The California Legal Update

New and Amended Statutes Edition
Remember 9/11/2001: Support Our Troops; Support our Cops

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THIS EDITION'S WORDS OF WISDOM:

"*Do not take life too seriously. You will never get out of it alive.*" (Elbert Hubbard)

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***New and Amended Statutes*:**

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ADMINISTRATIVE NOTES:

***New and Amended Statutes; Disclaimer*:** The statutes listed here are not intended to cover the entire body of the Legislature's work for 2017, nor the multiple Initiatives approved at the voters' booth. Only those statutes believed to be of interest to most law enforcement officers, with the concerns of prosecutors in mind, are included. Sentencing rules, typically covered better in other publications, have been avoided except when important to the substance of a new or amended offense. Statutes that affect post-conviction (i.e., appellate) proceedings are also not included. Rewritten statutes, constituting cosmetic changes only, without any substantive changes to the elements of a crime, are not included. Some of the statutes that are included have been severely paraphrased, the degree of detail being dependent upon the newness, importance, and/or complexity of the statute. Other statutes, due to their importance and complexity, have

been included, word-for-word (with some abbreviations and simplifications) in their entirety. The new and amended cannabis (marijuana) statutes, although referenced here, are included in detail in a separate comprehensive outline that covers all the recreational and medicinal cannabis-use statutes, and which is available upon request. Although I have made a sincere effort to avoid taking any part of a statute out of context, it is *strongly* recommended that the unedited statute be consulted before attempting to use it either in the field or the courtroom. The effective date of each new or amended statute is January 1, 2018, unless otherwise indicated.

NEW AND AMENDED STATUTES:

***Auditor; California State*:**

Gov't. Code § 8545.6 (New): *Interference with State Auditor; Penalty*:

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

***California Public Records Act*:**

Gov't. Code § 6254.4.5 (New): *Discovery of Video and/or Audio Recordings*:

> Disclosure of video and/or audio recordings (including from a police officer's body-worn camera) is not required under the **California Public Records Act** when created during the commission or investigation of a rape, incest, sexual assault, domestic violence or child abuse, when it depicts the face, intimate body part, or voice of a victim. Withholding of such a recording is to be justified by demonstrating, per **Gov't. Code 6255**, that the public interest served by *not* disclosing the recording clearly outweighs the public interest served by disclosure.
>
> In determining the public interest, the following factors are to be considered:
>
> > 1. The constitutional right to privacy of the person or persons depicted in the recording; *and*
> >
> > 2. Whether the potential harm to the victim that would be caused by disclosure could be mitigated by redacting the recording to obscure intimate body parts or identifying characteristics of a victim or by distorting the victim's voice.

Redactions must not prevent the viewer from being able to fully and accurately perceive the events captured on the recording. Any other editing or alteration is prohibited.

Victims, parent or guardian of a minor victim, or a deceased victim's next of kin, or a victim's legally authorized designee, is permitted to inspect a recording and obtain a copy. Disclosure to a victim or victim's representative does not require public disclosure.

Note: See **P.C. § 832.18** for the "*best practices*" that law enforcement agencies should consider when establishing policies and procedures for the downloading and storage of body-worn camera data.

***California Religious Freedoms Act*:**

Gov't. Code § 8310.3 (New; Effective Oct. 15, 2017): *The* ***California Religious Freedom Act***:

(a) This section shall be known, and may be cited, as the **California Religious Freedom Act**.

(b) Notwithstanding any other law, a state or local agency or public employee acting under color of law shall not:

(1) Provide or disclose to federal government authorities personal information regarding the religious beliefs, practices, or affiliation of any individual for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity.

(2) Use agency money, facilities, property, equipment, or personnel to assist in creation, implementation, or enforcement of any government program compiling a list, registry, or database of personal information about individuals based on religious belief, practice, or affiliation, or national origin or ethnicity, for law enforcement or immigration purposes.

(3) Make personal information from agency databases available, including any databases maintained by private vendors contracting with the agency, to anyone or any entity for the purpose of investigation or enforcement under any government program compiling a list, registry, or database of individuals based on religious belief, practice, or affiliation, or national origin or ethnicity for law enforcement or immigration purposes.

(c) Notwithstanding any other law, state and local law enforcement agencies and their employees shall not:

(1) Collect information on the religious belief, practice, or affiliation of any individual except **(A)** as part of a targeted investigation of an individual based on reasonable suspicion to believe that individual has

engaged in, or been the victim of, criminal activity, and when there is a clear nexus between the criminal activity and the specific information collected about religious belief, practice, or affiliation, or **(B)** where necessary to provide religious accommodations.

(2) Use agency money, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any criminal, civil, or administrative violation, or warrant for a violation, of any requirement that individuals register with the federal government or any federal agency based on religious belief, practice, or affiliation, national origin, or ethnicity.

(d) Any agreements in existence on the operative date of this section that make any agency or department information or database available in conflict with the terms of this chapter are terminated on that date to the extent of the conflict.

(e) Nothing in this section prohibits any state or local agency from sending to, or receiving from, any local, state, or federal agency, information regarding an individual's citizenship or immigration status. "Information regarding an individual's citizenship or immigration status, lawful or unlawful" for purposes of this section, shall be interpreted consistent with Sections 1373 and 1644 of Title 8 of the United States Code.

(f) Nothing in this section is intended to prevent any state or local agency from compiling aggregate nonpersonal information about religious belief, practice, or affiliation, national origin, or ethnicity, or from exchanging it with other local, state, or federal agencies.

(g) Nothing in this section prevents the collection, retention, or disclosure of personal information or documents as required by Federal law, or to comply with a court order, or as necessary to comply with Federal programs of assistance.

(h) An agency or employee will only be deemed to be in violation of this section if the agency or employee acted with actual knowledge that the information shared would be used for purposes prohibited by this section.

(i) Nothing in this section shall prevent a state or local law enforcement agency from assisting, participating with, or requesting participation from, federal authorities, so long as the state or local agency acts in accordance with this section and any other applicable law.

***California Values Act*:**

See "***Undocumented Aliens***," below.

***Cannabis*:**

See "***Marijuana***," below.

***Communicable Diseases*:**

H&S Code § 120290 (Repealed and Added): *Intentional Transmission of Infectious Diseases*:

(a)

(1) A defendant is guilty of intentional transmission of an infectious or communicable disease if *all* of the following apply:

(A) The defendant knows that he or she or a third party is afflicted with an infectious or communicable disease.

(B) The defendant acts with the specific intent to transmit or cause an afflicted third party to transmit that disease to another person.

(C) The defendant or the afflicted third party engages in conduct that poses a substantial risk of transmission to that person.

(D) The defendant or the third party transmits the infectious or communicable disease to the other person.

(E) If exposure occurs through interaction with the defendant and not a third party, the person exposed to the disease during voluntary interaction with the defendant did not know that the defendant was afflicted with the disease. A person's interaction with the defendant is not involuntary solely on the basis of his or her lack of knowledge that the defendant was afflicted with the disease.

(2) A defendant is guilty of willful exposure to an infectious or communicable disease if a health officer, or the health officer's designee, acting under circumstances that make securing a quarantine or health officer order infeasible, has instructed the defendant not to engage in particularized conduct that poses a substantial risk of transmission of an infectious or communicable disease, and the defendant engages in that conduct within 96 hours of the instruction. A health officer, or the health officer's designee, may issue a maximum of two instructions to a defendant that may result in a violation of this paragraph.

(b) The defendant does not act with the intent required pursuant to **subdivision (a)(1)(B)** if the defendant takes, or attempts to take, practical means to prevent transmission.

(c) Failure to take practical means to prevent transmission alone is insufficient to prove the intent required pursuant to **subdivision (a)(1)(B)**.

(d) Becoming pregnant while infected with an infectious or communicable disease, continuing a pregnancy while infected with an infectious or communicable disease, or declining treatment for an infectious or communicable disease during pregnancy does *not* constitute a crime for purposes of this section.

(e) For purposes of this section, the following definitions shall apply:

(1) "*Conduct that poses a substantial risk of transmission*" means an activity that has a reasonable probability of disease transmission as proven by competent medical or epidemiological evidence. Conduct posing a low or negligible risk of transmission as proven by competent medical or epidemiological evidence does not meet the definition of conduct posing a substantial risk of transmission.

(2) "*Infectious or communicable disease*" means a disease that spreads from person to person, directly or indirectly, that has significant public health implications.

(3) "*Practical means to prevent transmission*" means a method, device, behavior, or activity demonstrated scientifically to measurably limit or reduce the risk of transmission of an infectious or communicable disease, including, but not limited to, the use of a condom, barrier protection or prophylactic device, or good faith compliance with a medical treatment regimen for the infectious or communicable disease prescribed by a health officer or physician.

(f) This section does not preclude a defendant from asserting any common law defense.

(g)

(1) A violation of **subdivision (a)(1)** or **(2)** is a misdemeanor, punishable by imprisonment in a county jail for not more than six months.

(2) A person who attempts to intentionally transmit an infectious or communicable disease by engaging in the conduct described in **subdivision (a)(1)(A)**, **(B)**, **(C),** and **(E)** is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than 90 days.

(h)

(1) When alleging a violation of **subdivision (a)**, the prosecuting attorney or the grand jury shall substitute a pseudonym for the true name of a complaining witness. The actual name and other identifying characteristics of a complaining witness shall be revealed to the court only in camera, unless the complaining witness requests otherwise, and the court shall seal

the information from further disclosure, except by counsel as part of discovery.

(2) Unless the complaining witness requests otherwise, all court decisions, orders, petitions, and other documents, including motions and papers filed by the parties, shall be worded so as to protect the name or other identifying characteristics of the complaining witness from public disclosure.

(3) Unless the complaining witness requests otherwise, a court in which a violation of this section is filed shall, at the first opportunity, issue an order that prohibits counsel, their agents, law enforcement personnel, and court staff from making a public disclosure of the name or any other identifying characteristic of the complaining witness.

(4) Unless the defendant requests otherwise, a court in which a violation of this section is filed, at the earliest opportunity, shall issue an order that counsel and their agents, law enforcement personnel, and court staff, before a finding of guilt, not publicly disclose the name or other identifying characteristics of the defendant, except by counsel as part of discovery or to a limited number of relevant individuals in its investigation of the specific charges under this section. In any public disclosure, a pseudonym shall be substituted for the true name of the defendant.

(5) For purposes of this subdivision, "*identifying characteristics*" includes, but is not limited to, the name or any part of the name, address or any part of the address, city or unincorporated area of residence, age, marital status, relationship of the defendant and complaining witness, place of employment, or race or ethnic background.

(i)

(1) A court, upon a finding of probable cause that an individual has violated this section, shall order the production of the individual's medical records or the attendance of a person with relevant knowledge thereof, so long as the return of the medical records or attendance of the person pursuant to the subpoena is submitted initially to the court for an in-camera inspection. Only upon a finding by the court that the medical records or proffered testimony are relevant to the pleading offense, the information produced pursuant to the court's order shall be disclosed to the prosecuting entity and admissible if otherwise permitted by law.

(2) A defendant's medical records, medications, prescriptions, or medical devices shall not be used as the sole basis of establishing the specific intent required pursuant to **subdivision (a)(1)(B)**.

(3) Surveillance reports and records maintained by state and local health officials shall not be subpoenaed or released for the purpose of establishing the specific intent required pursuant to **subdivision (a)(1)(B)**.

(4) A court shall take judicial notice of any fact establishing an element of the offense upon the defendant's motion or stipulation.

(5) A defendant is not prohibited from submitting medical evidence to show the absence of the stated intent required pursuant to **subdivision (a)(1)(B)**.

(j) Before sentencing, a defendant shall be assessed for placement in one or more community-based programs that provide counseling, supervision, education, and reasonable redress to the victim or victims.

(k)

(1) This section does not apply to a person who donates an organ or tissue for transplantation or research purposes.

(2) This section does not apply to a person, whether a paid or volunteer donor, who donates breast milk to a medical center or breast milk bank that receives breast milk for purposes of distribution.

Note: **H&S Code §§ 120291** (Specific Intent to Infect) and **120292** (Court Order for Disclosure Relating to HIV) are repealed in that their provisions (along with the prior version of **H&S Code § 120290**) are now included in **H&S Code § 120290**, above.

Pen. Code § 647f (Repealed): ***P.C. § 647(b)*** *Prostitution Convictions with a Prior and a Positive AIDS Test*:

The felony penal provision for a conviction of engaging in prostitution, **per P.C. § 647(b)**, with a prior conviction for **P.C. § 647(b)** or other specified sex offense and while the defendant knows that he or she has previously tested positive for AIDS, is repealed.

Note: **P.C. §§ 1170.21** & **1170.22** (New) also provide that **P.C. § 647f** is repealed, while providing for the recalling and negating of all prior convictions for **§ 647f** as if they never occurred. Applies as well to juvenile adjudications for **§ 647f**.

Note: **P.C. § 647f** is not to be confused with **P.C. § 647(f)**; Drunk in Public. The parenthesis are there for a reason, and *do* make a difference.

Communication Services, Interruption of (New): *Interruption of Communication Services*:

Public Util. Code §§ 7907-7908, dealing with the interruption of communication services, has been repealed and replaced by more detailed provisions in **Pen. Code §§ 11470-11482** (**Part 5**, **Title 1**, **Chapter 3**, **Article 7**), as follows:

Pen. Code § 11470 (New): *Definitions*:

For the purposes of this article, the following terms have the following meanings:

(a) "*Communication service*" means any communication service that interconnects with the public switched telephone network and is required by the Federal Communications Commission to provide customers with 911 access to emergency services.

(b) "*Government entity*" means every local government, including a city, county, city and county, a transit, joint powers, special, or other district, the state, and every agency, department, commission, board, bureau, or other political subdivision of the state, or any authorized agent thereof.

(c) "*Interrupt communication service*" means to knowingly or intentionally suspend, disconnect, interrupt, or disrupt a communication service to one or more particular customers or all customers in a geographical area.

(d) "*Judicial officer*" means a magistrate, judge, commissioner, referee, or any person appointed by a court to serve in one of these capacities, of a superior court.

(e) "*Service provider*" means a person or entity, including a government entity, that offers a communication service.

Pen. Code § 11471 (New): *Prohibition on the Interruption of Communications Services; Exceptions*:

(a) Except as authorized by this article, no government entity, and no service provider acting at the request of a government entity, shall interrupt a communication service for either of the following purposes:

(1) To prevent the communication service from being used for an illegal purpose.

(2) To protect public health, safety, or welfare.

(b) A government entity *may* interrupt a communication service for a purpose stated in **subdivision (a)** in any of the following circumstances:

(1) The interruption is authorized by a court order pursuant to **P.C. § 11473**.

(2) The government entity reasonably determines that **(A)** the interruption is required to address an extreme emergency situation that involves immediate danger of death or great bodily injury, **(B)** there is insufficient time, with due diligence, to first obtain a court order under **P.C. § 11473**, and **(C)** the interruption meets the

grounds for issuance of a court order under **P.C. § 11473**. A government entity acting pursuant to this paragraph shall comply with **P.C. § 11475**.

(3) Notwithstanding **P.C. §§ 591**, **631**, or **632**, or **Pub. Util.Code § 7906**, a supervising law enforcement official with jurisdiction may require that a service provider interrupt a communication service that is available to a person if **(A)** the law enforcement official has probable cause to believe that the person is holding hostages and is committing a crime, or is barricaded and is resisting apprehension through the use or threatened use of force, and **(B)** the purpose of the interruption is to prevent the person from communicating with anyone other than a peace officer or a person authorized by a peace officer. This paragraph does not authorize the interruption of communication service to a wireless device other than a wireless device used or available for use by the person or persons involved in a hostage or barricade situation.

Pen. Code § 11472 (New): *Application for Court Order*:

(a) An application by a government entity for a court order authorizing the interruption of a communication service shall be made in writing upon the personal oath or affirmation of the chief executive of the government entity or his or her designee, to the presiding judge of the superior court or a judicial officer designated by the presiding judge for that purpose.

(b) Each application shall include all of the following information:

(1) The identity of the government entity making the application.

(2) A statement attesting to a review of the application and the circumstances in support of the application by the chief executive officer of the government entity making the application, or his or her designee. This statement shall state the name and office of the person who effected this review.

(3) A full and complete statement of the facts and circumstances relied on by the government entity to justify a reasonable belief that the order should be issued, including the facts and circumstances that support the statements made in **paragraphs (4)** to **(7)**, inclusive.

(4) A statement that probable cause exists to believe that the communication service to be interrupted is being used or will be used for an unlawful purpose or to assist in a violation of the law. The statement shall expressly identify the unlawful purpose or violation of the law.

(5) A statement that immediate and summary action is needed to avoid serious, direct, and immediate danger to public health, safety, or welfare.

(6) A statement that the proposed interruption is narrowly tailored to the specific circumstances under which the order is made and would not interfere with more communication than is necessary to achieve the purposes of the order.

(7) A statement that the proposed interruption would leave open ample alternative means of communication.

(8) A statement that the government entity has considered the practical disadvantages of the proposed interruption, including any disruption of emergency communication service.

(9) A description of the scope and duration of the proposed interruption. The application shall clearly describe the specific communication service to be interrupted with sufficient detail as to customer, cell sector, central office, or geographical area affected.

(c) The judicial officer may require the applicant to furnish additional testimony or documentary evidence in support of an application for an order under this section.

(d) The judicial officer shall accept a facsimile copy of the signature of any person required to give a personal oath or affirmation pursuant to subdivision (a) as an original signature to the application.

Pen. Code § 11473 (New): *Issuance of a Court Order; Necessary Findings*:

Upon application made under **P.C. § 11472**, the judicial officer may enter an ex parte order, as requested or modified, authorizing interruption of a communication service in the territorial jurisdiction in which the judicial officer is sitting, if the judicial officer determines, on the basis of the facts submitted by the applicant, that all of the following requirements are satisfied:

(a) There is probable cause that the communication service is being or will be used for an unlawful purpose or to assist in a violation of the law.

(b) Absent immediate and summary action to interrupt the communication service, serious, direct, and immediate danger to public health, safety, or welfare will result.

(c) The interruption of communication service is narrowly tailored to prevent unlawful infringement of speech that is protected by the **First Amendment** to the United States Constitution or **Section 2**

of **Article I** of the California Constitution, or a violation of any other rights under federal or state law.

(d) The interruption of a communication service would leave open ample alternative means of communication.

Pen. Code § 11474 (New): *Contents of a Court Order*:

An order authorizing an interruption of a communication service shall include all of the following:

(a) A statement of the court's findings required by **P.C. § 11473**.

(b) A clear description of the communication service to be interrupted, with specific detail as to the affected service, service provider, and customer or geographical area.

(c) A statement of the period of time during which the interruption is authorized. The order may provide for a fixed duration or require that the government end the interruption when it determines that the interruption is no longer reasonably necessary because the danger that justified the interruption has abated. If the judicial officer finds that probable cause exists that a particular communication service is being used or will be used as part of a continuing criminal enterprise, the court may order the permanent termination of that service and require that the terminated service not be referred to another communication service.

(d) A requirement that the government entity immediately serve notice on the service provider when the interruption is to cease.

Pen. Code § 11475 (New): *Required Actions of a Government Entity Interrupting a Communication Service; Application for a Court Order; Statement of Intent*:

A government entity that interrupts a communication service pursuant to **P.C. § 11471(b)(2)** shall take all of the following steps:

(a) Apply for a court order under **P.C. § 11472** without delay. If possible, the application shall be filed within *six hours* after commencement of the interruption. If that is not possible, the application shall be filed at the first reasonably available opportunity, but in no event later than *24 hours* after commencement of an interruption of a communication service. If an application is filed more than six hours after commencement of an interruption of a communication service, the application shall include a declaration, made under penalty of perjury, stating the reason for the delay.

(b) Prepare a signed statement of intent to apply for a court order. The statement of intent shall clearly describe the extreme

emergency situation and the specific communication service to be interrupted. If a government entity does not apply for a court order within six hours, the government entity shall submit a copy of the signed statement of intent to the court within six hours.

(c) Provide conspicuous notice of the application for a court order on the government entity's Internet Web site without delay, unless the circumstances that justify an interruption of a communication service without first obtaining a court order also justify not providing the notice.

Pen. Code § 11476 (New): *Interruption of Communication Services for a Geographical Area; Notification to the Governor's Office of Emergency Services*:

(a) If an order issued pursuant to **P.C. § 11473** or a signed statement of intent prepared pursuant to **P.C. § 11475** would authorize the interruption of a communication service for all customers of the interrupted communication service within a geographical area, the government entity shall serve the order or statement on the Governor's Office of Emergency Services.

(b) The Governor's Office of Emergency Services shall have policy discretion on whether to request that the federal government authorize and effect the proposed interruption.

