

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:

“‘Nurse:’ *Noun.* The first person you see after saying: ‘Watch this!’”

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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 2020, 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, and other technical, non-substantive changes, 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. Many 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, novelty and/or complexity, have been included, word-for-word, in their entirety. 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, 2021*, unless otherwise indicated. Bolding and italics have been added for emphasis.

NEW AND AMENDED STATUTES:

Animals:

Food & Agri. Code §§ 31108.3 & 31752.1 (New; SB 573): *Microchipping of Dogs and Cats:*

Public animal control agencies and shelters, all society for the prevention of cruelty to animals shelters, humane society shelters, and animal rescue groups are now required to do one of two things before releasing a dog (per **Food & Agri. Code § 31108.3**) or a cat (per **Food & Agri. Code § 31752.1**) to an owner reclaiming it, or to a new owner adopting or buying it:

1. Microchip the animal with current information on the owner; *or*
2. If the agency, shelter, or group does not have microchipping capability on location, obtain an agreement from the reclaiming or new owner that proof of microchipping will be presented within 30 days to the agency, shelter, or group.

These new sections both provide that microchipping is not required if a licensed veterinarian certifies in writing that the dog or cat is medically unfit for the microchipping procedure because it has a physical condition that would be substantially aggravated by the procedure. Microchipping is also not required if the reclaiming or new owner signs a form stating that the cost of microchipping would impose an economic hardship on the owner.

Beginning *January 1, 2022*, an agency, shelter, or group that violates this section is subject to a civil penalty of one hundred dollars (\$100).

H&S Code §122354.5 (Repealed and Added; AB 2152): *Commercial Adoption or Sale of Dogs, Cats, and Rabbits:*

Pet stores are now prohibited from adopting out, selling, or offering for sale, a dog, cat, or rabbit. However, a pet store is permitted to provide space to a public animal control agency or shelter, or to an animal rescue group, in order to make dogs, cats, or rabbits available for adoption.

Pet stores are further prohibited from receiving any fees in connection with dogs, cats, or rabbits that are displayed for adoption by a public animal control agency or shelter, or by an animal rescue group.

Displayed animals must be sterilized.

Total adoption fees are limited to no more than \$500.

A violation of this section will result in a written notice to the pet store and to the group responsible for the animal. The written notice is required to detail the violation, include a direction to cease the specific activity, and state the time period within which the violation must be corrected.

Failure to correct the violation within the time period specified is punishable by a civil penalty of \$1,000 for a first violation, \$2,500 for a second violation, and \$5,000 for subsequent violations. Each animal displayed, adopted, sold, or offered for sale or adoption in violation of this section constitutes a separate violation.

A district attorney or city attorney is authorized to bring an action for a violation. In addition to any other remedy, a district attorney is authorized to apply to the court for, and the court has jurisdiction to grant, a temporary or permanent injunction enjoining or restraining any person or entity from violating any provision of this section.

Cannabis (Marijuana):

Bus. & Prof. Code § 26015 (Amended; AB 82): *Chief of Enforcement, Investigators, Inspectors, and Deputies as Peace Officers:*

The chief of enforcement and all investigators, inspectors, and deputies of the Bureau of Cannabis Control identified by the Director of Consumer Affairs now have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them in investigating the laws administered by the Department of Consumer Affairs, or when commencing any criminal prosecution arising from any investigation conducted under these laws.

Note: Pen. Code § 830.2 (Amended), listing persons who are “*peace officers*” and whose authority extends to any place in California, has been expanded to include persons employed by the Bureau of Cannabis Control for the enforcement of **Division 10** of the **Business & Professions Code** (Cannabis: **B&P §§ 26000–26250**) and designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers is the enforcement of the laws as set forth in **B&P § 26015** (i.e., the enforcement of cannabis laws). (See “Peace Officers (and other First Responders),” below.)

Bus. & Prof. Code § 26104 (Amended; SB 1244): *Cannabis Testing Laboratories:*

As amended, any cannabis testing laboratory is now permitted to receive and test samples of cannabis from a state or local law enforcement agency, a prosecuting agency, or a regulatory agency. Testing for these agencies is not considered to be commercial cannabis activity and shall *not* be arranged or overseen by the Bureau of Cannabis Control.

Child Abuse:

Pen. Code § 11165.7 (Amended; AB 1963): *Mandated Child Abuse and Neglect Reporters:*

Two new categories are added to the list of mandated reporters under the **Child Abuse and Neglect Reporting Act (CANRA)**:

1. A human resource employee of a business that employs minor.
2. An adult person whose duties require direct contact with and supervision of minors in the performance of the minors' duties in the workplace of a business.

It is also provided that nothing in this new paragraph modifies or limits the person's duty to report any type of known or suspected child abuse or neglect when the person is acting in some other capacity that would otherwise make the person a mandated reporter.

Also, employers of these two categories of employees are required to provide training in the identification and reporting of child abuse. The general online training for mandated reporters offered by the Office of Child Abuse Prevention in the State Department of Social Services meets these training requirements.

Pen. Code § 11166.4 (New; AB 2741): *Creation of Child Advocacy Centers:*

(a) Each county may use a children's advocacy center to implement a coordinated multidisciplinary response pursuant to **Section 18961.7** of the **Welfare and Institutions Code**, to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment.

(b) A county that utilizes a child advocacy center to coordinate its multidisciplinary response pursuant to **subdivision (a)** shall require the children's advocacy center to meet the following standards:

(1) The multidisciplinary team associated with the children's advocacy center shall consist of a representative of the children's advocacy center and at least one representative from each of the following disciplines: law enforcement, child protective services, district attorney's offices, medical providers, mental health providers, and victim advocates. Members of the multidisciplinary team may fill more than one role, within the scope of their practice, as needed.

(2) The multidisciplinary team associated with the children's advocacy center shall have cultural competency and diversity training to meet the needs of the community it serves.

(3) The children’s advocacy center shall have a designated legal entity responsible for the governance of its operations. This entity shall oversee ongoing business practices of the children’s advocacy center, including setting and implementing administrative policies, hiring and managing personnel, obtaining funding, supervising program and fiscal operations, and conducting long-term planning.

(4) The children’s advocacy center shall provide a dedicated child-focused setting designed to provide a safe, comfortable, and neutral place where forensic interviews and other children’s advocacy center services may be appropriately provided for children and families.

(5) The children’s advocacy center shall use written protocols for case review and case review procedures, and shall use a case tracking system to provide information on essential demographics and case information.

(6) The children’s advocacy center shall verify that members of the multidisciplinary team responsible for medical evaluations have specific training in child abuse or child sexual abuse examinations.

(7) The children’s advocacy center shall verify that members of the multidisciplinary team responsible for mental health services are trained in and deliver trauma-focused, evidence-supported mental health treatments.

(8) The children’s advocacy center shall verify that interviews conducted in the course of investigations are conducted in a forensically sound manner and occur in a child-focused setting designed to provide a safe, comfortable, and dedicated place for children and families.

(c) This section does not preclude a county from utilizing more than one children’s advocacy center.

(d) The files, reports, records, communications, and working papers used or developed in providing services through a children’s advocacy center are confidential and are not public records.

(e) Notwithstanding any other law providing for the confidentiality of information or records relating to the investigation of suspected child abuse or neglect, the members of a multidisciplinary team associated with a children’s advocacy center, including agency representatives, child forensic interviewers, and other providers at the children’s advocacy center, are authorized to share with other multidisciplinary team members any information or records concerning the child and family and the person who is the subject of the investigation of suspected child abuse or neglect for the sole purpose of facilitating a forensic interview or case discussion or providing services to the child or family, provided, however,

that the shared information or records shall be treated as confidential to the extent required by law by the receiving multidisciplinary team members.

(f) An employee or designated agent of a child and family advocacy center that meets the requirements of **subdivision (b)** is immune from any civil liability that arises from the employee's or designated agent's participation in the investigation process and services provided by the child and family advocacy center, unless the employee or designated agent acted with malice or has been charged with or is suspected of abusing or neglecting the child who is the subject of the investigation or services provided. This subdivision does not supersede or limit any other immunity provided by law.

Welf. & Inst. Code § 328.1 (New; SB 907): *Child Abuse or Neglect Committed by Active Duty Members of the Armed Forces:*

(a) A county child welfare department investigating a case of child abuse or neglect involving an allegation against the parent or guardian of the child shall attempt, as soon as practicable, to determine if the parent or guardian is an active duty member of the Armed Forces of the United States.

(b) A county child welfare department may develop and adopt *memoranda of understanding* with military installations, located in whole or in part within the borders of its jurisdiction, that govern the investigation of allegations of child abuse or neglect against active duty service members assigned to units on those installations. Those memoranda may include, but are not limited to, all of the following:

(1) To whom, how, and when each party would report information about an investigation.

(2) Each party's role and responsibilities when conducting an investigation and in providing child maltreatment prevention or rehabilitative services to a family in response to the results of the investigations, consistent with state and federal law.

(3) Protocols describing what, if any, confidential information may be shared between the parties and for what purposes, in accordance with applicable state and federal law.

(c) This section *does not* limit or change the responsibilities of a county child welfare department with respect to investigations of, or responses to, allegations of abuse or neglect.

Diversion:

Pen. Code §§ 1001.20, 1001.21, 1001.22, 1001.23, & 1001.29 (Amended; AB 79):
Misdemeanor/Felony Diversion:

Amendment to these sections expands misdemeanor pre-trial diversion programs for defendants with developmental disabilities (while deleting the “cognitive” requirement) to defendants charged with most felony crimes. The felony crimes for which a defendant is *not* eligible for this diversion program are the same as those disqualifiers for mental disorder diversion pursuant to **Pen. Code § 1001.36**; i.e.:

1. Murder.
 2. Voluntary manslaughter.
 3. An offense, conviction of which would require **Pen. Code § 290** sex offender registration, except **Pen. Code § 314** (indecent exposure).
 4. Rape.
 5. Lewd or lascivious act on a child under age 14.
 6. Assault with intent to commit rape, sodomy, or oral copulation in violation of **Pen. Code § 220**.
 7. Rape or sexual penetration in concert in violation of **Pen. Code § 264.1**.
 8. Continuous sexual abuse of a child in violation of **Pen. Code § 288.5**.
 9. A violation of **Pen. Code § 11418(b)** or **(c)** (using or employing a weapon of mass destruction).
- (There are no disqualifying misdemeanor crimes.)

Diversion shall not be ordered when the defendant has previously been diverted under this chapter “within two years prior to the present criminal proceedings.”

Diversion may occur at any stage of the criminal proceedings, requiring that the sentencing court need only “consult” with the prosecutor, the defense attorney, the probation department, and the appropriate regional center, in order to determine whether a defendant is to be diverted.

“*Developmental disability*” is defined as a disability as defined in **Wel. & Inst. Code § 4512(a)**:

“*Developmental disability*” means a disability that originates before an individual attains 18 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for

individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

“*Developmental disability*” is also defined the same for which a regional center finds eligibility for services under the **Lanterman Developmental Disabilities Services Act**.

The prosecutor, the probation department, and the regional center must all prepare reports on specified aspects of the defendant’s case, as specified in the statutes.

In addition to the prosecutor, probation department, and regional center reports, the court is required to consider the defendant’s violence and criminal history, the relationship of the developmental disability to the charged offense, the current charged offense, and whether the defendant will pose an unreasonable risk of danger to public safety as defined in **Pen. Code § 1170.18** if treated in the community.

Defendant must waive speedy trial rights in order to accept diversion.

The list of reasons for which a court may terminate diversion and reinstitute criminal proceedings has been expanded from beyond the diverttee’s performance being unsatisfactory or the diverttee being charged with a felony committed during diversion, to include being charged with a misdemeanor crime committed during diversion that reflects the defendant’s propensity for violence, or engaging in criminal conduct rendering the defendant unsuitable for diversion.

Pen. Code § 1001.95 (New; AB 3234): *Court Initiated Misdemeanor Diversion:*

(a) A judge in the superior court in which a misdemeanor is being prosecuted may, at the judge’s discretion, and over the objection of a prosecuting attorney, offer diversion to a defendant pursuant to these provisions.

(b) A judge may continue a diverted case for a period not to exceed 24 months and order the defendant to comply with terms, conditions, or programs that the judge deems appropriate based on the defendant’s specific situation.

(c) If the defendant has complied with the imposed terms and conditions, at the end of the period of diversion, the judge shall dismiss the action against the defendant.

(d) If it appears to the court that the defendant is not complying with the terms and conditions of diversion, after notice to the defendant, the court shall hold a hearing to determine whether the criminal proceedings should be reinstated. If the court finds that the defendant has not complied with the terms and conditions of diversion, the court may end the diversion and order resumption of the criminal proceedings.

(e) A defendant *may not* be offered diversion pursuant to this section for any of the following current charged offenses:

- (1) Any offense for which a person, if convicted, would be required to register pursuant to **Section 290**.
- (2) A violation of **Section 273.5**.
- (3) A violation of **subdivision (e)** of **Section 243**.
- (4) A violation of **Section 646.9**.

Pen. Code § 1001.96 (New; AB 3234): *Requirements for Completing Misdemeanor Diversion:*

A defendant who is diverted pursuant to this chapter shall be required to complete all of the following in order to have their action dismissed:

- (a) Complete all conditions ordered by the court.
- (b) Make full restitution. However, a defendant's inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.
- (c) Comply with a court-ordered protective order, stay-away order, or order prohibiting firearm possession, if applicable.

