

California Legislative & Legal Digest

2023 Laws

A PRODUCT OF THE:



CALIFORNIA
PEACE OFFICERS'
ASSOCIATION

ACKNOWLEDGMENTS

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Shaun Rundle is CPOA's Executive Director, and he handled legislative affairs for 2022. Any inquiries regarding the content of this digest, or requests for an electronic version should be directed to him at 916-520-2248, or via email at: SRundle@cpoa.org.

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STATUTE

As provided by:



CIVIL PROCEDURE/COURT ORDERS



AB 2274 (Rubio)- Mandated reporters: statute of limitations

Penal Code Sections 801.6 (Amend) and 801.8 (Add)

Effective Date: January 1, 2023

SUMMARY:

Extends the statute of limitations for the failure of a mandated reporter to report reasonably suspected child abuse or severe neglect not involving sexual abuse to within one year of the discovery of the offense, but in no case later than four years after the commission of the offense.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2799 (Jones-Sawyer)- Evidence: admissibility of creative expressions

Evidence Code Section 352.2 (Add)

Effective Date: January 1, 2023

SUMMARY:

Provides that in determining whether creative expression evidence is more prejudicial than probative, and therefore inadmissible, the court must consider specified factors.

HIGHLIGHTS:

➤ **Evidence Code Section 352.2:**

(b) If ~~proffered~~, *proffered and relevant to the issues in the case*, the court shall consider ~~all of the following~~: the following as well as any additional relevant evidence offered by either party:

- (1) Credible testimony on the genre of creative expression as to the social or cultural context, rules, conventions, and artistic techniques of the expression.
- (2) Experimental or social science research demonstrating that the introduction of a particular type of expression explicitly or implicitly introduces racial bias into the proceedings.
- (3) Evidence to rebut such research or testimony.

(c) For purposes of this section, “creative expression” means the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols, including, but not limited to, music, dance, performance art, visual art, poetry, literature, film, and other such objects or media.

(d) The question of the admissibility of a form of creative expression shall be heard in limine and determined by the court, outside the presence and hearing of the jury, pursuant to Section 402. The court shall state on the record its ruling and its reasons therefor.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 53 (Leyva)- Unsolicited images

Civil Code Section 1708.88 (Add)

Effective Date: January 1, 2023

SUMMARY:

Provides a cause of action against a person that knowingly sends obscene material, as defined, that the person knows, or reasonably should know, is unsolicited; and provides for civil penalties for violations.

HIGHLIGHTS:

- An image is considered unsolicited if the recipient has not consented to its receipt or has expressly forbidden its receipt. This includes a moving visual image.
- Defines obscene material to include images depicting a person engaging in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or masturbation, or depicting the exposed genitals or anus of any person, taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest, that, taken as a whole, depicts or describes sexual conduct in a patently offensive way, and that, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- Makes available to a prevailing plaintiff that suffers harm as a result of receiving the unsolicited image economic and noneconomic damages proximately caused by the sending of the image, including damages for emotional distress; reasonable attorney's fees and costs; and any other available relief, including injunctive relief.
- Provides that, in addition to the remedies above, a plaintiff that suffers harm as a result of receiving an unsolicited image that the plaintiff expressly forbade may seek an award of statutory damages, in lieu of the above, of a sum of not less than \$1,500 but not more than \$30,000, and punitive damages.
- Bill does not apply to any the following:
 - An Internet service provider, mobile data provider, or operator of an online or mobile application, to the extent that the entity is transmitting, routing, or providing connections for electronic communications initiated by or at the direction of another person;
 - Any service that transmits images or audiovisual works, including, without limitation, an on-demand, subscription, or advertising-supported service;
 - A health care provider transmitting an image for a legitimate medical purpose; or
 - An individual who has not expressly opted-out of receiving sexually explicit images on the service in which the image is transmitted, where such an option is available.

- Provides for economic and noneconomic damages, and additional remedies for more egregious violations, including a statutory penalty anywhere from \$1,500 to \$30,000.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

This bill takes aim at the growing incidence of individuals sending unsolicited, sexually explicit images and videos to others. This practice, sometimes referred to as “cyber flashing,” can happen on social media, dating applications, or even through an unprotected AirDrop between cell phones. Although there are no boundaries on who is targeted with such images, the most common recipients of such unwanted images are young women.

NOTES:

SB 688 (Wieckowski)- Civil actions: judgments by confession

Code of Civil Procedure Sections 1132 (Amend), 1133 and 1134 (Repeal)

Government Code Sections 6103, 68085.1 and 70626 (Amend)

Probate Code Section 4459 (Amend)

Effective Date: January 1, 2023

SUMMARY:

A judgment by confession is unenforceable and may not be entered in any superior court.

HIGHLIGHTS:

- Repeals the provisions setting forth procedures by which a defendant files for, and a superior court enters, a judgment by confession.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 935 (Min)- Domestic violence: protective orders

Family Code Section 6345 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Clarifies that certain protective orders issued under the Domestic Violence Protection Act (DVPA) may be renewed more than once.

HIGHLIGHTS:

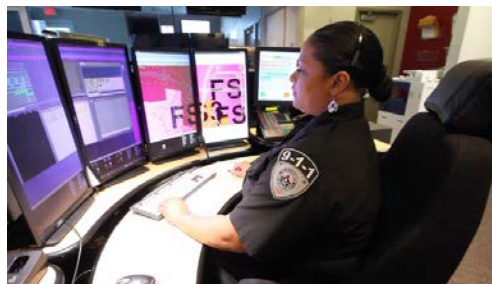
- DVPA protective orders that have already been renewed by the court for a five-year term may be subsequently renewed for another period of five or more years or permanently under the same statute and subject to the same procedures.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

COMMUNICATIONS/ 9-1-1



AB 988 (Bauer-Kahan)- 988 Suicide and Crisis Lifeline

Various Codes

Effective Date: September 29, 2022

SUMMARY:

Codified budget trailer language that created the 988 Suicide Prevention System

HIGHLIGHTS:

- Require, by July 16, 2022, the OES to ensure that designated 988 centers utilize technology that allow for transfers between 988 centers and 911 public safety answering points (PSAP).
- Require OES, no later than 90 days after the passage of the Act, to:
 - Appointed a 988 system director to implement and oversee the policy and regulatory framework for the technology infrastructure coordination and transfer of calls between 988, 911, and behavioral health crisis centers;
 - Established and convene a State 988 Technical Advisory Board (Board) to advise OES on:
 - Recommendations on the feasibility and plan for sustainable interoperability between 988, 911, and behavioral health crisis services, including the identification of any legal or regulatory barriers to the transfer of 911 calls;
 - The development of technical and operational standards for the 988 system that allow for coordination with California’s 911 system; and,
 - The creation of standards and protocols for when 988 centers transfer 988 calls into the “911” PSAPs, and vice versa.
- Required the Board to meet at least quarterly until December 31, 2028, and authorize the Board to be disbanded after that time at the discretion of OES.
- Required the Board to consist of a representative from CHHSA and expert representatives, including, but not limited to those from 988 centers, 911, and behavioral health crisis service providers.
- Required OES, by July 1, 2024, to verify interoperability between 988 and 911. Require OES to consult with the National Suicide Prevention Lifeline (NSPL) and the Federal Substance Abuse and Mental Health Services Administration (SAMHSA) on any technology requirements for 988 centers.
- Required CHHSA, by December 31, 2023, to create a set of recommendations to support a five-year implementation plan for a comprehensive 988 system.

- Required CHHSA to convene a state 988 AG to advise CHHSA on the set of recommendations to support the five-year implementation plan.
- Required the AG to include but not be limited to, the Department of Health Care Services (DHCS), OES, and the Department of Public Health, representatives of counties, representatives of employees working for county behavioral health agencies and agencies who subcontract with county behavioral health agencies who provide these services, health plans, emergency medical services, law enforcement, consumers, families, peers, and other local and statewide public agencies.
- Required the AG to meet at least quarterly until December 31, 2023 and allow the AG to be disbanded at the discretion of CHHSA, but not prior to January 1, 2024.
- Required CHHSA and the AG to make recommendations on all of the following:
 - Federal SAMHSA requirements and national best practices guidelines for operational and clinical standards, as specified;
 - Maintenance of an active agreement with the administrator of the NSPL for participation within the network;
 - Compliance with state technology requirements for the operation of 988;
 - A state governance structure to support the implementation and administration of behavioral health crisis services accessed through 988
 - 988 infrastructure, staffing, and training standards that will support statewide access to crisis counselors through telephone call, text, and chat 24 hours per day, seven days per week;
 - Access to crisis receiving and stabilization services and triage and response to warm handoffs from 911 and 988 call centers;
 - Resources and policy changes to address statewide and regional needs in order to meet population needs for behavioral health crisis services;
 - Statewide and regional public communications strategies informed by the NSPL and the SAMHSA to support public awareness and consistent messaging regarding 988 and behavioral health crisis services;
 - Recommendations to achieve statewide provision of mobile crisis team services that meet specified criteria
 - Quantifiable goals for the provision of statewide and regional behavioral health crisis services, which consider factors such as reported rates of suicide attempts and deaths
 - A process for establishing outcome measures, benchmarks, and improvement targets for 988 centers and the behavioral health crisis services system;

- Findings from a comprehensive assessment of the behavioral health crisis services system that takes into account infrastructure projects that are planned and funded. Requires findings to include an inventory of the infrastructure, capacity and needs as specified;
 - Procedures for determining the annual operating budget for the purposes of establishing the rate of the 988 surcharge and how revenue will be dispersed to fund the 988 system consistent with federal law; and,
 - Strategies to support the behavioral health crisis service system to ensure it is adequately funded, including mechanisms for reimbursement of behavioral health crisis responses as specified.
- Required that commencing December 31, 2024, and until December 31, 2029, the CHHSA to report annually on or before December 31 each year, on the status of 988 implementation including any actions take in that calendar year, planned actions for the future calendar year, barriers to implementation, need for additional funding, and any legislative action required to support implementation.
 - Established the fund, consisting of the revenue generated by the 988 surcharge assessed on users, to be used solely for the operations of the 988 center and mobile crisis teams, as defined. Provides that the fund may also consist of any other appropriations made to it by the Legislature.
 - Required the revenue generated by the 988 surcharge to be prioritized to fund the following:
 - First, the 988 centers, including the efficient and effective routing of telephone calls, personnel, and the provision of acute mental health services through telephone call, text, and chat to the 988 number; and,
 - Second, the operation of mobile crisis teams accessed via telephone calls, texts, or chats made to or routed through 988 as specified.
 - Prohibited money in the fund being subject to transfer to any other fund or to transfer, assignments, or reassignment for any other use or purpose outside of those specified in this bill.
 - Provided that 988 surcharge revenue in the fund be available, upon appropriation by the Legislature, for the purposes specified in this bill.
 - Required the revenue generated by the 988 surcharge to be used to supplement and not supplant federal, state, and local funding for 988 centers and mobile crisis services.
 - Specified that the revenue generated by the 988 surcharge can only be used to fund service and operation expenses that are not reimbursable through Medicaid, federal financial participation, Medicare, health care service plans, or disability insurers.
 - Authorized the OES, in consultation with DHCS, to adopt regulations regarding how funds received are to be disseminated to support the operations of the 988 system and related behavioral health crisis services. Require the OES to require entities seeking funds to file annually an expenditure and outcomes report as specified on a form and manner as determined by OES and DHCS.

- Authorized OES and DHCS to implement, interpret, or make specific this bill, in whole or in part, by means of all-county letters, plan letters, provider bulletins, information notices, regulations, or other similar instructions.
- Specified that coverage of mental health (MH) and substance use disorder (SUD) treatment pursuant to existing law includes medically necessary treatment of a MH or SUD, including, but not limited to, behavioral health crisis services, provided to an enrollee by a 988 center or mobile crisis team regardless of whether the service is provided by an in-network or out-of-network provider.
- Prohibited a health plan or insurer from requiring prior authorization for medically necessary treatment of a MH or SUD provided by a 988 center, mobile crisis team, or other provider of behavioral health crisis services to an enrollee or insured.
- Required a health plan or insurer to reimburse a 988 center, mobile crisis team, or other provider of behavioral health crisis services for medically necessary treatment of a MH or SUD consistent with the requirements of existing law with respect to the authorization of emergency services.
- Prohibited the enrollee or insured from paying more than the same cost sharing that the enrollee or insured would pay for the same covered services received from an in-network provider if an enrollee or insured receives medically necessary treatment for a MH or SUD from a 988 center, mobile crisis team, or other provider of behavioral health crisis services outside the plan network. Require this amount to be referred to as the “in-network cost-sharing amount.” Prohibit an out-of-network 988 center, mobile crisis team, or other provider of behavioral health crisis services from billing or collecting an amount from the enrollee or insured for services except for the in-network cost-sharing amount.
- Defined “behavioral health crisis services” to mean the continuum of services to address crisis intervention, crisis stabilization, and crisis residential treatment needs of those with a MH or SUD crisis that are wellness, resiliency, and recovery oriented. Include, but are not limited to, crisis intervention, including counseling provided by 988 centers, mobile crisis teams, and crisis receiving and stabilization services.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

CONTROLLED SUBSTANCES/NARCOTICS



[AB 1598 \(Davies\)](#)- Controlled substances: paraphernalia: controlled substance testing

Health and Safety Code Section 11014.5 and 11364.5 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Excludes from the definition of "drug paraphernalia" any testing equipment that is designed, marketed, used, or intended to be used, to analyze for the presence of fentanyl or any analog of fentanyl, ketamine, or gamma hydroxybutyric acid.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1186 (Wiener)- Medical Cannabis Patients' Right of Access Act

Business and Professions Code Sections 26200 (Amend) and 26320 (Add)

Effective Date: January 1, 2024

SUMMARY:

Establishes the Medicinal Cannabis Patients' Right of Access Act

HIGHLIGHTS:

- Restricts, beginning January 1, 2024, local jurisdictions from adopting or enforcing any regulation that prohibits the sale by delivery of medicinal cannabis to medicinal cannabis patients or their primary caregivers, or that has the effect of prohibiting the retail sale by delivery of medicinal cannabis to medicinal cannabis patients or their primary caregivers by licensed medicinal cannabis businesses in a timely and readily accessible manner, and in types and quantities that are sufficient to meet demand from medicinal cannabis patients, including, but not limited to, regulations that unreasonably restrict any of the following:
 - The number of medicinal cannabis businesses authorized to deliver medical cannabis in the local jurisdiction.
 - The operating hours of medicinal cannabis businesses.
 - The number or frequency of sales by delivery of medicinal cannabis.
 - The types or quantities of medicinal cannabis authorized to be sold.
 - The establishment of physical premises from which retail sale by delivery of medicinal cannabis within the jurisdiction is conducted by a licensed nonstorefront except that this paragraph shall not be construed to require the establishment of additional physical premises in a local jurisdiction that allowed medicinal cannabis retail as of January 1, 2022, and in which at least one physical premises engaged in the retail sale of medicinal cannabis, whether storefront or delivery, is already established.
- Does not prohibit the adoption or enforcement of reasonable regulations on retail sale by delivery of medicinal cannabis.
- Provides an act may be enforced for writ of mandate brought by a medicinal cannabis patient or their primary caregiver, a medicinal cannabis business, the Attorney General, or any other party otherwise authorized by law.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Could eliminate a local jurisdiction's ability to prohibit medical cannabis retail activities, regardless of the needs or conditions in the jurisdiction, and restricting local authority to set appropriate local regulations which are developed in various public processes.

NOTES:

CORRECTIONS/PAROLE



AB 2526 (Cooper)- Incarcerated persons: health records

Civil Code Section 56.10 (Amend) and Penal Code Section 5073 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires the transfer of mental health records when an incarcerated person is transferred from or between CDCR, the Department of State Hospitals (DSH), and county agencies.