Pen. Code § 11477 (New): *Notice to the Service Provider and the Customer*:

If an order issued pursuant to **P.C. § 11473** or a signed statement of intent prepared pursuant to **P.C. § 11475** is *not* governed by **P.C. § 11476**, the government entity shall serve the order or statement on both of the following persons:

(a) The appropriate service provider's contact for receiving requests from law enforcement, including receipt of state or federal warrants, orders, or subpoenas.

(b) The affected customer, if the identity of the customer is known. When serving an affected customer, the government entity shall provide notice of the opportunity for judicial review under **P.C. § 11479**.

Pen. Code § 11478 (New): *Civil Liability; Designation of a Security Employee; Compliance with PUC or Federal Communication Commission Rules and Notification Requirements*:

(a) Good faith reliance by a service provider on a court order issued pursuant to **P.C. § 11473**, a signed statement of intent prepared pursuant to **P.C. § 11475**, or the instruction of a supervising law enforcement officer

acting pursuant to **P.C. §11471(b)(3)** shall constitute a complete defense for the service provider against any action brought as a result of the interruption of a communication service authorized by that court order, statement of intent, or instruction.

(b) A communications service provider shall designate a security employee and an alternate security employee, to provide all required assistance to law enforcement officials to carry out the purposes of this article.

(c) A service provider that intentionally interrupts communication service pursuant to this article shall comply with any rule or notification requirement of the Public Utilities Commission (PUC) or Federal Communications Commission, or both, and any other applicable provision or requirement of state or federal law.

Pen. Code § 11479 (New): *Customer's Remedies*:

(a) A person whose communication service has been interrupted pursuant to this article may petition the superior court to contest the grounds for the interruption and restore the interrupted service.

(b) The remedy provided in this section is not exclusive. Other laws may provide a remedy for a person who is aggrieved by an interruption of a communication service authorized by this chapter.

Pen. Code § 11480 (New): *Legislature's Finding and Declaration*:

The Legislature finds and declares that ensuring that California users of any communication service not have that service interrupted, and thereby be deprived of 911 access to emergency services or a means to engage in constitutionally protected expression, is a matter of statewide concern and not a municipal affair, as that term is used in **Section 5** of **Article XI** of the California Constitution.

Pen. Code § 11481 (New): *Exceptions*:

(a) This article does *not* apply to any of the following actions:

(1) The interruption of a communication service with the consent of the affected customer.

(2) The interruption of a communication service pursuant to a customer service agreement, contract, or tariff.

(3) The interruption of a communication service to protect the security of the communication network or other computing resources of a government entity or service provider.

(4) The interruption of a communication service to prevent unauthorized wireless communication by a prisoner in a state or local correctional facility, including a juvenile facility.

(5) The interruption of a communication service to transmit an emergency notice that includes, but is not limited to, an Amber Alert, a message transmitted through the federal Emergency Alert System, or a message transmitted through the federal Wireless Emergency Alert System.

(6) An interruption of a communication service pursuant to a statute that expressly authorizes an interruption of a communication service, including **B&P Code §§ 149** and **7099.10**, and **Publ. Util. Code §§ 2876**, **5322**, and **5371.6**.

(7) An interruption of communication service that results from the execution of a search warrant.

(b) Nothing in this section provides authority for an action of a type listed in **subdivision (a)** or limits any remedy that may be available under law if an action of a type listed in **subdivision (a)** is taken unlawfully.

Pen. Code § 11482 (New): *The Public Utilities Commission*:

This article does not restrict, expand, or otherwise modify the authority of the Public Utilities Commission.

***Domestic Violence*:**

Pen. Code § 264.2 (Amended): *Notification Requirements for Domestic Violence and/or Sexual Assault Victims; Medical Examination Procedures for Sexual Assault Victims*:

(a) Whenever there is an alleged violation or violations of **P.C. § 243(e)**, or **P.C. §§ 261**, **261.5**, **262**, **273.5**, **286**, **288a**, or **289**, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "*Victims of Domestic Violence*" card, as specified in **P.C. § 13701(c)(9)(H)** (i.e., "*Victims of Domestic Violence Card*"), or with the card described in **P.C. § 680.2(a)** ("*Victims of Sexual Assault Card*"), whichever is more applicable.

(b)

(1) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center, whenever a victim of an alleged violation of **P.C. §§ 261**, **261.5**, **262**, **286**, **288a**, or **289** is transported to a hospital for any medical evidentiary or physical examination. The hospital may notify the local rape victim counseling center, when the victim of the alleged violation of **P.C. §§ 261**, **261.5**, **262**, **286**, **288a**, or **289** is presented to the hospital for the medical or evidentiary physical examination, upon approval of the victim. The victim

has the right to have a sexual assault counselor, as defined in **E.C. § 1035.2**, and a support person of the victim's choosing present at any medical evidentiary or physical examination.

(2) Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, the medical provider shall give the victim the card described in **P.C. § 689.2(a).** This requirement shall apply only if the law enforcement agency has provided the card to the medical provider in a language understood by the victim.

(3) The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

(4) A support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or medical provider determines that the presence of that individual would be detrimental to the purpose of the examination.

(5) After conducting the medical evidentiary or physical examination, the medical provider shall give the victim the opportunity to shower or bathe at no cost to the victim, unless a showering or bathing facility is not available.

(6) A medical provider shall, within 24 hours of obtaining sexual assault forensic evidence from the victim, notify the law enforcement agency having jurisdiction over the alleged violation if the medical provider knows the appropriate jurisdiction. If the medical provider does not know the appropriate jurisdiction, the medical provider shall notify the local law enforcement agency.

Note: **P.C. § 13701** (Amended), which describes the contents of the notice that must be provided to domestic violence victims at the scene by law enforcement, is amended to add a statement informing the victim that "*strangulation*" may cause internal injuries and encouraging the victim to seek medical attention.

Pen. Code § 633.6 (Amended): *Recording Confidential Communications as Evidence Supporting the Issuance of a Restraining Order*:

Amendment allows a domestic violence victim who is seeking a restraining order against another and who reasonably believes that a confidential communication made to him or her by the domestic violence perpetrator may contain evidence germane to the need for a restraining order, to record the communication for the exclusive purpose and use of providing that evidence to the court while seeking such a restraining order.

See "***Eavesdropping***," below.

***Eavesdropping*:**

Pen. Code § 633.5 (Amended): *Recording Confidential Communications*:

The crime of "*domestic violence*," as defined in **P.C. § 13700**, is added to the list of offenses (e.g., extortion, kidnapping, bribery, and felony involving violence against the person, human trafficking, and **P.C. § 653(m)** telephone harassment) for which one party to a confidential communication may lawfully record the conversation without the consent of all parties to the communication, for the purpose of obtaining evidence of the specified crime.

Note: As now worded, *all* domestic violence offenses, including misdemeanors (e.g., **P.C. § 243(e)**), are included in this exception to the general rule that confidential communications may not be recorded without the consent to all parties to the communication, per **P.C. §§ 631 et seq.**

Note: "*Domestic violence*" is defined as abuse committed against a spouse, former spouse, cohabitant, former cohabitant, a person with whom the suspect is having or has had a dating or engagement relationship. (**P.C. § 13700(b)**)

Pen. Code § 633.6 (Amended): *Recording Confidential Communications as Evidence Supporting the Issuance of a Restraining Order*:

Amendment allows a domestic violence victim who is seeking a restraining order against another and who reasonably believes that a confidential communication made to him or her by the domestic violence perpetrator may contain evidence germane to the need for a restraining order, to record the communication for the exclusive purpose and use of providing that evidence to the court while seeking such a restraining order.

***Elections*:**

Elections Code § 18660 (Amended): *Directing an Affiant to Make a False Initiative, Referendum, or Recall Affidavits, or Submitting such an Affidavit*:

Subd. (b)(1) (New): It is a misdemeanor for a person, company, organization, company official, or organizational officer in charge of a person circulating an initiative, referendum, or recall petition to knowingly direct an affiant to make a false affidavit concerning the initiative, referendum, or recall petition of attached signatures.

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

Penalty: One year in county jail and/or $5,000 fine.

Note: See **Elections Code § 18660(a)** which subjects to felony (wobbler) punishment the person who actually make the false affidavit concerning an initiative, referendum, or recall petition or the attached signatures.

***Electronic Surveillance*:**

Civil Code § 1939.23 (Amended): *Lawful Activation of GPS by Rental Car Services*:

When a rented vehicle because the subject of an "Amber Alert," the rental company may lawfully activate a GPS system for the purpose of locating that vehicle without being held civilly liable for doing so. The car rental company is to notify law enforcement when this occurs unless law enforcement already has this information. (Currently, such a company may activate a GPS system for a rented vehicle that is stolen, missing, or abandoned.)

Note: The procedures for *Amber Alerts* are contained in **Gov't. Code § 8594**.

Pen. Code § 1546.2 (Amended): *The **Electronic Communications Privacy Act**; Notice to Subscriber*:

New **Paragraph (2)** of **Subd. (a)**: A government entity that accesses information about the location or the telephone number of an electronic device in order to respond to an emergency 911 call from that device need not provide notice to the subscriber of the device about the emergency access.

***Evidence Code*:**

Evid. Code § 1107.5 (Amended): *Human Trafficking Victim*:

The section is amended to reflect that a "*human trafficking victim*" is a person who is the victim of an offense as that offense is described in **P.C. § 236.1**.

Evid. Code § 1108 (Amended): *Admissibility of Propensity/Character Evidence*:

P.C. § 236.1(b) & (c) (both pertaining to human sex trafficking offenses) is added to the *listed* sex crimes for which propensity/character evidence is admissible in a current sex trial.

***Extortion*:**

Pen. Code §§ 518, **520**, **523**, **524**, & **526** (Amended): *Obtaining* "*Other Consideration*" *by the Wrongful Use of Force or Fear or Under Color of Official Right*:

The crime of "*extortion*" is expanded to include the obtaining of "*other consideration*" from the victim, with his or her consent, induced by wrongful use of force or fear, or under color of official right.

"*Other Consideration*" is defined as anything of value, including sexual conduct as defined in **P.C. § 311.3(b)**, or an image of an intimate body part as defined in **P.C. § 647(j)(4)(C)**.

Minors (under the age of 18) are specifically exempt from prosecution for extortion when the consideration obtained by the minor consists of sexual conduct or an image of an intimate body part.

Note: **P.C. § 311.3(b)** defines "*sexual conduct*" as sexual intercourse, penetration, masturbation, sadomasochistic abuse, exhibition of genitals, or defecation or urination for the purpose of sexual stimulation of the viewer.

Note: **P.C. § 647(j)(4)(C)** defines "*intimate body*" part as any portion of the genitals, the anus, and in the case of a female, any portion of the breasts below the top of the arreola, this is either uncovered or clearly visible through clothing.

***Firearms & Ammunition*:**

Pen. Code § 626.9 (Amended): *Firearms in a School Zone; the Gun-Free Zone Act of 1995*:

An amendment *eliminates* the authority of school officials for K-12 schools to give written permission for a person to possess a firearm in a school zone (i.e., on the campus or within 1,000 feet).

The amendment provides two *additional* exceptions (see **subdivisions (c)**, **(h)**, **(i)**, and **(*l*)** through **(p)**) to the general prohibition of firearms on school grounds:

Subd. (q)(1) Shooting sports or activities such as ("but not limited to") trap shooting, skeet shooting, sporting clays, and pistol shooting that is sanctioned by a school and that occur on the grounds of a public or private school, university, or college campus.

Subd. (q)(1) State certified hunter education programs pursuant to **F&G Code § 3051** if all firearms are unloaded and the participants do not possess live ammunition in a school building.

See also **P.C. §§ 26370** & **26405** (Amended), where references to obtaining the written permission of school officials to openly carrying firearms on school grounds as an exception to **P.C. § 26350** (open carry of an unloaded handgun) has been deleted.

Pen. Code § 25140 (Amended): *Firearms Left Unattended in a Motor Vehicle*:

(a) Except as otherwise provided in **subdivision (b)**, a person shall, when leaving a handgun in an unattended vehicle, lock the handgun in the vehicle's trunk, lock the handgun in a locked container and place the container out of plain view, or lock the handgun in a locked container that is permanently affixed to the vehicle's interior and not in plain view.

(b) A peace officer, when leaving a handgun in an unattended vehicle not equipped with a trunk, may, if unable to otherwise comply with **subdivision (a)**, lock the handgun out of plain view within the center utility console of that motor vehicle with a padlock, keylock, combination lock, or other similar locking device.

(c) A violation of **subdivision (a)** is an infraction punishable by a fine not exceeding one thousand dollars ($1,000).

(d)

(1) As used in this section, the following definitions shall apply:

(A) "*Locked container*" means a secure container that is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device. The term "locked container" does not include the utility or glove compartment of a motor vehicle.

(B) "*Peace officer*" means a sworn officer described in **P.C. §§ 830 et seq.** (**Part 2**, **Title 3**, **Chapter 4.5**), or a sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of that officer's duties, while that officer is on duty or off duty.

(C) "*Trunk*" means the fully enclosed and locked main storage or luggage compartment of a vehicle that is not accessible from the passenger compartment. A trunk does not include the rear of a hatchback, station wagon, or sport utility vehicle, any compartment which has a window, or a toolbox or utility box attached to the bed of a pickup truck.

(D) "*Vehicle*" has the same meaning as specified in **V.C. § 670**.

(2) For purposes of this section, a vehicle is "*unattended*" when a person who is lawfully carrying or transporting a handgun in a vehicle is not within close enough proximity to the vehicle to reasonably prevent unauthorized access to the vehicle or its contents.

(3) For purposes of this section, "*plain view*" includes any area of the vehicle that is visible by peering through the windows of the vehicle, including windows that are tinted, with or without illumination.

(e) This section does not apply to a peace officer during circumstances requiring immediate aid or action that are within the course of his or her official duties.

(f) This section does not supersede any local ordinance that regulates the storage of handguns in unattended vehicles if the ordinance was in effect before September 26, 2016.

Pen. Code § 26400 (Amended): *Carrying an Unloaded Non-Handgun*:

The misdemeanor crime of carrying an unloaded firearm that is not a handgun (thus, a "*long-gun*," i.e., a rifle or a shotgun) on one's person outside a vehicle while in an incorporated city or city and county is now expanded to a "public place or public street in a prohibited area of an unincorporated area of a county."

Pen. Code § 26625 (New): *Selling, Leasing, or Transferring a Firearm*:

P.C. § 26500 (i.e., selling, leasing, or transferring a firearm without a license) does not apply to the loan of a firearm if the loan of the firearm is to a person enrolled in the course of basic training prescribed by the Commission on Peace Officer Standards and Training (i.e., P.O.S.T), or any other course certified by the commission, for purposes of participation in the course.

Note: See also **P.C. § 30312** (Amended); providing an exception to the requirement that *ammunition* be sold only through a licensed ammunition vendor, i.e., when the ammunition is sold to a person enrolled in a basic training academy for peace officers or any other course certified by the Commission of Peace Officer Standards and Training, or to a course instructor, an academy instructor, or a staff member of the academy or course.

Pen. Code § 27970 (New): *Loan of a Firearm*:

P.C. § 27545 (i.e., selling, loaning, or transferring a firearm between parties only through licensed gun dealers) does not apply to the loan of a firearm if the loan of the firearm is to a person enrolled in the course of basic training prescribed by the Commission on Peace Officer Standards and Training (P.O.S.T.), or any other course certified by the commission, for purposes of participation in the course.

Note: See also **P.C. § 30312** (Amended); providing an exception to the requirement that *ammunition* be sold only through a licensed ammunition vendor, i.e., when the ammunition is sold to a person enrolled in a basic training academy for peace officers or any other course certified by the Commission of Peace Officer Standards and Training, or to a course instructor, an academy instructor, or a staff member of the academy or course.

Pen. Code §§ 29180-28184 (New & Amended; Effective July 1, 2018): *Serial Number Requirement for Firearms*:

Pen. Code § 29180 (New; Effective *July 1, 2018*), it is a misdemeanor to violate the provisions related to the assembly, manufacture, or possession of "ghost guns" (i.e., guns without serial numbers).

(a) "*Manufacturing*" or "*assembling*" a firearm means to fabricate or construct a firearm, or to fit together the component parts of a firearm to construct a firearm.

(b) Requires a person manufacturing or assembling a firearm to obtain a serial number or other mark of identification with 10 days.

(c) Requires a person who owns a firearm without a serial number to obtain one by January 1, 2019.

(d) Prohibits the sale or transfer of, and the disposition of, firearms in violation of this section.

(e) Prohibits the aiding and abetting of a violation of this section when that violation is committed by a person who may not legally own or possess firearms (e.g., felons, mental patients).

(f) Punishment:

For a handgun; One year in county jail and/or $1,000.00 fine.

For any other type of firearm; Six months in County Jail and/or $1,000 fine.

Pen. Code § 29181 (Amended); *Exceptions*:

P.C. § 29180 does not apply to or affect any of the following:

(a) A firearm that has a serial number assigned to it pursuant to either **P.C. § 23910** or **18 U.S.C. §§ 921 et seq.** (**Part 1**, **Chapter 44**) and the regulations issued pursuant thereto.

(b) A firearm made or assembled prior to December 16, 1968, that is not a handgun.

(c) A firearm which was entered into the centralized registry set forth in **P.C. § 11106** prior to July 1, 2018, as being owned by a specific individual or entity if that firearm has assigned to it a distinguishing number or mark of identification because the department accepted entry of that firearm into the centralized registry.

(d) A firearm that has a serial number assigned to it pursuant to **26 U.S.C. Chapter 53**, and the regulations issued pursuant thereto.

(e) A firearm that is a curio or relic, or an antique firearm, as those terms are defined in **27 Code of Fed. Reg. § 479.11**.

Pen. Code § 29182 (Amended); *Applications for Serial Numbers*:

(a)

(1) The Department of Justice shall accept applications from, and shall grant applications in the form of serial numbers pursuant to **P.C. § 23910** to, persons who wish to manufacture or assemble firearms pursuant to **P.C. § 29180(b)**.

(2) The Department of Justice shall accept applications from, and shall grant applications in the form of serial numbers pursuant to **P.C. § 23910** to, persons who wish to own a firearm described in subdivision **P.C. § 29180(c)**.

(b) An application made pursuant to **subdivision (a)** shall only be granted by the department if the applicant does all of the following:

(1) For each transaction, completes a personal firearms eligibility check demonstrating that the applicant is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) Presents proof of age and identity as specified in **P.C. § 16400**. The applicant shall be 18 years of age or older to obtain a unique serial number or mark of identification for a firearm that is not a handgun, and shall be 21 years of age or older to obtain a unique serial number or mark of identification for a handgun.

(3) Provides a description of the firearm that he or she owns or intends to manufacture or assemble, in a manner prescribed by the department.

(4) Has a valid firearm safety certificate or handgun safety certificate.

(c) The department shall inform applicants who are denied an application of the reasons for the denial in writing.

(d) All applications shall be granted or denied within 15 calendar days of the receipt of the application by the department.

(e) This chapter does not authorize a person to manufacture, assemble, or possess a weapon prohibited under Section 16590, an assault weapon as defined in **P.C. §§ 30510** or **30515**, a machinegun as defined in **P.C. § 16880**, a .50 BMG rifle as defined in **P.C. § 30530**, or a destructive device as defined in **P.C. § 16460**.

(f) The department shall adopt regulations to administer this chapter.

Pen. Code § 29800 (New; Effective June 27, 2017); *Felons In Possession of a Firearm*:

Subd. (a)(1) is amended to read: "Any person who has been convicted of, *or has an outstanding warrant for*, a felony under the laws of the United States, the State of California, or any other state, government, or country, or of an offense enumerated in subdivision **(a)**, **(b)**, or **(d)** of **Section 23515**, or who is addicted to the use of any narcotic drug, and who owns, purchases, receives, or has in possession or under custody or control any firearm is guilty of a felony.

Note: **P.C. § 23515(a)**, **(b)**, and **(d)** lists **P.C. §§ 245(a)(2)**, **(3) 245(d)**, **246**, and **417(c)**.

Note: **Pen. Code § 29581** (New; Effective September 28, 2017); was added to the **Penal Code**, specifying that the defendant, to be guilty of this offense by having an outstanding arrest warrant, must have knowledge of the existence of that warrant.

Note: Effective January 1, 2018, **Proposition 63's** version of **P.C. § 29810**, requiring any person who is forbidden from owning or possessing

a firearm under either **P.C. §§ 29800** or **29805** to relinquish all firearms, becomes effective.

Pen. Code § 29805 (New; Effective June 27, 2017 & January 1, 2018); *Specific Misdemeanants in Possession of a Firearm*:

Subd. (a) was amended to add "*any person . . .* (*who*) *has an outstanding warrant for* (*one or more of the listed misdemeanors within the prior 10 years*)" is guilty of this offense.

Note: **Pen. Code § 29581** (New; Effective September 28, 2017); was added to the **Penal Code**, specifying that the defendant, to be guilty of this offense by having an outstanding arrest warrant, must have knowledge of the existence of that warrant.