Pen. Code § 1001.97 (New; AB 3234): *Successful Completion of Misdemeanor Diversion:*

(a) Upon successful completion of the terms, conditions, or programs ordered by the court pursuant to **Section 1001.95**, the arrest upon which diversion was imposed shall be deemed to have never occurred. The defendant may indicate in response to any question concerning their prior criminal record that they were not arrested. A record pertaining to an arrest resulting in successful completion of the terms, conditions, or programs ordered by the court shall not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

(b) The defendant shall be advised that, regardless of their successful completion of diversion, the arrest upon which the diversion was based may be disclosed by the Department of Justice in response to a peace officer application request and that, notwithstanding **subdivision (a)**, this section does *not* relieve them of the obligation to disclose the arrest in response to a direct question contained in a questionnaire or application for a position as a peace officer, as defined in **Section 830**.

Note: Because applicants for a peace officer position need not volunteer their record of arrest after completing diversion, it appears to be incumbent upon law enforcement agencies to insure that applications for employment contain a “*direct question*” concerning the existence of such a prior arrest.

Domestic Violence:

Fam. Code § 6320 (Amended; SB 1141): *Domestic Violence Restraining Orders and Disturbing the Peace:*

(a) The court may issue an ex parte order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, credibly impersonating as described in **Section 528.5** of the **Penal Code**, falsely personating as described in **Section 529** of the **Penal Code**, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in **Section 653m** of the **Penal Code**, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members.

(b) On a showing of good cause, the court may include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(c) As used in this **subdivision (a)**, “*disturbing the peace of the other party*” refers to conduct that, based on the totality of the circumstances, destroys the mental or emotional calm of the other party. This conduct may be committed directly or indirectly, including through the use of a third party, and by any method or through any means including, but not limited to, telephone, online accounts, text messages, internet-connected devices, or other electronic technologies. This conduct includes, but is not limited to, coercive control, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person’s free will and personal liberty. Examples of coercive control include, but are not limited to, unreasonably engaging in any of the following:

- (1) Isolating the other party from friends, relatives, or other sources of support.
- (2) Depriving the other party of basic necessities.

(3) Controlling, regulating, or monitoring the other party's movements, communications, daily behavior, finances, economic resources, or access to services.

(4) Compelling the other party by force, threat of force, or intimidation, including threats based on actual or suspected immigration status, to engage in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage.

(d) This section does not limit any remedies available under this act or any other provision of law.

Elder Abuse:

Pen. Code § 368.5 (Amended; SB 1123): *Investigation of Elder Abuse Cases:*

New **subd. (c)(2)(A)(ii)** is added, providing that: "For the purposes of this subparagraph, the terms "*abandonment*," "*abduction*," "*financial abuse*," "*goods and services necessary to avoid physical harm or mental suffering*," "*isolation*," "*mental suffering*," "*neglect*," and "*physical abuse*" have the same meanings as in **Article 2** (commencing with **Section 15610**) of **Chapter 11** of **Part 3** of **Division 9** of the **Welfare and Institutions Code**."

Note:

"*Abandonment*" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody. (**Welf. & Inst. Code § 15610.05**)

"*Abduction*" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court. (**Welf. & Inst. Code § 15610.06**)

(a) "*Financial abuse*" of an elder or dependent adult occurs when a person or entity does any of the following: (1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both. (2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both. (3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined

in **Section 15610.70**. **(b)** A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult. (**Welf. & Inst. Code §§ 15610.07, § 15610.30**)

“*Goods and services necessary to avoid physical harm or mental suffering*” include, but are not limited to, all of the following: **(a)** The provision of medical care for physical and mental health needs. **(b)** Assistance in personal hygiene. **(c)** Adequate clothing. **(d)** Adequately heated and ventilated shelter. **(e)** Protection from health and safety hazards. **(f)** Protection from malnutrition, under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment. **(g)** Transportation and assistance necessary to secure any of the needs set forth in **subdivisions (a) to (f)**, inclusive. (**Welf. & Inst. Code §§ 15610.35**)

(a) “*Isolation*” means any of the following: **(1)** Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls. **(2)** Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons. **(3)** False imprisonment, as defined in **Section 236 of the Penal Code**. **(4)** Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors. (**Welf. & Inst. Code §§ 15610.43**)

“*Mental suffering*” means fear, agitation, confusion, severe depression, or other forms of serious emotional distress that is brought about by forms of intimidating behavior, threats, harassment, or by deceptive acts performed or false or misleading statements made with malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress of the elder or dependent adult. (**Welf. & Inst. Code §§ 15610.53**)

(a) “*Neglect*” means either of the following: **(1)** The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise. **(2)** The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise. **(b)** Neglect includes, but is not limited to, all of the following: **(1)** Failure to assist in personal hygiene, or in the provision of

food, clothing, or shelter. (2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment. (3) Failure to protect from health and safety hazards. (4) Failure to prevent malnutrition or dehydration. (5) Failure of an elder or dependent adult to satisfy the needs specified in **paragraphs (1) to (4)**, inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health. (**Welf. & Inst. Code §§ 15610.57**)

“*Physical abuse*” means any of the following: (a) Assault, as defined in **Section 240** of the **Penal Code**. (b) Battery, as defined in **Section 242** of the **Penal Code**. (c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in **Section 245** of the **Penal Code**. (d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water. (e) Sexual assault, that means any of the following: (1) Sexual battery, as defined in **Section 243.4** of the **Penal Code**. (2) Rape, as defined in **Section 261** of the **Penal Code**. (3) Rape in concert, as described in **Section 264.1** of the **Penal Code**. (4) Spousal rape, as defined in **Section 262** of the **Penal Code**. (5) Incest, as defined in **Section 285** of the **Penal Code**. (6) Sodomy, as defined in **Section 286** of the **Penal Code**. (7) Oral copulation, as defined in **Section 287** or former **Section 288a** of the **Penal Code**. (8) Sexual penetration, as defined in **Section 289** of the **Penal Code**. (9) Lewd or lascivious acts as defined in **paragraph (2)** of **subdivision (b)** of **Section 288** of the **Penal Code**. (f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions: (1) For punishment. (2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given. (3) For any purpose not authorized by the physician and surgeon. (**Welf. & Inst. Code §§ 15610.63**)

Elections Law:

Elections Code § 18302 (Amended; SB 739): *Distributing False Election Information:*

The misdemeanor crime as described in **subdivision (b)** of distributing false election materials has been expanded by adding a prohibition against distributing “false or misleading information regarding the qualifications to apply for, receive, or return a vote by mail ballot.”

Firearms:

Pen. Code § 25555 (Amended; AB 2699): *Transporting Concealed Firearms; Exceptions:*

Another exception has been added to the **Pen. Code § 25400** crime of carrying a concealed firearm on the person or in a vehicle by amendment; i.e., transporting an unsafe handgun in order to comply with **Pen. Code § 32000(e)(2)**, which requires the sale or transfer of an unsafe handgun to a law enforcement agency, a law enforcement officer, or a member of the military for use as a service weapon, to be processed through a licensed firearms dealer or to be reported to DOJ within 72 hours.

Note: See **Pen. Code § 32000** (Amended), below.

Penal Code § 26379 (Amended; AB 2699): *Transporting Concealed Firearms; Exceptions:*

Another exception to the **Pen. Code § P.C. 26350(a)(1)** crime of openly carrying an unloaded handgun has been added by amendment; i.e., in order to comply with **Pen. Code § 32000(e)(2)**, which requires the sale or transfer of an unsafe handgun to a law enforcement agency, a law enforcement officer, or a member of the military for use as a service weapon, to be processed through a licensed firearms dealer or to be reported to DOJ within 72 hours.

Note: See **Pen. Code § 32000** (Amended), below.

Pen. Code § 30515 (Amended; SB 118; effective 8/6/2020): *Assault Weapons:*

Three additional types of semiautomatic centerfire firearms have been added at **subd. (a), (9), (10) and (11)**, by amendment to the list of firearms that qualify as “*assault weapons*.”

(9) A semiautomatic centerfire firearm that is *not* a rifle, pistol, or shotgun, that does *not* have a fixed magazine, but has any one of the following:

(A) a pistol grip that protrudes conspicuously beneath the action of the weapon; *or*

(B) a thumbhole stock; *or*

(C) a folding or telescoping stock; *or*

(D) a grenade launcher or flare launcher; *or*

(E) a flash suppressor; *or*

(F) a forward pistol grip; *or*

(G) a threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer; *or*

- (H) a second handgrip; *or*
- (I) a shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer's hand, except a slide that encloses the barrel; *or*
- (J) the capacity to accept a detachable magazine at some location outside of the pistol grip.

(10) A semiautomatic centerfire firearm that is *not* a rifle, pistol, or shotgun, that has a fixed magazine with the capacity to accept more than 10 rounds.

(11) A semiautomatic centerfire firearm that is *not* a rifle, pistol, or shotgun, that has an overall length of less than 30 inches.

Also amended is the description of one of the references to semiautomatic shotguns on the assault weapon list at **subd. (a)(7)** by changing it from “a semiautomatic shotgun that has the ability to accept a detachable magazine” to “*a semiautomatic shotgun that does not have a fixed magazine.*”

Note: See also **Pen. Code § 30685** (new), below.

Pen. Code § 30685 (new; SB 118; effective 8/6/2020): *Assault Weapons; Legal Possession:*

A person does not illegally possess any one of the newly specified semiautomatic centerfire assault weapons (see **Pen. Code § 30515**, above) if he or she possessed it before *September 1, 2020*, and *all three* of these apply:

(a) Prior to *September 1, 2020*, the person would have been eligible to register the assault weapon pursuant to new **subdivision (c)** in existing **Pen. Code § 30900**; *and*

(b) The person lawfully possessed the assault weapon prior to *September 1, 2020*; *and*

(c) The person registers the assault weapon by *January 1, 2022*, in accordance with new **subdivision (c)** in existing **Pen. Code § 30900**.

Note: New **subdivision (c)** in existing **Pen. Code § 30900** sets forth the registration provisions for the three newly listed assault weapons. See below.

Pen. Code § 30900 (Amended; SB 118; effective 8/6/2020): *Registration of Assault Weapons*:

New **subd. (c)** is added, as follows:

(1) Any person who, prior to *September 1, 2020*, lawfully possessed an assault weapon as defined by **paragraph (9), (10), or (11) of subdivision (a) of Section 30515** (see above), and is eligible to register an assault weapon as set forth in **Section 30950** (see *Note*, below) shall submit an application to register the firearm before *January 1, 2022*, but not before the effective date of the regulations adopted pursuant to **paragraph (5)**, with the department pursuant to those procedures that the department may establish by regulation pursuant to **paragraph (5)**.

(2) Registration applications shall be submitted in a manner and format to be specified by the department in regulations adopted pursuant to **paragraph (5)**.

(3) The registration application shall contain a description of the firearm that identifies it uniquely, including all identification marks, the date the firearm was acquired, the name and address of the individual from whom, or business from which, the firearm was acquired, as well as the registrant's full name, address, telephone number, date of birth, sex, height, weight, eye color, hair color, and California driver's license number or California identification card number, and any other information that the department may deem appropriate. The registration application shall also contain photographs of the firearm, as specified by the department in regulations adopted pursuant to **paragraph (5)**.

(4) For each registration application, the department may charge a fee that consists of the amount the department is authorized to require a dealer to charge each firearm purchaser under **subdivision (a) of Section 28233**, not to exceed the reasonable processing costs of the department. For registration applications seeking to register multiple firearms, the fee shall increase by up to five dollars (\$5) for each additional firearm after the first, not to exceed the reasonable processing costs of the department. The fee shall be paid in a manner specified by the department in regulations adopted pursuant to **paragraph (5)** at the time the registration application is submitted to the department. The fee shall be deposited in the Dealers' Record of Sale Special Account to be used for purposes of this section.

(5) The department shall adopt regulations for the purpose of implementing this subdivision and **paragraphs (9), (10), and (11) of subdivision (a) of Section 30515** (see above). These regulations are exempt from the **Administrative Procedure Act (Chapter 3.5)**

(commencing with **Section 11340**) of **Part 1** of **Division 3** of **Title 2** of **the Government Code**).

Note: Existing **Pen. Code § 30950** merely says that: “No person who is under the age of 18 years, and no person who is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, may register or possess an assault weapon or .50 BMG rifle.”

Pen. Code § 30955 (Amended; SB 118; effective 8/6/2020): *Assault Weapons; Joint Registration*.

The joint registration of any one of the three semiautomatic centerfire firearms added to the list of assault weapons by amendment to **Pen. Code § 30515** (see above) is prohibited.

Pen. Code § 31910 (Amended; AB 2847): *Unsafe Handguns*:

Subds. (b)(4) through **(7)** have been rewritten, renumbered, and/or added to provide the following requirements for a pistol to be classified as a “*not unsafe handgun*” on the DOJ roster of “*not unsafe*” handguns, pursuant to **Pen. Code § 32015**, and that can then lawfully be sold in California.

A semiautomatic pistol, by *July 1, 2022*, is required to have a “*chamber load indicator*,” a “*magazine disconnect mechanism*” if the pistol has a detachable magazine, and is to be equipped with “*micro-stamping technology*” in at least one place on the interior surface.

