

# **Senate Committee on Public Safety**

## **2000 Bill Summary**

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### ***Measures Signed and Vetoed***

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FRIEND—

For your information and use, the staff of our Senate Committee on Public Safety has prepared this summary of bills pertaining to Public Safety's jurisdiction passed by the Legislature and signed into law or vetoed by the Governor in 2000. Most of those bills signed into law will go into effect January 1, 2001.

Measures passed by the Legislature and vetoed by the Governor are included to denote disparate views between the Legislature and Governor. Such vetoed bills are often reintroduced—in one form or another—in subsequent years, and sometimes passed.

Once again our Senate Committee on Public Safety considered one of the largest bill loads of any Senate policy committee—reflecting continuing concern regarding issues pertaining to our public safety and the systems intended to secure and, hopefully, even to enhance it.

In addition to regular bill hearings, our Committee conducted several subject-matter hearings, including a Joint Oversight Hearing by the Senate and Assembly Public Safety Committees in response to public disclosures earlier this year concerning the operations of the Department of the Youth Authority. During three hours of testimony, the Committees heard from eleven witnesses on a variety of issues ranging from resources and staffing cuts to ward programming and abuse concerns. The transcript along with an abstract and executive summary can be found at:

**[www.sen.ca.gov/ftp/SEN/COMMITTEE/STANDING/PSAFETY/\\_home/](http://www.sen.ca.gov/ftp/SEN/COMMITTEE/STANDING/PSAFETY/_home/)**

An historic measure (AB 1913) enacted this year provides \$121.3 million to counties to implement effective juvenile justice programs that will reduce crime and delinquency. This is the largest one-year infusion of state resources in prevention programs in the state's history.

Each of the measures included in this summary is available from several sources:

- Copies of chaptered bills may be requested at no cost from the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814, or by calling (916) 445-2323.
- Copies of vetoed bills are available only until February 2001.
- The Legislative Data Center maintains a website where these bills and analyses are available: **[www.leginfo.ca.gov/bilinfo.html](http://www.leginfo.ca.gov/bilinfo.html)**. That website will also allow you to run a search for specific statutes—by section number—which were amended by bills in 2000 or you may simply go to the Table of Sections Affected at: **[www.leginfo.ca.gov/pdf/tosa.pdf](http://www.leginfo.ca.gov/pdf/tosa.pdf)**.
- The text of this summary (without the Indices) is also available under "WHAT'S NEW!", Senate Committee Postings, at the Senate Home Page: **[www.sen.ca.gov/](http://www.sen.ca.gov/)**.

I hope this legislative summary proves valuable to you—and to your constituents—as you and they prepare for our (hopefully even safer) future.

I wish you and all of us well as we seek ever more to enhance the public safety of all Californians.

A handwritten signature in blue ink, appearing to be "J.V.", located at the bottom left of the page.

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# ***CONTENTS***

**EDITOR'S NOTES**..... xiii

## **ANIMALS**

SB 2149 (Polanco): VETOED:  
Exotic animals: sale to hunting ranch. .... 1

AB 1178 (Frusetta): Chapter 374:  
Birds: crimes. .... 1

AB 2479 (Kuehl): Chapter 1061:  
Cruelty to animals. .... 2

## **BACKGROUND CHECKS**

AB 1307 (Granlund): VETOED:  
Schoolbus certificates. Urgency. .... 3

AB 2623 (Rod Pacheco): Chapter 623:  
Department of Justice: criminal background checks. .... 4

AB 2665 (Ackerman): Chapter 972:  
Crime prevention: criminal record reporting. .... 4

## **CHILD ABANDONMENT**

SB 1368 (Brulte): Chapter 824:  
Abandonment of newborns: exemption from prosecution. .... 5

## **CHILD ABUSE**

SB 1951 (Costa): Chapter 178:  
Probation officer training. .... 6

AB 1241 (Rod Pacheco): Chapter 916:  
Mandatory reporting. .... 6

**COMPUTER CRIMES**

SB 1357 (Johnston): Chapter 654:  
High Technology Crime Advisory Committee:  
Department of Information Technology. .... 7  
AB 1767 (Zettel): Chapter 626:  
Crimes: forfeitures. .... 7  
AB 2021 (Steinberg): Chapter 621:  
Internet: minors. .... 8  
AB 2232 (Oller): Chapter 634:  
Computer crimes: unauthorized access. .... 8  
AB 2727 (Wesson): Chapter 635:  
Computer crimes: civil liability. .... 9

**CONTROLLED SUBSTANCES**

SB 550 (Johnston): Chapter 8:  
Dronabinol: reclassification. Urgency. .... 10  
SB 983 (Bowen): VETOED:  
Hazardous substances: controlled substances remedial actions. .... 10  
SB 1807 (Vasconcellos): Chapter 815:  
Addiction: treatment. .... 11  
SB 1866 (Vasconcellos): VETOED:  
Controlled substances: asset forfeiture: substance abuse treatment. .... 11  
AB 751 (Gallegos): Chapter 350:  
Controlled substances: dispensing without a license. Urgency. .... 12  
AB 2018 (Thomson): Chapter 1092:  
Controlled substances: Schedule II: triplicate prescription. .... 13  
AB 2240 (Bates): Chapter 293:  
Prescriptions: electronic transmission. .... 13  
AB 2294 (Davis): VETOED:  
Ephedrine group alkaloids: dietary supplements: sale, distribution, and labeling. .... 14  
AB 2501 (Washington): VETOED:  
Minority alcohol and drug integrated treatment services networks. .... 15  
AB 2518 (Washington): VETOED:  
Crime prevention: drug endangered children. Urgency. .... 15

**CORRECTIONS**

**Parole/Probation**

SB 127 (Polanco): VETOED:  
Prisoners: parole. .... 16

SB 499 (Burton): Chapter 652: Battered woman syndrome. ....	17
SB 1343 (Monteith): Chapter 314: Parolees. ....	17
SB 2023 (Lewis): Chapter 658: Interstate Compact for the Supervision of Adult Offenders. ....	18
SB 2087 (Hughes): VETOED: Corrections: program for female parolees. ....	18
<b>Prisons and Prisoners</b>	
SB 577 (Peace): Chapter 987: Corrections: correctional cadet training. Urgency. ....	19
SB 1256 (Polanco): Chapter 754: Hepatitis C: outreach and testing. ....	19
SB 1458 (Lewis): VETOED: Inspector General: restrictions on post-government employment. ....	20
SB 1735 (Hayden): VETOED: Institutional violence. ....	20
SB 1831 (Burton): VETOED: Corrections: funding. Urgency. ....	21
SB 1845 (Polanco): VETOED: Prisons: inmate education. ....	21
SB 1910 (Dunn): Chapter 902: Youth and Adult Correctional Agency: peace officer/firefighter supervisors. ....	22
SB 1978 (Hayden): VETOED: CDC/CYA: telephone service contracts. ....	22
SCR 91 (Polanco): Resolution Chapter 156: Joint Legislative Committee on Prison Construction and Operations. ....	23
AB 132 (Migden): VETOED: Youth and Adult Correctional Agency: correctional managers. ....	23
AB 1449 (Florez): Chapter 627: Prisoners: crime of aggravated battery by gassing. ....	24
AB 1478 (Baugh): Chapter 249: Restitution centers: inmates. ....	24
AB 1597 (Migden): VETOED: Terminally ill female inmates. ....	25
AB 1654 (Steinberg): VETOED: Department of Corrections: Transitional Case Management Program for seriously mentally disordered offenders. Urgency. ....	25
AB 1890 (Rod Pacheco and Reyes): Chapter 525: Prisoners: work outside prisons: security and clothing. ....	26

AB 1999 (Dickerson): Chapter 709: Conservation camps. Urgency. ....	26
AB 2101 (Migden): VETOED: Media access to prisoners. ....	27
AB 2108 (Migden): VETOED: Terminally ill female inmates: other programs. ....	28
AB 2315 (Mazzoni): VETOED: Children of incarcerated parents. ....	28
AB 2316 (Mazzoni): Chapter 965: Children of incarcerated women. ....	29
AB 2429 (Wildman): Chapter 640: Education of prisoners: local funding. Urgency. ....	30
AB 2866 (Migden): Chapter 127: State government: Department of Corrections. Urgency. ....	30

## **COURT HEARINGS AND PROCEDURES**

### **Bail**

AB 2595 (Cardenas): VETOED: Bail: exoneration: foreign or domestic jurisdiction. ....	31
--	----

### **Criminal Procedure**

SB 1574 (Alarcon): Chapter 42: Criminal procedure: deferred entry of judgment: reimbursement of costs. ....	32
SB 1715 (Ortiz): Chapter 207: Child witness: closed circuit television. ....	32
SB 1769 (Chesbro): VETOED: Mental health courts. ....	33
AB 1840 (Bates): Chapter 399: Crime prevention programs: fines. ....	33
AB 1860 (Migden): Chapter 377: Confidentiality: news sources: unpublished information. ....	34
AB 1891 (Lowenthal): Chapter 186: Criminal procedure: witnesses: conditional examination. ....	34
AB 2063 (Zettel): Chapter 97: Elder abuse: evidence. ....	35
AB 2125 (Rod Pacheco): Chapter 268: Criminal procedure: death penalty. ....	35

## **DNA**

SB 1342 (Burton): Chapter 821: Forensic testing: post conviction.....	36
SB 1818 (Speier): Chapter 822: DNA data base.....	36
AB 2814 (Machado): Chapter 823: DNA testing.....	37

## **DOMESTIC VIOLENCE**

SB 1340 (Solis): VETOED: Domestic Violence Court Task Force.....	37
SB 1944 (Solis): Chapter 1001: Domestic violence.....	38
SB 2059 (Solis): VETOED: Probation officer training.....	39
AB 1886 (Lowenthal): Chapter 544: Batterers' programs.....	39
AB 2003 (Shelley): Chapter 47: Warrantless arrests.....	40
AB 2166 (Cardenas): VETOED: Housing.....	40
AB 2357 (Honda): Chapter 487: Employment Leave Act.....	41

## **DUI**

AB 803 (Torlakson): Chapter 1063: Vehicles: driving under the influence: persons under 21 years of age.....	42
AB 2227 (Torlakson): Chapter 1064: Driving under the influence: alcohol and drug programs: ignition interlock device. Urgency.....	43

## **ELDER AND DEPENDENT ADULT ABUSE**

SB 1742 (Hughes): Chapter 813: Financial abuse of mentally impaired elders.....	44
AB 559 (Nakano): Chapter 214: Elder abuse: punishment.....	45
AB 1819 (Shelley): Chapter 559: Elder abuse: peace officer training and definition of mental suffering.....	45
AB 2107 (Scott): Chapter 442: Elder/dependent adults: financial abuse.....	46



**FIREARMS AND DANGEROUS WEAPONS**

SB 31 (Peace): VETOED:  
Firearms: possession: delivery: transfer. .... 47  
SB 2052 (Schiff): Chapter 254:  
Firearms: retention after seizure. .... 48  
AB 719 (Briggs): Chapter 123:  
Firearms: licenses to carry/peace officers. .... 49  
AB 800 (Washington): Chapter 265:  
Pupil safety: injurious objects. .... 50  
AB 1717 (Hertzberg): Chapter 271:  
Firearms: ballistic testing. .... 50  
AB 1961 (Machado): Chapter 668:  
Firearms: machineguns. .... 51  
AB 1989 (Dickerson): Chapter 400:  
Firearms: restrictions on possession and ownership. .... 51  
AB 2053 (Wesson): Chapter 275:  
Imitation firearms: restrictions. .... 52  
AB 2351 (Zettel): Chapter 967:  
Firearms: assault weapons: unsafe handguns. .... 52  
AB 2523 (Thomson): Chapter 478:  
Firearms: unlawful display. .... 53  
AB 2536 (Scott): Chapter 479:  
Firearms laws: public service announcements. Urgency. .... 53  
AJR 53 (Jackson): Resolution Chapter 70:  
Firearms: federal legislation. .... 54

**GANGS**

SB 865 (Hughes): Chapter 653:  
Gangs: CLEAR project. .... 54

**GRAFFITI**

SB 1616 (Monteith): Chapter 50:  
Vandalism: graffiti abatement. .... 55  
AB 2110 (Rod Pacheco): Chapter 58:  
Graffiti abatement. .... 55

**HATE CRIMES**

AB 1785 (Villaraigosa): Chapter 955:  
Hate violence. .... 56

**IDENTITY THEFT**

AB 1862 (Torlakson): Chapter 631:  
Identity theft: data base. .... 57  
AB 1897 (Davis): Chapter 956:  
Identity theft: remedies. .... 57  
AB 1949 (Hertzberg): VETOED:  
Identity theft: regional pilot projects..... 58

**JURORS**

AB 2406 (Migden): Chapter 192:  
Jurors: examination. .... 59  
AB 2418 (Migden): Chapter 43:  
Jurors: eligibility..... 59  
AB 2567 (Jackson): Chapter 242:  
Criminal actions: access to jurors. .... 60

**JUVENILE JUSTICE**

SB 1542 (Schiff): Chapter 366:  
Turning Point Academy. Urgency. .... 61  
SB 1603 (Peace): Chapter 663:  
Release from custody..... 62  
SB 1611 (Bowen): Chapter 908:  
Juvenile justice commissions. .... 62  
SB 1739 (Chesbro): VETOED:  
Homeless youth..... 63  
SB 1913 (McPherson): Chapter 465:  
Truancy..... 64  
SB 1943 (Ortiz): Chapter 481:  
Youth Authority. .... 64  
SB 2062 (Perata): VETOED:  
Mentally ill juvenile offenders. Urgency..... 65  
SB 2098 (Hayden): Chapter 659:  
Youth Authority mental health services. .... 65  
SB 2196 (Alpert): Chapter 662:  
High risk youth. Urgency. .... 66  
AB 788 (Maldonado): VETOED:  
Purpose of the juvenile court law. .... 66  
AB 1704 (Reyes): VETOED:  
Central Valley youth study. .... 67

AB 1899 (Havice): Chapter 236: Nonsworn probation employees.....	67
AB 1913 (Cardenas): Chapter 353: Local law enforcement and crime prevention funding. Urgency. ....	68
AB 2375 (Honda): VETOED: Special education. ....	68
AB 2446 (Wildman): Chapter 59: Youth centers. ....	69
AB 2744 (Oller): Chapter 228: Informal juvenile court. ....	69
AB 2885 (Cardenas): Chapter 100: Local law enforcement and juvenile justice. Urgency.....	69

## **MEDI-CAL FRAUD**

AB 1098 (Romero): Chapter 322: Helath. ....	70
--	----

## **PEACE OFFICERS**

SB 795 (Perata): VETOED: Department of Corrections peace officers.....	72
SB 1102 (Murray): Chapter 684: Peace officers: racial profiling: prohibition: training. ....	73
SB 1353 (Rainey): Chapter 244: Reserve peace officers: prohibitions on discrimination. ....	73
SB 1489 (Hayden): VETOED: Pepper spray. ....	74
SB 1539 (Lewis): Chapter 564: Peace officer training: stalking. ....	74
SB 1578 (Alarcon): VETOED: Peace officers: City of Los Angeles library security officers. ....	75
SB 1762 (Alpert): Chapter 61: Deputy sheriffs: San Diego County/custodial facilities. ....	75
SB 1854 (Alarcon): VETOED: Employment: lie detector tests: public safety employee exemption. ....	76
SB 1942 (Karnette): Chapter 430: Peace officers: impersonation. ....	77
SB 2133 (Polanco): Chapter 289: Law enforcement: complaints of misconduct. ....	77
AB 1494 (Wildman): Chapter 96: Peace officer designation: changes in status. Urgency. ....	78

AB 1669 (Assembly Committee on Judiciary): Chapter 688: Witness protection program and vehicle code investigations.....	78
AB 1718 (Hertzberg): Chapter 200: Peace officers: advanced training: mental illness. ....	79
AB 1768 (Steinberg): Chapter 629: Sheriff's fee: increases. ....	79
AB 1928 (Vincent): Chapter 354: Peace officers: comparable peace officer training: court services investigators. ....	80
AB 1993 (Romero): Chapter 620: Peace officers: false evidence. ....	81
AB 2059 (Vincent): Chapter 633: Peace officers: welfare fraud investigators. ....	81
AB 2267 (Cedillo): Chapter 209: Public safety officers: officer access to personnel records. ....	82
AB 2484 (Romero): Chapter 622: Attorney General: civil actions: law enforcement conduct.....	83
AB 2559 (Cardoza): Chapter 971: Personnel records: peace officers. ....	84
AB 2821 (Cardoza): VETOED: Department of the California Highway Patrol. ....	84
AB 2837 (Hertzberg): VETOED: State nonemergency telephone number system. ....	85
AJR 62 (Honda): Resolution Chapter 112: California Indian tribes: Law Enforcement Protection and Tribal Courts. ....	85

## **PENALTIES**

SB 2106 (Lewis): VETOED: Criminal profiteering: asset forfeiture. ....	86
---	----

## **SENTENCING**

AB 1789 (Zettel): Chapter 919: Sentencing: great bodily injury: child. ....	87
AB 1808 (Wayne): Chapter 689: Sentencing.....	87

## **SEX OFFENSES**

### **Children and Minors**

SB 1784 (Figueroa): Chapter 657: Children: molestation. ....	88
---	----

AB 1349 (Correa): Chapter 184: Public records: disclosure of victim information. ....	88
AB 1458 (Wiggins): VETOED: Sexually violent predators: in-prison treatment programs: commitment petitions. ....	89

**Sex Crimes/Offenders**

SB 451 (Schiff): Chapter 41: Sexually violent predators: commitment petitions. Urgency. ....	90
SB 1463 (Johnson): VETOED: Sexual Predator Apprehension Teams. ....	91
SB 2018 (Schiff): Chapter 420: Sexually violent predators (SVP): commitment evaluations. Urgency. ....	92
AB 1300 (Rod Pacheco): Chapter 142: Sex offenders: parole. Urgency. ....	93
AB 1302 (Thomson): Chapter 484: Parolees. ....	94
AB 1742 (Correa): Chapter 235: Statute of limitations. ....	94
AB 1988 (Strickland): Chapter 153: Parolees. ....	95
AB 2320 (Dickerson): Chapter 226: Expungement. ....	95
AB 2849 (Havice): Chapter 643: Sexually violent predators. ....	96

**Sex Offender Registration**

SB 446 (Dunn): Chapter 649: Registration photo. ....	96
AB 1340 (Honda): Chapter 648: Megan’s Law. ....	97
AB 2502 (Romero): Chapter 240: Sex offender registration. ....	97

**STALKING**

SB 580 (Lewis): Chapter 561: Notice. ....	98
AB 2425 (Corbett): Chapter 669: Punishment and Parole. ....	99

## **VEHICLE OFFENSES/DMV**

### **Vehicles**

SB 1526 (Kelley): Chapter 446: Safety enhancement-double fine zones. ....	100
SB 1765 (Hayden): VETOED: Vehicle forfeiture: storage. ....	101
SB 1988 (Speier): Chapter 867: Insurance fraud. ....	102
AB 2506 (Romero): Chapter 401: Driver’s license violations: referral program for alternative sanctions. ....	102

## **VICTIMS OF CRIME**

SB 1802 (Chesbro): Chapter 198: Victims of crime: restitution. ....	103
SB 2183 (Soto): VETOED: Trauma intervention. ....	104
AB 2371 (Lempert): Chapter 545: Victims of crime: restitution. ....	105
AB 2491 (Jackson): Chapter 1016: Victims of crime: restitution: Board of Control. ....	105
AB 2683 (Bock): Chapter 974: Victims of crimes: witnesses: payments. ....	107
AB 2685 (Bock): Chapter 444: Victims of crime: Restitution Fund: notification card. ....	108

## **MISCELLANEOUS**

SB 370 (Burton): Chapter 692: Abortions. ....	108
SB 639 (McPherson): Chapter 778: Gambling: charitable raffles. ....	109
SB 1310 (Vasconcellos): Chapter 940: Outstanding warrants. ....	110
SB 1384 (Committee on Business and Professions): Chapter 120: Labeling. ....	110
SB 1386 (Alpert): Chapter 165: Alcohol and drug assessment programs. ....	111
SB 1486 (Schiff): Chapter 563: Aggravated residential trespass. ....	111
SB 1520 (Schiff): Chapter 994: Secondhand dealers: coin dealers: reporting. ....	112

SB 1558 (Costa): VETOED: Crime laboratories: funds. ....	112
SB 1565 (Schiff): Chapter 261: Property of felons: involuntary trust. ....	113
SB 1859 (Chesbro): Chapter 233: Public officials. ....	113
SB 1865 (Perata): Chapter 805: Air pollution: civil and criminal penalties. ....	114
SB 1867 (Speier): Chapter 176: Theft: by fraud: intent. ....	115
SB 1955 (Committee on Public Safety): Chapter 287: Public safety. ....	115
SB 2097 (Hayden): VETOED: Law schools: study of wrongful convictions of innocent persons. ....	116
AB 1422 (Torlakson): Chapter 477: Reporting of crimes. ....	116
AB 1727 (Reyes): Chapter 310: Crime prevention: rural counties. Urgency. ....	117
AB 1787 (Maddox): Chapter 149: Trespass: registered process servers. ....	117
AB 1799(Baugh): Chapter 630: Indemnification: erroneously convicted persons. ....	118
AB 1881 (Gallegos): Chapter 324: Mentally disordered offenders. ....	119
AB 2124 (McClintock): VETOED: Crime prevention: criminal justice information. ....	120
AB 2580 (Cox): Chapter 546: ..... Vandalism: cemeteries and places of worship.	120
AB 2594 (Cox): Chapter 843: Insurance fraud. ....	121
AB 2608 (Rod Pacheco): VETOED: District attorneys: relocation expenses. ....	121
AB 2941 (Committee on Water, Parks and Wildlife): Chapter 388: Commercial fishing. ....	122
<b>INDEX BY AUTHOR</b> .....	125
<b>INDEX BY BILL NUMBER</b> .....	131
<b>HOW TO FIND SECTIONS AFFECTED</b> .....	137

# ***EDITOR'S NOTES***

- ***Categorization of bills*** – Many of the bills in this summary could fall under several different subject headings, but have been limited to one category in the interest of brevity. It is therefore hoped that anyone wishing to find all of the bills of interest to them may simply skim the entire document to identify any new laws. In addition, those who focus on specific code areas may skim the Table of Sections Affected information mentioned below.
- ***Previous votes not relevant*** – Refers to the committee/floor votes of a prior version of the measure which are not included in this summary. The votes that are shown in each bill summary refer to the committee/floor votes of the signed or vetoed measure. Simply put, the prior version of the measure was substantially amended (gutted) and replaced with new language. The measure number remains the same, but generally, the replacement language differs greatly from the measure's prior language. Thus a vote on a prior version of the bill does not provide useful information in determining the action of the Legislature on the enacted or vetoed version of the measure.
- ***Effective date of bills-effect of urgency clause*** – Article IV, Section 8(c) of the California Constitution provides that “. . . a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute” and “urgency statutes shall go into effect immediately upon their enactment.” Regardless of the date a bill takes effect, some measures do have a ***delayed “operative” date*** for all or part of the measure; that is most common when a start-up period may be useful in order to prepare for the measure's impact.
- ***Contingent measures*** – Some bills have language added which makes them operative, if enacted, only if another measure—or measures—is also enacted.
- ***Sunset dates*** – Some measures have sunset dates that make them inoperative unless a later enacted statute becomes effective on or before the sunset date, which deletes or extends the date on which it becomes inoperative.
- ***Conflicts and “double-jointing” language*** – If two or more measures both amend the same statutory section in the same year, then whichever measure is chaptered/enacted last will “chapter out” any changes made by the earlier measure(s) unless the last enacted bill contains double-jointing language which provides that both the changes to the section made by the earlier measure(s) and the last enacted bill are to take effect. It may generally be assumed that measures in this summary which amend the same statutory section have the requisite double-jointing language so that all of the changes made by all of the measures will take effect.
- ***Two votes in Appropriations Committee*** – Some bills have two separate votes in the Senate and Assembly Appropriations Committees; the first generally reflects that the measure met the dollar threshold limit to be considered on the “suspense” file before final action. The second vote is the vote to pass the bill out of committee off of “suspense.” This summary only lists the second vote if a bill was referred to suspense.



- **SR 28.8** – Senate Rule 28.8 allows the chair to move bills out of the Senate Appropriations Committee without a formal committee hearing or vote if the bill has no significant effect on state revenues. Thus, SR 28.8 is reflected, where appropriate, instead of a vote.
- **Not all bills that create a new crime are included in this summary** – The Senate Committee on Public Safety jurisdiction does not always include measures that involve misdemeanor criminal penalties. For example, AB 1998 (Dutra)–Chapter 274, Statutes of 2000–changes part of existing Health and Safety Code Section 12680 which creates misdemeanor penalties for misuse of dangerous fireworks. That measure is not in this summary since it did not fall within the committee’s jurisdiction. (There are a few bills, however, in this summary which were not heard in this committee, but which are included as FYI’s since they are on related subjects that may be of interest.)
- **Table of Statutes Affected** – This summary does not contain a Table of Sections Affected (TOSA). However, the TOSA prepared by the Legislative Counsel is available online at the Legislative Counsel’s “Official California Legislative Information” site at: [www.leginfo.ca.gov/](http://www.leginfo.ca.gov/).

Go to that website, click on “Legislative Publications” and then on “Table of Sections Affected” and search by code section. That same site also offers a “Bill Information” option which allows a word search and can be searched by statutory section number and is an alternative to the TOSA for finding bills by a statute number.

- **Only “final” votes included in this summary** – There may be more than one vote on a bill in a given legislative location. For example, hostile amendments (not offered by the author) may be proposed on the Senate Floor and those amendments may be defeated or “tabled”; a bill may first fail in a committee or on the Senate or Assembly Floor, reconsideration may be granted, and the bill may be amended and subsequently approved; or a bill may pass the Legislature and be returned at the Governor’s request with amendments then adopted before the bill is sent again to the Governor. This summary only reflects the final votes on a bill in each legislative location.
- **Legislative Counsel’s Maintenance of the Codes bill** – AB 2539 (Assembly Committee on Judiciary)–Chapter 135. This annual clean-up bill makes technical and nonsubstantive changes to hundreds of code provisions; it is not included in this summary notwithstanding that it changes language in 12 sections of the Penal Code plus other code sections relevant to the criminal justice system. AB 2539 contains the following proviso:

Any section of any act enacted by the Legislature during the 2000 calendar year that takes effect on or before January 1, 2001, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2000 calendar year and takes effect on or before January 1, 2001, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

# ***ANIMALS***

**SB 2149 (Polanco): VETOED: Exotic animals: sale to hunting ranch.**  
(Adds Chapter 2.5 (commencing with Section 2210) to Division 3 of the Fish and Game Code.)

**Existing law** regulates the sale or giving of animals.

**This bill** would have made it a crime to sell or exchange an exotic animal to a hunting ranch. This prohibition would not have applied to the sale or exchange

of certain game species to a hunting ranch for lawful hunting or sporting purposes. By creating new crimes, this bill would have imposed a state-mandated local program upon local governments.

## ***Legislative History:***

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

*Assembly Water, Parks and Wildlife (6-3)*  
*Assembly Appropriations (14-6)*  
*Assembly Floor (47-27)*

**AB 1178 (Frusetta): Chapter 374: Birds: crimes.**  
(Amends Section 12002 of the Fish and Game Code.)

**Existing law** provides that any person who takes any bird or mammal in violation of a specified court order is guilty of a felony. Existing law also prescribes the penalty for specified violations of law involving birds of prey.

**This bill** establishes as the punishment for violations of specified provisions of the Fish and Game Code governing protection of birds, a fine of not more than \$5,000, imprisonment in the county jail for not more than 6 months, or both that fine and imprisonment.

## ***Legislative History:***

*Assembly Water, Parks and Wildlife (13-0)*  
*Assembly Public Safety (8-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (78-0)*  
*Assembly Concurrence (71-3)*

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (21-15)*

***Animals***

**AB 2479 (Kuehl): Chapter 1061: Cruelty to animals.  
(Adds Section 597.2 to the Penal Code.)**

**Existing law** punishes every person who mistreats, injures, or causes the death of any animal, as specified. Existing law makes it a misdemeanor for any person who operates a pet shop, as defined, to fail to maintain the premises and pet animals in a designated manner.

**This bill** requires any person who operates a live animal market, as defined, to treat the animals that are sold for human consumption in accordance with various

requirements. This bill provides that any person who fails to comply with these provisions shall first receive a written warning, and that a second and subsequent violation would be an infraction, punishable by a fine of not less than \$250 and not more than \$1,000, however the fine may be deferred if the person attends a specified class relating to live animal markets, if such a class is offered.

***Legislative History:***

*Assembly Public Safety  
(5-2)*

*Assembly Water, Parks and  
Wildlife (8-0)*

*Assembly Appropriations  
(13-4)*

*Assembly Floor (57-19)*

*Assembly Concurrence  
(56-19)*

*Senate Natural Resources  
and Wildlife (6-3)*

*Senate Appropriations,  
SR 28.8*

*Senate Floor (24-9)*

# ***BACKGROUND CHECKS***

**AB 1307 (Granlund): VETOED: Schoolbus certificates. Urgency.**  
(Amends Sections 13370 and 13376 of the Vehicle Code.)