Note: Also (effective January 1, 2018), added to the list of qualifying prior misdemeanor convictions within the prior 10 years, as listed in **subd. (a)**, is **P.C. § 422.6**; Hate Crimes.

Note: Effective January 1, 2018, **Proposition 63's** version of **P.C. § 29810**, requiring any person who is forbidden from owning or possessing a firearm under either **P.C. §§ 29800** or **29805** to relinquish all firearms, becomes effective.

Pen. Code § 30312 (Amended): *Sale, Delivery, or Transfer of Ammunition*:

(a)

(1) Commencing January 1, 2018, the sale of ammunition by any party shall be conducted by or processed through a licensed ammunition vendor.

(2) When neither party to an ammunition sale is a licensed ammunition vendor, the seller shall deliver the ammunition to a vendor to process the transaction. The ammunition vendor shall promptly and properly deliver the ammunition to the purchaser, if the sale is not prohibited, as if the ammunition were the vendor's own merchandise. If the ammunition vendor cannot legally deliver the ammunition to the purchaser, the vendor shall forthwith return the ammunition to the seller. The ammunition vendor may charge the purchaser an administrative fee to process the transaction, in an amount to be set by the Department of Justice, in addition to any applicable fees that may be charged pursuant to the provisions of this title.

(b) Commencing January 1, 2018, the sale, delivery, or transfer of ownership of ammunition by any party may only occur in a face-to-face transaction with the

seller, deliverer, or transferor, provided, however, that ammunition may be purchased or acquired over the Internet or through other means of remote ordering if a licensed ammunition vendor initially receives the ammunition and processes the transaction in compliance with this section and **P.C. §§ 30342 et seq.** (**Title 4**, **Division 10**, **Chapter 1**, **Article 3**.

(c) Subdivisions (a) and **(b)** shall not apply to the sale, delivery, or transfer of ammunition to any of the following:

(1) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for exclusive use by that government agency and, prior to the sale, delivery, or transfer of the ammunition, written authorization from the head of the agency employing the purchaser or transferee is obtained, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual.

(2) A sworn peace officer, as defined **P.C. §§ 830 et seq.** (**Part 2**, **Title 3**, **Chapter 4.5**), or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ammunition or firearms who is licensed to engage in business pursuant to **18 U.S.C. §§ 921 et seq.** (**Chapter 44**) and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with **P.C. §§ 28450 et seq.** (**Division 6**, **Chapter 6**, **Article 6**).

(5) A person whose licensed premises are outside this state and who is licensed as a dealer or collector of firearms pursuant to **18 U.S.C. §§ 921 et seq.** (**Chapter 44**) and the regulations issued pursuant thereto.

(6) A person who is licensed as a collector of firearms pursuant to **18 U.S.C. §§ 921 et seq.** (**Chapter 44**) and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to **P.C. § 26710**.

(7) An ammunition vendor.

(8) A consultant-evaluator.

(9) A person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.

(10) A person who purchases or receives ammunition from a spouse, registered domestic partner, or immediate family member as defined in **P.C. § 16720**.

(11) A person enrolled in the basic training academy for peace officers or any other course certified by the Commission on Peace Officer Standards and Training (P.O.S.T.), an instructor of the academy or course, or a staff member of the academy or entity providing the course, who is purchasing the ammunition for the purpose of participation or use in the course.

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

Pen. Code § 30314 (New); *Transporting Ammunition Into the State*:

(a) Commencing January 1, 2018, a resident of this state shall not bring or transport into this state any ammunition that he or she purchased or otherwise obtained from outside of this state unless he or she first has that ammunition delivered to a licensed ammunition vendor for delivery to that resident pursuant to the procedures set forth in **P.C. § 30312**.

(b) Subdivision (a) does *not* apply to any of the following:

(1) An ammunition vendor.

(2) A sworn peace officer, as defined in **P.C. §§ 830 et seq. (Part 2**, **Title 3**, **Chapter. 4.5**), or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ammunition or firearms who is licensed to engage in business pursuant to **18 U.S.C. §§ 921 et seq.** (**Chapter 44**), and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to **P.C. §§ 28450 et seq.** (**Division 6**, **Chapter 6**, **Article 6**).

(5) A person who is licensed as a collector of firearms pursuant to **18 U.S.C. §§ 921 et seq.** (**Chapter 44**) and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to **P.C. § 26710**.

(6) A person who acquired the ammunition from a spouse, registered domestic partner, or immediate family member as defined in **P.C. § 16720**.

(c) A violation of this section is an infraction for any first time offense, and either an infraction or a misdemeanor for any subsequent offense.

Pen. Code § 32455 (New); *Large Capacity Magazines*:

P.C. § 32310, prohibiting large capacity magazines (i.e., magazines that hold more than 10 rounds), does not apply to the sale, gift, or loan of a large-capacity magazine to a person enrolled in the course of basic training prescribed by the Commission on Peace Officer Standards and Training (P.O.S.T), or any other course certified by the commission, nor to the possession of, or purchase by, the person, for purposes of participation in the course during his or her period of enrollment. Upon completion of the course the large-capacity magazine shall be removed from the state, sold to a licensed firearms dealer, or surrendered to a law enforcement agency, unless another exemption to **P.C. § 32310** applies.

Note: The constitutionality of **P.C. § 32310** is currently being tested in the federal courts after a district court judge ruled in ***Duncan v. Becerra*** (June 29, 2017) 2017 U.S. Dist. LEXIS 101549, that the section is unenforceable.

***Gangs*:**

See **Pen. Code § 136.2** (Amended): "*Restraining Orders for Crime Victims and Witnesses*," below.

***The Fair and Accurate Gang Data Base Act of 2017*:**

Pen. Code § 186.34 (Repealed and Added): *Shared Gang Data Bases; Definitions; Notice to Designated Gang Member; Procedures for Contesting a Gang Member Designation*:

(a) For purposes of this section and **P.C. §§ 136.35** and **136.36** (below), the following definitions apply:

(1) "*Criminal street gang*" means an ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of crimes enumerated in **P.C. § 186.22(e)(1)-(25)**, inclusive, and **(31)-(33)**, inclusive, who have a common identifying sign, symbol, or name, and whose members individually or collectively engage in or have engaged in a pattern of definable criminal activity.

(2) "*Gang database*" means any database accessed by a law enforcement agency that designates a person as a gang member or associate, or includes or points to information, including, but not limited to, fact-based or uncorroborated information, that reflects a designation of that person as a gang member or associate.

(3) "*Law enforcement agency*" means a governmental agency or a subunit of a governmental agency, and its authorized support staff and contractors, whose primary function is detection, investigation, or apprehension of criminal offenders, or whose primary duties

include detention, pretrial release, posttrial release, correctional supervision, or the collection, storage, or dissemination of criminal history record information.

(4) "*Shared gang database*" means a gang database that is accessed by an agency or person outside of the agency that created the records that populate the database.

(b) Notwithstanding **subdivision (a)**, the following are *not* subject to this section, or **P.C. § 186.35** and **186.36**:

(1) Databases that designate persons as gang members or associates using only criminal offender record information, as defined in **P.C. § 13102**, or information collected pursuant to **P.C. § 186.30**.

(2) Databases accessed solely by jail or custodial facility staff for classification or operational decisions in the administration of the facility.

(c)

(1) To the extent a local law enforcement agency elects to utilize a shared gang database prior to a local law enforcement agency designating a person as a suspected gang member, associate, or affiliate in a shared gang database, or submitting a document to the Attorney General's office for the purpose of designating a person in a shared gang database, or otherwise identifying the person in a shared gang database, the local law enforcement agency shall provide written notice to the person, and shall, if the person is under 18 years of age, provide written notice to the person and his or her parent or guardian, of the designation and the basis for the designation, unless providing that notification would compromise an active criminal investigation or compromise the health or safety of the minor.

(2) The notice described in **paragraph (1)** shall describe the process for the person, or, if the person is under 18 years of age, for his or her parent or guardian, or an attorney working on behalf of the person, to contest the designation of the person in the database. The notice shall also inform the person of the reason for his or her designation in the database.

(d)

(1)

(A) A person, or, if the person is under 18 years of age, his or her parent or guardian, or an attorney working on behalf

of the person, may request information of any law enforcement agency as to whether the person is designated as a suspected gang member, associate, or affiliate in a shared gang database accessible by that law enforcement agency and the name of the law enforcement agency that made the designation. A request pursuant to this paragraph shall be in writing.

(B) If a person about whom information is requested pursuant to **subparagraph (A)** is designated as a suspected gang member, associate, or affiliate in a shared gang database by that law enforcement agency, the person making the request may also request information as to the basis for the designation for the purpose of contesting the designation as described in **subdivision (e)**.

(2) The law enforcement agency shall provide information requested under **paragraph (1)**, unless doing so would compromise an active criminal investigation or compromise the health or safety of the person if the person is under 18 years of age.

(3) The law enforcement agency shall respond to a valid request pursuant to **paragraph (1)** in writing to the person making the request within 30 calendar days of receipt of the request.

(e) Subsequent to the notice described in **subdivision (c)** or the law enforcement agency's response to an information request described in **subdivision (d)**, the person designated or to be designated as a suspected gang member, associate, or affiliate, or his or her parent or guardian if the person is under 18 years of age, may submit written documentation to the local law enforcement agency contesting the designation. The local law enforcement agency shall review the documentation, and if the agency determines that the person is not a suspected gang member, associate, or affiliate, the agency shall remove the person from the shared gang database. The local law enforcement agency shall provide the person and, if the person is under 18 years of age, his or her parent or guardian, with written verification of the agency's decision within 30 days of submission of the written documentation contesting the designation. If the law enforcement agency denies the request for removal, the notice of its determination shall state the reason for the denial. If the law enforcement agency does not provide a verification of the agency's decision within the required 30-day period, the request to remove the person from the gang database shall be deemed denied. The person or, if the person is under 18 years of age, his or her parent or guardian may petition the court to review the law enforcement agency's denial of the request for removal and order

the law enforcement agency to remove the person from the shared gang database pursuant to **P.C. § 186.35**.

(f) Nothing in this section shall require a local law enforcement agency to disclose any information protected under **E.C. §§ 1040** or **1041**, or **Gov't. Code § 6254**.

Pen. Code § 186.35 (Repealed and Added): *Appeal Procedures from a Gang Member Designation*:

(a) A person who is listed by a law enforcement agency in a shared gang database as a gang member, suspected gang member, associate, or affiliate and who has contested his or her designation pursuant to **P.C. § 186.34(e)**, may petition the court to review the law enforcement agency's denial of the request for removal and to order the law enforcement agency to remove the person from the shared gang database. The petition may be brought by the person or the person's attorney, or if the person is under 18 years of age, by his or her parent or guardian or an attorney on behalf of the parent or guardian.

(b) The petition shall be filed and served within 90 calendar days of the agency's mailing or personal service of the verification of the decision to deny the request for removal from the shared gang database or the date that the request is deemed denied under **P.C. § 186.34(e)**. A proceeding under this subdivision is not a criminal case. The petition shall be filed in either the superior court of the county in which the local law enforcement agency is located or, if the person resides in California, in the county in which the person resides. A copy of the petition shall be served on the agency in person or by first-class mail. Proof of service of the petition on the agency shall be filed in the superior court. For purposes of computing the 90-calendar-day period**, CCP § 1013** shall be applicable.

(c) The evidentiary record for the court's determination of the petition shall be limited to the agency's statement of the basis of its designation made pursuant to **P.C. § 186.34(c)** or **(d)**, and the documentation provided to the agency by the person contesting the designation pursuant to **P.C. § 186.34(e)**.

(d) If, upon de novo review of the record and any arguments presented to the court, the court finds that the law enforcement agency has failed to establish the person's active gang membership, associate status, or affiliate status by clear and convincing evidence, the court shall order the law enforcement agency to remove the name of the person from the shared gang database.

(e) The fee for filing the petition is as provided in **Gov't. Code § 70615**. The court shall notify the person of the appearance date by mail or

personal delivery. The court shall retain the fee under **Gov't. Code § 70615** regardless of the outcome of the petition. If the court finds in favor of the person, the amount of the fee shall be reimbursed to the person by the agency.

Pen. Code § 186.35 (New): *DOJ Administration of the CalGang Database; Establishment, Policies, and Procedure of the Gang Database Technical Advisory Committee; Moratorium on Use of the CalGang Database*:

(a) The Department of Justice (DOJ) is responsible for establishing regulations for shared gang databases. All shared gang databases shall comply with those regulations.

(b) The department (DOJ) shall administer and oversee the CalGang database. Commencing January 1, 2018, the CalGang Executive Board shall *not* administer or oversee the CalGang database.

(c) The department (DOJ) shall establish the Gang Database Technical Advisory Committee.

(d) Each appointee to the committee, regardless of the appointing authority, shall have the following characteristics:

(1) Substantial prior knowledge of issues related to gang intervention, suppression, or prevention efforts.

(2) Decisionmaking authority for, or direct access to those who have decisionmaking authority for, the agency or organization he or she represents.

(3) A willingness to serve on the committee and a commitment to contribute to the committee's work.

(e) The membership of the committee shall be as follows:

(1) The Attorney General, or his or her designee.

(2) The President of the California District Attorneys Association, or his or her designee.

(3) The President of the California Public Defenders Association, or his or her designee.

(4) A representative of organizations that specialize in gang violence intervention, appointed by the Senate Committee on Rules.

(5) A representative of organizations that provide immigration services, appointed by the Senate Committee on Rules.

(6) The President of the California Gang Investigators Association, or his or her designee.

(7) A representative of community organizations that specialize in civil or human rights, appointed by the Speaker of the Assembly.

(8) A person who has personal experience with a shared gang database as someone who is or was impacted by gang labeling, appointed by the Speaker of the Assembly.

(9) The chairperson of the California Gang Node Advisory Committee, or his or her designee.

(10) The President of the California Police Chiefs Association, or his or her designee.

(11) The President of the California State Sheriffs' Association, or his or her designee.

(f) The committee shall appoint a chairperson from among the members appointed pursuant to **subdivision (e)**. The chairperson shall serve in that capacity at the pleasure of the committee.

(g) Each member of the committee who is appointed pursuant to this section shall serve without compensation.

(h) If a committee member is unable to adequately perform his or her duties, he or she is subject to removal from the board by a majority vote of the full committee.

(i) A vacancy on the committee as a result of the removal of a member shall be filled by the appointing authority of the removed member within 30 days of the vacancy.

(j) Committee meetings are subject to the **Bagley-Keene Open Meeting Act** (**Gov't. Code §§ 11120 et seq.**; **Title 2**, **Division 3**, **Part 1**, **Chapter 1**, **Article 9**).

(k) The department (DOJ), with the advice of the committee, shall promulgate regulations governing the use, operation, and oversight of shared gang databases. The regulations issued by the department (DOJ) shall, at minimum, ensure the following:

(1) The system integrity of a shared gang database.

(2) All law enforcement agency and criminal justice agency personnel who access a shared gang database undergo comprehensive and standardized training on the use of shared gang databases and related policies and procedures.

(3) Proper criteria are established for supervisory reviews of all database entries and regular reviews of records entered into a shared gang database.

(4) Reasonable measures are taken to locate equipment related to the operation of a shared gang database in a secure area in order to preclude access by unauthorized personnel.

(5) Law enforcement agencies and criminal justice agencies notify the department (DOJ) of any missing equipment that could potentially compromise a shared gang database.

(6) Personnel authorized to access a shared gang database are limited to sworn law enforcement personnel, nonsworn law enforcement support personnel, or noncriminal justice technical or maintenance personnel, including information technology and information security staff and contract employees, who have been subject to character or security clearance and who have received approved training.

(7) Any records contained in a shared gang database are not disclosed for employment or military screening purposes.

(8) Any records contained in a shared gang database are not disclosed for purposes of enforcing federal immigration law, unless required by state or federal statute or regulation.

(9) The committee does not discuss or access individual records contained in a shared gang database.

(*l*) The regulations issued by the department (DOJ) shall include, but not be limited to, establishing the following:

(1) Policies and procedures for entering, reviewing, and purging documentation.

(2) Criteria for designating a person as a gang member or associate that are unambiguous, not overbroad, and consistent with empirical research on gangs and gang membership.

(3) Retention periods for information about a person in a shared gang database that is consistent with empirical research on the duration of gang membership.

(4) Criteria for designating an organization as a criminal street gang and retention periods for information about criminal street gangs.

(5) Policies and procedures for notice to a person in a shared gang database. This includes policies and procedures for when notification would compromise an active criminal investigation or the health or safety of a minor.

(6) Policies and procedures for responding to an information request, a request for removal, or a petition for removal under **P.C.**

§§ 186.34 and **186.35**, respectively. This includes policies and procedures for a request or petition that could compromise an active criminal investigation or the health or safety of a minor.

(7) Policies and procedures for sharing information from a shared gang database with a federal agency, multistate agency, or agency of another state that is otherwise denied access. This includes sharing of information with a partner in a joint task force.

(8) Implementation of supervisory review procedures and periodic record reviews by law enforcement agencies and criminal justice agencies, and reporting of the results of those reviews to the department (DOJ).

(m) Shared gang databases shall be used and operated in compliance with all applicable state and federal regulations, statutes, and guidelines. These include the **Code of Federal Regulations**, **Title 28**, **Part 23**, and the department's Model Standards and Procedures for Maintaining Criminal Intelligence Files and Criminal Intelligence Operational Activities.

(n) The department (DOJ), with the advice of the committee, no later than January 1, 2020, shall promulgate regulations to provide for periodic audits of each CalGang node and user agency to ensure the accuracy, reliability, and proper use of the CalGang database. The department (DOJ) shall mandate the purge of any information for which a user agency cannot establish adequate support.

(o) The department (DOJ), with the advice of the committee, shall develop and implement standardized periodic training for everyone with access to the CalGang database.

(p) Commencing February 15, 2018, and annually on February 15 thereafter, the department (DOJ) shall publish an annual report on the CalGang database.

(1) The report shall include, in a format developed by the department (DOJ), that contains, by ZIP Code, referring agency, race, gender, and age, the following information for each user agency:

(A) The number of persons included in the CalGang database on the day of reporting.

(B) The number of persons added to the CalGang database during the immediately preceding 12 months.

(C) The number of requests for removal of information about a person from the CalGang database pursuant to **P.C.**

§ 186.34 received during the immediately preceding 12 months.

(D) The number of requests for removal of information about a person from the CalGang database pursuant to **P.C. § 186.34** that were granted during the immediately preceding 12 months.

(E) The number of petitions for removal of information about a person from the CalGang database pursuant to **P.C. § 186.35** adjudicated in the immediately preceding 12 months, including their dispositions.

(F) The number of persons whose information was removed from the CalGang database due to the expiration of a retention period during the immediately preceding 12 months.

(G) The number of times an agency did not provide notice or documentation described in **P.C. § 186.34** because providing that notice or documentation would compromise an active criminal investigation, in the immediately preceding 12 months.

(H) The number of times an agency did not provide notice or documentation described in **P.C. § 186.34** because providing that notice or documentation would compromise the health or safety of the designated minor, in the immediately preceding 12 months.

(2) The report shall include the results from each user agency's periodic audit conducted pursuant to **subdivision (n)**.

(3) The department (DOJ) shall post the report on the department's Internet Web site.

(4) The department (DOJ) shall invite and assess public comments following the report's release, and each report shall summarize public comments received on prior reports and the actions taken in response to comments.

(q) The department (DOJ) shall instruct all user agencies to review the records of criminal street gang members entered into a shared gang database to ensure the existence of proper support for each criterion for entry in the shared gang database.

(r)

(1) The department (DOJ) shall instruct each CalGang node agency to purge from a shared gang database any record of a person

entered into the database designated as a suspected gang member, associate, or affiliate that does not meet criteria for entry or whose entry was based upon the following criteria: jail classification, frequenting gang neighborhoods, or on the basis of an untested informant. Unsupported criteria shall be purged and the records of a person shall be purged if the remaining criteria are not sufficient to support the person's designation.

(2) After the purge is completed, the shared gang database shall be examined using a statistically valid sample, pursuant to professional auditing standards to ensure that all fields in the database are accurate.

(s)

(1) Commencing January 1, 2018, any shared gang database operated by law enforcement in California including, but not limited to, the CalGang database, shall be *under a moratorium*. During the moratorium, data shall not be added to the database. Data in the database shall not be accessed by participating agencies or shared with other entities. The moratorium on a shared gang database shall not be lifted until the Attorney General certifies that the purge required in **subdivision (r)** has been completed. After the purge has been completed and before the department (DOJ) adopts the regulations required by this section, new data may be entered, provided the new data meets the criteria established by the conditions of the purge.

(2) The department (DOJ) shall not use regulations developed pursuant to this section to invalidate data entries entered prior to the adoption of those regulations.