HIGHLIGHTS:

- Provides that mental health records, as defined, may be disclosed by a county correctional facility, county medical facility, state correctional facility, or state hospital, as required by the provisions below.
- Requires, when jurisdiction of an inmate is transferred from or between CDCR, DSH, and county agencies caring for inmates, that these agencies disclose, by electronic transmission when possible, mental health records for any transferred inmate who received mental health services while in the custody of the transferring facility.
- Requires the mental health records to be disclosed at the time of transfer or within seven days of the transfer of custody, except when the person is transferred to a state hospital when the records are to be provided prior to, or at the time of, transfer.
- Requires mental health records to be disclosed by and between a county correctional facility, county medical facility, state correctional facility, state hospital, or state-assigned mental health provider to ensure sufficient mental health history is available for the purpose of parole evaluations and to ensure the continuity of mental health treatment of an inmate being transferred between those facilities.
- Provides that “mental health records” includes, but is not limited to, the following:
 - Clinician assessments, contact notes, and progress notes.
 - Date of mental health treatment and services.
 - Incident reports.
 - List of an inmate’s medical conditions and medications.
 - Psychiatrist assessments, contact notes, and progress notes.
 - Suicide watch, mental health crisis, or alternative housing placement records.
- Requires that all transmissions made pursuant to the provisions of this bill comply with the Confidentiality of Medical Information Act, the Information Practices Act of 1977, the federal Health

Insurance Portability and Accountability Act of 1996 (HIPAA), the federal Health Information Technology for Economic and Clinical Health Act (HITECH), and the corresponding implementing federal regulations.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 990 (Hueso)- Corrections: county of release

Penal Code Section 3003 (Amend, Repeal and Add)

Effective Date: January 1, 2024

SUMMARY:

Makes a number of changes related to the placement or transfer of individuals on parole or post release community supervision.

HIGHLIGHTS:

- Amends the factors the paroling authority must consider when deciding to return a person to a county or city other than the last county or city of legal residence to specify that the educational or vocational program that is located in a county other than the last county of legal residence is a program chosen by the incarcerated person.
- Requires the paroling authority to consider the existence of a housing option in another county, including with a relative or acceptance into a transitional housing program of choice, when deciding whether to return an incarcerated person to a city or county other than the last legal residence.
- Requires an incarcerated person, absent evidence that parole transfer would present a threat to public safety, to be released to the county in the location of a post-secondary educational or vocational training program of the incarcerated person's choice, or of a work offer, the incarcerated person's family, outpatient treatment, or housing. Requires CDCR to complete the parole transfer process prior to release and ensure the person is released from prison directly to the county where the post-secondary educational or vocational training program, the work offer, the person's family, outpatient treatment, or housing is located.
- Requires a person on parole, absent evidence that travel outside of the county of commitment would present a threat to public safety, to be granted a permit to travel outside the county of commitment to a location where the person has post-secondary educational or vocational training program opportunities, including classes, conferences, or extracurricular educational activities, an employment opportunity, or inpatient or outpatient treatment. Requires a parole agent to provide a written response of their decision within seven days after receiving the request for a travel permit. Requires that if the parole agent denies the request for an out-of-county travel permit, the reasons the travel would present a threat to public safety be included in the denial in writing.
- Requires a person on parole, absent evidence that transfer to a county outside the county of commitment would present a threat to public safety, to be granted approval of an application to transfer residency and parole to another county where the person has a post-secondary educational or vocational training program chosen by the inmate, a work offer, the person's family, inpatient or

outpatient treatment, or housing. Requires a parole agent to provide a written response of their decision within seven days after receiving the request for the transfer application. Requires that if the parole agent denies the application for a transfer of parole to another county, the reasons the transfer would present a threat to public safety be included in the denial in writing.

- Changes existing law that requires the paroling authority to give serious consideration to releasing a joint venture program participant to the county where the joint venture program employer is located if that employer intends to employ the person upon release, and instead requires the paroling authority to release the person to the county where the joint venture program employer is located.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1008 (Becker)- Corrections: communications

Penal Code Section 2084.5 (Add), Public Utilities Code Section 2899 (Add) and Welfare and Institutions Code Section 208.1 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires a state prison or youth residential placement or detention center operated by CDCR to provide persons in their custody and confined in a correctional or detention facility with voice communication services free of charge to the person initiating and the person receiving the communication.

HIGHLIGHTS:

- Requires a state prison or youth residential placement or detention center provide incarcerated persons with a minimum of 60 minutes of voice communication services per day, to the extent those services do not interfere with rehabilitative, educational, and vocational programming or regular facility operation.
- Prohibits a state agency from receiving revenue from the provision of voice communication services or any other communication services to a person confined in a state correctional or detention facility.
- Requires a county jail, city jail, or youth residential placement or detention center to provide persons in their custody and confined in a correctional or detention facility with voice communication services free of charge to the person initiating and the person receiving the communication.
- Requires a county jail, city jail, or youth residential placement or detention center to provide incarcerated persons with a minimum of 60 minutes of voice communication services per day, to the extent that those services do not interfere with rehabilitative, educational, and vocational programming or regular facility operation.
- Prohibits a county or city agency from receiving revenue from the provision of voice communication services or any other communication services to any person confined in a state or local correctional or detention facility.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1139 (Kamlager)- Prisons: visitation

Penal Code Sections 5007.6, 6401, 6401.5, and 6401.8 (Add)

Effective Date: January 1, 2023

SUMMARY:

Sets restrictions in place for CDCR from charging a fee for incarcerated persons for certain medical emergency communications.

HIGHLIGHTS:

- Prohibits the Secretary of CDCR from charging a fee for an incarcerated person to request, review, or use their medical records.
- Requires that emergency phone calls are made available to persons outside of CDCR and to incarcerated people, as specified. Requires CDCR to provide persons outside the facility the means to initiate a phone call to an incarcerated person in either of the following circumstances:
 - When the incarcerated person has been admitted to the hospital for a serious medical reason.
 - When a family member, approved visitor, next of kin, or persons listed on the medical release of information form or medical power of attorney form has become critically ill or has died while the incarcerated person has been hospitalized
- Requires that at intake and at least once a year thereafter, and within 30 calendar days of an infectious disease outbreak in a department facility, every incarcerated person be asked whom they want covered by the following documents:
 - Approved visitor list. Requires CDCR, if the incarcerated person would like to add a visitor, to provide a visitor application form for the incarcerated person to sign and send to the potential visitor, who may then complete and submit it to the visiting department of the facility.
 - Medical release of information form.
 - Medical power of attorney form.
 - Next of Kin form authorizing control over body and possessions in case of death
- Requires that incarcerated individuals be assisted in completing the above paperwork.
- Requires CDCR, within 24 hours of an incarcerated person being hospitalized for a serious medical reason, to inform persons covered by the current medical release of information form about the

incarcerated person's health status and to facilitate phone calls between the incarcerated person and those persons if the incarcerated person consents.

- Provides that a serious medical reason includes any of the following:
 - A medical professional has determined that the incarcerated person needs medical treatment in a public or community hospital.
 - A medical professional has determined that the incarcerated person needs medical treatment for a terminal disease.
 - A medical professional has determined that the incarcerated person needs to receive life-sustaining medical treatment.
 - The incarcerated person has suffered from a medical emergency and is receiving treatment at a prison hospital.
 - The incarcerated person has died
- Requires within 24 hours of an incarcerated person being hospitalized and if the incarcerated person is able to provide knowing and voluntary consent, CDCR to ask the incarcerated person whether they want to add people to any of the above specified forms who have not previously been designated. Requires CDCR to promptly assist, as necessary, the incarcerated person in completing the paperwork. Requires CDCR to promptly inform the newly designated persons on the medical release form of the incarcerated person's condition and facilitate a phone call between the incarcerated person and the newly designated person.
- Requires CDCR to maintain a phone line for outside people to call to inform the department that a family member or a person designated in any of the above listed forms has become critically ill or has died while the incarcerated person has been hospitalized. Requires CDCR to notify the incarcerated person of these calls upon their receipt.
- Requires emergency in-person contact visits and video calls to be made available whenever an incarcerated person is hospitalized or moved to a medical unit within the facility and the incarcerated person is in a critical or more serious medical condition. Requires video calls be made available if in-person contact visits are unavailable at the facility due to a public health emergency or are inconsistent with the patient's current medical treatment needs, as determined by their medical provider. Requires any visitor approval process to be conducted within 24 hours. No visitor approval process is required when the incarcerated person is in imminent danger of dying. Requires CDCR to allow up to four visitors at one time to visit the incarcerated person when the incarcerated person is in imminent danger of dying.
- Provides that "hospital" includes an on-site facility set up to provide hospital-like services during a public health emergency.

- Requires CDCR to have a grievance process in place by which the incarcerated person, or the person designated by the incarcerated person on the above specified forms, may file a formal grievance to review:
 - CDCR's failure to provide the incarcerated person's health care information and records to the designated person;
 - CDCR's failure to provide notice to the designated person as required;
 - CDCR's decision to deny visitation as required; or
 - CDCR's failure to provide adequate medical care and treatment.
- Provides that CDCR's existing grievance process satisfies the requirements that CDCR have a grievance process as outlined above.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

CRIMES & CRIMINAL PROCEDURE



AB 1613 (Irwin)- Theft: jurisdiction

Penal Code Section 786.5 (Add)

Effective Date: January 1, 2023

SUMMARY:

Expands the territorial jurisdiction in which the Attorney General can prosecute specified theft offenses and associated offenses connected together in their commission to the underlying theft offenses.

HIGHLIGHTS:

- States that the jurisdiction of a criminal action brought by the Attorney General for theft, organized retail theft, and receipt of stolen property includes the county where the theft or receipt of the stolen merchandise occurred, the county in which the merchandise was received, or the county where any act was done by the defendant in instigating, procuring, promoting, or aiding in the commission of the offense.
- Provides that when multiple offenses of theft, organized retail theft, or receipt of stolen property that all involve the same defendant or defendants and the same merchandise, or all involving the same defendant or defendants and the same scheme or substantially similar activity, occur in multiple jurisdictions, then any of those jurisdictions are a proper venue for all of the offenses.
- Extends jurisdiction to all associated offenses connected together in their commission to the underlying theft offenses when prosecuted by the Attorney General.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

[AB 1637 \(Cooper\)](#)- Criminal profiteering: asset forfeiture: unemployment and disability insurance fraud

Penal Code Sections 186.2 and 186.8 (Amend)

Effective Date: September 30, 2022

SUMMARY:

Clarified that specified fraud offenses relating to COVID-19 pandemic-related insurance programs administered by the Employment Development Department are included within the definition of criminal profiteering activity for the purposes of the California Control Profits of Organized Crime Act.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1653 (Patterson)- Property crimes: regional property crimes task force

Penal Code Section 13899 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Specifies that property crimes includes “theft of vehicle parts and accessories” for purposes of the Regional Property Crimes Task Force.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1700 (Maienschein)- Theft: online marketplaces: reporting

Government Code Section 7599.110 (Add)

Effective Date: January 1, 2023

SUMMARY:

Puts in place reporting requirements for stolen online marketplace items.

HIGHLIGHTS:

- Would require the Attorney General to establish a reporting location on its internet website for individuals to report items found on online marketplaces, as defined, that they suspect are stolen goods, and would require the Attorney General to provide that information to the applicable local law enforcement agency and regional property crimes task force.
- Would additionally require online marketplaces to display on their electronically based or accessed platform a link to the Attorney General's online marketplace suspected stolen goods reporting location.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1899 (Mathis)- Crimes: false personation

Penal Code Sections 538d, 538e, 538f, 538g, and 538h (Amend)

Effective Date: January 1, 2023

SUMMARY:

Prohibits the false impersonation of peace officers, firefighters, and other public officers and employees through, or on, an Internet website, or by other electronic means.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Under existing law it is a punishable offense to wear or use the authorized uniform, badge, insignia, emblem, device, label, certificate, card, or writing of a peace officer, firefighter, and employee of a government agency or department. However, this offense only explicitly relates to the wearing or use of such items with the intent of fraudulently impersonating an officer or employee of the aforementioned positions and not for the purposes of defrauding another person.

Furthermore, existing law similarly does not include any reference to such impersonation of these employees or officers via electronic means.

NOTES:

AB 2085 (Holden)- Crimes: mandated reporters

Penal Code Sections 11165.2, 11166, and 11167 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Redefines "general neglect" for purposes of the Child Abuse and Neglect Reporting Act (CANRA) by excluding a person's economic disadvantage.

HIGHLIGHTS:

- States that for purposes of CANRA, "general neglect" does not include a parent's economic disadvantage.
- Specifies that while, as defined, "general neglect" requires no injury to the child have occurred, the child must be at substantial risk of suffering serious physical harm or illness.
- Makes clarifying changes to reflect that the term "suspected" abuse or neglect means "reasonably suspected," as currently defined.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2185 ([Akilah] Weber)- Forensic examinations: domestic violence

Penal Code Section 11161.2 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Provides domestic violence victims access to medical evidentiary exams, free of charge, by Local Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners.

HIGHLIGHTS:

- Require each county's board of supervisors to authorize a designee to approve the SART, SAFE teams, or other qualified medical evidentiary examiners to receive reimbursement through Cal OES and to notify OES of the designation.
- Require OES to establish a 60-day reimbursement process within one year upon initial appropriation.
- Specify that each county's SART, SAFE, or other qualified medical evidentiary examiner shall submit invoices to OES.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2282 (Bauer-Kahan)- Hate crimes: nooses, crosses and swastikas

Penal Code Section 11411 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Equalizes the penalty for the crimes of hanging a noose, displaying a symbol of hate, including a Nazi swastika, and burning or desecrating religious symbols, on specified property, for the purpose of terrorizing, and expands and aligns the places where this conduct is prohibited for each offense.

HIGHLIGHTS:

- Makes hanging expands the provision making hanging a noose on private property to terrorize another to include a public place, place of worship, and cemetery and increases the penalty from a misdemeanor to a wobbler and changes the fine to up to \$10,000, plus penalty assessments, for the felony or up to \$5,000, plus penalty assessments, for misdemeanor for a first conviction.
- Deletes the existing provision criminalizing placing or displaying a sign, mark, or emblem including a “Nazi swastika” on the property of another and instead includes placing such an item in the provision criminalizing engaging in a pattern of behavior for the purpose of terrorizing an individual.
 - The penalty is a a wobbler and changes the fine to up to \$10,000, plus penalty assessments, for the felony or up to \$5,000, plus penalty assessments, for misdemeanor for a first conviction.
- Makes subsequent conviction for any of the offenses in Penal Code 11411 punishable by an enhanced fine of up to \$15,000 for a felony conviction and up to \$10,000 for a misdemeanor conviction.
- Includes codified legislative intent stating that it is the intent of the Legislature to criminalize the placement or display of the Nazi Hakenkreuz (hooked cross), also known as the Nazi swastika that was the official emblem of the Nazi party, for the purpose of terrorizing a person.
- Not intended to criminalize the placement or display of the ancient swastika symbols that are associated with Hinduism, Buddhism, and Jainism and are symbols of peace.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2294 (Jones-Sawyer)- Diversion of repeat retail theft crimes

Penal Code Sections 853.6 and 978.5 (Amend, Repeal and Add), 1210.2 (Add and Repeal), 1001.81 (Add and Repeal)

Effective Date: September 30, 2022

SUMMARY:

Enacts various changes to theft-related offenses, with a sunset date of January 1, 2026.