Note: A “*chamber load indicator*” alerts a person handling a handgun that it is loaded. A “*magazine disconnect mechanism*” ensures that a handgun cannot fire a chambered cartridge if the magazine has been removed. “*Microstamping technology*” imprints a unique microscopic array of characters onto the casing of each round fired, which helps law enforcement identify the gun the round was fired from.

The section now reads (for informational purposes) in its entirety: “As used in this part, ‘*unsafe handgun*’ means any pistol, revolver, or other firearm capable of being concealed upon the person, for which any of the following is true:

(a) *For a revolver:*

(1) It does not have a safety device that, either automatically in the case of a double-action firing mechanism, or by manual operation in the case of a single-action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge.

(2) It does not meet the firing requirement for handguns.

(3) It does not meet the drop safety requirement for handguns.

(b) *For a pistol:*

(1) It does not have a positive manually operated safety device, as determined by standards relating to imported guns promulgated by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.

(2) It does not meet the firing requirement for handguns.

(3) It does not meet the drop safety requirement for handguns.

(4) Commencing *July 1, 2022*, for all centerfire semiautomatic pistols that are not already listed on the roster pursuant to **Section 32015**, it does not have a chamber load indicator.

(5) Commencing *July 1, 2022*, for all centerfire or rimfire semiautomatic pistols that are not already listed on the roster pursuant to **Section 32015**, it does not have a magazine disconnect mechanism if it has a detachable magazine.

(6)

(A) Commencing *July 1, 2022*, for all semiautomatic pistols that are not already listed on the roster pursuant to **Section 32015**, it is not designed and equipped with a microscopic array of characters used to identify the make, model, and serial number of the pistol, etched or otherwise imprinted in one or more places on the interior surface or internal working parts of the pistol, and that are transferred by imprinting on each cartridge case when the firearm is fired.

(B) The Attorney General may also approve a method of equal or greater reliability and effectiveness in identifying the specific serial number of a firearm from spent cartridge casings discharged by that firearm than that which is set forth in this paragraph, to be thereafter required as otherwise set forth by this paragraph where the Attorney General certifies that this new method is also unencumbered by any patent restrictions. Approval by the Attorney General shall include notice of that fact via regulations adopted by the Attorney General for purposes

of implementing that method for purposes of this paragraph.

(C) The microscopic array of characters required by this section shall not be considered the name of the maker, model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, within the meaning of **Sections 23900** and **23920**.

(7) The Department of Justice shall, for each semiautomatic pistol newly added to the roster pursuant to **Section 32015**, remove from the roster exactly three semiautomatic pistols lacking one or more of the applicable features described in **paragraphs (4), (5), and (6)** of **subdivision (b)** and added to the roster before *July 1, 2022*. Notwithstanding those paragraphs, each semiautomatic pistol removed from the roster pursuant to this subdivision shall be considered an unsafe handgun. The Attorney General shall remove semiautomatic pistols from the roster pursuant to this subdivision in reverse order of their dates of addition to the roster, beginning with the semiautomatic pistol added to the roster on the earliest date and continuing until each semiautomatic pistol on the roster includes each of the applicable features described in those paragraphs.”

Pen. Code § 32000 (Amended; AB 2699): *Unsafe Handgun Violations; Punishments; Exceptions:*

(a)

(1) A person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends an unsafe handgun shall be punished by *imprisonment in a county jail not exceeding one year*.

(2) The failure to report to the Department of Justice in accordance with the provisions of **paragraph (2)** of **subdivision (f)** the sale or transfer of an unsafe handgun obtained pursuant to **paragraph (4), (6), or (7)** of **subdivision (b)** may be subject to a *civil penalty* not to exceed *ten thousand dollars* (\$10,000).

(3) In addition to any criminal penalty provided in **paragraph (1)**, the unlawful sale or transfer of an unsafe handgun obtained pursuant to **paragraph (4), (6), or (7)** of **subdivision (b)** may be subject to a *civil penalty* not to exceed *ten thousand dollars* (\$10,000).

(b) This section shall *not* apply to any of the following:

(1) The manufacture in this state, or importation into this state, of a prototype handgun when the manufacture or importation is for the sole purpose of allowing an independent laboratory certified by the Department of Justice pursuant to **Section 32010** to conduct an independent test to determine whether that handgun is prohibited by **Sections 31900 to 32110**, inclusive, and, if not, allowing the department to add the firearm to the roster of handguns that may be sold in this state pursuant to **Section 32015**.

(2) The importation or lending of a handgun by employees or authorized agents of entities determining whether the weapon is prohibited by this section.

(3) Firearms listed as curios or relics, as defined in **Section 478.11** of **Title 27** of the **Code of Federal Regulations**.

(4) The sale or purchase of a handgun, if the handgun is sold to, or purchased by, the Department of Justice, a police department, a sheriff's official, a marshal's office, the Department of Corrections and Rehabilitation, the Department of the California Highway Patrol, any district attorney's office, any federal law enforcement agency, or the military or naval forces of this state or of the United States for use in the discharge of their official duties. This section does not prohibit the sale to, or purchase by, sworn members of these agencies of a handgun.

(5) The sale, purchase, or delivery of a handgun, if the sale, purchase, or delivery of the handgun is made pursuant to **subdivision (d)** of **Section 10334** of the **Public Contract Code**.

(6) Subject to the limitations set forth in **subdivision (c)**, the sale or purchase of a handgun for use as a service weapon, if the handgun is sold to, or purchased by, any of the following entities for use by, or sold to or purchased by, sworn members of these entities who have satisfactorily completed the POST basic course or, before *January 1, 2021*, have satisfactorily completed the firearms portion of a training course prescribed by the Commission on Peace Officer Standards and Training (POST) pursuant to **Section 832**, and who, as a condition of carrying that handgun, complete a live-fire qualification prescribed by their employing entity at least once every six months:

(A) The Department of Parks and Recreation.

(B) The Department of Alcoholic Beverage Control.

(C) The Division of Investigation of the Department of Consumer Affairs.

- (D) The Department of Motor Vehicles.
- (E) The Fraud Division of the Department of Insurance.
- (F) The State Department of State Hospitals.
- (G) The Department of Fish and Wildlife.
- (H) The State Department of Developmental Services.
- (I) The Department of Forestry and Fire Protection.
- (J) A county probation department.
- (K) The Los Angeles World Airports, as defined in **Section 830.15**.
- (L) A K-12 public school district for use by a school police officer, as described in **Section 830.32**.
- (M) A municipal water district for use by a park ranger, as described in **Section 830.34**.
- (N) A county for use by a welfare fraud investigator or inspector, as described in **Section 830.35**.
- (O) A county for use by the coroner or the deputy coroner, as described in **Section 830.35**.
- (P) The Supreme Court and the courts of appeal for use by marshals of the Supreme Court and bailiffs of the courts of appeal, and coordinators of security for the judicial branch, as described in **Section 830.36**.
- (Q) A fire department or fire protection agency of a county, city, city and county, district, or the state for use by either of the following:
 - (i) A member of an arson-investigating unit, regularly paid and employed in that capacity pursuant to **Section 830.37**.
 - (ii) A member other than a member of an arson-investigating unit, regularly paid and employed in that capacity pursuant to **Section 830.37**.
- (R) The University of California Police Department, or the California State University Police Departments, as described in **Section 830.2**.
- (S) A California Community College police department, as described in **Section 830.32**.
- (T) A harbor or port district or other entity employing peace officers described in **subdivision (b)** of **Section 830.33**, the San Diego Unified Port District Harbor Police, and the Harbor Department of the City of Los Angeles.
- (U) A local agency employing park rangers described in **subdivision (b)** of **Section 830.31**.

(7)

(A) Subject to the limitations set forth in **subdivision (c)**, the sale or purchase of a handgun, if the handgun is sold to, or purchased by, any of the following entities for use as a service weapon by the sworn members of these entities who have satisfactorily completed the POST basic course or, before *January 1, 2021*, have satisfactorily completed the firearms portion of a training course prescribed by the POST pursuant to **Section 832**, and who, as a condition of carrying that handgun, complete a live-fire qualification prescribed by their employing entity at least once every six months:

- (i) The California Horse Racing Board.
- (ii) The State Department of Health Care Services.
- (iii) The State Department of Public Health.
- (iv) The State Department of Social Services.
- (v) The Department of Toxic Substances Control.
- (vi) The Office of Statewide Health Planning and Development.
- (vii) The Public Employees' Retirement System.
- (viii) The Department of Housing and Community Development.
- (ix) Investigators of the Department of Business Oversight.
- (x) The Law Enforcement Branch of the Office of Emergency Services.
- (xi) The California State Lottery.
- (xii) The Franchise Tax Board.

(B) This paragraph does not authorize the sale to, or purchase by, sworn members of the entities specified in **subparagraph (A)** in a personal capacity.

(c)

(1) Notwithstanding **Section 26825**, a person licensed pursuant to **Sections 26700 to 26915**, inclusive, shall not process the sale or transfer of an unsafe handgun between a person who has obtained an unsafe handgun pursuant to an exemption specified in **paragraph (6) or (7) of subdivision (b)** and a person who is not exempt from the requirements of this section.

(2)

(A) A person who obtains or has use of an unsafe handgun pursuant to **paragraph (6) or (7) of subdivision (b)** shall, when

leaving the 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 violation of **subparagraph (A)** is an infraction punishable by a fine not exceeding *one thousand dollars* (\$1,000).

(C) For purposes of this paragraph, the following definitions shall apply:

(i) “*Vehicle*” has the same meaning as defined in **Section 670** of the **Vehicle Code**.

(ii) A vehicle is “*unattended*” when a person who is lawfully carrying or transporting a handgun in the vehicle is not within close proximity to the vehicle to reasonably prevent unauthorized access to the vehicle or its contents.

(iii) “*Locked container*” has the same meaning as defined in **Section 16850**.

(D) **Subparagraph (A)** does not apply to a peace officer during circumstances requiring immediate aid or action that are within the course of their official duties.

(E) This paragraph does not supersede any local ordinance that regulates the storage of handguns in unattended vehicles if the ordinance was in effect before *January 1, 2017*.

(d) Violations of **subdivision (a)** are cumulative with respect to each handgun and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and other provisions of law shall not be punished under more than one provision, but the penalty to be imposed shall be determined as set forth in **Section 654**.

(e)

(1) The Department of Justice shall maintain a database of unsafe handguns obtained pursuant to **paragraph (4), (6), or (7)** of **subdivision (b)**. This requirement shall apply retroactively to include information in the department's possession. The department may satisfy this requirement by maintaining this information in any existing firearm database that reasonably facilitates compliance with this subdivision.

(2) A person or entity that is in possession of an unsafe handgun obtained pursuant to **paragraph (4), (6), or (7) of subdivision (b)**, shall notify the department of any sale or transfer of that handgun within 72 hours of the sale or transfer in a manner and format prescribed by the department. This requirement shall be deemed satisfied if the sale or transfer is processed through a licensed firearms dealer pursuant to **Section 27545**. A sale or transfer accomplished through an exception to **Section 27545** is not exempt from this reporting requirement.

(3) By no later than *March 1, 2021*, the department shall provide a notification to persons or entities possessing an unsafe handgun pursuant to **paragraph (4), (6), or (7) of subdivision (b)** regarding the prohibitions on the sale or transfer of that handgun contained in this section. Thereafter, the department shall, upon notification of sale or transfer, provide the same notification to the purchaser or transferee of any unsafe handgun sold or transferred pursuant to those provisions.

Good Samaritans and Civil Liability:

Civil Code § 43.102 (New; AB 2717): *Rescue of a Child from a Motor Vehicle:*

There shall *not* be any civil liability on the part of, and no cause of action shall accrue against, a person for property damage or trespass to a motor vehicle, if the damage was caused while the person was rescuing a child in accordance with **subdivision (a) or (b) of Section 1799.101 of the Health and Safety Code**. For purposes of this section, “*child*” means a child who is *six years of age* or younger.

Note: See **H&S Code § 1799.101** (New), below.

H&S Code § 1799.101 (New; AB 2717): *Rescue of a Child from a Motor Vehicle:*

(a)

(1) A person may take any reasonable steps that are necessary to remove a child from a motor vehicle if the person holds a reasonable belief that the child’s safety is in immediate danger from heat, cold, lack of adequate ventilation, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the child.

(2) A person who removes a child from a vehicle in accordance with **paragraph (1)** is not criminally liable for actions taken reasonably and in good faith if the person does all of the following:

(A) Determines the vehicle is locked or there is otherwise no reasonable manner for the child to be removed from the vehicle.

(B) Has a good faith belief that forcible entry into the vehicle is necessary because the child is in imminent danger of suffering harm if it is not immediately removed from the vehicle, and, based upon the circumstances known to the person at the time, the belief is a reasonable one.

(C) Has contacted a local law enforcement agency, the fire department, or the “911” emergency service prior to forcibly entering the vehicle.

(D) Remains with the child in a safe location, out of the elements but reasonably close to the vehicle, until a peace officer or another emergency responder arrives.

(E) Used no more force to enter the vehicle and remove the child from the vehicle than was necessary under the circumstances.

(F) Immediately turns the child over to a representative from law enforcement or another emergency responder who responds to the scene.

(b)

(1) This section does not prevent a peace officer, firefighter, or other emergency responder from removing a child from a motor vehicle if the child’s safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the child.

