C. 261(a)(5) and P.C. 261(a)(7) as explained above.

*This description is just a brief overview. The Legislature has three years to make additional changes to tiered sex offender registration. A thorough explanation will be included in the 2020 Legislative Digest.*

[*Caution*: Because changes may be made before tiered sex offender registration is operational on January 1, 2021, a sex offender should **not** be promised anything regarding which tier he or she might qualify for, or how long he or she will be required to register. A sex offender should understand that the current state of the law is that registration is a lifetime obligation and that no one can state today with any certainty what the law will look like on January 1, 2021. To guard against wrong advice by a defense attorney that might be used to attack a conviction years later, make sure that an offender pleading guilty or nolo contendere to an offense requiring P.C. 290 registration is informed that registration is currently a lifetime obligation and that he or she should assume he/she will have to register for the rest of his/her life.]

Tier One offenses are misdemeanors and any felony that is not serious (P.C. 1192.7(c)) or violent (P.C. 667.5(c)).

Tier Two offenses are serious felonies (P.C. 1192.7(c)), violent felonies (P.C. 667.5(c)), P.C. 285 (incest), P.C. 286(g)

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and (h) (sodomy where victim not capable of giving legal consent, P.C. 288a (g) and (h) (oral copulation where victim not capable of giving legal consent), P.C. 289(b) (sexual penetration where victim not capable of giving legal consent), and a second or subsequent conviction of P.C. 647.6 (annoying or molesting a child.) Provides that Tier Two does not apply if the offender is subject to lifetime registration.

Tier Three offenses (lifetime registration) include:

1. An offender committed to a state mental hospital as a sexually violent predator.
2. An offender whose risk level on the static risk assessment instrument for sex offenders (SARATSO) is well above average at the time of release.
3. An offender who is a habitual sex offender pursuant to P.C. 667.71.
4. An offender convicted of P.C. 288(a) (child molestation) in two proceedings brought and tried separately.
5. An offender sentenced pursuant to P.C. 667.61 (the one strike sex offender law).
6. An offender convicted of any one of the numerous crimes listed for Tier Three offenders, such as P.C. 187 murder while attempting to commit or actually committing a sex act, kidnapping with the intent to commit a sex crime, P.C. 220, 236.1(b), 236.1(c), 243.4(a) or (c) or (d), 261(a)(2) or (a)(3) or (a)(4), 262(a)(1), 264.1, 266h(b), 266i(b), 266j, 267, 269, 272 involving lewd or lascivious conduct, 286(c)(2) or (d) or (f) or (i), 288(b) or (c), 288.2, 288.5, 288.7, 288a(c)(2) or (d) or (f) or (i), 289(a)(1) or (d) or (e) or (j), or 653f(c). (This list is not exhaustive.)

Specifically provides that these new provisions in P.C. 290 do not apply to juveniles and that juvenile sex registration is still governed by P.C. 290.008. (Beginning January 1, 2021, P.C. 290.008 provides for two tiers for specified juvenile offenders. Tier One offenders must register for a minimum of five years and Tier Two offenders for a minimum of 10 years.)

[SB 384 also amends P.C. 290.006 (effective 1/1/**2021**), P.C. 290.008 (effective 1/1/**2021**), P.C. 290.45 (effective 1/1/**2021**), P.C. 290.46 (effective 1/1/**2022**), P.C. 290.5 (effective **7**/1/**2021**), and P.C. 4852.03 (effective **7**/1/**2021**). P.C. 290.5 contains detailed and complex procedures for sex registration termination hearings for Tier One and Tier Two adult and juvenile offenders, and for some Tier Three offenders (those who are Tier Three solely because of their risk level on the

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SARATSO assessment.) If an offender is otherwise eligible for registration termination (i.e., the offender has registered for at least the minimum period and the registration period has not been tolled or extended because of incarceration or a conviction for failing to register), and the prosecution opposes termination, the prosecution must request a court hearing and show that "community safety would be significantly enhanced by requiring continued registration."]

**P.C. 290.004**
(Amended)
(Ch. 269) (SB 811)
(Effective 1/1/2018)

Makes a technical change from "section" to "Act" in a reference to offenses for which registration as a sex offender is required. Before P.C. 290 was divided into multiple code sections, P.C. 290 was the section that contained all sex registration requirements, so the phrase "offense for which registration is required by this *section*" made sense. Now that P.C. 290 is instead multiple sections, a phrase regarding which offenses require registration should reference the entire Sex Offender Registration Act (P.C. 290–290.024), not a single section, so P.C. 290.004 now provides "an offense for which registration is required by this *Act*." [P.C. 290.004 continues to require that mentally disordered sex offenders and defendants found not guilty by reason of insanity for offenses requiring registration by the Sex Offender Registration Act, register as sex offenders.]

**P.C. 373a**
(Amended)
(Ch. 299) (AB 1418)
(Effective 1/1/2018)

Adds city prosecutors to those (district attorneys and city attorneys) who are authorized to prosecute persons who maintain, permit, or allow a public nuisance on their property.

[Existing Gov't C. 41803.5 permits a city attorney to prosecute misdemeanor crimes committed in that city, with the consent of the district attorney in the county where the city is located. Existing Gov't C. 72193 authorizes a city to create the office of city prosecutor or to provide that a deputy city attorney may act as a city prosecutor, in order to prosecute misdemeanor offenses. According to the legislative history of this bill, a number of California cities have city attorneys or city prosecutors who are responsible for prosecuting misdemeanors and the purpose of this bill is to make a number of provisions already applicable to city attorneys also applicable to city prosecutors. This bill also amends P.C. 1424 and 11105, and V.C. 1807.5, 1808.4, and 1810.5 to add city prosecutors.]

**P.C. 518**
**P.C. 520**
**P.C. 523**
**P.C. 524**
**P.C. 526**
(Amended)
(Ch. 518) (SB 500)
(Effective 1/1/2018)

Amends P.C. 518 to expand the definition of extortion. It now includes the obtaining of "other consideration" from another person, with his or her consent, induced by wrongful use of force or fear, or under color of official right. (Retains the obtaining of property or the obtaining of an official act of a public officer under the above circumstances, as methods of committing extortion.)

The purpose of this expansion is to criminalize sexual extortion, or "sextortion." Examples of sexual extortion include demanding sex from another person by threatening to distribute intimate photos the demander has of the victim, or, demanding additional sexually explicit photos of a victim by threatening to distribute the photos the demander already has. In some cases the demander may have obtained photos with the victim's consent; in other cases, the demander may have hacked a victim's computer or phone.

Defines "other consideration" as anything of value, including sexual conduct as defined in P.C. 311.3(b) or an image of an intimate body part as defined in P.C. 647(j)(4)(C). P.C. 311.3(b) defines sexual conduct as sexual intercourse, penetration, masturbation, sadomasochistic abuse, exhibition of genitals, or defecation or urination for the purpose of sexual stimulation of the viewer. P.C. 647(j)(4)(C) defines intimate body part as any portion of the genitals, the anus, and in the case of a female, any portion of the breasts below the top of the arreola, that is either uncovered or clearly visible through clothing.

Specifically exempts a minor under age 18 from being prosecuted for sexual extortion by providing that extortion does not apply to a minor where the consideration obtained by the minor consists of sexual conduct or an image of an intimate body part. Therefore, a minor age 17 or younger who sexually extorts an adult or another minor cannot be prosecuted for sextortion. [This exemption for minors continues the trend started in 2016 by the Legislature when it decriminalized for minors the crimes of P.C. 647(b) prostitution, P.C. 653.22 loitering with the intent to commit prostitution, and P.C. 640 fare evasion on transit systems, and repealed the P.C. 308 infraction crime of a minor purchasing or possessing tobacco.]

Makes conforming amendments to P.C. 520–526 by changing the extortion of "money or other property" to the extortion of "property or other consideration."

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P.C. 520 continues to provide that any type of extortion by means of force or any threat is a felony punishable by two, three, or four years in jail pursuant to P.C. 1170(h).

**P.C. 532b**
(Amended)
(Ch. 576) (AB 153)
(Effective 1/1/2018)

Revises the elements of the existing misdemeanor crimes of falsely representing one's military service, and creates new crimes in subdivisions (d) through (h). (P.C. 532b is part of the California Stolen Valor Act.) Instead of the crime being worded in terms of falsely representing one's self to be a veteran or to have been awarded a military decoration with the intent to defraud, the crime is now worded in terms of *fraudulently* representing one's self to be a veteran or to have been awarded a military decoration *with the intent to obtain money, property, or other tangible benefit.* This amendment makes California law consistent with the language of the federal Stolen Valor Act in 18 U.S.C. 704. "Tangible benefit" is defined as financial remuneration, an effect on the outcome of a criminal or civil court proceeding, or any benefit relating to military service that is provided by a federal, state, or local governmental entity.

Subdivision (a) is the misdemeanor crime of *fraudulently* representing one's self as a veteran of a war, in connection with the soliciting of aid or the sale or attempted sale of any property.

Subdivision (b) is the misdemeanor crime of *fraudulently* claiming or presenting one's self to be a veteran or member of the U.S. Armed Forces *with the intent to obtain money property, or other tangible benefit,* and is expanded beyond the U.S. Armed Forces to also apply to the California National Guard, the State Military Reserve, the Naval Militia, the national guard of any other state, or any reserve component of the U.S. Armed Forces.

Subdivision (c) is the misdemeanor crime of orally, in writing, or by wearing a military decoration, *fraudulently* representing one's self to have been awarded a military decoration *with the intent to obtain money, property, or other tangible benefit.* [This crime continues to be an infraction or misdemeanor if committed by a person who actually is a veteran of the U.S. Armed Forces.]

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New subdivision (d) is the misdemeanor crime of forging documentation reflecting the awarding of a military decoration that has not been received, for the purposes of obtaining money, property, or receiving a tangible benefit.

New subdivision (e) is the misdemeanor crime of knowingly, with the intent to impersonate and to deceive, for the purposes of obtaining money, property, or receiving a tangible benefit, misrepresenting one's self as a member or veteran of the U.S. Armed Forces, the California National Guard, the State Military Reserve, or the Naval Militia, by wearing the uniform or military decoration authorized for use by the members or veterans of those forces.

New subdivision (f) is the misdemeanor crime of knowingly utilizing falsified military identification for the purposes of obtaining money, property, or receiving a tangible benefit.

New subdivision (g) is the misdemeanor crime of knowingly, with the intent to impersonate, for the purposes of promoting a business, charity, or endeavor, misrepresenting one's self as a member or veteran of the U.S. Armed Forces, the California National Guard, the State Military Reserve, or the Naval Militia, by wearing the uniform or military decoration authorized for use by the members or veterans of those forces.

New subdivision (h) is the misdemeanor crime of knowingly, with the intent to gain an advantage for employment purposes, misrepresenting one's self as a member or veteran of the U.S. Armed Forces, the California National Guard, the State Military Reserve, or the Naval Militia, by wearing the uniform or military decoration authorized for use by the members or veterans of those forces.

[This bill also amends Gov't C. 3003, which requires an elected official to forfeit his or her office upon a conviction pursuant to the federal Stolen Valor Act or the California Stolen Valor Act. See the Government Code section of this digest for more information.]

**P.C. 602.1**
(Amended)
(Ch. 381) (AB 660)
(Effective 1/1/2018)

Creates a new business interference infraction crime, in subdivision (c): intentionally interfering with any lawful business carried on by employees of a public agency open to the public, by knowingly making a material misrepresentation of the law to persons there to transact business with the public agency, and refusing to leave the premises after being requested to leave by the office manager or a supervisor of the public agency, or by a peace officer acting at the request of the office manager or supervisor. Punishable by a fine of up to $400.

[According to the legislative history of this bill, some counties are experiencing aggressive solicitors posing as county employees and approaching members of the public at a county Hall of Records in an effort to persuade members of the public to use an agent to transact business, such as filing a fictitious business name statement or filing articles of incorporation.]

[Existing P.C. 602.1(a) remains the misdemeanor crime of intentionally interfering with a lawful business or occupation at a business establishment open to the public, by obstructing or intimidating those attempting to carry on business, or their customers, and refusing to leave the premises. Existing P.C. 602.1(b) remains the misdemeanor crime of intentionally interfering with lawful business carried on by employees of a public agency open to the public, by obstructing or intimidating those attempting to carry on business, or those persons there to transact business, and refusing to leave the premises.]

**P.C. 626.9**
(Amended)
(Ch. 779) (AB 424)
(Effective 1/1/2018)

Eliminates the authority of K-12 school officials to provide written permission for a person to possess a firearm in a school zone. ("School zone" means on the grounds of a K-12 school or within 1,000 feet of the campus.) Makes no change to provisions in P.C. 626.9(h) and (i) that permit a college or university to give written permission to bring a gun on campus.

Adds that the general prohibition of firearms on school grounds in P.C. 626.9 does not apply to shooting sports or activities, such as trap shooting, skeet shooting, sporting clays, or pistol shooting that are sanctioned by a school and that occur on the grounds of a public or private school, or university or college campus. Also adds that P.C. 626.9

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does not apply to state-certified hunter education programs pursuant to Fish & Game C. 3051 if all firearms are unloaded and participants do not possess live ammunition in a school building.

[According to the legislative history of this bill, the concern being addressed is several school districts that permit teachers with concealed carry permits to bring their guns on campus.]

[This bill makes conforming amendments to both P.C. 26370 and 26405. See below.]

**P.C. 633.5**
(Amended)
(Ch. 191) (AB 413)
(Effective 1/1/2018)

Adds domestic violence as defined in P.C. 13700 to the list of crimes (e.g., extortion, kidnapping, bribery, any felony involving violence against the person, human trafficking, P.C. 653m telephone harassment) for which one party to a confidential communication may record the conversation without the consent of all parties to the communication, for the purpose of obtaining evidence of these specified crimes. Existing language in P.C. 633.5 provides that the general prohibitions on the eavesdropping or recording of confidential communications in P.C. 631, 632, 632.5, 632.6, and 632.7 do not render this type of evidence inadmissible in a prosecution for the crimes listed above. Felony domestic violence crimes were already included in P.C. 633.5 as a "felony involving violence against the person." By specifically adding domestic violence, all felony and misdemeanor domestic violence crimes are included, such as misdemeanor domestic violence pursuant to P.C. 243(e).

P.C. 13700(b) defines domestic violence as abuse committed against a spouse, former spouse, cohabitant, former cohabitant, a person with whom the suspect has a child, or a person with whom the suspect is having or has had a dating or engagement relationship.

Corrects cross-references to human trafficking by changing P.C. 23*1.6* to P.C. 23*6.1*.

[This bill also amends P.C. 633.6. See below.)

**P.C. 633.6**
(Amended)
(Ch. 191) (AB 413)
(Effective 1/1/2018)

Permits a victim of domestic violence who is seeking a restraining order and who reasonably believes that a confidential communication made to him or her by the perpetrator may contain evidence germane to that restraining order, to record the communication for the exclusive purpose and use of providing that evidence to the court. Existing language in P.C. 633.6 already authorizes a judge who issues a domestic violence restraining order to include a provision permitting the victim to record any prohibited communication made to him or her by the perpetrator. This bill allows the victim to record the communication before the restraining order is issued and to present the recording as evidence in order to obtain the restraining order.

[This bill also amends P.C. 633.5. See above.]

**P.C. 640**
(Amended)
(Ch. 219) (SB 614)
(Effective 1/1/2018)

Cuts in half the maximum administrative penalty for fare violations committed by a minor on a public transportation system: evasion of the payment of a fare; misuse of a transfer, pass, ticket, or token; or the unauthorized use of a discount ticket. A first or second violation is now subject to an administrative penalty of up to $125 instead of up to $250. A third or subsequent violation is now subject to an administrative penalty of up to $200 instead of up to $400. [P.C. 640(g) was amended last year, effective January 1, 2017, to eliminate criminal penalties for minors who commit these three types of fare violations and to permit only an administrative penalty for these violations. Now the administrative penalties are decreased.]

This bill also amends Public Util. C. 99580 and 99581, which pertain to the administrative process a public transportation agency is permitted to establish in order to address fare evasion and passenger conduct violations on a public transportation system administratively instead of criminally. Among other things, these two sections are amended to require the agency to permit an offender to perform community service in lieu of paying the administrative penalty if the offender is under age 18 or if an offender of any age provides evidence of an inability to pay the penalty in full. They are also amended to require the agency to permit payment of a penalty in installments under specified circumstances. P.C. 640(g) is amended to cross-reference these Public Utility Code provisions. See the Public Utilities Code section of this digest for more on these amendments.

**P.C. 647f**
(Repealed)
(Ch. 537) (SB 239)
(Effective 1/1/2018)

Repeals the felony crime of a defendant being convicted of P.C. 647(b) (prostitution) and having a prior conviction for P.C. 647(b) or for a specified sex offense, and a positive AIDS test.

[This bill also creates new P.C. 1170.21 to provide that all convictions for P.C. 647f are invalid and vacated, to require that all charges of P.C. 647f be dismissed, and to provide that all arrests for P.C. 647f are deemed never to have occurred. See P.C. 1170.21, below, for more information. This bill also creates, in new P.C. 1170.22, recall and resentencing procedures for defendants serving a sentence for P.C. 647f on January 1, 2018, when this repeal becomes effective. See P.C. 1170.22, below, for more information.]

**P.C. 667.95**
(New)
(Ch. 668) (AB 1542)
(Effective 1/1/2018)

Creates a new aggravating factor that a judge may consider when sentencing a defendant for a P.C. 667.5(c) violent felony: that the defendant willfully recorded a video of the commission of the violent felony with the intent to encourage or facilitate the offense.

[The legislative history of this bill notes the disturbing trend of recording the commission of a violent crime and distributing or posting it on social media.]

**P.C. 679.015**
(New)
(Ch. 194) (AB 493)
(Effective 1/1/2018)

Declares that it is the public policy of California to encourage all victims of, and witnesses to, crime, to cooperate with the criminal justice system and not to penalize them for being victims or for their cooperation.

Prohibits a peace officer from detaining a crime victim or witness solely for an actual or suspected immigration violation or from turning a victim or witness over to federal immigration authorities absent a judicial warrant, if the victim or witness is not charged with or convicted of any state crime.

**P.C. 679.04**
(Amended)
(Ch. 692) (AB 1312)
(Effective 1/1/2018)

Makes several changes to provisions regarding law enforcement interviews of sexual assault victims.

Provides that a sexual assault victim retains the right to have victim advocates and a support person present during an interview by law enforcement, district attorneys, or defense

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attorneys, even if the victim has previously waived this right when a medical examination was conducted or for purposes of a previous interview by law enforcement, district attorneys, or defense attorneys.

Adds the following to the list of notifications that are required to be made by law enforcement or district attorneys before the initial interview of the victim: the rights listed in the Victims of Sexual Assault card required to be produced by new P.C. 680.2 and the right of a victim to request to have a person of the same gender or opposite gender as the victim present in the room during the interview, unless no such person is reasonably available.

(Retains the requirement of notifying the victim of the right to have victim advocates and a support person present during the interview. See P.C. 680.2, below, for information about what rights must be detailed in a Victims of Sexual Assault card.)

Adds that the "presence of a victim advocate shall not defeat any existing right otherwise guaranteed by law" and that a victim's waiver of the right to a victim advocate is not admissible in court, unless a court determines the waiver is at issue in the pending litigation.

Adds that a victim has the right to request to have a person of the same gender or opposite gender as the victim present during a law enforcement or district attorney interview, unless no such person is reasonably available.

States the Legislature's intent that every interviewer have trauma-based training.

Prohibits a law enforcement official from discouraging a sexual assault victim from receiving a medical evidentiary or physical examination.

**P.C. 680**
(Amended)
(Ch. 692) (AB 1312)
(Effective 1/1/2018)

Now *requires*, instead of simply permits, a law enforcement agency, upon the request of a sexual assault victim, to inform the victim about the status of the testing of rape kit evidence or other crime scene evidence.

Prohibits a law enforcement agency from destroying or disposing of rape kit evidence or crime scene evidence from

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an unsolved sexual assault case before at least 20 years, or, if the victim was under age 18 at the time of the crime, before the victim's 40th birthday.

Requires a law enforcement agency to provide a 60-day written notice to a victim that it intends to destroy evidence from *any* unsolved sexual assault case. This now applies to all unsolved cases, instead of only to unsolved cases where evidence is destroyed prior to the expiration of the statute of limitations.

[P.C. 799(b)(1) was amended, effective January 1, 2017, to remove the statute of limitations for numerous sexual assault crimes.]

**P.C. 680.2**
(New)
(Ch. 692) (AB 1312)
(Effective 1/1/2018)

Requires law enforcement agencies, in consultation with sexual assault experts, to develop a card explaining the rights of sexual assault victims. Requires law enforcement officers and medical providers to give the card to sexual assault victims. [Pursuant to P.C. 264.2 and 13701(c)(9)(H), sexual assault victims are currently required to be provided with a Victims of Domestic Violence card. New P.C. 680.2 requires the creation of a card specifically for sexual assault victims.]

Requires the card to include the following:

1. A clear statement that the sexual assault victim is not required to participate in the criminal justice system or to undergo a medical evidentiary or physical examination.

2. Telephone or Internet Web site contact information for a nearby rape crisis center and sexual assault counselor.

3. Information about the types of law enforcement protection available, including a temporary protection order, and the process to obtain that protection.

4. Instructions for requesting the results of the analysis of any forensic evidence in the victim's case.

5. Information about state and federal compensation funds for medical and other costs associated with sexual assault, and information on "any municipal, state, or federal right to restitution for sexual assault victims if a criminal trial

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occurs." [This is odd language. A victim would obviously also have the right to restitution from a convicted criminal if the case settles by way of a guilty plea rather than a trial.]

6. A clear statement that the victim has the right to have a sexual assault counselor and at least one other support person of the victim's choosing present at any initial medical evidentiary examination, physical examination, or investigative interview, and that a sexual assault counselor can be contacted 24 hours a day.

7. Information about the rate of potential evidence degradation.

8. A clear statement that if sexual assault forensic evidence will be tested, it should be transported to the crime laboratory and analyzed within the time limits imposed by existing P.C. 803(g)(1)(A) and (B) (which requires that biological evidence collected for offenses committed on or after January 1, 2001 be analyzed for DNA type within two years of the offense.)

9. A clear statement that the law enforcement agency or crime laboratory will retain forensic evidence for at least 20 years, or, if the victim was under age 18 at the time of the crime, until the victim's 40th birthday. [Existing P.C. 801.1(a)(1) provides that for specified sexual assault crimes committed on a victim under age 18, prosecution may be commenced at any time before the victim's 40th birthday. P.C. 799(b)(1), effective January 1, 2017, provides for **no** statute of limitations for numerous sexual assault crimes.]

Requires a law enforcement official, upon the written request of a sexual assault victim, to furnish to the victim a free copy of the initial crime report, regardless of whether "the report has been closed by the law enforcement agency." Permits law enforcement to redact personal, identifying information.

Requires a prosecutor, pursuant to P.C. 290.46 (the Megan's Law Internet database of sex offenders required to register), upon the written request of a sexual assault victim, to provide to the victim the convicted defendant's information in the sex registry, if the defendant is required to register as a sex offender.

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Requires law enforcement to provide sufficient copies of the Victims of Sexual Assault card to medical providers in its jurisdiction.

**P.C. 680.3**
(New)
(Ch. 694) (AB 41)
(Effective 1/1/2018)

Requires law enforcement agencies to participate in the Dep't of Justice's (DOJ) existing Sexual Assault Forensic Evidence Tracking (SAFE-T) database, which tracks the status of sexual assault evidence kits collected by law enforcement agencies. Previously, data input into SAFE-T by law enforcement agencies was voluntary. (Existing P.C. 680 continues to encourage law enforcement agencies to submit sexual assault evidence to a crime lab within 20 days and encourages crime labs to process evidence, and create and upload DNA profiles, no later than 120 days after receiving the evidence.)

Applies to sexual assault evidence collected on or after January 1, 2018.

Requires law enforcement agencies, within 120 days of collecting sexual assault kit evidence, to create an information profile for the kit on the SAFE-T database and report the following: (1) if biological evidence samples from the kit were submitted to a DNA laboratory for analysis; (2) if the kit generated a probative DNA profile; and (3) if evidence was not submitted to a DNA laboratory for processing, the reason(s) for not submitting it.

Prohibits the SAFE-T database from containing any identifying information about a victim or suspect, any DNA profiles, or any information that would impair a pending criminal investigation.

Requires a public DNA laboratory that has not conducted DNA testing on rape kit evidence by 120 days after it was submitted, to provide the reason for not testing it in the appropriate SAFE-T data field. Provides that if a law enforcement agency has contracted with a private lab, that law enforcement agency must provide the 120-day update in SAFE-T. Requires this process to occur every 120 days until DNA testing occurs, or, until the statute of limitations on the sexual assault case runs, or the law enforcement agency elects not to analyze the DNA evidence or intends to destroy it.

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Requires DOJ to file an annual report summarizing the data entered into the SAFE-T database, but not referencing individual victims, suspects, investigations, or prosecutions. Provides that except for DOJ's annual report, SAFE-T database contents are confidential and a law enforcement agency or laboratory shall not be compelled in a criminal or civil proceeding, except as required by *Brady v. Maryland* (1963) 373 U.S. 83, to provide database contents to a person or party seeking those records or information.

[The Legislature is concerned about a backlog of untested rape kits in California.]

[AB 280 (Chapter 698, effective 1/1/2018) permits taxpayers to designate on their tax returns a contribution to the new Rape Kit Voluntary Tax Contribution Fund, in order to fund grants to get the backlog of untested rape kits tested. See the Revenue and Taxation Code section of this digest for more information about R&T 18902–18906.]

**P.C. 690.5**
(New)
(Ch. 319) (AB 976)
(Effective 1/1/2018)

Provides that C.C.P. 1010.6(a) and (b), "pertaining to the permissive filing and service of documents," are applicable to criminal actions, except as otherwise provided in P.C. 959.1 or any other Penal Code provision. Requires the Judicial Council to adopt uniform rules for the electronic filing and service of documents in criminal cases. (Existing P.C. 959.1 permits a criminal prosecution to be commenced by filing an accusatory pleading in electronic form. It also permits a notice to appear to be received and filed by a court in electronic form.)

[This bill amends several provisions in the Code of Civil Procedure, numerous provisions in the Probate Code, and a number of provisions in the Welfare and Institutions Code in order to expand electronic filing and delivery of documents to criminal, juvenile, and probate courts. Section 212.5 is added to the Welfare and Institutions Code to permit electronic filing in juvenile cases only if the county and the court permit electronic service.]

Among other things, C.C.P. 1010.6(a) and (b) define terms such as "electronic service," "electronic transmission," and "electronic notification"; provide that a document that is filed electronically has the same legal effect as an original paper document; and provide that a document received

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electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day will be deemed filed on that court day, and a document received electronically on a non-court day will be deemed filed on the next court day.

**P.C. 784.7**
(Amended)
(Ch. 379) (AB 368)
(Effective 1/1/2018)

Adds P.C. 288.7 (sexual intercourse, sodomy, oral copulation, or sexual penetration with a child age 10 or younger) to the list of crimes (various sexual assault crimes, physical child abuse, domestic violence, stalking, human trafficking, pimping, and pandering) for which offenses occurring in more than one jurisdictional territory may be tried together in any jurisdiction where at least one offense occurred. [For sex crimes, human trafficking, pimping, and pandering, retains the requirement that all district attorneys in all counties where crimes occurred must agree in writing to the venue. For physical child abuse, domestic violence, and stalking, retains the requirement that the defendant and victim be the same for all offenses that may be joined for prosecution in one jurisdiction.]

**P.C. 803**
(Amended)
(Ch. 74) (SB 610)
(Effective 1/1/2018)

Adds a new subdivision (m) to extend beyond one year the statute of limitations for the misdemeanor crime of concealing or attempting to conceal an accidental death in violation of P.C. 152. Subdivision (m) permits the filing of a complaint for a violation of P.C. 152 within one year after a person is initially identified by law enforcement as a suspect, but no more than four years after the commission of the offense. [P.C. 152 is the misdemeanor crime of having knowledge of an accidental death and actively concealing or attempting to conceal it.]

SB 610 is known as "Erica's Law," named for a person whose body was moved after her 2015 death in Southern California, delaying the discovery of her death, which was not a homicide.

**P.C. 830.85**
(New)
(Ch. 116) (AB 1440)
(Effective 1/1/2018)

Adds one sentence to the Penal Code, stating that notwithstanding any other law, United States Immigration and Customs Enforcement officers and United States Customs and Border Protection officers are *not* California peace officers.

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[Uncodified Section One of this bill contains the Legislature's claim that Immigration and Customs Enforcement (ICE) officers "misrepresent themselves as peace officers or police officers to persuade and compel friends, family members, and associates of suspected undocumented immigrants to reveal information about, or the whereabouts of, a suspected undocumented immigrant." Section One also states that ICE officers do not undergo the "rigorous training" required to become a California peace officer and that California "must take any and all necessary actions to disassociate the actions of ICE officers with those of state and local peace officers, make it clear that federal immigration officers are not California peace officers, and appropriately ensure the public knows the difference."]

**P.C. 831**
(Amended)
(Ch. 73) (SB 324)
(Effective 1/1/2018)

Authorizes sheriffs and chiefs of police to arm custodial officers with less-lethal weapons while on duty if the custodial officer is trained to use the less-lethal weapon and complies with the policy on the use of such weapons. Custodial officers continue to be prohibited from carrying or possessing firearms while on duty. Provides that a less-lethal weapon is as defined in P.C. 16780. P.C. 16780 defines less-lethal weapon as "any device that is designed to or that has been converted to expel or propel less lethal ammunition by any action, mechanism, or process for the purpose of incapacitating, immobilizing, or stunning a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort." [Examples of less-lethal weapons include weapons that fire plastic or rubber projectiles instead of bullets.]

Divides subdivision (f) into paragraphs *without* substantive amendment. [Subdivision (f) specifies what a custodial officer may do, such as use reasonable force and release misdemeanants on citation to appear in lieu of or after booking.]

**P.C. 831.4**
(Amended)
(Ch. 107) (AB 585)
(Effective 1/1/2018)

Provides that a police security officer includes an officer employed by "a police chief of a police division that is within a city department that operates independently of the city police department commanded by the police chief of a city." Thus, security officers, such as those who work for the Port of Los Angeles, are now included in the definition of "police

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security officer" and may carry or possess a firearm, baton, or other safety equipment and weapons as authorized by their chief, such as the Port of Los Angeles Police Chief, pursuant to P.C. 831.4(b).

**P.C. 849**
**P.C. 851.6**
(Amended)
(Ch. 566) (SB 238)
(Effective 10/7/2017)

Amends P.C. 849 to add a fifth method (P.C. 849(b)(5)) for a peace officer to release from custody a person arrested without a warrant instead of taking the arrestee before a magistrate: the arrestee is delivered to a hospital or other urgent care facility for mental health evaluation and treatment, and no further proceedings are desirable. Provides that a hospital or urgent care facility includes, but is not limited to, a facility for the treatment of "co-occurring substance use disorders." Also provides that an arrest that results in a P.C. 849(b)(5) release shall be deemed a detention only.

[P.C. 849(b) continues to permit a peace officer to release a person arrested without a warrant if there are insufficient grounds for making a criminal complaint against the arrestee (P.C. 849(b)(1)); or, the person was arrested for intoxication only and no further proceedings are desirable (P.C. 849(b)(2)); or, the person was arrested only for being under the influence of a controlled substance or drug and is delivered to a facility or hospital for treatment and no further proceedings are desirable (P.C. 849(b)(3)); or, the person was arrested for driving under the influence of alcohol or drugs and is delivered to a hospital for medical treatment that prohibits immediate delivery before a magistrate (P.C. 849(b)(4)).]

Amends P.C. 851.6 to add delivery to a hospital or urgent care facility for mental health evaluation and treatment (P.C. 849(b)(5)) to the types of releases that require the releasing officer to issue the arrestee a certificate describing the action as a detention. Continues to require the issuing of a detention certificate for P.C. 849(b)(1) and 849(b)(3) releases.

[P.C. 851.6 also continues to require that a person arrested and released with no accusatory pleading being filed, be issued a certificate by the arresting law enforcement agency describing the action as a detention.]

**P.C. 851.87**
**P.C. 851.90**
(Amended)
**P.C. 851.91**
**P.C. 851.92**
(New)
(Ch. 680) (SB 393)
(Effective 1/1/2018)

Creates new P.C. 851.91 to permit the sealing of records relating to an arrest that did not result in a conviction.

Creates new P.C. 851.92 to provide the details about how sealing is to be accomplished. New P.C. 851.92 applies to arrest records sealed pursuant to P.C. 851.87 (prefiling diversion programs), P.C. 851.90 (drug diversion programs), new P.C. 851.91 (arrests without a conviction), P.C. 1000.4 (drug diversion), and P.C. 1001.9 (misdemeanor diversion). [This bill makes no changes to P.C. 851.8 (pertaining to the sealing of arrest records where no accusatory pleading was filed and the arrestee is found factually innocent) or to P.C. 851.7 (pertaining to the sealing of specified juvenile misdemeanor arrest records).

New P.C. 851.91 permits a person whose arrest did not result in a conviction to petition the court to seal those records. Applies to the following arrests:

1. The statute of limitations has run on every offense upon which the arrest was based and no accusatory pleading was filed; or

2. An accusatory pleading was filed and one of the following occurred:
   a. No conviction occurred, the charge was dismissed, and the charge may not be refiled; or
   b. No conviction occurred and the arrestee was acquitted of the charges; or
   c. A conviction occurred but was vacated or reversed on appeal, all appellate remedies are exhausted, and the charge may not be refiled.

Prohibits sealing for the following arrests:

1. Where an arrestee may still be charged with any of the offenses upon which the arrest was based; or
2. Where the charge is for an offense for which there is no statute of limitations, such as murder, unless the offender is acquitted or found factually innocent; or
3. Where the arrestee intentionally evaded law enforcement efforts to arrest the offender, including by absconding from the jurisdiction in which the arrest took place. Provides that the existence of bench warrants or failures to appear that were adjudicated before the case closed with no conviction do not establish intentional evasion.

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4. Where the arrestee intentionally evaded law enforcement by engaging in identity fraud and was subsequently charged with a crime for that identity fraud. (Identity fraud is not defined.)