(t) The department (DOJ) shall be responsible for overseeing shared gang database system discipline and conformity with all applicable state and federal regulations, statutes, and guidelines.

(u) The department (DOJ) may enforce a violation of a state or federal law or regulation with respect to a shared gang database, or a violation of regulation, policy, or procedure established by the department (DOJ) pursuant to this title by any of the following methods:

(1) Letter of censure.

(2) Temporary suspension of access privileges to the shared gang database system.

(3) Revocation of access privileges to the shared gang database system.

(v) The department (DOJ) shall temporarily suspend access to a shared gang database system or revoke access to a shared gang database system for any individual who shares information from a shared gang database for employment or military screening purposes.

(w) The department (DOJ) shall temporarily suspend access to a shared gang database system or revoke access to a shared gang database system for an individual who shares information from a shared gang database for federal immigration law purposes, unless required by state or federal statute or regulation.

(x) The department (DOJ) shall ensure that the shared gang database user account of an individual is disabled if the individual no longer has a need or right to access a shared gang database because he or she has separated from his or her employment with a user agency or for another reason.

***Homeless*:**

Welf. & Insti. Code § 1999.8 (New): *Homeless Multidisciplinary Personnel Team*:

(a) Notwithstanding any other law, a county *may* establish a homeless adult and family multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services within that county and to allow provider agencies to share confidential information for the purpose of coordinating housing and supportive services to ensure continuity of care.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "*Homeless*" means any recorded instance of an adult or family self-identifying as homeless within the most recent 12 months, or any element contained in service utilization records indicating that an adult or family experienced homelessness within the most recent 12 months.

(2) "*Homeless adult and family multidisciplinary personnel team*" means any team of two or more persons who are trained in the identification and treatment of homeless adults and families, and who are qualified to provide a broad range of services related to homelessness. The team may include, but shall not be limited to, the following:

(A) Mental health and substance abuse services personnel and practitioners or other trained counseling personnel.

(B) Police officers, probation officers, or other law enforcement agents.

(C) Legal counsel for the adult or family representing them in a criminal matter.

(D) Medical personnel with sufficient training to provide health services.

(E) Social services workers with experience or training in the provision of services to homeless adults or families or funding and eligibility for services.

(F) Veterans services providers and counselors.

(G) Domestic violence victim service organizations, as defined in **E.C. § 1037.1(b)**.

(H) Any public or private school teacher, administrative officer, or certified pupil personnel employee.

(I) Housing or homeless services provider agencies and designated personnel.

(3) "*Homeless services provider agency*" means any governmental or other agency that has as one of its purposes the identification, assessment, and linkage of housing or supportive services to homeless adults or families. The homeless services provider agencies serving adults or families that may share information under this section include, but are not limited to, the following entities or service agencies:

(A) Social services.
(B) Health services.
(C) Mental health services.
(D) Substance abuse services.
(E) Probation.
(F) Law enforcement.
(G) Legal counsel for the adult or family representing them in a criminal matter.
(H) Veterans services and counseling.
(I) Domestic violence victim service organizations, as defined in **E.C. § 1037.1(b)**.
(J) Schools.
(K) Homeless services.
(L) Housing.

(c)

(1) Members of a homeless adult and family multidisciplinary personnel team engaged in the identification, assessment, and linkage of housing and supportive services to homeless adults or families may disclose to, and exchange with, one another information and writings that relate to any information that may be designated as confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the identification, reduction, or

elimination of homelessness or the provision of services. Any discussion relative to the disclosure or exchange of the information or writings during a team meeting is confidential and, notwithstanding any other law, testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding.

(2) Disclosure and exchange of information pursuant to this section may occur telephonically and electronically if there is adequate verification of the identity of the homeless adult and family multidisciplinary personnel who are involved in that disclosure or exchange of information.

(3) Disclosure and exchange of information pursuant to this section shall not be made to anyone other than members of the homeless adult and family multidisciplinary personnel team, and those qualified to receive information as set forth in **subdivision (d)**.

> **(4)** Representatives of domestic violence victim service organizations, as defined in **E.C. § 1037.1(b)**, shall obtain an individual's informed consent, in accordance with all applicable state and federal confidentiality laws, before disclosing confidential information about that individual to another team member as specified in this section.

(d) The homeless adult and family multidisciplinary personnel team may designate persons qualified pursuant to paragraph **subdivision (b)(2)** to be a member of the team for a particular case. A person designated as a team member pursuant to this subdivision may receive and disclose relevant information and records, subject to the confidentiality provisions of **subdivision (f)**.

(e)

> **(1)** The sharing of information permitted under **subdivision (c)** shall be governed by protocols developed in each county describing how and what information may be shared by the homeless adult and family multidisciplinary personnel team to ensure that confidential information gathered by the team is not disclosed in violation of state or federal law. A copy of the protocols shall be distributed to each participating agency and to persons in those agencies who participate in the homeless adult and family multidisciplinary personnel team, and shall be posted on the county's Internet Web site on the homepage of the county's office of homelessness, social services department, or human services agency within 30 days of adoption. Each county shall provide a copy of its protocols to the State Department of Social Services. This subdivision shall not be construed to require the department to

review or approve any homeless multidisciplinary personnel team county protocols that it receives.

(2) A protocol developed in a county pursuant to **paragraph (1)** shall include, but not be limited to, all of the following:

(A) The items of information or data elements that will be shared.

(B) The participating agencies.

(C) A description of how the information shared pursuant to this section will be used by the homeless adult and family multidisciplinary personnel team only for the intended purposes specified in **subdivision (a)**.

(D) The information retention schedule that participating agencies shall follow.

(E) A requirement that no confidential information or writings be disclosed to persons who are not members of the homeless adult and family multidisciplinary personnel team, except to the extent required or permitted under applicable law.

(F) A requirement that participating agencies develop uniform written policies and procedures that include security and privacy awareness training for employees who will have access to information pursuant to this protocol.

(G) A requirement that all persons who have access to information shared by participating agencies sign a confidentiality statement that includes, at a minimum, general use, security safeguards, acceptable use, and enforcement policies.

(H) A requirement that participating agencies employ security controls that meet applicable federal and state standards, including reasonable administrative, technical, and physical safeguards to ensure data confidentiality, integrity, and availability and to prevent unauthorized or inappropriate access, use, or disclosure.

(I) A requirement that participating agencies take reasonable steps to ensure information is complete, accurate, and up to date to the extent necessary for the agency’s intended purposes and that the information has not been altered or destroyed in an unauthorized manner.

(f) Every member of the homeless adult and family multidisciplinary personnel team who receives information or records regarding adults and families in his or her capacity as a member of the team shall be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records. The information or records obtained shall be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(g) This section shall not be construed to restrict guarantees of confidentiality provided under state or federal law.

(h) Information and records communicated or provided to the team members by all providers and agencies shall be deemed private and confidential and shall be protected from discovery and disclosure by all applicable statutory and common law protections. Existing civil and criminal penalties shall apply to the inappropriate disclosure of information held by the team members.

***Human Trafficking*:**

Civil Code § 52.6 (Amended): *Human Trafficking Resources Notice*:

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

(b) The text number of 233-733 (Be Free) is added to existing telephone numbers (i.e., the National Human Trafficking Hotline at 1-888-373-7888 or the California Coalition to Abolish Slavery and Trafficking (CAST) at 1-888-KEY-2-FRE(EDOM) or 1-888-539-2373 that may be called to access help and services, and is to be listed on the required notice.

(e) Penalty: Civil penalty of $500 for first offense. $1,000 for each subsequent offense.

Evid. Code § 1107.5 (Amended): *Human Trafficking Victim*:

The section is amended to reflect that a "*human trafficking victim*" is a person who is the victim of an offense as that offense is described in **P.C. § 236.1**.

Note: "*Human Trafficking*" is defined, in **P.C. § 236.1**, as when "(a) person . . . deprives or violates the personal liberty of another with the intent to obtain forced labor or services" (**subd. (a)**), or "deprives or violates the personal liberty of

another with the intent to effect or maintain a violation of (**P.C. §§**) **266**, **266h**, **266i**, **266j**, **267**, **311.1**, **311.2**, **311.3**, **311.4**, **311.5**, **311.6**, *or* **518** . . ." (**Subd. (b)**).

Evid. Code § 1108 (Amended): *Admissibility of Propensity/Character Evidence*:

P.C. § 236.1(b) & (c) (both pertaining to human sex trafficking offenses) is added to the list of sex crimes for which propensity/character evidence is admissible in a current trial for a sex-offense crime.

Gov't. Code §§ 6205 et seq. (Amended): *Home Address Confidentiality Program*:

Human trafficking victims and household members (except where he/she is the perpetrator) of victims are added to the list of victims (i.e., domestic violence, sexual assault, and stalking) who may participate in the Secretary of State's Address Confidentiality Program.

"Household member" is defined as an adult person who resides at the same residential address as the applicant or participant and is related by blood, marriage, registered domestic partnership, adoption, or is a cohabitant.

***Juries*:**

Code of Civ. Pro. § 223 (Amended): *Jury Voir Dire in Criminal Cases*:

With the legislative intent to expand the substance and length of voir dire for both the prosecution and the defense, limiting the control of the trial judge, while retaining the provision that the purpose of voir dire is to aid in the exercise of challenges for cause, the following amendments now apply:

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

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

The court is prohibited from imposing "*unreasonable or arbitrary time limits*" or from establishing "an inflexible time limit policy for voir dire."

The trial judge is required to "permit supplemental time for questioning based on individual responses of conduct of jurors that may evince

attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case."

The trial judge has the discretion to use a written juror questionnaire when requested by counsel. The parties are entitled to a reasonable amount of time to consider the responses before oral questioning begins.

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

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

An "*improper question*" is defined as one whose dominate purpose is to attempt to precondition the prospective jurors to a particular result or to indoctrinate the jury.

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

In exercising his or her "*sound discretion*," a trial judge must consider all five of the following; (1) the amount of time requested by counsel, (2) any unique or complex legal or factual elements in the case, (3) the length of the trial, (4) the number of parties, and (5) the number of witnesses.

***Juveniles*:**

Code of Civ. Pro. § 527.6 (Amended): *Restraining Orders and Confidentiality of a Minor's Personal Information*:

Upon petition of a minor or a minor's legal guardian for a court order that information about a minor be kept confidential when issuing a civil restraining order to prevent harassment, a court may issue such an order if it makes four findings; (1) the minor's right to privacy overcomes the right of public access to the information, (2) there is a substantial probability that the minor's interest will be prejudiced if the information is not kept confidential, (3) the confidentiality order is narrowly tailored, and (4) no less restrictive means exists to protect the minor's privacy.

Information such as the minor's name, address, and the circumstances surrounding a protective order with respect to the minor is to be maintained in a confidential case file, and not be part of the public file.

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

Penalty for Disclosure or Misuse of a Minor's Confidential Information: Civil contempt and $1,000 fine.

Note: See **Fam. Code § 6301.5** (New) for similar minor-confidentiality provisions upon issuance of a domestic violence protective orders.

Pen. Code § 3051 (Amended): *LWOP Sentencing Limitations for Youths Age 25 Years or Younger*:

See "*Probation & Parole*," below.

Welf. & Inst. Code § 208.3 (New & Amended): *Placement of Minor or Ward in Room Confinement; Restrictions and Exceptions*:

(a) For purposes of this section, the following definitions apply:

(1) "*Juvenile facility*" includes any of the following:

(A) A juvenile hall, as described in **W&I Code § 850**.

(B) A juvenile camp or ranch, as described **W&I §§ 880 et seq.** (**Article 24**).

(C) A facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(D) A regional youth educational facility, as described in **W&I § 894**.

(E) A youth correctional center, as described in **W&I Code §§ 1850 et seq.** (**Division 2.5**, **Chapter 2**, **Article 9**).

(F) A juvenile regional facility as described in **W&I § 5695**.

(G) Any other local or state facility used for the confinement of minors or wards.

(2) "*Minor*" means a person who is *any* of the following:

(A) A person under 18 years of age.

(B) A person under the maximum age of juvenile court jurisdiction who is confined in a juvenile facility.

(C) A person under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(3) "*Room confinement*" means the placement of a minor or ward in a locked sleeping room or cell with minimal or no contact with persons other than correctional facility staff and attorneys. Room confinement does not include confinement of a minor or ward in a single-person room or cell for brief periods of locked room confinement necessary for required institutional operations.

(4) "*Ward*" means a person who has been declared a ward of the court pursuant to **W&I Code § 602**.

(b) The placement of a minor or ward in room confinement shall be accomplished in accordance with the following guidelines:

(1) Room confinement shall not be used before other less restrictive options have been attempted and exhausted, unless attempting those options poses a threat to the safety or security of any minor, ward, or staff.

(2) Room confinement shall not be used for the purposes of punishment, coercion, convenience, or retaliation by staff.

(3) Room confinement shall not be used to the extent that it compromises the mental and physical health of the minor or ward.

(c) A minor or ward may be held up to *four hours* in room confinement. After the minor or ward has been held in room confinement for a period of four hours, staff shall do one or more of the following:

(1) Return the minor or ward to general population.

(2) Consult with mental health or medical staff.

(3) Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population.

(d) If room confinement must be extended beyond four hours, staff shall do the following:

(1) Document the reason for room confinement and the basis for the extension, the date and time the minor or ward was first placed in room confinement, and when he or she is eventually released from room confinement.

(2) Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population.

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

(e) This section is not intended to limit the use of single-person rooms or cells for the housing of minors or wards in juvenile facilities and does not apply to normal sleeping hours.

(f) This section does not apply to minors or wards in court holding facilities or adult facilities.

(g) This section shall not be construed to conflict with any law providing greater or additional protections to minors or wards.

(h) This section does not apply during an extraordinary, emergency circumstance that requires a significant departure from normal institutional operations, including a natural disaster or facility-wide threat that poses an imminent and substantial risk of harm to multiple staff, minors, or wards. This exception shall apply for the shortest amount of time needed to address the imminent and substantial risk of harm.

(i) This section does not apply when a minor or ward is placed in a locked cell or sleeping room to treat and protect against the spread of a communicable disease for the shortest amount of time required to reduce the risk of infection, with the written approval of a licensed physician or nurse practitioner, when the minor or ward is not required to be in an infirmary for an illness. Additionally, this section does not apply when a minor or ward is placed in a locked cell or sleeping room for required extended care after medical treatment with the written approval of a licensed physician or nurse practitioner, when the minor or ward is not required to be in an infirmary for illness.

(j) This section shall become operative on January 1, 2018.

Welf. & Inst. Code § 210.6 (New): *Use of Mechanical Restraints on Minors During Transportation and While In Court*:

(a)

(1) Mechanical restraints, including, but not limited to, handcuffs, chains, irons, straitjackets or cloth or leather restraints, or other similar items, may be used on a juvenile detained in or committed to a local secure juvenile facility, camp, ranch, or forestry camp, as established pursuant to **W&I Code §§ 850** and **881**, during transportation outside of the facility only upon a determination made by the probation department, in consultation with the transporting agency, that the mechanical restraints are necessary to prevent physical harm to the juvenile or another person or due to a substantial risk of flight.

(2) If a determination is made that mechanical restraints are necessary, the least restrictive form of restraint shall be used consistent with the legitimate security needs of each juvenile.

(3) A county probation department that chooses to use mechanical restraints other than handcuffs on juveniles shall establish procedures for the documentation of their use, including the reasons for the use of those mechanical restraints.

(4) This subdivision does not apply to mechanical restraints used by medical care providers in the course of medical care or transportation.

(b)

(1) Mechanical restraints may only be used during a juvenile court proceeding if the court determines that the individual juvenile's behavior in custody or in court establishes a manifest need to use mechanical restraints to prevent physical harm to the juvenile or another person or due to a substantial risk of flight.

(2) The burden to establish the need for mechanical restraints pursuant to **paragraph (1)** is on the prosecution.

(3) If the court determines that mechanical restraints are necessary, the least restrictive form of restraint shall be used and the reasons for the use of mechanical restraints shall be documented in the record.

Note: This section *does not* apply to arresting officers when transporting a juvenile arrestee or detainee, or to situations other than during transportation of "a juvenile detained in or committed to a local secure juvenile facility, camp, ranch, or forestry camp, . . ."

Note also the continuing provisions in **W&I § 222(b)**, cross-referencing **P.C. § 304.7**, restricting the restraints of pregnant (and during recovery after giving birth) juvenile wards of the court.

Welf. & Inst. Code § 625.6 (New): *In-Custody Juveniles 15 Years of Age and Younger & Interrogation; Right to Consult with Counsel; Exceptions; Provisions for Further Study*:

(a) Prior to a custodial interrogation, and *before* the waiver of any ***Miranda*** rights, a youth *15 years of age or younger* shall consult with legal counsel in person, by telephone, or by video conference. The consultation *may not be waived*.

(b) The court shall, in adjudicating the admissibility of statements of a youth 15 years of age or younger made during or after a custodial interrogation, consider the effect of failure to comply with **subdivision (a)**.

(c) This section does not apply to the admissibility of statements of a youth 15 years of age or younger if both of the following criteria are met:

(1) The officer who questioned the youth reasonably believed the information he or she sought was necessary to protect life or property from an imminent threat.

(2) The officer's questions were limited to those questions that were reasonably necessary to obtain that information.

(d) This section does not require a probation officer to comply with subdivision (a) in the normal performance of his or her duties under **W&I Code §§ 625**, **627.5**, or **628**.

(e)

(1) The Governor, or his or her designee, shall convene a panel of at least seven experts, including all of the following:

(A) A representative of the California Public Defenders Association.

(B) A representative of the California District Attorneys Association.

(C) A representative of a statewide association representing law enforcement.

(D) A representative of the judiciary.

(E) A member of the public possessing expertise and experience in any or all of the following:

(i) The juvenile delinquency or dependency systems.

(ii) Child development or special needs children.

(iii) The representation of children in juvenile court.

(F) A member of the public who, as a youth, was involved in the criminal justice system.

(G) A criminologist with experience in interpreting crime data.

(2)

(A) The panel shall be convened no later than January 1, 2023, and shall review the implementation of this section and examine the effects and outcomes related to the implementation of this section, including, but not limited to, the appropriate age of youth to whom this section should apply.

(B) No later than April 1, 2024, the panel shall provide information to the Legislature and the Governor, including, but not limited to, relevant data on the effects and outcomes associated with the implementation of this section. A report submitted to the

Legislature pursuant to this subparagraph shall be submitted in compliance with **Gov't. Code § 9795**.

(3) Members of the panel shall serve without compensation, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties on the panel.

(f) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

Note: A six-page article analyzing the potential implications of this new statute is available upon request.

Marijuana (***or Cannabis***)**:**

Bus. & Prof. Code §§ 19300-19360 (Repealed; Effective June 27, 2017): ***The Medical Cannabis Regulation & Safety Act***:

Repealed, pursuant to enactment of **SB 94**, adding New and Amended **Bus. & Prof. Code §§ 26000** to **26231.2**; **Division 10**; see below); and thus combining the "***Medical Cannabis Regulation and Safety Act***" and the "***Control, Regulate and Tax Adult Use of Marijuana Act*** into a single comprehensive regulatory scheme.

Bus. & Prof. Code §§ 26000-26231.2 (New and Amended: Effective June 27, 2017, & amended again, September 16, 2017): The "***Medicinal and Adult-Use Cannabis Regulation and Safety Act***" ("**MAUCRSA**;"):

Combining the "***Medical Cannabis Regulation and Safety Act***" (repealed) and the "***Control, Regulate and Tax Adult Use of Marijuana Act***, the regulation of medicinal cannabis (replacing the term "*marijuana*") and recreational cannabis is now accomplished through a single comprehensive scheme which includes new and amended provisions under the **Business and Professions Code**, the **Food and Agricultural Code**, the **Health and Safety Code**, the **Revenue and Taxation Code**, and the **Water Code** (and, to a lesser degree, other codes).

Note: A comprehensive outline (all 250-plus pages of it) of the recreational and medicinal marijuana (*oops*, I mean "*cannabis*") statutes, including but not limited to the "**MAUCRSA**," is available upon request.

Civil Code § 1550.5: (New): *Contract Law Relating to Medicinal Cannabis and Adult-Use Cannabis*:

Subdivision (b) provides that:

Notwithstanding any law, including, but not limited to, **Civil Code §§ 1550**, **1667**, and **1668** and federal law, commercial activity relating to medicinal cannabis or adult-use cannabis conducted in compliance with California law and any applicable local standards, requirements, and regulations shall be deemed to be all of the following:

(1) A lawful object of a contract.

(2) Not contrary to, an express provision of law, any policy of express law, or good morals.

(3) Not against public policy.