HIGHLIGHTS:

- States that a peace officer may take into custody a person who has been cited, arrested, or convicted for misdemeanor or felony theft from a store in the previous six months or if there is probable cause to believe the person committed organized retail theft, as specified.
- States that a court may issue a bench warrant if a defendant has been cited or arrested for misdemeanor or felony theft from a store and has failed to appear in court in connection with that charge or those charges within the past six months.
- Authorizes a city attorney, district attorney, or county probation department to create a diversion or DEJ program for persons who commit a theft offense or repeat theft offenses. The program may be conducted by the prosecuting attorney's office or the county probation department.
- Provides that if a county creates a diversion or DEJ program for individuals committing a theft offense or repeat theft offenses, on receipt of a case or at arraignment, the prosecuting attorney shall either refer the case to the county probation department to conduct a prefiling investigation report to assess the appropriateness of program placement or, if the prosecuting attorney's office operates the program, determine if the case is one that is appropriate to be referred to the program.
- Specifies that in determining whether to refer a case to the program, the probation department or prosecuting attorney shall consider, but is not limited to, all of the following factors:
 - Any prefiling investigation report conducted by the county probation department or nonprofit contract agency operating the program that evaluates the individual's risk and needs and the appropriateness of program placement;
 - If the person demonstrates a willingness to engage in community service, restitution, or other mechanisms to repair the harm caused by the criminal activity and address the underlying drivers of the criminal activity;
 - If a risk and needs assessment identifies underlying substance abuse or mental health needs or other drivers of criminal activity that can be addressed through the diversion or DEJ program;

- If the person has a violent or serious prior criminal record or has previously been referred to a diversion program and failed that program; and,
- Any relevant information concerning the efficacy of the program in reducing the likelihood of participants committing future offenses.
- States that on referral of a case to the program, a notice shall be provided, or forwarded by mail, to the person alleged to have committed the offense with both of the following information:
 - The date by which the person must contact the diversion program or DEJ program in the manner designated by the supervising agency; and
 - A statement of the penalty for the offense or offenses with which that person has been charged.
- States this authority to create a diversion or DEJ program does not limit the power of the prosecuting attorney to prosecute a theft or repeat theft, except that the prosecuting attorney may enter into a written agreement with the person to refrain from, or defer, prosecution on the offense or offenses on the following conditions:
 - Completion of the program requirements such as community service or courses reasonably required by the prosecuting attorney; and
 - Making adequate restitution or an appropriate substitute for restitution to the establishment or person from which property was stolen at the face value of the stolen property, if required by program.
- Requires the Board of State and Community Corrections (BSCC), upon appropriation, to award grants to four or more county superior courts or probation departments to create projects to reduce recidivism of high risk misdemeanor probationers.
- Specifies that the demonstration projects shall use risk assessments at sentencing when a misdemeanor conviction results in a term of probation to identify high-risk misdemeanants and to place these misdemeanants on formal probation that combines supervision with individually tailored programs, graduated sanctions, or incentives that address behavioral or treatment needs to achieve rehabilitation and successful completion of probation. The formal probation program may include incentives such as shortening probation terms as probationers complete the individually tailored program or probation requirements.
- Requires the demonstration projects to evaluate the probation completion and recidivism rates for project participants and authorizes comparison to control groups to evaluate program efficacy.
- Requires BSCC to determine criteria for awarding the grants on a competitive basis that considers the ability of a county to conduct a formal misdemeanor probation project for high-risk misdemeanor probationers, including components that align with evidence-based practices in reducing recidivism, including, but not limited to, risk and needs assessment, programming to help with drug or alcohol

abuse, mental illness, or housing, and the support of the superior court if the application is from a county probation department.

- Provides that BSCC shall develop reporting requirements for each county receiving a grant to report the results of the demonstration project. The reports may include, but are not limited to, the use of risk assessment, the formal probation program components, the number of individuals who were placed on formal probation, the number of individuals who were placed on informal probation, and the number of individuals in each group who were subsequently convicted of a new offense.
- Requires BSCC to prepare a report compiling the information received from each county receiving a grant, to be completed and distributed to the Legislature and county criminal justice officials two years after an appropriation by the Legislature.
- Provides that the provisions of this act are severable.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2356 (Rodriguez)- Theft: aggregation

Penal Code Section 487 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Specifies that if the value of property taken exceeds \$950 over the course of distinct but related acts, the value of the property may be aggregated to charge a count of grand theft if the acts are motivated by one intention, one general impulse, and one plan.

HIGHLIGHTS:

- Provides that if the value of the money, labor, real property, or personal property taken exceeds \$950 over the course of distinct but related acts, the value of the money, labor, real property, or personal property taken may properly be aggregated to charge a count of grand theft, if the acts are motivated by one intention, one general impulse, and one plan.
- States that the change made by this bill is declaratory of existing law in *People v. Bailey* (1961) 55 Cal.2d 514.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Would more accurately reflect the nature of the crime and would give local law enforcement and district attorneys greater discretion in the filing and disposition of criminal cases.

NOTES:

AB 2374 (Bauer-Kahan)- Illegal dumping

Penal Code Section 374.3 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Increases the maximum fines for illegal dumping for persons employing more than 10 full-time employees, and requires any person convicted of illegal dumping to remove or pay the cost of removing the waste matter they were convicted of illegally dumping.

HIGHLIGHTS:

- Increases the maximum mandatory fine for illegally placing, depositing, dumping, or causing to be placed, deposited or dumped, waste matter in commercial quantities by a person employing more than 10 full-time employees, as follows:
 - From not more than \$3,000 for the first offense to not more than \$5,000;
 - From not more than \$6,000 for the second conviction to not more than \$10,000; and,
 - From not more than \$10,000 for a third or subsequent conviction to not more than \$20,000.
- Requires the court to order person convicted of illegal dumping, as specified, to remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped on public or private property.
- Requires the court, if that person holds a license or permit to conduct business that is substantially related to the conviction, to notify the applicable licensing or permitting entity, if any, that a licensee or permittee had been convicted of illegal dumping.
- Requires the licensing or permitting entity to record and post the conviction on the public profile of the licensee or permittee on the entity's website.
- Provides that any fine shall be based on the person's ability to pay including, but not limited to, consideration of the following:
 - The defendant's present financial position;
 - The defendant's reasonably discernible future financial position, provided that the court shall not consider a period of more than one year from the date of the hearing for purposes of determining the reasonably discernible future financial position of the defendant;
 - The likelihood that the defendant will be able to obtain employment within one year from the date of the hearing; and,

- Any other factor that may bear upon the defendant's financial capability to pay the fine.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2588 (Maienschein)- Crimes: obstruction of justice

Penal Code Section 146e (Amend)

Effective Date: January 1, 2023

SUMMARY:

Amends the existing crime of disclosing specified information pertaining to a public safety official with the intent to obstruct justice or the due administration of the laws, to include protection of the official's "immediate family," rather than their "spouse and child."

HIGHLIGHTS:

- Replaces the existing law's protections of the public safety official's spouse or children with immediate family of the public safety official.
- Defines "immediate family" to mean "a spouse, parent, child, a person related by consanguinity or affinity within the second degree, or another person who regularly resides in the household, or who, within the prior six months, regularly resided in the household."

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Presently, it is "a crime to maliciously, and with the intent to obstruct justice or the due administration of laws, or with the intent or threat to inflict imminent bodily harm in retaliation for the due administration of the laws, to publish, disseminate, or otherwise disclose the residence address or telephone number of any peace officer, nonsworn police dispatcher, employee of a city police department or county sheriff's office, or public safety official, or that of the spouse or children of those persons..."

This Bill extends these protections to the immediate family of these officials, or anyone who regularly resided in the household within the prior 6 months.

NOTES:

SB 357 (Wiener)- Loitering for the purpose of engaging in a prostitution offense

Evidence Code Section 782.1 (Amend)

Penal Code Sections 647.3, 653.23 and 1203.47 (Amend), 653.29 (Add), 653.20 and 653.22 (Add and Repeal)

Public Utilities Code Section 99171 (Amend)

Welfare and Institutions Code Sections 18259 and 18259.3 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Repeals provisions of law related to loitering with intent to commit prostitution.

HIGHLIGHTS:

- Authorizes a person currently serving a sentence for a conviction of the repealed section to petition the trial court for a recall or dismissal of sentence. Upon receiving a petition, the court shall presume the petitioner satisfies the criteria for recall and dismissal of sentence unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria, the court shall grant the petition and dismiss the sentence as legally invalid.
- Authorizes a person who has completed their sentence for a conviction of the repealed section to file an application before the trial court to have their conviction dismissed and sealed because the prior conviction is legally invalid. The court shall presume the petitioner satisfies the criteria unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria, the court shall seal the conviction as legally invalid.
- Specifies that unless requested by the applicant, no hearing is necessary to grant or deny an application.
- Provides that if the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.
- States that this bill's provisions is not intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.
- Requires the Judicial Council to promulgate and make available all necessary forms to enable the filing of the petitions and applications authorized by the provisions in this bill.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

(As provided by the Los Angeles County Sheriff's Department):

A repeal of this law will take a major tool away from law enforcement, especially patrol operations. Prostitution operations require the use of extensive undercover operations and there are limited amounts of personnel and funding to do this type of work.

Penal Code section 653.22 allows our patrol functions to enforce this section, and there are of course way more patrol officers than there are undercover officers available for extensive operations.

NOTES:

SB 748 (Portantino)- Trespass: private universities

Penal Code Sections 626, 626.2, 626.4 and 626.6 (Amend)

Effective Date: July 19, 2022

SUMMARY:

Added “independent institutions of higher education” to the types of schools that, under existing criminal trespass laws, may prohibit students or employees who have been suspended or dismissed, as well as certain persons who have been directed to leave, from re-entering the campus or facility.

HIGHLIGHTS:

- Deletes minimum mandatory terms of imprisonment for subsequent trespassing offenses at specified institutions, including “independent institutions of higher learning.”

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1056 (Umberg)- Crimes: violent posts

Civil Code Section 1798.99.20 (Add)

Effective Date: January 1, 2023

SUMMARY:

Establishes the Online Violence Prevention Act as it relates to social media.

HIGHLIGHTS:

- Requires a social media platform, as defined, with 1,000,000 or more monthly users to clearly and conspicuously state whether it has a mechanism for reporting violent posts, as defined; and allows a person who is the target, or who believes they are the target, of a violent post to seek an injunction to have the violent post removed.
 - “Social media platform” means a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:
 - A substantial function of the service or application is to connect users and allow users to interact with each other within the service or application.
 - A service or application that provides email or direct messaging services does not satisfy the above on the basis of that function alone.
 - The service or application allows users to do all of the following:
 - Construct a public or semipublic profile for purposes of signing onto and using the service or application.
 - Populate a list of other users with whom an individual shares a connection within the system
 - View and navigate a list of connections made by other individuals within the system.
 - Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users.
 - “Public or semipublic internet-based service or application” does not include a service or application used to facilitate communication with a business or enterprise among employees or affiliates of the business or enterprise, provided that access to the service

or application is restricted to employees or affiliates of the business or enterprise using the service or application.

- “User” is a person with an account on a social media platform.
- “Violent post” is content on a social media platform that contains a true threat against a specific person that is not protected by the First Amendment to the United States Constitution.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1081 (Rubio)- Disorderly conduct: peeping, recording, and distribution of intimate images

Penal Code Section 647 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Defines the terms “distribute” and “identifiable” for purposes of the existing crime of unlawful distribution of a private image, also known as “revenge porn.”

HIGHLIGHTS:

- Provides that it is also unlawful for a person who intentionally causes the image to be distributed.
- Defines “intentionally causes an image to be distributed” to mean “when that person arranges, specifically requests, or intentionally causes another person to distribute the image.”
- Defines “distribute” to include exhibiting in public or giving possession.
- Defines “identifiable” through cross-reference to the definition that currently exists in the Penal Code section, which provides that the term means “capable of identification, or capable of being recognized, meaning that someone, including the victim, could identify or recognize the victim. It does not require the victim’s identity to actually be established.”
- Exempts the distribution of an image that is related to a matter of public concern or public interest, but clarifies that a distributed image is not a matter of public interest or public concern solely because it depicts a public figure.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Without a clear definition of ‘distribution’ as it applies to this crime, there is ambiguity as to whether distribution requires a transfer of an image from one person to another, or whether simply publicly displaying such an image is sufficient to meet the element of distribution

NOTES:

SB 1223 (Becker)- Criminal procedure: mental health diversion

Penal Code Sections 1001.36, 1370 and 1370.01 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Changes the eligibility criteria that a court defendant suffers from a mental disorder and instead requires a showing that the defendant has been diagnosed with a mental disorder and removes the requirement that the diagnosis be recent.

HIGHLIGHTS:

- Provides that a defendant’s mental disorder was a significant factor in the commission of the charged offense if the disorder or its symptoms were a motivating factor, causal factor, or contributing factor to the defendant’s involvement in the alleged offense.
- Includes the defendant’s treatment plan among the things the court may consider when making the determination that the defendant will not pose an unreasonable risk of danger to public safety if treated in the community.
- States that if the court refers the defendant to a county mental health agency and the agency determines that it is unable to provide services to the defendant, the court shall accept a written declaration to that effect from the agency in lieu of requiring live testimony.
- Provides that declaration from the agency shall serve only to establish that the program is unable to provide services to the defendant at the time and does not constitute evidence that the defendant is unqualified or unsuitable for diversion.
- Defines “qualified mental health expert” to include, but not be limited to, “a psychiatrist, psychologist, a person licensed to provide mental health services, as provided, or a person whose knowledge, skill, experience, training, or education qualifies them as an expert.
- Specifies that for a defendant charged with a misdemeanor who is granted mental health diversion, the period of diversion to limited to one year.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1228 (Wiener)- Criminal procedure: DNA samples

Penal Code Sections 680 (Amend) and 679.12 (Add)

Effective Date: January 1, 2023

SUMMARY:

Prohibits entering samples from a victim or a person who voluntarily gave DNA for exclusion purposes into any DNA databank.

HIGHLIGHTS:

- Adds to the Sexual Assault Victims' DNA Bill of Rights that DNA collected directly from a victim of sexual assault, and samples of DNA collected from intimate partners for the purposes of exclusion shall be protected as provided for in the section added by this bill.
- Provides that the following apply to known reference samples of DNA from a victim or a witness to a crime or alleged crime, and to known reference samples of DNA from intimate partners or family members of a victim or witness voluntarily provided for the purpose of exclusion, as well as to any profiles developed from those samples:
 - Law Enforcement agencies and their agents shall use these DNA samples or profiles for purposes directly related to the incident being investigated.
 - No law enforcement agency or agent thereof may compare any of these samples or profiles with DNA samples or profiles that do not relate to the incident being investigated
 - No law enforcement agency or agent thereof may include any of these DNA profiles in any database that allows these samples to be compared to or matched with profiles derived from DNA evidence obtained from crime scenes.
 - No law enforcement agency or agent thereof may provide any other person or entity with access to any of these DNA samples or profiles, unless that person or entity agrees to abide by the restrictions on the use and disclosure of the sample or profile.
 - Every agent of a law enforcement agency shall return any remaining part of every DNA sample to that law enforcement agency promptly after it has performed the requested testing or analysis of that sample.
 - No agent of law enforcement agency may provide these DNA samples or profiles to any person or entity other than the law enforcement agency that provided them.
 - A person whose DNA profile has been voluntarily provided for purposes of exclusion shall have their searchable database profile expunged from all public and private databases if the person

has not past or present offense or pending charge which qualifies that person for inclusion within the state's DNA and Forensic Identification Database and Databank Program.

➤ **Definitions:**

- The “incident being investigated” means the crime or alleged crime that caused a law enforcement agency or agent to analyze or request a DNA sample from a victim of a witness to that crime or alleged crime.
- An “agent” of a law enforcement agency includes any person or entity that the agency provides with access to a DNA sample collected directly from the person of a victim of or a witness to a crime or alleged crime, or to any profile developed from those samples. This includes, but it is not limited to, public or private DNA testing facilities.
- A “victim” or “witness” does not include any person who is a target of the investigation of the incident being investigated, if law enforcement agents have probable cause to believe that person has committed a public offense relating to the incident under investigation.
- A sample is “voluntarily provided for the purpose of exclusion” if law enforcement agents do not consider the individual to be a suspect and have requested a voluntary DNA sample in order to exclude the person's DNA profile from consideration in the current investigations.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Limiting what DNA samples members of law enforcement are permitted to run through their databases would prove damaging to investigations.

NOTES:

SB 1272 (Becker)- Crimes: intercepting telephone communications

Penal Code Sections 631 and 632.7 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Clarifies that the existing exemption from wiretapping for maintenance and operation purposes, applies to telephone companies as well as public utility companies.

HIGHLIGHTS:

- Exempts telephone companies, when engaged in constructing, maintaining or operating communications services, from prohibitions on electronic surveillance, as specified.
- Defines a telephone company as:
 - Every corporation or person, owning, controlling, operating or managing any telephone line for compensation within this state; or
 - Any other person that provides residential or commercial telephone services to a subscriber

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

EMPLOYMENT OF PEACE OFFICERS



AB 655 (Kalra)- Crimes: intercepting telephone communications

Penal Code Section 13680 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires public agencies employing peace officers to investigate current and prospective peace officers regarding engagement in hate groups, participation in hate group activities, or public expressions of hate, as specified, and provides that certain findings of those investigations would constitute grounds for denial or termination of employment as a peace officer.