Provides that a petition to seal an arrest be verified, be served on the prosecuting attorney and law enforcement agency at least 15 days prior to the hearing, and include the following: the petitioner's name and date of birth, the date of arrest, the city and county where the arrest took place, the law enforcement agency that made the arrest, the offenses upon which the arrest was based or the charges in the accusatory pleading, any information available from the law enforcement agency or the court such as the case number of the police report and/or the court case number if charges were filed. Also requires the petition to include a statement that the petitioner is entitled to have his or her arrest sealed as a matter of right, or, if the petitioner is requesting sealing in the interests of justice, how the interests of justice would be served by granting the petition, accompanied by declarations made directly and verified by the petitioner, his or her supporting declarants, or both.

Authorizes a court to deny a petition for failing to meet any of the above requirements.

Requires the Judicial Council to furnish petition forms in a variety of languages.

Provides that a petition to seal an arrest record may be granted as a matter or right or in the interests of justice. Sealing as a matter of right is available except where the offenses include one of the following:

1. Domestic violence, if the petitioner's record demonstrates a pattern of domestic violence arrests and/or convictions; or
2. Child abuse, if the petitioner's record demonstrates a pattern of child abuse arrests and/or convictions; or
3. Elder abuse, if the petitioner's record demonstrates a pattern of elder abuse arrests and/or convictions.

Defines "pattern" as two or more convictions or five or more arrests for separate offenses occurring on separate occasions within three years from at least one of the other convictions or arrests. [The standard for finding a pattern is

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very high, which means that the number of interest of justice sealing petitions filed will likely be minuscule, with the vast majority of eligible petitioners who properly file their petitions being entitled to sealing as a matter of right.]

The above arrests may be sealed only in the interests of justice where the court has considered relevant factors, including hardship to the petitioner caused by the arrest, declarations or evidence regarding the petitioner's good character, declarations or evidence regarding the arrest, and the petitioner's record of convictions.

Permits the prosecuting attorney, the petitioner, and the arresting agency (through the prosecuting attorney) to present evidence to the court at a hearing. Provides that "[n]otwithstanding Section 1538.5 or 1539," the hearing may be determined upon declarations, affidavits, police investigative reports, copies of state and local criminal histories, and any other evidence submitted by the parties that is material, relevant, and reliable. [The cross-references to P.C. 1538.5 and 1539 (having to do with the suppression of evidence and the return of property) are not explained, but it appears that reliable hearsay is admissible at a sealing hearing.]

Provides that the initial burden of proof to show entitlement to sealing as a matter of right or in the interests of justice is on the petitioner. If the court finds that the petitioner has satisfied his or her burden, the burden of proof shifts to the prosecuting attorney. [P.C. 851.91 does not specify the level of the burden proof. Therefore, it is most likely a preponderance of the evidence standard, based on existing Evidence C. 115, whose last sentence provides that "Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence."]

Provides that if a court grants a petition to seal, the court is required to furnish a report to the Dep't of Justice that sealing was granted, and issue a written ruling and order to the petitioner, the prosecuting attorney, and the law enforcement agency that the arrest record has been sealed, that the arrest is deemed not to have occurred, that the petitioner may answer questions about the sealed arrest accordingly, and that the petitioner is released from specified penalties and disabilities.

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Provides that the sealing of an arrest record does **not** release the petitioner from these penalties and disabilities:

1. The sealed arrest may still be pleaded and proved in any subsequent prosecution and will have the same effect as if it had not been sealed.
2. Sealing does not relieve the petitioner of the obligation to disclose the arrest in a questionnaire or application for public office, for employment as a peace officer, for licensure by a local or state agency, or for contracting with the California State Lottery Commission.
3. Sealing does not affect a petitioner's authority to own, possess, or control a firearm or shield a petitioner from conviction pursuant to P.C. 29800–29875, if the arrest otherwise affects the petitioner's possession of firearms.
4. Sealing does not affect any prohibition on holding public office that would otherwise apply as a result of the arrest.

New P.C. 851.92 applies to arrest records sealed pursuant to P.C. 851.87 (prefiling diversion programs), P.C. 851.90 (drug diversion programs), new P.C. 851.91 (arrests without a conviction), P.C. 1000.4 (drug diversion), and P.C. 1001.9 (misdemeanor diversion). P.C. 851.92 requires the court, after granting a petition to seal, to provide a copy of the sealing order to the petitioner and the prosecuting attorney, to provide a copy to the law enforcement agencies that participated in the arrest, and to furnish a disposition report to the Dep't of Justice.

Requires that arrest records be updated as follows:

1. To local summary criminal history information shall be added an "arrest sealed" note next to or below the arrest. Also requires that the date of the sealing order be noted and the Penal Code section pursuant to which relief was granted.
2. To state summary criminal history information shall be added an "arrest relief granted" note next to or below the arrest. Also requires that the date of the sealing order be noted and the Penal Code section pursuant to which relief was granted.
3. Requires a police investigative report to be stamped with "ARREST SEALED: DO NOT RELEASE OUTSIDE THE CRIMINAL JUSTICE SECTOR," with respect to the offender who obtained the sealing order, and to include the date of the sealing order and the section pursuant to

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which sealing was granted. Requires the responsible local law enforcement agency to ensure that this note is included in all "master copies, digital or otherwise."

4. Requires court records to be stamped with "ARREST SEALED: DO NOT RELEASE OUTSIDE OF THE CRIMINAL JUSTICE SECTOR," with respect to the offender who obtained the sealing order, and to include the date of the sealing order and the section pursuant to which sealing was granted.

[Note that none of these records will be destroyed or redacted. They will simply have a notation added about sealing. Note also that prosecution records are not specifically mentioned.]

Authorizes criminal justice agencies (e.g., agencies that include district attorneys, probation officers, parole officers, peace officers, correctional officers, and public defenders, and other attorneys representing an offender) to continue to access, use, and furnish to other criminal justice agencies, information relating to a sealed arrest. Provides that the authority to use this information includes, but is not limited to, discussing the sealed information in open court or in unsealed court filings to the same extent that would have been permitted if the arrest had not been sealed. [Therefore, a prosecutor will continue to have access to the arrest histories of defendants and witnesses even if arrest records have been sealed, and thus this information continues to be available for prosecutors to be able to discharge their discovery and *Brady v. Maryland* obligations to disclose specified information.]

Prohibits anyone other than a criminal justice agency or person whose record was sealed from disseminating information related to a sealed arrest. Provides that a violation is subject to a civil penalty of between $500 to $2,500 per violation and authorizes the civil penalty to be enforced by a district attorney, a city attorney, or the Attorney General.

Also amends P.C. 851.87 (pertaining to the sealing of records upon successful completion of a prefiling diversion program) and P.C. 851.90 (pertaining to the sealing of records upon successful completion of drug diversion) to cross-reference the sealing procedures in new P.C. 851.92. P.C. 851.87 is also amended to eliminate the two-year waiting period between successful completion of a prefiling diversion program and the filing of a sealing petition.

**P.C. 868.4**
(New)
(Ch. 290) (AB 411)
(Effective 1/1/2018)

Permits either party in a criminal or juvenile hearing, if the court approves, to have a therapy or facility dog accompany a specified witness while testifying in court. Applies to the following witnesses:

1. A child witness in a court proceeding involving a serious felony (P.C. 1192.7(c)) or a violent felony (P.C. 667.5(c)). "Child witness" is defined as a witness under age 18 at the time of testimony. Note that the child is not required to be a victim of the serious or violent felony.
2. A victim who is entitled to support persons pursuant to existing P.C. 868.5. Thus, a victim of a crime specified in P.C. 868.5 may have a support dog pursuant to new P.C. 868.4 and two support persons pursuant to existing P.C. 868.5. [P.C. 868.5 specifies violations and attempted violations of a number of crimes, including P.C. 187 (murder); P.C. 203 and 205 (mayhem); P.C. 207 and 209(b) (kidnapping); P.C. 211 (robbery); P.C. 215 (carjacking); P.C. 220 (assault with intent to commit mayhem or a sex crime); P.C. 236.1 (human trafficking); P.C. 240 (assault); P.C. 242 (battery); P.C. 243.4 (sexual battery); P.C. 245 (assault with a deadly weapon or by means of force likely to produce great bodily injury); various sexual assault crimes such as P.C. 261 and 262 (rape), P.C. 286 (sodomy), P.C. 288 and 288.5 (child molestation), P.C. 288a (oral copulation), and P.C. 289 (sexual penetration); P.C. 266h (pimping); P.C. 266i (pandering); P.C. 273a (child endangerment); P.C. 273d (corporal injury on a child); P.C. 273.5 (domestic violence); P.C. 273.6 (restraining order violations); P.C. 278 and 278.5 (child abduction crimes); P.C. 314.1 (indecent exposure); P.C. 422 (criminal threats); P.C. 646.9 (stalking); P.C. 647.6 (annoying or molesting a child); P.C. 311.1–311.6 and 311.10–311.11 (obscene matter crimes); and P.C. 368(b), (d), and (e) (elder fraud and abuse crimes).]

Requires a party seeking to use a therapy or facility dog to file a motion stating the training or credentials of the therapy or facility dog, the training of the dog handler, and facts justifying that the presence of the dog may reduce anxiety or otherwise be helpful to the witness while testifying.

Authorizes the court to grant the motion for the use of a support dog if it is shown that the dog and handler are suitably qualified and will reasonably assist the witness,

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unless the court finds that use of a dog would cause undue prejudice to the defendant or would be unduly disruptive to the court proceeding.

If a support dog is permitted, the court is required to make the presence of the dog as unobtrusive and non-disruptive as possible, including requiring the dog to be accompanied by a handler in the courtroom at all times.

Requires the court, upon request in a criminal jury trial, to issue "an appropriate jury instruction designed to prevent prejudice for or against any party."

Authorizes the court to remove or exclude a support dog from the courtroom in order to maintain order or to ensure the fair presentation of evidence.

Provides that this new section does not limit the use of a service dog by a person with a disability.

Defines "facility dog" as a dog that has successfully completed a training program in providing emotional comfort in a high-stress environment for the purpose of enhancing the ability of a witness to speak in a judicial proceeding and reducing his or her stress level, provided by an assistance dog organization accredited by Assistance Dogs International or a similar non-profit organization that sets standards or training for dogs, and that has passed a public access test for service animals.

Defines "therapy dog" as a dog that has successfully completed training, certification, or evaluation in providing emotional support therapy in settings including, but not limited to, hospitals, nursing homes, and schools, provided by the American Kennel Club, Therapy Dogs Incorporated, or a similar non-profit organization, and has been performing the duties of a therapy dog for not less than one year.

Defines "handler" as a person who has successfully completed training on offering an animal for assistance purposes from an organization accredited by Assistance Dogs International, Therapy Dogs Incorporated, or a similar non-profit organization, and has received additional training on policies and protocols of the court and the responsibilities of a courtroom dog handler.

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States that it is the Legislature's intent to codify the holding in *People v. Chenault* (2014) 227 Cal.App.4th 1503 with respect to allowing an individual witness to have a support dog when testifying.

[In *Chenault*, it was held that the trial court did not abuse its discretion in allowing a support dog to be present during the testimony of two child witnesses, ages 11 and 13, in a multiple count P.C. 288 molestation case. The *Chenault* court found that Evidence C. 765 provides authority for the court to allow the presence of a support dog because the court has broad discretion under Evidence C. 765 to exercise control over the interrogation of witnesses and to protect them from undue harassment or embarrassment. The legislative history of this bill mentions another support dog case, *People v. Spence* (2012) 212 Cal.App.4th 478, where the appellate court found that the trial court properly exercised its discretion under Evidence C. 765 to permit a therapy dog to accompany a 10-year-old molestation victim to the witness stand.]

**P.C. 924.6**
(Amended)
(Ch. 204) (AB 1024)
(Effective 1/1/2018)

Adds new provisions for the release of a grand jury transcript in a case involving a shooting or use of excessive force by a peace officer that leads to the death of a detainee or arrestee, where there is *no* indictment returned by the grand jury. Upon application of the district attorney, a legal representative of the decedent, or a legal representative of the media and with notice to the district attorney and the affected witness and an opportunity to be heard, the court is required to order disclosure of all or part of the indictment proceeding transcript, excluding the grand jury's private deliberations and voting, unless the court finds, following an in camera hearing, that there exists an overriding interest that outweighs the right of public access. In order to deny disclosure, the court must find that there is an overriding interest that outweighs public access and that supports sealing the record, that a substantial probability exists that the overriding interest will be prejudiced if the record is not sealed, that the proposed sealing is narrowly tailored, and that no less restrictive means exist to achieve the overriding interest.

[The purpose of this amendment is to have more transparency in grand jury proceedings involving the use of force by peace officers. P.C. 917(b), which became effective January 1, 2016, and prohibits a grand jury from inquiring

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into a shooting or use of excessive force by a peace officer that leads to the death of a detainee or arrestee, was declared unconstitutional in *People ex rel. Pierson v. Superior Court* (2017) 7 Cal.App.5th 402. P.C. 917(b) was found to violate the provision in Section 14 of Article I of the California Constitution stating that "Felonies shall be prosecuted as provided by law, either by indictment or, after examination and commitment by a magistrate, by information." The *Pierson* court stated that the Legislature could either submit a constitutional amendment to the electorate to remove the grand jury's power to indict in cases involving a peace officer's use of lethal force, or, it "could take the less cumbersome route of simply reforming the procedural rules of secrecy in such cases …." AB 1024's amendment to P.C. 924.6 fits the latter suggestion.]

[Existing statutes also contribute to grand jury transparency. P.C. 938.1(b) permits a grand jury transcript to be open to the public ten days after its delivery to a defendant, in a case where an indictment is returned, unless the court finds that making the transcript public may prejudice a defendant's right to a fair trial. Existing P.C. 939.1 permits grand jury sessions to be open to the public if both the grand jury and the prosecution so request, and if a judge finds that the subject matter of the investigation affects the general public welfare and involves corruption, misfeasance, or malfeasance in office or dereliction of duty by a public official or employee.]

**P.C. 987.8**
**P.C. 987.81**
(Amended)
(Ch. 62) (SB 355)
(Effective 1/1/2018)

Amends both P.C. 987.8 and 987.81 to eliminate the fee for representation by a public defender or court-appointed counsel in cases where the defendant is *not* convicted. Specifically provides that a fee for representation by a public defender or appointed counsel may be ordered only where a defendant is convicted of a felony or a misdemeanor.

Amends P.C. 987.81(b) to make discretionary, rather than mandatory, a court order that a defendant appear before a county officer for an inquiry into the defendant's ability to pay all or a portion of the legal assistance provided. A court retains its discretion, in P.C. 987.81(a), to hold a hearing to determine a defendant's ability to pay all or a part of the representation costs.

**P.C. 1000**
**P.C. 1000.1**
**P.C. 1000.2**
**P.C. 1000.3**
**P.C. 1000.4**
**P.C. 1000.5**
**P.C. 1000.6**
(Amended)
**P.C. 1000.65**
(New)
(Ch. 778) (AB 208)
(Effective 1/1/2018)

Changes the current Deferred Entry of Judgment (DEJ) program for drug offenses, which has been in effect since 1997, back to a pre-guilty plea/pre-conviction drug diversion program. Rather than requiring an offender to plead guilty before being diverted, this amendment permits an offender to be diverted before conviction, which means that any offender who fails diversion, even more than a year later, will be entitled to a court trial. The new diversion provisions require a defendant who wishes to accept diversion to waive the right to a speedy trial, to a preliminary hearing if applicable, and to a jury trial.

Makes diversion easier to get than DEJ:

1. With DEJ, a prior drug conviction of any age and of any type, was a DEJ disqualifier. With diversion, only a drug conviction within five years is a disqualifier, and *only if* the prior conviction is a drug offense **not** on the P.C. 1000(a) list of divertible offenses (which this bill does not change.) Therefore, a defendant who continues to commit drug crimes listed in P.C. 1000(a) can remain eligible for diversion for each new offense committed, as long as he or she avoids being convicted of a felony. A felony conviction within five years is still a disqualifier. But being in a pre-guilty plea diversion program for a felony is **not** a disqualifier.
2. With DEJ, a previous revocation of probation or parole that was not completed was a DEJ disqualifier. With diversion, the probation/parole revocation disqualifier is completely eliminated.
3. With DEJ, a previous attempt at DEJ within the last five years, whether successful or not, was a DEJ disqualifier. With diversion, the previous failure/completion disqualifier is completely eliminated. Therefore, no matter how often a defendant completes or fails diversion, he/she can continue to get diversion for each subsequent P.C. 1000(a) offense committed.

Diversion retains these existing disqualifiers: (1) the offense charged involves a crime of violence or threatened violence; (2) there is evidence of a contemporaneous violation related to narcotics or restricted dangerous drugs other than an offense listed in P.C. 1000(a); or (3) the defendant has a prior felony conviction within five years.

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The diversion period is shorter than the DEJ period. DEJ lasted from 18 to 36 months. Diversion will last from 12 to 18 months, but a defendant is permitted to ask for an extension in order to complete the program.

Amends P.C. 1000.3 to eliminate these two grounds for terminating diversion:

1. The defendant is not benefiting from education, treatment, or rehabilitation; or
2. The defendant has engaged in criminal conduct rendering him or her unsuitable for the program. Beginning January 1, 2018, diversion can be terminated only if the defendant is performing unsatisfactorily in the assigned program, or has been convicted of an offense that reflects the defendant's propensity for violence, or has been convicted of a felony.

Amends P.C. 1000.4 to provide that upon successful completion of diversion, the arrest will be deemed to have never occurred and the court is permitted to seal the offender's record pursuant to new P.C. 851.92, which sets forth how the sealing is to be accomplished. However, even if sealed, diversion records may still be accessed and used by criminal justice agencies and licensing agencies. (See below and see P.C. 851.57–851.92, above, for more information. Existing P.C. 851.90 already permits the sealing of drug diversion and DEJ records. New P.C. 851.92 details what records need to be noted as "arrested sealed" or "arrest relief granted.")

[P.C. 851.92 includes in the definition of "criminal justice agency" district attorneys, the courts, peace officers, probation officers, parole officers, public defenders, criminal defense attorneys, and correctional officers. It provides that notwithstanding the sealing of an arrest, a criminal justice agency may continue to access, use, and furnish to other criminal justice agencies, sealed arrests, sealed arrest records, sealed police investigative reports, sealed court records, and information relating to sealed arrests, to the same extent that would have been permitted for a criminal justice agency had the arrest not been sealed.]

Provides that successful completion of diversion does **not** prohibit an agency specified in B&P 500–4999.129 from taking disciplinary action against a licensee or from denying

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a license based on professional misconduct. These Business and Professions Code sections apply to professionals such as chiropractors, dentists, doctors, nurses, speech-language pathologists, audiologists, opticians, optometrists, occupational therapists, physical therapists, dietitians, psychologists, pharmacists, veterinarians, and marriage and family therapists.

Provides that any licensing agency listed in B&P 144 (there are over 25) is authorized to receive from a local or state agency certified records regarding referral to, participation in, successful completion of, and termination from, a diversion program.

Requires a defendant to be advised that even if he or she successfully completes diversion, an order to seal the records has no effect on a criminal justice agency's ability to access and use the sealed record and information regarding the sealed arrest, pursuant to new P.C. 851.92.

P.C. 1000.6 permits an offender in a diversion program to use medications, including, but not limited to, methadone, buprenorphine, or levoalphacetylmethadol, to treat substance abuse, if used under the direction of a licensed health care practitioner.

New P.C. 1000.65 provides that nothing in P.C. 1000–1000.65 affects pretrial misdemeanor diversion in existing P.C. 1001–1001.9.

[AB 208 does not lessen or eliminate punishment for any crime. It makes procedural changes that will apply to pre-guilty plea cases pending on January 1, 2018, even if the crime occurred before January 1, 2018. But it will **not** apply to a defendant who has already been granted DEJ, or to a defendant who has already pled guilty and is awaiting sentencing, or to a defendant who has already been sentenced even if the conviction is not yet final. Existing P.C. 3 provides that no part of the Penal Code is retroactive unless "expressly declared so." The general rule is that when there is nothing to indicate a contrary intent in a statute, it will be presumed that the statute operates prospectively and *not* retroactively. (*In re Estrada* (1965) 63 Cal.2d 740, 746; *Tapia v. Superior Court* (1991) 53 Cal.3d 282, 287.) However, a change in the law that reduces punishment is retroactive and applies to defendants whose judgments are not yet

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final. (*Estrada, supra,* at 745.) AB 208 does not lessen any punishment. It makes a procedural change to convert a post-guilty plea program into a pre-guilty plea program. It will not apply to a defendant who has already been granted DEJ, or to a defendant who has already pled guilty and is awaiting sentencing, or to a defendant who has already been sentenced even if the conviction is not yet final. The California Supreme Court case of *People v. Brown* (2012) 54 Cal.4th 314, 323–324 provides that only the mitigation of punishment for a *particular crime* is intended to apply to all non-final judgments.]

[This bill (AB 208) is almost identical to a bill the Governor vetoed in 2015 (AB 1351). In 2015, the Governor wrote in his veto message that permitting diversion before an offender pleads guilty "eliminates the most powerful incentive to stay in treatment—the knowledge that judgment will be entered for failure to do so. This bill goes too far."]

[The legislative history of this bill indicates that the concern is about the immigration consequences for a defendant who pleads guilty, gets DEJ, then successfully completes DEJ and gets the charges dismissed. However, P.C. 1203.43, effective January 1, 2016, was created to mitigate immigration concerns by declaring that in DEJ cases where an offender successfully completed DEJ and charges were dismissed, the offender's plea of guilty is not valid and the offender is permitted to specifically withdraw the guilty plea and enter a plea of not guilty.]

**P.C. 1001**
**P.C. 1001.1**
(Amended)
(Ch. 537) (SB 239)
(Effective 1/1/2018)

Amends P.C. 1001 and 1001.1 to correct a cross-reference by changing P.C. 1001.11 to 1001.9 [Misdemeanor diversion encompasses P.C. 1001–1001.9, **not** P.C. 1001–1001.11.] This bill also repeals P.C. 1001.10 and 1001.11. See below.

**P.C. 1001.9**
(Amended)
(Ch. 680) (SB 393)
(Effective 1/1/2018)

Amends this misdemeanor diversion section to cross-reference new P.C. 851.92, in order to provide that upon successful completion of misdemeanor diversion, a court may seal the arrest records. New P.C. 851.92 sets forth details about how sealing is to be accomplished. See P.C. 851.92, above, for more information.

**P.C. 1001.10**
**P.C. 1001.11**
(Repealed)
(Ch. 537) (SB 239)
(Effective 1/1/2018)

Repeals P.C. 1001.10, which required a defendant who was placed on probation or granted diversion for a specified drug crime (e.g., H&S 11350(a), 11377(a), 11550), or prostitution (P.C. 647(b)), or lewd act in public (P.C. 647(a)), to participate in an AIDS education program.

Repeals P.C. 1001.11, which directed the health department in each county to select one or more agencies to provide AIDS education to probationers and diverted defendants pursuant to P.C. 1001.10, which this bill also repeals.

**P.C. 1001.80**
(Amended)
(Ch. 179) (SB 725)
(Effective 8/7/2017)

Provides that military pretrial diversion is permitted for misdemeanor violations of V.C. 23152 (driving under the influence) and V.C. 23153 (driving under the influence and causing injury), notwithstanding existing V.C. 23640, which prohibits a court from suspending or staying proceedings in a V.C. 23152 or 23153 case, and prohibits dismissing the charge for the purposes of allowing the defendant to participate in an education or treatment program. Also provides that the Dep't of Motor Vehicles is *not* limited by this amendment and may take administrative action against a divertee's driver's license.

[This amendment resolves a conflict in case law between *People v. VanVleck* (2016) 2 Cal.App.5th 355 (holding that military diversion is **not** available for misdemeanor DUI) and *Hopkins v. Superior Court* (2016) 2 Cal.App.5th 1275 (holding that P.C. 1001.80 is an exception to V.C. 23640's prohibition on diversion in DUI cases). The California Supreme Court granted review in both cases in November 2016 and on August 16, 2017 asked the parties to file letter briefs addressing the significance, if any, of this amendment. *Hopkins* (#S237734) is the lead case and on October 18, 2017, the California Supreme Court dismissed review of *Hopkins* as moot.]

**P.C. 1170**
(Amended)
(Ch. 287) (SB 670)
(Effective 1/1/2018)

Adds a new paragraph (6) to existing subdivision (h) to provide that when a court is imposing a concurrent *or* consecutive P.C. 1170(h) Realignment sentence on a defendant who is already sentenced pursuant to P.C. 1170(h) in another county, the court imposing the second or subsequent judgment must determine "the county or counties of incarceration and supervision of the defendant." Thus, the judge imposing sentence last decides whether

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the defendant serves the aggregate sentence in the judge's county or gets sent back to a county that imposed a P.C. 1170(h) term that the defendant is still serving. By using the phrase "county or counties" it appears that a judge could decide that a Realignment defendant should serve part of the aggregate sentence in one county and part in another. Or, perhaps the judge could order the defendant to serve the term in one county and then be supervised in another county.

[This bill also amends P.C. 1170.3 to require the Judicial Council to adopt rules providing criteria for judges to consider when determining the county or counties of incarceration and supervision. See below.]

**P.C. 1170.127**
(New)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Provides that a person committed to a state hospital after being found not guilty by reason of insanity (NGI) pursuant to P.C. 1026 may petition to have his or her maximum term of commitment reduced to the length it would have been under the Three Strikes Reform Act (Proposition 36, passed by California voters in November 2012), if the defendant would have met all criteria for reduction pursuant to P.C. 1170.126 (the Three Strikes resentencing statute) had he or she been found guilty. Requires the petition to be filed by January 1, 2021, or on a later date upon a showing of good cause. Provides that any new term of confinement must provide an opportunity to meet the requirements of P.C. 1026.5(b) (which set forth detailed procedures for extending an NGI commitment.) Provides that if a new term of maximum confinement does **not** provide sufficient time to meet P.C. 1026.5(b) requirements, the new term may be extended by up to 240 days from the date the petition is granted, in order to meet those requirements.

[This change in the law abrogates the holding of *People v. Dobson* (2016) 245 Cal.App.4th 310, in which the Fifth District Court of Appeal held that P.C. 1170.126 (the Three Strikes re-sentencing statute) does not apply to NGI defendants. The *Dobson* court pointed out that the express language in P.C. 1170.126 applies only to "persons presently serving an indeterminate term of imprisonment," and found that an NGI defendant committed to a state hospital is not serving a term of imprisonment. The *Dobson* court also found that any disparate treatment of NGI and convicted defendants does not violate equal protection.]

**P.C. 1170.18**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Adds a new subdivision (p) to provide that a person committed to a state hospital after being found not guilty by reason of insanity (NGI) pursuant to P.C. 1026 may petition to have his or her maximum term of commitment reduced to the length it would have been under Proposition 47 (passed by California voters in November 2014), if the defendant would have met all criteria for reduction pursuant to P.C. 1170.18 (the Prop. 47 resentencing statute) had he or she been found guilty. Requires the petition to be filed by January 1, 2021, or on a later date upon a showing of good cause. Provides that any new term of confinement must provide an opportunity to meet the requirements of P.C. 1026.5(b) (which set forth detailed procedures for extending an NGI commitment.) Provides that if a new term of maximum confinement does **not** provide sufficient time to meet P.C. 1026.5(b) requirements, the new term may be extended by up to 240 days from the date the petition is granted, in order to meet those requirements.

[This change in the law was prompted by the holding of *People v. Dobson* (2016) 245 Cal.App.4th 310, in which the Fifth District Court of Appeal held that P.C. 1170.126 (the Three Strikes resentencing statute) does not apply to NGI defendants. The *Dobson* court pointed out that the express language in P.C. 1170.126 applies only to "persons presently serving an indeterminate term of imprisonment," and found that an NGI defendant committed to a state hospital is not serving a term of imprisonment. The *Dobson* court also found that any disparate treatment of NGI and convicted defendants does not violate equal protection. Similar to P.C. 1170.126, the express language of P.C. 1170.18 (Prop. 47) applies to defendants "serving" a sentence (P.C. 1170.18(a)) and to defendants who have "completed" a sentence (P.C. 1170.18(f)). With the addition of subdivision (p) to P.C. 1170.18, it now applies to NGI defendants.]

**P.C. 1170.21**
(New)
(Ch. 537) (SB 239)
(Effective 1/1/2018)

Declares that a conviction for a violation of P.C. 647f is now invalid and vacated. (This bill repeals P.C. 647f, which is the felony crime of a defendant being convicted of P.C. 647(b) (prostitution), and having a prior conviction for P.C. 647(b) or for a specified sex offense, and a positive AIDS test.)

Provides that all charges alleging a violation of P.C. 647f are dismissed and all arrests for P.C. 647f are deemed never to have occurred. Authorizes a person who was arrested,

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charged, or convicted of P.C. 647f to indicate in response to any question that he or she was not arrested, charged, or convicted.

Prohibits information about a person's arrest, charge or conviction for P.C. 647f from being used to deny employment, a benefit, a license, or a certificate, unless the person consents.

[This bill also creates, in new P.C. 1170.22, recall and resentencing procedures for defendants serving a sentence for P.C. 647f on January 1, 2018, when this repeal becomes effective. See P.C. 1170.22, below, for more information.]

**P.C. 1170.22**
(New)
(Ch. 537) (SB 239)
(Effective 1/2/2018)

Permits a defendant serving a sentence on January 1, 2018, for a violation of P.C. 647f to petition for recall or dismissal of the sentence. (This bill repeals P.C. 647f, which is the felony crime of a defendant being convicted of P.C. 647(b) [prostitution], and having a prior conviction for P.C. 647(b) or for a specified sex offense, and a positive AIDS test.)

Provides that the provisions of new P.C. 1170.22 apply to juvenile adjudications for P.C. 647f.

Requires a court to vacate the conviction and resentence the defendant for any remaining counts. Prohibits resentencing from resulting in a sentence longer than the original sentence. Provides that upon completion of a sentence for P.C. 647f, the provisions of P.C. 1170.21 apply.

[This bill also creates new P.C. 1170.21 to provide that all convictions for P.C. 647f are invalid and vacated, to require that all charges of P.C. 647f be dismissed, and to provide that all arrests for P.C. 647f are deemed never to have occurred. See P.C. 1170.21, above, for more information.]

**P.C. 1170.3**
(Amended)
(Ch. 287) (SB 670)
(Effective 1/1/2018)

Requires the Judicial Council to adopt rules providing criteria for judges to consider when determining which county a P.C. 1170(h) Realignment defendant should be incarcerated and supervised in when the defendant has been sentenced pursuant to P.C. 1170(h) by more than one county.

[This bill also amends P.C. 1170 to add a new paragraph (6) to existing subdivision (h) to provide that when a

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court is imposing a concurrent *or* consecutive P.C. 1170(h) Realignment sentence on a defendant who is already sentenced pursuant to P.C. 1170(h) in another county, the court imposing the second or subsequent judgment must determine "the county or counties of incarceration and supervision of the defendant." See above for more on the P.C. 1170 amendment.]

**P.C. 1202.1**
(Amended)
(Ch. 537) (SB 239)
(Effective 1/1/2018)

Eliminates cross-references to P.C. 647f, which this bill repeals. P.C. 647f was the felony crime of a defendant being convicted of P.C. 647(b) (prostitution), and having a prior conviction for P.C. 647(b) or for a specified sex offense, and a positive AIDS test.

[P.C. 1202.1 had permitted the Dep't of Justice to provide AIDS test results it had on file to a defense attorney and prosecutor in connection with a P.C. 647f case.]

**P.C. 1202.4**
(Amended)
(Ch. 101) (SB 756)
(Effective 1/1/2018)

Adds P.C. 288.5 and 288.7 to the list of those crimes (P.C. 288) in P.C. 1202.4(f)(3)(F) for which a court may order restitution for a victim's non-economic losses, including psychological harm.

This amendment resolves a split of authority in the appellate courts and ensures that in cases involving convictions of P.C. 288.5 or 288.7 where a victim has suffered non-economic losses, the prosecution will not have to show that the conduct underlying the P.C. 288.5 or 228.7 crimes also fits conduct prohibited in P.C. 288. In *People v. Valenti* (2016) 243 Cal.App.4th 1140, the prosecution conceded that a victim of P.C. 288.5 was not eligible for non-economic restitution, and the court agreed, stating that the plain language of P.C. 1202.4(f)(3)(F) did not include P.C. 288.5. But *People v. McCarthy* (2016) 244 Cal.App.4th 1096 held that a court may order non-economic restitution for a conviction of P.C. 288.5 because the defendant's conduct also violated P.C. 288. The *McCarthy* court upheld the trial court's order of $1 million for non-economic losses and pointed out that P.C. 1202.4(f)(3)(F) refers to "violations" of P.C. 288 rather than convictions of P.C. 288. People *v. Martinez* (2017) 8 Cal.App.5th 298 followed *McCarthy* and held that a defendant convicted of P.C. 288.5 was properly ordered to pay $150,000 in non-economic damages because the conduct underlying the P.C. 288.5 also constituted a violation of P.C. 288.

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[P.C. 288.5 is the felony crime of continuous sexual abuse of a child under age 14. P.C. 288.7 is the life crime of an adult engaging in sexual intercourse, sodomy, oral copulation, or sexual penetration with a child age 10 or younger. P.C. 288 is the crime of a lewd or lascivious act on a child or dependent person.]

**P.C. 1202.6**
(Repealed & Added)
(Ch. 537) (SB 239)
(Effective 1/1/2018)

Repeals P.C. 1202.6, which had required a court, before sentencing a defendant convicted of P.C. 647(b) (prostitution), to order the defendant to submit to an AIDS test. The new version of P.C. 1202.6 requires a court, upon a first conviction for P.C. 647(b), to refer the defendant "where appropriate" to the CalWORKS welfare-to-work program (W&I 11320–11329.5) or to a drug diversion program, or both. [The new version of P.C. 1202.6 retains cross-references to H&S 120975, 120980, and 120990, which pertain to HIV tests, privacy, and disclosure of test results. The retention of these cross references appears to be a drafting error.]

**P.C. 1203.016**
(Amended)
(Ch. 678) (SB 190)
(Effective 1/1/2018)

Eliminates fees for offenders participating in a home detention program who are under age 21. Provides that fees may be charged only to offenders age 21 or older who are under the jurisdiction of the criminal court.

**P.C. 1203.1ab**
(Amended)
(Ch. 678) (SB 190)
(Effective 1/1/2018)

Eliminates fees for offenders ordered to undergo drug testing who are under age 21. Provides that fees may be charged only to offenders age 21 or older who are under the jurisdiction of the criminal court.