Evid. Code § 956 (Amended): *Attorney-Client Privilege*:

The section of the Evidence Code that provides for a fraud exception to the "*Attorney-Client Privilege*" (see E.C. § 952) now includes in new subdivision (b) the following provision relevant to communications concerning *medicinal cannabis* or *adult-use cannabis*:

This exception to the privilege granted by this article shall *not* apply to legal services rendered in compliance with state and local laws on *medicinal cannabis* or *adult-use cannabis*, and confidential communications provided for the purpose of rendering those services are confidential communications between client and lawyer, as defined in **E.C. § 952**, provided the lawyer also advises the client on conflicts with respect to federal law.

H&S Code § 11018 (Amended; Effective June 27, 2017): *Cannabis*, *Defined*:

The **Health & Safety Code** section that defines "*marijuana*" has been amended to refer to the substance as "*cannabis*," making it consistent with all the other medicinal and adult use sections now (as of June 27, 2017) in effect.

I.e.: "*Cannabis*" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does *not* include either of the following:

(a) Industrial hemp, as defined in **H&S Code § 11018.5**.

(b) The weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

***Mental Competence*:**

Pen. Code. § 1368.1(a) (Amended): *Procedures for Determining Mental Competence*:

As amended, **subd. (a)** provide the following:

> **(1)** If the action is on a complaint charging a *felony*, proceedings to determine mental competence shall be held prior to the filing of an information unless the counsel for the defendant requests a preliminary examination under **P.C. § 859b**. At the preliminary examination, counsel for the defendant may either demur, move to dismiss the complaint on the ground that there is not reasonable cause to believe that a felony has been committed and that the defendant is guilty thereof, or make a motion under **P.C. § 1538.5**. A proceeding to determine mental competence or a request for a preliminary examination pursuant to this paragraph does not preclude a request for a determination of probable cause pursuant to **paragraph (2)**.
>
> **(2)** If the action is on a complaint charging a *felony involving death, great bodily harm, or a serious threat to the physical well-being of another person*, the prosecuting attorney may, at any time before or after a defendant is determined incompetent to stand trial, request a determination of probable cause to believe the defendant committed the offense or offenses alleged in the complaint, solely for the purpose of establishing that the defendant is gravely disabled pursuant to **W&I Code § 5008(h)(1)(B)**, pursuant to procedures approved by the court. In making this determination, the court shall consider using procedures consistent with the manner in which a preliminary examination is conducted. A finding of probable cause shall only be made upon the presentation of evidence sufficient to satisfy the standard set forth in **P.C. § 872(a)**. The defendant shall be entitled to a preliminary hearing after the restoration of his or her competence. A request for a determination of probable cause pursuant to this paragraph does not preclude a proceeding to determine mental competence or a request for a preliminary examination pursuant to **paragraph (1)**.

Note: **Subd. (b)** has to do with defendant's pleading and procedural options when charged with a misdemeanor only. **Subd. (c)** has to do with defendant's options when charged with a violation of probation, mandatory supervision, postrelease community supervision, or parole.

***Miranda*:**

Welf. & Inst. Code § 625.6 (New): *In-Custody Juveniles 15 Years of Age and Younger & Interrogation; Right to Consult with Counsel; Exceptions; Provisions for Further Study*:

See "***Juveniles***," above.

***Peace Officers*:**

Pen. Code § 189.1 (New): *Murder of Peace Officers*:

> **(a)** The Legislature finds and declares that all unlawful killings that are willful, deliberate, and premeditated and in which the victim was a peace officer, as defined in **P.C. § 830**, who was killed while engaged in the performance of his or her duties, where the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties, are considered murder of the first degree for all purposes, including the gravity of the offense and the support of the survivors.
>
> **(b)** This section is declarative of existing law.
>
> *Note*: This is a watered down version of the original bill that sought to make any non-premeditated homicides (i.e., second degree murders) of a police officer another form of first degree murder. Amendments before passage negated this laudable goal.

Pen. Code § 830.85 (New): *Federal Officers and California Peace Officers*:

> Notwithstanding any other law, United States Immigration and Customs Enforcement officers and United States Customs and Border Protection officers *are not* California peace officers.

Pen. Code § 924.6 (Amended): *Release of Grand Jury Transcripts in Use of Excessive Force by Peace Officer Cases*:

> As amended, grand jury transcripts in any case involving the alleged use of excessive force by a peace officer that leads to the death of a detainee or arrestee, and where *no* indictment is returned, such transcripts including all or part of the indictment proceedings excluding the grand jury's private deliberations and voting, may be publicly released upon application of the district attorney, a legal representative of the decedent, or a legal representative of the media with notice to the district attorney and the affected witness, following an in camera hearing by the trial court with an opportunity for the parties to be heard. Should the court find that there exists an overriding interest in keeping the transcripts confidential that outweighs the right of public access supporting the sealing of the records, release of the transcripts may be denied. The sealing of the record must be "narrowly tailored" and it must be found that less restrictive means do not exist to achieve the overriding interest in keeping the records sealed.

Pen. Code § 25140 (Amended): *Firearms Left Unattended in a Motor Vehicle by a Peace Officer* (*and Others*):

See "***Firearms & Ammunition***," above.

***Prisoners*:**

Pen. Code § 849 (Amended): *Release of an Arrestee*:

Subdivision (b) is amended to add a fifth (**subdivision (b)(5)**) method of releasing an arrestee without a warrant instead of taking him or her before a magistrate; i.e., when the arrestee is delivered to a hospital or other urgent care facility for a mental health evaluation and treatment and no further proceedings are desirable.

A "*hospital or other urgent care facility*" includes, but is not limited to, a facility for the treatment of "co-occurring substance use disorders."

A release under new **subdivision (b)(5)** is to be deemed a detention only.

See also **P.C. § 851.6** (Amended), requiring the releasing officer to issue to the arrestee a certificate describing the contact as a detention only.

Pen. Code § 849 (Amended): *Involuntary Psychiatric Medication for County Jail Inmates*:

The previously existing procedures for lawfully administering psychiatric medications without an inmate's consent has been expanded from only those who are serving a county jail sentence to all inmates despite the status of his or her case.

Amended **Subd. (c)**: The non-emergency pre-conditions to the involuntary administration of psychiatric medications has been expanded, and require compliance with *all* of the following:

(1) A psychiatrist or psychologist has determined that the inmate has a serious mental disorder.

(2) A psychiatrist or psychologist has determined that, as a result of that mental disorder, the inmate is gravely disabled and does not have the capacity to refuse treatment with psychiatric medications, or is a danger to self or others.

(3) A psychiatrist has prescribed one or more psychiatric medications for the treatment of the inmate's disorder, has considered the risks, benefits, and treatment alternatives to involuntary medication, and has determined that the treatment alternatives to involuntary medication are unlikely to meet the needs of the patient.

(4) The inmate has been advised of the risks and benefits of, and treatment alternatives to, the psychiatric medication and refuses, or is unable to consent to, the administration of the medication.

(5) The jail has made a documented attempt to locate an available bed for the inmate in a community-based treatment facility in lieu of seeking to administer involuntary medication. The jail shall transfer that inmate to such a facility only if the facility can provide care for the mental health needs, and the physical health needs, if any, of the inmate and upon the agreement of the facility. In enacting the act that added this paragraph, it is the intent of the Legislature to recognize the lack of community-based beds and the inability of many facilities to accept transfers from correctional facilities.

(6) The inmate is provided a hearing before a superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer, as specified in **W&I Code 5334(c)**.

> **(A)** If the inmate is in custody awaiting trial, any hearing pursuant to this section shall be held before, and any requests for ex parte orders shall be submitted to, a judge in the superior court where the criminal case is pending.
>
> **(B)** A superior court judge may consider whether involuntary medication would prejudice the inmate's defense.

(7)

> **(A)** The inmate is provided counsel at least 21 days prior to the hearing, unless emergency or interim medication is being administered pursuant to **subdivision (d)**, in which case the inmate would receive expedited access to counsel.
>
> **(B)** In the case of an inmate awaiting arraignment, the inmate is provided counsel within 48 hours of the filing of the notice of the hearing with the superior court, unless counsel has previously been appointed.
>
> **(C)** The hearing shall be held not more than 30 days after the filing of the notice with the superior court, unless counsel for the inmate agrees to extend the date of the hearing.

(8)

> **(A)** The inmate and counsel are provided with written notice of the hearing at least 21 days prior to the hearing, unless emergency or interim medication is being administered pursuant to subdivision (d), in which case the inmate would receive an expedited hearing.
>
> **(B)** The written notice shall do all of the following:

(i) Set forth the diagnosis, the factual basis for the diagnosis, the basis upon which psychiatric medication is recommended, the expected benefits of the medication, any potential side effects and risks to the inmate from the medication, and any alternatives to treatment with the medication.

(ii) Advise the inmate of the right to be present at the hearing, the right to be represented by counsel at all stages of the proceedings, the right to present evidence, and the right to cross-examine witnesses. Counsel for the inmate shall have access to all medical records and files of the inmate, but shall not have access to the confidential section of the inmate's central file which contains materials unrelated to medical treatment.

(iii) Inform the inmate of his or her right to appeal the determination to the superior court or the court of appeal as specified in **W&I Code § 5334(e)** and **(f)**, and his or her right to file a petition for writ of habeas corpus with respect to any decision of the county department of mental health, or other designated county department, to continue treatment with involuntary medication after the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer has authorized treatment with involuntary medication.

(9)

(A) In the hearing described in **paragraph (6)**, the superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer determines by clear and convincing evidence that the inmate has a mental illness or disorder, that as a result of that illness the inmate is gravely disabled and lacks the capacity to consent to or refuse treatment with psychiatric medications or is a danger to self or others if not medicated, that there is no less intrusive alternative to involuntary medication, and that the medication is in the inmate's best medical interest.

(B) The superior court judge, court-appointed commissioner or referee, or a court-appointed hearing officer shall not make a finding pursuant to **subparagraph (A)** of this paragraph that there is no less intrusive alternative to involuntary medication and that the medication is in the inmate"s best medical interest, without

information from the jail to indicate that neither of the conditions specified in **paragraph (5)** is present.

(C) If the court makes the findings in **subparagraph (A)**, that administration shall occur in consultation with a psychiatrist who is not involved in the treatment of the inmate at the jail, if available.

(D) In the event of any statutory notice issues with either initial or renewal filings by the county department of mental health, or other designated county department, the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer shall hear arguments as to why the case should be heard, and shall consider factors such as the ability of the inmate's counsel to adequately prepare the case and to confer with the inmate, the continuity of care, and, if applicable, the need for protection of the inmate or institutional staff that would be compromised by a procedural default.

(10) The historical course of the inmate's mental disorder, as determined by available relevant information about the course of the inmate's mental disorder, shall be considered when it has direct bearing on the determination of whether the inmate is a danger to self or others, or is gravely disabled and incompetent to refuse medication as the result of a mental disorder.

(11) An inmate is entitled to file one motion for reconsideration following a determination that he or she may receive involuntary medication, and may seek a hearing to present new evidence, upon good cause shown. This paragraph does not prevent a court from reviewing, modifying, or terminating an involuntary medication order for an inmate awaiting trial, if there is a showing that the involuntary medication is interfering with the inmate's due process rights in the criminal proceeding.

Amended **Subd. (d)** now requires the ex parte order seeking continued administration of medication beyond 72 hours pending a full mental health hearing must be filed within the initial 72 hour period.

Amended **Subd. (e)(1)(B)** limits to 180 days the validity of an involuntary medication order for inmates who are awaiting arraignment, trial, sentencing. Also, the trial court is required to review the medication or renewal order every 60 days to determine if the grounds for the order remain based upon an affidavit filed by the psychiatrist.

Amended **Subd. (e)(3)** provides that an inmate's confinement may not be extended for the purpose of providing treatment with anti-psychotic medication.

Amended **Subd. (f)**: Upon the ex parte request of an inmate, or his or her counsel, all proceedings in the criminal prosecution are to be suspended until the court determines that the defendant's medication will not interfere with his or her ability to meaningfully participate in the criminal proceedings.

Amended **Subd. (h)(4)(B)** provides that before renewing an existing order for involuntary medication, that treatment of the inmate in a correctional setting continues to be necessary and that there is not an available bed for the inmate in a community-based treatment facility.

New **Subd. (k)**: Except for emergency medication as provided in **subdivision (d)**, the section does not apply to a person housed in a county jail solely on the basis of an immigration hold.

New **Subd. (*l*)**: Provides for reports concerning the use of the above provisions to the appropriate legislative committees.

Note: The standard of proof that psychiatric medication is necessary is by "*clear and convincing evidence*" that the inmate has a mental illness or disorder, that as a result of that illness the inmate is gravely disabled and lacks the capacity to consent to or refuse treatment with psychiatric medications or is a danger to self or others if not medicated, that there is no less intrusive alternative to involuntary medication, and that the medication is in the inmates best medical interest. (**Subd. (c)(9)**; see also **subds. (h)(4)** and **(h)(5)**)

***Probation & Parole*:**

Gov't. Code § 24000 (Amended; Effective June 27, 2017): *County Officers*:

"*A Chief Probation Officer*" (**subd. x**) is added to the list of county officers.

Gov't. Code §§ 27770-27773 (New; Effective June 27, 2017): *Chief Probation Officer; Duties*:

New sections require that a Chief Probation Officer be appointed in every county.

The duties of a Chief Probation Officer are to include the community supervision of offenders (probationers, juveniles, mandatory supervisees, and post-release community supervisees), operation of juvenile halls, camps, and ranches,

administration of community-based corrections programing, and making recommendations to the court such as pre-sentence investigative reports.

The Chief Probation Officer is authorized to appoint deputies and assistants.

See also **Pen. Code § 1203.5** (Repealed and Added), updating the references to, and authority of a "*Chief Probation Officer*," noting that they are ex officio "adult probation officers" except in a county whose charter provides for a separate office of adult probation officer, differentiating this office from that of a juvenile court probation officer.

Pen. Code § 3051 (Amended): *LWOP Sentencing Limitations for Youths Age 25 Years or Younger*:

The "*Youth Offender Parole*" terms now apply to youths age 25 (instead of 23) and younger at the time of their offense. Such youths are eligible for parole at 15 years of incarceration if serving a determinate term, at 20 years of incarceration if serving a life term of less than 25-years-to-life, and at 25 years of incarceration if serving a term of 25-years-to-life.

Youths who were under the age of 18 at the time of the commission of their offense and who received a life-without-parole (LWOP) sentence, are eligible for parole at 25 years of incarceration. Certain offenders are excluded from this limitation; e.g., those who were 18 years of age or older at the time of their offense, those sentenced pursuant to the **P.C. §§ 667(b)-(i)/1170.12** Strike Law, or who were sentenced pursuant to the **P.C. § 667.61** One Strike Offender Law.

Note: These sentencing limitations are for the purpose of bringing California's sentencing rules for youths in compliance with U.S. Supreme Court decisions holding that LWOP sentences for such youths may be "*cruel and unusual*" punishment, in violation of the **Eighth Amendment**. (***Montgomery v. Louisiana*** (2016) 136 S.Ct. 718; ***Miller v. Alabama*** (2012) 132 S.Ct. 2455.)

Pen. Code § 3051 (New): *Parole Eligibility Under the Elderly Parole Program*:

Board of Parole Hearings rules (established as a result of federal court rulings) related to early parole eligibility hearings is codified under this new statute. Pursuant to the so-called "*Elderly Parole Program*," prison inmates age 60 or older must be given a parole suitability hearing if he or she has served at least 25 years of continuous incarceration for either a determinate or an indeterminate sentence.

Such incarceration includes detention in a jail, juvenile facility, mental health facility, a Division of Juvenile Justice facility, or a Department of Corrections and Rehabilitation facility.

The Board of Parole Hearings is to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced an elderly inmate's risk for future violence.

These rules do not apply to inmates sentenced pursuant to the **P.C. §§ 667(b)-(i)/ 1170.12** Strike Law, who were sentenced pursuant to the **P.C. § 667.61** One Strike Offender Law, inmates sentenced to death or to life without the possibility of parole, or to inmates convicted of the first degree murder of a peace officer who was killed while in the performance of his or her duties.

Note: See also **P.C. § 4801** (Amended), increasing the age of an offender from 23 to 25 or younger at the time of the commission of the offender's crime, to make him or her eligible for the above sentencing rules.

Pen. Code § 3453 (Amended; Effective June 27, 2017): *Conditions of Release for Postrelease Community Supervision (PRCS) Probationers*:

Added to the list of conditions that a Postrelease Community Supervision (PRCS) Probationer must agree to, as listed in **subdivision h**, is that:

> **(1)** The person shall inform the supervising county agency of the person's place of residence and shall notify the supervising county agency of any change in residence, or the establishment of a new residence if the person was previously transient, within five working days of the change.
>
> **(2)** For purposes of this section, "residence" means one or more locations at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, a house, apartment building, motel, hotel, homeless shelter, and recreational or other vehicle. If the person has no residence, he or she shall inform the supervising county agency that he or she is transient.

Violation is grounds for a 10-day "*flash incarceration*."

Veh. Code § 25258 (Amended): *Use of Blue Warning Light by Probation Officers*:

Probation officers are added to the list of peace officers who are authorized to display a steady or flashing blue warning light when operating an emergency vehicle in the performance of their duties. A four-hour classroom course on the operation of emergency vehicles, certified by the Standards and Training for

Corrections division for the Board of State and Community Corrections, must first be completed.

***Racial Profiling*:**

Gov't. Code § 12525.5 (Amended): *The* ***Racial and Identity Profiling Act of 2015***:

The dates by which law enforcement agencies are to begin collecting data pursuant to the **Racial and Identity Profiling Act of 2015** (**RIPA**) are added to the statute, while retaining the dates for agencies to issue their first round of reports, as follows:

Agencies employing 1,000 or more peace officers:

July 1, 2018: Collection of data.
April 1, 2019: First round of reports.

Agencies employing between 667 and 999 peace officers:

January 1, 2019: Collection of data.
April 1, 2020: First round of reports.

Agencies employing between 634 and 666 peace officers:

January 1, 2021: Collection of data.
April 1, 2022: First round of reports.

Agencies employing between 1 and 333 peace officers:

January 1, 2022: Collection of data.
April 1, 2023: First round of reports.

The Attorney General must issue regulations concerning the collection and reporting of **RIPA** data by January 1, 2018.

Subd. (b): The reporting shall include, at a minimum, the following information for each stop:

(1) The time, date, and location of the stop.

(2) The reason for the stop.

(3) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.

(4) If a warning or citation was issued, the warning provided or violation cited.

(5) If an arrest was made, the offense charged.

(6) The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. For motor vehicle stops, this paragraph only applies to the driver, unless any actions specified under **paragraph (7)** apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for him or her.

(7) Actions taken by the peace officer during the stop, including, but not limited to, the following:

(A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.

(B) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.

(C) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.

Subd. (d): State and local law enforcement agencies shall *not* report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section. Notwithstanding any other law, the data reported shall be available to the public, except for the badge number or other unique identifying information of the peace officer involved. Law enforcement agencies are solely responsible for ensuring that personally identifiable information of the individual stopped or any other information that is exempt from disclosure pursuant to this section is not transmitted to the Attorney General in an open text field

***Registered Sex Offenders*:**

Pen. Code § 290 (Amended): *Registration of Sex Offenders*:

Pen. Code §§ 261(a)(5) (rape by fraud) and **261(a)(7)** (rape by threatening to use the authority of a public official) are now listed among the rape offenses for which a convicted defendant is subject to the life-time registration requirements (making all **P.C. § 261** offenses registerable).

Note: Effective *January 1, 2021*, pursuant to **SB 384**, the different registerable sex offenses will be broken down into an as of yet unspecified three-tier system, making *some* convicted sex offenders eligible to be relieved of their sex-registration requirement after 10 or 20 years. In the meantime, CDAA warns prosecutors upon accepting sex offense guilty (or no contest) pleas to insure that no defendant is led to believe that there is any guarantee that his or her offense will be in any particular tier or that his or her registration requirement will be anything less than a life-time commitment.

***Restraining Orders*:**

See **Code of Civ. Pro. § 527.6** (Amended): *Restraining Orders and Confidentiality of a Minor's Personal Information*, under "***Juveniles***," above.

Note: See also **Fam. Code § 6301.5** (New) for similar minor-confidentiality provisions upon issuance of a domestic violence protective orders.

Fam. Code §§ 6450-6460 (New): *The* "***Uniform Recognition and Enforcement of Canadian Domestic Violence Protective Orders Act***:"

New **Division 10**, **Part 6**, of the **Family Code** provides for the local enforcement of valid Canadian domestic violence protection orders when issued in English in a civil proceeding by a Canadian court. (Criminal protective orders are specifically excluded.)

Fam. Code § 6452: A law enforcement officer is required to determine if there is probable cause to believe that a valid Canadian domestic violence protective order exists and that is has been violated. If so, the officer is required to enforce the terms of the order as if it were issued in California. An actual record of the order, on paper (i.e., a "tangible medium") or recorded electronically, identifying on its face the protected person and the respondent, constitutes probable cause of the existence of the order. The order need not be certified. Failure to show such a record does not prevent the officer from determining probable cause from other available information.