(2) A peace officer, firefighter, or other emergency responder who removes a child from a motor vehicle, or who takes possession of a child who has been removed from a motor vehicle, shall arrange for the treatment and transport of the child according to the medical control policies of the local EMS agency. The parent of a child removed from a vehicle may be required to pay for charges that may accrue for the care or medical treatment of the child.

(3) A peace officer, firefighter, or other emergency responder may take all steps that are reasonably necessary for the removal of a child from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort is made to locate the owner or other person responsible.

(4) A peace officer, firefighter, or other emergency responder who removes a child from a motor vehicle or who receives a child rescued from a vehicle from another person shall, in a secure and conspicuous

location on or within the motor vehicle, leave written notice bearing their name and office and the address of the location where the child will be treated.

(c) For purposes of this section, “*child*” means a child who is *six years of age* or younger.

Note: See **Civil Code § 43.102** (New), above.

Harassment:

Pen. Code § 653y (Amended; AB 1775): *Misuse of 911 Phone System:*

The section which prohibits “knowingly allow(ing) the use of or . . . (the use of) the 911 emergency system for any reason other than because of an emergency” (an infraction), is amended to add new **subds. (b)** and **(c)**, as follows:

(b) Knowingly allowing the use of or using the 911 emergency system for the purpose of harassing another is a crime that is punishable as follows:

(1) For a first violation, as an infraction punishable by a two-hundred-fifty dollar (\$250) fine or as a *misdemeanor* punishable by up to six months in a county jail, a fine of up to one thousand dollars (\$1,000), or both that imprisonment and fine.

(2) For a second or subsequent violation, as a *misdemeanor* punishable by up to six months in a county jail, a fine of up to one thousand dollars (\$1,000), or both that imprisonment and fine.

(c) If a person knowingly allows the use of or uses the 911 emergency system *for the purpose of harassing another person* and that act is an act described in **Section 422.55** or **422.85**, the person who commits the act is guilty of a *misdemeanor* punishable by up to one year in a county jail, a fine of not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000), or both that imprisonment and fine.

Note: **Pen. Code § 422.55** describes the various “*hate crimes.*” **Pen. Code § 422.85** describes the mandated conditions of probation for persons committing a crime against a person because of the victim’s actual or perceived race, color, ethnicity, religion, nationality, country of origin, ancestry, disability, gender, gender identity, gender expression, or sexual orientation.

Also added is new **subd. (e)(2)** which states that: “This section does not apply to uses of the 911 emergency system by a person with an intellectual disability or

other mental disability that makes it difficult or impossible for the person to understand the potential consequences of their actions.”

Note: See also **Civil Code §§ 47 and 51.7** (Amended), providing a means of civil redress for the misuse of the 911 emergency system, and noting that such a communication is not privileged.

Juries:

Code of Civ. Proc. § 197 (Amended; SB 594): *Persons Eligible to be Jurors:*

The list of potential trial jurors is expanded from the traditional Department of Motor Vehicles (DMV) and voter registration databases to also include the list of “*resident state tax filers*” in each respective county.

The Franchise Tax Board is now required to annually furnish the jury commissioner of each county with a list of resident state tax filers for that county, starting on *November 1, 2021*.

The “*list of resident state tax filers*” is defined as a list that includes the name, date of birth, principal residence address, and county of principal residence of persons who are 18 years of age or older and have filed a California resident income tax return for the preceding taxable year.

Beginning *January 1, 2022*, the list of resident state tax filers, the list of registered voters, and the DMV list of licensed drivers and identification cardholders shall be considered inclusive of a representative cross-section of the population.

Note: See **Revenue & Taxation Code §§ 19548.4 and 19585** (new) which require the Franchise Tax Board to furnish each jury commissioner with that county’s list of resident state tax filers and to revise the California resident income tax return to include a space for the taxpayer’s principal residence address and county of principal residence.

Code of Civ. Proc. § 231.7 (New [but “*Operative*” as of *1/1/2022*]; AB 3070): *Preemptory Challenges in Selecting Juries:*

(a) A party shall not use a preemptory challenge to remove a prospective juror on the basis of the prospective juror’s race, ethnicity, gender, gender identity, sexual orientation, national origin, or religious affiliation, or the perceived membership of the prospective juror in any of those groups.

(b) A party, or the trial court on its own motion, may object to the improper use of a preemptory challenge under **subdivision (a)**. After the objection is made, any further discussion shall be conducted outside the presence of the panel. The

objection shall be made before the jury is impaneled, unless information becomes known that could not have reasonably been known before the jury was impaneled.

(c) Notwithstanding **Section 226** (governing the procedures used for challenging jurors), upon objection to the exercise of a peremptory challenge pursuant to this section, the party exercising the peremptory challenge shall state the reasons the peremptory challenge has been exercised.

(d)

(1) The court shall evaluate the reasons given to justify the peremptory challenge in light of the totality of the circumstances. The court shall consider only the reasons actually given and shall not speculate on, or assume the existence of, other possible justifications for the use of the peremptory challenge. If the court determines there is a substantial likelihood that an objectively reasonable person would view race, ethnicity, gender, gender identity, sexual orientation, national origin, or religious affiliation, or perceived membership in any of those groups, as a factor in the use of the peremptory challenge, then the objection shall be sustained. The court need not find purposeful discrimination to sustain the objection. The court shall explain the reasons for its ruling on the record. A motion brought under this section shall also be deemed a sufficient presentation of claims asserting the discriminatory exclusion of jurors in violation of the **United States** and **California Constitutions**.

(2)

(A) For purposes of this section, an objectively reasonable person is aware that unconscious bias, in addition to purposeful discrimination, have resulted in the unfair exclusion of potential jurors in the State of California.

(B) For purposes of this section, a “*substantial likelihood*” means more than a mere possibility but less than a standard of more likely than not.

(C) For purposes of this section, “*unconscious bias*” includes implicit and institutional biases.

(3) In making its determination, the circumstances the court may consider include, but are not limited to, any of the following:

(A) Whether any of the following circumstances exist:

(i) The objecting party is a member of the same perceived cognizable group as the challenged juror.

(ii) The alleged victim is not a member of that perceived cognizable group.

(iii) Witnesses or the parties are not members of that perceived cognizable group.

(B) Whether race, ethnicity, gender, gender identity, sexual orientation, national origin, or religious affiliation, or perceived membership in any of those groups, bear on the facts of the case to be tried.

(C) The number and types of questions posed to the prospective juror, including, but not limited to, any the following:

(i) Consideration of whether the party exercising the peremptory challenge failed to question the prospective juror about the concerns later stated by the party as the reason for the peremptory challenge pursuant to **subdivision (c)**.

(ii) Whether the party exercising the peremptory challenge engaged in cursory questioning of the challenged potential juror.

(iii) Whether the party exercising the peremptory challenge asked different questions of the potential juror against whom the peremptory challenge was used in contrast to questions asked of other jurors from different perceived cognizable groups about the same topic or whether the party phrased those questions differently.

(D) Whether other prospective jurors, who are not members of the same cognizable group as the challenged prospective juror, provided similar, but not necessarily identical, answers but were not the subject of a peremptory challenge by that party.

(E) Whether a reason might be disproportionately associated with a race, ethnicity, gender, gender identity, sexual orientation, national origin, or religious affiliation, or perceived membership in any of those groups.

(F) Whether the reason given by the party exercising the peremptory challenge was contrary to or unsupported by the record.

(G) Whether the counsel or counsel's office exercising the challenge has used peremptory challenges disproportionately against a given race, ethnicity, gender, gender identity, sexual orientation, national origin, or religious affiliation, or perceived membership in any of those groups, in the present case or in past cases, including whether the counsel or counsel's office who made the challenge has a history of prior violations under *Batson v. Kentucky* (1986) 476 U.S. 79, *People v. Wheeler* (1978) 22 Cal.3rd 258, **Section 231.5** (Assumption of bias), or this section.

(e) A peremptory challenge for any of the following reasons is presumed to be invalid unless the party exercising the peremptory challenge can show by clear and convincing evidence that an objectively reasonable person would view the rationale as unrelated to a prospective juror's race, ethnicity, gender, gender identity, sexual orientation, national origin, or religious affiliation, or perceived membership in any of those groups, and that the reasons articulated bear on the prospective juror's ability to be fair and impartial in the case:

- (1) Expressing a distrust of or having a negative experience with law enforcement or the criminal legal system.
- (2) Expressing a belief that law enforcement officers engage in racial profiling or that criminal laws have been enforced in a discriminatory manner.
- (3) Having a close relationship with people who have been stopped, arrested, or convicted of a crime.
- (4) A prospective juror's neighborhood.
- (5) Having a child outside of marriage.
- (6) Receiving state benefits.
- (7) Not being a native English speaker.
- (8) The ability to speak another language.
- (9) Dress, attire, or personal appearance.
- (10) Employment in a field that is disproportionately occupied by members listed in **subdivision (a)** or that serves a population disproportionately comprised of members of a group or groups listed in **subdivision (a)**.

(11) Lack of employment or underemployment of the prospective juror or prospective juror's family member.

(12) A prospective juror's apparent friendliness with another prospective juror of the same group as listed in **subdivision (a)**.

(13) Any justification that is similarly applicable to a questioned prospective juror or jurors, who are not members of the same cognizable group as the challenged prospective juror, but were not the subject of a peremptory challenge by that party. The unchallenged prospective juror or jurors need not share any other characteristics with the challenged prospective juror for peremptory challenge relying on this justification to be considered presumptively invalid.

(f) For purposes of **subdivision (e)**, the term "*clear and convincing*" refers to the degree of certainty the factfinder must have in determining whether the reasons given for the exercise of a peremptory challenge are unrelated to the prospective juror's cognizable group membership, bearing in mind conscious and unconscious bias. To determine that a presumption of invalidity has been overcome, the factfinder shall determine that it is highly probable that the reasons given for the exercise of a peremptory challenge are unrelated to conscious or unconscious bias and are instead specific to the juror and bear on that juror's ability to be fair and impartial in the case.

(g)

(1) The following reasons for peremptory challenges have historically been associated with *improper* discrimination in jury selection:

(A) The prospective juror was inattentive, or staring or failing to make eye contact.

(B) The prospective juror exhibited either a lack of rapport or problematic attitude, body language, or demeanor.

(C) The prospective juror provided unintelligent or confused answers.

(2) The reasons set forth in **paragraph (1)** are presumptively invalid unless the trial court is able to confirm that the asserted behavior occurred, based on the court's own observations or the observations of counsel for the objecting party. Even with that confirmation, the counsel offering the reason shall explain why the asserted demeanor, behavior, or manner in which the prospective juror answered questions matters to the case to be tried.

(h) Upon a court granting an objection to the improper exercise of a peremptory challenge, the court shall do one or more of the following:

(1) Quash the jury venire and start jury selection anew. This remedy shall be provided if requested by the objecting party.

(2) If the motion is granted after the jury has been impaneled, declare a mistrial and select a new jury if requested by the defendant.

(3) Seat the challenged juror.

(4) Provide the objecting party additional challenges.

(5) Provide another remedy as the court deems appropriate.

(i) This section applies in all jury trials in which jury selection begins on or after *January 1, 2022*.

(j) The denial of an objection made under this section shall be reviewed by the appellate court de novo, with the trial court's express factual findings reviewed for substantial evidence. The appellate court shall not impute to the trial court any findings, including findings of a prospective juror's demeanor, that the trial court did not expressly state on the record. The reviewing court shall consider only reasons actually given under **subdivision (c)** and shall not speculate as to or consider reasons that were not given to explain either the party's use of the peremptory challenge or the party's failure to challenge similarly situated jurors who are not members of the same cognizable group as the challenged juror, regardless of whether the moving party made a comparative analysis argument in the trial court. Should the appellate court determine that the objection was erroneously denied, that error shall be deemed prejudicial, the judgment shall be reversed, and the case remanded for a new trial.

(k) This section shall *not* apply to civil cases.

(l) It is the intent of the Legislature that enactment of this section shall not, in purpose or effect, lower the standard for judging challenges for cause or expand use of challenges for cause.

(m) The provisions of this section are severable. If any provision of this section 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.

(n) This section shall remain in effect only until *January 1, 2026*, and as of that date is repealed.

Juveniles:

Education Code § 48263 (Amended; AB 901): *A Minor's Truancy, Insubordination, and Disorderly Conduct; Alternative Dispositions of the Minor:*

(a) If a minor pupil in a school district of a county is a habitual truant, or is a chronic absentee, as defined in **Section 60901**, or is habitually insubordinate or disorderly during attendance at school, the pupil *may* be referred to a school attendance review board, or to the probation department for services if the probation department has elected to receive these referrals. The school district supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall provide documentation of the interventions undertaken at the school to the pupil, the pupil's parents or guardians, and the school attendance review board or probation department and shall notify the pupil and parents or guardians of the pupil, in writing, of the name and address of the school attendance review board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

(b)

(1) If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the school attendance review board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

(2) If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board *may*, pursuant to **Section 48263.5**, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to **Section 48263.5**, notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section.

(c) In any county that has not established a school attendance review board, if the school district determines that available community resources cannot resolve the

problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to **Section 48260.6**, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in **Section 48260.6**.

Note: **Ed. Code §§ 48267, 48268, and 48269** have been amended to be consistent with the above and with **Welf. & Inst. Code § 601** (Amended; see below).