**P.C. 1203.42**
(New)
(Ch. 207) (AB 1115)
(Effective 1/1/2018)

Creates expungement/dismissal relief for defendants sentenced to state prison *before* Realignment became effective on October 1, 2011, who would have been eligible for a jail sentence pursuant to P.C. 1170(h) instead of a state prison sentence, if Realignment had been in effect when they were sentenced. Authorizes a court to exercise its discretion, in the interests of justice, to permit such a defendant to withdraw a plea of guilty or nolo contendere or to set aside a guilty verdict, and to dismiss the case against a defendant. Provides that the granting of this relief releases the defendant from specified penalties and disabilities. The language in new P.C. 1203.42 is almost identical to that in existing P.C. 1203.41, which provides expungement relief for

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defendants sentenced pursuant to P.C. 1170(h) Realignment. It is also very similar to the language of existing P.C. 1203.4, which provides expungement relief for defendants granted probation. Note that in both new P.C. 1203.42 (defendants sentenced before Realignment) and existing 1203.41 (defendants sentenced pursuant to Realignment), the court has discretion to grant, or not grant, relief. A defendant does not have a right to relief. This is different from existing P.C. 1203.4 (which applies to defendants who were granted probation), which grants relief as a matter of right in cases where a defendant has fulfilled the conditions of probation for the entire period of probation or has been discharged prior to the termination of the probation period, *and also* permits a court to exercise discretion to grant relief in other probation cases.

New P.C. 1203.42 provides that expungement relief may be granted only after at least two years have elapsed since the defendant completed his or her sentence. Relief is prohibited if a defendant is under any form of supervised release for any offense, or is serving a sentence for any offense, or is on probation for any offense, or is charged with the commission of any crime. As with both P.C. 1203.4 and 1203.41, a conviction dismissed pursuant to new P.C. 1203.42:

1. May be pleaded and proved in a subsequent prosecution and has the same effect as if it had not been dismissed;
2. Must be disclosed in any questionnaire or application for public office, for licensure by a state or local agency, or for contracting with the California State Lottery Commission;
3. Does **not** permit a person to own, possess, or have custody or control of a firearm, or prevent conviction pursuant to P.C. 29800–29875; and
4. Does **not** permit a person prohibited from holding public office as a result of the conviction to hold public office.

As with P.C. 1203.4 and 1203.41, permits a defendant to make the application and change of plea in person or by an attorney, or by a probation officer authorized in writing. Requires that 15 days' notice be given to the prosecuting attorney and requires a probation officer to notify the prosecuting attorney when a petition is filed. Permits the court to order a defendant to pay up to $150 to reimburse a court, the county, and a city for the actual costs of services rendered.

**P.C. 1203.5**
(Repealed & Added)
**P.C. 1203.6**
(Repealed)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Repeal these sections pertaining to the "offices of adult probation officer" and adds a new P.C. 1203.5 to provide that chief probation officers, assistant probation officers, and deputy probation officers appointed in accordance with new Gov't C. 27770–27773 are ex officio *adult* probation officers except in a county whose charter provides for a separate office of adult probation officer (i.e., typically, a person is an adult probation officer by virtue of being a probation officer). Provides that if a separate office of adult probation officer is established that officer shall perform all duties of probation officers except for matters under the jurisdiction of the juvenile court.

[This bill also creates new Gov't C. 27770–27773 pertaining to chief probation officers and their duties. See the Government Code section of this digest for more information.]

**P.C. 1208.2**
(Amended)
(Ch. 678) (SB 190)
(Effective 1/1/2018)

Eliminates fees for offenders participating in an electronic home detention program who are under age 21, whether or not the program is privately operated. Provides that administrative fees and application fees may be charged only to offenders age 21 or older who are under the jurisdiction of the criminal court.

**P.C. 1234**
**P.C. 1234.2**
**P.C. 1234.3**
**P.C. 1234.4**
(Amended)
(Ch. 96) (SB 106)
(Effective 7/21/2017)

Adds parolees to those offenders (offenders on probation, mandatory supervision, or postrelease community supervision) who are included in the Supervised Population Workforce Training Grant Program. Makes a number of other changes to the administration of the program, such as providing that multiyear grants may be awarded and that non-profit community-based organizations may apply for funds as a lead applicant or in partnership with other agencies and organizations.

**P.C. 1319.5**
(Amended)
(Ch. 554) (AB 789)
(Effective 1/1/2018)

Makes changes to this section that prohibits own recognizance (O.R.) release after arrest for a specified offense, until a hearing is held in open court.

Regarding defendants who have failed to appear in court as ordered, resulting in a warrant being issued three or more times within the three years preceding the current arrest, these are the changes to the applicable list of crimes:

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1. Eliminates P.C. 484 offenses;
2. Restricts burglary crimes to residential burglaries only (previously all P.C. 459 crimes were specified);
3. Adds "any offense involving domestic violence";
4. Adds any offense where the defendant is alleged to have caused great bodily injury; and
5. Deletes the "any felony offense" catchall category and instead adds any other felony offense *not* listed in P.C. 1319.5, *unless* the defendant is released on O.R. pursuant to a court-operated pretrial release program or a pretrial release program with approval by the court. Thus, instead of a court hearing being required to release on O.R. a defendant who has committed any felony and who has a history of failing to appear three times, a defendant with a history of failing to appear who commits a felony that is *not* specified in P.C. 1319.5 may be released on O.R without a court hearing if the defendant is released pursuant to an official pretrial release program.

[Retains, in the list of crimes requiring a court hearing for the O.R. release of defendants who have failed to appear three times, any violation of the California Street Terrorism Enforcement & Prevention Act (P.C. 186.20–186.35), any violation of P.C. 240–248 (e.g., assault and battery crimes), and any offense where the defendant is alleged to have been armed with or to have personally used a firearm.]

Also retains any offense committed by a defendant on felony probation or felony parole (which does not depend on any prior failure to appear in court).

Adds a cross-reference to existing P.C. 1270.1 to provide that P.C. 1319.5 does not change any requirement in P.C. 1270.1 that a court hearing be held before a specified defendant is released from custody. Thus, to the extent that the P.C. 1319.5 and P.C. 1270.1 lists overlap, P.C. 1270.1 should control. [P.C. 1270.1 requires a court hearing before a specified defendant is released on O.R. or is released on bail that is either more or less than the scheduled bail for that offense. It has no exception for a court-operated pretrial release program. P.C. 1270.1 applies to serious felonies (P.C. 1192.7(c), but not residential burglary), violent felonies (P.C. 667.5(c)), and several other crimes such as domestic violence (P.C. 273.5 and P.C. 243(e)(1)), stalking (P.C. 646.9), and specified P.C. 273.6 domestic violence restraining order violations.

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Also adds that P.C. 1319.5 does not alter or diminish rights conferred to crime victims by Marsy's Law in Article I, Section 28 of the California Constitution.

[Note that P.C. 1319 is still in effect. It continues to require a court hearing before a defendant charged with a violent felony (P.C. 667.5(c)) is released on O.R.]

**P.C. 1346**
(Amended)
(Ch. 320) (AB 993)
(Effective 1/1/2018)

Adds P.C. 269 (aggravated sexual assault of a child) and P.C. 288.7 (sex acts with a child age 10 or younger) to the list of sex crimes (P.C. 220, 243.4, 261, 261.5, 264.1, 285, 286, 288, 288a, 288.5, 289, and 647.6) and physical child abuse crimes (P.C. 273a and 273d) in which the preliminary hearing testimony of a victim age 15 or younger or of a developmentally disabled victim, may be video recorded. (Thus, if at the time of trial the victim is medically unavailable because further testimony would cause emotional trauma, or if the victim is unavailable within the meaning of Evidence C. 240, the court may admit the video at trial as former testimony pursuant to Evidence C. 1291.)

**P.C. 1347.1**
(Amended)
(Ch. 269) (SB 811)
(Effective 1/1/2018)

Makes a technical change by eliminating "sexual" from the phrase "alleged sexual offenses" in a reference to human trafficking crimes (P.C. 236.1). Human trafficking may involve forced labor or sex crimes and P.C. 1347.1 applies to both types of human trafficking crimes, so the modifier "sexual" when referencing human trafficking crimes was a drafting error. [P.C. 1347.1 continues to permit a minor age 15 or younger who is a victim of human trafficking to testify at a preliminary hearing or trial via closed-circuit television, if the court makes a number of specified findings.]

**P.C. 1368.1**
**P.C. 1370**
(Amended)
(Ch. 246) (SB 684)
(Effective 1/1/2018)

Amends P.C. 1368.1 to create a procedure for establishing a *Murphy* conservatorship (W&I 5008(h)(1)(B)) for a defendant at the felony complaint stage of the proceedings, i.e., before a preliminary examination has been held. Authorizes a prosecutor, in a felony case involving death, great bodily harm, or a serious threat to the physical well-being of another person, where the felony case is at the pre-preliminary examination stage, to request a probable cause hearing to determine if there is sufficient evidence to believe the defendant committed the charged offenses, at any time before or after a defendant is determined to be

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incompetent to stand trial, for the purpose of establishing a conservatorship pursuant to W&I 5008(h)(1)(B). The bill does not provide specific procedures for the court to use in determining whether there is probable cause to believe the defendant committed the charged offenses, but it does direct the court to consider using procedures consistent with the manner in which a preliminary examination is conducted. It also provides that the probable cause standard is the same as that for preliminary hearings in P.C. 872(a) ("… it appears from the examination that a public offense has been committed, and there is sufficient cause to believe that the defendant is guilty…").

Provides that a probable cause hearing may be held either before or after a defendant is determined incompetent to stand trial. Provides that a defendant is entitled to a preliminary hearing after restoration of competence. (Thus, a defendant who had a probable cause hearing at the complaint stage of the proceedings, before any preliminary examination was held, will get a preliminary examination when criminal proceedings resume.) Provides that a proceeding to determine mental competence or a request for a preliminary examination does not preclude a request for a probable cause hearing. Also provides that a request for a probable cause hearing does not preclude a proceeding to determine mental competence or a request for a preliminary examination.

The purpose of this amendment is to be able to establish a *Murphy* conservatorship (W&I 5008(h)(1)(B)) in a case that is at the *pre*-preliminary examination stage without having to empanel a grand jury to make a probable cause determination. Before this bill's amendment pertaining to the complaint stage of the proceedings, a *Murphy* conservatorship required a pending "indictment or information" (W&I 5008(h)(1)(B)(i)). Therefore, in order to establish a *Murphy* conservatorship at the complaint stage of the proceedings where a defendant had been declared incompetent before a preliminary examination was held, a prosecutor had to empanel a grand jury to make the probable cause determination. Now, for pre-preliminary hearing felony cases, a judge can handle the probable cause hearing.

Amends P.C. 1370(c) to add Lanterman-Petris-Sort Act (LPS) conservatorships (W&I 5008(h)(1)(A)) to those types of conservatorships (*Murphy* conservatorships pursuant to W&I 5008(h)(1)(B)) that an incompetent defendant may be

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eligible for. This amendment codifies the current practice of courts that refer an incompetent criminal defendant for an LPS conservatorship when he or she does not qualify for a *Murphy* conservatorship. For an LPS conservatorship, the requirement of being gravely disabled means that a person, as a result of a mental health disorder, is not able to provide for his or her basic personal needs for food, clothing, or shelter. A *Murphy* conservatorship applies to criminal defendants only, and the requirement of being gravely disabled means the defendant has been found mentally incompetent pursuant to P.C. 1370. A *Murphy* conservatorship also requires other circumstances to exist. [See W&I 5008 in the Welfare and Institutions Code section of this digest for the changes to Murphy conservatorships made in that code section by this bill.]

[*Note*: The amendment to P.C. 1370 by this bill includes other amendments made to P.C. 1370 by AB 103 that were effective June 27, 2017. See P.C. 1370–1372, below.]

**P.C. 1370**
**P.C. 1370.6**
**P.C. 1372**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Amends P.C. 1370 to require the court to order that a mentally incompetent defendant be delivered to a State Dep't of State Hospitals facility as defined in W&I 4100 instead of simply to a "state hospital." [W&I 4100 continues to list the five state hospitals (Atascadero, Coalinga, Metropolitan, Napa, Patton), and is amended by AB 103 to add both the new Admission, Evaluations, and Stabilization (AES) Center in Kern County, and county jail treatment facilities under contract with the State Dep't of State Hospitals to provide competency restoration services.] P.C. 1370 continues to also permit the court to order that an incompetent defendant be delivered to an available public or private treatment facility.

Amends P.C. 1370 and 1370.6 to eliminate the court's authority to select a county jail treatment facility for an incompetent defendant. Instead, county jail treatment facilities are added to W&I 4100 and it is the State Dep't of State Hospitals that will decide which defendants are admitted to a county jail competency program.

[See W&I 4100 and 7228 in the Welfare and Institutions Code section of this publication. Both are amended by AB 103.]

[See above for amendments made to P.C. 1370 by SB 684, regarding conservatorships.]

**P.C. 1417.7**
(Amended)
(Ch. 566) (SB 238)
(Effective 10/7/2017)

Adds a digital record to the methods (photographic record) that can be used to obtain a certified record of exhibits admitted into evidence before they are disposed of or destroyed. (Such a certified record is admissible in post-conviction proceedings or at a new trial.) The addition of a digital record updates this statute to reflect changing technology.

**P.C. 1424**
(Amended)
(Ch. 299) (AB 1418)
(Effective 1/1/2018)

Amends subdivision (b) to add city prosecutors to those prosecutors (city attorneys) against whom a defendant may file a motion to disqualify. (Subdivision (a) continues to apply to a motion to disqualify a district attorney.)

[Existing Gov't C. 41803.5 permits a city attorney to prosecute misdemeanor crimes committed in that city, with the consent of the district attorney in the county where the city is located. Existing Gov't C. 72193 authorizes a city to create the office of city prosecutor or to provide that a deputy city attorney may act as a city prosecutor, in order to prosecute misdemeanor offenses. According to the legislative history of this bill, a number of California cities have city attorneys or city prosecutors who are responsible for prosecuting misdemeanors and the purpose of this bill is to make a number of provisions already applicable to city attorneys also applicable to city prosecutors. This bill also amends P.C. 373a, P.C. 11105, V.C. 1807.5, V.C. 1808.4, and V.C. 1810.5 to add city prosecutors.]

**P.C. 1463.007**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Limits the sanction of a driver's license suspension to failure to appear in court (and not for failure to pay fines, penalties, and assessments.) This bill also amends V.C. 13365, 13365.2, 40509, and 40509.5 to prohibit the suspension of a driver's license for failure to pay traffic fines.

[See the Vehicle Code section of this digest.]

**P.C. 1463.23**
(Repealed)
(Ch. 537) (SB 239)
(Effective 1/1/2018)

Repeals this section, which had required that $50 of each fine imposed for specified drug and sex crimes be deposited in a special account in a county treasury to pay for providing AIDS education programs to defendants pursuant to P.C. 1001.11. [This bill repeals P.C. 1001.11, which had directed the health department in each county to select one or more agencies to provide AIDS education to probationers and diverted defendants pursuant to P.C. 1001.10, which this bills also repeals.]

**P.C. 1524**
(Amended)
(Ch. 342) (AB 539)
(Effective 1/1/2018)
and
(Proposition 63 [2016])
(Firearms)
(Effective 1/1/2018)

AB 539 adds misdemeanor invasion of privacy crimes (P.C. 647(j)(1), 647(j)(2), and 647(j)(3)) to the list of crimes for which a search warrant may issue. New paragraph (18) in subdivision (a) provides that a search warrant may issue "[w]hen the property or things to be seized consists of evidence that tends to show that a violation of paragraph (1), (2), or (3) of subdivision (j) of Section 647 has occurred or is occurring."

[P.C. 647(j)(1) is the misdemeanor crime of looking through a hole or opening into, or viewing by means of an instrumentality such as a camera, the interior of a bedroom, bathroom, changing room, fitting room, tanning booth, etc., in which the occupant has a reasonable expectation of privacy, with the intent to invade the occupant's privacy.

P.C. 647(j)(2) is the misdemeanor crime of using a concealed camcorder or photographic camera of any type to secretly videotape, film, or record by electronic means, another identifiable person under or through the clothing worn by that person, for the purpose of viewing the body or undergarments of the person, without the consent or knowledge of the other person, and with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and to invade the other person's privacy, under circumstances in which the other person has a reasonable expectation of privacy.

P.C. 647(j)(3) is the misdemeanor crime of using a concealed camcorder or photographic camera of any type to secretly videotape, film, or record by electronic means, another identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body or undergarments of the person, without the consent or knowledge of the other person, in the interior of a bedroom, bathroom, changing room, fitting room, tanning booth, etc., in which the other person has a reasonable expectation of privacy, with the intent to invade the other person's privacy.]

[Note that P.C. 674(j)(4) (the misdemeanor crime of revenge porn, which involves the distribution of an image of the intimate body part of another person) is *not* added to P.C. 1524(a)(18).]

Proposition 63 (passed by voters in the November 2016 election, amended P.C. 1524 to add subdivision (a)(15), with

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a delayed effective date of January 1, 2018. P.C. 1524(a)(15) provides that beginning January 1, 2018, a search warrant may issue to seize a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to a firearms prohibition pursuant to P.C. 29800 or 29805 and the court has made a finding pursuant to 29810(c) that the person has failed to relinquish the firearm as required by law. See P.C. 29810, below. (P.C. 29800 applies to convicted felons or persons with an outstanding warrant for a felony crime. P.C. 29805 applies to offenders convicted of a specified misdemeanor or persons with an outstanding warrant for a specified misdemeanor.)

**P.C. 1546.2**
(Amended)
(Ch. 269) (SB 811)
(Effective 1/1/2018)

Amends the Electronic Communications Privacy Act to clarify that a government entity that accesses information about the location or the telephone number of an electronic device in order to respond to an emergency 911 call from that device need *not* provide notice about the emergency access. P.C. 1546.2 requires notice to a target when a government entity obtains electronic information pursuant to a search warrant or pursuant to emergency procedures, requiring the government to inform the person that information has been compelled or obtained and to tell the person with reasonable specificity the nature of the government investigation. This bill clarifies that notice is *not* required when the access involves the location or telephone number of a device in order to respond to an emergency call from that device. [P.C. 1546.1(c)(11) was amended in 2016 to permit a government entity to access the location or telephone number of an electronic device in order to respond to an emergency 911 call from that device, without a search warrant or court order. The legislative history provides that in creating this exception to the warrant requirement, the drafters did not intend that a government entity would have to comply with P.C. 1546.2 notice provisions.]

**P.C. 1557**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Revises provisions pertaining to reimbursement for the expenses of transporting a fugitive as authorized by the Governor. Also sets reimbursement rates for meals and incidental expenses.

**P.C. 2066**
(New)
(Ch. 599) (SB 776)
(Effective 1/1/2018)

Requires the Dep't of Corrections & Rehabilitation (CDCR) to provide Dep't of Veterans Affairs' employees access to computers in state prisons so that they can help incarcerated veterans apply for and receive federal benefits or veterans' benefits they may be eligible for. Requires CDCR to cooperate and collaborate with the VA to ensure that VA employees have the greatest access and effectiveness practicable.

[This bill also adds new Mil. & Vet. C. 715, which requires the VA to provide one trained employee for every five state prisons, in order to assist incarcerated veterans in applying for and receiving any federal benefits or veterans' benefits for which they or their families may be eligible.].

**P.C. 2603**
(Amended)
(Ch. 347) (AB 720)
(Effective 1/1/2018)

Expands involuntary medication provisions to all county jail inmates and adds additional criteria that must be satisfied before a county jail inmate may be involuntarily medicated. Previously, this section applied only to sentenced county jail inmates.

P.C. 2603 now applies to all county jail inmates–those awaiting arraignment, preliminary hearing, trial, sentencing, or a post-conviction proceeding to revoke or modify supervision, as well as those already sentenced. Provides that upon an *ex parte request* of the defendant or his/her counsel, a court may suspend "all proceedings in the criminal prosecution, until the court determines that the defendant's medication will not interfere with his or her ability to meaningfully participate in the criminal proceedings." (This is in new subdivision (f) of P.C. 2603.)

Adds additional conditions before involuntary medication may be administered on a **non**-emergency basis in a county jail (P.C. 2603(c)):

1. The jail has made a documented attempt to locate an available bed for the inmate in a community-based treatment facility in lieu of seeking to administer involuntary medication. Requires the jail to transfer an inmate to a treatment facility if the facility can provide for the mental health needs and physical health needs of the inmate and if the facility agrees to accept the inmate.
2. If the inmate is awaiting trial, any hearing regarding involuntary medication must be before a judge in the

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superior court where the criminal case is pending. Permits a judge to consider whether involuntary medication would prejudice the inmate's defense.

3. Requires that if an inmate is pending arraignment, the inmate be provided counsel within 48 hours of the filing of a notice for an involuntary medication hearing, unless counsel has already been appointed.
4. Requires the administration of involuntary medication to occur in consultation with a psychiatrist who is not involved in the treatment of the inmate at the jail, if available.
5. Authorizes a court to review, modify, or terminate an involuntary medication order for an inmate awaiting trial, "if there is a showing that the involuntary medication is interfering with the inmate's due process rights in the criminal proceeding."

Regarding administering involuntary medication on an emergency basis, P.C. 2603(d) is amended to add a requirement that the ex parte order seeking continued administration of medication beyond 72 hours pending a full mental health hearing, be filed within the initial 72-hour period.

Limits to 180 days the validity of an involuntary medication order or a renewal order for an inmate awaiting arraignment, trial, or sentencing. (Retains the one year limitation on an involuntary medication order or renewal order for a sentenced inmate.) For inmates awaiting arraignment, trial, or sentencing, requires the court to review a medication order or renewal order every 60 days to determine whether grounds for the order remain. For the review, the psychiatrist is required to file an affidavit with the court, affirming that the inmate continues to meet the criteria for involuntary medication. Requires that the defendant and defense attorney be provided a copy of the affidavit. Provides that in determining whether the criteria for involuntary medication still exist, the court must consider the psychiatrist's affidavit and any supplemental information provided by the defendant's attorney. Permits the court to require the psychiatrist to testify.

Prohibits an inmate's confinement from being extended for the purpose of providing treatment with anti-psychotic medication.

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Adds an additional finding a court must make before renewing an existing order for involuntary medication: that treatment of an inmate in a correctional setting continues to be necessary, if there is not an available bed for the inmate in a community-based treatment facility.

Provides that except for emergency involuntary medication as provided in subdivision (d), P.C. 2603 does not apply to a person housed in a county jail solely on the basis of an immigration hold.

Requires each county that administers involuntary medication to an inmate awaiting arraignment, trial, or sentencing to file, by January 1, 2021, a written report with the Assembly Committees on Judiciary and Public Safety and the Senate Committee on Public Safety summarizing the number of inmates receiving involuntary medication from January 1, 2018 to July 1, 2020; the crime for which those inmates were arrested; the total time those inmates were detained while awaiting arraignment, trial, or sentencing; the duration of the administration of involuntary medication; the number of times, if any, that an existing order for the administration of involuntary medication was renewed; and the reason for termination of involuntary medication.

[Retains the following standard in order for a court to order involuntary medication: clear and convincing evidence that the inmate has a mental illness or disorder, that as a result of that illness the inmate is gravely disabled and lacks the capacity to consent to or refuse treatment with psychiatric medications or is a danger to self or others if not medicated, that there is no less intrusive alternative to involuntary medication, and that the medication is in the inmate's best medical interest.]

**P.C. 3003**
(Amended)
(Ch. 523) (AB 335)
(Section 1)
(Effective 1/1/2018)

Expands the list of offenses for which a victim or witness may request that a state prison inmate be paroled at least 35 miles from the residence of the victim or witness.

*Adds these crimes*: P.C. 261(a)(1) (rape of victim incapable of consent), P.C. 261(a)(3) (rape of intoxicated victim), P.C. 261(a)(4) (rape of unconscious victim), P.C. 286(f) (sodomy of unconscious victim), P.C. 286(g) (sodomy of victim incapable of consent), P.C. 286(i) (sodomy

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of intoxicated victim), P.C. 288a(f) (oral copulation of unconscious victim), P.C. 288a(g) (oral copulation of victim incapable of consent), P.C. 288a(i) (oral copulation of intoxicated victim), P.C. 289(a) (sexual penetration by force), P.C. 289(b) (sexual penetration of victim incapable of consent), P.C. 289(d) (sexual penetration of unconscious victim), P.C. 289(e) (sexual penetration of intoxicated victim), and P.C. 289(j) (sexual penetration of a victim under age 14 and more than 10 years younger than the defendant).

*Retains these crimes:* felonies listed in P.C. 667.5(c)(1)–(7), and (c)(16) (e.g., murder, voluntary manslaughter, mayhem, P.C. 261(a)(2), 261(a)(6), 262(a)(1), 262(a)(4), 286(c), 286(d), 288a(c), 288a(d), 288(a), 288(b), 288.5, any felony punishable by death or state prison for life), and a felony in which the defendant inflicts great bodily injury on a person other than an accomplice that has been charged and proved as provided in P.C. 12022.53, 12022.7, or 12022.9.)

[Note that previously, the specified offenses were all violent felonies and therefore the use of the word "parole" in this particular subdivision of P.C. 3003 was appropriate because violent felons are released onto parole rather than onto postrelease community supervision (PRCS). A number of the newly added crimes are neither serious (P.C. 1192.7(c)) nor violent (P.C. 667.5(c)) and therefore those inmates will be released onto PRCS and not parole. Even though the term "postrelease community supervision" is not used, the intent of the bill should be able to be carried out—that at the request of a victim or witness, a state prison inmate convicted of one of these offenses may be released onto either parole or PRCS to a location at least 35 miles from the victim or witness.]

**P.C. 3007.05**
(Amended)
(Ch. 728) (SB 336)
(Effective 1/1/2018)

Expands the definition of an exonerated state prison inmate for whom the California Dep't of Corrections & Rehabilitation (CDCR) is required to provide six months to one year of transitional services (e.g., housing assistance, job training, mental health services). Now includes state prison inmates who have a habeas corpus petition granted pursuant to P.C. 1473 that results in the dismissal of charges either while the inmate is incarcerated, or after the inmate is released on bail or on his or her own recognizance pending retrial or appeal. (P.C. 1473 authorizes a habeas corpus petition based on false material evidence introduced at a trial or hearing, false physical evidence that was a material

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factor in an inmate's guilty plea, or new evidence that would have more likely than not changed the outcome at trial.) Continues to require transitional services for state prison inmates whose habeas corpus petitions are granted because evidence points unerringly to innocence, or whose convictions are reversed on the basis of insufficient evidence, or who are pardoned by the Governor on the basis of innocence.

**P.C. 3041**
**P.C. 3046**
(Amended)
(Ch. 676) (AB 1448)
(Effective 1/1/2018)

Both of these parole sections are amended to add cross-references to elderly parole, which is codified in new P.C. 3055. See below for more on P.C. 3055.

**P.C. 3051**
(Amended)
(Ch. 675) (AB 1308)
and
(Ch. 684) (SB 394)
(Section 1.5)
(Effective 1/1/2018)

Continues to expand the youth offender parole process by increasing the age of the youthful offenders it applies to, and by making it applicable to defendants sentenced to life without the possibility of parole who were under age 18 when they committed their crime (e.g., murder).

**Youth Offenders Sentenced to Determinate or Indeterminate Terms**: Provides that youth offender parole applies to offenders who were age 25 or younger at the time of the commission of their crimes. Previously, youth offender parole applied to offenders who were under age 23 at the time of their crimes. Now youth age 23, age 24, and age 25 at the time of their crimes are included in the youth offender parole process. Retains the same parole eligibility timeframes: the 15th year of incarceration if serving a determinate sentence, the 20th year of incarceration if serving a life term of fewer than 25 years to life, and the 25th year of incarceration if serving a life term of 25 years to life.

**Youth Offenders Sentenced to LWOP Who Were Under Age 18 When They Committed Their Crime**: Provides that an offender who was sentenced to life without the possibility of parole (LWOP) and was under the age of 18 at the time the crime was committed is now eligible for release on parole during the 25th year of incarceration. (Thus, LWOP inmates are eligible for parole for murder at the same time as inmates sentenced to 25 years to life: in the 25th year of incarceration.)

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Continues to *exclude* from youth offender parole, inmates sentenced pursuant to the Strike Law (P.C. 667(b)–(i) /1170.12), or to the One Strike Sex Offender law (P.C. 667.61). Previously all LWOP inmates were excluded from youth offender parole, but now only LWOP inmates who were age 18 or older when they committed their crimes are excluded. Also continues to exclude otherwise eligible inmates who commit specified subsequent crimes at an age beyond that to which youth offender parole applies. Thus, an offender who commits a subsequent offense at age 26 or older, where the crime had malice aforethought as a necessary element of the crime or resulted in a life sentence, is not eligible for youth offender parole.

[The previous expansion was made by SB 261, effective January 1, 2016, which added youth age 18 to 22 to youth offender parole, by increasing an offender's age at the time of the crime from under age 18 to under age 23.]

Requires the Board of Parole Hearings (BPH) to complete, by January 1, 2020, all youth offender parole hearings for inmates sentenced to indeterminate life terms and who became entitled to have their parole suitability considered on January 1, 2018 (the effective date of the amendments to P.C. 3051.)

Requires BPH to complete, by January 1, 2022, all youth offender parole hearings for inmates sentenced to determinate terms and who became entitled to have their parole suitability considered on January 1, 2018 (the effective date of the amendments to P.C. 3051).

Requires BPH to complete, by July 1, 2020, all youth offender parole hearings for inmates sentenced to LWOP and who are or will become entitled to have their parole suitability considered before July 1, 2020.

[This bill also amends P.C. 4801, which requires BPH, in reviewing suitability for parole, to give great weight to the diminished culpability of juveniles as compared to adults.]

[According to the legislative history of SB 394, the parole provisions for youth sentenced to LWOP are prompted by *Montgomery v. Louisiana* (2016) 136 S.Ct. 718, which held that *Miller v. Alabama's* prohibition on mandatory LWOP for juvenile offenders is retroactive. (*Miller* is a 2012 U.S

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Supreme Court case at 132 S.Ct. 2455.) The *Montgomery* case provides that a *Miller* violation may be remedied by permitting juvenile offenders to be considered for parole, rather than holding a new sentencing hearing at which a judge would consider the mitigating qualities of youth and decide whether to re-impose LWOP or to impose a life with parole sentence. (The *Miller* majority opined that LWOP sentences for juveniles will be uncommon when sentencing courts consider the diminished culpability of juveniles and the heightened capacity for change.) However, the amendments made by SB 394 apply to all juveniles sentenced to LWOP, even those who were sentenced since *Miller* was decided and who already had a *Miller* compliant sentencing hearing where the court considered all of the relevant factors and still decided the appropriate sentence was LWOP. SB 394 also applies to every juvenile who will be sentenced in the future to LWOP, even if the sentencing hearing complies with *Miller*.]

**P.C. 3055**
(New)
(Ch. 676) (AB 1448)
(Effective 1/1/2018)

Codifies the elderly parole program that the Board of Parole Hearings (BPH) implemented in October 2014 as a result of an order from a federal three-judge court that was designed to reduce the state prison population.

New P.C. 3055 establishes in statute the Elderly Parole Program, which requires that an inmate age 60 or older be given a parole suitability hearing if he or she has served at least 25 years of continuous incarceration for either a determinate or indeterminate sentence. Provides that incarceration means detention in a jail, juvenile facility, mental health facility, a Division of Juvenile Justice facility, or a Dep't of Corrections & Rehabilitation facility. Requires the BPH to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced an elderly inmate's risk for future violence.

Provides that elderly parole does *not* apply to inmates sentenced pursuant to the Strike Law (P.C. 667(b)–(i) /1170.12); inmates sentenced pursuant to the One Strike Sex Offender Law (P.C. 667.61); inmates sentenced to death or life without the possibility of parole; or inmates convicted of the first-degree murder of a peace officer who was killed while performing his or her duties.

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[*Note*: Elderly parole does not change the medical parole provisions in P.C. 3550, or the compassionate release provisions in P.C. 1170(e) for terminally ill or medically incapacitated state prison or county jail inmates. Neither of these sections is dependent on an inmate's age.]

[This bill also amends P.C. 3041 and 3046, both pertaining to parole, in order to add cross-references to elderly parole.]

[The legislative history of this bill claims that "there is an overwhelming consensus that the age of 50 (fifty) constitutes a point where prisoners are considered elderly."]

**P.C. 3453**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Requires defendants on postrelease community supervision (PRCS) to notify the supervising county agency of any change of residence or the establishment of a new residence if the defendant was previously transient, within *five working days* of the change. Defines "residence" as "one or more locations at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, a house, apartment building, motel, hotel, homeless shelter, and recreational or other vehicle. If the person has no residence, he or she shall inform the supervising county agency that he or she is transient."

**P.C. 4032**
(New)
(Ch. 17) (AB 103)
(Effective 6/27/2017)
and
(Amended)
(Ch. 363) (SB 112)
(Effective 9/28/2017)

Prohibits a local detention facility that offered in-person visitation as of January 1, 2017, from converting to video visitation only. Prohibits a local detention facility from charging for onsite in-person or onsite video visitation. Requires a local detention facility that offers only video visitation as of January 1, 2017, to offer onsite video visitation free of charge, and to offer free of charge the first hour of remote video visitation per week, if the facility offers remote video visitation.

**P.C. 4801**
(Amended)
(Ch. 675) (AB 1308)
and
(Ch. 684) (SB 394)
(Section 2.5)
(Effective 1/1/2018)

Increases the age of an offender, from under age 23 at the time of the crime to age 25 or younger at the time of the crime, that triggers the requirement that the Board of Parole Hearings, in reviewing suitability for parole, give great weight to the diminished culpability of youth as compared to adults. Also changes the word "juveniles" to "youth."

[This bill also amends P.C. 3051 to expand youth offender parole by making it applicable to offenders who were age 23, 24, or 25 at the time of their crimes, and to make it applicable to inmates sentenced to LWOP who committed murder when they were under age 18. Previously, youth offender parole applied to offenders who were under age 23 at the time of their crimes and did not apply to any offenders sentenced to LWOP. Before January 1, 2016, youth offender parole applied only to offenders who were under age 18 at the time of their crimes and not to any offenders sentenced to LWOP.]

**P.C. 4850**
**P.C. 4851**
**P.C. 4852**
(Amended)
(Ch. 36) (AB 452)
(Effective 1/1/2018)

Changes the title of the Clerk of the Supreme Court to the "Clerk/Executive Officer of the Supreme Court" in order to more accurately reflect the scope of the Clerk's responsibilities. [The bill also makes the same change to several sections in the Business and Professions Code, Civil Code, and Government Code.] Also updates the name of the Board of Parole Hearings (BPH) *from* the Board of Prison Terms *to* BPH.

**P.C. 5075**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Increases, from 14 to 15, the number of commissioners that the Board of Parole Hearings is composed of. (All commissioners continue to be appointed by the Governor and are subject to Senate confirmation.)