HIGHLIGHTS:

- Requires that any background investigation of a candidate for a peace officer position include an inquiry into whether the candidate has ever been a member of a hate group, participated in a hate group activity, or advocated public expressions of hate.
- Provides that the hiring agency must deny employment to a candidate for a peace officer position if, during a preemployment background, it is determined that in the past 7 years and since 18 years of age, the candidate has or is engaged in a specified hate-related activity.
- Provides that a candidate for a peace officer position shall not be ineligible to be hired pursuant to these provisions if the candidate has ceased all activities related to hate groups and public expressions of hate at least 7 years before the inquiry was made.
- Requires any public agency employing peace officers to investigate, or cause to be investigated by the appropriate oversight agency, any internal complaint or complaint from a member of the public that alleges the a peace officer employed by the agency has, in the previous seven years and since 18 years of age, engaged in a specified hate-related activity.
- Provides that an agency shall remove from employment as a peace officer, any peace officer against whom a complaint described above is sustained, as specified.
- Mandates that the Department of Justice shall adopt and promulgate guidelines for the investigation and adjudication of complaints described above by a public agency or oversight agency.
- Provides that nothing in the provision regarding the investigation of internal or public complaints authorizes or requires adverse action to be taken against any peace officer who engages in any activities described above as part of an undercover assignment, as specified, or in any undercover work as part of any bona fide academic or journalistic research.

- Provides that notwithstanding existing law, any record relating to an investigation of a complaint described above in which a sustained finding was made by the public agency or oversight agency that a peace officer has engaged in a specified hate-related activity, shall not be confidential and shall be made available for public inspection.
- A record disclosed pursuant to the provision above may be redacted as follows:
 - To remove personal data or information, such as a home address, telephone number, or identities of family members;
 - To preserve the anonymity of complainants and witnesses;
 - To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers; and,
 - Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer or another person.
- Defines several terms for the purposes of its provisions, including: genocide, hate group, membership or participation in a hate group, peace officer, and public expression of hate.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Fiscal- Unknown potentially reimbursable state-mandated costs in the hundreds of thousands of dollars for investigation and termination proceedings that must comply with POBOR.

Administrative- Huge (potential) impact to background investigations and records operations to comply with mandates of the legislation.

NOTES:

AB 2229 ([Luz] Rivas)- Peace officer minimum standards: bias evaluation

Government Code Section 1031 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Reenacts the requirement that peace officers be found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of their powers, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Joins the bill with SB 960 (Skinner). See next page.

NOTES:

SB 960 (Skinner)- Public employment: peace officers: citizenship

Government Code Section 1031 (Amend) and 1031.5 (Repeal) and Vehicle Code Section 2267 (Repeal)

Effective Date: January 1, 2023

SUMMARY:

Removes provisions of existing law requiring peace officers to either be a citizen of the United States or be a permanent resident who is eligible for and has applied for citizenship.

HIGHLIGHTS:

- Instead provides that a peace officer must be legally authorized to work in the United States under federal law.
- Clarifies that specific provisions shall be interpreted and applied consistently with federal law, and that those provisions shall not be construed to permit an employer to override or bypass specified work authorization requirements contained in federal law.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Joins the bill with AB 2229 (Rivas).

NOTES:

FIREARMS



AB 228 (Rodriguez)- Firearms: inspections

Penal Code Section 26720 (Amend)

Effective Date: January 1, 2024

SUMMARY:

Requires DOJ, beginning in 2024, to conduct inspections of licensed firearm dealers at least every three years, subject to exceptions.

HIGHLIGHTS:

- Authorizes the DOJ to inspect a dealer that is also subject to a local inspection program, and specifies minimum sampling standards for the audit of dealer records during an inspection.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1594 (Ting)- Firearms: civil suits

Civil Code Section 3273.50 (Add)

Effective Date: July 1, 2023

SUMMARY:

Establishes the “firearm industry standard of conduct,” which places a series of requirements on industry members and prohibits specified practices.

HIGHLIGHTS:

- Defines a “firearm industry member” to include a person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association engaged in the manufacture, distribution, importation, marketing, wholesale, or retail sale of firearm-related products.
- Defines a “firearm-related product” as a firearm, ammunition, a firearm precursor part, a firearm component, or a firearm accessory with a connection to California, as specified.
- Requires a member to establish, implement, and enforce reasonable controls and to take reasonable precautions to ensure it does not sell, distribute, or provide a firearm-related product to a downstream distributor or retailer who fails to do establish reasonable controls.
- Defines “reasonable controls” to mean reasonable procedures, acts, or practices that are designed, implemented, and enforced to prevent certain sales, loss, or theft and to ensure the member follows applicable laws.
- Provides that there shall be a rebuttable presumption that the firearm industry member failed to implement reasonable controls if the member’s action or failure to act created a reasonably foreseeable risk that the harm alleged by the claimant would occur and the member could have established, implemented, and enforced reasonable controls to prevent or substantially mitigate the risk that the harm would occur. If established, the member has the burden of proving by a preponderance of the evidence that it established, implemented, and enforced reasonable controls.
- Provides that a firearm industry member shall not manufacture, market, import, offer for wholesale sale, or offer for retail sale a firearm-related product that is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety in California. A product is not in violation based on a firearm’s inherent capacity to cause injury or lethal harm.
- Establishes a presumption that a firearm-related product is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety if the product:

- Has features that render the product most suitable for assaultive purposes instead of lawful self-defense, hunting, or other legitimate sport and recreational activities;
 - Is designed, sold, or marketed in a manner that foreseeably promotes conversion of legal firearm-related products into illegal products; or
 - Is designed, sold, or marketed in a manner that is targeted at minors or other individuals who are legally prohibited from accessing firearms.
- Prohibits a firearm industry member from engaging in any conduct related to the sale or marketing of firearm-related products that is in violation of the False Advertising Law, Business and Professions Code Section 17500 et seq., the Unfair Competition Law, Business and Professions Code Section 17200 et seq., and the Consumers Legal Remedies Act.
 - Authorizes the Attorney General, a city attorney, a county counsel, or a person who has suffered harm in California to bring a civil action against a firearm industry member in violation of the firearm industry standard of conduct laid out above.
 - Authorizes a court to award injunctive relief sufficient to prevent the firearm industry member and any other defendant from further violating the law, damages, attorney's fees and costs, and other appropriate relief.
 - Provides that an intervening act by a third party, including, but not limited to, criminal misuse of a firearm-related product, shall not preclude a firearm industry member from liability under this bill.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1621 (Gipson)- Unserialized firearms

Various Code Sections

Effective Date: June 30, 2022

SUMMARY:

Redefines one of the definitions of "firearm" as including a precursor part, redefines "firearm precursor part" and prohibits a person from possessing or manufacturing a firearm precursor part without authorization.

HIGHLIGHTS:

- Redefines a firearm precursor part as any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.
- Extends the definition of a firearm to include a firearm precursor part for the purposes of most criminal and regulatory provisions related to the possession, sale, and transfer of a firearm, including provisions which do not apply to a frame or receiver under existing law.
- Repeals provisions relating to the sale of firearm precursor parts through a licensed precursor part vendor, and would prohibit the sale, transfer, or possession of an unserialized firearm precursor part, except as specified.
- Creates a process by which a person may apply to the department for a determination that a particular item or kit is or is not a firearm precursor part.
- Existing law requires a person that is manufacturing a firearm or assembling a firearm from unserialized components, to apply to the Department of Justice for a unique mark of identification and to affix that mark to the firearm, as specified.
- This bill:
 - Requires any person in possession of an unserialized firearm to apply to the department for a unique mark of identification and to affix that mark to the firearm before January 1, 2024.
 - Commencing on January 1, 2024, explicitly prohibits the possession or transfer of a firearm without a serial number or mark of identification.
 - Authorizes a new resident of the state to, within 60 days after arrival in the state, request a unique mark or identification for any unserialized firearm that is otherwise valid to possess in the state.

- Prohibits the possession, sale, transfer, or use of specified firearms manufacturing equipment, with exceptions for specified entities, including the Armed Forces of the United States, the National Guard, and law enforcement, as specified.
- Existing law prohibits a person from purchasing more than one handgun or semiautomatic centerfire rifle in a 30-day period.
- This bill:
 - Commencing on January 1, 2024, also apply this limitation to completed frames or receivers and firearm precursor parts.
- Existing law prohibits a person convicted of a felony from possessing a firearm.
- Existing law prohibits a person convicted of certain specified misdemeanors from possessing a firearm for a period of 10 years after that conviction.
- This bill:
 - Includes in the 10-year prohibition, a misdemeanor violation of manufacturing an unserialized firearm, or aiding or abetting the manufacture of a firearm by a prohibited person, that occurs on or after January 1, 2023.
 - Authorizes the Department of Justice to adopt regulations to carry out its provisions. The bill would make other conforming, technical, and nonsubstantive changes. By creating new crimes expanding the application of numerous crimes, this bill would impose a state-mandated local program.
 - Declares its provisions to be severable and would authorize the Department of Justice, if any provisions of this bill are held invalid, to enact regulations in furtherance of the bill purpose, including, without limitation, requiring a person to obtain a license to purchase or receive a firearm precursor part.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2156 (Wicks)- Firearms: manufacturers

Penal Code Section 29010 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Expands the prohibitions on the manufacture of firearms without a state license including reducing the number of guns a person may manufacture without a license and prohibiting the use of a three-dimensional printer to manufacture any firearm without a license.

HIGHLIGHTS:

- Reduces the number of firearms that a person, firm, or corporation may manufacture in a calendar year without having a state license to manufacture firearms from 50 to three. A violation is a misdemeanor.
- Prohibits a person, firm, or corporation from using a three-dimensional printer to manufacture any firearm, including a frame or receiver, or any firearm precursor part, without having a state license to manufacture firearms. A violation is a misdemeanor.
- Defines “three-dimensional printer” as “a computer-aided manufacturing device capable of producing a three-dimensional object from a three-dimensional digital model through an additive manufacturing process that involves the layering of two-dimensional cross sections formed of a resin or similar material that are fused together to form a three-dimensional object.”

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2239 (Maienschein)- Firearms: prohibited persons

Penal Code Section 29805 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Creates a 10-year firearm prohibition for individuals convicted, on or after January 1, 2023, of child abuse and elder and dependent adult abuse involving violence.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Joins the bill with AB 1621 (Gipson).

NOTES:

AB 2551 (McCarty)- Firearms: prohibited persons

Penal Code Sections 29880, 30372, and 30472 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires DOJ, upon notification that a specified prohibited person attempted to purchase a firearm, to notify local authorities in the jurisdiction where the prohibited person resides of such attempt.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Joins the bill with AB 1621 (Gipson).

NOTES:

AB 2552 (McCarty)- Firearms: gun shows and events

Penal Code Sections 27240, 27245, 27305, 27310, and 27350 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Requires the inclusion of additional notices on the signs posted at the public entrance of gun shows, increases fines on gun show producers and vendors who fail to comply with specified requirements, and requires DOJ to conduct annual inspections of one-half of all gun shows and events.

HIGHLIGHTS:

- Adds firearm precursor part vendors to the list of entities the DOJ may inspect at a gun show or event.
- Require the DOJ to report any violations by a firearm precursor part vendor discovered during an inspection at a gun show or event on the DOJ's website for a period of 90 days after an inspection.
- Adds additional notice requirements for signs posted in a readily visible location at the public entrance of a gun show or event.
- Requires DOJ, commencing on July 1, 2023, to annually conduct enforcement and inspection of one-half of all gun shows or events in the state to ensure compliance, as specified.
- Requires DOJ to post specified violations by a firearm dealer or ammunition vendor discovered during an inspection of a gun show or event on its internet website for a period of 90 days after an inspection.
- Requires the DOJ, no later than May 1, 2024 and annually thereafter, to prepare and submit a report to the Legislature summarizing their enforcement efforts pursuant to this section.
- Increases the fine for willful failure by a gun show producer to comply with specified requirements not involving signage from \$2,000 to \$4,000 and increases the time for which the producer will be ineligible for a gun show producer license from one year to two years.
- Increases the maximum fine for willful failure by a gun show producer to post specified signs from \$1,000 to \$2,000 for the first offense and from \$2,000 to \$4,000 for the subsequent or subsequent offense.
- Increases the time for which a gun show producer will be ineligible for a gun show producer license for a failure to post specified signs from one year to two years.
- Requires gun show or event vendors to certify in writing to the gun show producer that they will not display, possess, or offer for sale:
 - Any unserialized frame or receiver, including an unfinished frame or receiver; or
 - Any attachment or conversion kit designed to convert a handgun into a short-barreled rifle or into an assault weapon.
- Changes the fine for a second or subsequent violation of specified gun show provisions from a fine not exceeding \$1,000 to a fine of \$1,000.

- Increases the fine for knowing violations of specified gun show provisions from a maximum fine of \$1,000 for the first offense to \$2,000 for the first offense.
- Provides that a person who knowingly violates specified gun show provisions cannot participate as a vendor at any gun show or event for a period of one year

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 915 (Min)- Firearms: state property

Penal Code Section 27573 (Add)

Effective Date: January 1, 2023

SUMMARY:

Prohibits the sale of firearms, firearm precursor parts and ammunition on state property.

HIGHLIGHTS:

- Exempts the following from the prohibition above:
 - A gun buyback event held by a law enforcement agency.
 - The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties.
 - The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2023.
 - The purchase of firearms, firearm precursor parts, or ammunition on state property by a law enforcement agency in the course of its regular duties.
 - The purchase of a firearm pursuant to subdivision (b), (c), or (d) of Section 10334 of the Public Contracts Code, relating to the purchase of firearms by active and retired law enforcement officers and their spouses.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1384 (Min)- Firearms: dealer requirements

Penal Code Sections 26715 (Amend), 26806 and 26811 (Add)

Effective Date: January 1, 2024

SUMMARY:

Requires licensed firearm vendors to ensure that its business premises are monitored by a digital video and audio surveillance system, as specified.

HIGHLIGHTS:

- Requires, commencing January 1, 2024, a licensed firearm dealer to ensure that its business premises are monitored by a digital video surveillance system that meets the following requirements:
 - The system shall clearly record images, and, for systems located inside the premises, audio of the area under surveillance.
 - Each camera shall be permanently mounted in a fixed location. Cameras shall be placed in locations that allow the camera to clearly record activity occurring in specified areas and reasonably produce recordings that allow for the clear and identification of any person.
 - The areas recorded shall include, without limitation, interior and exterior views of all entries or exits to the premises, all areas where firearms are displayed, and all points of sale, sufficient to identify the parties involved in the transaction.
 - The system shall continuously record 24 hours per day at a frame rate no less than 15 frames per second.
 - The media or device on which recordings are stored shall be secured in a manner to protect the recording from tampering, unauthorized access or use, or theft.
 - Recordings shall be maintained for a minimum of 1 year.
 - Recorded images shall clearly and accurately display the date and time.
 - The system shall be equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the system or storage device.
- Specifies that a licensee shall not use, share, allow access, or otherwise release recordings, except as follows:
 - A licensee shall allow access to an agent of the DOJ or a licensing authority conducting an inspection of the licensee's premises to ensure compliance with this bill, and only if a warrant or court order would not generally be required for that access.
 - A licensee shall allow access or release recordings pursuant to a search warrant or other court order.

- A licensee may allow access to any person in response to an insurance claim or as part of the civil discovery process, including, but not limited to, in response to subpoenas, request for production or inspection, or other court order.
- Requires that a licensee must post a sign in a conspicuous place at each entrance to the premises stating, “These premises are under video surveillance. Your image and conversations may be recorded.”
- Requires that licensees shall, on an annual basis, provide certification to the department that its video surveillance system is in proper working order, and makes conforming changes.
- Does not preclude any local authority or governing body from adopting or enforcing local laws or policies regarding video surveillance that do not contradict or conflict with the requirements of this bill.
- Commencing July 1, 2023, requires licensees to carry a general liability insurance policy providing at least \$1 million of coverage per incident.
- Specifies that the above provision does not preclude any local authority from requiring a more stringent requirement regarding liability insurance.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

HOMLESSNESS & MENTAL HEALTH



AB 2242 (Santiago)- Mental health services

Welfare and Institutions Code Sections 5152 and 5361 (Amend), 5014, 5257.5 and 5402.5 (Add)

Effective Date: January 1, 2023

SUMMARY:

Enacts various provisions for counties to provide and pay for mental health services.