An officer is to inform the protected person about available local victim services.

Enforcement of the order requires proof that the respondent has been informed of, or served with, the order. Verbal notice is sufficient. If not, the officer is to so inform the respondent and allow an opportunity for compliance before enforcing it.

Fam. Code § 6453 (New) provides a California court with the authority to issue an order enforcing or refusing to enforce a Canadian domestic violence protection order. A Canadian domestic violence protection order is enforceable if *all* of the following apply:

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

Fam. Code § 6454 (New) provide the procedures for the registration of a Canadian domestic violence restraining order in California, also noting that such registration is *not* necessary for the enforcement of the order.

Fam. Code § 6455 (New): The officer is immune from civil liability for false arrest or false imprisonment for enforcement of such an order when that order is "regular on its face" and the officer acts in good faith and with reasonable cause. No such immunity exists for accusations of the use of excessive force.

Fam. Code § 6457 (New): When there are outstanding multiple restraining orders, a law enforcement officer is to enforce them as follows:

> If there is more than one order and one of them is an emergency protective order, the protective order is to be enforced.
>
> If there is more than one order, but no emergency protective order, and one of them is a "no-contact" order, the no-contact order is to be enforced.
>
> If there is more than one *civil* order involving the same parties and none of them is an emergency protective order or a no-contact order, the order that was issued last is to be enforced.
>
> If there are civil *and* criminal orders involving the same parties and none of them is an emergency protective order or a no-contact order, the criminal order that was issued last is to be enforced.

Fam. Code § 6459 (New): The enforcement authority applies to orders issued, and violations that occur, before, on, and after January 1, 2018.

Pen. Code § 136.2 (Amended): *Restraining Orders to Protect Crime Victims and Witnesses*:

Subd. (i)(1): The provisions allowing for restraining orders for up to ten years of conviction to protect *victims* of listed domestic violence and sexual assault (e.g., **P.C. §§ 261**, **261.5** & **262**) offenses, and cases where the defendant is required to register as a sex offender (per **P.C. § 290**), is amended to add victims of gang-related offenses, per **P.C. § 186.22**.

Subd. (i)(2): "*Percipient witnesses*" to the above offenses may now also be protected by a 10-year restraining order where it is proved by "*clear and convincing evidence*" that the witness has been harassed by the defendant, as defined in **Civ. Code of Proc. § 527.6(b)(3)**.

CCP § 527.6(b)(3) defines "*harassment*" as "unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner."

Note: "*Stalking*" and "*elder abuse*" (physical *and* financial) victims are already protected by 10-year restraining orders per **P.C. §§ 646.9(k)(1)** and **368(*l*)**, respectively.

Pen. Code § 633.6 (Amended): *Recording Confidential Communications as Evidence Supporting the Issuance of a Restraining Order*:

Amendment allows a *domestic violence victim* who is seeking a restraining order against another and who reasonably believes that a confidential communication made to him or her by the domestic violence perpetrator may contain evidence germane to the need for a restraining order, to record the communication for the exclusive purpose and use of providing that evidence to the court while seeking such a restraining order.

***Search Warrants*:**

Pen. Code § 1524(a) (Amended): *Grounds for Issuance of a Search Warrant*:

New **subdivision (a)(18)** is added, providing for the issuance of a search warrant:

(18) When the property or things to be seized consists of evidence that tends to show that a violation of **P.C. § 647(j)(1)**, **(2)**, or **(3)** has occurred or is occurring.

Note: **P.C. § 647(j)** is the misdemeanor "*disorderly conduct*" offense of:

(1) Peeping through a hole or opening into "the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside."

(2) Using "a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means," under or through a non-consenting person's clothing, "with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy."

(3) Using "a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person."

Subd. (a)(15), which was added by **Proposition 63** in November, 2016, also becomes effective on January 1, 2018, and provides the following:

When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to **P.C. §§ 29800** or **29805**, and the court has made a finding pursuant to **P.C. § 29810(c)(3)** that the person has failed to relinquish the firearm as required by law.

Note: **P.C. § 29800** is the firearms prohibition that applies to convicted felons and narcotic drug addicts. **P.C. § 29805** is the 10-year firearms prohibition for persons convicted of a specified misdemeanor.

Note: **P.C. § 29810(c)(4)**, after making the necessary finding as noted in **subd. (c)(3)**, requires the court to issue an order for the search and removal of firearms upon a probable cause finding that the defendant has failed to relinquish firearms.

***Sexual Assault*:**

Pen. Code § 264.2 (Amended): *Notification Requirements for Domestic Violence and/or Sexual Assault Victims; Medical Examination Procedures for Sexual Assault Victims*:

(a) Whenever there is an alleged violation or violations of **P.C. § 243(e)**, or **P.C. §§ 261**, **261.5**, **262**, **273.5**, **286**, **288a**, or **289**, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "*Victims of Domestic Violence*" card, as specified in **P.C. § 13701(c)(9)(H)** (i.e., "*Victims of Domestic Violence Card*"), or with the card described in **P.C. § 680.2(a)** (New: "*Victims of Sexual Assault Card*"), whichever is more applicable.

(b)

(1) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center, whenever a victim of an alleged violation of **P.C. §§ 261**, **261.5**, **262**, **286**, **288a**, or **289** is transported to a hospital for any medical evidentiary or physical examination. The hospital may notify the local rape victim counseling center, when the victim of the alleged violation of **P.C. §§ 261**, **261.5**, **262**, **286**, **288a**, or **289** is presented to the hospital for the medical or evidentiary physical examination, upon approval of the victim. The victim has the right to have a sexual assault counselor, as defined in **E.C. § 1035.2**, and a support person of the victim's choosing present at any medical evidentiary or physical examination.

(2) Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, the medical provider shall give the victim the card described in **P.C. § 689.2(a).** This requirement shall apply only if the law enforcement agency has provided the card to the medical provider in a language understood by the victim.

(3) The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

(4) A support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or medical provider determines that the presence of that individual would be detrimental to the purpose of the examination.

(5) After conducting the medical evidentiary or physical examination, the medical provider shall give the victim the opportunity to shower or bathe at no cost to the victim, unless a showering or bathing facility is not available.

(6) A medical provider shall, within 24 hours of obtaining sexual assault forensic evidence from the victim, notify the law enforcement agency having jurisdiction over the alleged violation if the medical provider knows the appropriate jurisdiction. If the medical provider does not know the appropriate jurisdiction, the medical provider shall notify the local law enforcement agency.

Note: See **P.C. § 680.2** (New) concerning the development of a sexual assault victim information card and its required contents.

Pen. Code § 679.04 (Amended): *Sexual Assault Victims and Victim Advocates and/or Support Persons*:

(a) A victim of sexual assault as the result of any offense specified in **P.C. § 264.2(b)(1)** has the right to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys. A victim retains this right regardless of whether he or she has waived the right in a previous medical evidentiary or physical examination or in a previous interview by law enforcement authorities, district attorneys, or defense attorneys. However, the support person may be excluded from an interview by law enforcement or the district attorney if the law enforcement authority or the district attorney determines that the presence of that individual would be detrimental to the purpose of the interview. As used in this section, "*victim advocate*" means a sexual assault counselor, as defined in **Evid. Code § 1035.2**, or a victim advocate working in a center established under P**.C. §§ 13835 et seq.** (**Part 4**, **Title 6**, **Chapter 4**, **Article 2**).

(b)

(1) Prior to the commencement of the initial interview by law enforcement authorities or the district attorney pertaining to any criminal action arising out of a sexual assault, a victim of sexual assault as the result of any offense specified in **P.C. § 264.2** shall be notified in writing by the attending law enforcement authority or district attorney that he or she has the right to have victim advocates and a support person of the victim's choosing present at the interview or contact, about any other rights of the victim pursuant to law in the card described in **P.C. § 680.2(a)**, and that the victim has the right to request to have a person of the same gender or opposite gender as the victim present in the room during any interview with a law enforcement official or district attorney, unless no such person is reasonably available. This subdivision applies to

investigators and agents employed or retained by law enforcement or the district attorney.

(2) At the time the victim is advised of his or her rights pursuant to **paragraph (1)**, the attending law enforcement authority or district attorney shall also advise the victim of the right to have victim advocates and a support person present at any interview by the defense attorney or investigators or agents employed by the defense attorney.

(3) The presence of a victim advocate shall not defeat any existing right otherwise guaranteed by law. A victim's waiver of the right to a victim advocate is inadmissible in court, unless a court determines the waiver is at issue in the pending litigation.

(4) The victim has the right to request to have a person of the same gender or opposite gender as the victim present in the room during any interview with a law enforcement official or district attorney, unless no such person is reasonably available. It is the intent of the Legislature to encourage every interviewer in this context to have trauma-based training.

(c) An initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview for purposes of this section.

(d) A law enforcement official shall not, for any reason, discourage a victim of an alleged sexual assault from receiving a medical evidentiary or physical examination.

Pen. Code § 680 (Amended): *The* "*Sexual Assault Victims' DNA Bill of Rights*:"

(a) This section shall be known as and may be cited as the "*Sexual Assault Victims' DNA Bill of Rights*."

(b) The Legislature finds and declares all of the following:

(1) Deoxyribonucleic acid (DNA) and forensic identification analysis is a powerful law enforcement tool for identifying and prosecuting sexual assault offenders.

(2) Existing law requires an adult arrested for or charged with a felony and a juvenile adjudicated for a felony to submit DNA samples as a result of that arrest, charge, or adjudication.

(3) Victims of sexual assaults have a strong interest in the investigation and prosecution of their cases.

(4) Law enforcement agencies have an obligation to victims of sexual assaults in the proper handling, retention, and timely DNA testing of rape kit evidence or other crime scene evidence and to be responsive to victims concerning the developments of forensic testing and the investigation of their cases.

(5) The growth of the Department of Justice's Cal-DNA databank and the national databank through the Combined DNA Index System (CODIS) makes it possible for many sexual assault perpetrators to be identified after their first offense, provided that rape kit evidence is analyzed in a timely manner.

(6) Timely DNA analysis of rape kit evidence is a core public safety issue affecting men, women, and children in the State of California. It is the intent of the Legislature, in order to further public safety, to encourage DNA analysis of rape kit evidence within the time limits imposed by **P.C. § 803(g)(1)(A) & (B)**.

(7) In order to ensure that sexual assault forensic evidence is analyzed within the two-year timeframe required by **P.C. § 803(g)(1)(A) & (B)** and to ensure the longest possible statute of limitations for sex offenses, including sex offenses designated pursuant to those subparagraphs, the following should occur:

> **(A)** A law enforcement agency in whose jurisdiction a sex offense specified in **P.C. §§ 261**, **261.5**, **262**, **286**, **288a**, or **289** occurred should do one of the following for any sexual assault forensic evidence received by the law enforcement agency on or after January 1, 2016:
>
> > **(i)** Submit sexual assault forensic evidence to the crime lab within 20 days after it is booked into evidence.
> >
> > **(ii)** Ensure that a rapid turnaround DNA program is in place to submit forensic evidence collected from the victim of a sexual assault directly from the medical facility where the victim is examined to the crime lab within five days after the evidence is obtained from the victim.
>
> **(B)** The crime lab should do one of the following for any sexual assault forensic evidence received by the crime lab on or after January 1, 2016.
>
> > **(i)** Process sexual assault forensic evidence, create DNA profiles when able, and upload qualifying DNA profiles into CODIS as soon as practically possible, but no later than 120 days after initially receiving the evidence.
> >
> > **(ii)** Transmit the sexual assault forensic evidence to another crime lab as soon as practically possible, but no later than 30 days after initially receiving the evidence, for processing of the evidence for the presence of DNA. If a DNA profile is created, the transmitting crime lab should upload the profile into CODIS as soon as practically possible, but no

longer than 30 days after being notified about the presence of DNA.

(C) This subdivision does not require a lab to test all items of forensic evidence obtained in a sexual assault forensic evidence examination. A lab is considered to be in compliance with the guidelines of this section when representative samples of the evidence are processed by the lab in an effort to detect the foreign DNA of the perpetrator.

(D) This section does not require a DNA profile to be uploaded into CODIS if the DNA profile does not meet federal guidelines regarding the uploading of DNA profiles into CODIS.

(E) For purposes of this section, a "*rapid turnaround DNA program*" is a program for the training of sexual assault team personnel in the selection of representative samples of forensic evidence from the victim to be the best evidence, based on the medical evaluation and patient history, the collection and preservation of that evidence, and the transfer of the evidence directly from the medical facility to the crime lab, which is adopted pursuant to a written agreement between the law enforcement agency, the crime lab, and the medical facility where the sexual assault team is based.

(8) For the purpose of this section, "*law enforcement*" means the law enforcement agency with the primary responsibility for investigating an alleged sexual assault.

(c)

(1) Upon the request of a sexual assault victim, the law enforcement agency investigating a violation of **P.C. §§ 261**, **261.5**, **262**, **286**, **288a**, or **289** *shall* (instead of the previously provided "*may*") inform the victim of the status of the DNA testing of the rape kit evidence or other crime scene evidence from the victim's case. The law enforcement agency may, at its discretion, require that the victim's request be in writing. The law enforcement agency shall respond to the victim's request with either an oral or written communication, or by email, if an email address is available. Nothing in this subdivision requires that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing absent a specific request from the victim or the victim's designee.

(2) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims have the following rights:

(A) The right to be informed whether or not a DNA profile of the assailant was obtained from the testing of the rape kit evidence or other crime scene evidence from their case.

(B) The right to be informed whether or not the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence has been entered into the Department of Justice Data Bank of case evidence.

(C) The right to be informed whether or not there is a match between the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Data Base, provided that disclosure would not impede or compromise an ongoing investigation.

(3) This subdivision is intended to encourage law enforcement agencies to notify victims of information which is in their possession. It is not intended to affect the manner of or frequency with which the Department of Justice provides this information to law enforcement agencies.

(d) If the law enforcement agency does not analyze DNA evidence within six months prior to the time limits established by **P.C. § 803(g)(1)(A)** & **(B)**, a victim of a sexual assault offense specified in **P.C. §§ 261**, **261.5**, **262**, **286**, **288a**, or **289** *shall* be informed, either orally or in writing, of that fact by the law enforcement agency.

(e)

(1) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, a victim of a violation of **P.C. §§ 261**, **261.5**, **262**, **286**, **288a**, or **289** *shall* be given written notification by the law enforcement agency of that intention.

(2) A law enforcement agency shall not destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case before at least 20 years, or if the victim was under 18 years of age at the time of the alleged offense, before the victim's 40th birthday.

(f) Written notification under **subdivision (d)** or **(e)** shall be made at least 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence from an unsolved sexual assault case.

(g) A sexual assault victim may designate a sexual assault victim advocate, or other support person of the victim's choosing, to act as a recipient of the above information required to be provided by this section.

(h) It is the intent of the Legislature that a law enforcement agency responsible for providing information under **subdivision (c)** do so in a timely manner and, upon request of the victim or the victim's designee, advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware. In order to be entitled to receive notice under this section, the victim or the victim's designee shall keep appropriate authorities informed of the name, address, telephone number, and email address of the person to whom the information should be provided, and any changes of the name, address, telephone number, and email address, if an email address is available.

(i) A defendant or person accused or convicted of a crime against the victim shall have no standing to object to any failure to comply with this section. The failure to provide a right or notice to a sexual assault victim under this section may not be used by a defendant to seek to have the conviction or sentence set aside.

(j) The sole civil or criminal remedy available to a sexual assault victim for a law enforcement agency's failure to fulfill its responsibilities under this section is standing to file a writ of mandamus to require compliance with **subdivision (d)** or **(e)**.

Note: See **P.C. § 799(b)(1)**, where the statute of limitations has been eliminated as of January 1, 2017, for many sexual assault offenses.

Pen. Code § 680.3 (New): *Rape Kit Information and DOJ's SAFE-T Database*:

(a) Each law enforcement agency that has investigated a case involving the collection of sexual assault kit evidence shall, within 120 days of collection, create an information profile for the kit on the Department of Justice's SAFE-T database and report the following:

(1) If biological evidence samples from the kit were submitted to a DNA laboratory for analysis.

(2) If the kit generated a probative DNA profile.

(3) If evidence was not submitted to a DNA laboratory for processing, the reason or reasons for not submitting evidence from the kit to a DNA laboratory for processing.

(b) After 120 days following submission of rape kit biological evidence for processing, if a public DNA laboratory has not conducted DNA testing, that laboratory shall provide the reasons for the status in the appropriate SAFE-T data field. If the investigating law enforcement agency has contracted with a private laboratory to conduct DNA testing on rape kit evidence, the submitting law enforcement agency shall provide the 120-day update in SAFE-T. The process described in this subdivision shall take place every 120 days until DNA testing occurs, except as provided in **subdivision (c)**.

(c) Upon expiration of a sexual assault case's statute of limitations, or if a law enforcement agency elects not to analyze the DNA or intends to destroy or dispose of the crime scene evidence pursuant to **P.C. § 680(f)**, the investigating law enforcement agency shall state in writing the reason the kit collected as part of that case's investigation was not analyzed. This written statement relieves the investigating law enforcement agency or public laboratory of any further duty to report information related to that kit pursuant to this section.

(d) The SAFE-T database shall not contain any identifying information about a victim or a suspect, shall not contain any DNA profiles, and shall not contain any information that would impair a pending criminal investigation.

(e) On an annual basis, the Department of Justice shall file a report to the Legislature in compliance with **Gov't. Code § 9795** summarizing data entered into the SAFE-T database during that year. The report shall not reference individual victims, suspects, investigations, or prosecutions. The report shall be made public by the department.

(f) Except as provided in **subdivision (e)**, in order to protect the confidentiality of the SAFE-T database information, SAFE-T database contents shall be confidential, and a participating law enforcement agency or laboratory shall not be compelled in a criminal or civil proceeding, except as required by ***Brady v. Maryland*** (1963) 373 U.S. 83, to provide any SAFE-T database contents to a person or party seeking those records or information.

> *Note*: ***Brady v. Maryland*** is the U.S. Supreme Court decision requiring the prosecution *and* law enforcement to provide the defense with all evidence relevant to a defendant's guilt, innocence, or sentencing, with or without a request, and whether or not such information is actually known to the prosecution.

(g) The requirements of this section shall only apply to sexual assault evidence kit evidence collected on or after January 1, 2018.

(h) Money received by the Office of Emergency Services from the federal Office on Violence Against Women that may be used for the testing of sexual assault kit evidence shall be used before appropriating money from the General Fund for purposes of reimbursing any costs determined by the Commission on State Mandates to be mandated by the state to a local law enforcement agency by this section.

***Stolen Valor Act*:**

Gov't. Code § 3003 (Amended): *Forfeiture of Office*:

A conviction of California's Stolen Valor Act (**P.C. § 532b**) or the federal equivalent (**18 U.S. Code § 704**), when committed by an elected officer of the

state, county, city, or district, requires such person to forfeit his or her office. The section is amended to require that there had been a "*fraudulent claim*" (changed from "false claim") and an *intent to* "*obtain money, property, or other tangible benefit*" (changed from merely "an intent to defraud").

A "*tangible benefit*" is defined as financial remuneration, an effect on the outcome of a criminal or civil court proceeding, or a benefit relating to military service that is provided by a federal, state, or local government entity.

Pen. Code § 532b (Amended): *Fraudulent Representation as a Veteran or Having received a Military Decoration*:

(a) A person who fraudulently represents himself or herself as a veteran or ex-serviceman of a war in which the United States was engaged, in connection with the soliciting of aid or the sale or attempted sale of any property, is guilty of a misdemeanor.

(b) A person who fraudulently claims, or presents himself or herself, to be a veteran or member of the Armed Forces of the United States, the California National Guard, the State Military Reserve, the Naval Militia, the national guard of any other state, or any other reserve component of the Armed Forces of the United States, with the intent to obtain money, property, or other tangible benefit, is guilty of a misdemeanor.

(c)

(1) Except as provided in **paragraph (2)**, a person who, orally, in writing, or by wearing any military decoration, fraudulently represents himself or herself to have been awarded a military decoration, with the intent to obtain money, property, or other tangible benefit, is guilty of a misdemeanor.

(2) This offense is an infraction or a misdemeanor, subject to **P.C. §§ 19.6**, **19.7**, and **19.8**, if the person committing the offense is a veteran of the Armed Forces of the United States.

(d) (New) A person who forges documentation reflecting the awarding of a military decoration that he or she has not received for the purposes of obtaining money, property, or receiving a tangible benefit is guilty of a misdemeanor.

(e) (New) A person who knowingly, with the intent to impersonate and to deceive, for the purposes of obtaining money, property, or receiving a tangible benefit, misrepresents himself or herself as a member or veteran of the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia by wearing the uniform or military decoration authorized for use by the members or veterans of those forces, is guilty of a misdemeanor.