Welf. & Inst. Code § 601 (Amended; AB 901): *Minors as Wards of the Court:*

(a) Any minor between *12 years of age* and *17 years of age*, inclusive, who persistently or habitually refuses to obey the reasonable and proper orders or directions of the minor's parents, guardian, or custodian, or who is beyond the control of that person, or who is a minor between 12 years of age and 17 years of age, inclusive, when the minor violated any ordinance of any city or county of this state establishing a curfew based solely on age is within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court.

(b) If a minor between *12 years of age* and *17 years of age*, inclusive, has *four or more* trancies within one school year as defined in **Section 48260** of the **Education Code** or a school attendance review board or probation officer determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or if the minor fails to respond to directives of a school attendance review board or probation officer or to services provided, the minor is then within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court pursuant to this section. However, it is the intent of the Legislature that a minor who is described in this subdivision, adjudged a ward of the court pursuant solely to this subdivision, or found in contempt of court for failure to comply with a court order pursuant to this subdivision, shall not be held in a secure facility and shall not be removed from the custody of the parent or guardian except for the purposes of school attendance.

(c) To the extent practically feasible, a minor who is adjudged a ward of the court pursuant to this section shall not be permitted to come into or remain in contact with any minor ordered to participate in a truancy program, or the equivalent thereof, pursuant to **Section 602**.

(d) Any peace officer may issue a notice to appear to a minor who is within the jurisdiction of the juvenile court pursuant to this section. Before issuing a notice to appear under this subdivision, a peace officer shall refer a minor who is within the jurisdiction of this section to a community-based resource, the probation

department, a health agency, a local educational agency, or other governmental entities that may provide services.

Welf. & Inst. Code § 607 (Amended; SB 832; Effective 7/1/21): *Juvenile Court Jurisdiction Over Adults Under the Age of 23:*

The age at which the Juvenile Court loses jurisdiction over an offender who was found to have committed a **Welf. & Inst. Code § 707(b)** offense has been lowered from 25 to 23, unless the offender would have faced an aggregate sentence of seven years or more in adult court.

Welf. & Inst. Code § 625.6 (Amended; SB 203): *Custodial Interrogations of Minors:*

The prohibition on the custodial interrogation of an in-custody minor without the minor first consulting with legal counsel has been amended by raising the age of the minor from 15 years of age or younger to *17 years* of age or younger (i.e., *all* minors).

Under amended **Subd. (b)**, the factors a court must consider in deciding whether a juvenile’s statements made during or after a custodial interrogation should be admitted into evidence has been expanded to include “*any willful violation of (the consultation requirement) in determining the credibility of a law enforcement officer under Section 780 of the Evidence Code.*”

Note: **Evid. Code § 780** sets forth a number of considerations when evaluating witness credibility.

Subds. (e) (requiring the Governor to convene a panel of experts relative to interrogating minors) and **(f)** (imposing a sunset date of 1/1/2025) have both been deleted from the statute.

Welf. & Inst. Code § 653.5 (Amended; AB 901): *Disposition of Minors Referred to a Probation Department:*

The section has been amended by adding a list of specific services a minor might be referred to by a probation department as an alternative to the initiation of Juvenile Court proceedings: Specifically, a health agency, a community-based organization, a local educational agency, an appropriate non-law enforcement agency, or the probation department.

Note: A definition of “*community-based organization*” is provided in **Welf. & Inst. Code § 651.5** (New), as a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community, and provides educational, physical, mental health, recreational, arts, and other youth development or related services to individuals in the community.

The minor having been previously placed in a program of informal supervision pursuant to **Welf. & Inst. Code § 654** has been *deleted* from the list of circumstances that require a probation officer to take an affidavit to the district attorney within 48 hours of receiving a referral about a minor.

Welf. & Inst. Code § 654 (Amended; AB 901): *Disposition of Minors Referred to a Probation Department:*

The section has been amended to specify that when a probation officer decides not to file a petition to declare a minor a ward of the court and opts instead for up to six months of informal supervision, the probation officer is to refer the minor to the services offered by a health agency, a community-based organization, a local educational agency, an appropriate non-law enforcement agency, or the probation department.

Note: A definition of “*community-based organization*” is provided in **Welf. & Inst. Code § 651.5** (New), as a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community, and provides educational, physical, mental health, recreational, arts, and other youth development or related services to individuals in the community.

The section has further been amended to change “*shall immediately*” to “*may*,” providing that if a probation officer determines the minor has not participated in the program of informal supervision, the probation officer *may*, but is not required to, file a petition or request that a petition be filed by the prosecuting attorney.

The provisions that authorized requiring a minor’s parents to make full or partial reimbursement for services provided to the minor’s family have been deleted.

The description of the counseling and education centers a minor may be referred to has been expanded by adding counseling and mental health resources, education support, the arts, recreation, and youth development services.

Note: See also **Pen. Code § 290.006** (Amended), under **Sex Offenses**, below.

Mental Health:

Welf. & Inst. Code §§ 5150.5 (New) and **5151** (Amended; AB 3242): *Mental Health Care Evaluations and “Telehealth.”*

A mental health examination or assessment pursuant to **Welf. & Inst. Code §§ 5150.5** or **5151** (involuntary detention for evaluation and treatment for up to 72 hours) may be conducted using “*telehealth*.”

“Telehealth” is defined as a mode of delivering health care services and public health via information and communication technologies.

However, before a person can be admitted to a facility for treatment and evaluation for up to 72 hours, the required assessment must be made face-to-face, either in person or by synchronous interaction through a mode of telehealth that utilizes both audio and visual components.

Welf. & Inst. Code § 5848.7 (New; AB 465): *Health Care Professional Responding to Mental Health Crises:*

(a)

(1) Except as described in **subdivision (b)**, any program or pilot program in which mental health professionals respond in collaboration with law enforcement personnel, or in place of law enforcement personnel, to emergency calls related to mental health crises shall ensure that the program is supervised by a licensed mental health professional.

(2) This section does not prohibit the licensed mental health professional supervising the program from also responding to calls and providing care.

(b) If law enforcement collaborates with county behavioral health agencies, supervision of mental health professionals shall be consistent with existing county behavioral health agency standards and requirements for supervision.

(c) For the purposes of this section, a *licensed mental health professional* means one of the following:

(1) A *licensed clinical social worker*, pursuant to **Chapter 14** (commencing with **Section 4991**) of **Division 2** of the **Business and Professions Code**.

(2) A *licensed professional clinical counselor*, pursuant to **Chapter 16** (commencing with **Section 4999.10**) of **Division 2** of the **Business and Professions Code**.

(3) A *licensed marriage and family therapist*, pursuant to **Chapter 13** (commencing with **Section 4980**) of **Division 2** of the **Business and Professions Code**.

(4) A *licensed psychologist*, pursuant to **Chapter 6.6** (commencing with **Section 2900**) of **Division 2** of the **Business and Professions Code**.

(5) A *licensed physician* under **Chapter 5** (commencing with **Section 2000**) of **Division 2** of the **Business and Professions Code** who is either a board certified psychiatrist or has completed a residency in psychiatry.

(6) A *registered nurse* licensed pursuant to **Chapter 6** (commencing with **Section 2700**) of **Division 2** of the **Business and Professions Code** who possesses a master's degree in psychiatric-mental health nursing and is listed as a psychiatric-mental health nurse by the Board of Registered Nursing, or any advanced practice registered nurse certified as a clinical nurse specialist pursuant to **Article 9** (commencing with **Section 2838**) of **Chapter 6** of **Division 2** of the **Business and Professions Code** who participates in expert clinical practice in the specialty of psychiatric-mental health nursing.

(d) This section does not alter the scope of practice for a health care professional or authorize the delivery of health care services in a setting or manner that is not authorized pursuant to the **Business and Professions Code** or the **Health and Safety Code**.

Natural Disasters:

Labor Code § 6311.5 (New; AB 2658): *Instructing an Employee to Enter or Remain in a Disaster Area:*

It is a *misdemeanor* (see **Labor Code § 23**; six months in county jail and/or \$1,000 fine) for a person to willfully and knowingly direct an employee to remain in or enter an area closed pursuant to **Pen. Code § 409.5** (public health or safety calamity; natural disaster; accident), after receiving notice to evacuate or leave.

An “*employee*” includes a person employed for household domestic service.

Note: See also **Labor Code §§ 6310, 6311, and 6399.7** (Amended), adding “*domestic employees*,” so that they are protected from being fired or retaliated against by their employer for refusing to work in hazardous conditions.

Peace Officers (and other First Responders):

Gov't. Code § 1031 (Amended; AB 846): *Minimum Standards for Peace Officers:*

Subd. (f) was amended to include among the minimum standards required of peace officers that the officer “(b)e found to be free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer.”

Gov't. Code § 1031.3 (New; AB 846): *Explicit and Implicit Bias:*

The Commission on Peace Officer Standards and Training (POST) is, by *January 1, 2022*, to review and update the regulations and screening materials for a peace officer emotional and mental condition evaluation, adding to the list an evaluation the identification of “*explicit and implicit bias towards race or ethnicity, gender, nationality, religion, disability, or sexual orientation.*”

Note: See **Pen. Code § 13651** (New), below.

Gov't. Code § 7286.5 (New; AB 1196): *Use of the Carotid Restraint and Choke Hold:*

Law enforcement agencies are now prohibited from authorizing the use of a “*carotid restraint*” or “*choke hold*” by any peace officer employed by the agency.

“*Carotid restraint*” is defined as a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person’s neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person.

“*Choke hold*” is defined as any defensive tactic or force option in which direct pressure is applied to a person’s trachea or windpipe.

Gov't. Code § 25303.7 (New; AB 1185): *Sheriff Oversight Board:*

The County Board of Supervisors is authorized to create a sheriff oversight board and/or establish an office of the inspector general. Such action may also be taken by a vote of county residents. This oversight board and the inspector general is to be comprised of civilians appointed by the Board of Supervisors. The purpose of the oversight board and the inspector general is to assist the board of supervisors with its duties required pursuant to existing **Gov't. Code § 25303** that relate to the sheriff.

The chair of the oversight board and the inspector general is authorized to issue subpoenas for witnesses or records when they deem it necessary or important to examine the following:

1. Any person as a witness upon any subject matter within the jurisdiction of the board;
2. Any officer of the county in relation to the discharge of his or her official duties on behalf of the sheriff’s department; *and/or*
3. Any books, papers, or documents in the possession of or under the control of a person or officer relating to the affairs of the sheriff’s department.

Subd. (d) provides that the “exercise of powers under this section or other investigative functions performed by a board of supervisors, sheriff oversight board, or inspector general vested with oversight responsibility for the sheriff shall not be considered to obstruct the investigative functions of the sheriff.”

Note: See existing **Gov’t. Code § 25303** which prohibits the Board of Supervisors from “obstruct(ing) the investigative function of the sheriff of the county . . . (or from) . . . obstruct(ing) the investigative and prosecutorial function of the district attorney of a county.”

Pen. Code § 647.9 (New; AB 2655): *First Responders Photographing Deceased Persons:*

(a) A first responder, operating under color of authority, who responds to the scene of an accident or crime and captures the photographic image of a deceased person by any means, including, but not limited to, by use of a personal electronic device or a device belonging to their employing agency, for any purpose other than an official law enforcement purpose or a genuine public interest is guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000) per violation.

Note: The statute fails to provide for incarceration despite labeling this offense as a “*misdemeanor*.”

(b) An agency that employs first responders shall, on *January 1, 2021*, notify its employees who are first responders of the prohibition imposed by this section.

(c) For purposes of this section, “*first responder*” means a state or local peace officer, paramedic, emergency medical technician, rescue service personnel, emergency manager, firefighter, coroner, or employee of a coroner.

Pen. Code § 830.2 (Amended; AB 82); *California Peace Officers:*

The section listing persons who are “*peace officers*” and whose authority extends to any place in California, has been expanded to include persons employed by the Bureau of Cannabis Control for the enforcement of **Division 10** of the **Business & Professions Code** (Cannabis: **B&P §§ 26000–26250**) and designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers is the enforcement of the laws as set forth in **B&P § 26015** (i.e., the enforcement of cannabis laws).

Note: See also **Bus. & Prof. Code § 26015** (Amended; AB 82), under “Cannabis (Marijuana),” above.

Pen. Code § 13651 (New; AB 846): *Peace Officer Recruiting Requirements:*

Any entity that employs peace officers is required to review the peace officer job description used in recruiting and to make changes that emphasize community-based policing, familiarization between law enforcement and community residents, and collaborative problem solving, and that de-emphasizes the paramilitary aspects of the job.

Note: This bill also amends **Gov't. Code § 1031** to add the following to the list of minimum standards for a peace officer; i.e., being free from “bias against race or ethnicity, gender, nationality, religion, disability, and sexual orientation, that might adversely affect the exercise of the powers of a peace officer.” Also amended is **Gov't. Code § 1031.3** (see above, under “Peace Officers (and other First Responders)”), requiring the Commission on Peace Officer Standards and Training (POST), by *January 1, 2022*, to review and update the regulations and screening materials for a peace officer emotional and mental condition evaluation, and to add to the evaluation the identification of explicit and implicit bias towards race or ethnicity, gender, nationality, religion, disability, or sexual orientation.

Pen. Code § 13655 (New; SB 480): *Peace Officers' Uniforms:*

Any department or agency that employs peace officers is prohibited from authorizing or allowing its employees to wear a uniform that is similar to a United States Armed Forces uniform or a state active militia uniform, or that is made from a camouflage printed or patterned material.

These prohibitions do not apply to:

The Department of Fish and Wildlife.