HIGHLIGHTS:

- Existing law, the Lanterman-Petris-Short Act (the Act), authorizes the involuntary commitment and treatment of persons with specified mental health disorders for the protection of the persons so committed. Under the act, if a person, as a result of a mental health disorder, is a danger to others, or to themselves, or is gravely disabled, the person may, upon probable cause, be taken into custody by a peace officer, a member of the attending staff of an evaluation facility, designated members of a mobile crisis team, or another designated professional person, and placed in a facility designated by the county and approved by the State Department of Social Services as a facility for 72-hour treatment and evaluation.
- The act also authorizes a conservator of the person, of the estate, or of both, to be appointed for a person who is gravely disabled as a result of a mental health disorder.
- This bill:
 - On or before December 1, 2023, requires the State Department of Health Care Services to convene a stakeholder group of entities, including the County Behavioral Health Directors Association of California and the California Hospital Association, among others, to create a model care coordination plan to be followed when discharging those held under temporary holds or a conservatorship.
 - Requires the model care coordination plan and process to outline who would be on the care team and how the communication would occur to coordinate care.
 - Requires model care coordination plan to require that an individual exiting a temporary hold or a conservatorship be provided with a detailed plan that includes a scheduled first appointment with the health plan, the mental health plan, a primary care provider, or another appropriate provider to whom the person has been referred.
 - Requires facilities designated by the counties for evaluation and treatment of involuntarily committed patients to implement the care coordination plan by August 1, 2024.
 - Requires a care coordination plan to be developed, as specified, and provided to an individual before being discharged from a hold or released after being detained for evaluation and treatment.

- Requires a care coordination plan to be developed and provided to a conservatee prior to their release.
- Requires the county behavioral health department, among others, to participate in designing an individual's care coordination plan.
- Requires, for purposes of care coordination and scheduling a follow up appointment, the health plan, mental health plan, primary care provider, or other appropriate provider to whom a person released from hold or a conservatorship is referred for services to make a good faith effort to contact the referred individual no less than 3 times, either by email, telephone, mail, or in-person outreach, as specified.
- Existing law, the Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the continuously appropriated Mental Health Services Fund to fund various county mental health programs. The MHSA also established the Mental Health Services Oversight and Accountability Commission to oversee the administration of various parts of the act.
- This bill:
 - To the extent permitted under state and federal law and consistent with the MHSA and for the purposes of the above-mentioned provisions of the Lanterman-Petris-Short Act, would clarify that counties may pay for the services authorized in those provisions using funds from the Mental Health Services Fund when included in county plans, as specified, and would also authorize counties to pay for those services with specified funds from the Local Revenue Fund and the Local Revenue Fund 2011.
 - Makes these provisions severable.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 882 (Eggman)- Advisory Council on Improving Interactions Between People with Intellectual and Developmental Disabilities and Law Enforcement

Government Code Section 12525.2 (Amend) and Penal Code Section 13016 (Add and Repeal)

Effective Date: January 1, 2023

SUMMARY:

Creates an advisory council within DOJ, responsible for evaluating and reporting on existing training for peace officers related to interactions between law enforcement and people with intellectual and developmental disabilities.

HIGHLIGHTS:

- Provides that the Council shall consist of nine members, appointed by the Governor, Senate Committee on Rules, and Speaker of the Assembly, as specified.
- Specifies that the appointment of members to the Council shall ensure, to the greatest extent possible, that the Council's membership is representative of the ethnic, cultural, age, gender, sexual orientation, and disability diversity of the state, and all the geographic areas of the state.
- Provides that once all the members are appointed, or no later than July 1, 2023, the members shall collectively appoint a chair.
- Provides that members of the Council shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred specific to serving on the Council
- Provides that the Attorney General's Office shall provide a staff member to coordinate and support the Council and assist with implementing the Council's recommendations.
- Requires the Council to meet quarterly beginning July 1, 2023, and to submit a report to the Legislature within 24 months of the body's first convening which includes recommendations for improving outcomes of interactions between people with intellectual and developmental disabilities and mental health conditions, and law enforcement.
- Specifies that the duties of the Council include:
 - Evaluating existing training for peace officers specific to interaction with the developmentally disabled community and individuals with mental health disorders;
 - Identifying gaps in peace officer training related to law enforcement interactions with these groups; and
 - Providing recommendations for improving outcomes in interactions between law enforcement and these groups.

- Requires that each incident report submitted to DOJ by local law enforcement agencies regarding use of force incidents include the following information:
 - Whether the officer perceived the civilian had a developmental, physical, or mental disability.
 - The reason for the contact.
 - The reason for using force.
 - The injuries sustained.
 - If any medical aid was rendered.
 - If the officer observed any signs of mental, physical or developmental disability, drug or alcohol impairment, or erratic behavior.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Potential training needed on incident reports and use of force.

NOTES:

JUVENILES



AB 2595 (Jones-Sawyer)- Juveniles: dependency: court jurisdiction

Welfare and Institutions Code Section 328.2 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires California Department of Social Services (CDSS) to update all regulations, All County Letters (ACLs), and other instructions relating to the investigation of a child or youth who may be described as a dependent of the juvenile court to ensure that investigations of alleged child abuse or neglect treat the parent's or guardian's use or possession of cannabis in the same manner as a parent's or guardian's use or possession of alcohol and legally prescribed medication.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

LOCAL OPERATIONS & POLICIES



AB 485 (Nguyen)- Hate crimes: reporting

Penal Code Section 13023 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Requires local law enforcement agencies to post specified hate crime information on their official websites on a monthly basis.

HIGHLIGHTS:

PC 13023.

(a) Subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to hate crimes. This information may include any general orders or formal policies on hate crimes and the hate crime pamphlet required pursuant to Section 422.92.

(b) On or before July 1 of each year, the Department of Justice shall update the OpenJustice Web portal with the information obtained from local law enforcement agencies pursuant to this section. The department shall submit its analysis of this information to the Legislature in the manner described in subdivision (g) of Section 13010.

(c) Local law enforcement agencies shall additionally post the information required in subdivision (a) to their internet websites on a monthly basis.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Potential administrative impact to adhere to monthly mandates of the bill.

NOTES:

AB 1242 (Bauer-Kahan)- Reproductive rights

Penal Code Sections 629.51, 629.52, 638.50, 638.52, 1269b, 1524, 1524.2 and 1551 (Amend) and 1546.5, 13778.2 (Add)

Effective Date: September 27, 2022

SUMMARY:

Prohibits law enforcement from cooperating with, or providing information to, out-of-state entities regarding a lawful abortion under California law, and from knowingly arresting a person for performing or aiding in the performance of a lawful abortion or for obtaining an abortion.

HIGHLIGHTS:

- Declares that a law of another state that authorizes the imposition of civil or criminal penalties related to an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state, is against the public policy of this state.
- Prohibits a law enforcement agency from arresting a person for performing or obtaining an abortion in this state, if the procedure is lawful under California law.
- Prohibits a law enforcement agency from cooperating with, or giving information to, a person, agency, or department from another state regarding a lawful abortion performed in this state and protected under the laws of this state.
- States that these prohibitions do not prohibit the investigation of any criminal activity in this state that may involve the performance of an abortion, as specified.
- Requires the countywide bail schedule to set bail at zero dollars for an individual who has been arrested in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under California law.
- Defines "prohibited violation" as a violation of a law that creates liability for, or arising out of, either providing, facilitating, or obtaining an abortion or intending or attempting to provide, facilitate, or obtain an abortion that is lawful under California law.
- Prohibits a magistrate from entering an ex parte order authorizing a wiretap, interception of electronic communication, use of a pen register, or trap and trace device for purposes of investigating or recovering evidence of a "prohibited violation," as specified
- Prohibits the issuance of a search warrant for items relating to an investigation of a "prohibited violation."

- Prohibits California corporations or those corporations whose principal executive offices are located in the state from producing records, electronic communications, or other information pursuant to a warrant, court order, or subpoena, that the corporation knows, or should know, relates to an investigation or enforcement of a "prohibited violation" as specified.
 - Specifies that the corporation shall not comply with the out-of-state warrant unless the warrant includes, or is accompanied by, an attestation that the evidence sought is not related to an investigation into or enforcement of a prohibited violation, as defined.
 - A corporation served with a warrant is entitled to rely on the representations made in an attestation.
- Provisions of this bill are severable.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2644 (Holden)- Custodial interrogation

Welfare and Institutions Code Section 627 (Amend) and 625.7 (Add)

Effective Date: January 1, 2024

SUMMARY:

Commencing January 1, 2024, prohibit law enforcement officers from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics, as specified, during a custodial interrogation of a person 17 years of age or younger.

HIGHLIGHTS:

- Does not apply to interrogations of a person 17 years of age or younger if both of the following criteria are met:
 - The law enforcement officer who questioned the person reasonably believed the information the officer sought was necessary to protect life or property from an imminent threat.
 - The questions by law enforcement officers were limited to those questions that were reasonably necessary to obtain information related to the imminent threat.
- Does not prevent an officer from using a lie detector test as long it is voluntary and was not obtained through the use of threats, physical harm, deception, or psychologically manipulative interrogation tactics as defined herein, and the officer does not suggest that the lie detector results are admissible in court or misrepresent the lie detector results to the person.

Definitions:

“Deception,” includes, but is not limited to, the knowing communication of false facts about evidence, misrepresenting the accuracy of the facts, or false statements regarding leniency.

“Psychologically manipulative interrogation tactics” include, but are not limited to the following:

- Maximization and minimization and other interrogation practices that rely on a presumption of guilt or deceit.
 - Maximization includes techniques to scare or intimidate the person by repetitively asserting the person is guilty despite their denials, or exaggerating the magnitude of the charges or the strength of the evidence, including suggesting the existence of evidence that does not exist.
 - Minimization involves minimizing the moral seriousness of the offense, a tactic that falsely communicates that the conduct is justified, excusable, or accidental.
- Making direct or indirect promises of leniency, such as indicating the person will be released if the person cooperates.

- Employing the “false” or “forced” choice strategy, where the person is encouraged to select one of two options, both incriminatory, but one is characterized as morally or legally justified or excusable.
- Requires a probation officer, no later than 2 hours after a minor has been taken into custody, to immediately notify the public defender or if there is no public defender, the indigent defense provider for the county, that the minor has been taken into custody.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Definitions in the bill are often vague, which will make it harder for agencies to properly train personnel over the next year.

NOTES:

AB 2761 (McCarty)- Deaths while in law enforcement custody: reporting

Penal Code Section 10008 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires a state or local correctional facility to post specified information on its website within 10 days after the death of a person who died while in custody, and to update that information within 30 days of any change.

HIGHLIGHTS:

PC 10008. (a) When a person who is in custody dies, the agency with jurisdiction over the state or local correctional facility with custodial responsibility for the person at the time of their death shall, consistent with reporting requirements pursuant to Section 12525 of the Government Code, post all of the following on its internet website:

- (1) The full name of the agency with custodial responsibility at the time of death.
- (2) The county in which the death occurred.
- (3) The facility in which the death occurred, and the location within that facility where the death occurred.
- (4) The race, gender, and age of the decedent.
- (5) The date on which the death occurred.
- (6) The custodial status of the decedent, including, but not limited to, whether the person was awaiting arraignment, awaiting trial, or incarcerated.
- (7) The manner and means of death.

(b) (1) Subject to paragraph (2), the information shall be posted for the public to view on the agency's internet website within 10 days of the date of death. If any of the information changes, including, but not limited to, the manner and means of death, the agency shall update the posting within 30 days of the change.

(2) If the agency seeks to notify the next of kin and is unable to notify them within 10 days of the death, the agency shall be given an additional 10 days to make good faith efforts to notify next of kin before the information shall be posted for the public to view on the agency's internet website.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 863 (Min)- Domestic violence: death review teams

Penal Code Section 11163.3, 11163.4, 11163.5 and 11163.6 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Authorizes a county domestic violence death review team to assist local agencies in identifying and reviewing domestic violence near-death cases, as defined.

HIGHLIGHTS:

- Defines “near death” to mean the victim suffered a substantial risk of serious bodily injury or death from domestic violence, or the circumstances of the domestic violence event indicate that the perpetrator more likely than not intended to kill or seriously injure the victim.
- The confidential and non-discoverable communications shared within or produced by a DV review team, provided by a third party to a domestic violence review team, or between a third party and domestic violence review team include statements provided by a survivor in a near-death case.
- Requires representatives of DV victim service to obtain an individual’s informed consent in accordance with all applicable state and federal confidentiality laws organizations in near-death cases, before disclosing confidential information about that individual to another team member.
- Requires that in death review cases, representatives of DV victim service organizations only provide client-specific information in accordance with both state and federal confidentiality requirements.
- Specifies that near-death case reviews are only to occur after any prosecution has concluded.
- Prohibits near-death survivors from being compelled to participate in death review team investigations and clarifies that their participation is voluntary.
- In cases of death, the victim’s family members may be invited to participate, but not be compelled to do so.
- Requires that members of the death review teams be prepared to provide referrals for services to address the unmet needs of survivors and their families when appropriate.
- Amends the statute that delineates the type of data that may be collected and summarized by domestic violence death review teams to include near deaths that occur when the victim suffered a substantial risk of serious bodily injury or death from domestic violence and near deaths that occur when the circumstances of the domestic violence event indicate the perpetrator more likely than not intended to kill or seriously injure the victim.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1044 (Durazo)- Employers; emergency conditions: retaliation

Labor Code Section 1139 (Add)

Effective Date: January 1, 2023

SUMMARY:

Prohibits an employer, in the event of an emergency condition, as defined, from taking or threatening an adverse action against any employee (except for specified emergency response workers, among others) for refusing to report to, or leaving, a workplace within the affected area because the employee has a reasonable belief that the workplace is unsafe.

HIGHLIGHTS:

- Specifies that in the event of an emergency condition, an employer shall not do either of the following:
 - Take or threaten adverse action against any employee for refusing to report to, or leaving, a workplace or worksite within the affected area because the employee has a reasonable belief that the workplace or worksite is unsafe.
- Exempts from the above:
 - GC 8562 first responder
 - specified emergency response workers
 - specified health care and residential care facility employees
 - specified depository employees
 - specified transportation employees
 - employees of an employer contracting with a public entity to provide emergency services and specified employees of a private fire prevention resource.
- Prevents any employee, from both the private and public sectors, from accessing the employee's mobile device or other communications device for seeking emergency assistance, assessing the safety of the situation, or communicating with a person to verify their safety.
- Exempts from the above, specified employees of a depository institution, correctional facilities, or employees actively operating specified equipment such as passenger tramways and amusement rides.
- Requires that, when feasible, an employee notify the employer of the emergency condition requiring the employee to leave or refuse to report to the workplace or worksite prior to leaving or refusing to report.
- When prior notice, as described above, is not feasible, the employee shall notify the employer of the state of emergency or emergency condition that required the employee to leave or refuse to report to the workplace or worksite after leaving or refusing to report as soon as possible.
- The bill's provisions are not intended to apply when emergency conditions that pose an imminent and ongoing risk of harm to the workplace, the worksite, the worker, or the worker's home have ceased.

Definitions:

“Emergency condition” to mean, except for a health pandemic, the existence of either of the following:

- Conditions of disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a criminal act.
- An order to evacuate a workplace, a worksite, a worker’s home, or the school of a worker’s child due to natural disaster or a criminal act.

“A reasonable belief that the workplace or worksite is unsafe” to mean, among other things, that a reasonable person, under the circumstances known to the employee at the time, would conclude there is a real danger of death or serious injury if that person enters or remains on the premises.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

MISCELLANEOUS



AB 200 (Budget Committee)- Public safety omnibus

Various Codes

Effective Date: January 1, 2023

SUMMARY:

Provides provisions necessary to implement the 2022 Budget Act as it relates to public safety.