**Existing law** requires the DMV to deny or revoke a schoolbus certificate if the applicant or certificate holder has been convicted of a sex offense, as defined, or within the preceding two years of a defined destruction of records offense, or has failed to meet prescribed testing or training requirements for certificate issuance. Existing law also provides that the DMV shall deny or revoke a schoolbus certificate in certain other situations, including if the applicant has been convicted of a felony within seven years of the application date, has committed any act involving moral turpitude, has been dismissed for cause as a driver, or has been convicted in the last seven years of any of defined controlled substance offenses.

**This bill** would have provided that DMV would deny an application to drive a schoolbus or paratransit vehicle to any person who within the preceding three years had been convicted of a violation of a hit and run, reckless driving or DUI or who had his or her driving privilege suspended, revoked or placed on probation by the department for a cause involving the safe operation of a motor vehicle. This bill also would have provided that DMV would deny or revoke an application to drive a schoolbus or paratransit vehicle to any person convicted of a serious or violent felony as defined in the Penal Code.

## ***Legislative History:***

*Assembly Education (19-0)*  
*Assembly Transportation (17-0)*

*Assembly Appropriations (21-0)*  
*Assembly Floor (70-2)*  
*Assembly Concurrence (76-1)*

*Senate Transportation (12-0)*  
*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (40-0)*

***Background Checks***

**AB 2623 (Rod Pacheco): Chapter 623: Department of Justice: criminal background checks.**

(Adds Section 11105.75 to the Penal Code.)

**Existing law** authorizes the Department of Justice to provide criminal background information to counties and to various state departments, with respect to applicants for licensure, certification, or employment.

**This bill** provides that if the requesting agency or entity denies a license, certificate, or employment based upon the

information received from the department that is not fingerprint verified, that the agency or entity notify the applicant of its decision, and that the applicant would be permitted to appeal the decision on the grounds that the applicant is not the person so identified by the department. These provisions will become operative on July 1, 2002.

***Legislative History:***

*Assembly Human Services (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (79-0)*  
*Assembly Concurrence (77-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations (12-0)*  
*Senate Floor (40-0)*

**AB 2665 (Ackerman): Chapter 972: Crime prevention: criminal record reporting.**  
(Amends Section 11105.3 of the Penal Code, amends Section 15660 of, and adds Section 15660.1 to, the Welfare and Institutions Code.)

**Existing law** authorizes a human resource agency or an employer to request from the Department of Justice records of all convictions or any arrest for which the person is released on bail or on his or her own recognizance pending trial, involving any sex crimes, drug crimes, or crimes of violence, as defined. Existing law requires the department to furnish records to a requester if, among other things, the subject of the request has a total of 3 or more felony or misdemeanor convictions within the immediately preceding 10-year period or if the subject has a felony or misdemeanor conviction within 10 years of the

employer's request, as specified, for any of a number of specified violations, provided that the subject of the request has a total of 3 or more felony or misdemeanor convictions within the immediate preceding 10-year period.

**This bill** also requires that records be furnished if the subject of the request for criminal records has been incarcerated for any of the convictions within the 10-year period following the convictions or, in the case of a felony conviction that is over 10 years old, if the subject was incarcerated within 10 years of the employer's request.

***Legislative History:***

*Senate Judiciary (9-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*  
*Senate Concurrence (38-0)*

*Assembly Judiciary (14-0)*  
*Assembly Appropriation (21-0)*  
*Assembly Floor (78-0)*

# ***CHILD ABANDONMENT***

## **SB 1368 (Brulte): Chapter 824: Abandonment of newborns: exemption from prosecution.**

(Adds and repeals Section 1255.7 of the Health and Safety Code, adds and repeals Section 271.5 of the Penal Code, and amends, repeals, and adds Sections 300, 309, and 361.5 of, and adds and repeals Section 14005.24 of, the Welfare and Institutions Code.)

**Existing law** makes it a crime for a parent of a minor child, without lawful excuse, to not furnish necessary clothing, food, shelter, or medical or remedial care for the child, or to refuse, without lawful excuse, to accept the child in his or her home or provide alternate shelter. Existing law also makes it a crime for a parent of a child under the age of 14 years to desert the child with intent to abandon, or for any person to knowingly or willfully abandon or, having the ability to refuse to do so, fail to maintain his or her child under the age of 14 years.

### **This bill:**

- Provides that no parent or other person having lawful custody of a minor child 72 hours old or younger may be prosecuted for a violation of the above crimes if he or she voluntarily surrenders physical custody of the child to any employee on duty at a public or private hospital emergency room, or any additional location designated by the board of supervisors, as specified;
- Requires those designated employees take physical custody of a minor 72 hours old or younger if the parent or

other person having lawful custody of the child voluntarily surrenders physical custody of the child to that person;

- Requires the person taking physical custody of such a child to provide a medical screening examination and any necessary medical care to the child, and to provide the person surrendering custody a specified medical information questionnaire;
- Requires the person taking physical custody of such a minor to place a coded identification ankle bracelet on the child, and to notify child protective services or the county agency providing child welfare services of that fact as soon as possible but in no event later than 48 hours after taking custody of the child; and
- Requires that agency to assume temporary custody of the child, as specified, and to immediately notify the State Department of Social Services.

**This bill** authorizes a person who surrenders custody to reclaim custody of a child, as specified, from the agency taking custody under the bill within 14 days of the surrender of custody and the filing of a petition to declare the

child a dependent child of the juvenile court by means of the coded identification ankle bracelet; requires the filing of a petition to adjudge such a child a dependent child of the court and provides that such a child qualifies to be adjudged a dependent child of the court on the basis of such a surrender if not reclaimed within 14 days, as specified. These provisions are repealed on January 1, 2006, unless that date is extended or deleted by later enacted legislation. The State Department of Social Services is required to file specified reports with the Legislature regarding the effect of the bill.

### ***Legislative History:***

*Senate Judiciary (8-0)*  
*Senate Public Safety (4-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety (8-0)*  
*Assembly Judiciary (14-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (77-0)*

# ***CHILD ABUSE***

## **SB 1951 (Costa): Chapter 178: Probation officer training. (Uncodified Law.)**

**Existing law** requires specified professionals to report instances of child abuse to a child protective agency under specified circumstances. Teachers and other specified mandated reporters are required to receive training in the reporting and identification of child abuse.

**This bill** requires the Board of Corrections to revise the annual training requirements for probation officers to provide that each full participation probation officer providing direct service to

families and children must complete updated training or child abuse identification and reporting, with the content and protocols of the training prescribed by the Board of Corrections. This training must occur no less frequently than once every three years unless the chief probation officer determines that the staff member's job responsibilities do not include contact with juvenile probationers or adult probationers who are parents or have more than occasional contact with minors.

### ***Legislative History:***

*Senate Public Safety (5-0)  
Senate Appropriations,  
SR 28.8  
Senate Floor (38-0)*

*Assembly Public Safety  
(6-0)  
Assembly Appropriations  
(21-0)  
Assembly Floor (77-0)*

## **AB 1241 (Rod Pacheco): Chapter 916: Mandatory reporting.**

(Amends Sections 11164, 11165.5, 11165.7, 11165.12, 11165.13, 11165.14, 11166, 11166.1, 11166.2, 11166.3, 11166.5, 11166.7, 11166.8, 11166.9, 11167, 11167.5, 11168, 11169, 11170, 11171, 11171.5, 11172, 11174.1, and 11174.3 of, and repeals Sections 11165.8, 11165.10, 11165.15, 11165.16, and 11165.17 of, and repeals and adds Sections 11165.6 and 11165.9 of, the Penal Code.)

**Existing law** provides that any child care custodian, health care practitioner, employee of a child protective agency, child visitation monitor, firefighter, humane officer or animal control officer, as defined, who has knowledge of or observes a child, in his or her professional capacity or within the scope of his or her employment, whom he or she

knows or reasonably suspects has been the victim of child abuse, shall report it immediately to a child protection agency following specified procedures and requirements.

**This bill** makes multiple substantive and nonsubstantive changes to the mandatory child abuse reporting laws.

### ***Legislative History:***

*Assembly Public Safety  
(8-0)  
Assembly Floor (78-0)  
Assembly Concurrence  
(71-0)*

*Senate Public Safety (5-0)  
Senate Appropriations  
(8-0)  
Senate Floor (40-0)*

# ***COMPUTER CRIMES***

## **SB 1357 (Johnston): Chapter 654: High Technology Crime Advisory Committee: Department of Information Technology.**

(Amends Section 13848.6 of, and repeals Section 13848.7 of, the Penal Code.)

**Existing law** establishes the High Technology Theft Apprehension and Prosecution Program (HTTAPP), a public-private administrative body under the auspices of the Office of Criminal Justice Planning (OCJP) for the distribution of funding for the development of regional high-tech crime units in California law enforcement agencies. The "High Technology Steering Committee" is composed of members from law enforcement,

government policy agencies and industry representatives. (Pen. Code § 13848 et seq.)

**This bill** provides that the Executive Director of the Office of Criminal Justice Planning shall appoint, in addition to the members noted in "Existing law," a designee of the Department of Information Technology to the High Technology Steering Committee.

### ***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (77-0)*

## **AB 1767 (Zettel): Chapter 626: Crimes: forfeitures.**

(Amends Section 502.01 of the Penal Code.)

**Existing law** authorizes forfeiture of computers and telecommunications equipment if used to commit specific theft, fraud, and computer crimes. (Pen. Code § 502.01)

**This bill** adds the following offenses to the list of offenses for which a computer system or telecommunications equipment may be forfeited if used in the commission of that crime: stalking, terrorist threats, harassing phone calls, possession of a forged item with intent to defraud, sale of deceptive identification documents,

fraudulent use of an access card, possession or sale of an access card with the intent to defraud, possession of access card making equipment, removal of serial numbers, theft of information or cable services. Further, the bill prohibits the return of seized property to an individual with a valid interest in the property if that person knew or should have known that the property was used in the commission of specified offenses relating to obscene matter, forgery, removal of serial numbers, theft of information or cable services, and stalking.

### ***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Floor (75-1)*  
*Assembly Concurrence (76-1)*

*Senate Public Safety (5-0)*  
*Senate Floor (33-0)*



**AB 2021 (Steinberg): Chapter 621: Internet: minors.**  
(Amends Section 272 of the Penal Code.)

**Existing law** makes it a misdemeanor for a person to contribute to the delinquency of a minor.

**This bill** makes it an offense punishable as an infraction or a misdemeanor for a person to knowingly contact or communicate with a minor who is 12 years of age or younger, for the purpose of persuading and luring, or transporting, or attempting to persuade and lure,

or transport, that minor away from a location known by the minor's parent or custodian to be a place where the minor is located, for any purpose, with the intent to avoid the consent of the minor's parent or legal guardian and without the express consent of the parent, legal guardian, or custodian. The bill exempts emergency situations, as defined, from its provisions.

***Legislative History:***

*Assembly Public Safety (5-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (75-1)*

*Assembly Concurrence (75-0)*

*Senate Public Safety (4-1)*

*Senate Appropriations, SR 28.8*

*Senate Floor (31-0)*

**AB 2232 (Oller): Chapter 634: Computer crimes: unauthorized access.**  
(Amends Section 502 of the Penal Code.)

**Existing law** defines "injury" for the purposes of computer-related crimes as any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by access.

**This bill** adds "denial of access to legitimate users of a computer system, network, or program" to the above definition of "injury."

**Existing law** provides that any person who knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network is punishable as follows:

- for a first violation resulting in no injury, an infraction with a

fine not to exceed \$250; for any violation resulting in a victim expense not greater than \$5,000, or

- for a second or subsequent violation, a misdemeanor, punishable up to one year in county jail, a \$5,000 fine, or both; and
- for any violation resulting in a victim expense greater than \$5,000, an alternate misdemeanor/felony.

A misdemeanor violation is punishable up to one year in county jail, by a \$5,000 fine, or both; a felony violation is punishable by 16 months, 2 or 3 years in state prison, a \$10,000 fine, or both.

**This bill** increases the penalty for a first violation of the above not resulting in injury to \$1,000.

**Existing law** defines computer contaminant as any set of computer instructions that are designed to modify, damage, destroy, record or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to contaminate other computer programs or

computer data, consume computer resources, modify, destroy, record or transmit data or in some other fashion usurp the normal operation of the computer, computer system or computer network.

**Existing law** provides that any person who knowingly introduces any computer contaminant into any computer, computer system, or computer network is guilty of an alternate infraction/misdemeanor.

**This bill** provides that a first violation of the above, that does not result in injury is a misdemeanor punishable by a fine not exceeding \$5,000 and/or up to one year in county jail and the penalty for any violation of

the above that results in injury or any second or subsequent violation is a wobbler punishable by a fine not exceeding \$10,000 and/or up to one year in county jail or a fine of \$10,000 and/or 16 months, 2 or 3 years in state prison.

**Existing law** provides that it is an infraction punishable by a fine of up to \$250 for a person to knowingly and without permission to sue the Internet domain name of another individual, corporation, etc. in connection with sending email and thereby cause damages to a computer, computer system or computer network.

**This bill** increases that fine to \$1,000.

***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (72-4)*  
*Assembly Concurrence (70-3)*

*Senate Public Safety (4-0)*  
*Senate Public Safety (3-0)*  
*Senate Appropriations (8-0)*  
*Senate Floor (40-0)*

**AB 2727 (Wesson): Chapter 635: Computer crimes: civil liability.**  
(Amends Section 502 of the Penal Code.)

**Existing law** provides that, in addition to other available civil remedies, the owner or lessee of the computer, system, network, program, or data may bring a civil action against any person convicted under these provisions for compensatory damages, including attorney fees and any expenditure reasonably and necessarily incurred by the owner or lessee to verify no damage has occurred.

**This bill** provides that this civil remedy is available with respect to damage or loss caused by

reason of specified criminal acts, and would authorize suits for injunctive and other equitable relief. This bill would also authorize a court to award punitive or exemplary damages where a violation of these criminal provisions was willful, or where it is proven that the defendant has been guilty of oppression, fraud, or malice as specified, would allow the award of attorney fees to any party, and would impose a three-year statute of limitations

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (77-0)*  
*Assembly Concurrence (74-1)*

*Senate Judiciary (9-0)*  
*Senate Floor (40-0)*

# ***CONTROLLED SUBSTANCES***

**SB 550 (Johnston): Chapter 8: Dronabinol: reclassification. Urgency.**  
(Amends Sections 11055, 11056, 11350, 11351, 11352, 11353, 11354, and 11355 of the Health and Safety Code.)

**Existing law** classifies controlled substances in five schedules, with the greatest restrictions placed on those in Schedule I. Dronabinol is classified in Schedule II, which allows the prescription of a drug only through registered, particularly limited prescriptions, except for terminally ill patients. (Health & Safety Code §§ 11055, 11159.2, 11164)

**This bill** moves dronabinol from the California list of Schedule II controlled substances to Schedule III.

## ***Legislative History:***

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*  
*Senate Concurrence (28-0)*

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (77-0)*

**SB 983 (Bowen): VETOED: Hazardous substances: controlled substances remedial actions.**  
(Amends Section 25354.5 of the Health and Safety Code.)

**Existing law** requires the Department of Toxic Substances Control to remove hazardous illegal controlled substances, including waste from the manufacture of a controlled substance. The department is required to act upon request of the local environmental health officer. The department is authorized to expend funds from the Illegal Drug Lab Cleanup Account in the General Fund and adopt regulations for this purpose after consultation with local agencies.

to adopt regulations, in consultation with the Office of Environmental Health Hazard Assessment, for state and local agencies in cleaning a hazardous substance release site. The regulations would have described a level of cleanup that would protect the health and safety of a site's future occupants. The bill would have additionally authorized the designated local response agency to make this request to the department. small amount of ephedrine – 5 milligrams per 5 milliliters, or 2 milliliters in a one-ounce liquid for infants – that could not be used to manufacture methamphetamine.

**This bill** would have required the department, by January 1, 2002,

## ***Legislative History:***

*Senate Energy, Utilities and Communications (9-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (37-0)*  
*Senate Concurrence (26-7)*

*Assembly Environmental Safety and Toxic Materials (8-0)*  
*Assembly Appropriations (15-6)*  
*Assembly Floor (54-23)*

**SB 1807 (Vasconcellos): Chapter 815: Addiction: treatment.**

(Adds Section 11877.2 to, and adds Chapter 9.8 (commencing with Section 11545) to Division 10 of, the Health and Safety Code, and adds Section 1000.8 to the Penal Code.)

**Existing law** allows the dispensing of methadone and related medicine to opiate addicts through Narcotics Treatment Program (NTP) clinics licensed and regulated by the California Department of Drug Alcohol Programs, and regulated by the Federal Drug Enforcement Administration, and the Federal Department of Health and Human Services. Specified complementary services, such as psychological counseling, must be provided to methadone patients.

**This bill** allows the creation and regulation of Office Based Opiate Addiction treatment programs (OBOT). An approved OBOT could either be associated with a licensed NTP or obtain a license as an NTP. A physician in an OBOT could treat a maximum of 20 patients. All required services would be provided to OBOT patients. The bill also provides that a methadone patient could not be excluded from drug court if strict conditions are met.

***Legislative History:***

*Senate Health and Human Services (7-1)*

*Senate Appropriations (9-0)*

*Senate Floor (26-6)*

*Senate Concurrence (26-8)*

*Assembly Health (15-0)*

*Assembly Public Safety (5-3)*

*Assembly Appropriations (20-0)*

*Assembly Floor (73-2)*

**SB 1866 (Vasconcellos): VETOED: Controlled substances: asset forfeiture: substance abuse treatment.**

(Amends Sections 11471, 11489, and 11495 of, and adds Section 11471.2 to, and amends and rennumbers Section 11471.5 of, the Health and Safety Code.)

**Existing law** establishes an asset forfeiture procedure for drug-related cases. (Health & Saf. Code §§ 11469-11495) The burden of proof in drug asset forfeiture proceedings pursuant to the Health and Safety Code is beyond a reasonable doubt, and requires a conviction on an underlying drug offense. (Health & Saf. Code § 11488, subd. (i)) However, the law does not require a conviction on an underlying drug offense where the property sought to be forfeited is cash or negotiable securities over \$25,000, and allows forfeiture upon a burden of proof of "clear and convincing evidence" in such cases. (Health & Saf. Code § 11488, subd. (i)(4))

**This bill** would have made the following changes to drug assets forfeiture law:

- Required judicial review before California law enforcement officers may transfer drug crime assets to federal agencies for forfeiture;
- Required increased public disclosure about asset forfeiture beginning 2002;
- Required that the portion of drug forfeiture proceeds placed in the General Fund be used for drug treatment programs.

***Legislative History:***

*Senate Public Safety (4-1)*

*Senate Health and Human Services (7-0)*

*Senate Appropriations (12-0)*

*Senate Floor (25-6)*

*Senate Concurrence (23-5)*

*Assembly Public Safety (5-2)*

*Assembly Appropriations (14-0)*

*Assembly Floor (41-29)*

**AB 751 (Gallegos): Chapter 350: Controlled substances: dispensing without a license. Urgency.**

(Amends Sections 11352.1 and 101070 of the Health and Safety Code.)

Existing law provides that "no person shall furnish any dangerous drug . . . [or] device" except upon a valid prescription. (Bus. & Prof. Code § 4059) A violation is a misdemeanor, punishable by imprisonment from one to six months, and/or a fine of from \$200 to \$2,000. (Bus. & Prof. Code § 4321) The Health and Safety Code provides that an unlicensed person who dispenses or furnishes a "dangerous" drug or device (requiring a prescription), or who operates a business that dispenses such items, commits a misdemeanor. A first conviction is punishable by imprisonment in the county jail for up to one year and/or a fine not to exceed \$5,000. For repeated convictions the maximum fine is \$10,000. (Health & Saf. Code § 11352. 1, subd. (b))

**This bill** provides that any person who knowingly or unlawfully dispenses or furnishes any item represented

as a prescription drug or device, or who knowingly operates a business that dispenses or furnishes any item represented as a prescription drug or device, without a license to dispense or furnish such products, is guilty of a misdemeanor.

**Existing law** provides that if a public health officer determines that a person is dispensing prescription drugs or devices without a license, the officer may take appropriate actions, including closing the business, to protect the health and safety of the public. (Health & Saf. Code § 101070) This law sunsets as of January 1, 2001.

**This bill** eliminates the sunset clause in Health and Safety Code Section 101070.

***Legislative History:***

*(Prior votes not relevant)*

*Assembly Public Safety (8-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (75-0)*

*Assembly Concurrence (75-0)*

*Senate Public Safety (4-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (38-0)*

**AB 2018 (Thomson): Chapter 1092: Controlled substances: Schedule II: triplicate prescription.**

(Amends Sections 11161 and 11164 of, and repeals Section 11163 of, the Health and Safety Code.)

**Existing law** provides that no person shall either prescribe a controlled substance, or fill, compound, or dispense such a prescription unless it complies with specified requirements. One of these requirements is that prescriptions for Schedule II controlled substances shall be made in triplicate. The Department of Justice is required to issue these triplicate prescriptions in serially numbered groups of not more than 100 forms to any authorized practitioner. The number of prescription blank groups issued to an individual prescriber is also limited.

**This bill** revises distribution requirements for Schedule II prescription blanks and revises the information required in a Schedule II prescription. The bill authorizes a pharmacist to fill a prescription for a Schedule II controlled substance containing an error or errors, provided the pharmacist notifies the prescriber of the error and the prescriber approves any correction. The prescriber must fax or mail a corrected prescription to the pharmacist within seven days.

***Legislative History:***

*Assembly Health (14-0)*  
*Assembly Public Safety (5-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (47-23)*  
*Assembly Concurrence (70-3)*

*Senate Health and Human Services (7-0)*

*Senate Appropriations (13-0)*

*Senate Floor (28-0)*

**AB 2240 (Bates): Chapter 293: Prescriptions: electronic transmission.**

(Amends Section 4070 of, and adds Section 4071.1 to, the Business and Professions Code, and adds Section 11164.5 to the Health and Safety Code.)

**Existing law** regulates the possession and dispensing of controlled substances, as divided into five "Schedules," with the greatest restrictions on Schedule I drugs. Generally speaking, controlled substances have psychoactive properties and are considered prone to abuse in varying degrees. Schedule I drugs, such as heroin, have no recognized medical uses. The law requires a prescription for the dispensing of drugs in Schedules II-V and for so-called

dangerous devices or drugs. Existing law authorizes the electronic transmission of prescriptions for dangerous devices and dangerous drugs, other than those for a Schedule II controlled substance. Schedule II drugs include cocaine, opiates, and other designated substances. Electronic prescriptions for drugs in Schedules III-V must be reduced to writing as soon as practicable. A violation of these provisions is a crime.

**This bill** provides that a pharmacy receiving a valid electronic transmission prescription is not required to reduce the prescription to writing or to hard copy form if the pharmacy can immediately produce a hard copy upon request. The pharmacy's computer system must prohibit any changes to or deletions of information stored solely in electronic form unless a correction is made by or with the approval of a pharmacist.

**Controlled Substances**

AB 2240 (Bates), continued

The bill also permits authorized health care professionals and pharmacists to electronically enter prescriptions and orders into a pharmacy's or hospital's computer from an outside location, if permitted by the pharmacy or hospital. With the approval of the California State Board of Pharmacy and the Department of Justice, a pharmacy or hospital may receive electronic data transmission prescriptions and computer entry prescriptions or orders for controlled substances in Schedules II, III, IV, or V, if

authorized by federal law and in accordance with regulations promulgated by the Drug Enforcement Administration. The bill also provides that the new provisions are applicable, upon approval by the board and the department, to the recordation of these prescriptions and orders received by a pharmacy or a hospital.

***Legislative History:***

*Assembly Health (14-0)*  
*Assembly Public Safety (6-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (79-0)*

*Senate Business and Professions (7-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (38-0)*

**AB 2294 (Davis): VETOED: Ephedrine group alkaloids: dietary supplements: sale, distribution, and labeling.**

(Adds Article 4 (commencing with Section 110423) to Chapter 4 of Part 5 of Division 104 of the Health and Safety Code.)

Existing law, the Sherman Food, Drug, and Cosmetic Law, contains various provisions regarding the packaging, labeling, and advertising of food, drugs, and cosmetics. Violation of any of these provisions is a crime.

This bill would have:

1. Prohibited the sale or distribution of any dietary supplement product containing ephedrine group alkaloids, unless the product met specified requirements;
2. Imposed requirements on product labels for dietary

supplement products containing ephedrine group alkaloids;

3. Imposed requirements on companies that engage in direct marketing of any dietary supplement product containing ephedrine group alkaloids with respect to disease claims and unauthorized literature; and
4. Imposed requirements on manufacturers or distributors of dietary supplements containing ephedrine group alkaloids with respect to reports of serious adverse effects. A violation of any of these requirements would have been a misdemeanor.

***Legislative History:***

*Assembly Health (12-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (54-17)*  
*Assembly Concurrence (60-17)*

*Senate Business and Professions (5-1)*  
*Senate Appropriations (8-5)*  
*Senate Floor (26-12)*

**AB 2501 (Washington): VETOED: Minority alcohol and drug integrated treatment services networks.**

(Adds Part 1.5 (commencing with Section 11759.50) to Division 10.5 of the Health and Safety Code.)

**Existing law** requires the State Department of Alcohol and Drug Programs to implement various programs related to the use of alcohol and drugs.

make grants to eligible alcohol and drug integrated treatment services networks in certain counties.

**This bill** would have required the department to implement a three-year pilot project to

***Legislative History:***

*Assembly Health (11-3)*  
*Assembly Appropriations (14-7)*  
*Assembly Floor (53-23)*  
*Assembly Concurrence (59-15)*

*Senate Health and Human Services (6-0)*  
*Senate Appropriations (9-3)*  
*Senate Floor (25-12)*

**AB 2518 (Washington): VETOED: Crime prevention: drug endangered children. Urgency.**

(Adds and repeals Chapter 8.5 (commencing with Section 13875) of.) Title 6 of Part 4 of the Penal Code.)

**Existing law** establishes in the Office of Criminal Justice Planning (OCJP) a program of financial and technical assistance for district attorneys' offices, designated the California Major Narcotic Vendors Prosecution Law. Existing provisions of that law make various legislative findings and statements of legislative intent regarding the need to support efforts to prosecute drug producers and sellers through proven organizational and operational techniques.

cooperation with local, state, and federal law enforcement agencies, and county departments of health and children services, for the purpose of responding promptly to cases involving drug endangered children. OCJP would have been required to make an annual report to the Legislature on the fiscal and operational status of the program, with evaluations of specified criteria. The bill would have appropriated \$10,000,000 to the Office of Criminal Justice Planning to fund Drug Endangered Children Programs, on a competitive grant basis, considering specified factors, in seven specified counties and, if there were remaining funds, in up to an additional five counties. The bill would have provided

that one representative of each local agency involved in implementing a county's Drug Endangered Children Program shall form an executive committee to equitably distribute the grant funds and otherwise implement the bill.

**This bill** would have established, until July 1, 2005, a program of financial and technical assistance, through OCJP, for counties to coordinate multiagency drug endangered child response teams in

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (75-0)*  
*Assembly Concurrence (77-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*



# ***CORRECTIONS***

## **Parole/Probation**

**SB 127 (Polanco): VETOED: Prisoners: parole.**  
(Amends, repeals, and adds Section 3003 of the Penal Code.)

**Existing law** generally requires the Board of Prison Terms (BPT), in the case of indeterminately sentenced prisoners, or the Department of Corrections (CDC), in the case of determinately sentenced prisoners, to parole an inmate to the county that was the last legal residence of the inmate prior to his or her incarceration. (Penal Code § 3003(a))

**This bill** would have added the following to the criteria to be given "serious consideration" for parole out of the county of last legal residence for an inmate who participated in an in-prison drug treatment program, a mental illness treatment program, or a combined treatment program for substance abuse and a mental disorder:

release to a county that has an aftercare drug treatment program that is best aligned with the elements of the in-prison program in which the inmate participated and with the needs of the inmate and, that, if the inmate is the primary caretaker of

children, priority shall be given to placement in a county that has an aftercare program that allows children to be present.

**This bill** would have required the paroling authority to ensure that the placement of an out-of-county inmate in an aftercare program pursuant to this provision not cause the displacement of a program participant who is a resident of the county where the program is operated.

**This bill** would have required the paroling authority to report to the Legislature on or before September 1, 2004, regarding the operation of the changes made by this bill and provided for these provisions to be effective only until January 1, 2003.

**NOTE:** This bill also would have incorporated language pertaining to stalkers and parole which was added to Section 3003 by AB 1988, Chapter 153, Statutes of 2000.