**P.C. 6031**
**P.C. 6031.1**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Clarifies that it is the Board of State and Community Corrections (not the Board of Corrections) that is required to inspect local detention facilities every two years. Adds the following to the list of items that an inspection must include:

1. The types and availability of visitation (types of visitation, hours, any restrictions on inmate visitation); and
2. For counties that received state funding for jail construction, whether the county and the facility are in compliance with the requirements and restrictions of that funding.

**P.C. 6044**
(Amended)
(Ch. 269) (SB 811)
(Effective 1/1/2018)

Renames the Council on Mentally Ill Offenders as the Council on Criminal Justice and Behavioral Health, and changes references from "mental health" to "behavioral health." [This is a council within the California Dep't of Corrections & Rehabilitation whose goal is to investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental health disorders (now "behavioral health disorders") who are likely to become offenders or who have a history of offending.] Adds persons who receive substance abuse services to those (persons who have been arrested, detained, or incarcerated) whose needs the Council is tasked with addressing. Also encourages appointment to the Council of persons who have experience with the criminal justice or behavioral health systems, or both, either personally, as a family member, or as a caregiver.

**P.C. 11105**
(Amended)
(Ch. 19) (AB 111)
(Effective 6/27/2017)
and
(Ch. 299) (AB 1418)
(Section 3.5)
and
(Ch. 333) (SB 420)
(Section 1.5)
and
(Ch. 680) (SB 393)
(Section 7.3)
(Effective 1/1/2018)

Adds sentencing information to the definition of "state summary criminal history information." Existing provisions in P.C. 11105 require the Attorney General to furnish state summary criminal history information to courts, peace officers, district attorneys, probation officers, parole officers, criminal defense attorneys, etc. Also adds sentencing information, if present in the department's records at the time of the response, to the types of information (e.g., convictions, arrests, sex offender registration status) that the Dep't of Justice is required to report when furnishing criminal history information to an agency or organization for employment, licensing, or certification purposes.

Adds city prosecutors to the list of persons or entities (e.g., district attorneys, city attorneys, courts, probation and parole officers, public defenders and criminal defense attorneys, peace officers) to whom the Attorney General is required to furnish state summary criminal history information.

[Existing Gov't C. 41803.5 permits a city attorney to prosecute misdemeanor crimes committed in that city, with the consent of the district attorney in the county where the city is located. Existing Gov't C. 72193 authorizes a city to create the office of city prosecutor or to provide that a deputy city attorney may act as a city prosecutor, in order to prosecute misdemeanor offenses. According to the legislative history of this bill, a number of California cities

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have city attorneys or city prosecutors who are responsible for prosecuting misdemeanors and the purpose of this bill is to make a number of provisions already applicable to city attorneys also applicable to city prosecutors. This bill also amends P.C. 373a and 1424, and V.C. 1807.5, 1808.4, and 1810.5 to add city prosecutors.]

Adds a cross-reference to new P.C. 851.91 (permitting the sealing of arrest records) to prohibit the Dep't of Justice from disseminating information about an arrest that has been sealed pursuant to P.C. 851.91. See above for more on P.C. 851.91.

Adds a state entity that receives federal tax information to the list of persons or entities (e.g., district attorneys, city attorneys, courts, probation and parole officers, public defenders and criminal defense attorneys, peace officers) to whom the Attorney General is required to furnish state summary criminal history information.

**P.C. 11165.7**
(Amended)
(Ch. 573) (SB 800)
(Effective 1/1/2018)

Changes the title of two mandated child abuse reporters in order to conform those titles to provisions in the Business and Professions Code. "[U]nlicensed marriage and family therapist intern" is changed to "unlicensed associate marriage and family therapist." "[C]linical counselor intern" is changed to "associate professional clinical counselor."

**P.C. 11167.5**
(Amended)
(Ch. 732) (AB 404)
(Effective 1/1/2018)

Expands the circumstances under which the State Dep't of Social Services or a county may receive investigative reports of child abuse or neglect, by adding the following: when an individual has applied for a certificate of approval to operate a certified family home or resource family home; or has applied for employment or presence in a licensed facility, certified family home, or resource family home; or when a complaint alleges child abuse or neglect by a licensee or employee of, or individual approved to be present in, a licensed facility, certified family home, or resource family home.

**P.C. 11170**
(Amended)
(Ch. 732) (AB 404)
(Effective 1/1/2018)

Adds a county that approves resource families pursuant to W&I 16519.5 to the list of entities to which the Dep't of Justice is required to make available information about known or suspected child abusers.

**P.C. 11470**
**P.C. 11471**
**P.C. 11472**
**P.C. 11473**
**P.C. 11474**
**P.C. 11475**
**P.C. 11476**
**P.C. 11477**
**P.C. 11478**
**P.C. 11479**
**P.C. 11480**
**P.C. 11481**
**P.C. 11482**
(New)
(Ch. 322) (AB 1034)
(Effective 1/1/2018)

Adds a new Article 7 in Chapter 3 of Title 1 of Part 4 of the Penal Code, entitled "Interruption of Communication." This bill revises the existing government interruption of communication services process by repealing Public Util. C. 7907 and 7908 and creating new P.C. 11470–11482. Most of the language in repealed Public Util. C. 7907 and 7908 is in new P.C. 11470–11482, and these new sections contain much more detailed procedures and requirements.

P.C. 11470 contains definitions of "communication service," "government entity," "interrupt communication service," "judicial officer," and "service provider." Defines "communication service" as any communication service that interconnects with the public switched telephone network and is required by the Federal Communications Commission to provide customers with 911 access to emergency services. Defines "interrupt communications service" as to knowingly or intentionally suspend, disconnect, interrupt, or disrupt a communication service to one or more particular customers or all customers in a geographical area.

P.C. 11471 permits a government entity to interrupt a communication service in order to prevent the communication service from being used for an illegal purpose, or, in order to protect public health, safety, or welfare, if:

1. The interruption is authorized by court order; or
2. There is an extreme emergency situation involving immediate danger of death or great bodily injury that provides insufficient time to first obtain a court order, and the entity applies for a court order within six hours of beginning the service interruption; or
3. In a situation where a person is holding hostages and committing a crime, or is barricaded and resisting apprehension through the use of force or threats of force, and the purpose of the interruption is to prevent the person from communicating with anyone other than a peace officer or person authorized by a peace officer, a supervising law enforcement official is authorized to require a service provider to interrupt a communication service. (Repealed Public Util. C. 7907's language authorized law enforcement to order a telephone corporation to "cut, reroute, or divert telephone lines" in a hostage or barricade situation.)

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P.C. 11472 requires an application for a court order to be in writing and sets forth all of the details that must be included in the application (e.g., a full and complete statement of the facts and circumstances relied on to justify an interruption order; the scope and duration of the proposed interruption; and a statement that immediate action is needed to avoid serious, direct, and immediate danger to public health, safety, or welfare.)

P.C. 11473 authorizes a judicial officer to enter an ex parte order for communication service interruption if the judge finds that there is probable cause that the communication service is being or will be used for an unlawful purpose or to assist in a violation of law; and that absent immediate and summary action to interrupt communication service, serious, direct, and immediate danger to public health, safety, or welfare will result; and that the interruption is narrowly tailored to prevent unlawful infringement of speech; and, the interruption would leave open ample alternative means of communication.

P.C. 11474 requires a court order to include the P.C. 11473 findings (see above), specifics as to what communication service is to be interrupted, and for how long the interruption may last. The order may provide for a fixed duration, or may require the government to end the interruption when the government determines interruption is no longer reasonably necessary, or, if the court finds a continuing criminal enterprise, the court may order a permanent termination of communication service.

P.C. 11478 provides that good faith reliance on a court order or on the instruction of a supervising law enforcement officer acting without a court order constitutes a complete defense to any action brought against the service provider for communication service interruption. Requires communication service providers to designate a security employee and an alternate employee, to provide assistance to law enforcement.

P.C. 11479 authorizes a person whose communication service is interrupted to petition the superior court to contest the interruption and to ask that service be restored.

P.C. 11481 sets forth a number of exceptions to P.C. 11470–11482, including where the affected customer consents to

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interruption, interruption to prevent unauthorized wireless communication by a prisoner in a state or local correctional facility or juvenile facility, interruption that results from the execution of a search warrant, interruption that results from an Amber Alert or message transmitted through the federal Emergency Alert System, and interruption to protect the security of a communication network of a government entity or service provider.

**P.C. 12022.5**
(Amended)
(Ch. 682) (SB 620)
(Effective 1/1/2018)

Eliminates the sentence in subdivision (c) that had prohibited a court from striking a P.C. 12022.5 allegation or finding, and instead authorizes a court to, "in the interest of justice pursuant to Section 1385 and at the time of sentencing, strike or dismiss an enhancement otherwise required to be imposed by this section." Provides that this authority also applies to a "resentencing that may occur pursuant to any other law." Note that the language of the amendment permits striking or dismissing only at the time of sentencing.

For years, a P.C. 12022.5 enhancement could not be dismissed and punishment could not be stricken. Beginning January 1, 2018, judges will have the authority to dismiss or strike a P.C. 12022.5 enhancement in its entirety. Pursuant to existing P.C. 1385(c)(1), if a court has the authority to strike or dismiss an enhancement, the court may instead strike the punishment for the enhancement. Therefore, SB 620 gives judges the authority to dismiss or strike a P.C. 12022.5 enhancement in its entirety, or to leave a conviction for P.C. 12022.5 intact, and strike only the punishment for it.

Because the amendment permits only the striking or dismissing of "an enhancement," the amendment does not affect probation ineligibility pursuant to P.C. 1203.06 and P.C. 1203.06 allegations remain **not** strikeable. P.C. 1203.06(a) (the "use a gun, go to prison" law) makes absolutely ineligible for probation a defendant who personally uses a firearm in the commission of a specified crime. P.C. 1203.06(a) also specifically prohibits the striking of a P.C. 1203.06 finding. Therefore, whenever charging a crime to which *both* P.C. 12022.5 and 1203.06 apply, charge a P.C. 12022.5 enhancement and a separate allegation of probation ineligibility pursuant to P.C. 1203.06. P.C. 1203.06 lists a number of crimes, most of which are included in 12022.53. (P.C. 1203.06 applies to a few crimes that are not

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also listed in P.C. 12022.53: P.C. 136.1, 137, 459-460(a), 4530, and 4532.) For any crime to which P.C. 1203.06 applies, a separate P.C. 1203.06 allegation should be charged so that if a judge dismisses the P.C. 12022.5 enhancement in its entirety, the charging document will still contain a firearm use allegation for probation ineligibility purposes. Even if P.C. 12022.53 applies, if the crime is one also listed in P.C.1203.06, it would be a good practice to allege probation ineligibility pursuant to *both* P.C. 1203.06 and 12022.53(g).

A sample P.C. 1203.06 allegation: "It is further alleged that in the commission of the foregoing offense, the defendant personally used a firearm, and is not eligible for probation or for the suspension of the execution or imposition of sentence, within the meaning of P.C. 1203.06."

A sample P.C. 12022.53(g) allegation: "It is further alleged that in the commission of the foregoing offense, the defendant personally used a firearm, and is not eligible for probation or for the suspension of the execution or imposition of sentence, within the meaning of P.C. 12022.53(g)."

The amendment to P.C. 12022.5 is a procedural change and therefore will apply to every case pending on January 1, 2018, even if the crime occurred before January 1, 2018. The amendment is **not** a lessening of punishment because the penalty for a P.C. 12022.5 enhancement has not changed, and therefore the amendment should not operate retroactively. Existing P.C. 3 provides that no part of the Penal Code is retroactive unless "expressly declared so." The general rule is that when there is nothing to indicate a contrary intent in a statute, it will be presumed that the statute operates prospectively and *not* retroactively. (*In re Estrada* (1965) 63 Cal.2d 740, 746; *Tapia v. Superior Court* (1991) 53 Cal.3d 282, 287.) However, a change in the law that reduces punishment is retroactive and applies to defendants whose judgments are not yet final. (*Estrada, supra*, at 745.) SB 620 does not reduce the penalty for a P.C. 12022.5 enhancement. Instead, it grants authority to judges to dismiss or strike the enhancement. SB 620 is a procedural change that, pursuant to *Tapia,* will apply to every pending case starting January 1, 2018. But it should not apply to a defendant who has already been sentenced, even if the conviction is not yet final, unless the defendant is able to obtain a resentencing on other grounds. The California Supreme Court case of *People v. Brown* (2012) 54 Cal.4th 314, 323–324 re-emphasizes the

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default rule of prospective application in P.C. 3 and provides that only the lessening of punishment for a *particular crime* is intended to apply to all non-final judgments.

[This bill also amends P.C. 12022.53 in the same way. See below.]

**P.C. 12022.53**
(Amended)
(Ch. 682) (SB 620)
(Effective 1/1/2018)

Eliminates the sentence in subdivision (h) that had prohibited a court from striking a P.C. 12022.53 allegation or finding, and instead authorizes a court to, "in the interest of justice pursuant to Section 1385 and at the time of sentencing, strike or dismiss an enhancement otherwise required to be imposed by this section." Provides that this authority also applies to a "resentencing that may occur pursuant to any other law." Note that the language of the amendment permits striking or dismissing only at the time of sentencing.

For years, a P.C. 12022.53 enhancement could not be dismissed and punishment could not be stricken. Beginning January 1, 2018, judges will have the authority to dismiss or strike a P.C. 12022.53 enhancement in its entirety. Pursuant to existing P.C. 1385(c)(1), if a court has the authority to strike or dismiss an enhancement, the court may instead strike the punishment for the enhancement. Therefore, SB 620 gives judges the authority to dismiss or strike a P.C. 12022.53 enhancement in its entirety, or to leave a conviction for P.C. 12022.53 intact, and strike only the punishment for it.

Because the amendment permits only the striking or dismissing of "an enhancement," the amendment does not affect probation ineligibility pursuant to P.C. 12022.53(g). P.C. 12022.53(g) allegations should remain **not** strikeable. (P.C. 12022.53(g) provides that *"[n]otwithstanding* any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of this section.") Therefore, whenever charging a crime to which P.C. 12022.53 applies, charge a 12022.53 enhancement and a separate allegation of probation ineligibility pursuant to 12022.53(g). If a judge dismisses the 12022.53 enhancement in its entirety, the charging document will still contain a 12022.53(g) allegation that makes the defendant ineligible for probation. A number of crimes listed in P.C. 12022.53 are

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also listed in P.C. 1203.06 (the "use a gun, go to prison" law). P.C. 1203.06(a) makes absolutely ineligible for probation a defendant who personally uses a firearm in the commission of a specified crime and it specifically prohibits the striking of a P.C. 1203.06 finding. Even if P.C. 12022.53 applies, if the crime is one also listed in P.C. 1203.06, it would be a good practice to allege probation ineligibility pursuant to *both* P.C. 1203.06 and 12022.53(g).

A sample P.C. 1203.06 allegation: "It is further alleged that in the commission of the foregoing offense, the defendant personally used a firearm, and is not eligible for probation or for the suspension of the execution or imposition of sentence, within the meaning of P.C. 1203.06."

A sample P.C. 12022.53(g) allegation: "It is further alleged that in the commission of the foregoing offense, the defendant personally used a firearm, and is not eligible for probation or for the suspension of the execution or imposition of sentence, within the meaning of P.C. 12022.53(g)."

The amendment to P.C. 12022.53 is a procedural change and therefore will apply to every case pending on January 1, 2018, even if the crime occurred before January 1, 2018. The amendment is **not** a lessening of punishment because the penalty for a P.C. 12022.53 enhancement has not changed, and therefore the amendment should not operate retroactively. Existing P.C. 3 provides that no part of the Penal Code is retroactive unless "expressly declared so." The general rule is that when there is nothing to indicate a contrary intent in a statute, it will be presumed that the statute operates prospectively and *not* retroactively. (*In re Estrada* (1965) 63 Cal.2d 740, 746; *Tapia v. Superior Court* (1991) 53 Cal.3d 282, 287.) However, a change in the law that reduces punishment is retroactive and applies to defendants whose judgments are not yet final. (*Estrada, supra,* at 745.) SB 620 does not reduce the penalty for a P.C. 12022.53 enhancement. Instead, it grants authority to judges to dismiss or strike the enhancement. SB 620 is a procedural change that, pursuant to *Tapia,* will apply to every pending case starting January 1, 2018. But it should not apply to a defendant who has already been sentenced, even if the conviction is not yet final, unless the defendant is able to obtain a resentencing on other grounds. The California Supreme Court case of *People v. Brown* (2012) 54 Cal.4th 314, 323–324, re-emphasizes the default rule of prospective

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application in P.C. 3 and provides that only the lessening of punishment for *a particular crime* is intended to apply to all non-final judgments.

[This bill also amends P.C. 12022.5 in the same way. See above.]

**P.C. 12022.6**
(Repealed 1/1/2018 Due to an Existing Sunset Clause)

When P.C. 12022.6 was last amended, effective January 1, 2008 (AB 1705), it included in subdivision (f) the Legislature's intent that it be reviewed within 10 years to consider the effects of inflation, and stated that this was the reason for the sunset date of January 1, 2018. [When the previous sunset date of January 1, 2008 was extended to January 1, 2018 by AB 1705, the threshold amounts for this excessive taking enhancement were increased from $50,000 to $65,000 for a one-year enhancement, from $150,000 to $200,000 for a two-year enhancement, from $1 million to $1.3 million for a three-year enhancement, and from $2.5 million to $3.2 million for a four-year enhancement.]

No bill was introduced in 2017 to extend the sunset date past January 1, 2018 or to eliminate it. A bill to re-enact P.C. 12022.6 is supposed to be introduced in 2018.

With the elimination of P.C. 12022.6, it cannot be charged for crimes occurring on or after January 1, 2018.

However, P.C. 12022.6 enhancements for crimes occurring *before* January 1, 2018 should remain valid. The purpose of the sunset date was to look at the threshold amounts only and perhaps update those amounts. The purpose was not to repeal P.C. 12022.6 on policy grounds. Gov't C. 9608 is California's saving clause. It provides as follows: "The termination or suspension (by whatsoever means effected) of any law creating a criminal offense does not constitute a bar to the indictment or information and punishment of an act already committed in violation of the law so terminated or suspended, unless the intention to bar such indictment or information and punishment is expressly declared by an applicable provision of law." P.C. 12022.6 contains *no* provision expressly declaring an intention to bar 12022.6 prosecutions.

The aggravated white collar crime enhancement in subdivision (a)(3) of P.C. 186.11 cross-references P.C. 12022.6(a)(1) and (a)(2) only for the purpose of setting the

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punishment for thefts of more than $100,000 and up to and including, $500,000. P.C. 186.11 is not amended and the Legislature has not expressed any intent to change this punishment. Therefore, a P.C. 186.11(a)(3) enhancement should remain punishable by an additional term of one year if the taking or loss is over $65,000, and punishable by an additional term of two years if the taking or loss is over $200,000.

**P.C. 13012**
(Amended)
(Ch. 328) (AB 1518)
(Effective 1/1/2018)

Changes "citizen complaints" to "*civilian* complaints" in this section that requires the Dep't of Justice to publish crime statistics and statistics about complaints against law enforcement officers.

**P.C. 13701**
**P.C. 13730**
(Amended)
(Ch. 331) (SB 40)
(Effective 1/1/2018)

Amends P.C. 13701 to add an additional statement that must be included in the required written notice furnished to a domestic violence victim at the scene by a law enforcement officer: a statement informing the victim that strangulation may cause internal injuries and encouraging the victim to seek medical attention.

Amends P.C. 13730 to add additional information a law enforcement agency is required to record and to report to the Attorney General regarding domestic violence-related calls: whether the incident involved strangulation or suffocation. Also adds the number of cases involving strangulation or suffocation to the types of information the Attorney General is required to report annually to the Governor, the Legislature and the public. Requires that a law enforcement agency domestic violence incident report include a notation about whether there were indications that the incident involved strangulation or suffocation. Provides that this includes whether any witness or victim reported any incident of strangulation or suffocation, whether any victim reported symptoms of strangulation or suffocation, or whether the officer observed any signs of strangulation or suffocation.

**P.C. 13823.11**
(Amended)
(Ch. 692) (AB 1312)
(Effective 1/1/2018)

In this section that details the standards for the examination and treatment of sexual assault victims, provides that the postcoital contraception that is required to be dispensed by a health care provider upon a victim's request, is to be at *no cost* to the victim.

**P.C. 14231.5**
(New)
(Ch. 810) (SB 536)
(Effective 1/1/2018)

Requires the Dep't of Justice (DOJ) to make information relating to gun violence restraining orders (P.C. 18100–18122) available to researchers affiliated with the University of California Firearm Violence Research Center, or, at DOJ's discretion, to any other non-profit educational institution or other public agency concerned with the study and prevention of violence, for academic and policy research purposes.

**P.C. 23640**
(Amended)
(Ch. 825) (AB 1525)
(Effective 1/1/2018)

Revises the warning label that is required on the packaging of any firearm and in any descriptive materials that accompany a firearm sold or transferred in California. The warning in its entirety now reads as follows:

WARNING

Firearms must be handled responsibly and securely stored to prevent access by children and other unauthorized users. California has strict laws pertaining to firearms, and you may be fined or imprisoned if you fail to comply with them. Visit the Web site of the California Attorney General at *https://oag.ca.gov/firearms* for information on firearm laws applicable to you and how you can comply.

Prevent child access by always keeping guns locked away and unloaded when not in use. If you keep a loaded firearm where a child obtains and improperly uses it, you may be fined or sent to prison.

**P.C. 25140**
(Amended)
(Ch. 809) (SB 497)
(Effective 1/1/2018)

Provides an exception for peace officers to the infraction crime of leaving a handgun in an unattended vehicle: when leaving a handgun in an unattended vehicle that does not have a trunk and if the officer is unable to comply with V.C. 25140 by locking the handgun in a locked container, the officer may lock the handgun out of plain view inside the center console of the vehicle with a padlock, keylock, combination lock, or other locking device. (V.C. 25140 requires a handgun left in an unattended vehicle to be (1) locked in a trunk; or (2) in a locked container that is stored out of plain view; or (3) in a locked container that is permanently affixed to the vehicle's interior and not in plain view.)

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Adds that "plain view" includes any area of the vehicle that is visible by peering through the windows of the vehicle, including windows that are tinted, with or without illumination.

Retains the definition of "locked container", but instead of simply cross-referencing P.C. 16850, the 16850 definition is provided in full: a secure container that is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device, and that does **not** include the utility or glove compartment of a motor vehicle.

Adds definitions for "peace officer" and "trunk." Defines "peace officer" as a sworn officer described in P.C. 830–832.18 or a sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of his or her duties, while that officer is on duty or off duty. Defines "trunk" as a fully enclosed and locked main storage or luggage compartment of a vehicle that is not accessible from the passenger compartment. Provides that a trunk does not include the rear of a hatchback, station wagon, or sport utility vehicle, or any compartment which has a window, or a toolbox or utility box attached to the bed of a pickup truck.

Provides that P.C. 25140 does not supersede any local ordinance that regulates the storage of handguns in unattended vehicles if the ordinance was in effect before September 26, 2016, (which is the day the Governor signed P.C. 25140 into law and the day it was chaptered by the Secretary of State.)

**P.C. 26370**
(Amended)
(Ch. 779) (AB 424)
(Effective 1/1/2018)

Changes this exception to the crime of openly carrying an unloaded handgun (P.C. 26350) by deleting the reference to obtaining the written permission of school officials, in order to make it consistent with amendments made by this bill to P.C. 626.9 (prohibiting firearms on school grounds.) This bill amends P.C. 626.9 to eliminate the authority of K-12 school officials to provide written permission for a person to possess a firearm in a school zone. P.C. 26370 now provides that the crime of openly carrying an unloaded handgun (P.C. 26350) does not apply to or affect the open carrying of an unloaded handgun within a school zone defined in P.C. 626.9 *if that carrying is not prohibited by P.C. 626.9.* K-12 school officials can no longer give written permission for a person to possess a firearm in a school zone, but organized

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shooting sports on school grounds are permitted. And since "school zone" includes areas within 1,000 feet of K-12 school grounds, there may be situations where open carry is legal on the off-campus part of a school zone.

**P.C. 26400**
(Amended)
(Ch. 734) (AB 7)
(Effective 1/1/2018)

Expands the misdemeanor crime of carrying an unloaded firearm that is not a handgun (e.g., a long gun) to unincorporated areas of a county. Previously, P.C. 26400 prohibited carrying an unloaded firearm that is not a handgun on one's person outside a vehicle while in an incorporated city or city and county. Now this prohibition is expanded to a "public place or public street in a prohibited area of an unincorporated area of a county." [The purpose of this amendment is to prohibit the open carrying of long guns such as rifles and shotguns in an unincorporated area of a county where the discharge of a firearm is not permitted (i.e., a "prohibited area."]

**P.C. 26405**
(Amended)
(Ch. 779) (AB 424)
(Effective 1/1/2018)

Changes this exception to the crime of carrying an unloaded firearm that is not a handgun (P.C. 26400) by deleting the reference to obtaining the written permission of school officials, in order to make it consistent with amendments made by this bill to P.C. 626.9 (prohibiting firearms on school grounds.) This bill amends P.C. 626.9 to eliminate the authority of K-12 school officials to provide written permission for a person to possess a firearm in a school zone. P.C. 26405(n) now provides that the crime of carrying an unloaded firearm that is not a handgun (P.C. 26400) does not apply to a school zone defined in P.C. 626.9 *if that carrying is not prohibited by P.C. 626.9.* K-12 school officials can no longer give written permission for a person to possess a firearm in a school zone, but organized shooting sports on school grounds are permitted. And since "school zone" includes areas within 1,000 feet of K-12 school grounds, there may be situations where open carry of an unloaded long gun is legal on the off-campus part of a school zone.

**P.C. 26625**
(New)
(Ch. 783) (AB 693)
(Effective 10/14/2017)

Provides that the loan of a firearm to a person for purposes of participation in a course of basic training prescribed by the Commission on Peace Officer Standards & Training (POST) or any other course certified by POST, is an exception to the crime in P.C. 26500 (the misdemeanor crime of selling, leasing, or transferring a firearm without a license.)

**P.C. 26835**
(Repealed & Added)
(Ch. 825) (AB 1525)
(Effective 1/1/**2019**)

Adds a ninth firearms warning to the eight warnings that are required to be posted by licensed firearms dealers:

> Firearms must be handled responsibly and securely stored to prevent access by children and other unauthorized users. California has strict laws pertaining to firearms, and you may be fined or imprisoned if you fail to comply with them. Visit the Web site of the California Attorney General at *https://oag.ca.gov/firearms* for information on firearm laws applicable to you and how you can comply.

Revises one of the existing warnings about minors by adding this to the beginning of that warning: "Children may be unable to distinguish firearms from toys and may operate firearms, causing severe injuries or death."

**P.C. 27970**
(New)
(Ch. 783) (AB 693)
(Effective 10/14/2017)

Provides that the loan of a firearm to a person for purposes of participation in a course of basic training prescribed by the Commission on Peace Officer Standards & Training (POST) or any other course certified by POST, is an exception to P.C. 27545 (which requires that the sale, loan, or transfer of a firearm between parties where neither holds a firearm dealer's license, be conducted through a licensed firearms dealer.)

**P.C. 29180**
**P.C. 29181**
**P.C. 29182**
**P.C. 29183**
**P.C. 29184**
(New)
(Ch. 60) (AB 857)
(*2016 Legislation)*
(Effective **7**/1/2018)
and
(Amended [*technical amendments only*])
*(2017 Legislation)*
(Ch. 561) (AB 1516)
(Effective **7**/1/2018)

AB 857 (2016 legislation) created, effective July 1, 2018, a new Chapter 3 in Division 7 of Title 4 of Part 6 of the Penal Code entitled "Assembly of Firearms." This new chapter pertains to "ghost guns," which are homemade guns without serial numbers.

P.C. 29180, beginning July 1, 2018, requires a person to apply to the Dep't of Justice (DOJ) for a unique serial number or other mark of identification before manufacturing or assembling a firearm. Requires the serial number or mark of identification to be engraved or permanently affixed to the firearm within 10 days of the manufacture or assembly of the firearm. Defines "manufacturing" and "assembling" as fabricating or constructing a firearm, or fitting together the component parts of a firearm to construct a firearm.

Beginning January 1, 2019, requires any person who owns a firearm that does not bear a serial number to apply to DOJ for a number or identification mark, to engrave or

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permanently affix the number or mark to the firearm within 10 days of receiving it, and to notify DOJ that this has been done.

Generally prohibits the sale or transfer of a firearm manufactured or assembled pursuant to these provisions, but permits a transfer, surrender, or sale to a law enforcement agency.

Creates, in P.C. 29180, the new misdemeanor crime of violating any of its provisions. If the firearm is a handgun, punishment is up to one year in jail and/or a fine of up to $1,000. If the firearm is any other type of gun, punishment is up to six months in jail and/or a fine of up to $1,000. Provides that each firearm is a distinct and separate offense. Provides that prosecution under any other law providing for a greater penalty is not precluded.

P.C. 29181 specifies exceptions to P.C. 29180:

1. A firearm that has a serial number.
2. A non-handgun firearm made or assembled before December 16, 1968.
3. A firearm entered into the centralized registry before July 1, 2018 as being owned by a specific individual or entity if the firearm has assigned to it a distinguishing number or mark of identification by virtue of DOJ accepting entry of the firearm into the centralized registry.
4. A curio, relic, or antique firearm.

P.C. 29182 requires an applicant for a serial number or other identifying mark to do all of the following:

1. Present proof that the person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.
2. Present proof of age and identity. (Must be age 18 or older if the firearm is not a handgun and must be age 21 or older if the firearm is a handgun.)
3. Provide a description of the firearm.
4. Have a valid firearm safety certificate or handgun safety certificate.

Requires DOJ to grant or deny an application within 15 calendar days of receiving it and to inform an applicant in writing of the reason for any denial.

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P.C. 29183 authorizes DOJ to charge applicants a fee for each serial number or identifying mark issued and for conducting a personal firearms eligibility check.

P.C. 29184 requires DOJ to maintain and to make available upon request information about the number of serial numbers issued pursuant to P.C. 29182 and the number of arrests for violations of P.C. 29180.

**P.C. 29581**
(New)
(Ch. 363) (SB 112)
(Effective 9/28/2017)

Provides that P.C. 29800 (convicted felon in possession of a firearm) and P.C. 29805 (convicted misdemeanant in possession of a firearm) do not apply to or affect a person who has an outstanding warrant if the person did not have knowledge of the warrant.

[AB 103 (Chapter 17), effective June 27, 2017, amends both P.C. 29800(a)(1) and 29805 to apply to offenders who have an outstanding warrant for a felony, or an outstanding warrant for a misdemeanor specified in P.C. 29805. The amendments were silent on the issue of whether a defendant's knowledge about the warrant was an element of the offense. SB 112, effective September 28, 2017, answers this question.]

[See P.C. 29800 and 29805, below, for amendments to those sections.]

**P.C. 29800**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Subdivision (a)(1) is amended to add persons with an *outstanding warrant* for a specified crime to the list of persons (persons *convicted* of a specified crime) who are prohibited from owning, purchasing, receiving, or possessing a firearm. Thus, both persons convicted of a crime specified in P.C. 29800(a)(1) and persons with an outstanding warrant for a crime specified in 29800(a)(1) are subject to the 29800(a)(1) felony crime of owning, purchasing, receiving, or possessing a firearm. [The specified crimes in P.C. 29800(a)(1) are any felony and misdemeanor violations of P.C. 245(a)(2) (assault with a firearm), misdemeanor violations of P.C. 246 (discharging a firearm at an inhabited dwelling, occupied building, occupied vehicle, or occupied aircraft), and misdemeanor violations of P.C. 417(c) (brandishing a firearm at a peace officer).]

New P.C. 29581 was added by SB 112 (Chapter 363), effective September 28, 2017, to provide that this amendment does *not* apply to or affect a person who does not have knowledge of the outstanding warrant.

**P.C. 29805**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Adds persons with an *outstanding warrant* for a specified misdemeanor to the list of persons (persons *convicted* of a specified misdemeanor) who are prohibited from owning, purchasing, receiving, or possessing a firearm. Convicted persons continue to be subject to P.C. 29805 for 10 years after the conviction. Persons with a warrant are subject to P.C. 29805 while the warrant is outstanding. Thus, both persons convicted of any misdemeanor specified in P.C. 29805 and persons with an outstanding warrant for any misdemeanor specified in P.C. 29805 are subject to the P.C. 29805 felony/misdemeanor crime of owning, purchasing, receiving, or possessing a firearm.

New P.C. 29581 was added by SB 112 (Chapter 363), effective September 28, 2017, to provide that this amendment does *not* apply to or affect a person who does not have knowledge of the outstanding warrant.

(Amended)
(Ch. 784) (AB 785)
(Effective 1/1/2018)

Adds P.C. 422.6 hate crimes to the list of misdemeanor offenses specified in P.C. 29805. P.C. 422.6(a) is the misdemeanor crime of willfully injuring, intimidating, interfering with, or threatening another person in the free exercise or enjoyment of any right or privilege secured to him or her by the state or federal constitution or by state or federal law, in whole or in part because of one or more of the actual or perceived characteristics of the victim (e.g., disability, gender, nationality, race or ethnicity, religion, sexual orientation). P.C. 422.6(b) is the misdemeanor crime of knowingly defacing, damaging, or destroying the real or personal property of another person for the purpose of intimidating or interfering with the free exercise or enjoyment of a right or privilege secured to him or her by the state or federal constitution or by state or federal law, in whole or in part because of one or more of the actual or perceived characteristics of the victim (e.g., disability, gender, nationality, race or ethnicity, religion, sexual orientation).

**P.C. 29810**
(Amended)
(Proposition 63 [2016])
(Firearms)
(Effective 1/1/2018)

Beginning January 1, 2018, the old version of P.C. 29810 is repealed and Proposition 63's version becomes effective. P.C. 29810(a)(1) requires that a person relinquish all firearms upon conviction of any offense that renders the person subject to P.C. 29800 (felony conviction or addiction to a narcotic drug) or 29805 (convicted of a specified misdemeanor). The court is required to inform such a person about both the firearm and ammunition prohibitions and provide to the defendant a "Prohibited Persons Relinquishment Form" (PPR Form) developed by the Dep't of Justice (DOJ) (P.C. 29810(a)(2)). The defendant must use the PPR Form to grant power of attorney to a designee (either a law enforcement agency or a consenting third party not subject to a firearms prohibition) so that the designee can surrender the defendant's firearms to a local law enforcement agency, sell them to a licensed firearms dealer, or transfer them to a dealer for storage (P.C. 29810(a)(3)). P.C. 27930 is amended to provide that a firearm transfer pursuant to P.C. 29810 need not be through a licensed firearms dealer. P.C. 29810(g) prohibits the prosecution of a defendant for unlawfully possessing any firearm listed on a PPR Form where the firearm is actually relinquished as required.