HIGHLIGHTS:

- Includes technical changes to the innovative grant program administered by CDCR, making non-profit organizations with experience providing training in correctional settings eligible for funding and removing the requirement that a program must demonstrate it will become self-sufficient.
- Includes technical fixes to exclude all domestic violence offenses from judicial discretion for misdemeanor diversion, relating to Chapter 334, Statutes of 2020
- Corrects an erroneous cross reference to clarify that peace officer and custodial officer personnel records relating to incidents that occur prior to January 1, 2022, are subject to the 45 day maximum disclosure deadline as of January 1, 2023 relating to Chapter 402, Statutes of 2021;
- Makes various changes to Chapter 191, Statutes of 2021, including the addition of district attorneys and city attorneys to the agencies that the Attorney General is required to collect information related to anti-reproductive rights crimes from
- Changes the first report due date to January 1, 2025, and authorizes the Attorney General to submit these reports electronically; includes technical changes that result in renumbering of provisions and creating a new article related to Penal Code 1170
- Requires the destruction of surrendered weapons collected by law enforcement agencies, including firearms collected through gun buyback programs, unless the firearm is evidence in a case or necessity of retention is established by certificate from a judge of a court of record or the district attorney of the county.
- Adjusts the Community Corrections Performance Incentives Fund formula to two years to adjust for COVID-19 related impacts to probation departments.
- Includes technical clarifying amendments regarding youth commitments to secure youth treatment facilities and clarifies baseline terms for youth who spend time in a secure youth treatment facility and a less restrictive placement.
- Restricts certain rights of actions under Penal Code Section 2067, repeals Penal Code Section 5003.7 and adds the closure of the California Correctional Center, and declares existing law related to Division 13 of the Public Resources Code and prison closures.
- Shifts the responsibility of determining erroneous conviction compensation to the Victims Compensation Board (VCB), upon appropriation by the Legislature, requires the VCB to provide annual reporting related

to the compensation provided pursuant to these provisions, and releases the VCB from liability for damages for any decision on a claim pursuant to these provisions.

- Establishes a Flexible Assistance for Survivors Grant Program in the Office of Emergency Services for survivors of crime.
- Includes provisions to address the transfer of dually committed youth and youth under the jurisdiction of the Division of Juvenile Justice who are placed in the Department of State Hospitals upon the closure of the Division of Juvenile Justice in 2023

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 759 (McCarty)- Elections: county officers

Elections Code Section 1300 (Repeal and Add) and Government Code Section 24200 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Requires county district attorneys and sheriffs to be elected during presidential election years, instead of gubernatorial election years, beginning with the 2028 presidential primary election, except as specified.

HIGHLIGHTS:

- Sheriffs and District Attorneys elected in 2022 will now serve one 6-year term to align them with the 2028 Presidential election cycle, and then the term will sunset back to 4 years.
 - Does not apply to charter counties that, on or before January 1, 2021, expressly specified in their charter when an election for District Attorney or Sheriff would occur.
 - Counties are granted the ability to add other countywide office holders – such as Assessor – to the Presidential election cycle (as opposed to gubernatorial cycles) should they so choose.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2043 (Jones-Sawyer)- Bail bonds

Insurance Code Sections 1800, 1802, 1802, 1802.1, 1810.7, 1810.8, 1811 and 1814 (Amend, Repeal and Add)

Penal Code Sections 1299.01, 1299.02, and 1299.04 (Add)

Effective Date: January 1, 2023

SUMMARY:

Prohibits a person from performing the activities of a bail fugitive recovery agent without a license, and requires an applicant for a bail fugitive recovery agent's license to file a surety bond, a policy of liability insurance, and a notice of appointment with the Insurance Commissioner.

HIGHLIGHTS:

- Requires any person, or entity, including licensed bail agents and surety insurers, that hire, contract, solicit, or appoint another person or persons to act as a bail fugitive recovery agent to ensure that the hired person or persons are duly licensed by the department as a bail fugitive recovery agent, as specified.
- Requires, rather than permit, the Insurance Commissioner to delay implementation of the liability insurance requirement if there is either a reasonable lack of availability or affordability, or both, of liability insurance for bail fugitive recovery agents.
- Requires nonadmitted surety insurers to comply with notice of appointment requirements, as specified, when appointing California-licensed bail fugitive recovery agents to investigate, surveil, locate, and arrest bail fugitives who are in California but are wanted in a jurisdiction outside of California.
- Provides that bail fugitive recovery agents are not precluded from completing specified continuing education requirements through a course of instruction offered via the internet or correspondence.
- Clarifies that increased license and renewal fees for bail licenses, other than bail fugitive recovery agent licenses, are effective immediately, as opposed to July 1, 2023, when license and renewal fees for bail fugitive recovery agent licenses become effective.
- An individual who holds a bail license, bail fugitive recovery license, bail enforcer license, bail runner licensee, or private investigator license issued by another state shall not apprehend, detain, or arrest bail fugitives in California unless that individual obtains a California bail fugitive recovery agent license and complies with California law.
- A notice of appointment filing requirement by applicant for a license to act as a bail recovery agent may be executed a surety insurer or a bail agent, as opposed to requiring the notice to be executed by surety insurer.

- Removes the requirement that nonadmitted surety insurers comply with the notice of appointment filing requirements when appointing California licensed bail fugitive recovery agents to investigate, surveil, locate, and arrest bail fugitives who are in California but are wanted in a jurisdiction outside of California.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 906 (Portantino)- School safety: homicide threats

Education Code Section 49390 (Add)

Effective Date: January 1, 2023

SUMMARY:

Enacts several requirements of local law enforcement agencies (LEAs) regarding school threat communications.

HIGHLIGHTS:

- Requires LEAs to annually provide information to parents or guardians about California’s child access prevention laws and laws relating to the safe storage of firearms
- requires school officials to report to law enforcement any threat or perceived
- Requires law enforcement or the school police to conduct an investigation and threat assessment, including a review of DOJ’s firearm registry and a search of the school and/or students’ property by law enforcement or school police.

Notification

- Requires, beginning with the 2023–24 school year, a LEA to include in the existing annual notifications to parents and guardians information related to the safe storage of firearms using the model content developed by the California Department of Education (CDE)

Reporting threat to law enforcement

- Requires a school official to immediately report to law enforcement if the school official is alerted to or observes any threat or perceived threat.
- Requires the report to include copies of any documentary or other evidence associated with the threat or perceived threat.
- Authorizes a single report to be made when two or more school officials jointly have an obligation to report and when there is agreement among them.
- Requires a school official who has knowledge that the designated reporting school official has failed to make the single report to thereafter make the report.
- Requires law enforcement to keep a record of any report received from an LEA. Investigation, assessment, and searches

Investigation, assessment, and searches

- Requires the local law enforcement agency or the schoolsite police, as appropriate and with the support of the LEA or school, to immediately conduct an investigation and assessment of any threat or perceived threat.

- Requires the investigation and threat assessment to include, but not be limited to, both of the following:
 - A review of DOJ’s firearm registry.
 - A search conducted at the schoolsite, only if the search is justified by a reasonable suspicion that it would produce evidence related to the threat or perceived threat.

Model content

- Requires CDE, on or before July 1, 2023, in consultation with relevant LEAs and the DOJ, to develop model content.
- Requires the model content to include, at a minimum, content that informs parents or guardians of California’s child access prevention laws and laws relating to the safe storage of firearms, including but not limited to criminal penalties for storage of a firearm where a child gains access to that firearm.
- Requires CDE to annually update the model content as necessary to reflect any changes in law.

Miscellaneous

- Provides that an LEA and school is immune from civil liability for any damages allegedly caused by, arising out of, or relating to the requirements of this article.

Definitions

- “Law enforcement” means any of the following:
 - a peace officer employed or contracted by a school, school district, or local educational agency for school safety purposes;
 - a police or security department of a local educational agency;
 - a local law enforcement agency(s) with geographic jurisdiction over a local educational agency.
- “Local educational agency” means a school district, county office of education, or charter school serving students in any of grades 6 to 12 as part of a middle school or high school.
- “Reasonable suspicion” means articulable facts, together with rational inferences from those facts, warranting an objective suspicion.
- “School official” means any certificated or classified employee of a local educational agency or member of the school district governing board, county board of education, or governing body of a charter school whose official duties bring the individual in contact with students in any of grades 6 to 12 as part of a middle school or high school, on a regular basis.
- “Threat or perceived threat” means any of the following:
 - Any writing or action of a student that creates a reasonable suspicion that the student is preparing to commit a homicidal act related to school or a school activity.
 - This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or

death in a social media post, journal, class note, or other media associated with the pupil. It may also include a warning by a parent, pupil, or other individual.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1493 (Public Safety Committee)- Public safety omnibus

Various Codes

Effective Date: January 1, 2023

SUMMARY:

Makes technical and non-controversial changes to various code sections relating to criminal justice laws.

HIGHLIGHTS:

- Amends the Evidence Code provision imposing certain limitations on the admissibility of evidence in rape cases, as well as other statutory provisions, to include a reference to the repealed statute on spousal rape to account for the possibility that criminal cases may still be prosecuted under the repealed statute based on crimes that were committed before its repeal.
- Changes references to “battered women’s shelters” in multiple provisions of law to instead say “domestic violence shelter-based programs.”
- Revises the accreditation standards for public officers or employees declared by law to be peace officers for high schools, colleges, and universities to include those holding a full membership in Cognia.
- Requires for data reported by law enforcement on whether an arrest was made, the information reported to include the offense for which the person was cited or booked, instead of the offense charged.
- Clarifies that in a misdemeanor case the court may, if the defendant is not in custody, proceed with the trial if the court finds the defendant has absented themselves voluntarily with full knowledge the trial is to be held or being held.
- Clarifies that an incarcerated individual who committed specified crimes is ineligible for expungement relief of those crimes despite having successfully participated in the California Conservation Camp program as an incarcerated individual hand crew member.
- Permits the DOJ to furnish state summary criminal history information to the Governor when the Governor recommends to the Director of the Selective Service System applicants for appointment to the state’s Selective Service System local boards.

- Eliminates the requirement that a juvenile petition may only be dismissed by the court in which a petition was originally filed and instead authorizes a judge of the juvenile court having jurisdiction over the petition, as specified, to dismiss the petition.
- Authorizes a judge of the juvenile court, when a youth is alleged to have committed an offense that could be punishable as a felony or as misdemeanor, to determine whether a case should proceed as a misdemeanor at any point in the adjudication of a petition.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

PROBATION



AB 547 (McCarty)- Domestic violence: victim's rights

Penal Code Section 679.06 (Add)

Effective Date: January 1, 2023

SUMMARY:

A county probation department shall, upon request, notify a victim of domestic violence or stalking, of the perpetrator's community of residence when the perpetrator is placed on, or being released on, probation.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

[AB 1744 \(Levine\)](#)- Probation and mandatory supervision: flash incarceration

Penal Code Sections 1203 (Amend) and 1203.35 and 4019 (Amend and Repeal)

Effective Date: January 1, 2023

SUMMARY:

Extends authorization for the use of flash incarceration for individuals on probation or mandatory supervision until January 1, 2028.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

PROSTITUTION, SEX CRIMES & HUMAN TRAFFICKING



AB 1641 (Maienschein)- Sexually violent predators

Welfare and Institutions Code Section 6608.1 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires a sexually violent predator (SVP) on conditional release or outpatient status to be monitored by GPS until the person is unconditionally discharged.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1788 (Cunningham)- Sex trafficking: hotels: actual knowledge or reckless disregard: civil penalty

Civil Code Section 52.65 (Add)

Effective Date: January 1, 2023

SUMMARY:

Creates civil penalties for hotels, as defined, for instances of human trafficking that specified employees either knew about, or recklessly disregarded as activity constituting sex trafficking on hotel grounds.

HIGHLIGHTS:

- A hotel is subject to civil penalties if either sex trafficking activity occurred in the hotel, a supervisory employee of the hotel either knew of the nature of the activity, or acted in reckless disregard of the activity constituting sexual trafficking activity, and the supervisory employee of the hotel failed to inform law enforcement, the National Human Trafficking Hotline, or another appropriate victim service organization within 24 hours.
- Provides that a hotel is subject to civil penalties if an employee of the hotel who was acting in the scope of their employment knowingly benefited, financially or by receiving anything of value, by participating in a venture that the employee knew consisted of sex trafficking or acted in reckless disregard of the activity constituting sex trafficking within the hotel.
- Provides that a city, county, or city and county attorney with reasonable cause to believe there has been a violation pursuant to the provisions above may bring a civil action for injunctive and other equitable relief. Provides that a city, county, or city and county attorney may seek civil penalties in the amount of \$1,000 for the first violation in a calendar year, \$3,000 for the second violation within the same calendar year, and \$5,000 for the third and any subsequent violation within the same calendar year.
- Grants the court discretion to increase the amount of the civil penalty for a defendant it determines to be an egregious offender, not to exceed \$10,000, for any fourth or subsequent violation, considering factors including the defendant's culpability, the relationship between the harm and the penalty, the penalties imposed for similar conduct in similar statutes, and the defendant's ability to pay.
- Provides that the lack of reporting of a sex trafficking case that occurs in a hotel shall not, by itself, result in liability to an employer of the establishment to the sex trafficking victim or victims in the case in question, or to any other party.
- Provides that no liability for civil penalties shall arise against a hotel employee.
- Provides that a violation of this section alone shall not result in criminal liability against the hotel.
- Provides that the bill does not intend to affect criminal or civil liability that may arise pursuant to other provisions of law.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 382 (Caballero)- Human trafficking: restraining orders

Penal Code Sections 136.2 and 236.1 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Includes commercial exploitation of a minor in existing provisions of law that authorize courts to issue a restraining order during the pendency of criminal proceedings and upon conviction of specified offenses.

HIGHLIGHTS:

- When a defendant has been charged with human trafficking of a minor for the purpose of engaging in, or maintaining, a commercial sex act, the court shall consider issuing a protective order during the pendency of the criminal proceedings on its own motion.
- When a defendant has been convicted of a crime of human trafficking, the court shall consider issuing an order restraining the defendant from any contact with the victim of the crime for a duration of up to 10 years.
- Provides that in all cases of human trafficking, the prosecutor shall consider whether to seek a restraining order.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1034 (Atkins)- Sexually violent predators

Welfare and Institutions Code Sections 6608 and 6608.5 (Amend), 6608.6 (Add)

Effective Date: January 1, 2023

SUMMARY:

Clarifies that a person is conditionally released after a judicial determination that a person would not be a danger to others due to a diagnosed mental disorder while under supervision and treatment in the community.

HIGHLIGHTS:

- The counsel for the committed individual, the sheriff or the chief of police of the locality for placement, and the county counsel and the district attorney of the county of domicile, or their designees, shall provide the assistance and consultation in securing housing.
- Provides that Department of State Hospitals (DSH) shall convene a committee with the listed participants for the purpose of obtaining relevant assistance and consultation information in order secure suitable housing for the person to be conditionally released.
- Provides that a court may order a status conference to evaluate the DSH's progress in locating and securing housing and in obtaining relevant assistance and consultation information from the participants.
 - The court may sanction any of the participants for failure to appear at the status conference unless they show good cause for their failure to appear.
- Provides that a court may make a finding of extraordinary circumstances only after the committed person's county of domicile has petitioned the court to make this finding.
- Provides that the court may grant the county of domicile's petition and make a finding of extraordinary circumstances only after all of the following has occurred:
 - The county of domicile has demonstrated to the court that the county of domicile has engaged in an exhaustive search with meaningful and robust participation from the parties in both committee conferences and status conferences. The county of domicile shall provide the court with declarations from the county of domicile and all the participants attesting to the exhaustive housing search.
 - The county of domicile has provided at least one alternative placement county for consideration and has noticed the district attorney, or district attorneys, of the alternative placement county, or counties, and the department regarding the county of domicile's intention to petition for a finding of extraordinary circumstances. And if applicable, the county of domicile shall indicate how the committee person has a community connection to a proposed placement county.
 - The county of domicile has provided the declarations and community connection information to DSH and to the district attorney of the proposed alternate placement county.

- DSH and the district attorney of a proposed alternate placement county have had an opportunity to be heard and noticed at a hearing.
- Provides that a court shall not order a search of alternative housing placements outside of the county of domicile until after the court has granted a petition finding that extraordinary circumstances exist.
- Provides that the Judicial Counsel shall report to the Legislature on an annual basis the instances in which a court issues a finding of extraordinary circumstances and shall detail the court's findings and ground supporting the findings as stated by the court.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

RULES OF THE ROAD/TRANSPORTATION



AB 984 (Wilson)- Human trafficking: restraining orders**Vehicle Code Sections 4463, 4853 (Amend), and 4854 (Add)****Effective Date:** January 1, 2023**SUMMARY:**

Require the DMV to establish a program authorizing an entity to issue devices as alternatives to conventional license plates, stickers, tabs, and registration cards that meet specified criteria; and would establish requirements for piloting and adopting new alternative devices.