### ***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations,*  
*SR 28.8*

*Senate Floor (38-0)*  
*Senate Concurrence (32-0)*

*Assembly Public Safety*  
*(5-2)*  
*Assembly Appropriations*  
*(14-6)*  
*Assembly Floor (56-21)*

**SB 499 (Burton): Chapter 652: Battered woman syndrome.**  
(Amends Section 4801 of the Penal Code.)

**Existing law** provides that the Board of Prison Terms may report to the Governor the names of persons imprisoned in any state prison who ought to have a commutation of sentence or be pardoned and set at liberty for any cause, including evidence of battered woman syndrome, as defined.

**This bill** requires the Board, in reviewing a prisoner's suitability for parole, to consider any information or evidence that, at the time of the commission of the crime, the prisoner had suffered from battered woman

syndrome, but was convicted of the offense prior to the enactment of Section 1107 of the Evidence Code by Chapter 812 of the Statutes of 1991. This bill requires the Board to state on the record the information or evidence that it considered pursuant to this subdivision, and the reasons for the parole decision. This bill also requires the Board to annually report to the Legislature and the Governor on the cases the board considered pursuant to this subdivision during the previous year, including the Board's decision and the findings of its investigations of these cases.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence (36-0)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (61-7)*

**SB 1343 (Monteith): Chapter 314: Parolees.**  
(Adds Section 3058.65 to the Penal Code.)

**Existing law** imposes specified requirements on the parole authority to notify local law enforcement about pending parolees who have been convicted of violent felonies.

**This bill** imposes these requirements on parolees who have been convicted of specified crimes involving child abuse as specified, or any sex offense specified as being perpetrated against a minor, or as ordered by a court, is scheduled to be released. However, the notice is

required instead to be given to the immediate family of the parolee who requests that notification and who provides the department with a current address. In addition to the specified information stated above, the required notice also must include the parolee's terms of parole.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Health and Human Services (6-0)*

*Senate Appropriations (13-0)*

*Senate Floor (40-0)*

*Senate Concurrence (39-0)*

*Assembly Public Safety (7-0)*

*Assembly Human Services (7-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (62-0)*

**Corrections**

**SB 2023 (Lewis): Chapter 658: Interstate Compact for the Supervision of Adult Offenders.**

(Adds Article 3.5 (commencing with Section 11180) to Chapter 2 of Title 1 of Part 4 of the Penal Code.)

**Existing law** provides for various interstate compacts pertaining to persons convicted of offenses.

**This bill** enacts the Interstate Compact for Adult Offender Supervision, to be effective upon adoption of the compact by 35 states. The compact provides for the adoption of votes by a commission to

govern the interstate movement of criminal offenders. This bill also provides for the California Council for Interstate Adult Offender Supervision, appointed as specified. (This new compact, when ratified, will replace the interstate compact for the supervision of Parolees and Probationers established in 1937.)

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations (11-0)*  
*Senate Floor (39-0)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (77-0)*

**SB 2087 (Hughes): VETOED: Corrections: program for female parolees.**

(Adds Chapter 5 (commencing with Section 3450) to Title 2 of Part 3 of the Penal Code.)

**Existing law** directs the Department of Corrections (CDC) to establish three pilot programs for intensive training of female parolees to allow them to reintegrate into society following in-prison therapeutic community drug treatment. (Pen. Code § 3054)

**This bill** would have authorized CDC to contract with a non-profit agency located in downtown Los Angeles to

establish a residential program for female parolees who commit minor drug-related parole violations. This "Halfway Back" Program would have included the following:

- A maximum of 180 beds in a secure facility
- Behavioral counseling, educational programs and vocational training

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (10-1)*  
*Senate Floor (32-8)*  
*Senate Concurrence (23-6)*

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (15-5)*  
*Assembly Floor (57-17)*

## Prisons and Prisoners

**SB 577 (Peace): Chapter 987: Corrections: correctional cadet training. Urgency.**  
(Amends Section 13602 of, and adds Section 13603 to, the Penal Code.)

**Existing law** authorizes the Department of Corrections to use the training academy at Galt and the Department of the Youth Authority to use the training academy at Stockton and requires each new cadet who attends an academy after July 1, 2000, to complete a specified course of training approved by the Commission on Correctional Peace Officers Standards and Training before he or she may be assigned to a post or job as a peace officer.

**This bill** (1) changes the date for each cadet to complete the specified new training to those who attend training after July 1, 2001, and, (2) requires the Department of Corrections and the Department of the Youth Authority to provide 16 weeks of training to each correctional peace officer cadet—currently 6 weeks—and a minimum of two weeks of training to each newly appointed first line supervisor.

### ***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (39-0)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (77-0)*

**SB 1256 (Polanco): Chapter 754: Hepatitis C: outreach and testing.**  
(Amends Sections 122405 and 122410 of, and adds Sections 122406, 122415, and 122420 to, the Health and Safety Code.)

**Existing law** in the Hepatitis C Education, Screening, and Treatment Act, requires the State Department of Health Services to make available protocols and guidelines developed by the National Institutes of Health and California legislative advisory committees on hepatitis C for educating physicians and health professionals and training community service providers and provides that these guidelines may include education programs for specified high-risk individuals.

**This bill** provides that the guidelines may also include outreach programs; expands the categories of high-risk individuals for which these programs are targeted to include

the prison population; and includes a requirement that the Director of Corrections shall report on the prevalence of the hepatitis C virus in correctional facilities and trends in the incidence and prevalence of the hepatitis C virus in the correctional system; shall establish and make available a voluntary program to test inmates for the presence of the hepatitis C virus upon incarceration and in conjunction with any routine blood testing, and shall update treatment protocols and regimens as new therapies become available. This bill requires the Director of Health Services to develop a program to work with the Department of Corrections to

identify hepatitis C virus-positive inmates likely to be released within two years and provide counseling and treatment options to reduce the community risk and appropriates two million dollars to the State Department of Health Services for implementation of specified provisions of the bill.

### ***Legislative History:***

*Senate Health and Human Services (6-0)*  
*Senate Floor (29-7)*  
*Senate Concurrence (34-1)*

*Assembly Health (15-0)*  
*Assembly Appropriations (19-1)*  
*Assembly Floor (74-1)*

**SB 1458 (Lewis): VETOED: Inspector General: restrictions on post-government employment.**

(Adds Section 87406.2 to the Government Code.)

**Existing law** creates the Office of the Inspector General with jurisdiction over entities within the Youth and Adult Correctional Agency and an Inspector General with jurisdiction pertaining to the Department of Veterans Affairs.

**This bill** would have amended the Political Reform Act of 1974 to apply the existing prohibitions on post-government

employment to those offices of inspector general to prohibit appearances before the department that were within the jurisdiction of the former inspector general for two years after leaving office.

***Legislative History:***

*Senate Elections and Reapportionment (3-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*  
*Senate Concurrence (40-0)*

*Assembly Elect., Reapport. & Const. Amend. (8-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (62-0)*

**SB 1735 (Hayden): VETOED: Institutional violence.**

(Adds Section 5018 to the Penal Code.)

**Existing law** recognizes that persons confined in a correctional facility retain their civil rights and may only be deprived of those rights that are reasonably related to legitimate penological interests. Existing law also punishes an officer for willful inhumanity or oppression toward any prisoner under his or her care or in his or her custody by imposing a fine not to exceed \$4,000 and by removal from office.

**This bill** would have enacted findings and declarations regarding abuse and violence in the state correctional system. Additionally, the bill would have declared that it is the policy of

this state to minimize or prevent all forms of intimidation, brutality, and violence in state-supported incarceration facilities, as specified. It would have required the Inspector General to contract with independent, academic social science researchers on a one-time basis to analyze the causes and patterns of violence, and to make recommendations for violence reduction, including an independent evaluation of pilot projects intended to prevent violence. This bill would have required the Inspector General to submit a report on this study, as specified, no later than January 1, 2002, as specified.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations (9-1)*  
*Senate Floor (30-0)*  
*Senate Concurrence (26-8)*

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (15-5)*  
*Assembly Floor (53-22)*

**SB 1831 (Burton): VETOED: Corrections: funding. Urgency.**  
(Uncodified Law.)

**Existing law** in the Budget Act of 2000 make various appropriations for the support of state government, including the Department of Corrections.

**This bill** would have provided that certain funds appropriated by the 2000 Budget Act to the Secretary of the Youth and Adult Correctional Agency would be first-year funding for a prescribed four-year epidemiological treatment

prevention study involving Hepatitis C and required the secretary to report findings and recommendations to the Legislature by August 1, 2005. The bill also would have appropriated \$125,000 from the General Fund to the Department of Corrections for preliminary plans for a new medical examination facility at the California Medical Facility at Vacaville.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence (40-1)*

*Assembly Appropriations (21-0)*  
*Assembly Floor (62-9)*

**SB 1845 (Polanco): VETOED: Prisons: inmate education.**

(Adds Chapter 10.7 (commencing with Section 6500) to Title 7 of Part 3 of, and repeals Section 2053.4 of, the Penal Code.)

**Existing law** establishes the position of Superintendent of Correctional Education to oversee and administer all prison education programs. The Superintendent shall set both short-and long-term goals for inmate literacy and testing and establishes priorities for prison education programs. (Penal Code § 2053.4)

**This bill** would have repealed the existing Superintendent's position and established instead the Correctional Education Board within the Department of Corrections, composed of 15 members, appointed as specified. The board's duties

would have included approving education programs in correctional institutions and providing every inmate who has a reasonable expectation of release, as specified, with the opportunity to achieve a specified level of functional literacy, among other educational benefits, and an opportunity to obtain the equivalent of a high school education if the inmate has demonstrated the intellectual capacity to benefit from that additional education. Specified college-level courses also would have been provided. The board would have appointed a Director of Correctional Education.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (8-0)*  
*Senate Floor (35-3)*  
*Senate Concurrence (37-1)*

*Assembly Public Safety (5-2)*  
*Assembly Appropriations (15-2)*  
*Assembly Floor (54-18)*

**SB 1910 (Dunn): Chapter 902: Youth and Adult Correctional Agency: peace officer/firefighter supervisors.**

(Adds Sections 19849.22 and 20687.2 to the Government Code.)

**Existing law** creates the Youth and Adult Correctional Agency.

**This bill** does the following:

1. States that in order to attract and retain a competent correction workforce, a supervisory compensation differential is necessary to compensate state peace officer/firefighter members who are supervisors within the Youth and Adult Correctional Agency;
2. Appropriates \$500,000 from the General Fund to address the problems related to compensation compaction for correctional supervisors in the Youth and Adult Correctional
3. Changes, beginning May 1, 2001, the normal rate of contribution for retirement for state peace officer/firefighter members who are supervisors within the Youth and Adult Correctional Agency from 8% of compensation in excess of \$238 to 8% of compensation in excess of \$863;
4. Requires the Department of Personnel Administration to report to the Legislature, on or before March 31, 2001, on the adjustments necessary to eliminate or reduce remaining compaction in the correction workforce in the Budget Act of 2001.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence (40-0)*

*Assembly Floor (76-2)*

**SB 1978 (Hayden): VETOED: CDC/CYA: telephone service contracts.**

(Adds Section 10108.8 to the Public Contract Code and Uncodified Law.)

**Existing law** imposes specified procedural and substantive content requirements on contracts entered into by state agencies, including the Department of Corrections and Department of Youth Authority contracts for inmate and ward phone calls.

**This bill** would have enacted findings and declarations of the Legislature with regard to the availability and cost of telephone services to inmates within the custody of the Department of Corrections and wards of the California Youth Authority, and their families and loved ones,

and provided that any contract to provide telephone services to wards of the Department of the Youth Authority or to inmates in state prisons would be negotiated and awarded in a manner to provide for the lowest reasonable costs to wards and inmates, and their families and loved ones, and to pay for any expenses of the Department of Corrections and the Department of the Youth Authority, as well as for the reasonable costs of the Department of General Services for establishing and administering any necessary telephone contract, and profits to these departments or the state would not be a basis for awarding a contract.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations (12-0)*  
*Senate Floor (37-0)*  
*Senate Concurrence (24-10)*

*Assembly Public Safety (5-3)*  
*Assembly Appropriations (14-6)*  
*Assembly Floor (55-19)*

**SCR 91 (Polanco): Resolution Chapter 156: Joint Legislative Committee on Prison Construction and Operations.**

Existing resolution language from Senate Concurrent Resolution 67 of the 1998-99 Regular Session reauthorized the existence of the Joint Legislative Committee on Prison Construction and Operations until November 30, 2000

Operations to assume primary responsibility for providing legislative scrutiny over prison construction and operations, including investigation of inmate population management issues, until November 30, 2002.

**This resolution** reestablishes the Joint Legislative Committee on Prison Construction and

***Legislative History:***

*Senate Rules (5-0)*  
*Senate Floor (40-0)*

*Assembly Rules (8-0)*  
*Assembly Floor (53-14)*

**AB 132 (Migden): VETOED: Youth and Adult Correctional Agency: correctional managers.**

(Adds Section 12811.01 to the Government Code.)

Existing law establishes the Youth and Adult Correctional Agency consisting of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, the Board of Corrections, the Correctional Industries Commission, the Institutional Review Board, and the Narcotic Addiction Evaluation Authority.

Legislature concerning the need for leadership training for correctional managers and would have directed the Youth and Adult Correctional Agency to report to specified committees of the Legislature by March 31, 2001, on a plan with specified requirements designed to improve the education and training of future leaders within the Departments of Corrections and the Youth Authority.

**This bill** would have enacted findings and declarations of the

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Public Safety (5-0)*

*Assembly Concurrence (75-0)*

*Senate Public Safety (5-0)*  
*Senate Floor (40-0)*



**AB 1449 (Florez): Chapter 627: Prisoners: crime of aggravated battery by gassing.**  
(Amends Section 4501.1 of, and adds Section 243.9 to, the Penal Code, and adds Section 1768.85 to the Welfare and Institutions Code.)

**Existing law** provides that every person confined in the state prison who commits a battery upon the person of any officer or employee of the state prison by "gassing," as defined, is guilty of aggravated battery, a felony; these provisions will only remain in effect until January 1, 2001, and on that date are repealed as specified.

**This bill** deletes the sunset on the section pertaining to inmates at state prisons; provides that those provisions of law are applicable to any "peace officer" rather

than "officer of the state prison"; extends the prohibition in those provisions to any person confined in an institution under the jurisdiction of the Department of the Youth Authority or a local detention facility; requires a report by the Department of the Youth Authority, as specified; requires actual contact with the victim's skin or membranes in order to constitute the offense; makes the offense punishable as a misdemeanor or a felony; and makes related changes in law.

***Legislative History:***

*Assembly Public Safety (8-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (73-0)*

*Assembly Concurrence (74-1)*

*Senate Public Safety (5-0)*

*Senate Appropriations (10-0)*

*Senate Floor (40-0)*

**AB 1478 (Baugh): Chapter 249: Restitution centers: inmates.**  
(Adds Sections 6224.5 and 6227.5 to the Penal Code.)

**Existing law** provides that the Director of the CDC may establish and operate facilities known as restitution centers. The purpose of restitution centers is to provide those sentenced to prison to be able to pay their victims financial restitution as ordered by the court. (Penal Code §§ 6220 and 6221.)

**This bill** does the following:

1. Authorizes the Director of the Department of Corrections to commingle inmates

sentenced to a restitution center with inmates in transit for community correctional reentry center placement.

2. Requires the Judicial Council to provide information to sentencing courts in those areas served by a restitution center to ensure that the judges responsible for sentencing are aware of the existence of the restitution center.

***Legislative History:***

*Assembly Public Safety (8-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (76-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (37-0)*

**AB 1597 (Migden): VETOED: Terminally ill female inmates.**  
(Adds Section 6107 to the Penal Code and Uncodified Law.)

**Existing law** establishes the California Medical Facility under the jurisdiction of the Department of Corrections for the receipt, segregation, confinement, treatment, and care of male prisoners who are, among other things, suffering from any chronic disease or condition. Existing law also authorizes the Director of the Department of Corrections to establish pilot projects in which the department contracts with private sector health care facilities for the provision of medical, developmental, and mental health services, including treatment for chronic diseases or conditions, and provides specified requirements on facilities used for this purpose.

**This bill** would have required the Director of Corrections to “ensure that all terminally ill female inmates receiving hospice

care in the Central California Women’s Facility in Chowchilla operated by the Department of Corrections receive a standard of hospice care equivalent to the services provided by the hospice care unit at the California Medical Facility in Vacaville. Hospice care, as used in this section, referred to licensed services provided in accordance with the adopted standards of the State Department of Health Services to persons who can no longer benefit from curative treatment, and who have a life expectancy of six months or less.” This bill also stated legislative intent “to encourage the Department of Corrections and the University of California to establish a medical residency program between the University of California and the California Medical Facility. This residency program should be required to

meet all regular accreditation and specialty certification requirements as any other medical residency program operated by the University of California.” (See AB 2108)

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(72-0)*

*Senate Floor (36-0)*

**AB 1654 (Steinberg): VETOED: Department of Corrections: Transitional Case Management Program for seriously mentally disordered offenders. Urgency.**  
(Adds Section 2985 to the Penal Code.)

**Existing law** creates the Department of Corrections and services provided by the Department of Correction’s Transitional Case Management Program are provided for only 90 days.

**This bill** would have provided that those services shall be maintained for at least one year; that these services would vary appropriately according to the needs of individual parolees and would be based on the

integrated service agency model; and would require that the services maximize federal and other funds to offset program costs.

**NOTE:** The State Budget sent to the Governor contained similar language in 5240-001-0001– Department of Corrections– Provision 23; that language was vetoed by the Governor.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(76-0)*

*Senate Floor (27-10)*

**AB 1890 (Rod Pacheco and Reyes): Chapter 525: Prisoners: work outside prisons: security and clothing.**

(Adds Section 2717 to the Penal Code.)

**Existing law** provides for the employment of state prisoners outside the prison grounds in road cleanup crews and fire crews, as specified.

(commencing with § 2760) or fire crews pursuant to Article 5 (commencing with § 2780) to wear distinctive clothing for identification purposes.

**This bill** provides that the Department of Corrections shall require prisoners who are working outside the prison grounds in road cleanup crews pursuant to Article 4

***Legislative History:***

*Assembly Public Safety (8-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (74-0)*

*Senate Public Safety (4-0)*

*Senate Appropriations (13-0)*

*Senate Floor (40-0)*

**AB 1999 (Dickerson): Chapter 709: Conservation camps. Urgency.**

(Uncodified Law.)

**Existing law** establishes conservation camps, and provides for the transfer of inmates as specified to be housed and employed therein.

requirements and the need at camps; declares the intent of the Legislature to continue to expand the conservation camp program; and directs the Secretary of the Resources Agency to provide by November 1, 2001, a report to the Legislature and Governor on additional inmate and civilian conservation camp construction or expansion needs.

**This bill** states findings and declarations of the Legislature regarding the benefits to the state of an expanded conservation camp program; directs the Department of Corrections to maximize the availability of conservation camp qualified inmates, subject to specified health and safety

***Legislative History:***

*Assembly Natural Resources (11-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (74-1)*

*Senate Natural Resources and Wildlife (8-0)*

*Senate Public Safety (4-0)*

*Senate Appropriations (13-0)*

*Senate Floor (40-0)*

**AB 2101 (Migden): VETOED: Media access to prisoners.**  
 (Adds Sections 2602 and 2603 to the Penal Code.)

**Existing law** vests the Director of the Department of Corrections with the supervision, management and control of the state prisons and is responsible for the care, custody, treatment, training, discipline and employment of a person confined in those prisons. The Director may prescribe rules and regulations for the administration of the prisons. (Penal Code §§ 5054 and 5058) State prisoners may only be deprived of rights during confinement as is reasonably related to legitimate penological interests. (Penal Code § 2600)

**This bill** would have stated Legislative intent to invalidate changes in Section 3261.5 of Title 15 of the California Code of Regulations for which a certificate of compliance was filed on April 14, 1997 to the extent it was inconsistent with Sections 2602 and 2603 of the Penal Code, pertaining to restrictions on the access of news media to specific state inmates.

**This bill** also would have done the following:

1. Provided that the Department of Corrections shall permit representatives of the news media to visit prisoners in person during a prisoner's regular visitation hours, subject to the normal friends' and relatives' visiting approval process except as provided by this bill.
2. Provided that once approved for visits at any institution, a

representative of the news media shall be allowed during a one-year, renewable period to visit any prisoner at that institution who is entitled to visitation and is willing to receive visits from a representative of the news media. The department may have established reasonable time, place, and manner restrictions to ensure the security of the institution and to accommodate the efficient administration of a news media interview during a regularly scheduled visiting period. Nothing in this bill would have prohibited an official of the department or a warden of a particular institution, in his or her discretion, from adopting a policy providing for prearranged visitation rights or greater access policies for representatives of the news media.

3. Provided that the department shall permit random interviews of individuals encountered by a representative of the news media while covering a facility tour, activity, program, or event; and that during any random interview or visit with a prisoner, a representative of the news media may use materials necessary to conduct the interview, including, but not limited to, pens, pencils, papers, cameras, and audio and video recording devices.
4. Provided that the department shall permit the news media

to receive confidential correspondence from a prisoner unless to do so would pose an immediate and direct threat to the security of the institution or the physical safety of the public; that no prisoner or parolee shall be interviewed or receive a visit from a representative of the news media against his or her wishes; and that no prisoner or parolee may have his or her visitation limited or revoked because of a visit or potential visit from a representative of the news media, nor may a prisoner or parolee be punished, reclassified, disciplined, or transferred to another prison against his or her wishes, for participating in a visit by a representative of the news media.

***Legislative History:***

*Assembly Public Safety (7-1)*  
*Assembly Appropriations (19-2)*  
*Assembly Floor (50-21)*  
*Assembly Concurrence (54-19)*  
  
*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (25-4)*

**AB 2108 (Migden): VETOED: Terminally ill female inmates: other programs.**  
(Amends Section 1174.4 and adds Section 6107 to the Penal Code and Uncodified Law.)

**Existing law** establishes the California Medical Facility under the jurisdiction of the Department of Corrections for the receipt, segregation, confinement, treatment, and care of male prisoners who are, among other things, suffering from any chronic disease or condition. Existing law also authorizes the Director of the Department of Corrections to establish pilot projects in which the department contracts with private sector health care facilities for the provision of medical, developmental, and mental health services, including treatment for chronic diseases or conditions, and provides specified requirements on facilities used for this purpose.

**This bill** would have done the following:

1. Declared the Legislature's intent to encourage the Department of Corrections and the University of California to establish a medical residency program between the University of California and the California Medical Facility, as specified.
2. Required the Director of Corrections to ensure that all terminally ill female inmates in the Correctional Women's Facility receive a standard of hospice care equivalent to the services provided by the hospice care unit at the men's medical facility in Vacaville, as specified. (See AB 1597.)
3. Changed the eligibility for the pregnant and parenting women's alternative sentencing program, as specified.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (70-0)*  
*Assembly Concurrence (77-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (37-0)*

**AB 2315 (Mazzoni): VETOED: Children of incarcerated parents.**

(Adds Section 1203.15 to the Penal Code, and adds Chapter 6 (commencing with Section 16575) to Part 4 of Division 9 of the Welfare and Institutions Code.)

**Existing law** provides various services for the care of children, including foster care placement, child welfare services, services for children who are exposed to alcohol or drugs or who are HIV positive.

**This bill** would have done the following:

1. Required that the probation report filed by the probation officer with the court prior to sentencing pursuant to

Section 1203 shall include a discussion of whether or not a defendant over 18 years of age has children, and what arrangements exist for the care of a defendant's children if the defendant is to be incarcerated, as specified. At the option of county boards of supervisors, this section of the presentencing report would have been referred to the County Child Protective Services Agency for

assessment, review, and appropriate disposition to ensure the safety, protection, and physical and emotional well-being of children who are at risk of harm.

2. Enacted the Children of Incarcerated Parents Act of 2000, with Legislative declarations, and required the Attorney General to convene a study group within six months of enactment of

this act to include representatives of state and local law enforcement, child welfare and mental health agencies, parents who have been incarcerated, individuals who were minors during periods when a parent was incarcerated, and the courts for the purpose of developing, by March 2002, a model

protocol, to be disseminated as specified, that addresses how best to ensure the temporary and long-term safety, security, and care of children at the time of their parent's arrest, including the role and responsibilities of the arresting officer to make appropriate inquiries and referrals.

***Legislative History:***

*Assembly Human Services (6-0)*

*Assembly Appropriations (17-4)*

*Assembly Floor (64-13)*

*Assembly Concurrence (61-15)*

*Senate Health and Human Services (6-1)*

*Senate Appropriations (7-3)*

*Senate Floor (23-12)*

**AB 2316 (Mazzoni): Chapter 965: Children of incarcerated women.**

(Adds Chapter 17 (commencing with Section 7440) to Title 7 of Part 3 of the Penal Code.)

**Existing law** requires that the Department of Corrections establish and implement a community treatment program for women sentenced to state prison who have one or more children under the age of 6 years, with the prime concern the establishment of a safe and wholesome environment for the participating children.

**This bill** requires the California Research Bureau in the California State Library, pursuant to specified guidelines, to conduct a study

of the children of women who are incarcerated in state prisons and requires the bureau to convene an advisory group to assist in designing and administering the study.

***Legislative History:***

*Assembly Public Safety (6-1)*

*Assembly Appropriations (14-0)*

*Assembly Floor (60-12)*

*Assembly Concurrence (74-2)*

*Senate Public Safety (6-0)*

*Senate Appropriations (13-0)*

*Senate Floor (26-10)*

**AB 2429 (Wildman): Chapter 640: Education of prisoners: local funding. Urgency.**  
(Amends, repeals, and adds Section 41841.6 of the Education Code.)

**Existing law** sets forth a formula for the calculation of average daily attendance for schools or classes for adults in correctional facilities, and provides that a school district or county board of education may not claim or report any increase in average daily attendance in excess of the authorized limit of adult education average daily attendance unless the Legislature approves the increase for that fiscal year in the annual Budget Act.

**This bill** revises, for the 2000-01 fiscal year, the formulas so that a school district or county board of education may not claim or report any increase in average daily attendance generated in the 2000-01 fiscal year for schools or classes for adults in correctional facilities in excess of the average daily attendance claimed and authorized during the previous fiscal year multiplied by a factor of 1.025 to 1.14, as specified, and makes changes to other formulas, as well.

***Legislative History:***

*Assembly Education (19-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (76-0)*  
*Assembly Concurrence (74-1)*

*Senate Education (13-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*

**AB 2866 (Migden): Chapter 127: State government: Department of Corrections. Urgency.**

(Adds Section 13698.7 to the Government Code and Sections 3006 and 5025 to the Penal Code.)

**Existing law** establishes a Victims of Crime Program and creates the California Department of Corrections.

**This bill** does the following:

1. Provides that the State Board of Control may enter into an interagency agreement with the University of California, San Francisco to establish a victims of crime recovery center at the San Francisco General Hospital to demonstrate the effectiveness of providing comprehensive and integrated services to victims of crime, subject to this article and conditions set forth by the State Board of Control. This provision becomes inoperative on January 1, 2005. (Provision vetoed by the Governor. See AB 2491.)

2. Allows the Department of Corrections to require parolees participating in relapse prevention treatment programs or receiving medication treatments intended to prevent them from committing sex offenses to pay some or all of the costs associated with this treatment, subject to the person's ability to pay.

3. Allows the Director of the Department of Corrections to adopt regulations requiring manufacturers of drugs to pay the department a rebate for the purchase of drugs for offenders in state custody that is at least equal to the rebate that would be applicable to the drug under Section 1927(c) of the federal Social Security Act (42 U.S.C. Sec.

1396r-8(c)). Any such regulation shall, at a minimum, specify the procedures for notifying drug manufacturers of the rebate requirements and for collecting rebate payments.

**NOTE:** This bill is an omnibus budget trailer bill; only the three provisions relevant to the criminal justice system are noted here.)

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence (58-7)*

*Senate Floor (35-1)*

# ***COURT HEARINGS AND PROCEDURES***

## **Bail**

**AB 2595 (Cardenas): VETOED: Bail: exoneration: foreign or domestic jurisdiction. (Amends Section 1305 of the Penal Code.)**

Existing law provides that if an on-bail defendant fails to appear for arraignment, trial, judgment, or any other scheduled court appearance, the bail is forfeited unless the clerk of the court fails to give proper notice to the surety or depositor within 30 days, or the defendant is brought before the court within 180 days. (Pen. Code § 1305, subds. (a) and (b)) The court, on its own motion, must exonerate bail where a defendant surrenders or is recaptured within 180 days of forfeiture. Bail is automatically exonerated where the court fails to act. (Pen. Code § 1305, subd. (c)) In the case of a temporary disability of the defendant to appear within the 180-day forfeiture exoneration period, the court shall order the tolling (suspension of the running) of the 180-day period for a reasonable time. (Pen. Code § 1305, subd. (e)) A timely filed motion to extend the 180-day period allowing exoneration of bail may be heard within 30 days of the expiration of the 180-day period, and that the 30-day period can be extended for good cause. The court may also require the moving party to give ten days' prior notice to the applicable prosecuting agency as

a condition precedent to granting the motion. (Pen. Code § 1305, subd. (i).) A surety insurer, bail agent, surety or depositor may file a motion for an order extending the 180-day forfeiture period. (Pen. Code § 1305.4)

**This bill** would have included deportation as a temporary disability that allows the court to toll the 180-day period to vacate an order of forfeiture and exonerate the bond. The bill would have allowed a court to vacate an order of forfeiture and exonerate the bond, under the category of permanent disability, where federal law prohibits a defendant's reentry into the United States. Where a defendant who has forfeited bail is later temporarily detained in a foreign or domestic jurisdiction by a bail agent in the presence of a local law enforcement officer, the bill would have provided that the 180-day period may be tolled if the prosecuting agency seeks extradition or foreign prosecution. Where a defendant is held in custody in a foreign jurisdiction and the prosecutor fails to seek extradition, despite the ability to do so, bail forfeiture would have been vacated.