**Probation Officer Duties (P.C. 29810(c)(1)–(2))**
Requires the court to assign the case to a probation officer to investigate whether the Automated Firearms System (AFS) or other credible information, such as a police report, reveals that the defendant owns, possesses, or controls any firearms. The defendant or defendant's designee must submit the PPR Form to the probation officer within five days of conviction if the defendant is out of custody or within 14 days of conviction if the defendant is in custody. The probation officer is required to ensure that the AFS has been properly updated to indicate that the defendant has relinquished firearms. Before sentencing, the probation officer must report to the court whether the defendant has relinquished all firearms identified by the probation officer's investigation or declared by the defendant on the PPR Form, and whether the defendant timely submitted the PPR Form to the probation officer. The probation officer is also required to report to the DOJ, on a form to be developed by DOJ, whether the AFS has been updated to indicate which firearms have been relinquished by the defendant. The failure of a defendant to timely file a completed PPR Form with the assigned probation officer is an infraction punishable by a fine of up to $100 (P.C. 29810(c)(5)).

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**Court Duties (P.C. 29810(c)(3)–(4))**
Before sentencing, or within 14 days of sentencing, the court must make findings pursuant to P.C. 29810(c)(3) that the probation officer's report indicates that the defendant has relinquished all firearms as required, whether the completed PPR Form has been received by the court, and whether the appropriate receipts showing firearm relinquishment have been received. The court is required to include these findings in the abstract of judgment. In order to avoid a delay in sentencing, the court is authorized to make and enter these findings within 14 days of sentencing instead of at sentencing. If the court finds probable cause that a defendant has failed to relinquish any firearms, the court must, pursuant to P.C. 29810(c)(4), order the search for and removal of firearms at any location where the judge has probable cause to believe they are located. The court is required to "state with specificity the reasons for and scope of the search and seizure authorized by the order."

[P.C. 1524(a)(15) provides that beginning January 1, 2018, a search warrant may issue to seize a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to a firearms prohibition pursuant to P.C. 29800 or 29805 and the court has made a finding pursuant to P.C. 29810 that the person has failed to relinquish the firearm as required by law.]

**Procedures When Defendant is Out of Custody at Time of Conviction (P.C. 29810(d))**
The designee of a defendant who is out of custody during the five days after conviction is required to dispose of firearms within five days of conviction in one of three ways: (1) by surrendering control to a local law enforcement agency; (2) by selling to a licensed firearms dealer; or (3) by transferring for storage to a firearms dealer.

The defendant is permitted to keep any proceeds from the sale of firearms. The law enforcement officer or licensed dealer taking possession of any firearms is required to issue a receipt to the designee describing the firearms and listing a serial number or other firearm identifier. The PPR Form must be completed and both the PPR Form and a receipt showing the firearms were surrendered, sold, or transferred, must be submitted by the designee to the assigned probation officer within five days of conviction. If the defendant does not own, possess, control, or have custody of any firearms,

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the defendant must submit the PPR Form to the assigned probation officer "with a statement affirming that he or she has no firearms to be relinquished."

**Procedures When Defendant is in Custody at Time of Conviction (P.C. 29810(e))**
The designee of a defendant who is in custody at any point during the five days after conviction is required to dispose of firearms within 14 days of conviction in one of three ways: (1) by surrendering control to a local law enforcement agency; (2) by selling to a licensed firearms dealer; or (3) by transferring for storage to a firearms dealer.

The defendant is permitted to keep any proceeds from the sale of firearms. The law enforcement officer or licensed dealer taking possession of any firearms is required to issue a receipt to the designee describing the firearms and listing a serial number or other firearm identifier. The PPR Form must be completed and both the PPR Form and a receipt showing the firearms were surrendered, sold, or transferred, must be submitted by the designee to the assigned probation officer within 14 days of conviction. If the defendant does not own, possess, control, or have custody of any firearms, the defendant must submit the PPR Form to the assigned probation officer "with a statement affirming that he or she has no firearms to be relinquished." If the defendant is released from custody during the 14 days after conviction and a designee has not yet taken possession of firearms to be relinquished, the defendant is required to relinquish the firearms within five days of release, following the procedures in P.C. 29810(d) for out-of-custody defendants.

**P.C. 30312**
(Amended)
(Ch. 783) (AB 693)
(Effective 10/14/2017)

Adds another exception to the misdemeanor crime of selling ammunition other than through a licensed ammunition vendor: when the sale of ammunition is to a person enrolled in the basic training academy for peace officers or any other course certified by the Commission on Peace Officer Standards & Training (POST), or to a course instructor, an academy instructor, or a staff member of the academy or course.

[Proposition 63, passed by voters in the November 2016 election, requires, beginning *January 1, 2018*, that the sale of ammunition be conducted by, or processed, through a licensed ammunition vendor. (Previously, P.C. 30312

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required the delivery or transfer of *handgun* ammunition to be done in a face-to-face transaction with the purchaser providing bona fide evidence of identity, unless an exception applied, such as the transaction involved a sworn peace officer.) Now if neither party to the transaction is a licensed ammunition vendor, the seller must deliver the ammunition to a licensed vendor, and the vendor then delivers the ammunition to the purchaser if the sale is not prohibited. If the sale is prohibited, the vendor must return the ammunition to the seller. Ammunition vendors are permitted to charge the purchaser an administrative fee for handling the transaction. Further provides that the sale, delivery, or transfer of ammunition must be in a face-to-face transaction with the seller, deliverer, or transferor, except that ammunition may be acquired over the Internet if a licensed ammunition vendor receives the ammunition and processes the transaction in compliance with P.C. 30312 and 30342–30365.

Retains the existing exceptions that had applied to *handgun* ammunition and that now apply to all ammunition (e.g., law enforcement agencies, peace officers, licensed importers or manufacturers of ammunition or firearms, ammunition vendors) and adds several new exceptions: sworn federal law enforcement officers; persons who purchase or receive ammunition at a target facility that has a business license and the ammunition is kept on the premises of the facility; and persons who purchase or receive ammunition from a spouse, registered domestic partner, or immediate family member (parent/child or grandparent/grandchild pursuant to existing P.C. 16720.)]

AB 693 adds yet another exception (persons enrolled in POST courses), as described above.

Any violation of P.C. 30312 continues to be a misdemeanor crime, punishable pursuant to P.C. 19 by up to six months in jail and/or by a fine of up to $1,000.

**P.C. 30314**
(New)
(Proposition 63 [2016])
(Firearms)
(Effective 1/1/2018)

Beginning January 1, 2018, requires a California resident who brings or transports ammunition purchased or obtained out-of-state, to first have the ammunition delivered to a licensed ammunition vendor for delivery to the resident pursuant to the procedures in P.C. 30312 (see above). The vendor will then deliver the ammunition to the resident if

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he or she is not a prohibited person. A first violation of P.C. 30314 is an infraction. A second or subsequent violation can be an infraction or a misdemeanor. Since no punishment is specified in P.C. 30314, a misdemeanor violation is punishable pursuant to existing P.C. 19: up to six months in jail and/or a fine of up to $1,000. New P.C. 30314 lists several exceptions to this ammunition transportation crime, such as ammunition vendors, sworn peace officers, licensed importers or manufacturers of ammunition or firearms, licensed firearms collectors, and persons who acquire ammunition from a spouse, registered domestic partner, or immediate family member (parent, child, grandparent, or grandchild).

**P.C. 30680**
**P.C. 30900**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Extends for six months, from January 1, 2018 to *July* 1, 2018, the deadline to register a lawfully possessed assault weapon that does not have a fixed magazine.

**P.C. 31630**
(Amended)
(Ch. 825) (AB 1525)
(Effective 1/1/2018)

Requires a firearms safety instruction manual to include this warning:

> Firearms must be handled responsibly and securely stored to prevent access by children and other unauthorized users. California has strict laws pertaining to firearms, and you may be fined or imprisoned if you fail to comply with them. Visit the Web site of the California Attorney General at *https://oag.ca.gov/firearms* for information on firearm laws applicable to you and how you can comply.

**P.C. 31640**
**P.C. 31645**
(Amended)
(Ch. 825) (AB 1525)
(Effective 1/1/**2019**)

Requires the written test for a firearms safety certificate to provide the following warnings and requires the test taker to acknowledge receipt of the warnings:

> Firearms must be handled responsibly and securely stored to prevent access by children and other unauthorized users. California has strict laws pertaining to firearms, and you may be fined or imprisoned if you fail to comply with them. Visit the Web site of the California Attorney General at *https://oag.ca.gov/firearms* for information on firearm laws applicable to you and how you can comply.

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> If you decide to sell or give your firearm to someone, you must generally complete a 'Dealer Record of Sale (DROS)' form and conduct the transfer through a licensed firearms dealer. Remember, it is generally a crime to transfer a firearm without first filling out this form. If the police recover a firearm that was involved in a crime, the firearm's previous owner may be prosecuted if he or she did not fill out the DROS form. Please make sure you go to a licensed firearms dealer and fill out that form if you want to sell or give away your firearm.

Requires the Dep't of Justice (DOJ) to regularly update the Internet Web site referenced in the warning (*https://oag.ca.gov/firearms)*, in order to reflect current laws and regulations.

**P.C. 32455**
(New)
(Ch. 783) (AB 693)
(Effective 10/14/2017)

Adds another exception to the large-capacity magazine prohibition in P.C. 32310: the sale, gift, loan, purchase or possession of a large-capacity magazine to or by a person enrolled in the basic training course for peace officers or any other course certified by the Commission on Peace Officer Standards & Training (POST), for purposes of participating in the course. Requires that upon completion of the course, the large-capacity magazine be removed from the state, sold to a licensed firearms dealer, or surrendered to a law enforcement agency, unless another exception to P.C. 32310 applies. [The purpose of this exception is so that cadets may have training with large-capacity magazines.]

[*Note*: On June 29, 2017, in *Duncan v. Becerra* (Case No. 3:17-cv-1017-BEN) a federal district judge (Southern District) granted a preliminary injunction to enjoin the enforcement of P.C. 32310(c) (prohibiting the possession of large-capacity magazines) and P.C. 32310(d) (which requires persons to dispossess themselves of magazines capable of holding more than 10 rounds.) As of October 20, 2017, the case was in the briefing stage at the Ninth Circuit Court of Appeals. The felony crime in P.C. 32310(a) (unlawfully manufacturing, importing, selling, giving, or lending a large-capacity magazine) is **not** affected. Existing P.C. 16740 defines "large-capacity magazine" as an ammunition feeding device with the capacity to accept more than 10 rounds.]

# Public Utilities Code

**Public Util. C. 99171**
**Public Util. C. 99172**
(Amended)
(Ch. 192) (AB 468)
(Effective 1/1/2018)

Makes permanent the application of these sections to the San Francisco Bay Area Rapid Transit District (BART) by removing the sunset date of January 1, 2018, and adds the Los Angeles County Metropolitan Transportation Authority. (The Sacramento Regional Transit District and the Fresno Area Express remain as specified transit districts.) Thus, BART will continue to be able, and Los Angeles will now be able, to issue prohibition orders to persons who engage in specified transit-related behavior, such as committing three infractions within a 90-day period in or on a vehicle, bus stop, train, or light rail station; being arrested or convicted for a crime committed on a vehicle, bus stop, or light rail station that involves violence, threats, lewd behavior, or possession for sale or sale of a controlled substance; or, being convicted of H&S 11532 (loitering with the intent to commit a drug offense) or P.C. 653.22 (loitering with the intent to commit prostitution). Persons subject to a prohibition order may not enter the property, facilities, or vehicles of the transit district for a period of time deemed appropriate by the transit district, but this prohibition period cannot exceed 30 days, 90 days, 180 days, or one year depending upon the type and frequency of the offenses.

**Public Util. C. 99580**
**Public Util. C. 99581**
(Amended)
(Ch. 219) (SB 614)
(Effective 1/1/2018)

Makes several amendments to the administrative enforcement of fare evasion and passenger misconduct on a public transportation system. Provides that all penalties collected for fare evasion or passenger misconduct go to the public transportation agency that issued the citation instead of to the general fund of the county where the citation was issued. Cuts in half the maximum administrative penalty for fare evasion or passenger conduct violations. A first or second violation is now subject to an administrative penalty of up to $125 instead of up to $250. A third or subsequent violation is now subject to an administrative penalty of up to $200 instead of up to $400. Requires the issuing agency to allow the payment of penalties in installments or deferred payment if the total fine is $200 or more and the offender provides satisfactory evidence of an inability to pay the penalty in full. Also requires the issuing agency to permit an offender to perform community service in lieu of paying the administrative penalty if the offender is under age 18 or

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if an offender of any age provides satisfactory evidence of an inability to pay the penalty in full. Authorizes the issuing agency to require that community service be performed at transit facilities. Provides that if an offender has had more than three fare evasions or passenger conduct penalties for which he or she was permitted to perform community service and did not perform "*any* community service," the issuing agency is not required to permit community service in lieu of paying the penalty.

[This bill also amends P.C. 640 to reduce the maximum administrative penalty for fare violations committed by a minor on a public transportation system and to cross-reference the community service and installment payment provisions of Public Util. C. 99580.]

# Revenue and Taxation Code

**R&T 18902**
**R&T 18903**
**R&T 18904**
**R&T 18905**
**R&T 18905.5**
**R&T 18906**
(New)
(Ch. 698) (AB 280)
(Effective 1/1/2018)

Creates new Article 24 in Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code entitled "Rape Kit Backlog Voluntary Tax Contribution Fund."

Creates in the State Treasury the Rape Kit Backlog Voluntary Tax Contribution Fund and permits taxpayers to designate on their tax returns a contribution in excess of their tax liability to this Fund. Provides that it is the Legislature's intent to create an additional funding source for untested rape kits and that this new funding is intended to supplement, not supplant, existing funding.

Provides that after administrative fees are paid, money from the Fund is to be transferred to the Jan Bashinski DNA Lab (referred to as "CAL DOJ" in this bill) for the purpose of distributing grants to process untested rape kits. Provides that an untested rape kit is considered to be part of a backlog when it remains untested 120 days after collection. Sets forth various factors for CAL DOJ to consider in awarding grants.

Provides for a sunset date for this new article, by providing it will be in effect only until January 1st of the seventh taxable year following the first appearance of the Rape Kit Backlog Voluntary Tax Contribution Fund on the personal income tax return form.

[AB 41 (Chapter 694, effective 1/1/2018) creates new P.C. 680.3 to require law enforcement agencies to input data about rape kits in DOJ's existing Sexual Assault Forensic Evidence Tracking (SAFE-T) database, which tracks the status of sexual assault evidence kits collected by law enforcement agencies. AB 41 also requires labs or law enforcements agencies to update the status of a rape kit in the SAFE-T database every 120 days until the kit is tested. See the Penal Code section of this digest for more information.]

# Unemployment Insurance Code

**Unempl. Ins. C. 2101.6**
(Amended)
(Ch. 117) (AB 1695)
(Effective 1/1/2018)

Expands the crime in subdivision (a) by adding business entities to those ("any person") who are prohibited from procuring, counseling, advising, or coercing anyone to willfully make a false statement or representation, or from knowingly failing to disclose a material fact in order to lower or avoid a contribution or to avoid being or remaining subject to unemployment and disability compensation laws.

Expands the crime in subdivision (b) by adding business entities to those ("any person") who are prohibited from willfully aiding or assisting anyone in making a false statement or representation, or from knowingly failing to disclose a material fact, in order to lower or avoid a contribution, or to avoid being or remaining subject to unemployment and disability compensation laws.

Provides that "business entity" means a partnership, corporation, association, limited liability company, Indian tribe, or any other legal entity.

[Unempl. Ins. C. 2101.6 is in a Division of the Unemployment Insurance Code entitled "Unemployment and Disability Compensation," which covers Unempl. Ins. C. 100–4751 and pertains to the contributions that an employer is required to make to the Unemployment Fund, the Employment Training Fund, and to the Unemployment Compensation Disability Fund. Unempl. Ins. C. 2122 provides that a violation of Chapter 10 (Unempl. Ins. C. 2101–2129) is punishable by imprisonment in the state prison or by up to one year in county jail, and/or by a fine of up to $20,000.]

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# Vehicle Code

**V.C. 1807.5**
**V.C. 1808.4**
**V.C. 1810.5**
(Amended)
(Ch. 299) (AB 1418)
(Effective 1/1/2018)

Adds city prosecutors to those persons and entities (e.g., district attorneys, city attorneys, courts, probation and parole officers, peace officers, the Attorney General, etc.) who are authorized to receive conviction information for driving under the influence (V.C. 23152 and V.C. 23153) and wet reckless (V.C. 23103/23103.5) crimes more than five years after the conviction (V.C. 1807.5); and who are permitted to request address confidentiality with the Dep't of Motor Vehicles (DMV) (V.C. 1808.4); and who have access to DMV records (V.C. 1810.5).

[Existing Gov't C. 41803.5 permits a city attorney to prosecute misdemeanor crimes committed in that city, with the consent of the district attorney in the county where the city is located. Existing Gov't C. 72193 authorizes a city to create the office of city prosecutor or to provide that a deputy city attorney may act as a city prosecutor, in order to prosecute misdemeanor offenses. According to the legislative history of this bill, a number of California cities have city attorneys or city prosecutors who are responsible for prosecuting misdemeanors and the purpose of this bill is to make a number of provisions already applicable to city attorneys also applicable to city prosecutors. This bill also amends P.C. 373a, 1424, and 11105 to add city prosecutors.]

**V.C. 2429.7**
(New)
(Ch. 27) (SB 94)
(Effective 6/27/2017)

Requires the commissioner of the California Highway Patrol to appoint an impaired driving task force to develop recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of impaired driving, including driving under the influence of cannabis and controlled substances.

Requires the task force to examine the use of technology, including field testing technologies and validated field sobriety tests, to identify drivers under the influence of prescription drugs, cannabis, and controlled substances. Provides for a number of members on the task force, including a district attorney representative and a public defender representative.

Requires the task force to submit a report to the Legislature by January 1, 2021.

**V.C. 12800**
(Repealed & Added)
(Ch. 853) (SB 179)
(Effective 1/1/**2019**)

Provides that an applicant for an original or renewed driver's license shall choose one of three gender categories: female, male, or non-binary. Prohibits the Dep't of Motor Vehicles (DMV) from requiring documentation of any gender category and requires DMV to accept an applicant's self-certification of their chosen gender category. [This bill is known as the Gender Recognition Act." It also amends and adds C.C.P. 1277, 1277.5, 1278 to address petitioning for a name change in order to conform a person's name to his or her gender identity and it amends H&S 103425, 103426, 103430, 103440 to permit a person to petition the court for a judgment recognizing a change of gender to female, male, or non-binary, and to obtain a new birth certificate reflecting the change of gender.]

**V.C. 13352**
**V.C. 13352.1**
**V.C. 13352.4**
**V.C. 13353.3**
**V.C. 13353.5**
**V.C. 13353.6**
**V.C. 13353.75**
(Amended)
(Ch. 485) (SB 611)
(Effective 1/1/2018)

Makes a number of technical and cleanup changes to these sections pertaining to suspended and restricted driver's licenses, in order to properly implement SB 1046 (2016 legislation), which created a statewide ignition interlock device (IID) pilot program, to run from January 1, 2019 to January 1, 2026. This statewide IID program requires all offenders convicted of drunk driving to install IIDs, even upon a first conviction. (V.C. 23575.3, effective January 1, 2019, is the section that requires all offenders convicted of driving under the influence to install an IID on their vehicles, even if the conviction is a first offense.)

A number of these driver's license sections have three different versions on the books: a version in effect until January 1, 2019, a version that will be effective January 1, 2019, and a version that will be effective January 1, 2016 when the IID pilot program is over.

This bill corrects code references to accurately reflect that the IID pilot program applies to individuals convicted of alcohol-related DUI offenses (and not drug-only offenses), corrects the effective dates on code sections, clarifies language to ensure proper implementation of the IID program in accordance with existing laws, corrects a number of drafting errors or incorrect references, adds cross-references, and makes conforming changes.

**V.C. 13365**
**V.C. 13365.2**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Eliminates cross-references having to do with DMV suspending a driver's license for failure to pay fines. [This bill also deletes subdivisions authorizing a court to notify the Dep't of Motor Vehicles (DMV) that a defendant has failed to pay traffic fines (subdivision (b) in both V.C. 40509 and 40509.5 are deleted). See below.]

The purpose of these amendments is to prohibit the suspension of a driver's license for failure to pay traffic fines. However, V.C. 40508(b) continues to provide that it is a misdemeanor crime to willfully fail to pay traffic fines, and V.C. 40508(d) continues to provide that if a person who is convicted of an infraction fails to pay, the court may "impound" the person's driver's license and order that person not to drive for up to 30 days. (V.C. 40508 is not amended by AB 103.)

Provisions relating to the suspension of a driver's license when an offender *violates a written promise to appear or a lawfully granted continuance of a promise to appear in court*, are intact. For example, V.C. 40509(a) and 40509.5(a) continue to permit a court to notify DMV about failures to appear, and V.C. 40509.5(b) (previously subdivision (c)) continues to require the court to notify DMV about failures to appear in driving under the influence cases (V.C. 23152 and 23153), vehicular manslaughter cases (P.C. 191.5) and gross negligence vessel manslaughter cases (P.C. 192.5). V.C. 13365 continues to require DMV to suspend a driver's license for failure to appear under specified circumstances. V.C. 13365.2 continues to require the DMV to suspend a driver's license when there is a failure to appear in a driving under the influence case (V.C. 23152 and 23153), or a vehicular manslaughter case (P.C. 191.5), or a gross negligence vessel manslaughter case (P.C. 192.5(a)).

**V.C. 21101.4**
(Amended)
(Ch. 34) (AB 332)
(Effective 1/1/2018)

Adds "serious and continual illegal dumping" to the list of reasons (serious and continual criminal activity) for which a portion of a highway may be temporarily closed after a public hearing and if the temporary closure may be accomplished without significant impact on the normal flow of traffic. [The purpose of this amendment is to curb illegal dumping.]

**V.C. 21455**
(Amended)
(Ch. 555) (AB 1094)
(Effective 1/1/2018)

Adds freeway and highway on ramps to this section, in order to clarify that the running of a red light at an on ramp is punishable pursuant to V.C. 21455 (which pertains to traffic control signals at places other than an intersection), instead of pursuant to V.C. 21453 (which pertains to running a red light at an intersection).

[The legislative history of the bill expresses a concern that some agencies are citing violators for V.C. 21453 instead of V.C. 21455 when an on ramp red light is run, which causes violators to have to pay a higher fine.]

**V.C. 21456**
(Amended)
(Ch. 402) (AB 390)
(Effective 1/1/2018)

Adds that a *flashing* "DON'T WALK" or "WAIT" or "Upraised Hand" symbol *with a countdown* indicating the time remaining for a pedestrian to cross a road means that a pedestrian may start to cross the road but must complete the crossing before the display of a *steady* "DON'T WALK" or "WAIT" or "Upraised Hand" symbol when the countdown ends. Previously, this section prohibited a pedestrian from beginning to cross a roadway if a flashing *or* steady "DON'T WALK" or "WAIT" or "Upraised Hand" symbol was displayed and made no mention of signals with pedestrian countdowns. A steady "DON'T WALK" or "WAIT" or "Upraised Hand" symbol, or a flashing "DON'T WALK" or "WAIT" or "Upraised Hand" symbol *without* a countdown, continues to mean that a pedestrian should not start to cross the road.

[According to the legislative history, the purpose of this bill is to protect pedestrians from being cited and fined for jaywalking. The legislative history states that pedestrians are surprised when they are cited for crossing a road during a countdown that is not yet down to zero.]

**V.C. 22451**
**V.C. 22452**
(Amended)
(Ch. 110) (AB 695)
(Effective 1/1/2018)

Adds "on-track equipment" to the list of things (a train or railroad car) that a driver of any vehicle or a pedestrian must stop for (V.C. 22451).

Adds on-track equipment to the list of things to look and listen for (trains) in V.C. 22452, which requires the driver of a bus, school bus, or commercial vehicle to stop, listen, and look before crossing railroad tracks. Now these drivers, after stopping, must look and listen for on-track equipment in addition to trains.

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Both V.C. 22451 and 22452 define "on-track equipment" as any locomotive or any other car, rolling stock, equipment, or other device that, alone or coupled to others, is operated on stationary rails.

[According to the legislative history of this bill, there are several types of equipment that travel on railroad tracks in order to inspect, maintain, or repairs tracks, including rail snow blowers, rail belt machines, and flat-bed powered carts.]

**V.C. 22659.6**
(New)
(Ch. 531) (AB 1206)
(Effective 1/1/2018)

Authorizes the cities of Los Angeles, Oakland, and Sacramento to adopt an ordinance to conduct a 24-month pilot program in which law enforcement officers may, pursuant to a valid arrest, remove a vehicle used in the commission or attempted commission of pimping (P.C. 266h), pandering (P.C. 266i), or solicitation of prostitution in violation of P.C. 647(b)(2) (a john soliciting an adult prostitute) or P.C. 647(b)(3) (a john soliciting a prostitute who is under age 18). (Apparently does not apply to a violation of P.C. 647(b)(1), which criminalizes prostitution by an adult.)

Requires any ordinance adopted to contain, but not be limited to, these four provisions:

1. At the time of arrest, the arrestee must be notified that the vehicle will be towed and must be given information on how to retrieve it;
2. The vehicle may be retrieved at any time by the registered owner (typically the defendant) or his or her agent (thus, it appears that there is no minimum period of impoundment);
3. The registered owner is responsible for all towing and storage fees; and
4. If the vehicle is not claimed by the registered owner within 30 days, the legal owner must be given notice of the vehicle's seizure and be given an opportunity to retrieve it. Requires the vehicle to be released to the legal owner upon payment of all towing and storage fees.

Requires a city that implements the pilot program to do three things:

1. Offer a diversion program to prostitutes cited or arrested in the course of the pilot program;

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2. Authorize the removal of a vehicle only if the person committing the crime is the sole registered owner of the vehicle. If the arrestee is not the sole registered owner, the other registered owner(s) must be given an opportunity to take possession of the vehicle; and
3. Reimburse the defendant for the costs of towing and impounding the vehicle if the defendant is not found guilty of the crime for which the vehicle was impounded, or if the charge is dismissed.

Requires each city to submit a report to the Legislature, Governor, and Attorney General about the pilot program within six months of its completion.

[Existing V.C. 22659.5 continues to permit a city or county to adopt an ordinance declaring a vehicle to be a public nuisance subject to seizure and impoundment for up to 30 days for the commission or attempted commission of P.C. 266h (pimping), P.C. 266i (pandering), P.C. 374.3(h) (illegal dumping of waste matter in commercial quantities) or P.C. 647(b) (prostitution) if the owner or operator of the vehicle has a prior conviction for the same offense within three years. New V.C. 22659.6 does not require a prior conviction.]

**V.C. 23123.5**
(Amended)
(Ch. 297) (AB 1222)
(Effective 1/1/2018)

Removes specialized mobile radio devices and two-way messaging devices from the definition of "electronic wireless communications device," in this infraction crime of driving a motor vehicle while holding and operating a handheld wireless telephone or an electronic wireless communication device. Thus, these devices are legal to use while driving, even if handheld. [According to the legislative history of this bill, these devices are used by "trained professionals" in the bus, delivery, trucking, and utility industries for brief, verbal communications with their dispatch offices or with other trained professionals, and do not pose the myriad distractions of cell phones.]

**V.C. 23152**
(Amended)
(Ch. 765) (AB 2687)
*(2016 Legislation)*
(Effective 7/1/2018)

Subdivision (e) is effective on July 1, 2018. It amends this driving under the influence crime to impose on passenger for hire drivers the same 0.04 blood alcohol limit that already applies to drivers of commercial vehicles, when the passenger for hire driver has a paying passenger in the vehicle. New subdivision (e) is modeled after subdivision

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(d) (commercial drivers) and creates the new misdemeanor crime of driving with a 0.04 blood alcohol level when a passenger for hire is a passenger in the vehicle. Defines "passenger for hire" as a passenger for whom consideration is contributed or expected as a condition of carriage in the vehicle, whether directly or indirectly flowing to the owner, operator, agent, or any other person having an interest in the vehicle. Thus, this new DUI crime applies to taxi drivers, Uber drivers, Lyft drivers, and any other driver with a passenger for hire inside the vehicle. Also contains the same rebuttable presumption that exists for commercial drivers: It is a rebuttable presumption that a person was driving with a 0.04 blood level if the person had a 0.04 level at the time of a chemical test done within three hours after the driving.

**V.C. 23153**
(Amended)
(Ch. 765) (AB 2687)
*(2016 Legislation)*
(Effective 7/1/2018)

Subdivision (e) is effective on July 1, 2018. It amends this driving under the influence and causing injury crime to impose on passenger for hire drivers the same 0.04 blood alcohol limit that already applies to drivers of commercial vehicles, when the passenger for hire driver has a paying passenger in the vehicle. New subdivision (e) is modeled after subdivision (d) (commercial drivers) and creates the new misdemeanor crime of driving with a 0.04 blood alcohol level and causing injury, when a passenger for hire is a passenger in the vehicle. Defines "passenger for hire" as a passenger for whom consideration is contributed or expected as a condition of carriage in the vehicle, whether directly or indirectly flowing to the owner, operator, agent, or any other person having an interest in the vehicle. Thus, this new DUI crime applies to taxi drivers, Uber drivers, Lyft drivers, and any other driver with a passenger for hire inside the vehicle. Also contains the same rebuttable presumption that exists for commercial drivers: It is a rebuttable presumption that a person was driving with a 0.04 blood level if the person had a 0.04 level at the time of a chemical test done within three hours after the driving.

**V.C. 23220**
**V.C. 23221**
(Amended)
(Ch. 232) (SB 65)
(Effective 1/1/2018)

**V.C. 23220**: Expands the infraction crime in subdivision (a) of drinking an alcoholic beverage while driving a motor vehicle on off-highway lands, to also prohibit smoking or ingesting marijuana or any marijuana product while driving a motor vehicle on off-highway lands. Creates a new infraction crime in subdivision (b) prohibiting drinking an alcoholic beverage or smoking or ingesting marijuana or any marijuana product

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while riding as a passenger in a motor vehicle being driving on off-highway lands.

**V.C. 23221**: Expands the infraction crime in subdivision (a) of a driver drinking an alcoholic beverage in a motor vehicle on a highway, to also prohibit a driver from smoking or ingesting marijuana or any marijuana product while driving a motor vehicle on a highway. Expands the infraction crime in subdivision (b) of a passenger drinking an alcoholic beverage in a motor vehicle on a highway, to also prohibit a passenger from smoking or ingesting marijuana or any marijuana product while in a motor vehicle being driven on a highway.

[Proposition 64, effective November 9, 2016, provides in H&S 11362.3(a)(7) that nothing in H&S 11362.1 (which legalizes recreational marijuana activity for adults age 21 and older) shall be construed to permit any person to smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation. It also provides, in H&S 11362.3(a)(8), that nothing in H&S 11362.1 shall be construed to permit any person to smoke or ingest marijuana or marijuana products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation. However, Proposition 64 does not provide any punishment for this conduct.]

**V.C. 23222**
(Amended)
(Ch. 27) (SB 94)
(Effective 6/27/2017)

Deletes the infraction crime in subdivision (b) of possessing up to one ounce of marijuana while driving a vehicle, and adds this new infraction: possessing on one's person, while driving a motor vehicle, a receptacle containing cannabis or cannabis products that has been opened or has a seal broken, or loose cannabis flower not in a container. This new crime is in V.C. 23222(b)(1) and is an infraction crime punishable by a fine of up to $100 (as was former V.C. 23222(b)).

V.C. 23222(b)(2) provides exceptions to this new crime. It does not apply to a receptacle of cannabis that has been opened or has a seal broken or where the contents have been partially removed, or to loose cannabis flower, if the receptacle or loose cannabis flower is in trunk of a vehicle.

V.C. 23222(c) contains exceptions for medical cannabis situations and provides that V.C. 23222(b) does not apply to

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a qualified patient or person with an identification card as defined in H&S 11362.7 if *both* (1) the person is carrying a current identification card or a physician's recommendation *and* (2) the cannabis or cannabis product is in a container or receptacle that is sealed, resealed, or closed. (The second prong of this exception is odd, since there is no V.C. 23222(b)(1) crime if the cannabis is not open or is not loose. If the cannabis is sealed, V.C. 23222(b)(1) does not apply, regardless of whether the person is a medical cannabis patient.)

Note that the language of V.C. 23222(b)(1) tracks the language of existing V.C. 23222(a) (alcohol) and prohibits having "in his or her possession on his or her person …." However, it does not appear that the possession of cannabis is prohibited only when the opened or loose cannabis is on the driver's *person*. Instead, it appears that opened or loose cannabis anywhere in the interior of the vehicle could support a charge of V.C. 23222(b)(1). If opened or loose cannabis sitting on the backseat of a vehicle (i.e., it is not on the driver's actual person) is legal, and only opened or loose cannabis on a driver's person is prohibited, then there would be no reason for the Legislature to have crafted the trunk exception in V.C. 23222(b)(2). The courts typically interpret statutes in a way that gives significance to every word and phrase, instead of finding provisions superfluous. Therefore, in subdivision (b), the more reasonable interpretation of "in his or her possession on his or her person" is "in his or her possession **or** on his or her person," because of the trunk exception. [In the part of V.C. 23222 that addresses alcohol, V.C. 23222(a) does not specify any exceptions.]

Even if new V.C. 23222(b)(1) does not apply to a particular fact situation, the existing infraction crime in H&S 11362.3(a)(4) most likely would apply and carries a higher maximum fine (up to $250, versus up to $100 for V.C. 23222(b)(1).)

H&S 11362.3(a)(4) prohibits possessing an open container or open package of cannabis or cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation. H&S 11362.4(b) provides that the punishment is a fine of up to $250.

Note also that there is no quantity limitation in new V.C. 23222(b)(1), as there was for former V.C. 23222(b) (up to one ounce). If there is evidence of possession for sale or transportation for sale, consider H&S 11359 or 11360.