Members of a SWAT team (Special Weapons and Tactics), sniper team, or tactical team engaged in a tactical response or operation.

This section *does* apply to uniformed patrol officers, uniformed crime suppression officers, and uniformed duty officers at an event or disturbance, including those who respond or assist at a protest, demonstration, or similar disturbance.

“*Substantially similar uniform*” is defined as one that so resembles an official uniform of the U.S. Armed Forces or state active militia as to cause an ordinary reasonable person to believe that the person wearing the uniform is a member of the Armed Forces or militia. However, a uniform will *not* be deemed to be substantially similar if it includes at least two of the following three components:

1. A badge or star or facsimile thereof mounted on the chest area;

2. A patch on one or both sleeves displaying the insignia of the employing agency or entity; *or*
3. The word “*Police*” or “*Sheriff*” prominently displayed across the back or chest area of the uniform.

Price Gouging:

Pen. Code § 396 (Amended; SB 1196):

“*Pandemics*” and “*epidemic disease outbreaks*” is added to the list of emergency events (i.e., earthquakes, floods, fire, riots, etc.) to which the offense of “*Price Gouging*” applies.

Also added is the provision that excessive prices charged for goods and services during or shortly after a declared state of emergency or local emergency, are illegal, whether offered or sold in person, in stores, or online.

“*Price gouging*” is now defined as to applying to charging a price of more than *10 percent* greater for specified goods or services prior to a date set in the proclamation or declaration. Price gouging continues to also apply to charging a price of more than *10 percent* greater than the price charged immediately prior to the proclamation or declaration of emergency.

The crime of price gouging is expanded to apply to a person or business that did not charge a price for goods or services immediately prior to the declaration of an emergency, limiting the selling price during an emergency to no more than *50 percent* greater than the cost of the goods or services to the vendor.

As amended, if price gouging prohibitions are extended for additional periods (existing law permits 30-day extensions), such an extension may also authorize specified price increases that are more than the amount that would be permissible during the initial period after a proclamation or declaration of emergency.

The crime of price gouging has been expanded to include “*services*,” as well as to the sale of commodities.

Prison Inmates:

Pen. Code § 2605 (New; SB 132): *The Transgender Respect, Agency, and Dignity Act; Voluntary Identification of Gender and Pronouns:*

(a) During the initial intake and classification process, and in a private setting, the Department of Corrections and Rehabilitation shall ask each individual entering into the custody of the department to specify all of the following:

(1) The individual's gender identity of female, male, or nonbinary.

(2) Whether the individual identifies as transgender, nonbinary, or intersex.

(3) The individual's gender pronoun and honorific.

(b) A person incarcerated by the department may not be disciplined for refusing to answer, or for not disclosing complete information in response to, the questions pursuant to this section.

(c) At any time, a person under the jurisdiction of the department may inform designated facility staff of their gender identity, and designated facility staff shall promptly repeat the process of offering the individual an opportunity to specify the gender pronoun and honorific most appropriate for staff to use in reference to that individual, in accordance with **subdivision (a)**.

(d) Staff, contractors, and volunteers of the department shall not consistently fail to use the gender pronoun and honorific an individual has specified in all verbal and written communications with or regarding the individual that involve use of a pronoun and honorific.

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

(1) "*Gender pronoun*" means a third-person singular personal pronoun, such as "he," "she," or "they."

(2) "*Honorific*" means a form of respectful address typically combined with an individual's surname.

Pen. Code § 2606 (New; SB 132): *The Transgender Respect, Agency, and Dignity Act; Treatment Based Upon Gender Identity:*

(a) An individual incarcerated by the Department of Corrections and Rehabilitation who is transgender, nonbinary, or intersex, regardless of anatomy, shall:

(1) Be addressed in a manner consistent with the incarcerated individual's gender identity.

(2) If lawfully searched, be searched according to the search policy for their gender identity or according to the gender designation of the facility where they are housed, based on the individual's search preference. If the incarcerated individual's preference or gender identity cannot be

determined, the search shall be conducted according to the gender designation of the facility where they are housed.

(3) Be housed at a correctional facility designated for men or women based on the individual's preference, including, if eligible, at a residential program for individuals under the jurisdiction of the department. These programs include, but are not limited to, the Alternative Custody Program, Custody to Community Transitional Reentry Program, Male Community Reentry Program, or Community Prisoner Mother Program.

(4) Have their perception of health and safety given serious consideration in any bed assignment, placement, or programming decision within the facility in which they are housed pursuant to **paragraph (3)** of **subdivision (a)** or **subdivision (b)**, including, but not limited to, granting single-cell status, housing the individual with another incarcerated person of their choice, or removing the individual or individuals who pose a threat from any location where they may have access to the individual who has expressed a safety concern. If, pursuant to this paragraph, the individual is not granted an alternative based on their perception of health and safety, the department shall document the reasons for that denial and share them with the individual.

(b) If the Department of Corrections and Rehabilitation has management or security concerns with an incarcerated individual's search preference pursuant to **paragraph (2)** of **subdivision (a)** or preferred housing placement pursuant to **paragraph (3)** of **subdivision (a)**, the Secretary of the Department of Corrections and Rehabilitation, or the secretary's designee, shall, before denying a search preference or housing the incarcerated individual in a manner contrary to the person's preferred housing placement, certify in writing a specific and articulable basis why the department is unable to accommodate that search or housing preference.

(c) The Department of Corrections and Rehabilitation shall not deny a search preference pursuant to **paragraph (2)** of **subdivision (a)** or a housing placement pursuant to **paragraph (3)** of **subdivision (a)** based on any discriminatory reason, including, but not limited to, any of the following:

(1) The anatomy, including, but not limited to, the genitalia or other physical characteristics, of the incarcerated person.

(2) The sexual orientation of the incarcerated person.

(3) For a denial of a housing preference pursuant to **paragraph (3)** of **subdivision (a)**, a factor present among other people incarcerated at the preferred type of facility.

(d) The incarcerated individual shall receive a copy of the written statement described in **subdivision (b)** and, within a reasonable time following the individual's receipt of the statement, the Department of Corrections and Rehabilitation shall provide the individual with a meaningful opportunity to verbally raise any objections to that denial, and have those objections documented.

(e) If an incarcerated individual raises concerns for their health or safety at any time, their housing and placement shall be reassessed.

Pen. Code § 5058.7 (New; AB 3043) *Attorney-Client Telephone Calls for Prison Inmates*"

(a) The department (i.e., California Department of Corrections and Rehabilitation) shall approve an attorney's request to have a confidential call with the inmate that they represent. The approved confidential call shall be *at least* 30 minutes once per month, per inmate, per case, unless the inmate or attorney requests less time.

(b) For purposes of this section, "*confidential call*" means a telephone call between an inmate and their attorney that both the inmate and attorney intend to be private.

Prosecutors:

Gov't. Code § 12525.3 (New; AB 1506): *Investigation of Officer-Involved Shooting:*

A "*state prosecutor*" (i.e., the *Attorney General*) is required to investigate *all* officer-involved shootings that result in the death of an unarmed civilian.

The state prosecutor is to investigate and gather facts and to prepare and submit a written report which shall include a statement of facts, a detailed analysis and conclusion for each investigatory issue, and recommendations to modify the policies and practices of the law enforcement agency involved.

If criminal charges against the officer are determined to be warranted, the state prosecutor is authorized to initiate a criminal action and prosecute the officer.

The state prosecutor is required to post and maintain on a public Internet website each written report prepared pursuant to this new section, appropriately redacting any information in the report that is required by law to be kept confidential.

Beginning *July 1, 2023*, the Attorney General is required to set up a "*Police Practices Division*" within DOJ to, upon the request of a local law enforcement agency, review the use of deadly force policies of that local agency and make specific and customized recommendations.

Implementation of this new section is dependent upon the state Legislature making a monetary appropriation for it.

“*Unarmed civilian*” is defined as anyone who is not in possession of a deadly weapon.

“*Deadly weapon*” is defined as including, but not limited to, a loaded weapon from which a shot may be discharged, a switchblade knife, a pilum ballistic knife, a metal knuckle knife, a dagger, a billy, a blackjack, plastic knuckles, or metal knuckles.

Red Flag Statutes:

Pen. Code § 18140 (Amended; AB 2617): *Gun Violence Restraining Orders*:

A law enforcement officer who requests a “*temporary gun violence restraining order*” is now required to file a copy of the order with the court as soon as practicable, but (as amended) “*no later than three court days*” after issuance.

Pen. Code § 18205 (Amended; AB 2617): *Gun Violence Restraining Orders*:

The section has been rewritten and renumbered as follows:

(a) Every person who owns or possesses a firearm or ammunition with knowledge that they are prohibited from doing so by a temporary emergency gun violence restraining order issued pursuant to **Chapter 2** (commencing with **Section 18125**), an ex parte gun violence restraining order issued pursuant to **Chapter 3** (commencing with **Section 18150**), a gun violence restraining order issued after notice and a hearing issued pursuant to **Chapter 4** (commencing with **Section 18170**), or by a valid order issued by an out-of-state jurisdiction that is similar or equivalent to a gun violence restraining order described in this division, is guilty of a *misdemeanor* and shall be prohibited from having custody or control of, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for a five-year period, to commence upon the expiration of the existing gun violence restraining order.

(b) For purposes of this section, a valid order issued by an out-of-state jurisdiction that is similar or equivalent to a gun violence restraining order described in this section must be issued upon a showing by *clear and convincing evidence* that the person poses a significant danger of causing personal injury to themselves or another because of owning or possessing a firearm or ammunition.

Search Warrants:

Pen. Code § 1524 (Amended; AB 2655): *Grounds for Issuance of a Search Warrant:*

New **subd. (a)(20)** is added to the grounds for which a search warrant may be obtained, specifically: “When the property or things to be seized consists of evidence that tends to show that a violation of **Section 647.9** has occurred or is occurring. Evidence to be seized pursuant to this paragraph shall be limited to evidence of a violation of **Section 647.9** and shall not include evidence of a violation of a departmental rule or guideline that is not a public offense under California law.”

Note: See new **Pen. Code § 647.9**, “*First Responders Photographing Deceased Persons*,” under “Peace Officers (and Other First Responders),” above.

Sex Offenses:

Pen. Code § 290 (Amended; SB 145 & 384): *Registration of Sex Offenders; Multi-Tiered Requirements:*

(a) **Sections 290 to 290.024**, inclusive, shall be known, and may be cited as, the **Sex Offender Registration Act**. All references to “**the Act**” in those sections are to the **Sex Offender Registration Act**.

(b) Every person described in **subdivision (c)**, for the period specified in **subdivision (d)** while residing in California, or while attending school or working in California, as described in **Sections 290.002 and 290.01**, shall register with the chief of police of the city in which the person is residing, or the sheriff of the county if the person is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if the person is residing upon the campus or in any of its facilities, within five working days of coming into, or changing the person’s residence within, any city, county, or city and county, or campus in which the person temporarily resides, and shall register thereafter in accordance with **the Act**, unless the duty to register is terminated pursuant to **Section 290.5** or as otherwise provided by law.

(c)

(1) The following persons shall register: Every person who, since *July 1, 1944*, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of **Section 187** committed in the perpetration, or an attempt to perpetrate, *rape* or any act punishable under **Section 286, 287, 288, or 289** or former **Section 288a, Section 207 or 209** committed with intent to violate **Section 261, 286, 287, 288, or 289** or former **Section 288a, Section 220**, except assault to commit

mayhem, **subdivision (b) or (c) of Section 236.1, Section 243.4, Section 261, paragraph (1) of subdivision (a) of Section 262** involving the use of force or violence for which the person is sentenced to the state prison, **Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, or former Section 288a, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314,** any offense involving lewd or lascivious conduct under **Section 272,** or any felony violation of **Section 288.2;** any statutory predecessor that includes all elements of one of the offenses described in this subdivision; or any person who since that date has been or is hereafter convicted of the attempt or conspiracy to commit any of the offenses described in this subdivision.

(2) Notwithstanding **paragraph (1),** a person convicted of a violation of **subdivision (b) of Section 286, subdivision (b) of Section 287, or subdivision (h) or (i) of Section 289** shall not be required to register if, at the time of the offense, the person is *not more than 10 years older* than the minor, as measured from the minor's date of birth to the person's date of birth, and the conviction is the only one requiring the person to register. This paragraph does not preclude the court from requiring a person to register pursuant to **Section 290.006.**

(d) A person described in **subdivision (c),** or who is otherwise required to register pursuant to **the Act** shall register for *10 years, 20 years, or life,* following a conviction and release from incarceration, placement, commitment, or release on probation or other supervision, as follows:

(1)

(A) A tier one offender is subject to registration for a minimum of *10 years.* A person is a tier one offender if the person is required to register for conviction of a misdemeanor described in **subdivision (c),** or for conviction of a felony described in **subdivision (c)** that was not a serious or violent felony as described in **subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.**

(B) This paragraph does not apply to a person who is subject to registration pursuant to **paragraph (2) or (3).**

(2)

(A) A tier two offender is subject to registration for a minimum of *20 years.* A person is a tier two offender if the person was convicted of an offense described in **subdivision (c)** that is also

described in **subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7, Section 285, subdivision (g) or (h) of Section 286, subdivision (g) or (h) of Section 287 or former Section 288a, subdivision (b) of Section 289, or Section 647.6** if it is a second or subsequent conviction for that offense that was brought and tried separately.