### ***Legislative History:***

*Assembly Public Safety (5-2)*  
*Assembly Floor (61-15)*  
*Assembly Concurrence (62-12)*

*Senate Public Safety (6-0)*  
*Senate Floor (33-0)*



## **Criminal Procedure**

### **SB 1574 (Alarcon): Chapter 42: Criminal procedure: deferred entry of judgment: reimbursement of costs.**

(Amends Section 1000.3 of the Penal Code.)

**Existing law** provides procedures for defendants who are dismissed from deferred entry of judgment programs. Existing law also requires that the court, prior to dismissing the charge or charges, consider the defendant's ability to pay and whether the defendant has paid a diversion restitution fee, has paid an administration fee to the probation department, and has met his or her financial obligation to the program.

**This bill** requires that the court, prior to rendering a finding of guilt and entering judgment,

consider the defendant's ability to pay a diversion restitution fee and whether the defendant has met his or her financial obligation to the program. This bill eliminates the requirement that the court consider whether the defendant has paid an administration fee to the probation department. This bill also requires the defendant to reimburse the probation department for the reasonable cost of any program investigation or progress report filed with the court, as specified.

#### ***Legislative History:***

*Senate Public Safety (4-0)  
Senate Floor (37-0)*

*Assembly Public Safety  
(6-0)  
Assembly Floor (71-0)*

### **SB 1715 (Ortiz): Chapter 207: Child witness: closed circuit television.**

(Amends and repeals Section 1347 of the Penal Code.)

**Existing law** authorizes a minor under the age of 13 years, to give testimony by way of a closed-circuit television under specified circumstances and procedures if the minor's testimony will involve a recitation of the facts under either one of two circumstances, namely (1) an alleged sexual offense committed on or with that minor or (2) the minor is a victim of a violent felony as

defined. The statute sunsets on January 1, 2001.

**This bill** extends the sunset provision to January 1, 2003.

#### ***Legislative History:***

*Senate Public Safety (4-0)  
Senate Appropriations,  
SR 28.8  
Senate Floor (38-0)*

*Assembly Public Safety  
(6-0)  
Assembly Appropriations  
(21-0)  
Assembly Floor (77-0)*

**SB 1769 (Chesbro): VETOED: Mental health courts.**  
(Adds Section 6045.3 to the Penal Code.)

**Existing law** establishes various court diversion and alternate sentencing procedures and programs for specified crimes and defendants. Among other things, the Board of Corrections awards and administers grants to counties that administer a program to reduce crime and costs related to mentally ill offenders.

**This bill** would have allowed this program to provide for the development and implementation of a mental health court and specified the criteria and objectives of the mental health courts.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Health and Human Services (6-1)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (25-10)*  
*Senate Concurrence (27-10)*

*Assembly Public Safety (5-2)*  
*Assembly Health (9-5)*  
*Assembly Appropriations (14-6)*  
*Assembly Floor (46-28)*

**AB 1840 (Bates): Chapter 399: Crime prevention programs: fines.**  
(Amends Section 1202.5 of the Penal Codes.)

**Existing law** provides that persons convicted of certain crimes may, at the court's discretion, be required to pay a \$10 fine that is used to implement local crime prevention programs, as specified.

collected would be held in trust for crime prevention purposes. The bill would add forgery, theft, and vandalism to the list of offenses subject to the fine.

**This bill** makes imposition of the \$10 fine mandatory and provides that the amounts

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Floor (74-0)*  
*Assembly Concurrence (75-0)*

*Senate Public Safety (4-1)*  
*Senate Floor (36-0)*

**AB 1860 (Migden): Chapter 377: Confidentiality: news sources: unpublished information.**

(Adds Section 1986.1 to the Code of Civil Procedure.)

**Existing law**, in the California Constitution, provides that a journalist, as specified, may not be held in contempt for refusing to disclose a news source or unpublished information gathered for news purposes.

**This bill** provides with respect to that constitutional provision, that (1) no testimony or other evidence given by a journalist under subpoena in a civil or criminal proceeding may be construed as a waiver of the immunity rights provided by that constitutional provision; that (2) except in exigent circumstances, a journalist who is subpoenaed

in a civil or criminal proceeding shall be given at least 5 days' notice that his or her appearance will be required; and that (3) if a trial court holds a journalist in contempt of court in a criminal proceeding notwithstanding that constitutional provision, the court shall set forth findings, either in writing or on the record, stating, at a minimum, why the information will be of material assistance to the party seeking the evidence, and why alternate sources of the information are not sufficient to satisfy the defendant's right to a fair trial under the 6th Amendment to the United States Constitution.

***Legislative History:***

*Assembly C.P., G.E. & E.D. (7-0)*

*Assembly Judiciary (14-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (73-0)*

*Senate Public Safety (5-0)*

*Senate Judiciary (9-0)*

*Senate Floor (38-0)*

**AB 1891 (Lowenthal): Chapter 186: Criminal procedure: witnesses: conditional examination.**

(Amends Section 1336 of the Penal Code.)

**Existing law** provides that a criminal defendant or the people may have witnesses examined conditionally, for specified reasons, including a situation where the witness is sick or infirm.

**This bill** additionally includes in this provision the

conditional examination of a witness who is a person 70 years of age or older or a "dependent adult," as defined.

***Legislative History:***

*Assembly Public Safety (7-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (71-0)*

*Assembly Concurrence (75-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (37-0)*

**AB 2063 (Zettel): Chapter 97: Elder abuse: evidence.**  
(Amends Section 1109 of the Evidence Code.)

**Existing law** provides evidence of a person's character, such as opinion or specific instances of conduct, is generally not admissible to prove a defendant's conduct on a particular occasion, with specified exceptions. Existing law provides, however, that when a defendant is accused of domestic violence in a criminal action, evidence of the defendant's prior acts of domestic violence may be admitted to prove the defendant's conduct, except when the acts occurred more than 10 years ago or the court exercises its discretion to

exclude the evidence of prior acts, as specified.

**This bill** permits evidence of prior acts of abuse of an elder or a dependent adult to be admitted to prove the defendant's conduct when the defendant is accused of abuse of an elder or a dependent adult, as specified, with the same restrictions as described above and with the restriction that evidence of the findings and determinations of administrative agencies regulating the conduct of health facilities is inadmissible under these provisions.

***Legislative History:***

*Assembly Judiciary  
(15-0)*

*Assembly Floor (71-0)*

*Assembly Concurrence  
(76-0)*

*Senate Public Safety  
(4-0)*

*Senate Floor (39-0)*

**AB 2125 (Rod Pacheco): Chapter 268: Criminal procedure: death penalty.**  
(Amends Section 1050 of the Penal Code.)

**Existing law** requires the courts to give criminal proceedings, including the setting for trial and hearing of the matter, precedence over any civil matters or proceedings.

**This bill** requires that the courts give death penalty cases in which both the prosecution and the defense have informed

the court that they are prepared to proceed to trial precedence over other criminal proceedings and over civil matters, including the setting for trial and hearing of the matter, unless the court finds in the interest of justice that it is not appropriate.

***Legislative History:***

*Assembly Public Safety  
(7-0)*

*Assembly Floor (70-1)*

*Assembly Concurrence  
(75-1)*

*Senate Public Safety  
(5-0)*

*Senate Floor (38-0)*

# DNA

## **SB 1342 (Burton): Chapter 821: Forensic testing: post conviction.**

(Adds Section 1405 to, and adds and repeals Section 1417, of the Penal Code.)

**Existing law** does not specifically provide a procedure for post-conviction discovery or the post-conviction testing or retesting of evidence for DNA.

**This bill** provides that a person convicted of a felony who is currently incarcerated may apply to have evidence tested for DNA when such evidence is available, identity was an issue at trial and DNA testing would raise a reasonable probability that the verdict or sentence would have been more favorable if the DNA testing had been available at trial. The court shall grant the testing if these factors are met. This bill also provides that counsel shall be appointed for

the incarcerated person and that the state shall pay for the testing if the person is indigent.

Existing law does not specifically require the retention of evidence after a conviction.

This bill provides that the appropriate governmental agency shall retain all biological evidence obtained in a criminal investigation. If the agency wishes to destroy any biological evidence it must first notify the AG, DA, defendant and defense attorney and give the defendant 90 days to file specified documents that can stop the destruction of the evidence.

### ***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (14-6)*  
*Assembly Floor (77-0)*  
*Assembly Floor (76-0)*

## **SB 1818 (Speier): Chapter 822: DNA data base.**

(Adds Title 12.5 (commencing with Section 14250) to Part 4 of, and repeals Section 14251 of, the Penal Code.)

**Existing law** establishes DNA and Forensic Identification Data Base and Data Bank and requires the Department of Justice to be responsible for the management and administration of the data base and data bank identification program. The program includes DNA samples for offenders of specified sex offenses and violent felonies.

**This bill** requires the Department of Justice to create a data bank

of missing persons. The data bank would compare the DNA of missing persons or their relatives with the DNA of unidentified deceased persons. The bill requires the agency investigating a missing person to inform the person's parents or other relative that they may give a DNA sample to the data bank.

### ***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (9-2)*  
*Senate Floor (22-7)*  
*Senate Concurrence (24-8)*

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (15-6)*  
*Assembly Floor (59-16)*

**AB 2814 (Machado): Chapter 823: DNA testing.**

(Amends Sections 296, 296.1, 297, 298, 299, and 299.5 of the Penal Code.)

**Existing law** requires persons convicted of specified offenses to submit a DNA sample for inclusion in the statewide DNA data bank which is administered by the Department of Justice. The samples in the data bank are then run against the unsolved crime data bank, which is also administered by the Department of Justice, in the hope of solving unsolved crimes. Existing law specifically prohibits comparing the DNA sample of a non-convicted person against the samples in the unsolved crime data bank.

**This bill** creates an exception to the rule that DNA samples from a non-convicted person may not be placed in the data bank by allowing the comparison of a sample taken from a person who has been indicted or held to answer and allows that sample to be included in the data bank for a maximum of two years from the date the sample was taken.

**NOTE:** See also AB 1742 (Correa) in "Sex Offenses" – Chapter 235, Statutes of 2000–pertaining to DNA and the statute of limitations for specified sex crimes.

***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (13-8)*  
*Assembly Floor (70-3)*  
*Assembly Concurrence (73-0)*

*Senate Public Safety (4-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*

***DOMESTIC VIOLENCE*****SB 1340 (Solis): VETOED: Domestic Violence Court Task Force.**

(Adds Section 69520 to the Government Code.)

**Existing law** establishes the jurisdiction of superior and municipal courts, as specified; prohibits acts of domestic violence, as defined; and provides both civil and criminal sanctions for acts of domestic violence.

**This bill** would have established the California Domestic Violence Court Task Force, to be composed of 13 members, as specified, and to be staffed and coordinated by the Judicial Council. The bill set forth the goals and duties of the task

force, as specified, which would have had as its primary mission the creation of a set of model guidelines for establishing and operating domestic violence courts throughout the state. The bill required the task force, by March 1, 2002, to submit its report and recommendations for model guidelines to the Judicial Council and, at the same time, submit the report and recommendations to the Legislature. The bill would have appropriated \$100,000 from the General Fund to the Judicial Council for these purposes.

***Legislative History:***

*Senate Judiciary (7-2)*  
*Senate Public Safety (4-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (28-4)*  
*Senate Concurrence (29-9)*

*Assembly Judiciary (14-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (62-0)*

***Domestic Violence***

**SB 1944 (Solis): Chapter 1001: Domestic violence.**

(Amends Sections 1107 and 1370 of the Evidence Code, Section 6222 of the Family Code, Section 13701, and the title heading of Title 11.5 of Part 1 of, the Penal Code.)

**Existing law** permits the admission of expert testimony regarding battered woman syndrome in criminal actions, as specified.

**This bill** revises this provision to provide that the expert testimony on the nature and effect of physical, emotional, or mental abuse on the beliefs, perceptions, or behavior of victims of domestic violence is admissible, and specifies that the definition of "abuse" as used by these provisions includes the crimes of battery, rape of a spouse, infliction of corporal punishment on a person with whom he or she has a domestic relationship or a child, intentional violation of a protective order, issuance of terrorist threats, as defined, and annoying a person by means of a telephone or electronic communications.

**Existing law** provides for specified protective orders.

**This bill** provides that there is no filing fee for an application or other pleading or specified order that seeks to obtain, modify, or enforce a protective order or other specified order when the request for the other

order is necessary to obtain or give effect to a protective order.

**Existing law**, known as the "hearsay rule," generally provides that, at a hearing, evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated is inadmissible. Existing law also provides exceptions to the hearsay rule to permit the admission of specified kinds of evidence.

**This bill** expands an existing exception to the hearsay rule for evidence to include a statement made by a declarant who meets specified criteria to a physician, nurse, or paramedic. This bill also makes technical changes to other provisions of law.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Floor (38-0)*  
*Senate Concurrence*  
*(40-0)*

*Assembly Public Safety*  
*(5-0)*  
*Assembly Appropriations*  
*(20-0)*  
*Assembly Floor (74-0)*

**SB 2059 (Solis): VETOED: Probation officer training.**  
(Adds Section 6035.5 to the Penal Code.)

**Existing law** requires the Board of Corrections to adopt rules establishing minimum standards for the selection and training of local corrections and probation officers. First-year probation officers are required to receive 200 hours of training while current probation officers are required to receive 40 hours of elective coursework.

**This bill** would have required probation officers to receive, as part of their minimum required training, 3 hours of training and coursework on domestic violence, as specified, and to receive training and coursework in domestic violence as part of their continuing education requirements. This continuing education requirement would

have had to be met at least once every 2 years and included 3 hours of training and coursework in specified areas of domestic violence. The bill authorized the chief probation officer of each county to exempt from these requirements any probation officer who by virtue of his or her job description and duties would not come in contact with domestic violence offenders or victims. In addition, the bill would have provided that a probation department that has an established domestic violence training program that meets or exceeds the training requirements of this bill is authorized to apply to the board to exempt its personnel from some or all of the domestic violence requirements of this bill.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations (9-0)*  
*Senate Floor (39-0)*

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (15-5)*  
*Assembly Floor (62-9)*

**AB 1886 (Lowenthal): Chapter 544: Batterers' programs.**  
(Adds Section 1203.098 to the Penal Code.)

**Existing law** requires that persons convicted of domestic violence, as defined, and granted probation be required to satisfactorily complete a batterers' treatment program. A batterers' treatment program is required to include specified components.

**This bill** recharacterizes these programs as batterers' intervention programs and requires facilitators of these programs to meet minimum training requirements, as specified.

***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (75-0)*  
*Assembly Concurrence (76-0)*

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8.*  
*Senate Floor (38-0)*



***Domestic Violence***

**AB 2003 (Shelley): Chapter 47: Warrantless arrests.**  
(Amends Section 836 of the Penal Code.)

**Existing law** authorizes a peace officer to arrest a suspect without a warrant when the officer has probable cause to believe that the suspect committed an assault or battery against another person with whom the suspect has a specified personal or domestic relationship under specified circumstances.

**This bill** adds a dating relationship as defined by law to the list of specified personal relationships justifying an arrest without a warrant under the above provision.

***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Floor (76-0)*  
*Assembly Concurrence (74-2)*

*Senate Public Safety (4-1)*  
*Senate Floor (25-13)*

**AB 2166 (Cardenas): VETOED: Housing.**

(Amends Section 124250 of, and adds Section 50455.5 to, the Health and Safety Code.)

**Existing law** provides that the Department of Housing and Community Development is the principal state department responsible for implementation of the California Statewide Housing Plan.

Department of Housing and Community Development would have been required by this bill to include appropriate data in the California Statewide Housing Plan.

**This bill** would have required departments that currently collect data on the housing-related needs of domestic violence victims, including, but not limited to, the State Department of Health Services, the Office of Criminal Justice Planning, and the Attorney General to provide, biennially, the Department of Housing and Community Development with relevant data on the housing-related needs of domestic violence victims in a report format that shall be established by the department. The

**Existing law** requires the Maternal and Child Health Branch of the State Department of Health Services to administer grants that are awarded to battered women's shelters to fund, among other things, transitional housing programs for victims of domestic violence. These programs offer up to 18 months of transitional housing and other services.

**This bill** would have increased the allowable time limit for these services from 18 to 24 months.

***Legislative History:***

*Assembly Housing and Community Development (10-0)*  
*Assembly Appropriations (16-5)*  
*Assembly Floor (65-13)*  
*Assembly Concurrence (66-11)*

*Senate Housing and Community Development (4-0)*  
*Senate Appropriations (8-0)*  
*Senate Floor (38-0)*

**AB 2357 (Honda): Chapter 487: Employment Leave Act.**  
(Amends Section 230 of, and adds Section 230.1 to, the Labor Code.)

**Existing law** prohibits an employer from discharging or discriminating or retaliating against an employee who is a victim of domestic violence for taking time off from work to obtain judicial relief to help ensure the health, safety, or welfare of the employee or his or her child. Existing law provides that an employee who has been discharged or discriminated or retaliated against in violation of these provisions is entitled to reinstatement and reimbursement of lost wages and benefits. The failure of an employer to rehire, promote, or restore an eligible employee constitutes a misdemeanor.

**This bill** enacts the Victims of Domestic Violence Employment Leave Act which, for employers with 25 or more employees, prohibits an employer from discharging or discriminating

or retaliating against an employee who is a victim of domestic violence and who takes time off to seek medical attention, to obtain services from a domestic violence program, to obtain psychological counseling, or to participate in safety planning. With regard to all employers, regardless of the number of employees, the bill requires the employee to give the employer reasonable advance notice of the intention to take time off for any of the purposes summarized above, as provided, and an employer is required to maintain the confidentiality of an employee who requests time off pursuant to provisions of existing law or under provisions added by the bill.

***Legislative History:***

*Assembly Labor and Employment (6-3)*  
*Assembly Appropriations (14-7)*

*Assembly Floor (48-24)*  
*Assembly Concurrence (46-26)*

*Senate Industrial Relations (4-2)*

*Senate Appropriations (7-5)*

*Senate Floor (22-15)*

# ***DUI***

**AB 803 (Torlakson): Chapter 1063: Vehicles: driving under the influence: persons under 21 years of age.**

(Amends Section 11836 of the Health and Safety Code, and adds Section 13352.6 to, and repeals and adds Article 2 (commencing with Section 23502) of Chapter 1 of Division 11.5 of, the Vehicle Code.)

**Existing law** makes it unlawful for a person under the age of 21 years who has 0.05% or more, by weight, of alcohol in his or her blood to drive a vehicle.

**This bill** requires a court to order a person who is at least 18 years of age and has been convicted of a first violation of the provision specified above to attend, at minimum, the educational component of a licensed driving-under-the-influence program. For a second or subsequent violation, this bill would

require the court to order the person, in addition to any penalties, to attend a licensed driving-under-the-influence program.

***Legislative History:***

*Assembly Public Safety (8-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (80-0)*

*Assembly Concurrence (74-1)*

*Senate Public Safety (6-0)*

*Senate Appropriations (11-0)*

*Senate Floor (40-0)*

**AB 2227 (Torlakson): Chapter 1064: Driving under the influence: alcohol and drug programs: ignition interlock device. Urgency.**

(Amends Section 11837.4 of, amends, repeals, and adds Section 11836 of, and adds Section 11836.16 to, the Health and Safety Code, and amends Sections 9250.14, 13386, 14601, 14601.1, 14601.4, 14601.5, 23575, 23646, and 23649 of the Vehicle Code.)

**Existing law** provides that the State Department of Alcohol and Drug Programs is granted the sole authority to issue, deny, suspend, or revoke the license of a driving-under-the-influence (DUI) program. Existing law defines programs to mean specified entities that have been initially recommended by a county board of supervisors and that are subsequently licensed to provide specified alcohol or drug services.

**This bill** clarifies that the programs are limited to the county in which the particular board of supervisors has provided the recommendation. The bill also authorizes a board of supervisors to limit its recommendations to those programs that provide services for persons convicted of a first DUI offense or services for

persons convicted of a second or subsequent DUI offense, or both services. The bill also provides that if a county board of supervisors fails to provide these recommendations, the department would determine the program or programs to be licensed in that county. This bill also authorizes the county to place one or more limitations on the service to be provided by a driving-under-the-influence program or the area the program may operate within the county, after determining a need and when it recommends a program to the department.

**This bill** also makes other minor or technical changes to Vehicle Code provisions relating to DUI.

***Legislative History:***

*Assembly Public Safety (6-0)*

*Assembly Appropriations (14-4)*

*Assembly Floor (56-17)*

*Assembly Concurrence (64-9)*

*Senate Public Safety (5-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (37-0)*

# ***ELDER AND DEPENDENT ADULT ABUSE***

**SB 1742 (Hughes): Chapter 813: Financial abuse of mentally impaired elders.**  
(Adds Chapter 4 (commencing with Section 2950) to Part 5 of Division 4 of the Probate Code, and amends Section 15610.30 of the Welfare and Institutions Code.)

Existing law provides for misdemeanor and felony sanctions, including imprisonment and fines, for offenses involving the abuse of an elder or dependent adult, depending upon the circumstances and provides for various procedures for the protection of elders and dependent adults by the public guardian and by programs implemented by the State Department of Social Services.

This bill authorizes specified peace officers to issue a declaration that an elder person, as defined, is substantially unable to manage his or her financial resources or to resist fraud or undue influence; there

exists a significant danger that the elder person will lose all or a portion of his or her property as a result of fraud or misrepresentation or the mental incapacity of the elder person; there is probable cause to believe a crime is being committed against that person; the crime is connected to his or her inability to manage his or her financial resources or to resist fraud or undue influence; and he or she suffers from that inability as a result of deficits in one or more mental functions. The public guardian is required to take specified action after such a finding.

## ***Legislative History:***

*Senate Judiciary (9-0)*  
*Senate Floor (38-0)*  
*Senate Concurrence*  
*(29-10)*

*Assembly Judiciary (9-3)*  
*Assembly Human Services*  
*(5-1)*  
*Assembly Floor (58-15)*

**AB 559 (Nakano): Chapter 214: Elder abuse: punishment.**  
(Amends Section 368 of the Penal Code.)

**Existing law** provides that it is a crime, generally punishable by imprisonment in the county jail not exceeding one year, or by a fine not to exceed \$1,000, or in the state prison for two, three, or four years, for any person who, under circumstances or conditions likely to produce great bodily harm or death:

1. willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts unjustifiable physical pain or mental suffering;
2. or who, having the care or custody of any elder or

dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health is endangered. (Penal Code § 368(b)(1))

Enhancements apply if death or great bodily injury occurs. (Penal Code § 368(b)(2))

**This bill** increases the misdemeanor fine for violations of § 368(b)(1) – circumstances or conditions likely to produce great bodily harm or death—from up to \$1,000 to up to \$6,000.

***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (79-0)*  
*Assembly Concurrence (68-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

**AB 1819 (Shelley): Chapter 559: Elder abuse: peace officer training and definition of mental suffering.**

(Amends Sections 13515 of the Penal Code and 15610.53 of the Welfare and Institutions Code.)

**Existing law** requires police officers and deputy sheriffs assigned field or investigate duties to complete an elder abuse training course certified by the Commission on Peace Officer Standards and Training. The training is required to include specified subjects.

**This bill** expands and recasts the specified subjects to include dependent adults and would add to the list of required subjects physical and psychological abuse of elder and dependent adults, and the role of the local adult protective services and public guardian offices.

**This bill** requires the Attorney General, in conjunction with the

Health and Human Services Agency, to establish a statewide elder and dependent abuse awareness media campaign subject to an appropriation for that purpose.

**Existing law** establishes the Elder Abuse and Dependent Adult Civil Protection Act which, among other things, requires specified mandated reporters to report instances of elder abuse, as defined.

**This bill** expands the definition of mental suffering to include, among other things, deceptive acts or false or misleading statements made with malicious

intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Aging and Long-Term Care (5-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (77-0)*  
*Assembly Concurrence (74-0)*

*Senate Judiciary (7-1)*  
*Senate Public Safety (6-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (32-2)*

**AB 2107 (Scott): Chapter 442: Elder/dependent adults: financial abuse.**

(Adds Section 6177 to the Business and Professions Code, amends and renumbers Section 10193 of, amends Section 10234.8 of, and adds Section 789.8 to, the Insurance Code, and amends Section 15610.30 of the Welfare and Institutions Code.)

Existing law among other things defines financial abuse for the purpose of reporting and investigating elder and dependent adult abuse.

This bill includes a change in the definition of financial abuse to the following:

- (a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:
  - (1) Takes, secretes, appropriates, or retains real or personal property of an elder or dependent adult to a wrongful use or with intent to defraud, or both.
  - (2) Assists in taking, secreting, appropriating, or retaining real or personal property of an elder or dependent adult to a wrongful use or with intent to defraud, or both.
- (b) A person or entity shall be deemed to have taken, secreted, appropriated, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates or retains possession of property in bad faith.
  - (1) A person or entity shall be deemed to have acted in bad faith if the person or entity knew or should have known that the elder or dependent adult had the right to have the property transferred or made readily available to the elder or dependent adult or to his or her representative.
  - (2) For purposes of this section, a person or entity should have known of a right specified in paragraph (1) if, on the basis of the information received by the person or entity or the person or entity's authorized third party, or both, it is obvious to a reasonable person that the elder or dependent adult has a right specified in paragraph (1).
- (c) For purposes of this section, "representative" means a person or entity that is either of the following:
  - (1) A conservator, trustee, or other representative of the estate of an elder or dependent adult.
  - (2) An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

***Legislative History:***

*Assembly Judiciary (8-3)*  
*Assembly Insurance (7-1)*  
*Assembly Floor (53-24)*  
*Assembly Concurrence (73-5)*

*Senate Judiciary (7-0)*  
*Senate Appropriations (8-0)*  
*Senate Floor (24-4)*

# ***FIREARMS AND DANGEROUS WEAPONS***

**SB 31 (Peace): VETOED: Firearms: possession: delivery: transfer.**  
(Amends Section 6389 of the Family Code and amends Sections 12001, 12021, 12026.2, 12030, and 12078 of the Penal Code.)

Existing law contains numerous restrictions on the sale, transfer, and possession of firearms, including prohibiting a person subject to specified protective orders from owning, possessing, purchasing, or receiving a firearm while the order is in effect, and requires the restrained person to relinquish any firearm in the person's immediate possession or control, as specified.

This bill would have made a number of changes to existing law pertaining to firearms, including requiring that when a law enforcement agency is required to sell or transfer a relinquished pistol, revolver, or other firearm capable of being concealed upon the person, the agency enter specified information regarding the firearm into the Automated Firearms System; that when a restrained person sells firearms to a law enforcement agency, as specified by existing law, that the delivery and sale or transfer shall be exempt from specified provisions of

law regarding delivery and transfer of firearms through licensed firearms dealers; and that those provisions are declarative of existing law. The other changes which would have been made by this bill include that every person who possesses—deleting the existing reference to owning—a firearm knowing that possession is prohibited by a protective order, as specified, is guilty of a public offense; adding to the list of exemptions for carrying a concealed firearm the transportation of a firearm for specified purposes; and other changes to law.

## ***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (26-1)*  
*Senate Concurrence (25-6)*

*Assembly Public Safety*  
*(5-2)*  
*Assembly Appropriations*  
*(19-2)*  
*Assembly Floor (62-14)*



**SB 2052 (Schiff): Chapter 254: Firearms: retention after seizure.**

(Amends Section 12028.5 of the Penal Code, and amends Section 8102 of the Welfare and Institutions Code.)

**Domestic Violence Cases:**

**Existing law** provides that a peace officer “who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, shall take temporary custody of any firearm or deadly weapon in plain sight or discovered pursuant to a . . . search as necessary for the protection of the officer or other person.” The officer shall give the weapon owner a receipt and instructions as to recovery of the weapon. Where the weapon is neither held for evidence nor possessed illegally, the gun shall be made available for the owner between 48 hours and 72 hours after seizure. However, where law enforcement believes that return of the firearm would endanger the victim or reporting person, the following procedures shall occur:

- The agency must, within 10 days, notify the owner and petition the court to determine if the weapon should not be returned.
- The notice must inform the owner that he or she has 30 days to confirm his or her desire for a hearing to contest forfeiture.

- Hearing must be held within 30 days upon the request of the owner.
- The weapon shall be returned unless clear and convincing evidence shows that return of the weapon would endanger the victim or reporting party of the domestic violence incident.