**V.C. 23247**
**V.C. 23573**
**V.C. 23575**
**V.C. 23575.3**
**V.C. 23576**
**V.C. 23597**
**V.C. 23646**
(Amended)
(Ch. 485) (SB 611)
(Effective 1/1/2018)

Makes a number of technical and cleanup changes to these sections in order to properly implement SB 1046 (2016 legislation), which created a statewide ignition interlock device (IID) pilot program, to run from January 1, 2019 to January 1, 2026. This statewide IID program requires all offenders convicted of drunk driving to install IIDs, even upon a first conviction.

V.C. 23575.3, effective January 1, 2019, is the section that requires all offenders convicted of driving under the influence to install an IID on their vehicles, even if the conviction is a first offense. The length of time an offender must use an IID is determined by the offender's prior convictions. V.C. 23575.3 is amended by SB 611 to clarify that the requirement to install an IID applies to V.C. 23152 and 23153 alcohol DUIs and drug/alcohol combination DUIs, but *not* drug-only DUIs. It is also amended to redefine "prior" as a conviction for a separate specified violation that occurred within 10 years of the current violation (meaning that the sequence of the convictions does not matter, pursuant to existing V.C. 23217.) Eliminates V.C. 23140 (person under age 21 driving with a 0.05 blood alcohol level) as an applicable prior and adds priors for H&N 655(b), (c), (d), (e), and (f) violations (boating and water device DUIs). Retains V.C. 23152, V.C. 23153, P.C. 191.5, P.C. 192.5(a), and V.C. 23103 as specified in 23103.5 (wet reckless) as applicable priors. V.C. 23575.3 is also amended to provide that it applies to offenders convicted of a violation of V.C. 23152 or 23153 that occurs on or after January 1, 2019.

Amends V.C. 23573, 23575, and 23597 to provide that a failure to comply with the requirement to maintain or calibrate an IID must occur *three or more times* before the Dep't of Motor Vehicles may revoke a driver's license for failure to maintain/calibrate. Retains attempting to remove, bypass, or tamper with an IID as a basis for license revocation as well as removing the IID prior to the termination date of the license restriction.

A number of these sections have three different versions on the books: a version in effect until January 1, 2019, a version that will be effective on January 1, 2019, and a version that will be effective January 1, 2026 when the IID pilot program is over.

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This bill corrects code references to accurately reflect that the IID pilot program applies to individuals convicted of alcohol-related DUI offenses (and not drug-only offenses), corrects the effective dates on code sections, clarifies language to ensure proper implementation of the IID program in accordance with existing laws, corrects a number of drafting errors or incorrect references, adds cross-references, and makes conforming changes.

**V.C. 25258**
(Amended)
(Ch. 286) (SB 587)
(Effective 1/1/2018)

Adds probation officers to the list of specified peace officers who are authorized to display a steady or flashing blue warning light when operating an emergency vehicle in the performance of their duties, if the probation officer first completes a four-hour classroom training course regarding the operation of emergency vehicles that is certified by the Standards and Training for Corrections division of the Board of State and Community Corrections.

Also provides that this amendment does *not* expand any existing authority of a probation officer to conduct a high-speed vehicle pursuit, nor does it change any existing training requirements for high-speed vehicle pursuits.

[The purpose of this amendment is to help identify probation officers and their vehicles as peace officers to the public and to other law enforcement officers.]

**V.C. 26708**
(Amended)
(Ch. 210) (AB 1303)
(Effective 1/1/2018)

Adds another exception (new subdivision (e)) to the prohibition of driving a motor vehicle with an object or material applied on the windshield or side or rear windows of a motor vehicle, for the purpose of protecting people who have medical conditions that make them sensitive to the sun's ultraviolet rays. Permits a specified material with a minimum visible light transmittance of 88 percent to be applied to all of a vehicle's windows, if the driver has in his or her possession, or within the vehicle, a certificate signed by a licensed dermatologist certifying that the person should not be exposed to ultraviolet rays because of a medical condition. Provides that if the applied material bubbles, tears, or prohibits clear vision, it must be removed.

[The exception in existing subdivision (d) continues to permit any person to apply this same type of material to the front side windows of a vehicle only, and requires the driver to carry a certificate from the installer that the material meets specified requirements.]

**V.C. 27318**
(New)
(Ch. 593) (SB 20)
(Effective 7/1/2018)

Creates new infraction crimes related to buses that are equipped with seatbelts, but does not apply to school buses:

1. A bus passenger age 16 or older failing to be properly restrained by a safety belt.
2. A parent, legal guardian, or chartering party transporting on a bus, or permitting to be transported on a bus, a child or passenger age 8–15 who is not properly restrained by a safety belt.
3. A parent, legal guardian, or chartering party transporting on a bus, or permitting to be transported on a bus, a child or passenger under eight years of age and under four feet nine inches tall, who is not acceptably restrained by a safety belt. Provides that if it is not possible to acceptably restrain the child, the child must be in an appropriate child passenger restraint system, or, if the child is under age two, a parent, legal guardian, or chartering party may hold him or her.

Provides that none of the above crimes applies to a passenger who is using an onboard bathroom.

Provides that a violation of the above infractions is punishable by a fine of up to $20 for a first offense and a fine of up to $50 for a subsequent offense.

Requires a motor carrier operating a bus that is equipped with safety belts to either (1) require the bus driver to inform passengers that wearing seatbelts is required and that failure to do so is punishable by a fine; or (2) post signs that inform passengers of the seatbelt requirement and that not wearing one is punishable by a fine.

**V.C. 27319**
(New)
(Ch. 593) (SB 20)
(Effective 7/1/2018)

Creates new infraction crimes related to bus drivers and seat belts:

1. A bus driver failing to use a safety belt if the bus has one.
2. A motor carrier, if a bus is equipped with a driver safety belt, failing to maintain the safety belt in good working order.

Provides that a violation of either is an infraction, punishable by a fine of up to $20 for a first offense and a fine of up to $50 for a subsequent offense.

**V.C. 40220**
(Amended)
(Ch. 741) (AB 503)
(Effective 7/1/2018)

Permits unpaid parking fines and fees to be paid off by indigent persons in monthly installments within 18 months. Requires the waiving of specified late fees and penalty assessments if an indigent person enrolls in the payment plan.

Defines "indigent" as a person receiving public benefits pursuant to Gov't C. 68632(a) (e.g., Supplemental Security Income, CalWORKs, Supplemental Nutrition Assistance Program, County General Assistance, In-Home Supportive Services, Medi-Cal) or a person who meets the income criteria in Gov't C. 68632(b) (125 percent or less of the current federal poverty guidelines).

[This bill also amends V.C. 4760 to prohibit the Dep't of Motor Vehicles from refusing to renew a vehicle's registration if the owner participates in a payment plan to pay off overdue parking fees. The purpose of the bill is to help poor people be able to register their vehicles even if they have not paid off overdue parking fines and fees, if they enroll in a monthly payment plan.]

**V.C. 40509**
**V.C. 40509.5**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Deletes subdivisions authorizing a court to notify the Dep't of Motor Vehicles (DMV) that a defendant has failed to pay traffic fines (and deletes cross-references in V.C. 13365 having to do with DMV suspending a driver's license for failure to pay fines.) The purpose of these amendments is to prohibit the suspension of a driver's license for failure to pay traffic fines. However, V.C 40508(b) continues to provide that it is a misdemeanor crime to willfully fail to pay traffic fines, and V.C. 40508(d) continues to provide that if a person who is convicted of an infraction fails to pay, the court may "impound" the person's driver's license and order that person not to drive for up to 30 days. (V.C. 40508 is not amended by AB 103.)

Provisions relating to the suspension of a driver's license when an offender *violates a written promise to appear or a lawfully granted continuance of a promise to appear in court,* are intact. For example, V.C. 40509(a) and 40509.5(a) continue to permit a court to notify DMV about failures to appear, and V.C. 40509.5(b) (previously subdivision (c)) continues to require the court to notify DMV about failures to appear in driving under the influence cases (V.C. 23152 and 23153), vehicular manslaughter cases (P.C. 191.5) and gross

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negligence vessel manslaughter cases (P.C. 192.5). V.C. 13365 continues to require DMV to suspend a driver's license for failure to appear under specified circumstances. V.C. 13365.2 continues to require the DMV to suspend a driver's license when there is a failure to appear in a driving under the influence case (V.C. 23152 and 23153), or a vehicular manslaughter case (P.C. 191.5), or a gross negligence vessel manslaughter case (P.C. 192.5(a)).

# Welfare and Institutions Code

(See the Juvenile Delinquency section for W&I changes that pertain to that subject.)

**W&I 212.5**
(New)
(Ch. 319) (AB 976)
(Effective 1/1/2018)

Permits the electronic filing and serving of juvenile court documents as prescribed in C.C.P. 1010.6 if a county and the court permit electronic service and if the party being served has consented to electronic service. Prohibits electronic service on a party or person under age 10. Permits electronic service on a party or person between age 10 and 15 with the express consent of the minor and the minor's attorney. Permits electronic service on a minor age 16 or 17 if the minor, after consultation with an attorney, consents. Generally prohibits the electronic service of psychological or medical documentation related to a minor.

[This bill adds new P.C. 690.5, amends several provisions in the Code of Civil Procedure, numerous provisions in the Probate Code, and a number of provisions in the Welfare and Institutions Code in order to expand electronic filing and delivery of documents to criminal, juvenile, and probate courts. A number of the Welfare and Institutions Code sections amended by this bill are amended to cross-reference new W&I 212.5 and some are amended to specifically prohibit certain notices being served electronically.]

**W&I 301**
(Amended)
(Ch. 666) (AB 1371)
(Effective 1/1/2018)

Adds non-minor dependents and wards of the juvenile court to the types of parents (dependent children) who are entitled to consult with counsel, if counsel has been appointed, before a social worker undertakes a program of supervision with respect to the child of a non-minor dependent or the child of a juvenile ward. Also adds that in cases where a juvenile ward is not represented by counsel appointed in a dependency proceeding, the ward must be given an opportunity to confer with counsel appointed or retained to represent the ward in the wardship proceeding. [The purpose of the bill is to help young parents in the juvenile system and foster youth who have their own children, to understand custody arrangements and supervision programs for their own children and the consequences.]

**W&I 303**
(Amended)
(Ch. 707) (AB 604)
(Effective 1/1/2018)

Requires the juvenile court to assume transition jurisdiction pursuant to W&I 450 over a child who was made a ward or dependent of the court as a commercially sexually exploited child, but whose underlying adjudication was vacated

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pursuant to existing P.C. 236.14. (P.C. 236.14 permits an adult or juvenile who committed a non-violent offense while a human trafficking victim to petition for vacatur relief in order to get a verdict of guilty or an adjudication set aside, and the accusation dismissed.)

Requires the Judicial Council, by January 1, 2019, to adopt rules of court and develop appropriate forms to implement this.

**W&I 340**
(Amended)
(Ch. 262) (AB 1401)
(Effective 1/1/2018)

Authorizes a court to issue a protective custody warrant for a child instead of requiring a W&I 300 dependency petition to be filed, if the court finds probable cause to support all of the following:

1. The child meets the definition of a dependent child in W&I 300, and
2. There is substantial danger to the safety or to the physical or emotional health of the child, and
3. There are no reasonable means to protect the child's safety or physical health without removal.

Provides that any child taken into protective custody must be immediately delivered to a social worker who shall investigate the facts and circumstances and attempt to maintain the child with the child's family through the provision of services.

[Existing W&I 305 and 306(a)(2) continue to permit a peace officer (W&I 305) or a social worker (W&I 306(a)(2)) to take a child into temporary custody without a warrant if there is reasonable cause to believe the following:

1. The child fits the definition of a W&I 300 dependent child, and
2. The child is in immediate need of medical care, or is in immediate danger of physical or sexual abuse, or the physical environment poses an immediate threat to the child's health or safety.]

**W&I 361**
(Amended)
(Ch. 665) (AB 1332)
and
(Ch. 829) (SB 233)
(Section 4.5)
(Effective 1/1/2018)

Authorizes a juvenile court to remove a dependent child from the physical custody of a parent with whom the child did *not* reside at the time the W&I 300 dependency petition was initiated, if the court finds by clear and convincing evidence that there would be a substantial danger to the physical health, safety, or emotional well-being of the child for the parent to exercise the right to physical custody and there are no reasonable alternatives to protect the child.

Adds that foster parents, relative caregivers, nonrelated extended family members, or resource families have a right and obligation to access and maintain health and education information for a dependent child, even if they are not the educational rights holder for the child. [The purpose of this amendment is to have better coordination of educational services between caregivers of foster youth, local educational agencies, child welfare agencies, and education rights holders.]

**W&I 361.4**
(Repealed & Added)
(Ch. 732) (AB 404)
and
(Ch. 733) (SB 213)
(Effective 1/1/2018)

Repeals this section, which had provided that before placing a child in the home of a relative, prospective guardian, or another person who is not a licensed or certified foster parent or approved resource family, a county social worker must visit the home to determine its appropriateness, cause a state-level criminal records check to be conducted, and check the Child Abuse Central Index.

New W&I 361.4 requires a county welfare department to do a number of things before placing a child on an emergency basis pursuant to existing W&I 309(d) or existing 361.45, including conducting an in-home inspection, causing a state-level criminal records check to be conducted on specified persons in the home, and checking allegations of prior child abuse or neglect concerning a relative or non-relative extended family member and other adults in the home.

Cross-references H&S 1522 (also amended by this bill), which revises the criminal background check procedures for relative caregivers, foster care providers, resource families, etc., by establishing a list of non-exempt crimes (crimes for which a conviction will not permit a child to be placed in a home), a list of crimes for which an exemption may be granted, and a list of crimes for which there is a presumption that an exemption be granted. New W&I 361.4 prohibits placing a child in a home where a person

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has a specified criminal conviction, with no exemption being permitted; prohibits placement in a home where a person has a specified criminal conviction, unless a criminal records exemption has been granted; permits placement of a child on an emergency basis pending a criminal records exemption decision for specified offenses, if no party to the case objects; and, prohibits placement with a person who has been arrested for a specified offense until an investigation has been completed.

[AB 404 (Chapter 732) amends numerous Welfare and Institutions Code sections in a variety of ways, including these in the 300 series, to which a cross-reference to W&I 361.4 is added: W&I 309, 319, 361.2, 361.3, and 361.45.]

**W&I 361.5**
(Amended)
(Ch. 829) (SB 233)
(Effective 1/1/2018)

Requires that an evaluation of a child's medical, developmental, scholastic, mental, and emotional status include a copy of the child's complete health and education summary. Requires that the name and contact information of the person(s) currently holding the right to make educational decisions for the child be included in the evaluation, unless disclosing this information poses a threat to that individual, in which case the information may be redacted or withheld from the evaluation.

**W&I 361.8**
(Amended)
(Ch. 666) (AB 1371)
(Effective 1/1/2018)

Adds a child whose parent(s) has been adjudged a ward of the juvenile court pursuant to W&I 601 or 602, to the provisions of this section, which previously applied only to a child whose parent(s) has been adjudged a dependent child of the juvenile court.

Requires that before a probation officer or social worker arranges a custody agreement that includes a temporary or permanent voluntary relinquishment of custody by a parent who is himself/herself a ward of the juvenile court, or a dependent or non-minor dependent, the parent must be advised of the right to consult with counsel and have the opportunity to consult with counsel. Requires the social worker or probation officer to note in the case file whether the ward, dependent, or non-minor dependent consulted with legal counsel, or, if the opportunity for consultation was provided and did not occur, why it did not occur.

**W&I 366.1**
**W&I 366.21**
**W&I 366.22**
(Amended)
(Ch. 829) (SB 233)
(Effective 1/1/2018)

Requires a supplemental report, or an evaluation of a child's medical, developmental, scholastic, mental, and emotional status, to include a copy of the child's complete health and education summary. Requires that the name and contact information of the person(s) currently holding the right to make educational decisions for the child be included in the report or evaluation, unless disclosing this information poses a threat to that individual, in which case the information may be redacted or withheld from the report or evaluation.

[AB 976 also amends W&I 366.21 to add a cross-reference to electronic filing pursuant to new W&I 212.5. See W&I 212.5, above.]

**W&I 366.26**
(Amended)
(Ch. 307) (SB 438)
and
(Ch. 319) (AB 976)
(Section 134.5)
(Effective 1/1/2018)

Provides that when the juvenile court finds that legal guardianship is the appropriate permanent plan for a dependent child of the court, then the required assessment that must be read and considered by the court before a guardian is appointed may also include the naming of a prospective successor guardian, who would take over in the event of the incapacity or death of the appointed guardian.

[AB 976 amends W&I 366.26 to add a cross-reference to electronic filing pursuant to new W&I 212.5. See W&I 212.5, above.]

**W&I 388**
(Amended)
(Ch. 707) (AB 604)
(Effective 1/1/2018)

Permits a non-minor who is age 18 or older, but not yet age 21, while in foster care, for whom the court has dismissed dependency, delinquency, or transition jurisdiction, to petition the court to resume jurisdiction, even if the underlying adjudication was vacated pursuant to P.C. 236.14. (P.C. 236.14 permits an adult or juvenile who committed a non-violent offense while a human trafficking victim to petition for vacatur relief in order to get a verdict of guilty or an adjudication set aside, and the accusation dismissed.)

**W&I 450**
**W&I 451**
(Amended)
(Ch. 707) (AB 604)
(Effective 1/1/2018)

Provides that a minor or non-minor who is not yet age 21 may satisfy the criteria for transition jurisdiction even if his or her underlying adjudication was vacated pursuant to P.C. 236.14. (P.C. 236.14 permits an adult or juvenile who committed a non-violent offense while a human trafficking victim to petition for vacatur relief in order to get a verdict of guilty or an adjudication set aside, and the accusation dismissed.)

**W&I 4100**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Authorizes the Dep't of State Hospitals to establish an Admission, Evaluation, and Stabilization (AES) Center in Kern County and in other locations in the future, in order to provide mental health competency restoration treatment services to defendants found incompetent to stand trial.

Adds both the AES Center in Kern County and county jail treatment facilities under contract with the State Dep't of State Hospitals to provide competency restoration services, to the list of facilities that the State Dep't of State Hospitals has jurisdiction over. [W&I 4100 also continues to list the five state hospitals: Atascadero, Coalinga, Metropolitan, Napa, Patton.]

[See P.C. 1370–1372 in the Penal Code section of this publication for amendments made to those sections by AB 103.]

**W&I 4118**
(Repealed)
(Ch. 774) (SB 613)
(Effective 1/1/2018)

Repeals this section that had required the State Dep't of State Hospitals to cooperate with the U.S. Bureau of Immigration in arranging "for the deportation of all aliens who are confined in, admitted, or committed to any state hospital." [This bill also repeals similar provisions pertaining to the Youth Authority and the State Dep't of Developmental Services. See W&I 1008 in the Juvenile Delinquency section of this digest and W&I 4458, below.]

**W&I 4458**
(Repealed)
(Ch. 774) (SB 613)
(Effective 1/1/2018)

Repeals this section that had required the State Dep't of Developmental Services to cooperate with the U.S. Bureau of Immigration in arranging "for the deportation of all aliens confined in, admitted, or committed to any state hospital." [This bill also repeals similar provisions pertaining to the Youth Authority and the State Dep't of State Hospitals. See W&I 1008 in the Juvenile Delinquency section of this digest and W&I 4118, above.]

**W&I 5008**
(Amended)
(Ch. 246) (SB 684)
(Effective 1/1/2018)

Makes changes to *Murphy* conservatorships (W&I 5008(h)(1)(B), which apply to mentally incompetent criminal defendants charged with a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person. Adds that a *Murphy* conservatorship may be established at the complaint stage of the proceedings (instead of only the information stage

*continued*

or the indictment stage), and requires a probable cause hearing pursuant to new P.C. 1368.1(a)(2). (If a case is in the information stage, a preliminary examination has already been held. If in the indictment stage, a grand jury has already found probable cause.) Also adds a requirement that the defendant represent a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder. With the amendments made to W&I 5008 by this bill, here are the requirements for a *Murphy* conservatorship:

1. A defendant has been found mentally incompetent under P.C. 1370; and
2. The complaint, indictment, or information pending against the defendant charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person; and
3. There has been a finding of probable cause on a complaint pursuant to P.C. 1368.1(a)(2), or a preliminary examination pursuant to existing P.C. 859b, or a grand jury indictment, and the complaint, information, or indictment has not been dismissed; and
4. As a result of a mental health disorder, the defendant is not able to understand the nature and purpose of the proceedings and is not able to assist defense counsel in a rational manner; and
5. The defendant represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder. (This is a codification of the holding in *Conservatorship of Hofferber* (1980) 28 Cal.3d 161, 176–177, which added a dangerousness element to *Murphy* conservatorships by adopting the standard already provided in P.C. 1026.5(b)(1) for extending the commitment of a defendant found not guilty by reason of insanity.)

[See P.C. 1368.1 and 1370 in the Penal Code section of this digest for amendments made to those sections by this bill. The purpose of the bill is to be able to establish a *Murphy* conservatorship in a case that is at the *pre*-preliminary examination stage without having to empanel a grand jury to make a probable cause determination.]

**W&I 5251**
**W&I 5261**
**W&I 5270.20**
(Amended)
(Ch. 184) (AB 191)
(Effective 1/1/2018)

Adds licensed marriage and family therapists (LMFTs), and licensed professional clinical counselors (LPCCs) to those (social workers and registered nurses) who are authorized to be the required second person for the signing of a notice of certification to extend a 72-hour W&I 5150 mental health hold to 14 days of intensive treatment, or to extend a 14-day period of intensive treatment to 30 days of intensive treatment.

[The first signature is typically by the professional person in charge of the facility providing services and the second signature is by the physician or psychologist who participated in the evaluation. If the professional person in charge of the facility is the same person as the physician or psychologist who performed the evaluation and no other physician or psychologist is available, then a social worker, registered nurse, professional clinical counselor, or marriage and family therapist may sign.]

[According to the legislative history. LMFTs and LPCCs are commonly part of the treatment team for patients and not every team has a social worker or registered nurse. Permitting a LMFT or LPCC to sign a notice of certification prevents unnecessary treatment delays.]

**W&I 5270.15**
(Amended)
(Ch. 218) (SB 565)
(Effective 1/1/2018)

Requires a mental health facility that wants to extend a patient's 14-day period of intensive mental health treatment to a 30-day period of intensive treatment, to make reasonable attempts to notify family members or the person designated by the patient at least 36 hours before the certification review hearing, of the time and place of the hearing, unless the patient requests that this notification not be made. Requires the mental health facility to tell the patient that he or she has a right to request that this information not be provided.

[Existing W&I 5256.4 already requires reasonable attempts to be made to notify family members about a certification hearing to extend a 72-hour W&I 5150 hold to a 14-day period of intensive treatment.]

**W&I 6608.5**
(Amended)
(Ch. 39) (AB 255)
(Effective 1/1/2018)

Requires, instead of permits, a court to look at a variety of factors when determining the county of domicile for the purpose of conditionally releasing a sexually violent predator (SVP). Previously, subdivision (b)(1) provided that the court "may" consider information on a driver's license, identification card, rent or utility receipt, bank document, arrest record, probation officer's report, trial transcript, or other court document in order to determine what the SVP's county of domicile was prior to incarceration. Now the court is *required* to consider this information.

Adds a new subdivision (g) to provide that if the court determines that placing an SVP in his or her county of domicile is not appropriate, the court must consider these two circumstances in designating a county for the SVP to be released to: (1) If and how long the SVP has previously resided or been employed in the county; and (2) If the person has next of kin in the county.

[The purpose of these amendments is to require the court to consider ties or connections to the community when deciding where to release an SVP, and to discourage the release of an SVP to a county where he/she has no ties or connections. According to the legislative history of this bill, SVPs are disproportionately placed in rural counties where they have no ties or connections.]

**W&I 7228**
(Amended)
(Ch. 17) (AB 103)
(Effective 6/27/2017)

Requires the State Dep't of State Hospitals to evaluate each defendant committed pursuant to P.C. 1026 (not guilty by reason of insanity) or 1370 (incompetent to stand trial) to determine the placement of the defendant in the appropriate *facility* as defined in W&I 4100. (Previously, the determination was for placement in the appropriate "state hospital.")

[See W&I 4100, above, for the facilities specified in W&I 4100.]

[See P.C. 1370–1372 in the Penal Code section of this publication for amendments made to those sections by AB 103.]

**W&I 10980**
(Amended)
(Ch. 390) (SB 360)
(Effective 1/1/2018)

Exempts persons who receive an overpayment for welfare benefits (either CalWORKs aid or CalFresh aid) from criminal prosecution for any month in which the county human services agency (i.e., county welfare department) was in receipt of information indicating a potential for an overpayment or overissuance and *did not* provide timely and adequate notice of action for the collection of the overpayment or the overissuance. (Therefore, as long as the notice of action is timely, a criminal prosecution is not prohibited.)

[CalWORKs = California Work Opportunity and Responsibility to Kids (cash aid). CalFresh (formerly called food stamps) benefits are in the form of an electronic benefit transfer card that can only be used to purchase food.]

Provides that the information received by a county human services agency that could trigger a prohibition on prosecution is an Income and Eligibility Verification System (IEVS) data match indicating a potential for an overpayment or overissuance. A county human services agency is deemed to be in receipt of IEVS information "following 45 days from the date of the county human services agency's possession of that information."

[According to the legislative history of this bill, the California Dep't of Social Services (CDSS) Manual of Policies and Procedures (MPP) Sections 20-006.421 and 20-006.424 require county welfare departments to follow up on an IEVS match within 45 days, and permit action to be delayed beyond 45 days in no more than 20 percent of cases.]

These amendments do not prohibit a county human services agency from collecting an overpayment by, for example, reducing a recipient's benefits in future months.

[According to the legislative history of this bill, the IEVS is an automated program that pulls data from a variety of sources, such as employment departments and the Internal Revenue Service, and produces reports that county welfare offices use to verify current and ongoing eligibility for benefits. IEVS is a federally mandated system that matches the applicant's or recipient's name and Social Security number with various databases. If a county welfare office receives information from IEVS, or any other source, that indicates a recipient's eligibility may have changed due to

*continued*

an increase in income, the county is required to notify the recipient and request a response from the recipient. Benefits may be terminated or reduced based on verified IEVS reports, but not before the recipient is provided notice and an opportunity to respond. There are systems in place to collect overpayments of CalFresh and CalWORKs benefits, including reduction of benefits over a period of time until the total overpayment is collected. In cases of overpayment that constitute fraud, the recipient could face criminal prosecution.]

**W&I 15610.37**
(Amended)
(Ch. 407) (AB 575)
(Effective 1/1/2018)

Adds substance use disorder counselors to the definition of "health practitioner" in order to make these counselors mandated reporters of elder and dependent adult abuse. (Existing W&I 15630(a) designates these persons as mandated reporters: health practitioners, clergy members, county adult protective services employees, elder or dependent adult care custodians, law enforcement agency employees, and persons assuming full or intermittent responsibility for the care or custody of an elder or dependent adult, including administrators, supervisors, and licensed staff of a public or private facility that provides care for elder or dependent adults.)

Defines "substance use disorder counselor" as a person providing counseling services in an alcoholism or drug abuse recovery and treatment program licensed, certified, or funded under Part 2 (beginning with H&S 11760) of Division 10.5 of the Health & Safety Code.

**W&I 15630.1**
(Amended)
(Ch. 408) (AB 611)
(Effective 1/1/2018)

Authorizes a mandated reporter of elder or dependent adult financial abuse to **not** honor a power of attorney as to an attorney-in-fact (i.e., a person granted authority by the elder/dependent adult to act as attorney) if the mandated reporter has made a report to an adult protective services agency or to a local law enforcement agency that the elder/dependent adult may be subject to financial abuse by that attorney-in-fact. Thus, a bank could prevent an individual reported for suspected finance abuse from removing funds from an elder or dependent adult's account, even if that individual has power of attorney.

[Existing Probate Code 4014 defines "attorney-in-fact" as a person granted authority to act for the principal in a power of attorney.]

**W&I 18961.5**
(Amended)
(Ch. 581) (AB 597)
(Effective 1/1/2018)

Authorizes the Counties of Santa Clara, Santa Cruz, and San Mateo to jointly establish a computerized database to share information about families at risk for child abuse and neglect, and for research purposes. Permits the three counties to enter into a memorandum of understanding with a research entity. The purpose of the research is to identify ways to better serve families and prevent abuse and neglect. Requires researchers to protect personal identifying information from improper use and disclosure.

[This section continues to permit each county to establish its own computerized database system to allow provider agencies to share information about families at risk for child abuse and neglect.]

**W&I 18999.8**
(New)
(Ch. 544) (AB 210)
(Effective 1/1/2018)

Creates a new Chapter 18 in Part 6 of Division 9 of the Welfare & Institutions Code, entitled "Homeless Multidisciplinary Personnel Team."

Authorizes a county to establish a homeless adult and family multidisciplinary personnel team with the goal of facilitating the identification, assessment, and linkage of homeless people to housing and supportive services, and to allow provider agencies to share confidential information in order to coordinate housing and supportive services to ensure continuity of care.

Defines "homeless adult and family multidisciplinary personnel team" as a team of two or more persons who are trained in the identification and treatment of homeless adults and families, and qualified to provide a broad range of services related to homelessness.

Permits the team to include police officers, probation officers, or other law enforcement agents; mental health and substance abuse personnel; the attorney representing the homeless person in a criminal matter; medical personnel; social workers; veterans service providers; domestic violence victim service organizations; a public or private school teacher, administrator, or certified pupil personnel employee; and homeless services provider agencies and personnel.

Sets forth provisions relating to the disclosure and exchange of information, confidentiality, and the protocols each county must develop.

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# Appendix

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*Updated as of January 1, 2018*

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| *16721 | Discriminatory Exclusion From a Business Transaction |
| *16721.5 | Discriminatory Letters of Credit or Contracts For Goods or Service |
| *16727 | Lease or Sale of Goods Under Agreement With Lessee or Purchaser Not to Use or Deal in Competitor's Goods |
| 16755(a)(2) | Conspiracy Against Trade |
| 17511.9 | Telephonic Sellers |
| *17550.14; *17550.15(b); (c); 17550.19 | Sellers of Travel |
| 22430 | Manufacture or Sale of Deceptive Identification Document |
| *25372 | Improper Disposal By ABC Agent |
| *25603 | Bringing Alcoholic Beverages Into Prison, Jail, Etc. |
| 25618 | Alcoholic Beverages; Regulatory Provisions |

**Civil Code**

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|---|---|
| 892 | Rent Skimming |
| *1695.6; 1695.8 | Violations of Home Equity Sales Contracts By Equity Purchaser |
| *1812.116(b); (c); 1812.125 | Contracts Discount Buying Services |
| 1812.217 | Contracts For Seller Assisted Marketing Plans |
| *2945.4; 2945.7 | Mortgage Foreclosure Consultants |
| 2985.2 | Encumbering Realty Sold Under Unrecorded Sales Contract in Amount Exceeding Amount Due Under Contract Without Consent |
| 2985.3 | Appropriation By Seller of Payment By Buyer When Payment By Seller on Obligation Secured By Encumbrance on Realty Due |

**Corporations Code**

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| 2255 | Receipt or Possession of Corporate Property, or Destruction, Falsification or Alteration of Documents, or Omission of Material Entry With Intent to Defraud |
| 2256 | Exhibit of False, Forged, or Altered Instrument of Evidence to Public Officer or Board With Intent to Deceive |
| 6811 | Nonprofit Public Benefit Corporations—Fraudulent Distributions |
| 6814 | Nonprofit Public Benefit Corporations—Deception of a Public Officer Examining Organization of Corporation |
| 8812 | Nonprofit Mutual Benefit Corporations—Fraudulent Distributions |
| 8815 | Nonprofit Mutual Benefit Corporations—Deception of Public Officer Examining Organization of Corporation |
| 12672 | Consumer Cooperative Corporations—Distribution of Assets With Design of Defrauding Creditors or Members, Etc. |
| 12675 | Consumer Cooperative Corporations—Knowingly Exhibiting False, Forged, or Altered Books, Papers, Etc. to Public Examiner With Intent to Deceive |
| 22002 | Unincorporated Associations—Fraudulent Documents and Accounts |
| 25540 | Corporate Securities Law of 1968 |
| 22541 | Corporate Securities Law of 1968—Use of Device, Scheme, or Artifice to Defraud; Fraudulent Practices |
| *27101; 27202 | Security Owners Protection |
| 28880 | Capital Access Companies |
| *29100-29101; 29102 | Bucket Shop Law |
| *29520; *29535–29538; 29550 | Commodities, Willful Violations |
| 31410 | Franchise Investment Law |
| 31411 | Willful Employment of Device, Scheme, or Artifice to Defraud or Willful Engagement in Practice That Operates as Fraud or Deceit |
| 35301 | Subversive Organization Registration Law, Violation By Officer or Director |

**Education Code**

| | |
|---|---|
| 7054 | Political Activities of School Officer and Employees, Use of District Property |

**Elections Code**

| | |
|---|---|
| 18002 | Failure to Perform, Violation of Duty |
| 18100 | Voter Registration |
| 18101 | Willful Registration of a Fictitious Person or Person Not Requesting Registration |
| 18102 | Voter Registration, Deputy or Registration Election Official |
| 18106 | Voter Registration, Tampering With Party Affiliation Declaration |
| 18200 | Nomination of Candidates, Subscription of False Names to Petitions |
| 18201 | Nomination of Candidates, False Making, Defacement of, or Destruction of Nomination Papers |
| 18203 | Nomination of Candidates, Filing or Submission of False Nomination Papers or Declaration of Candidacy |
| 18204 | Nomination of Candidates, Suppression of Nomination Papers or Declarations of Candidacy |
| 18205 | Nomination of Candidates, Payment of Consideration to Induce a Person Not to Become or to Withdraw as a Candidate |
| 18310 | Political Party Caucuses, Consideration For Voting or Agreeing to Vote Against Nominees or Candidates |
| 18311 | Political Party Caucuses, Bribes—Giving or Receiving |
| 18400 | Manufacture, Use, or Furnishing of Imitation Ballot Paper or Ballot Cards |
| 18403 | Receipt or Examination of, or Solicitation of Voter to Show Voted Ballot |
| 18502 | Corruption of the Voting Process, Interference With Officers or Voters |
| 18520 | Corruption of Voters, Offer or Promise of Office, Place, or Employment to Induce Other to Vote or Refrain From Voting |
| 18521 | Corruption of Voters, Gift or Other Consideration to Induce Person to Vote or Refrain From Voting |
| 18522 | Corruption of Voters, Payment or Offer to Pay, Lend, or Contribute to Induce Person to Vote or Refrain From Voting |
| 18523 | Corruption of Voters, Bribery, Payment of Consideration With Intent to Bribe |
| 18524 | Corruption of Voters, Boarding, Lodging, or Maintaining Persons With Intent to Secure Vote or Induce Voting |
| 18540 | Intimidation of Voters, Use of Force, Violence, Tactic of Coercion, or Intimidation |
| 18544(a) | Intimidation of Voters, Persons in Possession of a Firearm or Uniformed Peace Officers or Security Guards Stationed Near Polling Place Without Authorization |
| 18545 | Intimidation of Voters—Hiring or Arranging For Another in Possession of Firearm or Uniformed Peace Officer or Security Guard to Be Stationed Near Polling Place |
| 18560 | Corruption of Voting—Fraudulent Voting |