(f) (New) A person who knowingly utilizes falsified military identification for the purposes of obtaining money, property, or receiving a tangible benefit, is guilty of a misdemeanor.

(g) (New) A person who knowingly, with the intent to impersonate, for the purposes of promoting a business, charity, or endeavor, misrepresents himself or herself as a member or veteran of the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia by wearing the uniform or military decoration authorized for use by the members or veterans of those forces, is guilty of a misdemeanor.

(h) (New) A person who knowingly, with the intent to gain an advantage for employment purposes, misrepresents himself or herself as a member or veteran of the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia by wearing the uniform or military decoration authorized for use by the members or veterans of those forces, is guilty of a misdemeanor.

(i) This section does not apply to face-to-face solicitations involving less than ten dollars ($10).

(j) This section, **Gov't Code § 3003**, and **Mil. & Vet. Code § 1821** shall be known, and may be cited as, the **California Stolen Valor Act**.

(k) For purposes of this section, the following terms shall have the following meanings:

(1) "*Military decoration*" means any decoration or medal from the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia, or any service medals or badges awarded to the members of those forces, or the ribbon, button, or rosette of that badge, decoration, or medal, or any colorable imitation of that item.

(2) (New) "*Tangible benefit*" means financial remuneration, an effect on the outcome of a criminal or civil court proceeding, or any benefit relating to service in the military that is provided by a federal, state, or local governmental entity.

***Trespass*:**

Pen. Code § 602.1 (Amended): *Interference With a Business*:

Subd. (c) (New): Any person who intentionally interferes with any lawful business carried on by the employees of a public agency open to the public, by knowingly making a material misrepresentation of the law to those persons there to transact business with the public agency, and who refuses to leave the premises of the public agency after being requested to leave by the office manager or a supervisor of the public agency, or by a peace officer acting at the request of the

office manager or a supervisor of the public agency, is guilty of an infraction, punishable by a fine of up to four hundred dollars ($400).

Former **subdivisions (c)** and **(d)** are renumbers as **(d)** and **(e)**, respectively.

***Undocumented Aliens*:**

Civil Code § 1670.9 (New): *Detentions of Noncitizens for Purposes of Civil Immigration Custody*:

Any city, county, city and county, or local law enforcement agency that, as of January 1, 2018, does not yet have an existing contract with the federal government or any federal agency or a private corporation, to house or detain "*noncitizens*" for the purposes of civil immigration custody, shall not hereafter enter into any such contract. Nor shall such a contract, if already existing, be renewed or expanded.

Nor shall any such entity approve or sign a deed, instrument, or other document conveying land, or issuing permits to build or reuse existing buildings by any private corporation, contractor, or vender, for the purpose of housing or detaining such noncitizens for purposes of civil immigration proceeding unless public hearings, as described in the section, are first held.

Civil Code § 1940.35 (New): *A Landlord's Use of a Tenant or Occupant's Immigration or Citizenship Status for Purposes of Harassment or Intimidation*:

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

There is no violation of this section if the landlord is complying with a legal obligation under federal law, a warrant, a subpoena, or other court order.

Penalty: Civil damages of between 6 to 12 times the monthly rent, injunctive relief, and notice to the district attorney concerning a possible extortion (P.C. § 519) violation.

Note: **Civ. Code § 1940.05** (New) provides that "*immigration and citizenship status*" includes a "*perception*" that a person has a particular immigration or citizenship status, or that a person is "*associated*" with a person who has or is perceived to have a particular immigration or citizenship status.

Gov't. Code § 7282.5 (Amended): *Limitation Upon Law Enforcement's Cooperation with Immigration Authorities*:

Law enforcement's cooperation with federal immigration authorities is limited to that which is permitted by the "**California Values Act**" (i.e., **Gov't. Code §§ 7284-7284.12** (New); see below). Such cooperation that is prohibited by **Gov't. Code § 7284.6(a)(1)(C)** (providing information regarding a non-citizen's release date or responding to requests for notification by providing release dates not available to the public) and **Gov't. Code § 7284.6(a)(4)** (transferring a non-citizen to immigration authorities without judicial warrant or judicial probable cause determination) *is permitted* with respect to the crimes listed in **Gov't. Code § 7282.5**.

See **Gov't. Code § 7282.5(a) & (b)** for the referenced list of crimes.

In no case shall cooperation with immigration authorities occur for individuals arrested, detained, or convicted of misdemeanors that were felonies (or felony-wobblers) prior to the passage of **Proposition 47** (the "**Safe Neighborhood and Schools Act of 2014**")

See also **Gov't. Code § 7282** (Amended) for definitions of "*hold request*," "*notification request*," and "*transfer request*," replacing "*immigration hold*," making reference to **Gov't. Code § 7283**, noting that these "*requests*" include requests made by U.S. Immigrations and Customs Enforcement (ICE), U.S. Customs, and Border Protection, or by any other immigration authorities.

Gov't. Code §§ 7284-7284.12 (New): *The* "***California Values Act***:"

Gov't. Code § 7284 (New): *Title of Chapter*:

This chapter (i.e., **Title 1**, **Division 7**, **Chapter 17.25**) shall be known, and may be cited, as the **California Values Act**.

Note: Also, as a part of **SB 54**, known as the "Sanctuary State" bill.

Gov't. Code § 7284.2 (New): *Legislative Findings and Declarations*:

The Legislature finds and declares the following:

(a) Immigrants are valuable and essential members of the California community. Almost one in three Californians is foreign born and one in two children in California has at least one immigrant parent.

(b) A relationship of trust between California's immigrant community and state and local agencies is central to the public safety of the people of California.

(c) This trust is threatened when state and local agencies are entangled with federal immigration enforcement, with the result that immigrant community members fear approaching police when they are victims of, and witnesses to, crimes, seeking basic health services, or attending school, to the detriment of public safety and the well-being of all Californians.

(d) Entangling state and local agencies with federal immigration enforcement programs diverts already limited resources and blurs the lines of accountability between local, state, and federal governments.

(e) State and local participation in federal immigration enforcement programs also raises constitutional concerns, including the prospect that California residents could be detained in violation of the **Fourth Amendment** to the United States Constitution, targeted on the basis of race or ethnicity in violation of the **Equal Protection Clause**, or denied access to education based on immigration status. See ***Sanchez Ochoa v. Campbell, et al.*** (E.D. Wash. 2017) 2017 WL 3476777; ***Trujillo Santoya v. United States, et al.*** (W.D. Tex. 2017) 2017 WL 2896021; ***Moreno v. Napolitano*** (N.D. Ill. 2016) 213 F. Supp. 3rd 999; ***Morales v. Chadbourne*** (1st Cir. 2015) 793 F.3d 208; ***Miranda-Olivares v. Clackamas County*** (D. Or. 2014) 2014 WL 1414305; ***Galarza v. Szalczyk*** (3rd Cir. 2014) 745 F.3d 634.

(f) This chapter seeks to ensure effective policing, to protect the safety, well-being, and constitutional rights of the people of California, and to direct the state's limited resources to matters of greatest concern to state and local governments.

(g) It is the intent of the Legislature that this chapter shall not be construed as providing, expanding, or ratifying any legal authority for any state or local law enforcement agency to participate in immigration enforcement.

Gov't. Code § 7284.4 (New): *Definitions*:

For purposes of this chapter, the following terms have the following meanings:

(a) "*California law enforcement agency*" means a state or local law enforcement agency, including school police or security departments. "*California law enforcement agency*" does *not* include the Department of Corrections and Rehabilitation.

(b) "*Civil immigration warrant*" means any warrant for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database.

(c) "*Immigration authority*" means any federal, state, or local officer, employee, or person performing immigration enforcement functions.

(d) "*Health facility*" includes health facilities as defined in **H&S Code § 1250**, clinics as defined in **H&S Code §§ 1200** and **1200.1**, and substance abuse treatment facilities.

(e) "*Hold request*," "*notification request*," "*transfer request*," and "*local law enforcement agency*" have the same meaning as provided in **Gov't. Code § 7283**. Hold, notification, and transfer requests include requests issued by United States Immigration and Customs Enforcement or United States Customs and Border Protection as well as any other immigration authorities.

(f) "*Immigration enforcement*" includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States.

(g) "*Joint law enforcement task force*" means at least one California law enforcement agency collaborating, engaging, or partnering with at least one federal law enforcement agency in investigating federal or state crimes.

(h) "*Judicial probable cause determination*" means a determination made by a federal judge or federal magistrate judge that probable cause exists that an individual has violated federal criminal immigration law and that authorizes a law enforcement officer to arrest and take into custody the individual.

(i) "*Judicial warrant*" means a warrant based on probable cause for a violation of federal criminal immigration law and issued by a

federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.

(j) "*Public schools*" means all public elementary and secondary schools under the jurisdiction of local governing boards or a charter school board, the California State University, and the California Community Colleges.

(k) "*School police and security departments*" includes police and security departments of the California State University, the California Community Colleges, charter schools, county offices of education, schools, and school districts.

Gov't. Code § 7284.6 (New*)*: *Prohibited Activities; Exceptions; Annual Report; Information Exchange; Jurisdiction*:

(a) California law enforcement agencies *shall not*:

(1) Use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including any of the following:

(A) Inquiring into an individual's immigration status.

(B) Detaining an individual on the basis of a hold request.

(C) Providing information regarding a person's release date or responding to requests for notification by providing release dates or other information unless that information is available to the public, or is in response to a notification request from immigration authorities in accordance with **Gov't. Code § 7282.5**. Responses are never required, but are permitted under this subdivision, provided that they do not violate any local law or policy.

(D) Providing personal information, as defined in **Civ. Code § 1798.3**, about an individual, including, but not limited to, the individual's home address or work address unless that information is available to the public.

(E) Making or intentionally participating in arrests based on civil immigration warrants.

(F) Assisting immigration authorities in the activities described in **8 U.S.C. § 1357(a)(3)**.

(G) Performing the functions of an immigration officer, whether pursuant to **8 U.S.C. § 1357(g)** or any other law, regulation, or policy, whether formal or informal.

(2) Place peace officers under the supervision of federal agencies or employ peace officers deputized as special federal officers or special federal deputies for purposes of immigration enforcement. All peace officers remain subject to California law governing conduct of peace officers and the policies of the employing agency.

(3) Use immigration authorities as interpreters for law enforcement matters relating to individuals in agency or department custody.

(4) Transfer an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or in accordance with **Gov't. Code § 7282.5**.

(5) Provide office space exclusively dedicated for immigration authorities for use within a city or county law enforcement facility.

(6) Contract with the federal government for use of California law enforcement agency facilities to house individuals as federal detainees, except pursuant to **Gov't. Code §§ 7310 et seq.** (**Chapter 17.8**).

(b) Notwithstanding the limitations in **subdivision (a)**, this section does not prevent any California law enforcement agency from doing any of the following that does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:

(1) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of, **8 U.S.C. § 1326(a)** that may be subject to the enhancement specified in **8 U.S.C. § 1326(b)(2)** and that is detected during an unrelated law enforcement activity. Transfers to immigration authorities are permitted under this subsection only in accordance with **subdivision (a)(4)**.

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

(3) Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations, so long as the following conditions are met:

(A) The primary purpose of the joint law enforcement task force is not immigration enforcement, as defined in **Gov't. Code § 7284.4(f)**.

(B) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement.

(C) Participation in the task force by a California law enforcement agency does not violate any local law or policy to which it is otherwise subject.

(4) Making inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa pursuant to **8 U.S.C. §§ 1101(a)(15)(T)** or **1101(a)(15)(U)** or to comply with **18 U.S.C. § 922(d)(5)**.

(5) Giving immigration authorities access to interview an individual in agency or department custody. All interview access shall comply with requirements of the **TRUTH Act** (**Gov't. Code §§ 7283 et seq.** (**Chapter 17.2**).

(c)

(1) If a California law enforcement agency chooses to participate in a joint law enforcement task force, for which a California law enforcement agency has agreed to dedicate personnel or resources on an ongoing basis, it shall submit a report annually to the Department of Justice, as specified by the Attorney General. The law enforcement agency shall report the following information, if known, for each task force of which it is a member:

(A) The purpose of the task force.

(B) The federal, state, and local law enforcement agencies involved.

(C) The total number of arrests made during the reporting period.

(D) The number of people arrested for immigration enforcement purposes.

(2) All law enforcement agencies shall report annually to the Department of Justice, in a manner specified by the Attorney General, the number of transfers pursuant to **subdivision (a)(4)**, and the offense that allowed for the transfer, pursuant to **subdivision (a)(4)**.

(3) All records described in this subdivision shall be public records for purposes of the **California Public Records Act** (**Gov't. Code §§ et seq. 6250**; **Chapter 3.5**), including the exemptions provided by that act and, as permitted under that act, personal identifying information may be redacted prior to public disclosure. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be disclosed.

(4) If more than one California law enforcement agency is participating in a joint task force that meets the reporting requirement pursuant to this section, the joint task force shall designate a local or state agency responsible for completing the reporting requirement.

(d) The Attorney General, by March 1, 2019, and annually thereafter, shall report on the total number of arrests made by joint law enforcement task forces, and the total number of arrests made for the purpose of immigration enforcement by all task force participants, including federal law enforcement agencies. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be included in the Attorney General's report. The Attorney General shall post the reports required by this subdivision on the Attorney General's Internet Web site.

(e) This section does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities immigration status information, lawful or unlawful, of any individual, or maintaining or exchanging that information with any other federal, state, or local government entity, pursuant to **8 U.S.C. §§1373** and **1644**.

(f) Nothing in this section shall prohibit a California law enforcement agency from asserting its own jurisdiction over criminal law enforcement matters.

Gov't. Code § 7284.8 (New*)*: *Model Policies for Other Governmental Entities; Database Use Guidance*:

(a) The Attorney General, by October 1, 2018, in consultation with the appropriate stakeholders, shall publish model policies limiting assistance with immigration enforcement to the fullest extent possible consistent with

federal and state law at public schools, public libraries, health facilities operated by the state or a political subdivision of the state, courthouses, Division of Labor Standards Enforcement facilities, the Agricultural Labor Relations Board, the Division of Workers Compensation, and shelters, and ensuring that they remain safe and accessible to all California residents, regardless of immigration status. All public schools, health facilities operated by the state or a political subdivision of the state, and courthouses shall implement the model policy, or an equivalent policy. The Agricultural Labor Relations Board, the Division of Workers' Compensation, the Division of Labor Standards Enforcement, shelters, libraries, and all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy.

(b) For any databases operated by state and local law enforcement agencies, including databases maintained for the agency by private vendors, the Attorney General shall, by October 1, 2018, in consultation with appropriate stakeholders, publish guidance, audit criteria, and training recommendations aimed at ensuring that those databases are governed in a manner that limits the availability of information therein to the fullest extent practicable and consistent with federal and state law, to anyone or any entity for the purpose of immigration enforcement. All state and local law enforcement agencies are encouraged to adopt necessary changes to database governance policies consistent with that guidance.

(c) Notwithstanding the rulemaking provisions of the **Administrative Procedure Act** (**Gov't. Code §§ 11340 et seq.**; **Title 2**, **Division 3**, **Part 1**, **Chapter 3.4**), the Department of Justice may implement, interpret, or make specific this chapter without taking any regulatory action.

Gov't. Code § 7284.10 (New*)*: *Department of Corrections and Rehabilitation Duties and Responsibilities*:

(a) The Department of Corrections and Rehabilitation *shall*:

(1) In advance of any interview between the United States Immigration and Customs Enforcement (ICE) and an individual in department custody regarding civil immigration violations, provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present. The written consent form shall be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

(2) Upon receiving any ICE hold, notification, or transfer request, provide a copy of the request to the individual and inform him or her whether the department intends to comply with the request.

(b) The Department of Corrections and Rehabilitation *shall not*:

(1) Restrict access to any in-prison educational or rehabilitative programming, or credit-earning opportunity on the sole basis of citizenship or immigration status, including, but not limited to, whether the person is in removal proceedings, or immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

(2) Consider citizenship and immigration status as a factor in determining a person's custodial classification level, including, but not limited to, whether the person is in removal proceedings, or whether immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

Gov't. Code § 7284.12 (New*)*: *Severability*:

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Gov't. Code § 7285.1 (New*)*: *Restrictions on Employer's Cooperation with Immigration Officials; Penalties for Violations*:

(a) Except as otherwise required by federal law, an employer, or a person acting on behalf of the employer, *shall not* provide voluntary consent to an immigration enforcement agent to enter any nonpublic areas of a place of labor. This section does not apply if the immigration enforcement agent provides a judicial warrant.

(b) An employer who violates **subdivision (a)** shall be subject to a civil penalty of two thousand dollars ($2,000) up to five thousand dollars ($5,000) for a first violation and five thousand dollars ($5,000) up to ten thousand dollars ($10,000) for each subsequent violation. If a court finds that an immigration enforcement agent was permitted to enter a nonpublic area of a place of labor without the consent of the employer or other person in control of the place of labor, the civil penalty shall not apply. "*Violation*" means each incident when it is found that **subdivision (a)** was violated without reference to the number of employees, the number of immigration enforcement agents involved in the incident, or the number of locations affected in a day.

(c) This section shall not preclude an employer or person acting on behalf of an employer from taking the immigration enforcement agent to a nonpublic area, where employees are not present, for the purpose of verifying whether the

immigration enforcement agent has a judicial warrant, provided no consent to search nonpublic areas is given in the process.

(d) The exclusive authority to enforce this section is granted to the Labor Commissioner or the Attorney General and enforcement shall be through civil action. Any penalty recovered shall be deposited in the Labor Enforcement and Compliance Fund.

(e) This section applies to public and private employers.

Gov't. Code § 7285.2 (New*)*: *Restrictions on Employers Allowing Immigration Officials' Access to Employee Records; Penalties for Violations*:

(a)

(1) Except as otherwise required by federal law, and except as provided in **paragraph (2)**, an employer, or a person acting on behalf of the employer, shall not provide voluntary consent to an immigration enforcement agent to access, review, or obtain the employer's employee records without a subpoena or judicial warrant. This section does not prohibit an employer, or person acting on behalf of an employer, from challenging the validity of a subpoena or judicial warrant in a federal district court.

(2) This subdivision shall not apply to I-9 Employment Eligibility Verification forms and other documents for which a Notice of Inspection has been provided to the employer.

(b) An employer who violates **subdivision (a)** shall be subject to a civil penalty of two thousand dollars ($2,000) up to five thousand dollars ($5,000) for a first violation and five thousand dollars ($5,000) up to ten thousand dollars ($10,000) for each subsequent violation. If a court finds that an immigration enforcement agent was permitted to access, review, or obtain the employer's employee records without the consent of the employer or other person in control of the place of labor, the civil penalty shall not apply. "*Violation*" means each incident when it is found that **subdivision (a)** was violated without reference to the number of employees, the number of immigration enforcement agents involved in the incident, or the number of employee records accessed, reviewed, or obtained.

(c) The exclusive authority to enforce this section is granted to the Labor Commissioner or the Attorney General and enforcement shall be through civil action. Any penalty recovered shall be deposited in the Labor Enforcement and Compliance Fund.

(d) This section applies to public and private employers.

Gov't. Code § 7285.3 (New*)*: *Employers' Compliance with MOUs re: Federal E-Verify System*:

In accordance with state and federal law, nothing in this chapter shall be interpreted, construed, or applied to restrict or limit an employer's compliance

with a memorandum of understanding governing the use of the federal E-Verify system.

Note: See also **Labor Code § 90.2** (New) that requires employers to post of notice of any inspections of I-9 Employment Eligibility Verification forms or other employment records by immigration officials within 72 after receiving notice of the inspection.

Gov't. Code § 7310 (Effective June 27, 2017; Amended Sept. 28, 2017): *Contracts with Federal Government to Detain Non-Citizens*:

(a) A city, county, city and county, or local law enforcement agency that does not, as of June 15, 2017, have a contract with the federal government or any federal agency to detain adult noncitizens for purposes of civil immigration custody, is prohibited from entering into a contract with the federal government or any federal agency, to house or detain in a locked detention facility owned and operated by a local entity, noncitizens for purposes of civil immigration custody.

(b) A city, county, city and county, or local law enforcement agency that, as of June 15, 2017, has an existing contract with the federal government or any federal agency to detain adult noncitizens for purposes of civil immigration custody, shall not renew or modify that contract in such a way as to expand the maximum number of contract beds that may be utilized to house or detain in a locked detention facility noncitizens for purposes of civil immigration custody.

Gov't. Code § 7311 (Effective June 27, 2017): *Contracts with Federal Government to House or Detain Non-Citizen Minors*:

(a) A city, county, city and county, or local law enforcement agency that does not, as of June 15, 2017, have a contract with the federal government or any federal agency to house or detain any accompanied or unaccompanied minor in the custody of or detained by the federal Office of Refugee Resettlement or the United States Immigration and Customs Enforcement is prohibited from entering into a contract with the federal government or any federal agency to house minors in a locked detention facility.