**This bill** increases from ten days to 30 days the time within which the police must file a petition for a court hearing to determine if a firearm or other deadly weapon seized in a domestic violence incident should not be returned to the owner. The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition. Including any extension of time granted in response to an ex parte request, a petition must be filed within 60 days of the date of seizure of the firearm.

**Mental Condition Cases:**

**Existing law** provides that where any person is detained for examination of his or her mental condition, or who has been admitted for observation or treatment

as dangerous to self or others, or who has communicated to a therapist a threat to harm others, or who has been found not guilty by reason of insanity, and that person has a deadly weapon (including a firearm) in his or her possession, the peace officer shall take temporary custody of the weapon. Upon release from treatment of a person detained for examination of his or her mental condition, the law enforcement agency shall have 30 days to petition the superior court for a hearing to determine whether return of the weapon would endanger the person or others.

- The health facility must notify the law enforcement agency of the release of the person; and the facility must notify the person of the procedure for return of the weapon.
- The agency must inform the owner that he or she has 30 days to confirm his or her desire for a hearing to contest forfeiture of the weapon.
- The weapon shall be returned to the owner unless agency shows by clear and convincing evidence that return of the weapon would endanger

the victim or reporting party of the domestic violence incident.

**This bill** provides that the law enforcement agency that seized a weapon may make an ex parte application stating good cause for an order extending the (30-day) time to file a petition. Including any extension of time

granted in response to an ex parte request, a petition must be filed within 60 days of the release of the person from a health facility. If the law enforcement agency does not initiate proceedings within the 30-day period, or the period of time authorized by the court in an ex parte order, it shall make the weapon available for return.

***Legislative History:***

*Senate Public Safety (6-0)*  
*Senate Floor (38-0)*

*Assembly Public Safety (7-0)*  
*Assembly Floor (64-0)*

**AB 719 (Briggs): Chapter 123: Firearms: licenses to carry/peace officers.**  
(Amends Section 12050 of the Penal Code.)

**Existing law** provides for a number of specified requirements regarding the issuance of a license to carry concealable firearms in public, including that license renewal applicants must show completion of an approved training course of not less than four hours that includes instruction on firearm safety

and the law regarding the permissible use of a firearm. (Penal Code § 12050(E)(ii))

**This bill** provides that no course of training shall be required for any person certified by the licensing authority as a firearms trainer in order for that person to renew a license to carry a concealed weapon in public.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Floor (74-0)*  
*Assembly Concurrence (74-1)*

*Senate Public Safety (5-0)*  
*Senate Floor (39-0)*

**AB 800 (Washington): Chapter 265: Pupil safety: injurious objects.**  
(Adds Section 49335 to the Education Code.)

**Existing law** creates various provisions relating to pupil safety, including provisions providing that if a school employee initially notifies a law enforcement agency regarding a student or adult who possesses an injurious object while upon school premises or while under the authority of school personnel.

**This bill** requires that on or before April 1, 2001, the Superintendent of Public Instruction shall adopt a system that will shield the identity and provide protection to pupils who report the presence of injurious objects—including firearms—on school campuses that offer instruction in kindergarten and any of grades 1 to 12, inclusive.

***Legislative History:***

*Assembly Education (16-1)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (76-0)*  
*Assembly Concurrence (75-0)*  
  
*Senate Education (14-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (38-0)*

**AB 1717 (Hertzberg): Chapter 271: Firearms: ballistic testing.**  
(Adds Section 12072.5 to the Penal Code.)

**Existing law** regulates the sale, transfer, and delivery of firearms by persons, corporations, firms, and dealers. Violations of specified provisions of law governing the sale or transfer of firearms may be punished as a misdemeanor or a felony.

**This bill** requires the Attorney General to conduct a study to evaluate ballistics identification systems, as

defined, to determine the feasibility and potential benefits to law enforcement of utilizing a statewide ballistics identification system capable of maintaining a data base of ballistic images and information from test fired and sold firearms, as specified. The Attorney General is required to submit a report to the Legislature with the results of the study no later than June 1, 2001.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (15-6)*  
*Assembly Floor (54-20)*  
*Assembly Concurrence (62-13)*  
  
*Senate Public Safety (5-0)*  
*Senate Appropriations (10-0)*  
*Senate Floor (28-6)*

**AB 1961 (Machado): Chapter 668: Firearms: machineguns.**  
(Amends Section 12200 of the Penal Code.)

**Existing law** prohibits a person, firm, or corporation from possessing, transporting, manufacturing, or selling a machinegun unless authorized to do so. A machinegun is defined to mean, in part, any weapon that shoots, or is designed to shoot, automatically, more than one shot, without manual reloading, by a single function of the trigger, and includes any frame receiver that can only be used with that weapon.

**This bill** changes the state definition to mirror the federal definition, so that the machinegun definition is “. . . any weapon which shoots, is designed to shoot, or can readily be restored to shoot, automatically more than one

shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person. The term also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code.”

***Legislative History:***

*Assembly Public Safety (6-2)*  
*Assembly Appropriations (13-2)*  
*Assembly Floor (54-12)*  
*Assembly Concurrence (67-11)*

*Senate Public Safety (4-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (29-0)*

**AB 1989 (Dickerson): Chapter 400: Firearms: restrictions on possession and ownership.**  
(Amends Section 12021 of the Penal Code.)

**Existing law** provides that any person convicted of a specified misdemeanor who, within ten years of the conviction, owns or possesses a firearm, is guilty of an offense punishable by imprisonment in the state prison for 16 months, 2 years or 3 years, or in county jail not exceeding one year, by a fine not exceeding \$1,000, or by both imprisonment and fine. (Pen. Code § 12020(c)(1))

**This bill** prohibits for ten years after conviction the possession

of a firearm by any person convicted of the misdemeanor of dissuading a crime witness or victim from giving testimony. The bill similarly prohibits the possession of a firearm for ten years by any person who has a misdemeanor conviction for making a credible threat to commit a crime that will result in death or great bodily injury to another person.

***Legislative History:***

*Assembly Public Safety (5-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (76-0)*  
*Assembly Concurrence (77-0)*

*Senate Public Safety (4-1)*  
*Senate Appropriations (9-1)*  
*Senate Floor (30-1)*

**AB 2053 (Wesson): Chapter 275: Imitation firearms: restrictions.**  
(Amends Section 417.2 of, and adds Section 12020.3 to, the Penal Code.)

**Existing law** provides that any person who, except as specified, sells, manufactures, ships, transports, distributes, or receives an imitation firearm, as defined, is liable for a civil fine of not more than \$10,000 for each violation. Existing law also describes certain devices, among which is a firearm containing markings provided in a specified provision of federal law, that are not included in the definition of "imitation firearm."

**This bill** provides that in order to be a violation, the above-described activities involving the imitation firearm would have to

be for commercial purposes and that an imitation firearm where the coloration of the entire exterior surface of the device is bright orange or bright green, either singly or in combination, would not be subject to the above-described prohibitions.

**This bill** also provides that any person who purchases, sells, manufactures, ships, transports, distributes, or receives a firearm—not an imitation—where the coloration of the entire exterior surface of the firearm is bright orange or bright green, as specified, is liable for a civil fine of not more than \$10,000.

***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Floor (61-11)*  
*Assembly Concurrence (55-13)*

*Senate Public Safety (5-0)*  
*Senate Floor (25-1)*

**AB 2351 (Zettel): Chapter 967: Firearms: assault weapons: unsafe handguns.**  
(Amends Sections 12132 and 12276.1 of the Penal Code and Uncodified Law.)

**Existing law**, commencing January 1, 2001, makes it a misdemeanor to manufacture or cause to be manufactured, import into the state for sale, keep for sale, offer or expose for sale, give, or lend any unsafe handgun, except as specified, and defines the term "assault weapon" by, among other things, designating a list of specified semiautomatic firearms and providing descriptive definitions concerning the capacity and function of the weapon with specified restrictions on such weapons.

**This bill** exempts from the "unsafe handgun" requirements listed pistols that are used in official Olympic-style

international shooting competition, and specifically exempts from the definition of "assault weapon" listed pistols that are used in official Olympic-style international shooting competition.

**This bill** contains an uncodified statement that: "It is the intent of the of Legislature in enacting this bill to simplify the application of its provisions by the Department of Justice and to ensure that these provisions only have the effect of allowing access to, and use of, firearms for Olympic-style shooting, without affecting other firearms regulated under existing law."

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (19-0)*  
*Assembly Floor (67-0)*  
*Assembly Concurrence (74-1)*

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (40-0)*

**AB 2523 (Thomson): Chapter 478: Firearms: unlawful display.**  
(Amends Sections 417 and 417.6 of the Penal Code.)

**Existing law** provides that the penalty for any conviction for brandishing a firearm must include a minimum term of at least 3 months. The minimum term where the victim was a peace officer is 9 months. Where no additional elements are proved, the maximum term for brandishing a firearm is 6 months. If the victim was cleaning graffiti, the maximum term is 1 year. Where the brandishing victim was a peace officer, or where the defendant

brandished a loaded firearm in a day-care facility, the crime is an alternate felony-misdemeanor. (Brandishing a weapon other than a firearm is a misdemeanor with a minimum term of 1 month.)

**This bill** creates a new form of brandishing a firearm committed where the defendant brandished a handgun in a public place, with a penalty range of from 3 months to 1 year.

***Legislative History:***

*Assembly Public Safety (5-0)*  
*Assembly Appropriations (12-3)*  
*Assembly Floor (61-9)*  
*Assembly Concurrence (66-7)*

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (37-0)*

**AB 2536 (Scott): Chapter 479: Firearms laws: public service announcements. Urgency.**  
(Uncodified Law.)

**Existing law** contains numerous provisions relating to firearms and also establishes various crime prevention programs.

**This bill** requires the Department of Justice to produce public service announcements in both English and Spanish regarding recent changes in firearm laws, and a gun

owner's responsibilities regarding safe storage of a firearm, as specified, and appropriates \$125,000 from the General Fund for purposes of the bill.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (14-6)*  
*Assembly Floor (50-27)*  
*Assembly Concurrence (67-5)*

*Senate Public Safety (5-0)*  
*Senate Appropriations (9-3)*  
*Senate Floor (29-3)*

***Firearms and Dangerous Weapons***

**AJR 53 (Jackson): Resolution Chapter 70: Firearms: federal legislation.**

Existing law in California and at the Federal level contains various provisions with regard to firearms.

This resolution makes legislative findings and respectfully memorialize the Congress and the President of

the United States to enact commonsense gun legislation including laws that will limit hand gun purchases, require background checks, reinstate a specified waiting period, require child safety locks, and ban specified weapons.

***Legislative History:***

*Assembly Public Safety (5-2)*

*Assembly Floor (43-17)*

*Senate Floor (24-9)*

## ***GANGS***

**SB 865 (Hughes): Chapter 653: Gangs: CLEAR project.**

(Amends Section 7163 of the Business and Professions Code, and adds Section 8214.01 to the Government Code.)

Existing law authorizes the City and County of Los Angeles to establish and operate for 2 years a Community Law Enforcement and Recovery (CLEAR) Demonstration Project, a multiagency gang intervention program. Existing law also provides that the CLEAR project shall remain operative until no later than 2 years from the date that the funds are

initially appropriated by the Legislature for the project. Existing law repeals these provisions on January 1, 2001.

This bill extends the repeal date until January 1, 2004. This bill provides that implementation of this project would be contingent upon a Budget Act appropriation.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety (8-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (76-1)*

# ***GRAFFITI***

## **SB 1616 (Monteith): Chapter 50: Vandalism: graffiti abatement.** (Amends Section 594 of the Penal Code.)

**Existing law** provides that upon conviction for vandalism in addition to any of the above penalties the court may order the defendant to clean up, repair, or replace the damaged property his or herself or if the jurisdiction has adopted a graffiti abatement program, the court may order the

defendant, and his or her parents or guardians to keep a specified property graffiti free for up to one year.

**This bill** removes the requirement that the jurisdiction must have a graffiti abatement program before a judge may order the defendant to keep a piece of property clean for one year.

### ***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Floor (39-0)*

*Assembly Public Safety (8-0)*  
*Assembly Floor (74-0)*

## **AB 2110 (Rod Pacheco): Chapter 58: Graffiti abatement.** (Amends Sections 38772, 38773.2, 38773.6, and 38773.7 of the Government Code.)

**Existing law** authorizes a city, county, or city and county to provide for the abatement of a nuisance resulting from the defacement of the property of another by graffiti or any other inscribed material at the expense of a minor creating, causing, or committing the nuisance.

**Existing law** also authorizes a city, county, or city and county to adopt an ordinance making the expense of abatement a lien against property of the minor or the parent or guardian of the

minor and a personal obligation of the minor or the parent or guardian of the minor and specifying the procedures for the recording, abatement, and satisfaction of the lien.

**This bill** authorizes the extension of these provisions to apply to persons other than minors creating, causing, or committing these nuisances.

### ***Legislative History:***

*Assembly Judiciary (15-0)*  
*Assembly Floor (74-0)*

*Senate Public Safety (5-0)*  
*Senate Floor (39-0)*



# ***HATE CRIMES***

**AB 1785 (Villaraigosa): Chapter 955: Hate violence.**

(Amends Sections 233, 32228, 32228.1, 44253.2, and 44253.3 of the Education Code, and amends Sections 628, 628.1, 628.2, and 628.5 of the Penal Code.)

**Existing law** states the Legislature's intent relating to school safety and violence prevention and that school sites receiving funds accomplish specified goals.

**This bill**, among other things, states the Legislature's additional intent that public schools have access to supplemental resources to combat bias based on membership in specified groups or classifications, and

to prevent and respond to acts of hate violence and bias related incidents. The bill would also state additional goals for school sites receiving funds to include programs and curricula relating to bias, stereotyping, and discrimination, as specified.

***Legislative History:***

*Assembly Public Safety (7-0)*

*Assembly Appropriations (14-5)*

*Assembly Floor (41-26)*

*Assembly Concurrence (41-30)*

*Senate Education (10-2)*

*Senate Appropriations (9-4)*

*Senate Floor (26-13)*

# ***IDENTITY THEFT***

## **AB 1862 (Torlakson): Chapter 631: Identity theft: data base. (Adds Section 530.7 to the Penal Code.)**

**Existing law** provides that it is an alternate felony/misdemeanor for a person to obtain the personal identifying information of another person and to use such information to obtain, or attempt to obtain, credit, goods, or services in the name of the other person without their consent. (Pen. Code § 530.5)

**This bill** requires the Department of Justice (DOJ), in order to provide proof of identity theft crimes, to establish a data base concerning victims of identity theft and limits access to the data base to criminal justice agencies, the victim and the victim's authorized representatives.

### ***Legislative History:***

*Assembly Public Safety  
(5-1)*

*Assembly Appropriations  
(15-6)*

*Assembly Floor (55-21)  
Assembly Concurrence  
(52-19)*

*Senate Public Safety (6-0)  
Senate Appropriations  
(13-0)  
Senate Floor (33-0)*

## **AB 1897 (Davis): Chapter 956: Identity theft: remedies. (Amends Section 530.5 of, and adds Section 530.6 to, the Penal Code.)**

**Existing law** provides that it is an alternative felony/misdemeanor for a person to willfully obtain the personal identifying information of another person and to use such information to obtain, or attempt to obtain, goods or services in the name of the other person without consent. (Pen. Code § 530.5)

**This bill** provides that a person who has learned or reasonably suspects that his or her

identifying information has been used by another to commit a crime may initiate an investigation by contacting the appropriate law enforcement agency in his or her jurisdiction. The agency shall prepare a report and either begin an investigation of the facts or, if the suspected crime was committed in a different jurisdiction, refer the matter to the appropriate law enforcement agency.

**This bill** further provides that a likely identity theft victim may petition the court for an "expedited" judicial determination of factual innocence under the following circumstances and pursuant to the following procedures:

- The perpetrator of the identity theft was convicted of a crime under the victim's identity.
- The victim's name has been

***Identity Theft***

AB 1897 (Davis), continued

mistakenly associated with a record of criminal conviction.

- Judicial determination of these issues shall be made after consideration of declarations, affidavits, police report and reliable information submitted by the parties.

- Where the court finds the petitioner factually innocent, the court shall issue an order certifying that fact.
- The Judicial Council shall draft forms for these proceedings.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (78-0)*  
*Assembly Concurrence (72-0)*

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

**AB 1949 (Hertzberg): VETOED: Identity theft: regional pilot projects.**  
(Adds and repeals Section 530.75 of the Penal Code.)

Existing law provides that every person who willfully obtains personal identifying information about another person without that person's consent, and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, or medical information in the name of that person, is guilty of a crime punishable by imprisonment in a county jail not to exceed one year, a fine not to exceed \$1,000, or both, or by imprisonment in the state prison, a fine not to exceed \$10,000, or both.

This bill would have enacted the Identity Theft Victim's Protection Act of 2000, a three-year pilot project that would have directed the Department of Justice to establish special Regional Identity Theft Units in designated regions. The bill would have appropriated the sum of \$3,000,000 from the General Fund to the Department of Justice for purposes of the identity theft pilot project. The department would have distributed funds and disbursed grants annually to countywide law enforcement lead agencies for the creation of these units pursuant to prescribed requirements.

***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (77-0)*  
*Assembly Concurrence (75-0)*

*Senate Public Safety (4-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*

# ***JURORS***

**AB 2406 (Migden): Chapter 192: Jurors: examination.**  
(Amends Section 223 of the Code of Civil Procedure.)

**Existing law**, as enacted by Proposition 115, provides that in a criminal case, the court is required to conduct the examination of prospective jurors, except that the court may permit the parties, upon a showing of good cause, to conduct a further inquiry. In a criminal case, the trial court's exercise of its discretion in the manner in which voir dire is conducted shall not cause the reversal of a conviction, except as specified.

**This bill** amends the initiative measure to instead require the court to conduct an initial examination and thereafter give the counsel for each party the right to examine, by oral and direct questioning, any or all of the prospective jurors. The bill would, however, permit the court, in the exercise of its discretion, to limit the oral and direct questioning of prospective jurors by counsel, as specified.

***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (71-0)*  
*Assembly Concurrence (73-2)*  
  
*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (37-0)*

**AB 2418 (Migden): Chapter 43: Jurors: eligibility.**  
(Amends Section 204 of, and adds Section 231.5 to, the Code of Civil Procedure.)

**Existing law** specifies that no eligible person shall be exempt from service as a trial juror by reason of occupation, race, color, religion, sex, national origin, or economic status.

**This bill** adds sexual orientation to the list of bases for which no eligible person shall be exempt from service as a trial juror.

***Legislative History:***

*Assembly Judiciary (12-2)*  
*Assembly Floor (44-17)*  
  
*Senate Judiciary (7-1)*  
*Senate Floor (25-7)*

**AB 2567 (Jackson): Chapter 242: Criminal actions: access to jurors.**  
(Amends Section 206 of the Code of Civil Procedure.)

**Existing law** provides that prior to discharging the jury from the case, the judge in a criminal action shall inform the jurors that they have an absolute right to discuss or not to discuss the deliberation or verdict with anyone. Existing law also specifies that following the discharge of the jury in a criminal case, the defendant, or his or her attorney or representative, or the prosecutor, or his or her representative, may discuss the jury deliberation or verdict with a member of the jury, provided that the juror consents to the discussion and that the discussion takes place at a reasonable time and place.

**This bill** provides that if a discussion of a jury deliberation or verdict occurs at any time more than 24 hours after the verdict, prior to discussing the jury deliberation or

verdict in a criminal action with a member of a jury, the defendant or his or her attorney or representative, or the prosecutor or his or her representative, shall inform the juror of the identity of the case, the party in that case which the person represents, the subject of the interview, the juror's absolute right to discuss or not discuss the deliberations or verdict in the case with the person, and the juror's right to review and have a copy of any declaration filed with a court.

***Legislative History:***

*Assembly Public Safety  
(7-0)*

*Assembly Floor (77-0)*

*Senate Public Safety  
(4-2)*

*Senate Floor (37-1)*

# ***JUVENILE JUSTICE***

## **SB 1542 (Schiff): Chapter 366: Turning Point Academy. Urgency.**

(Adds and repeals Section 531 of the Military and Veterans Code, and adds and repeals Sections 731.3 and 796 of the Welfare and Institutions Code.)

**Existing law** generally provides for county and state residential facilities for juvenile offenders.

**This bill** authorizes the Adjutant General until July 1, 2002, to develop, establish, and operate the Turning Point Academy for the purpose of providing a comprehensive and meaningful military academy experience for minors residing in California who are 15 years of age or older and who have committed a firearms-related offense at school or a school activity off school grounds. The academy

will consist of an intensive program of treatment, physical training, education, drug screening, and counseling services for eligible wards of the juvenile court in counties which have opted to participate in the Academy program. This bill appropriates \$9,210,000 from the General Fund to the Military Department for this purpose.

### ***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence*  
*(27-5)*

*Assembly Appropriations*  
*(17-2)*  
*Assembly Floor (70-6)*

**SB 1603 (Peace): Chapter 663: Release from custody.**  
(Amends Section 629 of the Welfare and Institutions Code.)

**Existing law** provides that a probation officer may require a minor who has been taken into custody or his or her parent, guardian, or relative to sign a written promise to appear before the probation officer at a specified time as a condition for his or her release. Existing law, as amended by Proposition 21, also prohibits the release of a minor who is 14 years of age or older who is taken into custody by a peace officer for the commission or attempted commission of a felony until the minor, his or her parent, guardian, or relative, or both, have signed a written promise to

appear at a specified time or the minor has been given an order to appear in the juvenile court at a date certain.

**This bill** recasts and revises these provisions to require that minors who are to be released by probation on home supervision, and minors 14 and older who are arrested for a felony or attempted felony, first sign a promise to appear. This bill also authorizes probation or law enforcement officers to obtain a written promise to appear from the parent, guardian or relative of the minor to be released from custody, as specified.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Floor (39-0)*  
*Senate Concurrence*  
*(40-0)*

*Assembly Public Safety*  
*(8-0)*  
*Assembly Appropriations*  
*(21-0)*  
*Assembly Floor (76-1)*

**SB 1611 (Bowen): Chapter 908: Juvenile justice commissions.**  
(Amends Sections 229.5, 362, and 827 of the Welfare and Institutions Code.)

**Existing law** provides for the establishment in each county of a juvenile justice commission, which has the duty of investigating the administration of juvenile justice in the county or region it serves. Existing law further provides that a juvenile justice commission may inquire into operations of group homes serving wards or dependent children of the juvenile court and report its findings. Existing law provides that a commission, in conducting its inquiry of a group home, may not review confidential records of minors and others.

**This bill** provides that a juvenile justice commission conducting an inquiry of a group home may review court or case records of a child provided it keeps the identities of minors named in those records confidential. This bill provides that a juvenile justice commission may review the financial records of a group home, but may not review personnel records of employees or the records of donors to the group home.

**Existing law** provides that juvenile court case files are generally confidential, but

authorizes inspection by certain people, including court personnel, the minor's parents or guardian, and the superintendent of the minor's school district, among others.

**This bill** also authorizes a county juvenile justice commission to inspect juvenile court case files, and provides that a juvenile justice commission must maintain the confidentiality of these files, as specified.

**Existing law** provides that when a child is adjudged a dependent of the court, the court may make any and all reasonable orders for

the care, supervision, custody, and support of the child. Existing law further provides that, in order to promote coordination and cooperation among government agencies, the court may join in juvenile court proceedings a government agency that the court has determined has failed to provide legally obligated services to a child, after giving notice and an opportunity to be heard. When an agency is

joined, a court may not impose duties upon an agency beyond those mandated by law.

**This bill** provides that, subject to the above described prohibition, a juvenile court may also join a private service provider, as defined, that the court determines has failed to meet such legal obligations.

***Legislative History:***

*Senate Judiciary (9-0)*  
*Senate Public Safety (5-0)*  
*Senate Floor (38-0)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety (7-0)*  
*Assembly Judiciary (14-0)*  
*Assembly Floor (75-0)*

**SB 1739 (Chesbro): VETOED: Homeless youth.**  
(Uncodified Law.)

**Existing law** provides for the Homeless Youth Act of 1985, which requires the Office of Criminal Justice Planning to enter into grant award agreements with private nonprofit organizations for the establishment of homeless youth emergency services projects.

**This bill** would have required OCJP to conduct a specified evaluation of

programs designed to serve runaway and homeless youth and submit the evaluation, with certain recommendations and plans for statewide implementation of the recommendations, to the Legislature on or before June 1, 2001.

***Legislative History:***

*Senate Health and Human Services (7-0)*  
*Senate Appropriations (12-0)*  
*Senate Floor (39-0)*  
*Senate Concurrence (39-0)*

*Assembly Human Services (5-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (62-0)*



**SB 1913 (McPherson): Chapter 465: Truancy.**  
(Amends Section 48293 of the Education Code.)

**Existing law** requires that each person subject to compulsory full-time education attend school as specified. Existing law requires that each parent, guardian, or other person having control or charge of the pupil must send the pupil to school, as specified, and imposes penalties on the parent, guardian, or other person having control or charge of the pupil for noncompliance with the attendance laws.

**This bill**, specifically authorizes a court to order a person who is convicted for failing to comply with the attendance laws, as

specified, to immediately enroll the child in the appropriate school or educational program and provide proof of enrollment to the court. This bill requires the Legislative Analyst, in conjunction with the California District Attorney's Association and the State Department of Education, to develop and submit a report to the Legislature on or before January 1, 2004, as specified. The provisions enacted by bill sunset January 1, 2005.

***Legislative History:***

*Senate Education (10-1)*  
*Senate Public Safety (4-0)*  
*Senate Floor (21-5)*  
*Senate Concurrence (28-8)*

*Assembly Education (16-1)*  
*Assembly Public Safety (8-0)*  
*Assembly Floor (52-12)*

**SB 1943 (Ortiz): Chapter 481: Youth Authority.**

(Amends Section 16373 of the Government Code, and amends Sections 730.6, 1714, 1752.81, 1764.2, and 1767 of the Welfare and Institutions Code.)

**Existing law** contains specified provisions concerning Youth Authority wards, including ward trust accounts and restitution orders.

**This bill** makes a number of technical revisions to these provisions, including provisions enhancing victim services, as

specified. This bill also would make changes to statutory requirements concerning meetings between the Youth Authority director and the Youthful Offender Parole Board.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*  
*Senate Concurrence (39-0)*

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (62-0)*

**SB 2062 (Perata): VETOED: Mentally ill juvenile offenders. Urgency.**

(Adds Article 5 (commencing with Section 6047) to Chapter 5 of Title 7 of Part 3 of the Penal Code.)

**Existing law** authorizes the Board of Corrections until January 1, 2005, to administer and award mentally ill offender crime reduction grants to counties, as specified.

**This bill** would have appropriated \$2 million for the Board of Corrections to administer, award and evaluate mentally ill juvenile offender crime reduction grants on a competitive basis

to counties that expand or establish a continuum of swift, certain, and graduated responses to reduce crime and criminal justice costs related to mentally ill juvenile offenders.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Health and Human Services (6-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*  
*Senate Concurrence (36-1)*  
  
*Assembly Public Safety (8-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (73-4)*

**SB 2098 (Hayden): Chapter 659: Youth Authority mental health services.**

(Adds Sections 1077, 1078, and 1755.4 to the Welfare and Institutions Code.)

**Existing law** authorizes the Department of the Youth Authority to appoint all employees required at institutions under the department's jurisdiction.

**This bill** requires that any psychologist employed by or who contracts with the Department of the Youth Authority to provide services to wards under the jurisdiction of the department must be licensed to practice in this state. This bill exempts any psychologist employed by the department on July 1, 1999, from these requirements as long as he or she continues employment with the department in the same class. This bill also permits these requirements to be waived in order for a person to gain

qualifying expertise for licensure as a psychologist in this state as specified. This bill requires, to the extent that funding is available, the Youth Authority, in consultation with the State Department of Mental Health, to develop training in the treatment of children and adolescents for mental health disorders and to provide training to all appropriate mental health professionals. This bill also requires the Youth Authority, in consultation with the Department of Mental Health to establish, by regulations adopted no later than December 31, 2001, standards and guidelines for the administration of psychotropic medications to any person under the jurisdiction of the Department, in a manner

that protects the health and short- and long-term well-being of those persons, as specified.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Health and Human Services (6-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*  
*Senate Concurrence (40-0)*  
  
*Assembly Public Safety (6-2)*  
*Assembly Health (12-1)*  
*Assembly Appropriations (15-2)*  
*Assembly Floor (65-9)*

**SB 2196 (Alpert): Chapter 662: High risk youth. Urgency.**  
(Amends Sections 47763.5 and 47771.5 of the Education Code.)

**Existing law** establishes the High-Risk Youth Education and Public Safety Program, which includes a specified component for high-risk first-time offenders and a specified component for pupils who are transitioning high-risk youth.

**This bill** increases the apportionment for purposes of those programs, as specified, and makes corresponding changes in

related provisions. The bill also requires that the reduction in the apportionment received by a county office of education take place at the final apportionment for the 5th year of program operation, as specified.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*  
*Senate Concurrence (40-0)*

*Assembly Education (17-0)*  
*Assembly Appropriations (15-5)*  
*Assembly Floor (68-6)*

**AB 788 (Maldonado): VETOED: Purpose of the juvenile court law.**  
(Amends Section 202 of the Welfare and Institutions Code.)