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| 18561 | Corruption of Voting—Procuring or Advising Vote of Unqualified Persons; Aiding or Abetting Offenses |
| 18564 | Corruption of Voting—Tampering With or Damaging Voting Machines; Interference With Secrecy of Voting; Unauthorized Making or Possession of Keys; Willful Substitution of Forged Source Codes |
| 18566 | Corruption of Voting—Forging or Counterfeiting Election Returns |
| 18567 | Corruption of Voting—Altering Returns |
| 18568 | Corruption of Voting—Offenses at the Polls |
| 18573 | Corruption of Voting—Deceiving Voter Unable to Read; Causing Voter to Vote For Different Person Than Intended Through Fraud |
| 18575 | Corruption of Voting—Unlawfully Acting as Election Officers; Acting in Unauthorized Capacity |
| 18578 | Corruption of Voting—Vote By Mail Ballot; Fraudulent Signature |
| 18611 | Initiative, Referendum, and Recall—False or Ineligible Signatures on Petition—Circulation With False, Forged, or Fictitious Names |
| 18613 | Initiative, Referendum, and Recall—False or Ineligible Signatures on Petition—Fictitious Names or Signing Name of Another |
| 18614 | Initiative, Referendum, and Recall—False or Ineligible Signatures on Petition—Filing With False Signatures |
| 18620 | Initiative, Referendum, and Recall—Improper Payments to Prevent Petition Circulation and Filing; Soliciting or Obtaining Money or Thing of Value For Inducing Proponents to Abandon Petition |
| 18621 | Initiative, Referendum, and Recall—Improper Payments to Prevent Petition Circulation and Filing; Receipt By Proponent of Consideration For Abandoning Petitions |
| 18640 | Initiative, Referendum, and Recall—Refusal of Circulators to Turn in Petitions—Failure to Surrender Petitions to Proponents |
| 18660 | Initiative, Referendum, and Recall—False Affidavits Concerning Petitions; False Affidavits |
| 18661 | Initiative, Referendum, and Recall—False Affidavits Concerning Petitions; Public Officers; False Returns, Certifications, or Affidavits |
| 18680 | Initiative, Referendum, and Recall—Misuse of Campaign Funds Misappropriation; Expenses Within Due and Lawful Execution of the Trust |

**Financial Code**

| | |
|---|---|
| 3510 | International and Foreign Banking and Financing—Control of Commodity Prices |
| 3532 | International and Foreign Banking and Financing Corporations—Misrepresentation of State Liability For Bonds or Obligations of Corporation |
| 5300 | Savings Association Law, Violation as a Public Offense |
| 5302(a); (b) | Savings Association Law—Involvement of Specified Persons in Affairs of Association |
| 5303(a); (b); (c) | Savings Association Law—Making or Publishing False or Untrue Material "Intending to Deceive" |

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| 5304(a); (b); (c) | Savings Association Law—Corrupt Influence of Institution-Affiliated Party |
| 5305 | Savings Association Law—Misapplication of Association Funds Institution-Affiliated Party |
| 5307 | Savings Association Law—False Statements or Rumors Circulated to Injure Business Reputation, Financial Condition, or Standing |
| *6525.5(a); (b) | See Section 5302(a) |
| 10004 | Savings Association Law—Foreign (National) Savings Companies—Selling, Disposing, Taking, or Soliciting Savings Accounts |
| 12102 | Check Sellers, Bill Payers, and Proraters—Application and Punishment |
| 14752 | Credit Union Management and Operation, Effect on Exercise of Administrative Authority |
| *14753 | Receipt of Payment For Favors By Director, Officer, or Employee |
| *14754 | Knowing Overdrafts By Director, Officer, or Employee |
| *14755 | Unlawful Receipt or Possession of Credit Union Property; Failure to Make Entry in Books |
| *14756 | False Statements; Refusal or Neglect to Make Entries; Refusal to Allow Inspections |
| *14758 | Unlawful Deposits of Funds |
| *14759 | False or Untrue Statements Concerning Business or Affairs of Credit Union; Alteration, Abstraction, Concealment, or Destruction of Book, Record, Report, or Statement |
| 17700 | Escrow Agents Crimes |
| 18349.5(i) | Industrial Loan Companies |
| 18435 | Industrial Loan Companies, Prohibited Practices |
| *18445 | Unlawful Commissions |
| *18446 | Unlawful Possession of Company Property; Omission of Entries in Books and Records |
| *18447 | Making or Publishing False Entries in Books or Records, Reports or Statements; Refusal to Make Proper Entries or Allow Inspection |
| *18453 | Unauthorized Sale of Investment Certificates |
| *18454 | Falsification of Books or Records; Omission to Make New Entries; Alteration or Concealment of Books or Records |
| *18457 | Abstraction or Misapplication of Money, Funds, or Property |
| 22753 | California Finance Lenders Law, Consumer Loan |
| *22780 | California Finance Lenders Law, Commercial Loan |
| 31880 | Business and Industrial Development Corporations |
| 50500 | California Residential Mortgage Lending Act—Willful Violation of Code Provisions, Rules, or Orders |

**Fish and Game Code**

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|---|---|
| 12004(b) | Punishment For Violation of Fish and Game Code Sections 8685.5–8685.7 or 8688 |
| 12005(a) | Punishment For Sale of Bear Meat or Other Parts |

**Food and Agricultural Code**

| | |
|---|---|
| *17551; 17701 | Animals, Unlawful Marking and Branding |
| 18932 | Slaughtered Animals, Meat and Poultry Inspection |
| 18933 | Slaughtered Animals, Adulteration of Meat, Meat Food Product, or Poultry Product With Product of Animal That Has Died |
| 19440 | Slaughtered Animals, Horse Meat and Pet Food |
| 19441 | Slaughtered Animals, Horse Meat and Pet Food Adulteration |
| 80174 | California Desert Native Plants, Second Conviction |

**Government Code**

| | |
|---|---|
| 1368 | Appointments, Nominations, Commissions, and Oaths of Public Officers and Employees |
| 1369 | Public Officers and Employees, Advocating Overthrow of Government |
| 3108 | Oath or Affirmation of Allegiance For Disaster Service Workers and Public Employees, False Statement as Perjury |
| 3109 | Oath or Affirmation of Allegiance For Disaster Service Workers and Public Employees, Advocating or Affiliating With Organization That Advocates Overthrow of Government |
| *5951; 5954 | Public Bonds and Obligations—Fractional Interest in Local Agency Obligations |
| 6200 | Public Records, Documents, and Certificates—Custodial Officers; Theft, Destruction, Alteration, Falsification |
| 6201 | Public Records, Documents, and Certificates—Non-custodial Officers; Theft, Destruction, Alteration, Falsification |
| 8670.64 | Oil Spill Response and Contingency Planning |
| 9056 | Crimes Against the Legislative Power—Soliciting or Accepting Pay For Opposing Measure After Having Secured Its Introduction |
| 27443 | County Public Administrators—Conflicts of Interest |
| 51018.7(a) | Powers and Duties of Cities and Counties—the Elder California Pipeline Safety Act of 1981; Sign or Marker Offenses |

**Harbors and Navigation Code**

| | |
|---|---|
| 264 | Mismanagement of Steam Passenger Vessel Causing Bursting of Boiler |
| *302 | Sinking or Setting Adrift of Vessel of More Than 10 Tons |
| *304 | Sinking or Injuring Vessels or Cargo |
| *305 | Offenses By Persons Other Than Person in Command of Vessel |
| *306 | Fraudulent Documents |
| 310 | Navigation Offenses—Felony Violations |
| *655(f) | Operation Under Influence of Alcoholic Beverage or Drug; Actions Causing Personal Injury |
| *656.2 | Failure to Perform Required Duties of Operator of Vessel Involved in Accident Resulting in Personal Injury |
| *656.3 | Failure to Perform Required Duties of Operator of Vessel Involved in Accident Resulting in Death or Disappearance of Any Person |
| 668(c)(1); (g) | Operation and Equipment of Vessels |

**Health and Safety Code**

| | |
|---|---|
| 1390 | Licensing Provisions—Health Care Service Plans |
| 1522.01(c) | Licensing Provisions—California Community Care Facilities Act—Registration as Sex Offender; Disclosure By Community Care Facility Client; Operator Disclosure; Improper Use |
| 1621.5(a) | Licensing Provisions—Human Whole Blood, Human Whole Blood Derivatives, and Other Biologics—Donation of Blood, Etc., By a Person Knowing He or She Has AIDS or Has Tested Reactive to Etiologic Agent of AIDS or Its Antibodies; Exempt Persons; Disclosure of Test Results in Criminal Investigation |
| 7051 | Dead Bodies—Unlawful Removal of Human Remains or Foreign Materials |
| 7051.5 | Dead Bodies—Unlawful Removal or Possession of Dental Gold or Silver, Jewelry, or Mementos |
| 8113.5(b)(2); (b)(3) | Cemeteries—Requirements For Burials—Interment of More Than One Body in Single Plot or Occupied Grave |
| 8785 | Private Cemeteries—Violations Relating to Collection, Investment, or Use of Endowment Care or Special Care Funds |
| 11100(f)(2) | Uniform Controlled Substances Act—Regulation and Control—Transactions Reported; Offenses Involving Minors |
| 11100.1(b)(2) | Uniform Controlled Substances Act—Regulation and Control—Obtaining Substances From Sources Outside State |
| 11105 | Uniform Controlled Substances Act—Regulation and Control—False Statement in Connection With Report or Record |
| 11153 | Uniform Control Substances Act—Controlled Substances Prescriptions; Issuance; Filling; Legality |
| 11153.5 | Uniform Controlled Substances Act—Furnishing Controlled Substances For Other Than Legitimate Medical Purposes |
| 11162.5(a) | Uniform Controlled Substances Act—Requirements of Prescriptions—Official Blanks; Counterfeit |
| 11350(a) | Uniform Controlled Substances Act—Offenses Involving Controlled Substances Formerly Classified as Narcotics—Possession of Designated Controlled Substances if Defendant Has a Specified Prior Conviction |
| 11350.5 | Possessing a Controlled Substance Specified in 11054(e)(3) (GHB) With the Intent to Commit Sexual Assault |
| 11351 | Uniform Controlled Substances Act—Offenses Involving Substances Formerly Classified as Narcotics—Possession or Purchase For Sale of Designated Controlled Substances |
| 11351.5 | Uniform Controlled Substances Act—Possession of Cocaine Base For Sale |
| 11352(a); (b) | Uniform Controlled Substances Act—Transportation, Sale, Giving Away, Etc., of Designated Controlled Substances |
| 11353.5 | Uniform Controlled Substances Act—Controlled Substances Given or Sold to Minors; Locations Where Children Are Present; Comparative Ages of Defendant and Minor |
| 11353.6(c) | Uniform Controlled Substances Act—Juvenile Drug Trafficking and Schoolyard Act of 1988 |

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| 11355 | Sale or Furnishing Substance Falsely Represented to Be a Controlled Substance; Punishment |
| 11358(d) | Cultivation or Harvesting of More Than Six Cannabis Plants by an Adult Age 18 or Older Who Has a Specified Prior Conviction or Where the Offense was Committed in a Way That Hurt the Environment |
| 11359(c) | Possession of Cannabis For Sale by an Adult Age 18 or Older Who Has a Specified Prior Conviction or Where the Offense is Committed in a Particular Way |
| 11359(d) | Possession of Cannabis For Sale by an Adult Age 21 or Older Where the Offense Involves Hiring or Using a Person Age 20 or Younger |
| 11360(a)(3) | Selling, Transporting for Sale, Importing, Furnishing, etc., Cannabis by an Adult Age 18 or Older Who Has a Specified Prior Conviction or Where the Offense Involves a Minor, or Where the Offense Involves the Importation or Transportation of More Than One Ounce of Cannabis or More Than Four Grams of Concentrated Cannabis |
| 11362.3(a)(6) | Manufacturing Concentrated Cannabis Using a Volatile Solvent (punishable pursuant to H&S 11362.4(d) and H&S 11379.6) |
| 11366.5(a); (b); (c) | Renting, Leasing, or Making Available For Use a Building, Room, Space, or Enclosure For Unlawful Manufacture, Storage, or Distribution of Controlled Substance; Allowing Building, Room, Space, or Enclosure to Be Fortified to Suppress Law Enforcement Entry to Further Sale of Specified Controlled Substances |
| 11366.6 | Utilizing Building, Room, Space, or Enclosure Designed to Suppress Law Enforcement Entry in Order to Sell, Manufacture, or Possess For Sale Specified Controlled Substances |
| 11366.8(a); (b) | Construction, Possession, or Use of False Compartment With Intent to Conceal Controlled Substance |
| 11370.6(a) | Possession of Moneys or Negotiable Instruments in Excess of $100,000 Involved in Unlawful Sale or Purchase of Any Controlled Substance |
| 11371 | Uniform Controlled Substances Act—Prescription Violations; Inducing a Minor to Violate Provisions |
| 11371.1 | Uniform Controlled Substances Act—Fraud and False Representation; Inducing Minor to Violate Provisions |
| 11374.5(a) | Manufacturer Violating Hazardous Substance Disposal Law, Disposal of Controlled Substance or Its Precursor |
| 11377(a) | Uniform Controlled Substances Act—Unauthorized Possession if Defendant Has a Specified Prior Conviction |
| 11377.5 | Possessing a Specified Controlled Substance [GHB (H&S 11056(c)(11), Ketamine, Flunitrazepam (aka Rohypnol)] With the Intent to Commit Sexual Assault |
| 11378 | Uniform Controlled Substances Act—Possession For Sale |
| 11378.5 | Uniform Controlled Substances Act—Possession For Sale of Designated Substances Including Phencyclidine |
| 11379(a); (b) | Uniform Controlled Substances Act—Offenses Involving Substances Formerly Classified as Restricted Dangerous Drugs—Transportation Sale, Furnishing, Etc. |

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| 11379.5(a); (b) | Uniform Controlled Substances Act—Offenses Involving Substances Formerly Classified as Restricted Dangerous Drugs—Transportation, Sale, Furnishing, Etc. of Designated Substances Including Phencyclidine |
| 11379.6(a); (c) | Uniform Controlled Substances Act—Manufacturing, Compounding, Converting, Producing, Deriving, Processing, or Preparing By Chemical Extraction or Independently By Means of Chemical Synthesis Enumerated Controlled Substances |
| 11380.7(a) | Uniform Controlled Substances Act—Trafficking Violation on Grounds of or Within 1,000 Feet of Drug Treatment Center, Detoxification Facility, or Homeless Shelter |
| 11382 | Sale or Furnishing Substances Falsely Represented to Be Controlled; Punishment |
| 11383(a)–(d) | Uniform Controlled Substances Act—Possession With Intent to Manufacture Phencyclidine (PCP) or Any of Its Analogs |
| 11383.5(a)–(f) | Uniform Controlled Substances Act—Possession With Intent to Manufacture Methamphetamine or N-ethylamphetamine |
| 11383.6(a)–(d) | Uniform Controlled Substances Act—Possession With Intent to Sell, Transfer, or Furnish Chemicals to Persons Having Intent to Manufacture Phencyclidine (PCP) |
| 11383.7(a)–(f) | Uniform Controlled Substances Act—Possession With Intent to Sell, Transfer, or Furnish Chemicals to Persons Having Intent to Manufacture Methamphetamine or N-ethylphetamine |
| *12305; 12401 | Unlawful Possession of Explosives |
| 12700(b)(3)–(4) | Explosives—Fireworks and Pyrotechnic Devices—Offenses |
| 17061(b) | Willful Violation of Employee Housing Act Causing Injury |
| 18124.5 | Manufactured Housing—Registration and Titling of Manufactured Homes, Mobile Homes, and Commercial Coaches—Alteration, Forgery, Counterfeiting, or Falsifying Documents or Decals |
| 25180.7(c) | Hazardous Waste Control—Designated Government Employee; Disclosure of Information; Failure to Disclose |
| 25189.5(b)–(e) | Hazardous Waste Control—Disposal, Treatment, or Storage at, or Transportation to Facilities Without Permits or at Unauthorized Points |
| 25189.6(a); (b) | Hazardous Waste Control—Knowingly or With Reckless Disregard, Treating, Handling, Transporting, Disposing, or Storing in Manner Causing Unreasonable Risk; Public Offense |
| 25189.7(b); (c) | Hazardous Waste Control—Burning or Incineration at Unpermitted Facility or Unauthorized Point |
| 25190 | Hazardous Waste Control—Violators Guilty of Misdemeanor |
| 25191(a)(2) | Hazardous Waste Control—Acts Subject to Fine or Imprisonment; Second Conviction |
| 25395.13(b) | Hazardous Substance Account—Prohibited Acts |
| 25515(a) | Hazardous Materials Release Response Plans and Inventory |
| 25541 | Hazardous Materials Release Response Plans and Inventory—False Material Statements, Representations, or Certifications in Documents |
| 42400.3(c) | Non-vehicular Air Pollution Control—Willful and Intentional Emission of Air Contaminant; Causing GBI or Death |

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| 44209 | Vehicular Air Pollution Control—Used Direct Import Vehicles—Falsification of Test Records or Reports |
| 100895 | Regulation of Laboratory Services—Environmental Laboratories Punishment; Subsequent Violations; Effect of Suspension, Revocation, or Withdrawal of Accreditation |
| 109335 | Drugs, Devices, and Cosmetics—Treatment of Cancer and Other Serious Diseases—Failure to Comply With Regulations Adopted Under Specified Articles |
| 115215(b)(1)–(2); (c)(1)–(2) | Radiation Control Law—Unauthorized Disposal or Transportation |
| 116730(b) | Drinking Water—California Safe Drinking Water Act |
| 116750(a); (b) | Tampering With Public Water System |
| 118340(a);(c);(d) | Medical Waste—Transportation, Storage, Treatment, and Disposal |
| 131130 | Public Health—Failure to Comply With Order to Remove From Sale Any Product Linked to Outbreak of Illness, Injury, or Product Tampering |

**Insurance Code**

| | |
|---|---|
| 700(b) | The Business of Insurance—Certificate of Authority—Admittance Required; Exception For State Compensation Insurance Fund; Compliance; Hearings; Issuance of Certificate |
| 750 | The Business of Insurance—Unlawful Referrals |
| 833 | The Business of Insurance—Issue of Securities—Persons |
| 1043 | The Business of Insurance—Proceedings in Cases of Insolvency and Delinquency—Power to Mutualize, Reinsure, or Rehabilitate Insurer; Employment of Commissioner or Deputies |
| 1215.10(d); (e) | The Business of Insurance—Incorporated Insurers—Insurance Holding Company System Regulatory Act |
| *1760.5 | Willful Violation of Placement Limitations |
| *1761 | Willful Placement of Insurance With Non-Admitted Insurer |
| *1763 | Willful Violation of Conditions to Placement of Insurance |
| *1764.1 | Willful Violation of Disclosure Requirements For Placement of Insurance |
| *1764.2 | Willful Violation of Prerequisites to Placement of Insurance |
| *1764.3 | Willful Violation of Requirements to Deliver Policy |
| *1764.4 | Willful Failure to Authenticate as Specified |
| 1764.7 | The Business of Insurance—Surplus Line Brokers—Violation; Public Offense |
| *1765.1 | Willful Violation of Requirements For Placing Insurance Providing Coverage in Mexico |
| *1765.2 | Willful Violation of Trust Requirements For Placing Insurance Providing Coverage in Mexico |
| *1767 | Willful Failure to Maintain Office in California |
| *1780 | Willful Failure to Notify Commissioner of Change of Address |
| 1814 | Bail Licenses, Qualification and Licensing |
| 1871.4 | The Insurance Frauds Prevention Act, False and Fraudulent Claims |

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| 10192.165(e) | Medicare Supplement Policies, Knowing or Intentional Violation |
| *11160; 11161 | Prohibited Compensation Payments |
| 11162 | Fraternal Benefit Societies, Borrowing Funds or Guaranteeing Loans From Society |
| 11163 | Fraternal Benefit Societies, Consideration For Procuring Loan |
| 11760(a) | False or Fraudulent Statement For Purpose of Reducing Premium, Rate, or Cost of Workers' Compensation Insurance |
| 11880(a) | State Compensation Insurance Fund, False or Fraudulent Statement For Purpose of Reducing Premium, Rate, or Cost of Workers' Compensation Insurance |
| 12660 | Land Value Insurance Prohibited |
| 12845 | Classes of Insurance—Service Contracts—Violations of Sections 12815, 12830, and 12835 |

**Labor Code**

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|---|---|
| 227 | Health, Welfare, or Pension Fund or Vacation Plan, Failure to Make Agreed Payments |
| 6425(c) | Violation Causing Death or Impairment of Body of Employee |
| 7771 | Mismanagement of Steam Boilers Causing Death |

**Military and Veterans Code**

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| 145 | State Militia—Violation of Martial Law |
| 1318 | Veterans Buildings, Memorials, and Cemeteries—Vandalism |
| *1670; *1671; 1672(b) | National Defense—Sabotage Prevention Act of 1950—Violation of Sections 1670–1671 Not Resulting in Death or GBI |
| 1673 | National Defense—Sabotage Prevention Act of 1950, Attempt to Commit Crime |
| *1674 | Conspiracy to Commit Sabotage |

**Penal Code**

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|---|---|
| *32; 33 | Accessories to Crime |
| 38 | Misprision of Treason |
| 67.5(b) | Bribes; Giving or Offering to Ministerial Officers, Employees, or Appointees |
| 69 | Obstructing or Resisting Executive Officers in Performance of Their Duties |
| 71 | Threatening Public Officers and Employees and School Officials |
| 72 | Fraudulent Claims |
| 72.5(a); (b) | Seeking Public Funds For Reimbursement of Costs For Attendance at Political Functions |
| 76(a) | Threatening Certain Public Officials, Appointees, Judges, Staff, or Their Immediate Families; Intent and Apparent Ability to Carry Out Threat |
| 95 | Corrupt Influencing of Jurors, Arbitrators, Umpires, or Referees |
| 95.1 | Threatening Juror |
| 96 | Misconduct of Jurors, Arbitrators, Umpires, or Referees |
| 99 | Bribery and Corruption—Superintendent of State Printing; Prohibited Interest in Contracts |

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| 107 | Escapes and Aiding Therein—Public Training School, Reformatory, or County Hospital, Felony Prisoners |
| 109 | Escapes and Aiding Therein—Public Training School or Reformatory |
| 113 | Manufacture, Distribution, or Sale of False Citizenship or Resident Alien Documents |
| 114 | Use of False Citizenship or Resident Alien Documents |
| 115.1(b); (f) | Forging, Stealing, Mutilating, and Falsifying Judicial and Public Records and Documents—Campaign Advertisements; Use of Unauthorized Signatures |
| *118; *118a; 126 | Perjury, False Affidavit |
| *127 | Subornation of Perjury |
| *129 | False Return Required to Be Under Oath |
| 136.7 | Sexual Offender Revealing Name and Address of Witness or Victim With Intent That Another Prisoner Initiate Harassing Correspondence |
| 137(b) | Influencing Testimony or Information Given to a Law Enforcement Official |
| 139 | Threat to Use Force or Violence Upon Witnesses, Victims, or Their Immediate Families |
| 140(a) | Threatening Witnesses, Victims, or Informants |
| 141(c) | Prosecuting Attorney Intentionally and In Bad Faith Altering or Withholding Physical Evidence or Relevant Exculpatory Information With Specific Intent That it be Concealed, Destroyed, or Fraudulently Represented as Original Evidence |
| 142(a) | Officer Refusing to Receive or Arrest Person Charged With Offense; Designation of Facilities and Classes of Prisoners By Sheriff |
| 146a(b) | Impersonating Officer |
| 146e(b) | Unlawful Publication, Dissemination, or Disclosure of Residence Address or Telephone Number of Peace Officer, Non-sworn Police Dispatchers, Employees of City Department or County Sheriff's Office, or Public Safety Official; Inclusion of Family Members |
| 148(b); (c); (d) | Resisting, Delaying, or Obstructing Officer or Emergency Medical Technician; Interference With Public Safety Radio Communications; Removal or Taking of Weapon |
| 148.1(a)–(d) | False Report of Secretion of Explosive or Facsimile Bomb; Sending or Placing a False or Facsimile Bomb |
| 148.3(b) | False Report of Emergency; Reports of Missing Children |
| 148.4(b) | Fire Protection Equipment; Fire Alarms; Tampering With Systems; False Alarms |
| 148.10(a) | Resisting Peace Officer Resulting in Death or Serious Bodily Injury to Peace Officer |
| 149 | Officer Unnecessarily Assaulting or Beating Any Person |
| 153 | Compounding or Concealing Crimes |
| 156 | False Pretenses Regarding Birth of Child to Intercept Inheritance |
| 157 | Substitution of One Child For Another |
| 168(a) | Search Warrant or Warrant of Arrest For Felony; Disclosure Prior to Execution |

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| 171c(a)(1) | Loaded Firearms; Bringing Into or Possession Within State Capitol, Legislative Offices, Etc.; Possession of Enumerated Prohibited Weapons |
| 171d | Loaded Firearms; Taking Into, or Possession of, Within Governor's Mansion or Residence of Other Constitutional Office, Etc. |
| 181 | Slavery, Infringement of Personal Liberty; Purchase of Custody |
| 182(a) | Conspiracy |
| *182.5 | Participation in Criminal Street Gang; Punished as Conspiracy; Except Crime Punishable By Life or Death |
| 186.10 | Money Laundering |
| 186.28(a) | Firearms; Supply; Sell or Give Possession; Participation in Criminal Street Gangs |
| 191.5(b); (c)(2) | Vehicular Manslaughter While Intoxicated |
| *192(b); 193(b) | Involuntary Manslaughter; Punishment |
| *192.5(b); 193.5(b) | Manslaughter Committed During Operation of Vessel |
| 210.5 | False Imprisonment For Purposes of Protection From Arrest or Use as Shield |
| 217.1(a) | Assault on Public Officials |
| 218.1 | Attempts to Kill—Obstructing Railroad Track |
| 219.1 | Throwing Missiles at Common Carrier Vehicles With Intent to Wreck or Do Bodily Harm |
| *236; 237(a) | False Imprisonment |
| 241.1 | Assault Upon Custodial Officer |
| 241.4 | Assault Upon Peace Officer of School District |
| 241.7 | Assault Against Jurors |
| 243(c)(1); (c)(2) | Battery |
| 243(d) | Battery with Serious Bodily Injury [*note that 243(d) is a serious felony and is not subject to 1170(h) if the defendant personally inflicted the serious bodily injury*] |
| 243.1 | Battery Against Custodial Officer In Performance of Duties |
| 243.6 | Battery Against School Employee; Retaliation For Performance of Duties |
| 244.5(b); (c) | Assault With Stun Gun or Less Lethal Weapon |
| 245.6(a); (d) | Hazing |
| 246.3(a) | Discharging Firearm In Grossly Negligent Manner [*note that 246.3 is a serious felony and is not subject to 1170(h) if the defendant personally uses/ discharges the firearm*] |
| 247.5 | Discharge of Laser at Aircraft |
| 261.5(c); (d) | Unlawful Sexual Intercourse With a Person Under 18 |
| 265 | Abduction For Marriage or Defilement |
| 266b | Abduction to Live in Illicit Relation |
| 266g | Placing or Permitting Placement of Wife In House of Prostitution |
| 271 | Desertion of Child Under 14 With Intent to Abandon |
| 271a | Abandonment or Failure to Maintain Child Under 14; False Representation That Child is Orphan |
| 273d | Corporal Punishment or Injury of Child |
| 273.6(a); (d); (e) | Intentional and Knowing Violation of Court Order to Prevent Harassment, Disturbing the Peace, or Threats or Acts of Violence |

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| 273.65(a); (d); (e) | Intentional and Knowing Violations of Restraining and Protective Orders Relating to Minors Adjudged to Be Dependent Children of the Juvenile Court |
| 278 | Non-custodial Persons; Detainment or Concealment of Child From Legal Custodian |
| 278.5 | Deprivation of Custody of Child or Right to Visitation |
| 280(b) | Out-of-State Removal of Child Involved in Adoption Proceedings |
| 284 | Marrying Husband or Wife of Another |
| 290.4(c)(1) | Five-Year Enhancement For Using Disclosed Sex Offender Information to Commit a Felony |
| 290.45(e)(1) | Five-Year Enhancement For Using Information Disclosed By Law Enforcement About a Sex Offender In Order to Commit a Felony |
| 290.46(j)(2) | Five-Year Enhancement For Using Information Disclosed By Megan's Law Sex Offender Website in Order to Commit a Felony |
| *311.2(a) | Bringing, Sending, or Possessing Obscene Matter With Intent to Distribute or Exhibit, With Specified Prior Conviction *(punishment provisions of P.C. 311.9(a) are amended)* |
| *311.4(a) | Employing or Using a Minor to Engage in or Simulate Sexual Conduct *(punishment provisions of P.C. 311.9(b) are amended)* |
| *311.5 | Advertising Obscene Matter, With a Specified Prior Conviction *(punishment provisions of P.C. 311.9(a) are amended)* |
| *311.7(c) | Requiring Acceptance of Obscene Matter As Condition of Receiving Other Merchandise, With Two Specified Priors *(punishment provisions of P.C. 311.9(c) are amended)* |
| 311.9(a); (b); (c) | Obscene Matter |
| *313.1(a); (b); (c); (f) | Crimes Relating to the Sale, Rental, or Alteration of Video Recordings *(punishment provisions of P.C. 313.4 are amended)* |
| 313.4 | Harmful Matter |
| 337b | Sporting Events; Offering or Attempting to Bribe Player |
| 337c | Sporting Events; Player Accepting or Attempting to Accept Bribe |
| 337d | Offer or Attempt to Bribe Sporting Event Official |
| 337e | Sporting Event Official Receiving or Attempting to Receive Bribe |
| 337f(a) | Horse Races; Stimulating or Depressing Horse By Drug or Device; Entering Drugged Horse In Race; Entering Horse Under Fictitious Name |
| 337.3 | Horse Racing—Touting; Use of Name of Official |
| 337.7 | Horse Racing—Credentials or Licenses; Unauthorized Possession, Forgery, or Simulation |
| 350(a)(2); (b); (c) | Counterfeit of Registered Mark |
| 367f | Sale of Human Organ For Transplantation; Removal of Organ With Knowledge of Sale |
| 367g | Assisted Reproduction Technology; Unauthorized Use or Implantation of Sperm, Ova, or Embryos |
| 368(d) | Theft or Fraud of Elder/Dependent Adult By Non-Caretaker |
| 368(e) | Theft or Fraud of Elder/Dependent Adult By Caretaker |
| 368(f) | False Imprisonment of Elder or Dependent Adult |

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| 374.2 | Malicious Discharge, Dumping, Etc. of Any Substance Capable of Causing Substantial Damage to Operation of Public Sewer Sanitary Facility or Unauthorized Deposit of Any Other Substance in Commercial Quantities Into Sanitary Sewer Facility |
| 374.8(b) | Hazardous Substances; Deposit on Roads, Railroad Rights-of-Way, Lands of Another, or State Waters |
| 375(a); (d) | Places of Public Assemblage; Injurious, Nauseous, or Offensive Substances; Use or Preparation |
| 382.5 | Dinitrophenol; Sale, Administration, or Prescription For Human Consumption |
| 382.6 | Eyebrow and Eyelash Dyes; Sale, Administration, or Prescription of Certain Chemicals |
| 386(a); (b) | Fire Protection System; Inoperable or Impaired Operation |
| 387(a) | Corporations; Limited Liability Companies; Managers; Serious Concealed Dangers; Disclosure; Manager Liability |
| 399.5(a) | Dogs Trained to Fight, Attack, or Kill Causing Injury; Negligence of Owner or Custodian |
| 404.6(c) | Incitement to Riot |
| 405a | Taking Person From Custody of Peace Officer by Means of a Riot |
| 417.3 | Drawing or Exhibiting Firearm in Presence of Motor Vehicle Occupant |
| 422.7 | Hate Crimes Involving the Present Ability to Commit Violent Injury or Actual Physical Injury, or Property Damage of Over $950, or Where Defendant Has Prior Conviction for Section 422.6 or Conspiracy to Commit Section 422.6 |
| 453(a) | Flammable or Combustible Materials, Incendiary Devices; Possession, Manufacture, or Disposal |
| *459-460(b); 461(b) | [Second-Degree] Burglary |
| 463(a); (b) | Looting During Emergency |
| 464 | Burglary With Acetylene Torch, Etc., or Explosives |
| *470 | Forgery; Signatures or Seals; Corruption of Records *(punishment provision in P.C. 473 is amended)* |
| 470a | Forgery or Counterfeiting of Driver's License or Identification Card |
| 470b | Display or Possession of Forged Driver's License or Identification Card |
| *471 | Forgery; False Entries in Records or Returns *(punishment provision in P.C. 473 is amended)* |
| *472 | Forgery or Counterfeiting of Seals; Possession and Concealment of Seals *(punishment provision in P.C. 473 is amended)* |
| 473 | Forgery |
| 474 | Forgery; Telegraph or Telephone Messages |
| *475 | Forgery; Possessing Forged Paper With Intent to Defraud, or Possessing Blank Check With Intent to Complete It and Defraud Another, or Possessing Completed Check With Intent to Pass It and Defraud Another *(punishment provision in P.C. 473 is amended)* |
| 476a | Check Fraud |
| *477; 478 | Counterfeiting |
| 479 | Counterfeit Coin, Bullion, Etc.; Possession or Receipt |