(b) A city, county, city and county, or local law enforcement agency that, as of June 15, 2017, has an existing contract with the federal government or any federal agency to house or detain any accompanied or unaccompanied minor in the custody of or detained by the federal Office of Refugee Resettlement or the United States Immigration and Customs Enforcement shall not renew or modify that contract in such a way as to expand the maximum number of contract beds that may be utilized to house minors in a locked detention facility.

(c) This section does not apply to temporary housing of any accompanied or unaccompanied minor in less restrictive settings when the State Department of Social Services certifies a necessity for a contract based on changing conditions of

the population in need and if the housing contract meets the following requirements:

(1) It is temporary in nature and nonrenewable on a long-term or permanent basis.

(2) It meets all applicable federal and state standards for that housing.

Gov't. Code § 8310.3 (Effective October 15, 2017): *The **California Religious Freedom Act***:

See "***California Religious Freedoms Act***," above.

Gov't. Code § 12532 (Effective June 27, 2017): *Review of Detention Facilities*:

Subd. (a) & (b)(2): The California Attorney General is required to "engage in reviews" of county, local, and private detention facilities in which "non-citizens," (including minors) are housed or detained for purposes of immigration proceedings, and report its findings to the Legislature and the Governor by March 1, 2019.

Sub. (b)(1): This review shall include, but not be limited to, the following:

(A) A review of the conditions of confinement.

(B) A review of the standard of care and due process provided to the individuals described in **subdivision (a)**.

(C) A review of the circumstances around their apprehension and transfer to the facility.

Subd. (c): The Attorney General, or his or her designee, shall be provided all necessary access for the observations necessary to effectuate reviews required pursuant to this section, including, but not limited to, access to detainees, officials, personnel, and records

H&S Code § 11369 (Repealed): *Notification Requirements Upon Arrest of Non-Citizens for Listed Drug Offenses*:

The following notification requirement is *repealed* as of January 1, 2018: When there is reason to believe that any person arrested for a violation of **H&S Code §§ 11350**, **11351**, **11351.5**, **11352**, **11353**, **11355**, **11357**, **11359**, **11360**, **11361**, **11363**, **11366**, **11368** or **11550**, may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters.

Pen. Code § 679.015 (New): *Victim and Witnesses' Protection from being Turned over to Immigration Authorities*:

(a) It is the public policy of this state to protect the public from crime and violence by encouraging all persons who are victims of or witnesses to crimes, or who otherwise can give evidence in a criminal investigation, to cooperate with the

criminal justice system and not to penalize these persons for being victims or for cooperating with the criminal justice system.

(b) Whenever an individual who is a victim of or witness to a crime, or who otherwise can give evidence in a criminal investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or turn the individual over to federal immigration authorities absent a judicial warrant.

Pen. Code § 830.85 (New): *Federal Officers and California Peace Officers*:

Notwithstanding any other law, United States Immigration and Customs Enforcement officers and United States Customs and Border Protection officers *are not* California peace officers.

Welf. & Insti. Code § 1008 (Repealed): *Youth Authority Cooperation with the U.S. Bureau of Immigration*:

This section that required the Youth Authority to cooperate with the U.S. Bureau of Immigration in arranging "for the deportation of all aliens who are committed to it" *is repealed*.

Welf. & Insti. Code § 4118 (Repealed): *State Department of State Hospitals Cooperation with the U.S. Bureau of Immigration*:

This section that required the *State Department of State Hospitals* to cooperate with the U.S. Bureau of Immigration in arranging "for the deportation of all aliens who are committed to it" *is repealed*.

Welf. & Insti. Code § 4458 (Repealed): *State Department of Developmental Services Cooperation with the U.S. Bureau of Immigration*:

This section that required the *State Department of Developmental Services* to cooperate with the U.S. Bureau of Immigration in arranging "for the deportation of all aliens who are committed to it" *is repealed*.

***Vehicle Code*:**

Veh. Code § 21455 (Amended); *Red Light Violations at Freeway and Highway On Ramps*:

Failing to stop at a red light at a freeway or highway on-ramp is added to this section that deals with traffic control signals at *other than* an intersection.

Note: Per the Legislative History, the purpose of this addition is to preclude the use of **V.C. § 21453** (red light violations at an intersection) when citing a driver for failing to stop at a traffic control signal at a freeway or highway on ramp.

Veh. Code § 21456 (Amended);

The section dealing with pedestrian control signals at a traffic control signal is clarified, noting the following: If a pedestrian control signal showing the words "WALK" or "WAIT" or "DON'T WALK" or other approved symbol is in place, the signal shall indicate as follows:

(a) A "WALK" or approved "Walking Person" symbol means a pedestrian facing the signal may proceed across the roadway in the direction of the signal, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown.

(b) A *flashing* "DON'T WALK" or "WAIT" or approved "Upraised Hand" symbol *with* a "countdown" signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal *may start to cross* the roadway in the direction of the signal but *must* complete the crossing prior to the display of the steady "DON'T WALK" or "WAIT" or approved "Upraised Hand" symbol when the "countdown" ends.

(c) A *steady* "DON'T WALK" or "WAIT" or approved "Upraised Hand" symbol or a *flashing* "DON'T WALK" or "WAIT" or approved "Upraised Hand" *without* a "countdown" signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal *shall not* start to cross the roadway in the direction of the signal, but any pedestrian who started the crossing during the display of the "WALK" or approved "Walking Person" symbol and who has partially completed crossing shall proceed to a sidewalk or safety zone or otherwise leave the roadway while the steady "WAIT" or "DON'T WALK" or approved "Upraised Hand" symbol is showing.

Veh. Code §§ 22451, **22153** (Amended): *Crossing Railroad Tracks; On-Track Equipment*:

The driver of any vehicle or a pedestrian (**V.C. § 22451**) and the driver of a bus, a school bus, and any commercial vehicle (**V.C. § 22452**) must now, in addition to a train or railroad car, look for "*on-track equipment*" before crossing railroad tracks. (Buses and commercial vehicles must also *stop* before looking and crossing.) "*On-track equipment*" is defined as any locomotive or any other car, rolling stock, equipment, or other device that, alone or coupled to others, is operated on stationary rails.

Veh. Code § 22659.6 (New); *Pilot Program for Impounding Vehicles in Prostitution Cases*:

(a) Notwithstanding any other law, the Cities of *Los Angeles*, *Oakland*, and *Sacramento* may each adopt an ordinance to conduct a 24-month pilot program in which law enforcement officers of the city may, pursuant to a valid arrest, remove (i.e., impound) a vehicle used in the commission, or attempted commission, of pimping in violation of **P.C. § 266h**, pandering in violation of **P.C. § 266i**, or solicitation of prostitution in violation of **P.C. § 647(b)(2)** or **(3)**.

(b) If either city elects to implement the pilot program described in **subdivision (a)**, it shall do *all* of the following:

(1) Offer a diversion program to prostitutes cited or arrested in the course of the pilot program.

(2) Authorize the removal of a vehicle only if the individual committing, or attempting to commit, a crime described in **subdivision (a)** is the sole registered owner of the vehicle. If that individual is not the sole registered owner, the other registered owner or owners of the vehicle shall be provided an opportunity to take possession of the vehicle.

(3) Reimburse an individual for the costs associated with towing and impounding the vehicle if he or she is not found guilty of the crime for which the vehicle was impounded or if the charge of committing, or attempting to commit, the crime for which the vehicle was impounded was dismissed.

(c)

(1) Within six months of the completion of the pilot program described in **subdivision (a)**, each of the participating cities shall issue a report that describes, at a minimum, all of the following:

(A) The number of individuals cited, and the number of individuals arrested, during the pilot program for the commission, or attempted commission, of a crime described in **subdivision (a)**.

(B) The number of vehicles towed during the pilot program because they were used in the commission, or attempted commission, of a crime described in **subdivision (a)**.

(C) The number of minor victims of a crime described in **subdivision (a)** that law enforcement encountered during the course of the pilot program.

(D) Whether the implementation of the pilot program impacted the number of citations or arrests for commission, or attempted commission, of a crime described in **subdivision (a)**.

(2)

(A) The report described in **paragraph (1)** shall be submitted to the Legislature, including the Chairs of the Senate and Assembly Committees on Public Safety, the Senate President pro Tempore, and the Speaker of the Assembly, and to the Governor and Attorney General.

(B) A report to be submitted pursuant to **subparagraph (A)** shall be submitted in compliance with **Gov't. Code § 9795**.

(d) An ordinance adopted pursuant to this section shall contain, but not be limited to, the following provisions:

(1) At the time of arrest, the person shall be notified that his or her vehicle will be towed and given information on how the vehicle may be retrieved.

(2) The registered owner or his or her agent may retrieve the vehicle at any time.

(3) The registered owner or his or her agent is responsible for all towing and storage fees related to the seizure of a vehicle pursuant to this section.

(4) If a vehicle is not claimed by the registered owner within 30 days and the legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person who is not the registered owner but holds a security interest in the vehicle, the legal owner shall be given notice that the car has been seized and shall be given an opportunity to retrieve the vehicle. The vehicle shall be released to the legal owner upon payment of all towing and storage fees due.

(e) This section shall not be construed to limit the authority of any peace officer to impound a vehicle pursuant to any applicable provision of this code.

(f) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

Veh. Code § 23123.5 (Amended); *Using Handheld Electronic Communication Devices in a Motor Vehicle*:

The use of specialized mobile radio devices and two-way messaging devices is an exception to the infraction of using "a handheld wireless telephone or an electronic wireless communications device" (i.e., cellphones) while operating a motor vehicle.

Note: The Legislative History of this amendment indicates that it is intended to allow the "*trained professionals*" of the bus, delivery, trucking, and utility

industries to conduct brief communications with their respective dispatch offices or other bus or truck drivers.

Veh. Code §§ 23152, **23153** (Amended; Effective July 1, 2018); *Driving While Under the Influence & DUI Causing Injury*:

Effective July 1, 2018, an amendment to both sections in new **subdivision (e)** provides for a 0.04% blood/alcohol level for "passenger for hire" vehicle drivers when there is a paying passenger (i.e., a "*passenger for hire*") in the vehicle. A "*passenger for hire*" is defined as a passenger for whom consideration is contributed or expected as a condition of carriage in the vehicle, whether directly or indirectly flowing to the owner, operator, agent, or any other person having an interest in the vehicle.

It is a rebuttable presumption that a person was driving with a 0.04% blood/alcohol level if the person had a 0.04% level at the time of a chemical test done within three hours after the driving.

Veh. Code § 23220 (Amended): ***Using Marijuana While Driving or While In a Motor Vehicle on Private Lands*:**

(a) A person shall not drink any alcoholic beverage or *smoke or ingest marijuana or any marijuana product while driving* a motor vehicle on any lands described in **subdivision (c)**.

(b) A person shall not drink any alcoholic beverage or *smoke or ingest marijuana or any marijuana product while riding as a passenger* in any motor vehicle being driven on any lands described in **subdivision (c)**.

(c) As used in this section, "*lands*" means those lands to which the **Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971** (**V.C. §§ 38000 et seq.**; **Division 16.5**) applies as to off-highway motor vehicles, as described in **V.C. § 38001**. (See "*Note*," below)

(d) A violation of subdivision (a) or (b) shall be punished as an infraction.

Note: Per **V.C. § 38001**, this section is limited to "*off-highway motor vehicles*" as defined in **V.C. § 38006** and to "lands, other than a highway, that are open and accessible to the public, including any land acquired, developed, operated, or maintained, in whole or in part, with money from the Off–Highway Vehicle Trust Fund, *except* private lands under the immediate control of the owner or his or her agent where permission is required and has been granted to operate a motor vehicle. For purposes of this division, the term "*highway*" *does not* include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted."

Per **V.C. § 38006**: As used in this division, an "*off–highway motor vehicle*" is any of the following:

(a) A motor vehicle subject to the provisions of **V.C. § 38010(a)**.

(b) A motor vehicle registered under **V.C. § 4000**, when such motor vehicle is operated on land to which this division has application.

(c) A motor vehicle owned or operated by a nonresident of this state, whether or not such motor vehicle is identified or registered in a foreign jurisdiction, when such motor vehicle is operated on lands to which this division has application.

V.C. § 38010(a) makes reference to "every motor vehicle specified in (**V.C. §**) **38012** that is not registered under this code because it is to be operated or used exclusively off the highways, except as provided in this division, . . ."

And per **V.C. § 38012(b)**: As used in this division, "*off-highway motor vehicle*" includes, but is not limited to, the following:

(1) A motorcycle or motor-driven cycle, except for any motorcycle that is eligible for a special transportation identification device issued pursuant to **V.C. § 38088**.

(2) A snowmobile or other vehicle designed to travel over snow or ice, as defined in **V.C. § 557**.

(3) A motor vehicle commonly referred to as a sand buggy, dune buggy, or all-terrain vehicle.

(4) A motor vehicle commonly referred to as a jeep.

(5) A recreational off-highway vehicle as defined in **V.C. § 500**.

Veh. Code § 23221 (Amended): *Using Marijuana While Driving or While In a Motor Vehicle on a Highway*:

(a) A driver shall not drink any alcoholic beverage or *smoke or ingest marijuana or any marijuana product* while *driving* a motor vehicle upon a highway.

(b) A passenger shall not drink any alcoholic beverage or *smoke or ingest marijuana or any marijuana product* while *in a motor vehicle* being driven upon a highway.

(c) A violation of this section shall be punished as an infraction.

Veh. Code § 23222 (Amended; Effective June 27, 2017): *Open Containers in a Vehicle, Including an Open Receptacle of, or Loose Cannabis*:

(a) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in **V.C. § 23220(b)**, any bottle, can, or other receptacle, containing any alcoholic beverage

which has been opened, or a seal broken, or the contents of which have been partially removed.

(b)

(1) Except as authorized by law, every person who has in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in **V.C. § 23220(b)**, any receptacle containing any *cannabis or cannabis products*, as defined by **H&S Code § 11018.1**, which has been opened or has a seal broken, or loose *cannabis flower* not in a container, is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100).

(2) Paragraph (1) does not apply to a person who has a receptacle containing *cannabis or cannabis products* that has been opened, has a seal broken, or the contents of which have been partially removed, or to a person who has loose *cannabis flower* not in a container, if the receptacle or loose cannabis flower not in a container is in the trunk of the vehicle.

(c) Subdivision (b) does not apply to a qualified patient or person with an identification card, as defined in **H&S § 11362.7**, if both of the following apply:

(1) The person is carrying a current identification card or a physician's recommendation.

(2) The cannabis or cannabis product is contained in a container or receptacle that is either sealed, resealed, or closed.

Veh. Code § 26708 (Amended): *Vehicle Window Obstructions; Exceptions*:

A new exception to the prohibitions on vehicle window obstructions is added as new **subdivision (e)**:

A clear, colorless, and transparent material may be installed, affixed, or applied to the windshield, side, or rear windows of a motor vehicle if the following conditions are met:

(1) The material has a minimum visible light transmittance of 88 percent.

(2) The window glazing with the material applied meets all requirements of Federal Motor Vehicle Safety Standard No. 205 (**49 C.F.R. 571.205**), including the specified minimum light

transmittance of 70 percent and the abrasion resistance of AS-14 glazing, as specified in that federal standard.

(3) The material is designed and manufactured to enhance the ability of the existing window glass to block the sun's harmful ultraviolet A rays.

(4) The driver has in his or her possession, or within the vehicle, a certificate signed by a licensed dermatologist certifying that the person should not be exposed to ultraviolet rays because of a medical condition that necessitates clear, colorless, and transparent film material to be installed on the windshield, side, or rear windows.

(5) If the material described in this subdivision tears or bubbles, or is otherwise worn to prohibit clear vision, it shall be removed or replaced.

Note: The stated purpose of this new subdivision is for the benefit of people who have medical conditions that make them sensitive to sun's ultraviolet rays.

Veh. Code § 27318 (New; Effective July 1, 2018): *Seat Belt Restraints on Busses*:

(a) A passenger who is 16 years of age or older in a bus shall be properly restrained by a safety belt.

(b) A parent, legal guardian, or chartering party shall not transport on a bus, or permit to be transported on a bus, a child, ward, or passenger who is eight years of age or older, but under 16 years of age, unless he or she is properly restrained by a safety belt.

(c) Except as provided in **subdivision (d)**, a parent, legal guardian, or chartering party shall not transport on a bus, or permit to be transported on a bus, a child, ward, or passenger who is under eight years of age and under four feet nine inches in height, unless he or she is acceptably restrained by a safety belt.

(d) If it is not possible to ensure a child, ward, or passenger who is under eight years of age and under four feet nine inches in height is acceptably restrained by a safety belt because of his or her size, a parent, legal guardian, or chartering party shall either secure him or her in an appropriate child passenger restraint system that meets applicable federal motor vehicle safety standards, or if the child, ward, or passenger is under two years of age, may authorize a parent, legal guardian, or chartering party to hold him or her.

(e)

(1) For purposes of this section, "*acceptably restrained by a safety belt*" means all of the following:

(A) The latch plate is securely fastened in the buckle.

(B) The lap belt shall be adjusted to fit low and tight across the hips or upper thighs, not the stomach area.

(C) The shoulder belt shall be adjusted snugly across the chest and the middle of the shoulder, away from the neck.

(D) The shoulder belt shall not be placed behind the back or under the arm.

(2) For purposes of this section, "*properly restrained by a safety belt*" means that the lap belt crosses the hips or upper thighs of the occupant and the shoulder belt, if present, crosses the chest in front of the occupant.

(3) For purposes of this section, "*bus*" means a bus that is equipped with safety belts, including a bus that is required to be equipped with a seatbelt assembly pursuant to Federal Motor Vehicle Safety Standard No. 208 (**49 C.F.R. 571.208**).

(f) Subdivisions (a), **(b)**, **(c)**, and **(d)** do not apply to a passenger that is leaving, has left, or is returning from his or her seat to use an onboard bathroom.

(g) If the bus is equipped with safety belts, the motor carrier shall maintain safety belts in good working order for the use of passengers of the vehicle.

(h) A motor carrier operating a bus equipped with safety belts shall do one of the following:

(1) Require the bus driver, before departure of a bus carrying passengers, to inform passengers of the requirement to wear the seatbelt under California law and inform passengers that not wearing a seatbelt is punishable by a fine.

(2) Post, or allow to be posted, signs or placards that inform passengers of the requirement to wear a seatbelt under California law and that not wearing a seatbelt is punishable by a fine. The signs or placards shall be in a font type and font size that is reasonably easy to read and shall be affixed to a bus in multiple, conspicuous locations.

(i) Notwithstanding **V.C. § 42001(a)**, a violation of **subdivision (a)**, **(b)**, **(c)**, or **(d)** is an infraction punishable by a fine of not more than twenty dollars ($20) for a first offense, and a fine of not more than fifty dollars ($50) for each subsequent offense.

(j) This section does not apply to a schoolbus described in **V.C. § 27316** or a school pupil activity bus described in **V.C. § 27316.5**.

(k) This section shall be operative *July 1, 2018*.

Veh. Code § 27319 (New; Effective July 1, 2018): *Seat Belt Regulations Related to the Driver of a Bus*:

(a) *If a bus is equipped with a driver safety belt*, the driver of the bus shall not operate the vehicle unless he or she is properly restrained by the safety belt.

(b) *If a bus is equipped with a driver safety belt*, the motor carrier shall maintain the safety belt in good working order for the use of the driver.

(c) Notwithstanding **V.C. § 42001(a)**, a violation of this section is an infraction punishable by a fine of not more than twenty dollars ($20) for a first offense and a fine of not more than fifty dollars ($50) for each subsequent offense.

(d) The requirements of this section are intended to satisfy the requirements of **the Code of Federal Regulations**, **49 U.S.C § 392.16**, or any similar federal law or regulation, but shall remain in effect in the absence of those laws.

(e) This section shall be operative *July 1, 2018*.

***Victims' Rights*:**

Pen. Code § 3003 (Amended): *Paroled Residence to be 35 Mile or More from a Requesting Victim or Witness*:

The list of crimes that a victim or a witness may request that a state prison inmate be paroled at least 35 miles from the residence of the victim or witness has been expanded to include all of the following, as listed in **subd. (f)**:

(1) A violent felony as defined in **P.C. § 667.5(c)(1)-(7)** and **(11)-(16)**.

(2) A felony in which the defendant inflicts great bodily injury on a person, other than an accomplice, that has been charged and proved as provided for in **P.C. §§ 12022.53**, **12022.7**, or **12022.9**.

(3) A violation **of P.C. § 261(a)(1)**, **(3)**, or **(4)**, **P.C. § 286(f)**, **(g)**, or **(i)**, **P.C. § 288a(f)**, **(g)** or **(i)**, and **P.C. § 289(b)**, **(d)** or **(e)**.