**Existing law** sets forth the purpose of juvenile court law. Among other things, existing law states that minors under the jurisdiction of the juvenile court shall receive care, treatment, and guidance, as specified.

**This bill** would have revised the purposes of the juvenile court law to include dispositions intended to accomplish specified public safety

objectives, and would have set forth five principles governing the operation of the juvenile justice system, including the right of the public to safe and secure homes and communities.

***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Floor (77-0)*  
*Assembly Concurrence (74-1)*

*Senate Public Safety (5-0)*  
*Senate Floor (36-0)*

**AB 1704 (Reyes): VETOED: Central Valley youth study.**  
(Uncodified Law.)

**Existing law** establishes the State Department of Social Services. The department administers laws pertaining to the administration of public social services, as specified.

**This bill** would have appropriated \$149,000 to the State Department of Social Services for the Trabajadores de La Raza/

Chicano and members of the Central Valley Youth Consortium for purposes of conducting a study to, among other things, identify the needs of, and to develop standards for providing services to, young people residing in the central valley region. The bill would have required a study, as specified.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(55-22)*

*Senate Floor (27-11)*

**AB 1899 (Havice): Chapter 236: Nonsworn probation employees.**  
(Amends Section 243 of the Penal Code.)

**Existing law** provides that battery upon specified local public safety personnel engaged in the performance of their duties is punishable by fine or imprisonment in the county jail up to one year; if an injury is inflicted on the victim, the offense is punishable by imprisonment in the county jail or in the state prison for 16 months, two or three years.

**This bill** adds nonsworn employees of probation departments engaged in the performance of their duties to the current battery statute applicable to specified local public safety personnel.

***Legislative History:***

*Assembly Public Safety*  
*(6-0)*  
*Assembly Appropriations*  
*(21-0)*  
*Assembly Floor (74-0)*  
*Assembly Concurrence*  
*(71-0)*

*Senate Public Safety (4-0)*  
*Senate Appropriations*  
*(9-0)*  
*Senate Floor (39-0)*

**AB 1913 (Cardenas): Chapter 353: Local law enforcement and crime prevention funding. Urgency.**

(Repeals and adds Sections 30061, 30062, 30063, and 30064.1 of, and repeals Chapter 6.7 (commencing with Section 30061) of Division 3 of Title 3 of, the Government Code, and amends Section 6 of Chapter 100 of the Statutes of 2000.)

**Existing law** establishes in each county treasury a Supplemental Law Enforcement Services Fund (SLESF) and requires that moneys from this fund be allocated to counties and cities located within a county in accordance with specified requirements for, among other things, front line law enforcement services.

**This bill** allocates \$243.3 million for local law enforcement and crime prevention efforts, as specified. This bill allocates 50% of SLESF moneys to counties and cities and counties to

implement a comprehensive multiagency juvenile justice plan with specified components and objectives, and requires that the plan be developed by the local juvenile justice coordinating council in each county and city and county. The bill redefines front line law enforcement services to include juvenile justice programs. The bill requires the plan to be submitted to the Board of Corrections for review and approval in order to be funded. The bill includes evaluation and reporting requirements.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(75-0)*

*Senate Floor (36-0)*

**AB 2375 (Honda): VETOED: Special education.**

(Amends Sections 19, 102, 1401, 1402, and 1440 of, and adds Section 366.5 to, the Welfare and Institutions Code.)

**Existing law** generally provides jurisdiction over children to the juvenile court. Existing law also requires that children with special educational needs, as defined, and persons with disabilities, as described, are entitled to various educational services and accommodations, as specified.

**This bill** would have authorized a county, upon the adoption of a resolution by its board of supervisors and upon approval of the presiding judge of the superior court, to require court appointed special advocates,

probation officers, and social workers, as applicable, to take specified actions to ensure that wards of the court receive any special education and related services and any accommodations for the disabled, as applicable, to which they are entitled under state and federal law. This bill also would have extended the repeal of the Pilot Family Assessment Intervention and Resource Act to January 1, 2005. The bill also would have added legislative intent on meeting the special education needs of juveniles.

***Legislative History:***

*Assembly Human Services*  
*(5-1)*  
*Assembly Appropriations*  
*(14-7)*  
*Assembly Floor (62-14)*  
*Assembly Concurrence*  
*(52-23)*

*Senate Health and Human*  
*Services (6-1)*  
*Senate Judiciary (6-2)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (27-10)*

**AB 2446 (Wildman): Chapter 59: Youth centers.**  
(Amends Section 990 of the Welfare and Institutions Code.)

**Existing law** the Juvenile and Gang Violence Prevention, Detention, and Public Protection Act of 1998, authorizes the Department of the Youth Authority to award grants to nonprofit agencies that serve youths for the purpose of acquiring, renovating, or constructing youth centers.

**This bill** adds to the statutory list of nonexclusive list of nonprofit agencies that may apply for grants.

***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (19-0)*  
*Assembly Floor (76-0)*

*Senate Public Safety (5-0)*  
*Senate Floor (39-0)*

**AB 2744 (Oller): Chapter 228: Informal juvenile court.**  
(Amends Section 256 of the Welfare and Institutions Code.)

**Existing law** authorizes a juvenile hearing officer to hear and dispose, in the Informal Juvenile and Traffic Court, specified matters.

juvenile and traffic court specified Vehicle Code provisions concerning the operation of a vehicle under the influence of alcohol or drugs, as specified.

**This bill** removes from the jurisdiction of the informal

***Legislative History:***

*Assembly Public Safety (5-2)*  
*Assembly Floor (61-6)*

*Senate Public Safety (4-1)*  
*Senate Floor (31-1)*

**AB 2885 (Cardenas): Chapter 100: Local law enforcement and juvenile justice.\***  
**Urgency.**  
(Amends Sections 30061, 30062, 30063, and 30064.1 of the Government Code.)

**Existing law** establishes in each county treasury a Supplemental Law Enforcement Services Fund (SLESF) and requires that moneys from this fund be allocated to counties and cities located within a county in accordance with specified requirements for, among other things, front line law enforcement services.

**This bill** revised the requirements for an allocation to a county and made an appropriation, as specified.

\* **This bill was repealed and replaced in entirety by AB 1913 (Cardenas), supra.**

***Legislative History:***

*Assembly Budget (15-0)*  
*Assembly Floor (46-12)*  
*Assembly Concurrence (75-0)*

*Senate Floor (36-0)*

# ***MEDI-CAL FRAUD***

## **AB 1098 (Romero): Chapter 322: Health.**

(Amends Sections 1241, 1265, 1287, 1301, and 1324 of, and adds Sections 1269.5, 1281.1, 1282.2, 1282.3, and 1311 to, the Business and Professions Code, amends Sections 186.2 and 923 of the Penal Code, and amends Sections 14040, 14040.5, 14043.1, 14043.2, 14043.36 14043.37, 14043.65, 14043.7, 14043.75, 14100.75, 14107, 14107.11, 14124.1, 14124.2, 14170, 14170.8, 14171.6, and 24005 of, and adds Sections 14040.1, 14043.34, 14043.61, 14043.62, and 14123.25 to, the Welfare and Institutions Code.)

### **General Provisions and Increased Penalties for Medi-Cal Fraud, Including Enhancement for Injuries Caused in Dangerous Schemes**

**Existing law** establishes the California Medical Assistance Program (Medi-Cal), a program through which the State compensates physicians, pharmacies and other medical providers for giving medical services to indigent persons. (Welf. & Inst. Code § 14000 *et seq.*) Providing kickbacks or bribes related to Medi-Cal reimbursed services is an alternate felony-misdemeanor on the first conviction (1 year max. jail term and/or fine of \$1,000, or 16 months, 2 or 3 years in prison and/or \$10,000 fine); a second or subsequent conviction is a straight felony (16 months, 2 or 3 year prison term and/or \$10,000 fine). (Welf. & Inst. Code § 14107.2) Presenting a fraudulent claim for reimbursement for services provided under Medi-Cal is an alternate felony/misdemeanor (1 year max. jail

term, or 16 months, 2 or 3 years in prison, and/or a fine of up to \$5,000. (Welf. & Inst. Code § 14107)

**This bill** adds to the basic definition of Medi-Cal fraud the creation of any scheme or artifice to defraud the Medi-Cal program or similar program and increases the prison triad and the available fines for the alternate felony/misdemeanor of Medi-Cal fraud as follows:

- Alternate felony/misdemeanor, with a county jail term of up to 1 year, or a prison term of 2, 3 or 5 years.
- Fines for Medi-Cal fraud would be set at three times the amount of the amount of fraud or loss, in addition to or in lieu of any imprisonment.
- Where a scheme to defraud Medi-cal is committed so as to cause, or be likely to cause, great bodily injury or serious bodily injury to two or more persons, a 4-year enhancement shall be imposed for each person

who actually suffers great or serious bodily injury.

### **Medical Laboratories**

**Existing law** provides that licenses for laboratory analysts and scientists may be granted to those who have earned specified college degrees, with additional experience and training. (Bus. & Prof. Code § 1260 *et seq.*) Unlicensed technicians may take and store samples under the direct supervision of a physician or a licensed analyst or scientist, but may not analyze specimens or record results. (Bus. & Prof. Code § 1269) A violation of licensure rules is a misdemeanor, punishable by up to 6 months in the county jail and/or a maximum fine of \$1,000. (Bus. & Prof. Code §§ 1280-1291, 1287 *et seq.*)

**Existing law** includes California adoption of "CLIA," the federal Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. Sec. 263a; P.L. 100-578). Federal regulations must be evaluated by the

California Department of Health Services and adopted if more stringent than California rules. Federal regulations that are less stringent than California regulations need not be adopted. (Bus. & Prof. Code §§ 1202.5 and 1208)

**This bill** increases laboratory license conditions and makes license revocation easier.

**This bill** provides that where one person pays or solicits another for human blood or a specimen for laboratory testing, it is misdemeanor, with a 1 year maximum jail term and/or a fine of up to \$10,000. Any person who performs venipuncture, arterial puncture or skin puncture, without a specific license or authorization to do so, is guilty of a misdemeanor, with a 1 year maximum jail term and/or a fine of up to \$1,000.

**This bill** provides that where the defendant's "willful or wanton disregard" for another in the improper handling, collection, etc., of biological specimens or clinical tests exposes another to a substantial risk of great bodily injury, the defendant is guilty of an alternate felony misdemeanor, punishable by imprisonment in the county jail for up to 1 year, or in the state prison for 16 months, 2 or 3 years, and/or a fine of up to \$50,000. A second or subsequent conviction is punishable as a felony with a prison term of 2, 4, or 6 years and/or a fine of up to \$50,000.

### **Asset Forfeiture and Related Provisions**

**Existing law** provides that a convicted defendant may be subject to asset forfeiture if he or she has engaged in a pattern of criminal profiteering activity— at least two incidents of specified, organized crimes within 10 years. (Pen. Code § 186.2)

**This bill** includes specified Medi-Cal fraud and related crimes within the list of crimes subject to criminal profiteering asset forfeiture and defines Medi-Cal fraud schemes as "organized crime."

### **Medi-Cal Billing Provisions**

**Existing law** provides that Medi-Cal providers must sign a provider agreement and disclose information required by federal regulations or the Department of Health Services. (Welf. & Inst. Code § 14043.2) Medi-Cal claims may be submitted on behalf of providers by registered intermediaries. (Welf. & Inst. Code § 14040.5) Claims submitted in violation of the governing code section (§ 14040) are subject to denial. The department may suspend or withdraw the registration of a billing intermediary for billing violations or involvement in illegally submitted claims. (Welf. & Inst. Code § 14040.5)

**Existing law** provides that the department, upon 30-days' notice and subject to specified hearing procedures, may withdraw or suspend the registration of an intermediary

for involvement in false or misleading claims, or where the intermediary has engaged in a pattern of filing incomplete claims. (Welf. & Inst. Code § 14040.5)

**This bill** defines "billing agents" and "billing agents of providers" as any person or entity that submits Medi-Cal claims on behalf of a provider, other than employees, provider owned firms or billing agents that act solely for the provider. The department shall establish standards for registration of billing agents.

**This bill** provides that the department director may suspend or revoke the registration of a billing agent where the agent or provider is under investigation for fraud or abuse, the provider or agent violates applicable regulations, the director determines that the agent has submitted false or misleading information, and where the agent entered into a settlement of a fraudulent conduct claim, in lieu of conviction, within 10 years. Suspension or revocation is effective 15 days following notice. The department may waive claims requirements where a provider's billing agent has lost registration.

**This bill** expands the authority of the department to audit and inspect the records of providers, and extends record inspection to applicants and entities that supply merchandise or seek Medi-Cal reimbursement. The bill



**Medi-Cal Fraud**

AB 1098 (Romero), continued

imposes additional accounting requirements for suppliers.

**Grand Jury Provisions**

**Existing law** defines and regulates grand juries. Grand jury findings are confidential, particularly criminal investigations when the grand jury does not issue an indictment. Where a grand jury issues an indictment, however, the transcript of the grand jury testimony must be released. (Daily Journal v. Superior Court (1999) 20 Cal.4<sup>th</sup> 1117; Pen. Code §§ 924.1-924.4)

**This bill** specifically provides that the Attorney General may, with or without the concurrence of the county district attorney, petition the court to impanel a special grand jury to investigate Medi-Cal and related fraud schemes. A grand jury in "County B" may receive confidential information from the grand jury in "County A" as to Medi-Cal and related crimes committed in "County B." The Attorney General shall reimburse the county for costs incurred in convening the grand jury for Medi-Cal fraud investigations.

**Legislative History:**

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(76-0)*

*Senate Health and Human Services (5-0)*  
*Senate Public Safety (5-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*

## ***PEACE OFFICERS***

**SB 795 (Perata): VETOED: Department of Corrections peace officers.**  
(Amends Section 830.2 of the Penal Code.)

**Existing law** provides that any member of the Law Enforcement and Investigations Unit of the Department of Corrections are peace officers, and provides that the primary duties of those peace officers include, among other things, the transportation of parolees, parole violators, or escapees.

**This bill** would have provided that for purposes of describing those peace officers that the primary duty involving transportation of parolees, parole violators, or escapees applies regardless of the mode of transportation.

**Legislative History:**

*(Prior votes not relevant)*  
*Senate Concurrence*  
*(40-0)*

*Assembly Public Safety (6-0)*  
*Assembly Floor (75-0)*

**SB 1102 (Murray): Chapter 684: Peace officers: racial profiling: prohibition: training.**  
(Amends section 13591.4 of the Penal Code.)

**Existing law** generally prescribes peace officer training conducted by the Commission on Peace Officer Standards and Training.

**This bill** makes Legislative findings and defines racial profiling; prohibits law enforcement officers from engaging in racial profiling; requires every law enforcement officer in the state to participate in racial profiling training, with the curriculum developed by the Commission on Peace Officer Standards and Training, in collaboration with a 5-person panel as specified; requires a

report by the Legislative Analyst to the Legislature, not later than January 1, 2002, regarding data collection in connection with racial profiling, as specified; and makes related changes to law. (See SB 66 in the Legislative Inquiry System for additional information about the background of SB 1102; in addition, see the author's letter sent August 31, 2000, to the Senate Daily Journal—page 6534—which indicates that nothing in SB 1102 is intended to empower the Legislative Analyst to require any new data collection or the form of data collection.)

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence (25-2)*

*Assembly Floor (63-10)*

**SB 1353 (Rainey): Chapter 244: Reserve peace officers: prohibitions on discrimination.**

(Amends Section 230.3 of the Labor Code.)

**Existing law** provides that no employer shall discharge or in any manner discriminate against an employee for taking time off to perform emergency duty as a volunteer firefighter, as specified.

**This bill** extends those nondiscrimination protections to reserve peace officers and emergency rescue personnel, as defined.

***Legislative History:***

*Senate Industrial Relations (5-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (39-0)*

*Assembly Labor and Employment (6-1)*

*Assembly Appropriations (21-0)*

*Assembly Floor (72-1)*

**SB 1489 (Hayden): VETOED: Pepper spray.**  
(Adds Sections 12460 and 12461 to the Penal Code.)

**Existing law** governs the use of tear gas and tear gas weapons, as specified. However, existing law contains no provisions specifically addressing pepper spray and its health effects.

**This bill** would have set forth findings and declarations of the Legislature as to health

effects of pepper spray, and directed the Department of Justice, in consultation with the Office of Environmental Health Hazards Assessments, to review and report to the Legislature as to the effects of pepper spray, as specified and to work with law enforcement to develop best practices guidelines for its use.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence*  
*(24-10)*

*Assembly Public Safety*  
*(5-2)*

*Assembly Appropriations*  
*(14-7)*

*Assembly Floor (51-20)*

**SB 1539 (Lewis): Chapter 564: Peace officer training: stalking.**  
(Adds Sections 3071 and 13519.05 to the Penal Code.)

**Existing law** establishes a Commission on Peace Officer Standards and Training that, among other things, establishes levels of standards and training for peace officers, as specified.

**This bill** requires the Department of Corrections to implement a course of instruction for parole officers in regard to managing parolees convicted of stalking, and in regard to notifying stalking victims in connection with a stalking offender's release from parole.

**This bill** also requires the Commission on Peace Officer Standards and Training to implement, by January 1, 2002, a course or courses of instruction for the training of peace officers in the handling of, and responding to, stalking complaints.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations*  
*(13-0)*  
*Senate Floor (39-0)*  
*Senate Concurrence*  
*(38-0)*

*Assembly Public Safety*  
*(8-0)*

*Assembly Appropriations*  
*(21-0)*

*Assembly Floor (77-0)*

**SB 1578 (Alarcon): VETOED: Peace officers: City of Los Angeles library security officers.**

(Amends Sections 830.7 and 830.13 of the Penal Code.)

**Existing law** provides specified peace officer authority, for designated persons who are not peace officers, to exercise the power of arrest, execute a search warrant, or receive criminal history information, as specified.

**This bill** would have extended those powers to persons employed by the City of Los Angeles Public Library

Department designated by local ordinance as library public officers, to the extent necessary to enforce laws related to the public library, and authorized by a memorandum of understanding with the chief of police permitting the exercise of that authority, as specified.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Floor (22-13)*  
*Senate Concurrence*  
*(26-9)*

*Assembly Public Safety*  
*(5-3)*  
*Assembly Floor (47-26)*

**SB 1762 (Alpert): Chapter 61: Deputy sheriffs: San Diego County/custodial facilities.**  
(Amends Section 830.1 of the Penal Code.)

**Existing law** provides that any deputy sheriff of a county of the first class [Los Angeles County] who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of

employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state-of-emergency. (Penal Code § 830.1(c))

**This bill** adds "any deputy sheriff of the County of San Diego" to the existing authority now granted only to Los Angeles County to employ deputy sheriffs who "perform duties exclusively or initially relating to custodial assignments" who are peace officers pursuant to Penal Code section 830.1(c).

***Legislative History:***

*Senate Public Safety (4-1)*  
*Senate Floor (35-2)*

*Assembly Public Safety*  
*(8-0)*  
*Assembly Floor (74-0)*

***Peace Officers***

**SB 1854 (Alarcon): VETOED: Employment: lie detector tests: public safety employee exemption.**

(Amends Section 432.2 of the Labor Code.)

**Existing law** prohibits employers from requiring or demanding that an applicant for employment or an employee take a polygraph, lie detector, or similar test, or examination as a condition of employment or continued employment.

Governmental agencies are specifically excluded from the provisions of the law. No employer may request any person to take such a test, or administer such a test, without first advising the person in writing at the time the test is to be administered, of their guaranteed rights.

**This bill** would have made changes to that existing state law and narrowed the excluded governmental employees to only public safety employees or any applicant for employment as a public safety employee of the state government or any state agency or local

subdivision and defined "public safety employee" to mean those persons designated as "peace officers" under Chapter 4.5 (commencing with Section 830) of Title 3, of Part 2 of the Penal Code as well as non-sworn police and sheriff department employees that, as part of their job, come into contact with confidential information or crime scene evidence or perform tasks related to the operation of a local court or detention facility.

***Legislative History:***

*Senate Industrial Relations (4-1)*

*Senate Appropriations, SR 28.8*

*Senate Floor (23-13)*

*Senate Concurrence (24-12)*

*Assembly Labor and Employment (9-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (76-1)*

**SB 1942 (Karnette): Chapter 430: Peace officers: impersonation.**  
(Amends Section 538d of the Penal Code.)

**Existing law** provides that any person other than one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the authorized uniform, badge, insignia, emblem, device, label, certificate, card, or writing, of a peace officer, with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor.

**This bill** removes the use of a police badge from the above provisions, and as a separate offense provides that any person, other than the one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the

badge of a peace officer or willfully wears or uses any badge that falsely purports to be authorized for the use of a peace officer or so resembles the authorized badge of a peace officer with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed \$2,000, or by both that imprisonment and fine. This bill also provides that the punishment for any person who makes or sells any badge that falsely purports to be authorized for a specified use shall be a fine not to exceed \$15,000.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (39-0)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety*  
*(7-0)*  
*Assembly Appropriations*  
*(15-0)*  
*Assembly Floor (74-0)*

**SB 2133 (Polanco): Chapter 289: Law enforcement: complaints of misconduct.**  
(Amends Section 148.6 of the Penal Code.)

**Existing law** provides that every person who files any allegation of misconduct against any peace officer, as defined, knowing the allegation to be false, is guilty of a misdemeanor, and requires any law enforcement agency accepting an allegation of misconduct against a peace

officer to require the complainant to read and sign a specified advisory.

**This bill** requires the advisory to be available in multiple languages.

***Legislative History:***

*Senate Public Safety (5-1)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (37-1)*

*Assembly Public Safety*  
*(8-0)*  
*Assembly Appropriations*  
*(20-0)*  
*Assembly Floor (62-0)*

**AB 1494 (Wildman): Chapter 96: Peace officer designation: changes in status. Urgency.**

(Amends Sections 13540, 13541, and 13542 of, and adds and repeals Section 13543 of, the Penal Code.)

**Existing law** provides that any person or persons desiring new peace officer status shall request the Commission on Peace Officer Standards and Training to undertake a feasibility study regarding designating that person or persons as peace officers. (Penal Code §§ 13540-13542)

**This bill** does the following:

1. Amends the timeframe for action by POST on a change in peace officer status for the study to be issued.
2. Adds a new code section which requires POST to issue

within a specified timeframe a study and recommendations to the Los Angeles Unified School District Police Department regarding changing the peace officer designation of that department's school police, as specified. POST may charge the Los Angeles School District Police Department a fee, not to exceed the actual costs of the study, for the study required by this bill (thus reiterating existing law within the new code section pertaining to the Los Angeles School District Police).

***Legislative History:***

*Assembly Public Safety (5-2)*

*Assembly Appropriations (15-6)*

*Assembly Floor (48-25)*

*Assembly Concurrence (60-16)*

*Senate Public Safety (6-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (31-4)*

**AB 1669 (Committee on Judiciary): Chapter 688: Witness protection program and vehicle code investigations.**

(Amends Section 14029 of the Penal Code, and Section 2805 of the Vehicle Code.)

**Existing law** creates a Witness Protection Program administered by the Attorney General and provides that any member of the California Highway Patrol or a member of a city police department or a county sheriff's office, whose primary responsibility is to conduct vehicle theft investigations, may inspect any vehicle of a type required to be registered under the Vehicle Code.

confidentiality provisions of the witness protection program and adds district attorney investigators to those persons who may inspect vehicles.

**NOTE:** This is an omnibus bill which contains numerous provisions; only those provisions pertaining to the criminal justice system are included in this summary.

***Legislative History:***

*(Prior votes not relevant)*

*Assembly Judiciary (11-0)*

*Assembly Concurrence (77-0)*

*Senate Judiciary (7-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (40-0)*

**This bill** adds actions pertaining to a change of name to existing

**AB 1718 (Hertzberg): Chapter 200: Peace officers: advanced training: mental illness.**  
(Adds Section 13515.25 to the Penal Code.)

**Existing law** requires specified categories of law enforcement officers to meet training standards pursuant to courses of training certified by the Peace Officers Standards and Training (POST) program, including a basic training course for law enforcement officers containing an adequate instruction in the handling of persons with developmental disabilities or mental illness, or both, as specified.

**This bill** requires that, on or before June 30, 2001, POST establish and keep updated a continuing education classroom training course relating to law enforcement intervention with developmentally disabled and mentally ill persons and that the course be developed in consultation with specified groups and entities.

***Legislative History:***

*Assembly Public Safety (7-1)*  
*Assembly Appropriations (19-0)*  
*Assembly Floor (72-0)*  
*Assembly Concurrence (77-0)*  
  
*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (37-0)*

**AB 1768 (Steinberg): Chapter 629: Sheriff's fee: increases.**  
(Amends Sections 26720.9, 26721, 26721.1, 26722, 26725, 26726, 26728, 26730, 26731, 26734, 26736, 26738, 26742, 26743, 26746, 26746.1, and 26750 of, and adds Section 26721.2 to, the Government Code.)

**Existing law** prescribes fees for serving, executing, and processing required court notices, writs, orders, and other services provided by sheriffs and marshals.

**This bill** revises and increases these fees, as specified, and deletes the per diem compensation for a keeper of property under a writ of attachment, execution, possession, or sale.

***Legislative History:***

*Assembly Judiciary (14-1)*  
*Assembly Floor (67-3)*  
*Assembly Concurrence (70-7)*  
  
*Senate Judiciary (5-2)*  
*Senate Floor (27-8)*



**AB 1928 (Vincent): Chapter 354: Peace officers: comparable peace officer training: court services investigators.**

(Amends Section 13511 of, and adds and repeals Section 13543.5 to, the Penal Code.)

**Existing law**

1. Requires the Commission on Peace Officer Standards and Training to adopt standards regarding the training of peace officers and to allow required training to be obtained at approved institutions and in lieu of training at an institution, the commission is required to provide the opportunity for testing of those persons who have acquired prior equivalent peace officer training, and
2. Requires any person or persons desiring peace officer status under the law, who, on January 1, 1990, were not entitled to be designated as peace officers, to request the Commission on Peace Officer Standards and Training to undertake a feasibility study, as specified.

**This bill**

1. Requires the commission, for those instances where individuals have acquired prior comparable peace officer training, to adopt regulations providing for alternative means for satisfying the training required, as specified, **and**
2. Requires the commission to issue a study and its recommendations, as specified, regarding peace officer designation of the court services investigators of the County of Los Angeles, with that mandate expiring on January 1, 2002.

***Legislative History:***

*Assembly Public Safety (7-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (74-0)*

*Assembly Concurrence (73-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (38-0)*

**AB 1993 (Romero): Chapter 620: Peace officers: false evidence.**  
(Adds Section 141 to the Penal Code.)

**Existing law** makes it a felony for a peace officer to file a report with the agency that employs him or her regarding the commission of a crime or investigation of a crime, if he or she knows and intentionally makes any statement in the report that the officer knows to be false.

manufacture, conceal, or move any physical matter, with the specific intent that the action will result in a person being charged with a crime or with specific intent that the physical matter will be wrongfully produced as genuine or true at trial or any other specified proceedings.

**This bill** makes it a misdemeanor for any person to, or a felony for a peace officer to, knowingly, willfully, and intentionally alter, modify, plant, place,

***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (76-0)*  
*Assembly Concurrence (73-0)*  
  
*Senate Public Safety (4-0)*  
*Senate Appropriations (9-0)*  
*Senate Floor (38-0)*

**AB 2059 (Vincent): Chapter 633: Peace officers: welfare fraud investigators.**  
(Adds Section 832.25 to the Penal Code.)

**Existing law** provides that a welfare fraud investigator or inspector is a peace officer, where he or she is regularly employed and paid in that capacity by a county, if the primary duty of the peace officer is the enforcement of the provisions of the Welfare and Institutions Code.

of being hired as a welfare fraud investigator or inspector.

2. Provides that any welfare fraud investigator or inspector appointed prior to January 1, 2001, shall not be required to attend and complete the training required by this bill as long as he or she is continuously employed in that capacity by the county making the appointment prior to January 1, 2001.

three years prior to appointment shall be exempt from the training requirements of this bill.

**This bill** does the following:

1. Requires that, notwithstanding any other provision of law, all welfare fraud investigators or inspectors who are appointed as peace officers pursuant to subdivision (a) of section 830.35 on or after January 1, 2001, shall attend and complete a specialized investigators basic course approved by the Commission on Peace Officer Standards and Training within one year

3. Provides that any investigator or inspector who possesses a valid basic peace officer certificate as awarded by the Commission on Peace Officer Standards and Training or who has successfully completed the regular basic course certified by the Commission on Peace Officer Standards and Training within

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (73-0)*  
*Assembly Concurrence (73-0)*  
  
*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (38-0)*

**AB 2267 (Cedillo): Chapter 209: Public safety officers: officer access to personnel records.**

(Adds Section 3306.5 to the Government Code.)