(B) This paragraph does not apply if the person is subject to *lifetime* registration as required in **paragraph (3)**.

(3) A tier three offender is subject to registration for *life*. A person is a tier three offender if any one of the following applies:

(A) Following conviction of a registerable offense, the person was subsequently convicted in a separate proceeding of committing an offense described in **subdivision (c)** and the conviction is for commission of a violent felony described in **subdivision (c) of Section 667.5**, or the person was subsequently convicted of committing an offense for which the person was ordered to register pursuant to **Section 290.006**, and the conviction is for the commission of a violent felony described in **subdivision (c) of Section 667.5**.

(B) The person was committed to a state mental hospital as a sexually violent predator pursuant to Article 4 (commencing with **Section 6600**) of **Chapter 2 of Part 2 of Division 6** of the **Welfare and Institutions Code**.

(C) The person was convicted of violating any of the following:

(i) Section 187 while attempting to commit or committing an act punishable under **Section 261, 286, 287, 288, or 289** or former **Section 288a**.

(ii) Section 207 or 209 with intent to violate **Section 261, 286, 287, 288, or 289** or former **Section 288a**.

(iii) Section 220.

(iv) Subdivision (b) of Section 266h.

(v) Subdivision (b) of Section 266i.

(vi) Section 266j.

(vii) Section 267.

(viii) Section 269.

(ix) Subdivision (b) or (c) of Section 288.

(x) Section 288.2.

(xi) Section 288.3, unless committed with the intent to commit a violation of **subdivision (b) of Section 286**,

subdivision (b) of Section 287 or former Section 288a, or subdivision (h) or (i) of Section 289.

(xii) Section 288.4.

(xiii) Section 288.5.

(xiv) Section 288.7.

(xv) Subdivision (c) of Section 653f.

(xvi) Any offense for which the person is sentenced to a life term pursuant to Section 667.61.

(D) The person's risk level on the static risk assessment instrument for sex offenders (SARATSO), pursuant to **Section 290.04**, is well above average risk at the time of release on the index sex offense into the community, as defined in the Coding Rules for that instrument.

(E) The person is a habitual sex offender pursuant to **Section 667.71**.

(F) The person was convicted of violating subdivision (a) of **Section 288** in two proceedings brought and tried separately.

(G) The person was sentenced to *15 to 25 years to life* for an offense listed in **Section 667.61**.

(H) The person is required to register pursuant to **Section 290.004**.

(I) The person was convicted of a felony offense described in **subdivision (b) or (c) of Section 236.1**.

(J) The person was convicted of a felony offense described in **subdivision (a), (c), or (d) of Section 243.4**.

(K) The person was convicted of violating **paragraph (2), (3), or (4) of subdivision (a) of Section 261** or was convicted of violating **Section 261** and punished pursuant to **paragraph (1) or (2) of subdivision (c) of Section 264**.

(L) The person was convicted of violating **paragraph (1) of subdivision (a) of Section 262**.

(M) The person was convicted of violating **Section 264.1**.

(N) The person was convicted of any offense involving lewd or lascivious conduct under **Section 272**.

(O) The person was convicted of violating **paragraph (2)** of **subdivision (c)** or **subdivision (d), (f), or (i)** of **Section 286**.

(P) The person was convicted of violating **paragraph (2)** of **subdivision (c)** or **subdivision (d), (f), or (i)** of **Section 287** or former **Section 288a**.

(Q) The person was convicted of violating **paragraph (1)** of **subdivision (a)** or **subdivision (d), (e), or (j)** of **Section 289**.

(R) The person was convicted of a felony violation of **Section 311.1 or 311.11** or of violating **subdivision (b), (c), or (d)** of **Section 311.2, Section 311.3, 311.4, or 311.10**.

(4)

(A) A person who is required to register pursuant to **Section 290.005** shall be placed in the appropriate tier if the offense is assessed as equivalent to a California registerable offense described in **subdivision (c)**.

(B) If the person's duty to register pursuant to **Section 290.005** is based solely on the requirement of registration in another jurisdiction, and there is no equivalent California registerable offense, the person shall be subject to registration as a tier two offender, except that the person is subject to registration as a tier three offender if one of the following applies:

(i) The person's risk level on the static risk assessment instrument (SARATSO), pursuant to **Section 290.06**, is well above average risk at the time of release on the index sex offense into the community, as defined in the **Coding Rules** for that instrument.

(ii) The person was subsequently convicted in a separate proceeding of an offense substantially similar to an offense listed in **subdivision (c)** which is also substantially similar to an offense described in **subdivision (c) of Section 667.5**, or is substantially similar to **Section 269 or 288.7**.

(iii) The person has ever been committed to a state mental hospital or mental health facility in a proceeding substantially similar to civil commitment as a sexually violent predator pursuant to **Article 4** (commencing with **Section 6600**) of **Chapter 2 of Part 2 of Division 6** of the **Welfare and Institutions Code**.

(5)

(A) The Department of Justice may place a person described in **subdivision (c)**, or who is otherwise required to register pursuant to **the Act**, in a tier-to-be-determined category if the appropriate tier designation described in this subdivision cannot be immediately ascertained. An individual placed in this tier-to-be-determined category shall continue to register in accordance with **the Act**. The individual shall be given credit for any period for which the individual registers towards the individual's mandated minimum registration period.

(B) The Department of Justice shall ascertain an individual's appropriate tier designation as described in this subdivision within *24 months* of the individual's placement in the tier-to-be-determined category.

(e) The minimum time period for the completion of the required registration period in tier one or two commences on the date of release from incarceration, placement, or commitment, including any related civil commitment on the registerable offense. The minimum time for the completion of the required registration period for a designated tier is tolled during any period of subsequent incarceration, placement, or commitment, including any subsequent civil commitment, except that arrests not resulting in conviction, adjudication, or revocation of probation or parole shall not toll the required registration period. The minimum time period shall be extended by one year for each misdemeanor conviction of failing to register under this act, and by three years for each felony conviction of failing to register under this act, without regard to the actual time served in custody for the conviction. If a registrant is subsequently convicted of another offense requiring registration pursuant to **the Act**, a new minimum time period for the completion of the registration requirement for the applicable tier shall commence upon that person's release from incarceration, placement, or commitment, including any related civil commitment. If the subsequent conviction requiring registration pursuant to **the Act** occurs prior to an order to terminate the registrant from the registry after completion of a tier associated with the first conviction for a registerable offense, the applicable tier shall be the highest tier associated with the convictions.

(f) Nothing in this section shall be construed to require a ward of the juvenile court to register under **the Act**, except as provided in **Section 290.008**.

(g) This section shall become operative on *January 1, 2021*.

Pen. Code § 290.006 (Amended; SB 145 & 384): *Registration Requirements for Sex Offenses Committed as a Result of Sexual Compulsion or for Purposes of Sexual Gratification*

(a) Any person ordered by any court to register pursuant to the act, who is not required to register pursuant to **Section 290**, shall so register, if the court finds at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) The person shall register as a *tier one offender* in accordance with **paragraph (1) of subdivision (d) of Section 290**, unless the court finds the person should register as a *tier two* or *tier three offender* and states on the record the reasons for its finding.

(c) In determining whether to require the person to register as a tier two or tier three offender, the court shall consider all of the following:

(1) The nature of the registerable offense.

(2) The age and number of victims, and whether any victim was personally unknown to the person at the time of the offense. A victim is personally unknown to the person for purposes of this paragraph if the victim was known to the offender for less than 24 hours.

(3) The criminal and relevant noncriminal behavior of the person before and after conviction for the registerable offense.

(4) Whether the person has previously been arrested for, or convicted of, a sexually motivated offense.

(5) The person's current risk of sexual or violent reoffense, including the person's risk level on the SARATSO static risk assessment instrument, and, if available from past supervision for a sexual offense, the person's risk level on the SARATSO dynamic and violence risk assessment instruments.

(d) This section shall become operative on *January 1, 2021*.

Note: SB 384 also amends **Pen. Code § 290.46**, effective *January 1, 2022*, updating the Department of Justice's **Megan's Law** website to reflect the above changes. Also, along with **SB 118**, amended is **Pen. Code § 290.5**, effective *July 1, 2021*, establishing the procedures for adult and juvenile sex offenders to petition the court to terminate their duty to register as a sex offender.

Pen. Code § 290.006 (Amended; SB 384 & 1494): *Sex Registration Requirements for Discharged or Paroled Individuals; Juveniles:*

(a) Any person who, on or after *January 1, 1986*, is discharged or paroled from the Department of Corrections and Rehabilitation to the custody of which he or she was committed after having been adjudicated a ward of the juvenile court pursuant to **Section 602** of the **Welfare and Institutions Code** because of the commission or attempted commission of any offense described in **subdivision (c)** shall register in accordance with **the Act** unless the duty to register is terminated pursuant to **Section 290**, or as otherwise provided by law.

(b) Any person who is discharged or paroled from a facility in another state that is equivalent to the Division of Juvenile Justice, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in **subdivision (c)** shall register in accordance with **the Act**.

(c) Any person described in this section who committed an offense in violation of any of the following provisions shall be required to register pursuant to **the Act**:

(1) Assault with intent to commit rape, sodomy, oral copulation, or any violation of **Section 264.1, 288, or 289** under **Section 220**.

(2) Any offense defined in **paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266c, or 267, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 287, Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, former Section 288a, subdivision (a) of Section 289, or Section 647.6**.

(3) A violation of **Section 207 or 209** committed with the intent to violate **Section 261, 286, 287, 288, or 289**, or former **Section 288a**.

(d)

(1) A tier one juvenile offender is subject to registration for a minimum of five years. A person is a tier one juvenile offender if the person is required to register after being adjudicated as a ward of the court and discharged or paroled from the Department of Corrections and Rehabilitation for an offense listed in **subdivision (c)** that is not a serious or violent felony as described in **subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7**.

(2) A tier two juvenile offender is subject to registration for a minimum of 10 years. A person is a tier two juvenile offender if the person is required

to register after being adjudicated as a ward of the court and discharged or paroled from the Department of Corrections and Rehabilitation for an offense listed in **subdivision (c)** that is a serious or violent felony as described in **subdivision (c)** of **Section 667.5** or **subdivision (c)** of **Section 1192.7**.

(3) A person who is required to register as a sex offender pursuant to this section may file a petition for termination from the sex offender registry in the juvenile court in the county in which he or she is registered at the expiration of his or her mandated minimum registration period, pursuant to **Section 290.5**.

(e) Prior to discharge or parole from the Department of Corrections and Rehabilitation, any person who is subject to registration under this section shall be informed of the duty to register under the procedures set forth in **the Act**. Department officials shall transmit the required forms and information to the Department of Justice.

(f) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in **Section 781** of the **Welfare and Institutions Code**. This section shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under **Section 781** of the **Welfare and Institutions Code**.

(g) This section shall become operative on *January 1, 2021*.

Note: SB 384 also amends **Pen. Code § 290.46**, effective *January 1, 2022*, updating the Department of Justice’s **Megan’s Law** website to reflect the above changes. Also, along with **SB 118**, amended is **Pen. Code § 290.5**, effective *July 1, 2021*, establishing the procedures for adult and juvenile sex offenders to petition the court to terminate the duty to register as a sex offender.

Pen. Code § 290.45 (Amended; SB 384): *Authorized Release of Sex Offender Information:*

This section allowing law enforcement to disclose to the public sex registration information when necessary to ensure public safety is amended to add that the information concerning the offender must pertain to his or her “*current risk of sexual or violent re-offense, including, but not limited to, the person’s static, dynamic, and violence risk levels on the SARATSO risk tools described in subdivision (f) of Section 290.04.*”

Note: “SARATSO” refers to that “State-Authorized Risk Assessment Tool for Sex Offenders.”

Not changed are the provisions that a person who uses information disclosed pursuant to this section to commit a felony is punishable by a five-year enhancement and that a person who uses information disclosed pursuant to this section to commit a misdemeanor is subject to an additional fine of \$500 to \$1,000.

Note: See Pen. Code § 1324.2 “Immunity re: Testimony of Sexual Assault Victim’s Possession of Drugs or Alcohol,” under “Victims,” below.

Tobacco:

H&S Code § 104559.5 (New; SB 793): *Sale of Flavored Tobacco:*

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

(1) “*Characterizing flavor*” means a distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. Characterizing flavors include, but are not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes a characterizing flavor.

(2) “*Constituent*” means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of the tobacco product.

(3) “*Flavored shisha tobacco product*” means any shisha tobacco product that contains a constituent that imparts a characterizing flavor.

(4) “*Flavored tobacco product*” means any tobacco product that contains a constituent that imparts a characterizing flavor.

(5) “*Hookah*” means a type of waterpipe, used to smoke shisha or other tobacco products, with a long flexible tube for drawing aerosol through water. Components of a hookah may include heads, stems, bowls, and hoses.

(6) “*Hookah tobacco retailer*” means a tobacco retailer that is engaged in the retail sale of shisha tobacco products, hookah, and hookah smoking accessories.

(7) “*Labeling*” means written, printed, pictorial, or graphic matter upon a tobacco product or any of its packaging.

(8) “*Loose leaf tobacco*” consists of cut or shredded pipe tobacco, usually sold in pouches, excluding any tobacco product which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes, including roll-your-own cigarettes.