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| 480(a) | Counterfeiting; Making or Possessing Dies, Plates, Etc.; Destruction of Dies, Etc. |
| 481 | Railroad or Steamship Tickets; Counterfeiting, Forging, or Altering; Uttering; Intent to Defraud |
| 483.5(a); (f) | Deceptive Identification Documents; Requirements For Manufacture, Sale, or Transport |
| 484b | Diversion of Funds Received to Obtain or Pay For Services, Labor, Materials, or Equipment |
| *484e | Access Card Crimes *(punishment provision in P.C. 489(c) is amended)* |
| *484g | Access Card Crimes *(punishment provision in P.C. 489(c) is amended)* |
| *484i(b) | Forgery; Changing Access Card Account Information So Transactions Are Billed to Someone Other Than Cardholder *(punishment provision in P.C. 473 is amended)* |
| 484i(c) | Forgery; Access Cards and Information; Equipment to Make Counterfeit Cards |
| *487(a) | Grand Theft of Money, Labor, or Real or Personal Property of a Value Exceeding $950 *(grand theft punishment provision in P.C. 489(c) is amended)* |
| *487(b)(1); (b)(2) | Grand Theft of Specified Fowl, Fish, Fruit, Vegetables, or Nuts *(grand theft punishment provision in P.C. 489(c) is amended)* |
| *487(b)(3) | Grand Theft of $950 or More By Employee Embezzlement *(grand theft punishment provision in P.C. 489(c) is amended)* |
| *487(c) | Grand Theft Person *(grand theft punishment provision in P.C. 489(c) is amended)* |
| *487(d)(1) | Grand Theft Involving an Automobile *(grand theft punishment provision in P.C. 489(c) is amended)* |
| *487a | Taking a Specified Animal or Carcass of an Animal *(grand theft punishment provision in P.C. 489(b) is amended)* |
| 487b | Grand Theft; Conversion of Real Property to Personal Property By Severance |
| 487d | Grand Theft; Gold Dust, Amalgam, or Quicksilver |
| *487e | Grand Theft of Dog With Value Exceeding $950 *(grand theft punishment provision in P.C. 489(c) is amended)* |
| *487h | Grand Theft of Cargo of Value Exceeding $950 *(grand theft punishment provision in P.C. 489(c) is amended)* |
| *487i | Defrauding Public Housing Program of More Than $400 *(grand theft punishment provision in P.C. 489(c) is amended)* |
| 487j | Grand Theft of Copper Materials |
| 489(b) & (c) | Grand Theft Not Involving a Firearm |
| 496(a) | Buying, Receiving, or Concealing Stolen Property |
| 496(b) | Swap-Meet Vendor or Second-Hand Dealer Buying or Receiving Stolen Property |
| 496(d) | Attempted Stolen Property Offenses |
| 496a(a) | Junk and Second-Hand Dealers; Purchasing Metals Used in Transportation or Public Utility Service |
| 496d(a) | Construction Equipment or Vessel Known to Be Stolen; Knowingly Obtaining, Concealing, Selling, or Withholding From Owner |

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| 499c(c) | Trade Secrets; Theft; Solicitation or Bribery to Acquire |
| 499d | Taking Aircraft Without Owner's Consent |
| 500(a); (b)(2) | Transmission of Money to Foreign Countries |
| 502(c)(1) | Computer-Related Crimes: Accessing and Destroying or Deleting |
| 502(c)(2) | Computer-Related Crimes: Accessing and Taking or Copying |
| 502(c)(3) | Computer-Related Crimes: Using Computer Services That Results in Victim Expenditure Over $5,000, or In Injury, or If Value of Services Uses Over $950, or Where Defendant Has Prior Conviction |
| 502(c)(4) | Computer-Related Crimes: Accessing and Adding or Damaging Data |
| 502(c)(5) | Computer-Related Crimes: Disrupting Computer Services |
| 502(c)(6) | Computer-Related Crimes: Providing Access to Computer That Results in Victim Expenditure Over $5,000 |
| 502(c)(7) | Computer-Related Crimes: Accessing Computer That Results in Victim Expenditure Over $5,000 |
| 502(c)(8) | Computer-Related Crimes: Introducing Computer Contaminant That Results In Injury, or Where Defendant Has Prior Conviction |
| 502(c)(10) | Computer-Related Crimes: Disrupting Gov't Computer Services |
| 502(c)(11) | Computer-Related Crimes: Accessing and Adding or Damaging Data of Public Safety Infrastructure Computer System |
| 502(c)(12) | Computer-Related Crimes: Disrupting Public Safety Infrastructure Computer System |
| 502(c)(13) | Computer-Related Crimes: Providing Means of Accessing a Public Safety Infrastructure Computer System |
| 502(c)(14) | Computer-Related Crimes: Introducing a Computer Contaminant into a Public Safety Infrastructure Computer System |
| 502(d)(1); (d)(2)(B) (d)(3)(C); (d)(4)(B) | Unauthorized Access to Computers, Computer Systems, and Data |
| *503 | Embezzlement (Other Than Public Funds) |
| *504a | Fraudulent Removal, Concealment, or Disposal of Personal Property Under Lease |
| *504b | Sale of Property Covered By Security Agreement; Willful Failure to Pay Secured Party and Appropriation of Proceeds to Own Use |
| *505 | Carrier or Individual Transporting Property For Hire; Fraudulent Appropriation |
| *506 | Person Controlling or Entrusted With Property of Another; Misappropriation; Payment of Laborers and Materialsmen as Use of Contract Price |
| 506b | Violation of Real Property Sales Contracts Provisions |
| *507 | Bailee; Tenant; Lodger; Attorney-In-Fact Clerk; Agent; Servant |
| *508 | Embezzlement by Employee |
| *514 | Punishment For Embezzlement (Other Than Public Funds Penal Code Section 504) Same as For Theft *(see P.C. 489(c))* |
| *518; 520 | Extortion |
| 523(b) | Introducing Ransomware into a Computer or Computer System with Intent to Extort Money or Other Consideration |

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| 529 | False Impersonation of Another In Private or Official Capacity; Bail or Surety; Verification, Publication, or Acknowledgment of Instrument; Acts Imposing Liability or Conferring Benefit |
| 529a | False or Counterfeit Certificate of Birth or Certificate of Baptism; Manufacture, Sale, Offer, or Transfer, Display, or Possession With Intent to Misrepresent or Conceal Identity |
| 530.5(a); (c)(2); (c)(3); (d)(1)–(2) | Unauthorized Use of Personal Identifying Information of Another Person; Attempt to Obtain Credit, Goods, Services, Real Property, or Medical Information; Commission of Crime; Punishment For First, Subsequent, or Multiple Offenses; Sale of Information; Mail Theft; Liability of Computer Service or Software Providers |
| *532 | False Pretenses; Obtaining Money, Labor, or Property; Punished As Larceny *(see P.C. 489)* |
| 532a | False Financial Statements By Use of Fictitious Identifier |
| 532f | Mortgage Fraud; Order For Production of Records |
| 533 | Real Estate; Multiple Sales of Same Parcel |
| 535 | Mock Auctions; Obtaining Money, Property, or Signature |
| 537e(a)(3) | Possessing, Buying, or Selling Integrated Computer Chip or Panel of Value of $950 or More, Where Serial or Identification Number Has Been Removed or Altered |
| *538 | Mortgaged Personal Property; Removal From County; Subsequent Sale, Destruction, or Encumbrance; Notice of Intention; Punished As Theft *(see P.C. 489)* |
| 538.5 | False or Fraudulent Wire, Radio, or Television Communications |
| 548(a) | Defrauding or Prejudicing Insurer |
| 549 | False or Fraudulent Claims Against Insurers; Solicitation, Acceptance, or Referral of Business |
| 550(a)(1)–(5) | Insurance Fraud |
| 550(a)(6)–(9) | Insurance Fraud Involving Health Care Benefits Where Claim is Over $950 |
| 550(b)(1)–(4) | Insurance Fraud Involving False Statements or Concealing Information |
| 550(c) | False or Fraudulent Claims or Statements |
| 551 | Unlawful Referrals to Auto Repair Dealers Where Amount at Issue Is Over $950 or Where Defendant Has Specified Prior Conviction |
| 560 | Documents of Title; Unlawful Issuance, Negotiation, or Transfer |
| 560.4 | Unlawful Issuance of Duplicate or Additional Negotiable Document of Title |
| 566 | Dairy Equipment Felony; Use, Possession, Obliteration, or Destruction of Brand Registrations By Unauthorized Persons |
| 570; *571 | Unlawful Subleasing of Motor Vehicles |
| 577 | Fictitious Bills of Lading, Receipts, or Vouchers; Issuance |
| 578 | Fictitious Warehouse Receipts, Bills of Lading, or Vouchers; Issuance |
| 580 | Duplicate Receipts or Vouchers; Marking |
| 581 | Unauthorized Sale, Hypothecation, or Pledge By Warehouseman or Carrier |
| 587 | Malicious Injuries to Railroad Bridges, Highways, Bridges, and Telegraphs |

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| 587.1(b) | Moving Locomotive Without Authorization and Creating Substantial Likelihood of Personal Injury or Death |
| 591 | Injuring or Removing Telegraph, Telephone, or Cable Television Line |
| 593 | Injuring or Removing Electric Power Line |
| 594 | Vandalism (Where Damage is $400 or More) |
| 594.3 | Vandalism; Church, Synagogue, Mosque, Temple, Building of Religious Educational Institution, or Other Place of Worship; Punishment if Based on Racial Prejudice |
| 594.35 | Destruction of Cemetery or Mortuary Property |
| 594.4 | Vandalism With Butyric Acid or Other Caustic Chemical |
| 597(a) | Intentionally Wounding or Killing An Animal |
| 597(b) | Inflicting Unnecessary Cruelty Upon Animal, or Overworking Animal, or Depriving Animal of Proper Food, Drink, or Shelter |
| 597(c) | Maiming or Torturing Specified Mammal, Bird, Reptile, Fish, or Amphibian |
| 597.5(a) | Dog Fighting, or Owning or Possessing Dog With Intent That It Engage In Fighting |
| 600(a) | Striking or Poisoning Peace Officer's Horse or Dog, and Inflicting Serious Injury |
| 600(c) | One-Year Enhancement For Causing Death or Serious Physical Injury to Peace Officer's Horse or Dog |
| 601 | Trespass By Credible Threat to Cause Serious Bodily Injury With Intent to Place Another in Reasonable Fear, and Unlawful Entry Within 30 Days Into Residence or Contiguous Real Property or Workplace of Threatened Person |
| *607 | Hydraulic Power, Drainage, Reclamation, or Irrigation Facilities; Injury or Destruction Causing Damage Over $400; Punished as Vandalism *(see P.C. 594)* |
| 610 | Masking, Altering, or Removing Light or Signal; Exhibiting False Light or Signal; Endangering Vessel |
| 617 | Mutilating or Destroying Another's Written Instrument, the False Making of Which Would Be Forgery |
| 620 | Altering the Effect or Meaning of Telephone or Telegraph Message to the Injury of Another |
| 621 | Law Enforcement Memorials and Firefighters Memorials; Vandalism |
| 625b(b) | Damaging Aircraft or Its Contents in Such Manner as to Render Aircraft Unsafe for Flight Operations |
| 626.9(b) | Possessing Firearm In School Zone *(punishment provision in (f) is amended)* |
| 626.9(d) | Discharging or Attempting to Discharge Firearm In School Zone *(punishment provision in (f)(3) is amended)* |
| 626.9(f) | Gun Free School Zone Act |
| 626.9(h) | Bringing or Possessing Loaded Firearm On Grounds of Public or Private University or College |
| 626.9(i) | Bringing or Possessing Firearm on Grounds of Public or Private University or College |

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| 626.95(a) | Brandishing Firearm or Carrying Concealed Firearm or Carrying Loaded Firearm on Playground or at Youth Center |
| 626.10(a) | Bringing or Possessing Specified Weapon on Grounds of Public or Private School |
| 626.10(b) | Bringing or Possessing Specified Weapon on Grounds of University or Community College |
| *629.50–629.98; 629.84 | Interception of Wire, Electronic Digital Pager, or Electronic Cellular Communications Violations |
| 631(a) | Tapping or Making Unauthorized Connection With Telephone Line or Cable |
| 636(a) | Eavesdropping On or Recording Conversation Between Person in Police Custody and His/Her Attorney, Religious Adviser, or Physician |
| 636(b) | Non-electronically Eavesdropping On Conversation Between Person in Police Custody and His/Her Attorney, Religious Adviser, or Physician |
| 637 | Disclosure of Telegraphic or Telephonic Message |
| 638.51 | Unlawful Installation of a Pen Register or Trap and Trace Device |
| 653f(a) | Soliciting Another Person to Commit Specified Crime |
| 653f(d)(1) | Soliciting Another Person to Commit Specified Drug Offense, Where Defendant Has Prior Conviction For Solicitation to Commit Drug Offense |
| 653f(e) | Soliciting Another Person to Commit W&I 14014 (Receiving Health Care For Which One is Not Eligible, Based on False Declarations), Where Defendant Has Prior Conviction For This Type of Solicitation |
| 653h | Violations Relating to Sound Recordings, Where at Least 1,000 Pirated Recordings Are Involved or Where Defendant Has Second or Subsequent Conviction |
| 653j | Soliciting, Inducing, Encouraging, or Intimidating Minor to Commit Certain Felonies |
| 653s | Violations Relating to Sound Recordings of Live Performance, Where at Least 1,000 Pirated Recordings Are Involved or Where Defendant Has Second or Subsequent Conviction |
| 653t(a); (c) | Interfering With the Transmission of Emergency Communication Over Amateur or Citizen's Band Radio Frequency When Offense Results in Serious Bodily Injury or Property Loss Over $10,000 |
| 653t(d) | Interfering With Transmission of Emergency Communication Over Public Safety Radio Frequency When Offense Results in Serious Bodily Injury or Property Loss Over $10,000 |
| 653u | Recording Sounds of a Live Performance, Without Permission, For Commercial Gain When Offense Involves at Least 1,000 Articles or Where Defendant Has Prior P.C. 653u Conviction |
| 653w | Failing to Disclose Origin of Recording or Audiovisual Work Where at Least 100 Articles are Involved or Where Defendant Has Prior P.C. 653w Conviction |
| 664(a) | Attempting to Commit a Crime Punishable Pursuant to P.C. 1170(h) *(attempting to commit a crime punishable in state prison is punishable in state prison)* |

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| 666.5(a) | Vehicle Theft with a Prior Felony Theft Conviction Involving a Vehicle, Trailer, Construction Equipment, or Vessel Known to Be Stolen |
| 1320(b) | Failing to Appear on Felony Charge After Release on Own Recognizance |
| 1320.5 | Failing to Appear on Felony Charge After Release on Bail |
| 2772 | Interfering With Prisoner Working at Road Camp or Giving or Attempting to Give Prisoner Controlled Substance, Liquor, Weapons, or Explosives |
| 2790 | Interfering With Prisoner Working in Park, Forest, or Camp, or Giving or Attempting to Give Prisoner Controlled Substance, Liquor, Weapons, or Explosives |
| 4011.7 | Prisoner Escaping From Hospital By Force and Violence |
| 4131.5 | County Industrial Farms and Road Camps—Battery Upon Person Not Confined or Sentenced to Same Facility |
| 4502(a) | Possession or Control of Specified Weapon By Inmate |
| 4502(b) | Manufacture or Attempted Manufacture of Specified Weapon By Inmate |
| 4533 | Prisons and Jails—Keeper or Other Officer Permitting Escape |
| 4534 | Person Assisting State Prisoner, Parole Violator, or Jail Inmate to Escape |
| 4550 | Rescuing or Attempting to Rescue Prisoner From Prison or Jail |
| 4573 | Bringing Controlled Substance or Paraphernalia Into Prison or Jail |
| 4573.5 | Bringing Alcohol or Non-Controlled Substance or Paraphernalia Into Prison or Jail [*see People v. Noyan* (2014) 232 Cal.App.4th 657] |
| 4573.6(a) | Possessing Controlled Substance or Paraphernalia In Prison or Jail |
| 4573.9(a) | Non-inmate Selling or Furnishing Controlled Substance to State Prison or Jail Inmate |
| 4574(a) | County Jail Inmate Possessing Firearm, Deadly Weapon, or Explosive, or Bringing Such Weapon Into Prison or Jail |
| 4574(b) | Bringing Tear Gas Weapon Into Prison or Jail Where Release of Tear Gas Results |
| 4600(a) | Destroying or Injuring Jail or Prison Property |
| 11411(c) | Terrorizing the Owner of Private Property By Placing Sign or Mark (e.g., Nazi Swastika) on Victim's Property on Two or More Occasions |
| 11411(d) | Burning or Desecrating Cross or Other Religious Symbol on Private Property or Grounds of School, For Purpose of Terrorizing |
| 11413(a) | Exploding or Attempting to Explode Destructive Device or Explosive, or Committing Arson, at Specified Location (e.g., Health Facility, Church, Library, Judge's Home, School) For Purpose of Terrorizing |
| 11418(a)(1) | Possessing or Producing Weapon of Mass Destruction |
| 11418(a)(2) | Possessing or Producing Weapon of Mass Destruction Where Defendant Has Specified Prior Conviction |
| 11419(a) | Possession of Restricted Biological Agents |
| 12021.5(a) | Street Gang Crimes; Firearm |
| 12022(a)(1) | Enhancement For Armed With Firearm |
| 12022(a)(2) | Enhancement For Armed With Assault Weapon, Machinegun, or .50 BMG Rifle |

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| 12022(c) | Enhancement For Personally Armed With Firearm During Specified Drug Crime |
| 12022(d) | Enhancement For Knowing Another Principal is Personally Armed During Specified Drug Crime |
| 12025(a); (b)(1) | Carrying Concealed Firearm on Person or in Vehicle Where Defendant Has Specified Prior Conviction |
| 12025(a); (b)(2) | Carrying Concealed Firearm on Person or in Vehicle Where Defendant Knew Firearm Was Stolen |
| 12025(a); (b)(5) | Carrying Concealed Firearm on Person or in Vehicle Where Defendant Has Been Convicted of Crime Against Person or Property, or Drug Crime |
| 12025(b)(6) | Carrying Concealed Firearm on Person or in Vehicle Where Defendant Has Ammunition or Firearm is Loaded, and Defendant is Not Registered Owner of Firearm |
| 12035 | Criminal Storage of Firearm in First Degree |
| 12040 | Criminal Possession of Firearm |
| 12072(g)(2); (3); (4) | Unlawful Transfer of Firearms |
| 12076(b)(1) | Furnishing Fictitious Firearm Registration Information |
| 12076(c)(1) | Furnishing Fictitious Firearm Registration Information Electronically |
| 12090 | Firearms—Unauthorized Alteration of Identification Marks |
| 12101(a)(1); (c)(1) | Minor In Possession of Concealable Firearm, With Specified Prior |
| 12101(b)(1); (c)(1) | Minor In Possession of Live Ammunition, With Specified Prior |
| 12220(a); (b) | Unauthorized Possession, Transportation, Manufacture, or Sale of Machine Guns |
| 12280(a)(1) | Transporting, Importing, or Giving Assault Weapon or .50 BMG Rifle |
| 12280(a)(2) | Enhancement For Selling or Giving Assault Weapon or .50 BMG Rifle to Minor |
| 12280(b) | Second or Subsequent Violation of Possessing Assault Weapon |
| 12281(j) | Failing to Properly Relinquish or Dispose of SKS Rifle |
| 12303.3 | Possessing or Exploding Destructive Device With Intent to Injure |
| 12303.6 | Sale or Transportation of Destructive Device Other Than Fixed Ammunition |
| 12304 | Second or Subsequent Conviction of Selling or Possessing Fixed Ammunition |
| 12312 | Possession of Materials With Intent to Make Explosive or Destructive Device |
| 12320 | Possessing Handgun Ammunition Designed to Penetrate Metal or Armor |
| 12355(a) | Assembling or Placing Boobytrap |
| 12355(b) | Possessing Device With the Intent to Use As Boobytrap |
| 12370(a) | Violent Felon Purchasing, Possessing, or Owning Body Armor |
| 12403.7(g) | Using Tear Gas Weapon Except in Self-Defense, or Against Peace Officer |
| 12422 | Changing or Removing Identification Mark On Tear Gas Weapon |
| 12520 | Possessing Silencer |
| 18715 | Possessing Destructive Device or Explosive |
| 18720 | Possessing Materials With Intent to Make Explosive |

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| 18725 | Carrying or Placing Destructive Device or Explosive on Vessel, Aircraft, or Vehicle |
| 18730 | Selling or Transporting Destructive Device |
| 18735(c) | Second or Subsequent Conviction of Selling or Possessing Fixed Ammunition |
| 18740 | Exploding Destructive Device With Intent to Intimidate or Terrify *(if the intent is to injure, the crime is a serious felony pursuant to P.C. 1192.7(c)(15))* |
| 19100 | Carrying a Concealed Explosive Substance |
| 19200 | Manufacture, Sale, or Possession of a Practice or Metal Replica Hand Grenade |
| 20110(a) | Assembling or Placing Boobytrap |
| 20110(b) | Possessing Device With Intent to Use as Boobytrap |
| 20310 | Manufacture, Sale, or Possession of Any Air Gauge Knife |
| 20410 | Manufacture, Sale, or Possession of Any Belt Buckle Knife |
| 20510 | Manufacture, Sale, or Possession of Any Cane Sword |
| 20610 | Manufacture, Sale, or Possession of Any Lipstick Case Knife |
| 20710 | Manufacture, Sale, or Possession of Any Shobi-zue |
| 20910 | Manufacture, Sale, or Possession of Any Writing Pen Knife |
| 21110 | Manufacture, Sale, or Possession of Any Ballistic Knife |
| 21310 | Carry a Concealed Dirk or Dagger |
| 21810 | Manufacture, Sale, or Possession of Any Metal Knuckles |
| 22010 | Manufacture, Sale, or Possession of Any Nunchaku |
| 22210 | Manufacture, Sale, or Possession of Any Leaded Cane, Billy, Blackjack, Sandbag, Sandclub, Sap, or Slungshot |
| 22410 | Manufacture, Sale, or Possession of Any Shuriken |
| 22810(g)(1); (2) | Using Tear Gas Weapon Except in Self-Defense or Against Peace Officer |
| 22910(a) | Changing or Removing Identification Mark On Tear Gas Weapon |
| 23900 | Removal, or Obliteration of Firearm Identification Numbers or Marks |
| 24310 | Manufacture, Sale, or Possession of Any Camouflaging Firearm Container |
| 24410 | Manufacture, Sale, or Possession of Any Cane Gun |
| 24510 | Manufacture, Sale, or Possession of Any Firearm Not Immediately Recognizable as a Firearm |
| 24610 | Manufacture, Sale, or Possession of Any Undetectable Firearm |
| 24710 | Manufacture, Sale, or Possession of Any Wallet Gun |
| 25110(a) | Criminal Storage of Firearm in the First Degree |
| 25300(b) | Criminal Possession of Firearm |
| 25400(c)(5) | Carrying Concealed Firearm on Person or In Vehicle Where Defendant Has Been Convicted of Crime Against Person or Property, or Drug Crime |
| 25400(c)(6) | Carrying Concealed Firearm on Person or In Vehicle Where Defendant Has Ammunition or Firearm is Loaded, and Defendant is Not Registered Owner of Firearm |
| 25850(c)(5) | Carrying Loaded Firearm Where Defendant Has Been Convicted of Crime Against Person or Property, or Drug Crime |

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| 25850(c)(6) | Carrying Loaded Firearm Where Defendant is Not the Registered Owner |
| 27585 | Importing, Bringing, or Transporting into California a Firearm Purchased or Obtained From Outside California Without First Delivering it to a Firearms Dealer in California |
| 27590(b) | Unlawful Transfer of Firearm |
| 27590(c) | Unlawful Transfer of Firearm |
| 27590(d) | Enhancement For Unlawful Transfer of Firearm |
| 28250(b) | Furnishing False Information or Omitting Information; Other Violations |
| *29610 | Minor in Possession of Concealable Firearm With Specified Prior |
| *29650 | Minor In Possession of Live Ammunition With Specified Prior |
| 29700(a) | Penalties For Unlawful Possession By Minor of Pistol, Revolver, Concealable Firearm, or Live Ammunition |
| 30210 | Manufacture, Sale, or Possession of Any Ammunition that Contains or Consists of any Flechette Dart or Any Bullet Containing or Carrying an Explosive Agent |
| 30315 | Possessing Handgun Ammunition Designed to Penetrate Metal or Armor |
| 30600(a) | Transporting, Importing, or Giving Assault Weapon or .50 BMG Rifle |
| 30600(b) | Enhancement For Selling or Giving Assault Weapon or .50 BMG Rifle to Minor |
| 30605(a) | Second or Subsequent Violation of Possessing Assault Weapon |
| 30725(b) | Failing to Properly Relinquish or Dispose of SKS Rifle |
| 31500 | Manufacture, Sale, or Possession of Any Unconventional Pistol |
| 32310 | Manufacture, Sale, or Possession of Any Large Capacity Magazine |
| 32625(a) | Transporting Machinegun |
| 32625(b) | Converting Firearm Into Machinegun |
| 32900 | Manufacture, Sale, or Possession of Any Multi-Burst Trigger Activator |
| 33215 | Manufacture, Sale, or Possession of Any Short-Barreled Rifle or Shotgun |
| 33410 | Possessing Silencer |
| 33600 | Manufacture, Sale, or Possession of Any Zip Gun |

**Public Contract Code**

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| *10280 | Corrupt Performance of Official Acts |
| *10281 | Corrupt Action By Contractor |
| *10282 | Failure of Subcontractor or Certain Other Persons to Give Notice of Contract Violations |
| 10283 | State Contract Act—Punishment |
| *10870 | Corrupt Performance of Official Duty |
| *10871 | Corrupt Permission of Violation of Contract |
| *10872 | Knowledge of Violation and Failure to Disclose Violation |
| 10873 | Contracting By State Agencies |

**Public Resources Code**

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| 5097.99(b); (c) | Obtaining or Possessing Native American Artifacts or Human Remains Taken From Grave or Cairn |
| 14591(b) | California Beverage Container Recycling and Litter Reduction Act |
| 25205 | State Energy Conservation and Development Commission—Conflict of Interest |
| 48680(b) | California Oil Recycling Enhancement |

**Public Utilities Code**

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| 7680 | Railroad Collision Causing Death |
| 7724(a) | Railroad Safety and Emergency Planning and Response |
| 7903 | Telegraph or Telephone Corporations, Use or Appropriation of Information From Private Messages |
| *21407.1(a); (b) | Operating Aircraft or Parachuting Under the Influence Causing Injury |
| 21407.6(b) | Regulation of Aeronautics |

**Revenue and Taxation Code**

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| 7093.6(n) or (j) | Sales and Use Tax—CA Taxpayers Bill of Rights—Discontinued or Transferred Businesses; Offers in Compromise on Final Tax Liability; Authority of Board to Accept Offers |
| 7153.6(b) | Selling, Purchasing, Installing, or Possessing Automated Sales Suppression Device or Zapper or Phantom-Ware for Commercial Gain, In Order to Evade Paying Sales Tax |
| 9278(n) or (j) | Use Fuel Tax—CA Taxpayers Bill of Rights—Discontinued or Transferred Businesses; Offers in Compromise on Final Tax Liability; Authority of Board to Accept Offers; Conditions; Rescission of Compromise |
| 14251 | Prohibition of Gift and Death Taxes—Disclosure of Confidential Information and Records |
| 16910 | Generation Skipping Transfer Tax—Inspection of Records—Disclosure of Confidential Nature of Information and Records |
| 18631.7(d) | Administration of Franchise and Income Tax Laws—Information Returns—Check Cashers; Checks Totaling More Than $10,000; Filing Deadline; Contents |
| 19705 | Administration of Franchise and Income Tax Laws, Willful False Return, Etc.; Offense; Name as Prima Facie Evidence of Signature |
| 19708 | Administration of Franchise and Income Tax Laws, Willful Failure to Collect, Account For and Pay Tax on Required Amounts |
| 30459.15(p) or (l) | Cigarette Tax, Compromise of Final Tax Liability |
| 32471.5(p) or (l) | Alcoholic Beverage Tax, Compromise of Final Tax Liability |
| *32552; *32553 32555 | Alcoholic Beverage Tax Violations |
| 38800(l) | Timber Yield Tax, Compromise of Final Tax Liability |
| 40211.5(l) | Energy Resources Surcharge Law, Compromise of Final Surcharge Liability |
| 41171.5(p) or (l) | Emergency Telephone User Surcharge Law, Compromise of Final Surcharge Liability |

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| 43522.5(l) | Hazardous Substances Tax Law, Compromise of Final Surcharge Liability |
| *43604; 43606 | Hazardous Substances Tax Law, Violations Lacking Specific Penalties |
| 45867.5 (l) | Integrated Waste Management Fee Law, Compromise of Final Fee Liability |
| *45953; 45955 | Integrated Waste Management Fee Law, Violations of Part Not Otherwise Provided For |
| 46628(p) or (l) | Oil Spill Response, Prevention, and Administration Fees, Compromise of Final Fee Liability |
| *46703; 46705 | Oil Spill Response, Prevention, and Administration Fees, Felony Violations Not Specifically Provided For |
| 50156.18(n) or (j) | Underground Storage Tank Maintenance Fee Law, Discontinued or Transferred Businesses; Offers in Compromise on Final Tax Liability; Authority of Board to Accept Offers; Conditions; Rescission of Compromise |
| 55332.5(p) or (l) | Fee Collection Procedures Law, Compromise of Final Fee Liability |
| 55363 | Fee Collection Procedures Law, Evasion of Payment |
| 55363.5(b) | Selling, Purchasing, Installing, or Possessing an Automated Sales Suppression Device or Zapper or Phantom-Ware for Commercial Gain, In Order to Evade Paying Fees |
| 60637(p) or (l) | Diesel Fuel Tax Law, Compromise of Final Tax Liability |

**Unemployment Insurance Code**

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| 2118.5 | Unemployment and Disability Compensation, Willful Failure to Collect, Truthfully Account For, or Pay Over Tax or Amount |

**Vehicle Code**

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| 2478(b) | Second or Subsequent Conviction of Violation Relating to Inedible Kitchen Grease *(see V.C. 2470; 2472; 2474 & 2476)* |
| 4463(a) | Crimes Related to False or Altered Documents, Such as Certificate of Ownership, Registration Card, or License Plate |
| 10501 | Second or Subsequent Conviction of Filing False Report of Vehicle Theft |
| 10752 | Possessing or Selling Genuine or Counterfeit Vehicle Serial or Identification Number |
| 10801 | Operating Chop Shop |
| 10802 | Altering or Removing Vehicle Identification Number (VIN) |
| 10803(a); (b) | Buying, Selling, Transferring More Than One Vehicle or Vehicle Part Knowing VIN Has Been Altered or Removed |
| 10851(a) | Driving or Taking Vehicle Not One's Own |
| 10851(b) | Driving or Taking Specified Vehicle Not One's Own (Ambulance, Police Vehicle, or Vehicle Modified For Disabled Person) |
| 21464(a); (d) | Injuring or Removing Traffic Control Device or Callbox That Results in Injury or Death |
| 21464(b); (d) | Using Device Capable of Disrupting Traffic Control Signal That Results in Injury or Death |

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| 21464(c); (d) | Possessing or Selling Device Capable of Disrupting Traffic Signal That Results in Injury or Death |
| 21651(c) | Driving Across Divided Highway, Resulting in Injury or Death |
| 23104(b) | Reckless Driving Causing GBI, Where Defendant Has Specified Prior [*note that 23104(b) is a serious felony and is not subject to 1170(h) if the defendant personally inflicted the great bodily injury*] |
| 23105(a) | Reckless Driving Causing Specified Serious Injury to Another [*note that 23105(a) is a serious felony and is not subject to 1170(h) if the defendant personally inflicted the serious bodily injury*] |
| 23109.1(a) | Engaging in Speed Contest Causing Specified Serious Injury [*note that 23109.1(a) is a serious felony and is not subject to 1170(h) if the defendant personally inflicted the serious bodily injury*] |
| 23550(a) | DUI Within 10 Years of Three or More DUIs ("Superdeuce") |
| 42000 | Punishment for Felonies. "Unless a different penalty is expressly provided by this code, every person convicted of a felony for a violation of any provision of this code shall be punished by a fine of not less than one thousand dollars ($1,000) or more than ten thousand dollars ($10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both such fine and imprisonment." *[This appears to mean that if a Vehicle Code felony provides for imprisonment in the state prison (e.g., V.C. 23109, 23110, 23153), the crime continues to be prison-eligible, but if the crime is designated as a felony and does not contain a penalty provision, it is punishable pursuant to P.C. 1170(h)]* |

**Water Code**

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| *13375 | Radiological, Chemical, or Biological Warfare Agents; Discharge Prohibited |
| *13376 | Discharging Pollutants or Dredged or Fill Material or Operating Treatment Works; Reports of Discharges or Proposed Discharges; Prohibited Discharges |
| 13387(b) | Second or Subsequent Negligent Violation of Sections 13375, 13376, Certification Requirements or Specified Sections of Federal Clean Water Act |
| 11387(c) | Knowing Violations of Subdivision (a) |
| 11387(d) | Knowing Violations of Subdivision (a) Placing Another Person in Imminent Danger of Death or Serious Bodily Injury |

**Welfare and Institutions Code**

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| 871.5(a) | Juvenile Court Law—Bringing or Sending Contraband Into or Possession Within Juvenile Facility; Posting of Penalties |
| 1001.5(a) | Delinquents and Wards of the Juvenile Court—Bringing or Selling Contraband Into Grounds of or Possession in Youth Authority Institutions |
| 1768.7(a); (b) | Youth Authority—Escape or Attempt to Escape Without Force or Violence |

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| 1768.85(a) | Youth Authority—Battery By Gassing of Peace Officer or Institution Employee |
| 3002 | Commitment and Treatment of Narcotic Addicts—Escape or Attempted Escape |
| 7326 | State Hospitals For Mentally Disordered—Assisting Escape |
| 8100(a); (b)(1); (g) | Firearms—Possession, Purchase or Receipt By Person Receiving In-patient Treatment For Mental Disorder or Who Has Communicated Threat of Physical Violence to Psychotherapist |
| 8101(a) | Knowingly Supply, Sell, Give, or Allow Possession or Control of Deadly Weapon to Any Person Described in V.C. 8100 or 8103 |
| 8101(b) | Knowingly Supply, Sell, Give, or Allow Possession or Control of Firearm to Any Person Described in V.C. 8100 or 8103 |
| 8103(i) | Firearms—Particular Persons; Weapons Restrictions |
| 10980 | Public Social Services—Unlawful Acts |
| 14107.2(a); (b) | Public Social Services—Aid and Medical Assistance—Basic Health Care—Kickbacks, Bribes, or Rebates |
| 14107.3 | Public Social Services—Aid and Medical Assistance—Basic Health Care—Knowing and Willful Charging of Sum in Addition to Amount Owed as Precondition to Providing Services or Merchandise |
| 14107.4(a); (b) | Public Social Services—Aid and Medical Assistance—Basic Health Care—Cost Reports; Fraud |
| 17410 | Public Social Services—County Aid and Relief to Indigents—Termination and Recovery of Assistance |