**Existing law** (Government Code section 3300 et seq.) establishes the Public Safety Officers Procedural Bill of Rights Act which includes that no public safety officer shall have any comment adverse to his or her interest entered in his or her personnel file, or any other file used for any personnel purpose by his or her employer, without the public safety officer having first read and signed the instrument containing the adverse comment indicating he or she is aware of such comment, except that such entry may be made if after reading such instrument the public safety officer refuses to sign it.

**This bill** does the following:

1. Requires that every employer shall, at reasonable times and at reasonable intervals, upon the request of a public safety officer, during usual business hours, with no loss of compensation to the officer, permit that officer to inspect personnel files that are used or have been used to determine that officer's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.
2. Requires that each employer keep each public safety officer's personnel file or a true and correct copy thereof, and shall make the file or

copy thereof available within a reasonable period of time after a request therefor by the officer.

3. Provides that if, after examination of the officer's personnel file, the officer believes that any portion of the material is mistakenly or unlawfully placed in the file, the officer may request, in writing, that the mistaken or unlawful portion be corrected or deleted; any request shall include a statement by the officer describing the corrections or deletions from the personnel file requested and the reasons supporting those corrections or deletions; and a statement submitted shall become part of the personnel file of the officer.
4. Provides that within 30 calendar days of receipt of the specified request, the employer shall either grant the officer's request or notify the officer of the decision to refuse to grant the request. If the employer refuses to grant the request, in whole or in part, the employer shall state in writing the reasons for refusing the request, and that written statement shall become part of the personnel file of the officer.

***Legislative History:***

*Assembly Public Safety (8-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (75-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations (12-0)*

*Senate Floor (39-0)*

**AB 2484 (Romero): Chapter 622: Attorney General: civil actions: law enforcement conduct.**

(Adds Section 52.3 to the Civil Code.)

**Existing law** authorizes the Attorney General to bring a civil action for injunctive and other appropriate equitable relief whenever a person or persons, whether or not acting under the color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment of rights secured by federal or state law, as specified.

**This bill** does the following:

1. Adds a specific prohibition in statute that "No governmental authority, or agent of a governmental authority, or person acting on behalf of a governmental authority, shall engage in a pattern or practice of conduct by law enforcement officers that deprives any person of rights, privileges, or immunities secured or protected by the

Constitution or laws of the United States or by the Constitution or laws of California."

2. Provides that "The Attorney General may bring a civil action in the name of the people to obtain appropriate equitable and declaratory relief to eliminate the pattern or practice of conduct specified [above] . . . whenever the Attorney General has reasonable cause to believe that a violation of" that new statutory prohibition has occurred.

***Legislative History:***

*Assembly Judiciary (14-0)*  
*Assembly Appropriations (21-0)*

*Assembly Floor (75-0)*  
*Assembly Concurrence (73-0)*

*Senate Judiciary (7-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (38-0)*

**AB 2559 (Cardoza): Chapter 971: Personnel records: peace officers.**  
(Amends section 832.7 of the penal Code.)

**Existing law** provides that peace officer personnel records and other specified records, or information from those records, are confidential and may not be disclosed in a criminal or civil proceeding except by discovery pursuant to specified provisions of law.

**This bill** makes the above prohibition against disclosure of peace officer personnel records and information from those records, except as specified, applicable to the department or agency that employs the peace officer.

***Legislative History:***

*Assembly Public Safety (8-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (71-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations (13-0)*

*Senate Floor (40-0)*

**AB 2821 (Cardoza): VETOED: Department of the California Highway Patrol.**  
(Adds Section 9250.135 to the Vehicle Code.)

**Existing law** provides for an additional fee of \$1 required to be paid at the time of registration or renewal of registration of every vehicle subject to registration under the Vehicle Code, except those vehicles that are expressly exempted, with the money received from those fees to be available, upon appropriation by the Legislature, for expenditure to offset the costs of increasing the uniformed field strength of the Department of the California Highway Patrol beyond its 1994 staffing level and those costs associated with maintaining this new level of uniformed field

strength and carrying out statutory duties.

**This bill** would have declared the intent of the Legislature that the CHP report annually to specified legislative committees the extent to which the sufficient staffing level of the department is being attained, seek a minimum of 300 additional patrol officers per year for five years to meet a serious need for additional officers, update a staff report prepared in 1990, and report the results to the legislative committees, as specified.

***Legislative History:***

*Assembly Transportation (14-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (73-1)*

*Assembly Concurrence (73-2)*

*Senate Transportation (9-0)*

*Senate Floor (34-1)*

**AB 2837 (Hertzberg): VETOED: State nonemergency telephone number system.** (Adds Article 6.6 (commencing with Section 53126) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, and amends Sections 41020, 41030, 41031, 41032, 41135, and 41136 of, and adds Sections 41033, 41135.5, and 41136.5 to, the Revenue and Taxation Code.)

**Existing law** requires local public safety agencies to maintain, in addition to a "911" emergency telephone number, a separate number for nonemergency calls.

**This bill** would have authorized every local public agency, as defined, to establish a nonemergency

telephone system and would have designated the digits "311" as the primary nonemergency telephone number within the system, and made numerous related changes to law.

***Legislative History:***

*Assembly Governmental Organization (11-0)*  
*Assembly Appropriations (14-7)*  
*Assembly Floor (63-14)*  
*Assembly Concurrence (63-14)*

*Senate Energy, Utilities and Communications (8-0)*  
*Senate Appropriations (10-2)*  
*Senate Floor (36-0)*

**AJR 62 (Honda): Resolution Chapter 112: California Indian tribes: Law Enforcement Protection and Tribal Courts.**

**Existing law** adopted by Congress transferred federal criminal jurisdiction over Indian lands to California and five other states pursuant to Public Law 83-280 (18 U.S.C. Sec. 1162, and 28 U.S.C. Sec. 1360)

**This resolution** makes specified findings and requests the expeditious appropriation and allocation of adequate funding for California tribal governments for the planning, establishment, and ongoing

operation of tribal law enforcement and judicial systems in California, in order to ensure that per capita spending for California tribes at least equals the national average per capita funding for tribal law enforcement and judicial systems outside of California.

***Legislative History:***

*Assembly Judiciary (14-0)*  
*Assembly Floor (76-0)*

*Senate Judiciary (9-0)*  
*Senate Floor (38-0)*

# ***PENALTIES***

## **SB 2106 (Lewis): VETOED: Criminal profiteering: asset forfeiture.**

(Adds Section 11492.6 to the Health and Safety Code, and amends Sections 502.01 and 653v of, and adds Section 186.85 to, the Penal Code.)

**Existing law** establishes an asset forfeiture scheme for assets that are the profits of illegal drug activity and some assets that facilitate drug crimes. (Health & Saf. Code §§ 11469-11495) A separate scheme covers the proceeds of "criminal profiteering." (Pen. Code §§ 186-186.8) Other provisions allow forfeiture of telephone and telegraph equipment used in fraudulent access to telephone services, and soliciting/advertising such fraudulent activity, and allows forfeiture of computer equipment where the defendant commits one of an extensive list of computer-related criminal acts. (Pen. Code § 502.01) Further forfeiture of all equipment used in the production of unauthorized ("pirated") recordings is required. (Pen. Code § 653v)

**This bill** would have provided, as to the forfeiture schemes described above, that a person with "valid possessory interest" in seized property could move for immediate release of seized property if the person has not been charged with an underlying criminal offense, continued government possession would cause the claimant a hardship and release would not harm the property during the pendency of the forfeiture matter. The bill would have further provided that a seizing law enforcement agency would be liable for damage to seized property, unless the owner was convicted of the underlying crime.

### ***Legislative History:***

*Senate Public Safety (5-0)*

*Senate Appropriations (13-0)*

*Senate Floor (39-0)*

*Senate Concurrence (40-0)*

*Assembly Public Safety (8-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (76-0)*

# ***SENTENCING***

## **AB 1789 (Zettel): Chapter 919: Sentencing: great bodily injury: child.** (Amends Section 12022.7 of the Penal Code.)

**Existing law** requires imposition of a sentence enhancement of three years upon a person who personally inflicts great bodily injury upon a person during the commission or attempted commission of a felony. Imposition of an enhanced penalty of five years is required if the person personally inflicts great bodily injury on another person who is 70 years of age or older other than an accomplice during the commission or

attempted commission of a felony.

**This bill** requires imposition of an enhanced penalty of 4, 5, or 6 years upon a person who personally inflicts great bodily injury on a child under the age of five years in the commission or attempted commission of a felony.

### ***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (77-0)*  
*Assembly Concurrence (75-0)*  
  
*Senate Public Safety (4-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*

## **AB 1808 (Wayne): Chapter 689: Sentencing.**

(Amends Sections 1170.1 and 1385 of, and repeals Section 1170.95 of, the Penal Code.)

**Existing law** provides that, with limited exceptions, when any person is convicted of two or more felonies and a consecutive term of imprisonment is imposed, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term, and any applicable enhancements. The subordinate term includes enhancements in the case of a violent felony and where specifically required or authorized.

**This bill** provides that the "subordinate term" shall include enhancements in all cases. Nevertheless, the bill also

provides that if the court has the authority to strike or dismiss an enhancement in furtherance of justice, the court may instead strike the additional punishment for that enhancement. (Judges retain discretion pursuant to Penal Code Section 1385 to dismiss an action or any part thereof unless the Legislature clearly and specifically limits such power.)

**Existing law** relating to sentencing provides that the number of enhancements that may be imposed shall not be limited for specified sex offenses.

**This bill** provides that an unlimited number of enhancements may be imposed for a broader number of sex offenses.

### ***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (75-2)*  
  
*Senate Public Safety (5-0)*  
*Senate Appropriations (9-3)*  
*Senate Floor (39-1)*



# ***SEX OFFENSES***

## **Children and Minors**

**SB 1784 (Figueroa): Chapter 657: Children: molestation.**  
(Amends Section 647.6 of the Penal Code.)

**Existing law** makes it a misdemeanor to annoy or molest a child under the age of 18 years. Existing law provides that every person who violates this provision shall be punished upon any subsequent convictions under this section by imprisonment in the state prison. Existing law also provides that every person who violates this provision after a previous felony conviction under this provision, or a previous conviction of other

specified provisions, shall be punished by imprisonment in the state prison for 2, 4, or 6 years.

**This bill** extends the list of prior offenses that would make a subsequent violation of this provision punishable by imprisonment in the state prison to include certain felony offenses involving a minor under the age of 16 years.

### ***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations (12-0)*  
*Senate Floor (39-0)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (77-0)*

**AB 1349 (Correa): Chapter 184: Public records: disclosure of victim information.**  
(Amends Section 6254 of the Government Code.)

**Existing law** provides that state and local law enforcement agencies make public certain records. Unless disclosure would endanger persons involved in an investigation, the public agency shall disclose the name and other identifying information of persons arrested for crimes. (Government Code § 6254(f)(1))

**This bill** provides that a law enforcement agency may withhold the name of a victim of unlawful sexual intercourse upon request of the victim, or upon request of the parents or guardian of the victim and provides that the current address of a victim of unlawful sexual intercourse shall remain confidential.

### ***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (76-0)*  
*Assembly Concurrence (75-0)*

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (37-0)*

**AB 1458 (Wiggins): VETOED: Sexually violent predators: in-prison treatment programs: commitment petitions.**

(Adds Article 3.5 (commencing with Section 2688) to Chapter 4 of Title 1 of Part 3 of the Penal Code, and amends Sections 6600 and 6601 of the Welfare and Institutions Code.)

**Existing law**, the Sexually Violent Predator (SVP) law, provides for the civil commitment for psychiatric treatment of a prison inmate found to be a sexually violent predator after the person has served his or her prison commitment. (Welf. & Inst. Code § 6600, et seq.) Under existing law an SVP is an inmate who was convicted of a sexually violent offense against two or more victims for which he or she received a determinate sentence and who has a dangerous, diagnosed mental disorder such that he or she will likely engage in sexually violent criminal behavior if released. It appears that crime subjecting a defendant to possible commitment as an SVP—"predatory" sex crimes—must have been committed against a stranger, casual acquaintance who has no substantial relationship with the perpetrator, or a person with whom the alleged SVP established a relationship for purposes of victimization. (Welf. & Inst. Code § 6600, subd. (e))

**This bill** would have changed the current definition of

"predator" to include any sex crime against a child under the age of 14 years committed by force or in which substantial sexual conduct occurred. Further, the bill specifically defined continuous sexual abuse of a child as a qualifying SVP crime if other requirements of the law were met. AB 1458 would also have allowed a defendant serving any indeterminate term, including a term imposed after 1979 for murder, one strike sex crimes, "three strikes," etc., to be committed as an SVP. Finally, under the terms of this bill, the extension of the SVP law to prior cases involving any sex crime against a child under 14 years of age would not have become effective unless in-prison sex offender treatment was funded.

***Legislative History:***

*Assembly Public Safety (6-1)*

*Assembly Appropriations (21-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (53-17)*

*Senate Public Safety (4-1)*

*Senate Appropriations (12-0)*

*Senate Floor (40-0)*

## **Sex Crimes/Offenders**

### **SB 451 (Schiff): Chapter 41: Sexually violent predators: commitment petitions. Urgency.**

(Amends Sections 6601.3, 6601.5, and 6602 of the Welfare and Institutions Code.)

**Existing law** provides for the involuntary civil commitment for psychiatric treatment of a person found to be a sexually violent predator after the person has served his or her prison commitment. An alleged SVP shall remain in custody (of the Department of Corrections) for no more than 45 days for a full evaluation by the Department of Mental Health (DMH), unless the person's release date falls more than 45 days after referral. (Welf. & Inst. Code § 6601.3) However, existing law does not specify that a defendant can be held in custody during the pendency of the judicial probable cause hearing. (Welf. & Inst. Code §§ 6601.5 and 6602)

**This bill** provides that a sexually violent predator (SVP) may be held in custody pending completion of the probable cause hearing.

Specifically, this bill provides that:

- A SVP may remain in custody for a full evaluation for no more than 45 days beyond his or her scheduled release date.
- Upon filing a petition, and after a judicial finding that the petition states a prima facie case for probable cause, the judge shall order that the SVP be detained until a probable cause hearing can be completed. The hearing shall commence within 10 calendar days of the judge's order.
- A probable cause hearing may be continued upon a showing of good cause by the party requesting the continuance.

#### ***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence*  
*(34-0)*

*Assembly Public Safety*  
*(5-0)*

*Assembly Appropriations*  
*(20-0)*

*Assembly Floor (72-2)*

**SB 1463 (Johnson): VETOED: Sexual Predator Apprehension Teams.**  
(Adds Section 13886 to the Penal Code.)

**Existing law** establishes a variety of regional and statewide programs under the supervision of the Department of Justice and the Office of Criminal Justice Planning for the purpose of providing coordination, forensic investigation, and other investigatory services to local law enforcement. Existing law directs the Attorney General to establish and maintain a statewide Sexual Habitual Offender Program special force, comprised of 3 regional special agent teams, to coordinate state and local resources to target and monitor repeat violent sex offenders and persons required to register as sex offenders, as specified.

**This bill** would have required the Attorney General to

establish two Sexual Predator Apprehension Teams to be coordinated through the Department of Justice's offices in Orange and San Diego Counties, for the purpose of providing multijurisdictional support and investigative services to law enforcement agencies in Imperial, Orange, Riverside, San Bernardino, and San Diego Counties. This bill stated the intent of the Legislature that these regional programs shall be complementary to, and not adversely affect the operations of, the statewide Sexual Habitual Offender Program.

***Legislative History:***

*Senate Public Safety (4-0)*

*Senate Appropriations (12-1)*

*Senate Floor (38-0)*

*Senate Concurrence (40-0)*

*Assembly Public Safety (8-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (72-3)*

**SB 2018 (Schiff): Chapter 420: Sexually violent predators (SVP): commitment evaluations. Urgency.**

(Amends Section 14202.2 of the Penal Code, and amends Sections 6603 and 6604 of, and amends and repeals Section 6604.1 of, the Welfare and Institutions Code.)

**Existing law** provides that an alleged Sexually Violent Predator (SVP) shall be entitled to a trial by jury, the assistance of counsel, the right to retain experts to perform an examination on his or her behalf, and shall have access to all relevant medical and psychological records and reports. Existing law also provides for the examination of a person subject to commitment under these provisions by at least two psychiatrists or psychologists designated by the State Department of Mental Health, with additional evaluations to be performed as specified. At trial the prosecution must prove beyond a reasonable doubt that the person is a sexually violent predator. A person found to be an SVP shall be committed to the custody of the State Department of Mental Health for treatment and confinement within a secure facility for two years. At the end of two years, the SVP can be recommitted following another trial. There is no limit on the number of times a SVP can be recommitted.

**This bill** provides that the prosecutor in an SVP case may request the State Department of Mental Health to perform updated evaluations. If an original evaluator is no longer available to testify, a replacement evaluation may be ordered. An updated or replacement evaluation shall include a review

of available medical and psychological records, including treatment records, consultation with treating clinicians, and voluntary or court-ordered interviews with the subject. If an updated or replacement evaluation results in a split opinion as to whether the subject meets the criteria for commitment, the department shall conduct two additional evaluations. The bill directs the department to perform the requested evaluations and forward them to the prosecutor. The evaluations shall only be performed for these specified reasons.

**This bill** clarifies that existing provisions relating to commitment evaluation standards and to the rights of the person subject to commitment shall also apply with respect to evaluations for extended commitments. Finally, SB 2018 removes the sunset on the existing provision set to expire on July 1, 2001, which provides that the two-year term shall not be reduced by any time spent in a secure facility prior to the order of commitment.

**Existing law** provides that the Attorney General shall establish and maintain the Violent Crime Information Center and provides that the Department of Justice, in conjunction with the Department of Corrections, shall update any

supervised release file available to law enforcement to reflect the most recent paroled inmates.

**This bill** provides that commencing on July 1, 2001, the Department of Justice shall also work in conjunction with the State Department of Mental Health in updating this information system to reflect patients undergoing community mental health treatment and supervision through the Forensic Conditional Release Program administered by the State Department of Mental Health, other than individuals committed as incompetent to stand trial.

***Legislative History:***

*Senate Health and Human Services (5-0)*

*Senate Appropriations, SR 28.8*

*Senate Public Safety (5-0)*

*Senate Floor (39-0)*

*Senate Concurrence (31-1)*

*Assembly Public Safety (5-1)*

*Assembly Appropriations (19-0)*

*Assembly Floor (70-1)*

**AB 1300 (Rod Pacheco): Chapter 142: Sex offenders: parole. Urgency.**  
(Amends Sections 3000 and 3000.1 of, and adds and repeals Article 1.5 (commencing with Section 3005) of Chapter 8 of Title 1 of Part 3 of, the Penal Code.)

**Existing law** provides for the parole of sex offenders, generally for a period of three years.

**This bill** provides that sex offenders guilty of rape, sodomy, oral copulation by force, lewd acts on a child under 14 years of age, continuous sexual abuse of a child, or rape in concert, as specified, shall be subject to a maximum of five years of continuous parole, an increase of two years above existing law. If the inmate received a life sentence for commission of certain sex offenses, the period of parole shall be five years, which could be extended upon specified conditions for an additional five-year period, while existing law has no such extension.

**This bill** directs the Department of Corrections

(CDC) to conduct a two-year study and create a protocol for an intensive treatment program for high-risk offenders. CDC may implement a sex offender relapse prevention and treatment plan. These programs will be subject to legislative appropriation. A legislative report is required by January 1, 2004. The bill sunsets July 1, 2006.

***Legislative History:***

*Assembly Public Safety (7-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (75-0)*

*Assembly Concurrence (72-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations (10-0)*

*Senate Floor (37-0)*

***Sex Offenses***

**AB 1302 (Thomson): Chapter 484: Parolees.**  
(Adds Section 3060.6 to the Penal Code.)

**Existing law** requires the Department of Corrections to release specified information regarding paroled inmates from the statewide parolee database, if available, to local law enforcement where the inmate is to be released.

**This bill** enacts a new Penal Code section providing that whenever any paroled inmate is returned to custody or has his or her parole revoked on or after January 1, 2001 for conduct subject to mandatory sex offender registration, the parole authority must report the circumstances that were the basis for the return to custody or revocation of

parole to the law enforcement agency and district attorney which has primary jurisdiction over the community in which the circumstances occurred and to the Department of Corrections. Upon the inmate's release, the Department of Corrections is required to inform the law enforcement agency and district attorney which has primary jurisdiction over the community in which the circumstances occurred and, if different, the county in which the inmate is paroled or discharged, of the circumstances that were the basis for the return to custody or revocation of parole.

***Legislative History:***

*Assembly Floor (77-0)*

*Senate Floor (39-0)*

**AB 1742 (Correa): Chapter 235: Statute of limitations.**  
(Amends Section 803 of the Penal Code.)

**Existing law** provides statutes of limitations for the prosecution of crimes. Prosecution for an offense punishable by death or by imprisonment in the state prison for life or life without the possibility of parole may be commenced at anytime. Prosecution for an offense punishable by imprisonment in the state prison for more than 8 years is required to be commenced within 6 years. Prosecution for other offenses that are punishable by imprisonment in the state prison

are required to be commenced within three years.

**This bill** permits the prosecution of certain sex offenses within one year of the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid (DNA) testing if DNA testing of biological evidence occurs within a specified period, or within 10 years of the offense, whichever is longer, as specified, notwithstanding any other specified limitation of time.

***Legislative History:***

*Assembly Public Safety (7-0)*

*Assembly Floor (65-0)*

*Assembly Concurrence (61-0)*

*Senate Public Safety (5-0)*

*Senate Floor (38-0)*

**AB 1988 (Strickland): Chapter 153: Parolees.**  
(Amends Section 3003 of the Penal Code.)

**Existing law** provides that an inmate who is released on parole for any violation of the crimes of lewd or lascivious acts on a child or continuous sexual abuse of a child shall not be placed within one-quarter mile of any school that includes any or all of grades kindergarten to 6, inclusive.

**This bill** clarifies the scope of this provision to include, "reside, for the duration of his or her period of parole . . . ."

***Legislative History:***

*Assembly Public Safety (6-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (74-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (39-0)*

**AB 2320 (Dickerson): Chapter 226: Expungement.**  
(Amends Section 1203.4 of the Penal Code.)

**Existing law** provides that a person who has successfully completed probation shall have the accusations or information against him or her dismissed and shall be released from all penalties and disabilities resulting from the offense, except as specified.

**This bill** provides that these provisions shall not apply to persons 21 years of age or older convicted of a felony violation of engaging in unlawful sexual intercourse with a minor who is under 16 years of age.

***Legislative History:***

*Assembly Public Safety (7-0)*

*Assembly Floor (71-0)*

*Assembly Concurrence (73-0)*

*Senate Public Safety (6-0)*

*Senate Floor (31-0)*



***Sex Offenses***

**AB 2849 (Havice): Chapter 643: Sexually violent predators.**  
(Amends Section 6600 of the Welfare and Institutions Code.)

**Existing law**, the Sexually Violent Predator (SVP) law, provides for the civil commitment for psychiatric treatment of a prison inmate found to be a sexually violent predator after the person has served his or her prison commitment. (Welf. & Inst. Code § 6600 et seq.) An SVP is an inmate who was convicted of a sexually violent and predatory offense against two or more victims for which he or she received a determinate sentence and who has a dangerous, diagnosed mental disorder such that he or she will likely engage in sexually violent criminal behavior if released. A “predatory” sex crime is one that

was committed against a stranger, casual acquaintance who has no substantial relationship with the perpetrator, or a person with whom the alleged SVP established a relationship for purposes of victimization. (Welf. & Inst. Code § 6600, subd. (e))

**This bill** defines a prior sexually violent offense for which the defendant received probation as a qualifying SVP offense. The bill also clarifies the language of the existing law as to what constitutes a qualifying prior conviction.

***Legislative History:***

*Assembly Public Safety (5-2)*

*Assembly Appropriations (21-0)*

*Assembly Floor (74-0)*

*Assembly Concurrence (71-0)*

*Senate Public Safety (4-0)*

*Senate Appropriations (13-0)*

*Senate Floor (40-0)*

**Sex Offender Registration**

**SB 446 (Dunn): Chapter 649: Registration photo.**  
(Amends Section 290 of the Penal Code.)

**Existing law** requires that certain information be provided to the Department of Justice and local law enforcement when a person who is required to register as a sex offender is about to be released from custody.

**This bill** makes technical changes to require that a current photo of the registrant be provided with this information.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety (8-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (71-0)*

**AB 1340 (Honda): Chapter 648: Megan’s Law.**  
(Amends Sections 290 and 290.4 of the Penal Code.)

**Existing law** provides for the public disclosure of certain information concerning registered sex offenders.

**This bill** makes a number of changes to the sex offender registration and public disclosure statutes, including:

1. Extending the sunset on the CD-ROM public disclosure statute from 2001 until 2004,
2. Authorizing minors to review publicly-available sex offender information with their parents or legal guardians,
3. Adding “attempted commission” of enumerated sex offenses to the public disclosure statute,

4. Replicating the existing secondary disclosure language now applicable for serious sex offenders to State Department of Justice disclosures concerning high-risk sex offenders, and
5. Adding the State Department of Corrections and the State Department of the Youth Authority to the existing immunity provision applicable to the law enforcement for good faith disclosures under Megan’s Law.

***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (79-0)*  
*Assembly Concurrence (74-1)*  
  
*Senate Public Safety (4-0)*  
*Senate Appropriations (12-0)*  
*Senate Floor (40-0)*

**AB 2502 (Romero): Chapter 240: Sex offender registration.**  
(Amends Section 290 of the Penal Code.)

**Existing law** requires persons convicted of specified sex crimes to register as sex offenders.

**This bill** makes technical, notification-related revisions to the sex offender registration statute concerning the registration of persons who

are granted conditional release without supervised probation, or discharged upon payment of a fine.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Floor (75-0)*  
*Assembly Concurrence (68-0)*  
  
*Senate Public Safety (4-0)*  
*Senate Floor (39-0)*

# ***STALKING***

## **SB 580 (Lewis): Chapter 561: Notice.**

(Amends Sections 649.92 and 3003 of, and adds Section 3058.61 to, the Penal Code.)

**Existing law** requires the Department of Corrections, county sheriff, or director of the local department of corrections to give notice to victims and other specified persons of the release of any person who is convicted of stalking or convicted of a felony offense involving domestic violence. Existing law also generally regulates conditions of parole, including restrictions on where parolees may be located upon release.

**This bill** adds notice of any change in parole status or location to the notice requirements noted above. It also requires additional attempts to locate victims whose address or telephone number is incorrect, or who did not originally request notice. This bill requires that when a person convicted of stalking is to be released from confinement, the department must notify the sheriff, police chief, or

both, and the district attorney, for the community where the person was convicted and for the community into which the person will be released, as specified. This bill also provides that an inmate released on parole for an offense involving stalking may not be returned to a location within 35 miles of the victim's residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate upon parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of the victim.

### ***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations,*  
*SR 28.8*

*Senate Floor (39-0)*  
*Senate Concurrence*  
*(40-0)*

*Assembly Public Safety*  
*(7-0)*

*Assembly Appropriations*  
*(21-0)*

*Assembly Floor (72-0)*

***Stalking***

**AB 2425 (Corbett): Chapter 669: Punishment and Parole.**

(Amends Sections 646.9 and 646.93 of, and adds Section 646.94 to, the Penal Code.)

Existing law provides that stalking, as defined, is a misdemeanor or a felony. A person who commits that offense when there is a temporary restraining order, injunction, or any other court order in effect prohibiting the behavior proscribed by that offense against the same party is guilty of a felony, punishable by imprisonment in the state prison for 2, 3, or 4 years. A person who is convicted a repeat stalking offense is punishable by imprisonment in the state prison for 2, 3, or 4 years, as specified.

**This bill** increases the longest prison term for repeat stalking by one year; makes technical

revisions to the notice requirements for persons about to be released from jail on stalking charges; requires, contingent upon a Budget Act appropriation, intensive parole for persons released from prison for stalking convictions; and requires Department of Corrections to evaluate the parole program and report to the Legislature, as specified.

***Legislative History:***

*Assembly Public Safety (7-1)*

*Assembly Appropriations (21-0)*

*Assembly Floor (75-2)*

*Assembly Concurrence (76-1)*

*Senate Public Safety (5-0)*

*Senate Appropriations (13-0)*

*Senate Floor (40-0)*

# ***VEHICLE OFFENSES/DMV***

## **Vehicles**

**SB 1526 (Kelley): Chapter 446: Safety enhancement-double fine zones.**  
(Amends Section 97 of the Streets and Highways Code.)

**Existing law** requires the Department of Transportation, in consultation with the Department of the California Highway Patrol, to develop specified pilot projects to designate and identify certain highway segments as "Safety Enhancement-Double Fine Zones" and impose increased fines for traffic violations occurring within these zones.

**This bill** requires the department to develop a pilot project that would be administered, in part, by

certain local authorities, for designated portions of State Highway Routes 2 and 74. The bill thereby would create a state-mandated local program by imposing additional duties upon those local authorities.