(9) “*Packaging*” means a pack, box, carton, or container of any kind, or, if no other container, any wrapping, including cellophane, in which a tobacco product is sold or offered for sale to a consumer.

(10) “*Premium cigar*” means any cigar that is handmade, is not mass produced by use of mechanization, has a wrapper that is made entirely from whole tobacco leaf, and has a wholesale price of no less than twelve dollars (\$12). A premium cigar does not have a filter, tip, or nontobacco mouthpiece and is capped by hand.

(11) “*Retail location*” means both of the following:

(A) A building from which tobacco products are sold at retail.

(B) A vending machine.

(12) “*Sale*” or “*sold*” means a sale as that term is defined in **Section 30006** of the **Revenue and Taxation Code**.

(13) “*Shisha tobacco product*” means a tobacco product smoked or intended to be smoked in a hookah. “*Shisha tobacco product*” includes, and may be referred to as, hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh. “*Shisha tobacco product*” does not include any electronic devices, such as an electronic hookah, electronic cigarette, or electronic tobacco product.

(14) “*Tobacco product*” means a tobacco product as defined in **paragraph (8)** of **subdivision (a)** of **Section 104495**, as that provision may be amended from time to time.

(15) “*Tobacco product flavor enhancer*” means a product designed, manufactured, produced, marketed, or sold to produce a characterizing flavor when added to a tobacco product.

(16) “*Tobacco retailer*” means a person who engages in this state in the sale of tobacco products directly to the public from a retail location. “*Tobacco retailer*” includes a person who operates vending machines from which tobacco products are sold in this state.

(b)

(1) A tobacco retailer, or any of the tobacco retailer’s agents or employees, *shall not* sell, offer for sale, or possess with the intent to sell or offer for sale, a flavored tobacco product or a tobacco product flavor enhancer.

(2) There is a *rebuttable presumption* that a tobacco product is a flavored tobacco product if a manufacturer or any of the manufacturer’s agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor, including, but not limited to, text, color, images, or all, on the product’s labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has a characterizing flavor.

(c) **Subdivision (b)** does not apply to the sale of flavored shisha tobacco products by a hookah tobacco retailer if all of the following conditions are met:

(1) The hookah tobacco retailer has a valid license to sell tobacco products issued pursuant to **Chapter 2** (commencing with **Section 22971.7**) of **Division 8.6** of the **Business and Professions Code**.

(2) The hookah tobacco retailer does not permit any person under 21 years of age to be present or enter the premises at any time.

(3) The hookah tobacco retailer shall operate in accordance with all relevant state and local laws relating to the sale of tobacco products.

(4) If consumption of tobacco products is allowed on the premises of the hookah tobacco retailer, the hookah tobacco retailer shall operate in accordance with all state and local laws relating to the consumption of tobacco products on the premises of a tobacco retailer, including, but not limited to, **Section 6404.5** of the **Labor Code**.

(d) **Subdivision (b)** does not apply to sales of premium cigars sold in cigar lounges where products are purchased and consumed only on the premises.

(e) **Subdivision (b)** does not apply to loose leaf tobacco or premium cigars.

(f) A tobacco retailer, or agent or employee of a tobacco retailer, who violates this section is guilty of an *infraction* and shall be punished by a fine of two hundred fifty dollars (\$250) for each violation of this section.

(g) This section does not preempt or otherwise prohibit the adoption of a local standard that imposes greater restrictions on the access to tobacco products than the restrictions imposed by this section. To the extent that there is an inconsistency between this section and a local standard that imposes greater restrictions on the access to tobacco products, the greater restriction on the access to tobacco products in the local standard shall prevail.

Trials:

Pen. Code § 745: (New; AB 2542): *The California Racial Justice Act of 2020:*

(a) The state shall *not* seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin. A violation is established if the defendant proves, by a *preponderance of the evidence*, any of the following:

(1) The judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror exhibited bias or animus towards the defendant because of the defendant's *race, ethnicity, or national origin*.

(2) During the defendant's trial, in court and during the proceedings, the judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror, *used racially discriminatory language* about the defendant's race, ethnicity, or national origin, or otherwise *exhibited bias or animus* towards the defendant because of the defendant's race, ethnicity, or national origin, whether or not purposeful. This paragraph does not apply if the person speaking is describing language used by another that is relevant to the case or if the person speaking is giving a racially neutral and unbiased physical description of the suspect.

(3) The defendant was charged or *convicted of a more serious offense* than defendants of other races, ethnicities, or national origins who commit similar offenses and are similarly situated, and the evidence establishes that the prosecution more frequently sought or obtained convictions for more serious offenses against people who share the defendant's race, ethnicity, or national origin in the county where the convictions were sought or obtained.

(4)

(A) A *longer or more severe sentence* was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for that offense on people that share the defendant's race, ethnicity, or national origin than *on defendants of other races, ethnicities, or national origins* in the county where the sentence was imposed.

(B) A *longer or more severe sentence* was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for the same offense on defendants in *cases with victims of one race, ethnicity, or national origin* than in cases with victims of other races, ethnicities, or national origins, in the county where the sentence was imposed.

(b) A defendant may file a motion in the trial court or, if judgment has been imposed, may file a petition for writ of habeas corpus or a motion under **Section 1473.7** in a court of competent jurisdiction, alleging a violation of **subdivision (a)**.

(c) If a motion is filed in the trial court and the defendant makes a prima facie showing of a violation of **subdivision (a)**, the trial court shall hold a hearing.

(1) At the hearing, evidence may be presented by either party, including, but not limited to, statistical evidence, aggregate data, expert testimony, and the sworn testimony of witnesses. The court may also appoint an independent expert.

(2) The defendant shall have the burden of proving a violation of subdivision (a) by a *preponderance of the evidence*.

(3) At the conclusion of the hearing, the court shall make findings on the record.

(d) A defendant may file a motion requesting disclosure to the defense of all evidence relevant to a potential violation of **subdivision (a)** in the possession or control of the state. A motion filed under this section shall describe the type of records or information the defendant seeks. Upon a showing of good cause, the court shall order the records to be released. Upon a showing of good cause, and if the records are not privileged, the court may permit the prosecution to redact information prior to disclosure.

(e) Notwithstanding any other law, except for an initiative approved by the voters, if the court finds, by a preponderance of evidence, a violation of **subdivision (a)**, the court shall impose a remedy specific to the violation found from the following list:

(1) Before a judgment has been entered, the court may impose any of the following remedies:

(A) Declare a mistrial, if requested the by defendant.

(B) Discharge the jury panel and empanel a new jury.

(C) If the court determines that it would be in the interest of justice, dismiss enhancements, special circumstances, or special allegations, or reduce one or more charges.

(2)

(A) When a judgment has been entered, if the court finds that a conviction was sought or obtained in violation of **subdivision (a)**, the court shall vacate the conviction and sentence, find that it is legally invalid, and order new proceedings consistent with **subdivision (a)**. If the court finds that the only violation of **subdivision (a)** that occurred is based on **paragraph (3) of subdivision (a)** and the court has the ability to rectify the violation by modifying the judgment, the court shall vacate the conviction and sentence, find that the conviction is legally invalid, and modify the judgment to impose an appropriate remedy for the violation that occurred. On resentencing, the court shall not impose a new sentence greater than that previously imposed.

(B) When a judgment has been entered, if the court finds that only the sentence was sought, obtained, or imposed in violation of **subdivision (a)**, the court shall vacate the sentence, find that it is legally invalid, and impose a new sentence. On resentencing, the court shall not impose a new sentence greater than that previously imposed.

(3) When the court finds there has been a violation of **subdivision (a)**, the defendant shall not be eligible for the death penalty.

(4) The remedies available under this section do not foreclose any other remedies available under the United States Constitution, the California Constitution, or any other law.

(f) This section also applies to adjudications and dispositions in the *juvenile delinquency* system.

(g) This section shall not prevent the prosecution of *hate crimes* pursuant to **Sections 422.6 to 422.865**, inclusive.

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

(1) “*More frequently sought or obtained*” or “*more frequently imposed*” means that statistical evidence or aggregate data demonstrate a *significant difference* in seeking or obtaining convictions or in imposing sentences comparing individuals who have committed similar offenses and are similarly situated, and the prosecution cannot establish race-neutral reasons for the disparity.

(2) “*Prima facie showing*” means that the defendant produces facts that, if true, establish that there is a substantial likelihood that a violation of **subdivision (a)** occurred. For purposes of this section, a “substantial likelihood” requires more than a mere possibility, but less than a standard of more likely than not.

(3) “*Racially discriminatory language*” means language that, to an objective observer, explicitly or implicitly appeals to racial bias, including, but not limited to, racially charged or racially coded language, language that compares the defendant to an animal, or language that references the defendant’s physical appearance, culture, ethnicity, or national origin. Evidence that particular words or images are used exclusively or disproportionately in cases where the defendant is of a specific race, ethnicity, or national origin is relevant to determining whether language is discriminatory.

(4) “*State*” includes the Attorney General, a district attorney, or a city prosecutor.

(i) A defendant may share a race, ethnicity, or national origin with more than one group. A defendant may aggregate data among groups to demonstrate a violation of **subdivision (a)**.

(j) This section applies only prospectively in cases in which judgment has not been entered prior to *January 1, 2021*.

Note: **Pen. Code §§ 1473 and 1473.7** (Amended) add (1) grounds for permitting a writ of habeas corpus for a judgment entered on or after January 1, 2021, on the grounds that a criminal conviction or sentence was sought, obtained, or imposed in violation of new **Pen Code § 745**, and (2) to the list of circumstances permitting a defendant who is no longer in criminal custody to file a motion to

vacate a conviction or sentence obtained in violation of new **Pen Code § 745**, respectively.

Note: See also amended **Code of Civ. Proc. § 197**, “*Persons Eligible to be Jurors*,” and New **Code of Civ. Proc. § 231.7**, “*Preemptory Challenges in Selecting Juries*,” under “Juries,” above.

Vehicle Code:

Veh. Code § 21809 (Amended; AB 2285): *Passing Stopped Emergency Vehicles:*

The so-called “*slow down, move over*” law, an infraction, and applicable when approaching a stationary emergency vehicle displaying emergency lights, or a tow truck that is displaying flashing amber warning lights, or a Department of Transportation vehicle displaying flashing amber warning lights, requiring the driver of the approaching vehicle to either make a lane change into a lane that is not immediately adjacent to the emergency vehicle, or, if a lane change would be unsafe or impracticable, slow to a reasonable and prudent speed, has been extended from just “freeways” to any “*highway*.”

Note: Existing **Veh. Code § 360** defines “*highway*” as “a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.”

Veh. Code § 27002 (Amended; SB 909; Effective 9/29/2020): *Use by Emergency Vehicles of a “Hi-Lo” Sound During Evacuations and Emergencies:*

By amendment to this section, an emergency vehicle is now authorized to be equipped with a “Hi-Lo” audible warning sound, while limiting its use to notifying the public about an immediate evacuation in case of an emergency.

I.e.; “(c) A Hi-Lo warning sound may only be used to notify the public of an immediate evacuation in case of an emergency and is not a siren. For the purposes of **Section 21055** (authorizing emergency vehicles to use a siren), a Hi-Lo shall not be used in lieu of a siren . . .”

The Hi-Lo sound is required to meet requirements established by the Department of the California Highway Patrol.

Victims:

Pen. Code §§ 679.10 & 679.11 (Amended; AB 2426): *Certifications of Non-Citizen Crime Victims and Issuance of a U-Visa or a T-Visa:*

In the certification of a non-citizen crime victim as being helpful or cooperative in a criminal case, thus allowing the victim to obtain a visa to remain in the United

States (i.e., a U-Visa [**P.C. § 679.10**], applying to a number of crimes such as sexual assault, domestic violence, kidnapping, false imprisonment, murder, stalking, and extortion, and T-Visa [**P.C. § 679.11**], applying to human trafficking crimes), the following amendments have been made:

1. A “*state or local law enforcement agency*” (one of the listed certifying entities) includes the police department of the University of California, a California State University campus, or the police department of a school district.
2. A certifying official is prohibited from refusing to complete the form that certifies helpfulness or cooperation of the non-citizen in a criminal case solely because the case has already been prosecuted (i.e., is over or closed), or because the statute of limitations for filing charges has expired. The section continues to provide that a current investigation, the filing of charges, or a conviction, are not required in order for a non-citizen victim to obtain a visa.

Pen. Code § 1324.2 (New; AB 1927): *Immunity re: Testimony of Sexual Assault Victim’s Possession of Drugs or Alcohol:*

- (a) Testimony of a victim or witness in a felony prosecution for a violation or attempted violation of **Section 220, 243.4, 261, 261.5, 286, 287, 288, or 289** (all being sexual assault-related cases) that states that the victim or witness, at or around the time of the violation or attempted violation, unlawfully possessed or used a *controlled substance or alcohol* is inadmissible *in a separate prosecution of that victim or witness* to prove illegal possession or use of that controlled substance or alcohol.
- (b) Evidence that the testifying witness *unlawfully possessed or used a controlled substance or alcohol is not excluded* in the felony prosecution of a violation or attempted violation of **Section 220, 243.4, 261, 261.5, 286, 287, 288, or 289** (making it admissible in the defendant’s trial).
- (c) Evidence that a witness *received use immunity* for testimony pursuant to **subdivision (a)** is not excluded in the felony prosecution of a violation or *attempted* violation of **Section 220, 243.4, 261, 261.5, 286, 287, 288, or 289**.