HIGHLIGHTS:

- Provide that an “alternative device” is subject to the approval of the DMV, and the Department of the California Highway Patrol (CHP) and shall not be used in lieu of a device issued by the DMV until that approval has been granted.
- Prohibits an alternative device from including vehicle location technology, except as specified; and require the DMV to, no later than January 1, 2024, to recall any devices with vehicle location technology that have been issued pursuant to the existing pilot program, except as specified.
- Vehicle location technology may be offered for vehicles registered as fleet vehicles, commercial vehicles, and those operating under an occupational license, and that such devices need not be recalled from these vehicles.
 - Requires that vehicle location technology, if any, be capable of being disabled by the user; provide that vehicle location technology, if any, may be capable of being manually disabled by a driver of the vehicle while that driver is in the vehicle; and require that the alternative device display a visual indication that vehicle location technology is in active use.
- Limits data exchanged between the DMV and the device, or the provider of the device, to that data necessary to display evidence of registration compliance, including the payment of registration fees, plate configurations, and the information or images displayed on the alternative device.
- Prohibits the DMV from receiving or retaining directly from an alternative device or the provider of the alternative device any electronic information regarding the movement, location, or use of a vehicle or person with an alternative device.
- Requires that use of the alternative device be optional, and that users affirmatively opt in to using the alternative device instead of a conventional license plate, sticker, tab, or registration card.
- Requires the DMV to conduct hearings with the opportunity for public comment and to adopt regulations to carry out the program, including, but not limited to:
 - determining standards necessary for the safe use of alternative products; requirements for product oversight and consumer support
 - requirements for product size, design, display, and functionality

- introduction of new products through a pilot program
- transitioning pilot products and approved enhancements to existing alternative devices to a statewide product offering
- approval of products for statewide use
- determining data sharing, privacy, and security protocols pursuant to the Constitutional right to privacy and other applicable privacy laws
- processes for revoking an alternative product's authority for use
- testing enhancements to approved alternative products
- determining the types of plates eligible to participate and associated approval processes
- establishing reasonable fees to reimburse the department for the costs to implement the program
- reporting requirements
- requirements to ensure registered users of a device are aware of GPS capability and usage and can deactivate the function
- and requirements to ensure nonregistered vehicle operators are aware of GPS capability and usage.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact to agencies without commercial or traffic divisions.

NOTES:

AB 1732 (Patterson)- Emergency services: hit-and-run incidents: yellow alert

Government Code Section 8594.15 (Add and Repeal)

Effective Date: January 1, 2023

SUMMARY:

Re-establishes the “Yellow Alert” system, to aid in the apprehension of a suspect if a person has been killed in a hit-and-run incident.

HIGHLIGHTS:

- Authorizes CHP to activate a Yellow Alert within the geographic area upon request if it concurs with local law enforcement that following requirements are met:
 - A person has been killed due to a hit-and-run accident;
 - The suspect has fled the scene utilizing the state highway or is likely to be observed by the public on the state highway system;
 - The law enforcement agency has additional information concerning the suspect or the suspect’s vehicle, including, but not limited to, the following:
 - The complete license plate number of the suspect’s vehicle;
 - The partial license plate number and additional unique characteristics, such as make, model, and color of the suspect’s vehicle
 - The identity of the suspect; and,
 - The identity of a suspect; and,
- Public dissemination of available information could either help avert further harm or accelerate the apprehension of the suspect.
- Defines “Yellow Alert” as a notification system activated by the CHP, at the request of a local law enforcement agency, designed to issue and coordinate alerts with respect to a hit-and-run incident resulting in death to a person.
- Requires CHP to track the number of Yellow Alert requests it receives and to create a report that includes an evaluation of the efficacy, the advantages, and disadvantages of the Yellow Alert System and submit it to the Legislature no later than January 1, 2026, at which time the bill shall sunset.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1946 (Boerner Horvath)- Electric bicycles: safety and training program

Streets and Highway Code Section 893 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires CHP to develop, prior to September 1, 2023, statewide safety standards and training programs for electric bicycles (e-bikes).

HIGHLIGHTS:

- “Electric bicycle” has the meaning provided in Section 312.5 of the Vehicle Code.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2000 (Gabriel)- Motor vehicle speed contests and exhibitions of speed: off-street parking facilities

Vehicle Code Section 23109 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Expands the crimes of motor vehicle exhibition of speed and speed contest to include parking lots.

HIGHLIGHTS:

- Makes it a crime for a person to engage in a motor vehicle speed contest in an offstreet parking facility or an exhibition of speed in an offstreet parking facility.
- Makes it a crime for a person to aid or abet or to engage in a motor vehicle speed contest in an offstreet parking facility or an exhibition of speed in an offstreet parking facility.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2147 (Ting)- Pedestrians

Vehicle Code Sections 21451, 21452, 21453, 21456, 21461.5, 21462, 21950, 21953, 21954, 21955, 21956, 21961, and 21966 (Amend) and 21949.5 (Add and Repeal)

Effective Date: January 1, 2023

SUMMARY:

Provides that a peace officer shall not stop a pedestrian for a violation involving an illegal crossing of the street unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

HIGHLIGHTS:

- Authorizes the California Highway Patrol to consult with any University of California, Institute of Transportation Studies (UC ITS) when drafting a report to the Legislature, instead of limiting that consultation to UC ITS, Davis.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2198 (Fong)- Vehicles: DUI

Vehicle Code Sections 1821, 13800, 13954, 23517, 23575.5, 40300.5, and 40300.6 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Replaces the term "accident" with "crash" in the Vehicle Code when used to describe collisions involving one or more persons driving under the influence of alcohol or drugs and removes provisions of the Youth Drunk Driver Visitation Program authorizing a court to require supervised visitation by defendant or ward at a chemical dependency hospital.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2496 (Petrie-Norris)- Vehicles: exhaust systems

Vehicle Code Sections 27150.2 and 40610 (Amend, Repeal and Add), 27151.1 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires a court to notify DMV to place a registration hold on a vehicle found to have a noncompliant modified muffler installed with a whistle tip until the court has been presented with a certificate of compliance from a referee authorized to test the decibel levels of a vehicle, starting in 2027.

HIGHLIGHTS:

- Limits the application of the requirement to fix noncompliant muffler to vehicles with a gross vehicle weight rating (GVWR) up to 14,000 pounds.
- Restores the ability for law enforcement to issue fix-it tickets for motorcycles.
- Permits a certificate of compliance for a vehicle exhaust system to be tested using the most current Society of Automotive Engineers International Standard.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2537 (Gipson)- Vehicles: driver education

Education Code Section 51220.4 (Amend) and Vehicle Code Sections 11113 (Amend), 1656.1, 12800.6 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires DOJ, in conjunction with DMV and POST, to develop and create a video demonstrating the proper conduct by a peace officer and an individual during a traffic stop.

HIGHLIGHTS:

- Requires the information required to be included in the video created by DOJ to be included in the next scheduled revision of the driver's license application subsequent to the release of the DOJ video on proper conduct during a traffic stop.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2773 (Holden)- Stops: notifications by peace officers

Government Code Section 12525.2 (Amend, Repeal and Add) and Vehicle Code Sections 1656.3 (Add), 2806.5 (Add)

Effective Date: January 1, 2024

SUMMARY:

Requires, beginning January 1, 2024, a peace officer making a traffic or pedestrian stop to state the reason for the stop before asking any questions related to a criminal investigation or traffic violation, unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat.

HIGHLIGHTS:

- The limitation on peace officer questioning before stating the reason for the stop applies to questions related to a criminal investigation or a traffic violation.
- Requires each state and local agency to include in its annual report to the Attorney General of data on stops to include the reason given to the person stopped at the time of the stop.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Unknown, potentially significant costs for all 608 state and local agencies employing peace officers to update policies regarding pedestrian and traffic stops and provide the training necessary to comply with the reporting requirements of AB 2773 (Local Funds, General Fund).

Costs to the General Fund will depend predominantly on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

NOTES:

SB 1087 (Gonzalez)- Vehicles: catalytic converters

Business and Professions Code Section 21610 (Amend) and Vehicle Code Section 10852.5 (Add)

Effective Date: January 1, 2023

SUMMARY:

Enacts various tracing methods for catalytic converter purchases and recycling.

HIGHLIGHTS:

- Requires a traceable method of payment for catalytic converters.
- Provides that the exemption for catalytic converters received pursuant to a written agreement is only valid if the written agreement also includes a regularly updated log or record describing each catalytic converter received under the agreement, as specified.
- Prohibits a core recycler from purchasing a catalytic converter from anybody other than certain specified sellers, including an automobile dismantler, an automotive repair dealer, or an individual possessing documentation, as specified, that they are the lawful owner of the catalytic converter.
- Prohibits any person from purchasing a used catalytic converter from anybody other than certain specified sellers, including an automobile dismantler, an automotive repair dealer, or an individual possessing documentation, as specified, that they are the lawful owner of the catalytic converter.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SENTENCING



AB 1706 (Bonta)- Cannabis crimes: resentencing

Health and Safety Code Section 11361.9 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Requires the court to resentence, redesignate, or dismiss specified cannabis-related convictions.

HIGHLIGHTS:

- Required the court to, on its own accord, to recall or redesignate specified cannabis convictions, as authorized by Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), on or before March 1, 2023.
- Deems all convictions eligible for relief under Proposition 64 that have not been challenged by the prosecution as unchallenged recalled, dismissed and redesignated, as applicable.
- Requires the courts to update their records and report all cannabis convictions that have been recalled, dismissed, redesignated or sealed pursuant to Proposition 64 to the Department of Justice (DOJ) no later than March 1, 2023.
- Requires the DOJ to ensure that all of the records in the state summary criminal history information database that have been recalled, dismissed, sealed or redesignated pursuant to Proposition 64 have been updated no later than July 1, 2023.
- Requires the DOJ to conduct an awareness campaign regarding record changes for specified cannabis convictions.
- Requires the Judicial Council and the DOJ to submit monthly joint progress reports to the Legislature on the status of cases recalled, dismissed, sealed and redesignated, starting March 1, 2023, until June 30, 2024.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1924 (Gipson)- Criminal law: certificate of rehabilitation

Penal Code Section 4852.01 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Allows a person convicted of a felony, other than a registrable sex offense, to file a petition for a certificate of rehabilitation without certain requirements including, among other requirements, the dismissal of the accusatory pleading and that the person has not been incarcerated since the dismissal.

HIGHLIGHTS:

- Eliminates the requirement that the accusatory pleading be dismissed prior to filing a petition for rehabilitation, unless the person was convicted of a misdemeanor violation of any sex offense specified in Penal Code Section 290, or a felony violation of any sex offense specified in Penal Code Section 290 who is granted probation.
- Eliminates the requirement that the person not have been incarcerated in a prison, jail, detention facility, or other penal institution or agency since the dismissal of the accusatory pleading, unless the person was convicted of a misdemeanor violation of any sex offense specified in Penal Code Section 290, or a felony violation of any sex offense specified in Penal Code Section 290 who is granted probation.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 2167 (Kalra)- Crimes: alternatives to incarceration

Penal Code Section 17.2 (Add)

Effective Date: January 1, 2023

SUMMARY:

Requires a court presiding over a criminal matter to consider alternatives to incarceration, including, without limitation, collaborative justice court programs, diversion, restorative justice, and probation.

HIGHLIGHTS:

- Provides that the court has the discretion to determine the appropriate sentence according to relevant statutes and the sentencing rules of the Judicial Council.
- Provides that it is the intent of the Legislature that the disposition of any criminal case use the least restrictive means available.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 1209 (Eggman)- Sentencing: members of military: trauma

Penal Code Section 1170.91 (Amend)

Effective Date: January 1, 2023

SUMMARY:

Expands the ability of defendants who suffered from military related trauma to petition for recall and resentencing regardless of whether the sentence was imposed prior to January 1, 2015 or whether the defendant was sentenced to an indeterminate (life) sentence, but exempts persons who have been convicted of specified violent offenses (super strikes) and registerable sex offenses.

HIGHLIGHTS:

- Authorizes a defendant who suffered military related trauma to file a petition for recall of a sentence and resentencing without regard to when the defendant was sentenced, thereby deleting the requirement that the person have been sentenced prior to January 1, 2015.
- If the person satisfies the resentencing criteria, the court may, in the interest of justice and regardless of whether the original sentence was imposed after a trial or plea agreement, do the following:
 - Reduce the defendant's term of imprisonment by modifying the sentence; or
 - Vacate the defendant's conviction and impose judgment on any necessarily included lesser offense or lesser related offense, whether or not that offense was charged in the original pleading, and then resentence the defendant to a reduced term of imprisonment, with the concurrence of both the defendant and the district attorney of the county in which the defendant was sentenced or the Attorney General if the case was originally prosecuted by the Department of Justice (DOJ).
- Expands the existing resentencing provision to apply to persons sentenced to indeterminate sentences.
- Specifies special considerations of military service-related trauma in sentencing and resentencing do not apply to a person who has a prior conviction for an offense requiring sex offender registration or for a "super strike" offense.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

CASE LAW



FOURTH AMENDMENT: REASONABLE SUSPICION FOR TRAFFIC STOP

1. *People v. Holiman* (2022) 76 Cal.App.5th 825: Can an officer stop a vehicle for the failure to activate a turn signal before stopping at a stop sign?

RULE: The failure to signal continuously for the last 100 feet before a limit line is not a distinct traffic offense. It must be linked to the requirement that another vehicle is affected by the unsignaled movement.

2. FACTS: An officer began following a car due to hunch about a “furtive look” the driver gave her. The driver came to a full stop at a three-way intersection, signaled a right turn, and then turned right. Based on this, officer conducted a traffic stop and found contraband. Def. moved to suppress the evidence.

3. HELD: The stop was unlawful. The failure to signal is a traffic offense (Veh. Code §§ 22107, 22108) if another vehicle could have been affected by the non-signaling vehicle’s movement. Here, the officer’s car was the other vehicle, and def.’s use of right-turn signal after the stop—as opposed to before—could not possibly have affected the safety of the officer’s car. Thus, there was no reasonable suspicion that a traffic violation had occurred.

FOURTH AMENDMENT: PAT-SEARCH FOR WEAPONS DURING TRAFFIC STOP

1. *People v. Pantoja* (2022) 77 Cal.App.5th 483: Can an officer pat-search a suspect for weapons during a traffic stop because he is wearing baggy clothes in the winter, the officer knows he had a history of arrests for weapons crimes, and the area is known for high crime?

RULE: There is no reasonable suspicion justifying a pat-search because a suspect is wearing baggy clothes, is stopped in a high crime area, and the officer remembers that the suspect has a violent criminal history.

2. FACTS: An officer conducted a lawful traffic stop for a broken tail light and broken license plate light. Def. declined to consent to a search. The officer conducted a pat-search because def. was wearing baggy clothes with “bulges,” and the officer knew that the suspect had a prior “history of violence and weapons possession.” Officer found a loaded gun. Def. moved to suppress.

3. HELD: The pat-search was unlawful. A pat-search must be based on reasonable suspicion that the suspect is armed. (But this is the incorrect legal standard, see NOTE below.) Def.’s baggy clothes did not justify this, given that the weather was cold and the clothes were appropriate. Def. made no suspicious statements or movements or attempts to hide a weapon. Nor did the officer’s memory that def. had prior arrests or convictions for weapons offenses justify the search. The offenses were years old, and the officer had no recent information or reason to believe def. was still violent or armed. Lastly, that it was a high-crime neighborhood, by itself, did not justify the pat down, particularly since def. was pulling into his own apartment.

NOTE: This is a troubling decision that is not aligned with controlling law. The ruling is based on decisions from lower federal courts, which do not control questions under the Fourth Amendment in California. It also relies on law addressing reasonable suspicion for a lawful detention, rather than the articulable facts needed to justify a pat-search after a driver is lawfully detained.

FOURTH AMENDMENT: UNLAWFULLY PROLONGED TRAFFIC STOP

1. *People v. Ayon* (2022) 80 Cal.App.5th 926: Was a traffic stop unlawfully prolonged where officers did not investigate the traffic infractions and did not write a ticket while they waited for a narcotics dog to alert to the presence of drugs?

RULE: A traffic stop cannot last longer than is necessary to effectuate its purpose.

2. FACTS: After police saw def. commit two minor traffic violations, they conducted a traffic stop. Within the first four minutes of the stop, officers had gathered def.'s identification and completed the necessary records checks, but did not do anything else to investigate the traffic infractions, and no one wrote a ticket. When the def. refused to consent to a search of his vehicle, the officers requested assistance from a narcotics dog. The dog arrived at the scene about 13 minutes after the traffic stop began and alerted to the presence of drugs six minutes later. The police searched the car and found cocaine, methamphetamine, currency, and a scale. After the search, the def. asked about the traffic violations and the officer told him that his intent when initiating a traffic stop was not to issue tickets, but to uncover evidence of other crimes.

3. HELD: The search violated the Fourth Amendment because the traffic stop was unduly prolonged. Officers did not diligently pursue an investigation of the traffic infractions during the time they were waiting for the narcotics dog to arrive and while the dog was working prior to alerting.

NOTE: The court mentioned that the body camera videos were crucial to its decision. Without the videos—which undermined the officer's claim that the def. was hostile or intoxicated—"the outcome of the case likely would have been different."

FOURTH AMENDMENT: PROBABLE CAUSE FOR VEHICLE SEARCH BASED ON ODOR OF MARIJUANA; VEHICLE IMPOUND AND INVENTORY

3. *Blakes v. Superior Court (2021) 72 Cal.App.5th 904*: When does the smell of marijuana provide probable cause to search a vehicle? Does driving on a suspended license permit a vehicle impound and inventory?

RULE: Just the smell of burnt marijuana during a traffic stop without facts pointing to driving under the influence or driving with an open container does not permit a search of a car. A vehicle impound must be based on “community caretaking,” and a stated desire to further investigate def. and search for evidence of criminal activity invalidates a vehicle inventory.

2. **FACTS:** Def. was driving with illegally tinted windows on a suspended license. He did not immediately stop when officers tried to pull him over. Officers smelled burnt marijuana coming from the car, but could not tell if it was freshly burned. They decided to tow the car because it was common to tow the vehicle of someone driving on a suspended license and because the officers believed “something else was going on.” The officers searched the car, both because they believed the smell of marijuana gave them probable cause to do so, and to conduct an inventory prior to the impound. The search revealed a gun and indicia of drug sales.

3. **HELD:** The odor of burnt marijuana alone, without any facts of driving under the influence or driving with an open container, did not provide probable cause that the car contained contraband or evidence of illegal activity. Nor was there probable cause based on the tinted windows, the fact that the car did not pull over immediately, driving on a suspended license, or the driver’s prior arrest for being a felon in possession of a firearm. Driving on a suspended license was not valid community caretaking rationale to impound the vehicle. The decision to impound was a pretext to conduct an investigative search.

FOURTH AMENDMENT: WARRANTLESS BLOOD DRAW BASED ON EXIGENCY

1. ***People v. Nault* (2021) 72 Cal.App.5th 1144:** Can officers order a blood draw to test for alcohol content when a suspect is unconscious following an auto accident?

RULE: Officers can order a blood draw without a search warrant when the suspect is unconscious and injured and cannot be asked to consent to a breath test.

2. **FACTS:** Def. tried to pass a truck on a highway and crashed into oncoming traffic, killing the driver of another car. Initially semi-conscious, def. admitted to the officer that he had been drinking; his pants were soaked with alcohol and he smelled of alcohol. After being transported by emergency medical helicopter, and with def. no longer responsive, an officer told medical staff to draw his blood for alcohol testing before taking him into surgery.

3. **HELD:** The general rule is that search warrants are required for blood draws. But the rule does not apply in exigent or emergency circumstances. The severity of def.'s injuries, the extreme medical intervention needed, and the impossibility of requesting a breath test because of it, qualified as exigent circumstances permitting a warrantless blood draw.

FOURTH AMENDMENT: SEARCH WARRANTS

1. *People v. Delgado* (2022) 78 Cal.App.5th 425: Did an affidavit in support of a search warrant application set forth sufficient information to establish probable cause?

RULE: Probable cause is a flexible standard that permits the magistrate to make commonsense judgments and inferences about human behavior.

2. FACTS: The affidavit in support of a search warrant detailed the officer's investigative experience, specifically his experience investigating gangs. It provided background information about Highland Park (HP), a criminal street gang known to traffic drugs and guns and commit violent crimes. It explained that HP members had committed more than two dozen violent crimes in the six months immediately preceding the warrant application. Def. was an active HP member and his home was a well-documented gang hangout. According to the affidavit, while surveilling def.'s home, officers saw an SUV stop in front of his house. Two men (one of whom was an HP member) got out of the SUV and went inside the house for three to five minutes while the driver waited in the car. The two men returned to the car, and then def. emerged from his house for a brief huddle with the men in the SUV before they drove away. Shortly thereafter, officers stopped the SUV. They found two guns and half a pound of drugs. Nearly all of the drugs were found in the pockets of one of the men who had gone into def.'s house. Based on these facts, the officers sought a warrant to search def.'s home.

3. HELD: Probable cause supported issuance of the search warrant. In reviewing a warrant application, a magistrate "must make a practical and commonsense decision about whether the affidavit shows a fair probability police will find contraband or evidence of a crime at a particular place." Here, the affidavit provided reasonable support for an inference police had witnessed a transfer of illegal contraband from def.'s home to the SUV. In context, the brevity and sequence of this in-person encounter was suspicious because it was more consistent with a pickup or drop-off, and that suspicion was further supported by the discovery of the drugs in the pockets of one of the men who had just been inside the home. Given this, that the house was "a busy gang hangout," and the other information about the gang's recent criminal activities, there was probable cause to search the home for guns, drugs, and other evidence of gang-related crime.

FOURTH AMENDMENT: SEARCH WARRANTS

1. *People v. Rowland* (2022) 82 Cal.App.5th 1099: Did probable cause support the issuance of a search warrant seeking evidence of possession of child pornography?

RULE: (1) Information provided by an unbiased citizen informant does not need to be corroborated for it to constitute probable cause, even if the citizen’s identity is unknown. (2) A magistrate can rely on an affiant’s expertise when determining probable cause. (3) Whether information in affidavit is stale depends on the circumstances of the alleged offense and the continuing likelihood of uncovering the evidence sought.

2. FACTS: The National Center for Missing and Exploited Children (NCMEC) received two anonymous “cybertips” from a Microsoft Online Operation employee about pictures the employee viewed that appeared to be child pornography. The reports to NCMEC indicated the two photos were uploaded on two different days, two weeks apart. They were uploaded from the same IP address using the BingImage application, a Microsoft product. NCMEC relayed the information to local authorities, and the police initiated an investigation. Investigators viewed the images and confirmed both appeared to be child pornography. Through the Child Victim Identification Program (CVIP), they identified the child depicted in the first picture and confirmed the child was underage at the time the photo was taken. Through a separate warrant, officers learned the IP address was registered to def.’s residence. Four months after the images were uploaded to the internet, officers sought a search warrant for def.’s home and car. The affidavit detailed the information in the NCMEC “cybertips” and the information learned in the subsequent investigation. The affiant also detailed his training and experience in investigating child exploitation crimes. Specifically, he noted that suspects with an interest in child pornography tend to collect the images and videos and are unlikely to destroy them. The affiant described the images and his opinion that they were child pornography but did not include the pictures themselves.

3. HELD: (1) Based on all of the circumstances, the magistrate reasonably concluded that the “cybertips” came from an unbiased citizen informant who could be presumed reliable and no independent corroboration was required. (2) The magistrate was not required to personally view the images and properly relied on the affiant’s description of the images and his expert assessment that the images were child pornography. (3) Despite the four months between the uploads of the images and execution of the warrant, the information was not stale because of the ability to recover digital files and the tendency of suspects interested in child pornography to retain such images.

FIFTH AMENDMENT: SUSPECT’S RE-INITIATION OF CONTACT AFTER MIRANDA VIOLATION AND SUBSEQUENT MIRANDA WAIVER

1. *People v. Johnson* (2022) 12 Cal.5th 544: After an officer violates *Miranda* by repeatedly questioning a suspect who has invoked his rights, does the violation cast doubt on whether the suspect voluntarily reinitiated contact and validly waived his *Miranda* rights a short while later? When does an interview with a prosecution-hired psychiatrist constitute an interrogation?

RULE: An officer must stop questioning a suspect when he invokes his *Miranda* rights. If he does not, the suspect’s statements will be suppressed. However, after such a violation occurs, the suspect may later voluntarily reinitiate contact with police and waive his *Miranda* rights. The suspect’s subsequent statements are admissible only if there is a clear record that the earlier violations did not coerce him into making the later waiver. A psychiatric interview is an interrogation if the interview elicits material to be used by the prosecution.

2. FACTS: Def. kidnapped and sexually assaulted his estranged wife. When police responded to a 911 call, def. shot and killed an officer. At the hospital after his arrest, while being treated for a gunshot wound, a detective *Mirandized* def. and asked if he wished to talk; he said no. Over the next three hours, the detective and a prosecutor asked def. whether he wanted to talk; he repeatedly invoked his right to silence and right to counsel. An hour later, at another hospital, a different prosecutor (who did not know def. had invoked his *Miranda* rights) gave a psychiatrist a tape recorder and a *Miranda* advisement card to evaluate def.’s mental state. He told the psychiatrist to give def. *Miranda* warnings and see whether def. would talk to him. The psychiatrist gave partial *Miranda* advisements. Def. declined to talk and asked for a lawyer. Shortly thereafter, def. asked the psychiatrist, “You wanna talk about it?” He then made incriminating statements. While they spoke, medical staff performed procedures on def., including prepping him for chest tube insertion, drawing blood, administering local anesthesia, and inserting a chest tube.

3. HELD: Officers violated *Miranda* and *Edwards v. Arizona* (1981) 451 U.S. 477 by repeatedly questioning def. after he invoked his right to silence and right to counsel. Def.’s statements in the final interview with the psychiatrist, however, were voluntary and admissible.

(1) The initial interview attempts violated *Miranda* and *Edwards*. Officers sought to talk to def. five times in three hours, he invoked his right to counsel twice and invoked his right to silence each time. Officers did not wait long enough before asking if def. had changed his mind. Sending in a psychiatrist to see whether def. would talk did not excuse the conduct because one of his tasks was to elicit incriminating information.

(2) Def. reinitiated contact with the psychiatrist voluntarily. The earlier *Miranda* violations were not so serious that they wore down def.’s will. Def.’s ultimate choice to engage with the psychiatrist was not coerced. Def. specifically said he knew that he was providing potentially incriminating information by talking.

(3) When def. spoke to the psychiatrist, he validly and knowingly waived *Miranda*. The psychiatrist mainly listened while def. did most of the talking. Def. was coherent and intelligent and his comments reflected his knowledge of *Miranda* and the charges he was facing. Still, because def. did not explicitly say he was revoking his earlier *Miranda* invocation, this was “a close case.” It was crucial to the Court’s decision that the officer gave def. a complete *Miranda* advisement shortly before the psychiatrist gave the partial advisement.

Note: The California Supreme Court repeatedly mentioned how useful it was to have a full audio recording of all the interactions between law enforcement and the def. It is unlikely that the prosecution would have prevailed here had there been gaps in the recording.

FIFTH AMENDMENT: IMPROPER INTERROGATION TACTICS

1. *People v. Jimenez* (2021) 73 Cal.App.5th 862: Under what circumstances does a detective's threat to charge a suspect's family member render a confession involuntary?

RULE: Threatening to charge a suspect's teenage sons with murder unless he confessed, when the detective knew there was no probable cause to arrest them for murder, was improper and resulted in an involuntary confession.

2. FACTS: A deputy saw three men near trash cans in a field. The deputy thought they had engaged in illegal dumping and, when they drove away, tried to conduct a traffic stop. Def. led the deputy on a chase, during which he let his two teenage sons out of the car. He was eventually apprehended. Deputies found a dead body in one of the trash cans.

During an interview, the detective said he would have to charge def.'s sons with murder if def. did not confess, even though the detective knew that "they had nothing to do with this. . . ." He also said that he wanted "to try to help . . . your boys . . . so we don't have to make them criminals." After that, def. confessed to killing the victim. At trial, def. testified that he found a trash can in front of his house, saw a body inside, and tried to dispose of it. He claimed that he had given a false confession because the detective had threatened to charge his sons with murder.

3. HELD: When the detective told def. that, if def. did not talk him, def.'s sons would be charged with murder, even though the detective knew they were not involved, it was an improper coercive tactic that resulted in an involuntary confession. The only reasonable interpretation of the detective's statements is that he knew def.'s sons were not involved in the killing, but he intended to charge them with murder unless def. confessed. There was a clear causal connection between the threat and the confession: def. did not incriminate himself before the threat and immediately confessed after the threat.

FIFTH AMENDMENT: INVOCATION OF RIGHT TO SILENCE; *MIRANDA* WAIVER; INTERROGATION TECHNIQUES

1. *People v. Ramirez* (2022) 73 Cal.App.5th 862: When does a suspect invoke his right to silence? Is a *Miranda* waiver valid if the most recent admonishment was incomplete? Does a detective improperly pressure a suspect to confess involuntarily by saying that being honest might lead to a better sentence?

RULE: A suspect does not invoke his right to silence if a reasonable officer would think that the suspect only *might* be invoking the right. A *Miranda* advisement is unnecessary where the later interrogation is “reasonably contemporaneous” with a prior knowing and intelligent waiver. An officer may urge a suspect to tell the truth and point out the benefits that might naturally flow from a truthful confession.

2. FACTS: Def. committed scores of crimes—including carjacking, kidnapping, and murder—on three separate occasions. After his arrest in Texas, he was *Mirandized*, waived his rights, and during a long interview, claimed he had not been in California at the time of the crimes and denied involvement in response to repeatedly being accused of lying. At the end of the interview, the officers said they would let him “rethink everything” while they completed paperwork, and he could choose to talk to them again before they left Texas. Def. responded, “I don’t have nothing else to say to you guys.” Five days later, the officers returned to extradite def. to California. An officer gave him complete *Miranda* advisements again while they drove to the airport. Def. indicated that he understood his rights. The trip to California took about eight hours. They did not question him about the crimes during this period. Once in California, def. asked what would happen with the charges. The officer reminded def. of the previous *Miranda* admonition but did not reread the complete admonition from a card. Def. then waived his rights. The officers urged him to explain his role in the shooting and said that his truthfulness might have an impact on sentencing: “[T]he person who didn’t pull the trigger is going to be equally guilty to a certain extent but sometimes the truth may make a difference. I don’t know. It may not.” The sergeant invited def. to “start doing something right for a change and what’s right is the truth.” Def. confessed.

3. HELD: Def.’s statement was properly admitted. Viewed in context, a reasonable officer would have understood his statement—“I don’t have nothing else to say to you guys”—to mean he had nothing to add to his claims of innocence, not that he was invoking his right to silence. Def.’s *Miranda* waiver was valid, and a complete advisement was unnecessary. In the five days before his *Miranda* waiver and confession, officers gave def. three complete *Miranda* advisements and a partial (but correct) one. There were no facts suggesting that def. was unaware of his rights or the significance of his waiver. Def.’s statement was voluntary. The following interview techniques were proper: urging def. to tell the truth and pointing out the sentencing benefit that might result from a truthful confession; and focusing on the emotional benefit def. would gain by taking responsibility for his actions.

FIFTH AMENDMENT: INTERROGATION TECHNIQUES

1. *People v. Zabelle* (2022) 80 Cal.App.5th 1098: Does an officer improperly pressure a suspect to confess by saying that being honest might lead to a better sentence?

RULE: An officer may urge a suspect to tell the truth and point out the benefits that might naturally flow from a truthful confession.

2. FACTS: Def. was recorded on video surveillance committing a robbery. Officers stopped him and gave him *Miranda* advisements. After denying his involvement, the officer told def., “there is a very critical time where you can earn possibly some consideration,” “we can’t make any guarantees but sometimes being honest and up front, admitting your involvement . . . can go a []ways to showing your remorse,” and, “sometimes that works in your favor.” Def. then confessed.

3. HELD: Def.’s statement was voluntary and properly admitted. The officer’s statements were not implied promises of leniency but discussed the “truthful” effects of being honest.