### ***Legislative History:***

*Senate Transportation  
(11-0)*

*Senate Public Safety (4-1)*

*Senate Appropriations  
(7-2)*

*Senate Floor (23-9)*

*Senate Concurrence  
(23-8)*

*Assembly Transportation  
(17-1)*

*Assembly Appropriations  
(21-0)*

*Assembly Floor (67-7)*

**SB 1765 (Hayden): VETOED: Vehicle forfeiture: storage.**  
(Amends Sections 14602.6 and 22852 of the Vehicle Code.)

**Existing law** authorizes a peace officer to seize a vehicle, without the necessity of arresting the driver, if the peace officer determines that the person was driving the vehicle while his or her driving privilege was suspended or revoked or without having been issued a license. Existing law requires the vehicle to be impounded for 30 days, but allows for the vehicle to be released prior to the end of that 30 days, except, among other things, where the suspension or revocation was ordered by the court for certain offenses or by the Department of Motor Vehicles based on certain convictions.

**This bill** would have limited the peace officer's authority to seize the vehicle as described where the suspension or revocation was based on offenses or convictions under which the release of the vehicle prior to the 30-day period is currently prohibited. In addition this bill would have allowed the

vehicle to be released before the end of the 30-day impoundment when the vehicle was driven by a person other than the registered owner of the vehicle, and the owner did not know the driver's license was suspended or revoked or that the driver was unlicensed, if the registered owner signs a specified agreement, when the vehicle was wrongfully seized under the law, and when the driver reinstates his or her driver's license, or acquires a license and proper insurance.

***Legislative History:***

*Senate Public Safety (4-2)*  
*Senate Appropriations (9-3)*

*Senate Floor (24-9)*  
*Senate Concurrence (26-10)*

*Assembly Public Safety (5-3)*  
*Assembly Appropriations (14-5)*  
*Assembly Floor (55-19)*

**SB 1988 (Speier): Chapter 867: Insurance fraud.**

(Amends Sections 650, 803.5, 2273, 6106.5, and 6153 of, adds Sections 1003, 1004, 2220.6, 2417, and 6106.6 to, and adds and repeals Article 10 (commencing with Section 9889.25) of Chapter 20.3 of Division 3 of, the Business and Professions Code, amends Sections 750, 1872.1, and 1872.7 of, adds Section 758 to, adds Article 4.5 (commencing with Section 1874.85) and Article 4.6 (commencing with Section 1874.90) to Chapter 12 of Part 2 of Division 1 of, and adds and repeals Section 1874.91 of, the Insurance Code, amends Sections 549 and 550 of the Penal Code, and adds Section 10904 to the Vehicle Code.)

**Existing law** provides for the regulation of insurers by the Insurance Commission, provides for the licensing and regulation of physicians, chiropractors and attorneys and provides for the regulation of auto repair dealers.

**This bill** makes changes to the above provisions as they relate to insurance fraud including increasing the penalties for insurance fraud by physicians, chiropractors and attorneys.

***Legislative History:***

*Senate Insurance (7-0)*  
*Senate Public Safety (5-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (35-0)*  
*Senate Concurrence (40-0)*

*Assembly Insurance (9-1)*  
*Assembly Public Safety (7-0)*  
*Assembly Appropriations (14-6)*  
*Assembly Floor (63-13)*

**AB 2506 (Romero): Chapter 401: Driver's license violations: referral program for alternative sanctions.**

(Amends Section 14601.9 of the Vehicle Code.)

**Existing law** authorizes the district attorney of any of the Counties of Alameda, Kern, Los Angeles, Orange, Placer, Sacramento, San Joaquin, San Luis Obispo, Santa Barbara, and Santa Cruz, with the approval of the board of supervisors, may establish a pilot program of persons who plead guilty or no contest or who are found guilty of a violation of Sections 14601, 14601.1, or 14601.3. The district attorney may conduct the program or contract with a private entity to conduct the program. The program shall include specified elements, including

utilizing an electronic monitoring program that complies with Section 1203.016 of the Penal Code, for not less than the minimum jail sentence, and not more than the maximum jail sentence, provided under Sections 14601, 14601.1, or 14601.3, as applicable. The court may allow a person to attend school, work, or other specified activities while on electronic monitoring.

**This bill** clarifies the standards to be utilized for the electronic monitoring program and

provides that the electronic monitoring shall be provided under the auspices of the district attorney or his or her designee.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence (72-0)*

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

# ***VICTIMS OF CRIME***

## **SB 1802 (Chesbro): Chapter 198: Victims of crime: restitution.**

(Amends Sections 6276.46 and 13968 of, and adds Section 6254.17 to, the Government Code, and amends Section 1202.4 of the Penal Code.)

**Existing law** authorizes the State Board of Control to provide assistance to victims of crime for the pecuniary losses they suffer as a direct result of criminal acts (Victims of Crime Program). (Government Code §§ 13959–13969.4)

**This bill** does the following:

1. **Existing law** creates the California Public Records Act which contains a prefatory statement that “. . . the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” The Act provides for public access to public records; the Act does contain enumerated exceptions to public access. (Government Code §§ 6250 et seq.)

**Existing law** requires that any exemption from disclosure under the California Public Records Act after January 1, 1999, shall be listed and described in Article 2 of the Act. (Government Code § 6275)

**This bill** adds a specific exemption from public disclosure pertaining to records of the Board of Control Victims of Crime Program, except that the exemption shall not apply to disclosure of the following information, if no information is disclosed that connects the information to a specific victim, derivative victim, or applicant:

- 1) The amount of money paid to a specific provider of services.
- 2) Summary data concerning the types of crimes for which assistance is provided.

This bill adds to the listed exemptions under the Public Records Act “Victims of Crimes Compensation Program, confidentiality of records, subdivision (d), Section 13968, Government Code.”

2. **Existing law** provides that specified confidentiality provisions, including medical provider-patient,

are waived with respect to a communication protected by such privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to such disclosure made by anyone. (Evidence Code § 912)

**This bill** provides that the Section 912 privilege is not waived by an applicant consenting to disclosure of an otherwise privileged communication if that disclosure is deemed necessary by the Board for verification of the VOC program application process.

3. **Existing law** requires criminal courts, after a defendant is convicted, to set an amount of restitution in a restitution order for payment to victims. (Penal Code § 1202.4)

**This bill** provides that the amount of assistance provided under the VOC program shall be presumed to be a direct result of the defendant’s criminal



***Victims of Crime***

SB 1802 (Chesbro), continued

conduct and shall be included in the amount of the restitution ordered; provides that assistance provided by the Restitution Fund shall be established by redacted copies of bills submitted to the State Board of Control, as specified; and that if the defendant offers evidence to rebut the presumption established by this paragraph, the court may

release additional information contained in the records of the State Board of Control to the defendant only after reviewing that information in camera and finding that the information is necessary for the defendant to dispute the amount of the restitution order.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations, SR 28.8*

*Senate Floor (38-0)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (77-0)*

**SB 2183 (Soto): VETOED: Trauma intervention.**

(Adds Article 5 (commencing with Section 13839) to Chapter 4 of Title 6 of Part 4 of the Penal Code.)

**Existing law** creates and defines the Office of Criminal Justice Planning (OCJP), an executive agency that oversees and funds criminal justice programs. OCJP funds a number various programs relating to victims' services.

**This bill** would have appropriated \$534,000 from the General Fund to OCJP for the purpose of implementing a multi-site trauma intervention project to replicate and expand the

existing OCJP-funded Child Trauma Intervention Program for youth exposed to community violence. The bill would have required OCJP to report to the Legislature annually on the program, on an interim basis, and to provide a full report by February 1, 2005.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (8-3)*

*Senate Floor (28-8)*

*Senate Concurrence (27-13)*

*Assembly Public Safety (8-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (75-1)*

**AB 2371 (Lempert): Chapter 545: Victims of crime: restitution.**

(Amends Sections 1203.1d and 1214 of the Penal Code and Section 19280 of the Revenue and Taxation Code.)

**Existing law:**

1. Permits the referral of fines and penalties of no less than \$250 due, including criminal restitution fines and restitution orders, to the Franchise Tax Board for collection and also authorizes a board of supervisors to establish priorities of payment with respect to amounts collected by the Franchise Tax Board, and
2. Provides that any judgment for a fine, including a restitution fine, may be enforced in the manner provided for the enforcement of money judgments generally.

**This bill does the following:**

1. Requires a board of supervisors to establish priorities of payment and also provides that restitution fines and restitution orders with no less than \$100 due may be referred to the Franchise Tax Board for collection as a pilot project, subject to the approval of the Director of Finance, and
2. Provides that any portion of a restitution fine that remains unsatisfied after a defendant is no longer on probation or parole is enforceable by the State Board of Control, as specified.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (74-0)*  
*Assembly Concurrence (73-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (38-0)*

**AB 2491 (Jackson): Chapter 1016: Victims of crime: restitution: Board of Control.**

(Amends Sections 13900, 13901, 13961.1, and 13968.5 of, amends and repeals Section 13965 of, adds Section 13965.1 to, and adds and repeals Chapter 6 (commencing with Section 13974.5) of Part 4 of Division 3 of Title 2 of, the Government Code, amends Sections 1202.4, 1203.1k, and 1203.3 of the Penal Code, and amends Section 730.6 of the Welfare and Institutions Code.)

**Existing law does the following:**

1. Establishes the State Board of Control with specified members and duties that include, among other things, the indemnification of victims of crime and payment of claims against the state.
2. Authorizes the board to delegate authority to designated staff persons and local victim witness centers, to

grant and disburse emergency awards to victims or derivative victims of crimes who meet specified criteria.

3. Requires that an application for an emergency award notify the applicant that he or she must either complete a regular application for assistance within one year of the date of the crime or certify that he or she does not anticipate

claiming reimbursements in addition to those claimed in the application for an emergency award, as specified.

4. Prescribes criteria for the board to make cash payments payable from the Restitution Fund, a continuously appropriated fund, in prescribed amounts to victims or derivative

***Victims of Crime***

AB 2491 (Jackson), continued

victims for specified losses or expenses, including loss of wages or support.

5. Requires the board, until January 1, 2004, to conduct a pilot program to provide reimbursement for grief, mourning, and bereavement services provided by a person certified as a child life specialist, and to report to the Legislature by January 31, 2003, on the pilot program.
6. Requires a court to order restitution in criminal and juvenile court cases, as specified, in an amount sufficient to reimburse the victim for economic losses, including lost wages, to the extent possible.
7. Authorizes the board to take specific actions regarding victims of crime.

**This bill** does the following:

1. Renames the State Board of Control the California Victim Compensation and Government Claims Board.
2. Authorizes the board to delegate the authority to grant and disburse funds to designated staff persons and local agencies, including, but not limited to, district attorneys, probation departments, and local victim witness centers.
3. Repeals the option of certification by an applicant for emergency

awards that he or she does not anticipate claiming additional reimbursements.

4. Changes the criteria for awards for payments relating to loss of wages and support and increases the maximum amount of certain cash payments and of total awards to victims, as specified.
5. Deletes an incorrect code reference and adds references to specified provisions of law that provide bases for determining whether a child life specialist would be disqualified from being employed by a school district.
6. Specifies that lost wages include commissions and base wages.
7. Requires until January 1, 2005, the board to enter into an interagency agreement with the University of California, San Francisco, upon adoption of a resolution by the Regents of the University of California, and upon appropriation of funds for that purpose, to establish a victims of crime recovery center at the San Francisco General Hospital to demonstrate the effectiveness of providing comprehensive and integrated services to victims of crime, subject to conditions set forth by the board. Requires the board

to report to the Legislature on the effectiveness of the center no later than May 1, 2004. Appropriates \$2.45 million from the Restitution Fund to the board for the implementation of the interagency agreement. (See AB 2866.)

***Legislative History:***

*Assembly Public Safety (8-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (74-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, (13-0)*

*Senate Floor (40-0)*

**AB 2683 (Bock): Chapter 974: Victims of crimes: witnesses: payments.**  
(Adds Sections 13961.05 and 13965.5 to the Government Code.)

Existing law provides that the period prescribed for the filing of an application for assistance under the Victim of Crime Program is one year after the date of the crime or one year after the victim attains 18 years of age, whichever is later. The Board of Control may for good cause grant an extension of the time period in paragraph not to exceed three years after the date of the crime—an additional two years—or after the victim attains 18 years of age, whichever is later, or in other specified circumstances.

This bill does the following:

1. Provides that in addition to the existing additional extension for good cause authorized under current law, the Board of Control may also for good cause grant an additional extension when the claim is filed under either of the following circumstances:
  - The application is filed by a person who is called to testify in a proceeding against a defendant as a victim or derivative victim of prior acts of the defendant, as specified, and the application is filed within one year of the completion of the person's testimony, is accompanied by a recommendation from the prosecuting attorney that the application be accepted, and includes a

copy of the crime report or other official documentation describing the offense of which the person was the victim (such as testimony in a subsequent trial of an accused serial rapist).

- The application is filed by a victim of a sexually violent offense who is called to testify in a Sexually Violent Predator proceeding involving that offender, and the application is filed within one year of the completion of the victim's testimony and is accompanied by a copy of the crime report or other official documentation describing the offense.
2. Provides that no application shall be denied under those two new time limit exemptions solely because the crime was not reported to law enforcement within a specified time period.
  3. Provides that no reimbursement shall be made for any expense that is submitted more than three years after the loss is incurred by the victim or derivative victim.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (74-1)*  
*Assembly Concurrence (77-1)*  
  
*Senate Public Safety (5-0)*  
*Senate Appropriations (10-0)*  
*Senate Floor (38-0)*

***Victims of Crime***

**AB 2685 (Bock): Chapter 444: Victims of crime: Restitution Fund: notification card.**  
(Adds Section 1191.21 to the Penal Code.)

**Existing law** authorizes the State Board of Control to provide assistance to victims of crime for the pecuniary losses they suffer as a direct result of criminal acts (Victims of Crime Program).

**This bill** does the following:

1. Requires that the Office of Criminal Justice Planning (OCJP) develop and make available a "notification of eligibility" card for victims and derivative victims of violent crimes, as specified. At a minimum, the OCJP is required to develop a template available for downloading on its Internet

website information contained in the notification of eligibility card.

2. Provides that in a case involving a qualifying crime, the law enforcement officer with primary responsibility for investigating the crime committed against the victim and the district attorney may provide the "notification of eligibility" card to the victim and derivative victim of a violent crime.

***Legislative History:***

*Assembly Public Safety (8-0)*  
*Assembly Appropriations (19-0)*  
*Assembly Floor (76-0)*  
*Assembly Concurrence (75-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations (10-0)*  
*Senate Floor (40-0)*

***MISCELLANEOUS***

**SB 370 (Burton): Chapter 692: Abortions.**  
(Amends Section 2253 of the Business and Professions Code and repeals Chapter 3 (commencing with Section 274) of Title 9 of Part 1 of the Penal Code.)

**Existing law** provides that specified acts pertaining to an abortion are crimes except as provided in the Therapeutic Abortion Act.

**This bill** repeals Penal Code Sections 274, 275, and 276, all pertaining to abortion "crimes" and clarifies that any person

that performs or assists in performing an abortion without a valid license to practice medicine is subject to criminal penalties pursuant to the Business and Professions Code.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence (26-10)*

*Assembly Public Safety (5-3)*  
*Assembly Appropriations (16-5)*  
*Assembly Floor (46-25)*

**SB 639 (McPherson): Chapter 778: Gambling: charitable raffles.**  
(Adds Section 320.5 to the Penal Code.)

**Existing law** generally prohibits lotteries, but allows operation of the California State Lottery and bingo games for charitable purposes pursuant to local ordinances. The California Constitution, as amended by initiative, empowers the Legislature to authorize private, eligible, nonprofit organizations to operate raffles to fund beneficial and charitable works.

**This bill** provides that a raffle conducted by an eligible organization in California is not prohibited if:

- Each ticket is sold with a detachable coupon or stub with identifying numbers,
- The draw is conducted in California under the supervision of a natural person who is 18 years of age or older, and
- At least 90% of the gross receipts generated from the sale of raffle tickets are used to benefit or provide support for beneficial or charitable purposes.

Raffle funds shall be used in California. An eligible organization is a private, nonprofit organization that has been qualified to conduct business in California for at least one year prior to conducting a raffle and is tax exempt pursuant to California law.

Any person receiving compensation in connection with the operation of a raffle shall be an employee of the eligible organization that is conducting it. Compensation may not be paid from dedicated funds, and no person or entity shall hold a financial interest in the conduct of a raffle except the eligible organization itself and other eligible organizations receiving funds as described. An employee of an eligible organization who is a direct seller of raffle tickets shall not be treated as an employee for workers' compensation purposes or unemployment insurance purposes if certain requirements are met.

No raffle may be conducted by means of any gaming machine, apparatus, or device, and no raffle may be advertised, operated, or conducted, nor may raffle tickets be sold, traded, or redeemed, over the Internet, or within an operating racetrack enclosure or satellite wagering facility, or within a gambling establishment. No eligible organization shall conduct or participate in a raffle without first having obtained and thereafter maintained a registration from the Department of Justice.

The department may issue regulations to enforce these

provisions, to assess an annual registration fee of \$10 to cover the actual costs of establishing and operating this registration system. The department must maintain a data base of registrants, with specified exemptions, and conduct specified proceedings in compliance with the Administrative Procedure Act. The Department of Justice shall conduct a study and report to the Legislature by December 31, 2003, on the impact of these provisions on raffles.

These provisions become operative on July 1, 2001.

***Legislative History:***

*Senate Governmental Organization (9-1)*  
*Senate Floor (29-0)*  
*Senate Concurrence (40-0)*

*Assembly Governmental Organization (12-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (69-5)*

**SB 1310 (Vasconcellos): Chapter 940: Outstanding warrants.**

(Adds and repeals Section 12419.2 of the Government Code, adds Section 817.5 to the Penal Code, and amends Sections 19280 and 19283 of, and adds Section 19550 to, the Revenue and Taxation Code.)

**Existing law** provides for the issuance of arrest warrants for a number of reasons. Existing law authorizes the Controller to offset any amount overdue and unpaid for a fine, penalty assessment, bail, vehicle parking penalty, or court-ordered reimbursement for any court-related service from a person or entity against any amount owing to the person or entity from the FTB or from winnings in the California State Lottery. Existing law allows all fines, state or local penalties, forfeitures, restitution fines, restitution orders, or any other amounts imposed by a superior or municipal court upon a person

or entity that is due and payable in an amount over \$250, in the aggregate for criminal offenses, including Vehicle Code violations may be referred by the county to the FTB for collection as specified.

**This bill** allows all outstanding arrest warrants to be entered into the Department of Justice's (DOJ's) Wanted Persons System, and requires the DOJ and other agencies to examine ways to integrate existing offset and collection procedures with the Automated Wanted Persons System.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence*  
*(40-0)*

*Assembly Public Safety*  
*(8-0)*

*Assembly Appropriations*  
*(16-5)*

*Assembly Floor (58-16)*

**SB 1384 (Committee on Business and Professions): Chapter 120: Labeling.**

(Amends Section 21800 of the Business and Professions Code.)

**Existing law** requires every person who manufactures an optical disc for commercial purposes to permanently mark each manufactured optical disc with an identification mark that identifies the name of the manufacturer and the state in which the optical disc was manufactured.

**This bill** alternatively authorizes the marking of an optical disc by use of a unique identifying code that enables law enforcement personnel to determine the name of the manufacturer and the state in which it was manufactured.

***Legislative History:***

*Senate Business and Professions (6-0)*  
*Senate Floor (35-0)*

*Assembly C.P., G.E. & E.D.*  
*(8-0)*

*Assembly Floor (76-0)*

**SB 1386 (Alpert): Chapter 165: Alcohol and drug assessment programs.**  
(Adds Section 1463.13 to the Penal Code.)

**Existing law** requires a county to establish an alcohol and drug problem assessment program for persons convicted of driving under the influence (DUI) and requires courts to levy an assessment of not more than \$100 upon every fine, forfeiture, or penalty imposed and collected for a DUI violation in which a judicial district participates in a county alcohol and drug assessment program.

**This bill** authorizes counties to develop, implement, operate, and administer an alcohol and drug problem assessment

program for persons convicted of a crime in which the court finds that alcohol or substance abuse was substantially involved in the commission of the crime, unless the person was convicted of driving under the influence or a related offense. The bill also authorizes courts to apply the above provisions to this program with a maximum assessment of \$150 upon every fine, penalty, or forfeiture imposed and collected by the courts for persons convicted as described in these provisions.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Floor (29-2)*  
*Senate Concurrence*  
*(34-0)*

*Assembly Public Safety*  
*(5-0)*  
*Assembly Floor (73-0)*

**SB 1486 (Schiff): Chapter 563: Aggravated residential trespass.**  
(Amends Section 602.5 of the Penal Code.)

**Existing law** provides that any person who enters or remains in any dwelling house or apartment without the consent of the owner is guilty of a misdemeanor, punishable by no more than six months in the county jail. (Pen. Code § 602.5)

**This bill** creates the crime of aggravated residential trespass and imposes a misdemeanor penalty, with a maximum imprisonment of one year in the county jail and/or a fine of up to \$1,000. Further, the bill specifically provides that the

court may place a defendant convicted of aggravated trespass on probation for a period of three years. Probation for aggravated trespass must include mandatory counseling. Further, the court may issue a restraining order, valid for up to five years, as part of the sentence for aggravated trespass.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (38-0)*  
*Senate Concurrence*  
*(38-0)*

*Assembly Public Safety*  
*(5-0)*  
*Assembly Appropriations*  
*(21-0)*  
*Assembly Floor (77-0)*



**SB 1520 (Schiff): Chapter 994: Secondhand dealers: coin dealers: reporting.**  
(Amends Sections 21628 and 21630 of the Business and Professions Code.)

**Existing law** requires secondhand dealers and coin dealers, on forms either approved or provided at actual cost by the Department of Justice, to report daily all tangible personal property purchased, taken in trade or pawn, accepted for sale on consignment, or for auctioning, to the chief of police or sheriff. That report, unless otherwise agreed upon by the parties, is required to be submitted by mail. A violation of these reporting requirements, as well as other provisions that regulate the secondhand and coin dealer businesses, is a crime.

**This bill** requires the department, in consultation with local law enforcement agencies, to

develop clear and comprehensive descriptive categories for this property. The department shall also develop, in consultation with law enforcement and industry representatives, a format that secondhand and coin dealers would be required to use to electronically report these property transactions. This bill exempts from the electronic reporting requirement a coin dealer who engages in less than ten transactions each week, each consisting of not more than one item. Exempt coin dealers must report by mail or facsimile transmission these transactions under the categories and on a form developed for this purpose by the Attorney General.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (39-0)*  
*Senate Concurrence*  
*(40-0)*

*Assembly Public Safety*  
*(7-0)*  
*Assembly Appropriations*  
*(13-7)*  
*Assembly Floor (66-9)*

**SB 1558 (Costa): VETOED: Crime laboratories: funds.**  
(Amends Section 1463.14 of the Penal Code.)

**Existing law** provides that the Department of Justice shall perform forensic testing for the presence of alcohol or drugs for counties which do not have the ability to perform such tests. Existing law also provides that \$50 of each fine collected for each DUI or DUI-related conviction goes into a special account to be used solely to pay for laboratory testing and analysis, and that the local entity ordering the tests becomes liable

for any costs not covered by the money in the special account.

**This bill** would have changed the process by which the Department of Justice is reimbursed for the costs associated with performing forensic tests for the presence of alcohol or drugs.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations*  
*(13-0)*  
*Senate Floor (40-0)*

*Assembly Public Safety*  
*(8-0)*  
*Assembly Appropriations*  
*(20-0)*  
*Assembly Floor (76-0)*

**SB 1565 (Schiff): Chapter 261: Property of felons: involuntary trust.**  
(Amends Section 2225 of the Civil Code.)

**Existing law** imposes an involuntary trust upon the proceeds and profits, as defined, from the sale or transfer of any thing or right of a felon, the value of which is enhanced by the notoriety gained from the commission of the felony, and specifies procedures whereby the beneficiaries of the trust, as defined, may enforce their rights under the trust.

**This bill** imposes that trust upon the profits of any memorabilia or other thing sold or transferred by

a profiteer of the felony, as defined, but would require the court, upon an adequate showing by the profiteer, to exclude from the trust the inherent value of the thing sold, as specified. The bill also excludes the sale or transfer by a profiteer of any other expressive work protected by the First Amendment unless the sale or transfer is primarily for a commercial or speculative purpose.

***Legislative History:***

*Senate Judiciary (8-0)*  
*Senate Floor (40-0)*  
*Senate Concurrence (38-0)*

*Assembly Judiciary (13-0)*  
*Assembly Floor (69-1)*

**SB 1859 (Chesbro): Chapter 233: Public officials.**  
(Amends Section 76 of the Penal Code.)

**Existing law** provides that any person who, with apparent ability and intention to carry out the threat, threatens to kill or cause serious bodily injury to any elected official, county public defender, county clerk, exempt Governor's appointee, etc., or a family member of such official, is guilty of an alternate felony misdemeanor. (Pen. Code § 76, subd. (a)) Law enforcement agencies must report such threats against public officials to the Department of Justice. (Pen. Code § 76, subd. (b)(1)) Further, law enforcement agencies must report to the Highway Patrol any

threat to kill or cause serious bodily injury to a state constitutional officer, member of the Legislature, or judge. (Pen. Code § 76, subd. (b)(2))

**This bill** eliminates the requirement that any threat against a public official be reported to the Department of Justice. Further, this bill eliminates any requirement of a report to a state agency where the threatened person is not a state constitutional officer, a member of the Legislature, or a judge.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (38-0)*  
*Senate Concurrence (38-0)*

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (77-0)*

**SB 1865 (Perata): Chapter 805: Air pollution: civil and criminal penalties.**

(Amends Sections 39153, 39675, 42400, 42400.1, 42400.2, 42400.3, 42402, 42402.1, 42402.2, and 42402.3 of, and adds Sections 42400.3.5, 42400.7, 42400.8, and 42402.4 to, the Health and Safety Code.)

**Existing law** provides for specified criminal penalties for the emission of an air contaminant which causes actual injury, detriment, nuisance or annoyance to a considerable amount of people.

**This bill** increases the fine and maximum time of imprisonment for an emission of an air contaminant causing actual injury.

**Existing law** provides that any person who negligently emits an air contaminant in violation of any rule, regulation, permit, or order of the state board or a district pertaining to emissions, to be subject to a fine, imprisonment, and a civil penalty.

**This bill** increases the maximum fine and also provides that any person who negligently emits an air contaminant that causes injury, detriment, nuisance, or annoyance to a considerable number of persons that also causes great bodily injury, as defined, to, or death of, any person is guilty of a misdemeanor and subject to a fine, imprisonment, and a civil penalty.

**Existing law** provides that any person who emits an air contaminant in violation of any rule, regulation, permit, or order of the state board or a district pertaining to emissions, and who

knew of the emission and failed to correct the violation within a reasonable period of time is subject to a fine, imprisonment, and a civil penalty.

**This bill** increases the maximum fine and penalty and provides that any person who owns or operates any source of an air contaminant that causes injury, detriment, nuisance, or annoyance to a considerable number of persons that also causes great bodily injury or death of, any person and who knew of the emission and failed to take corrective action within a reasonable time is guilty of a misdemeanor and subject to a specified fine and penalty.

**Existing law** provides that any person who willfully and intentionally emits an air contaminant in violation of any rule, regulation, permit, or order of the state board or a district pertaining to emissions is subject to a specified fine, imprisonment, and penalty.

**This bill** expands that provision to include any person who willfully and intentionally or with reckless disregard for the risk of great bodily injury or death, emits an air contaminant that results in great bodily injury or death and also increases the maximum allowable fine and civil penalty. The bill also provides that any person who

emits an air contaminant that causes injury, detriment, nuisance, or annoyance to a considerable number of persons, that results in any unreasonable risk of, or that causes great bodily injury to, or death of, any person, and who does so willfully, intentionally, or with reckless disregard for the risk is guilty of a misdemeanor.

**This bill** also makes other changes to civil provisions and extends the sunset date on provisions addressing minimum air pollution violations.

***Legislative History:***

*Senate Environmental Quality (7-3)*

*Senate Public Safety (4-2)*

*Senate Appropriations, SR 28.8*

*Senate Floor (21-15)*

*Senate Concurrence (25-14)*

*Assembly Natural Resources (7-3)*

*Assembly Public Safety (5-2)*

*Assembly Appropriations (14-6)*

*Assembly Floor (47-28)*

**SB 1867 (Speier): Chapter 176: Theft: by fraud: intent.**  
(Amends Section 484 of the Penal Code.)

**Existing law** provides that if a person rents or leases any property other than a vehicle and fails to return the property for 20 days since the expiration of the rental agreement, and where the owner has made a written demand for return of the property, the person shall be presumed to have intended to steal the property. (Pen. Code § 484, subd. (b)) (Where a person who has leased or rented a vehicle willfully fails to return the property within five days after the lease has expired, the person shall be presumed to have embezzled the property.) (Veh. Code § 10855)

**This bill** instead provides that intent to commit theft by fraud is rebuttably presumed if a person has leased or rented personal property (other than a vehicle) pursuant to a written contract and the value of that property is greater than \$1,000, the personal property is not a commonly used household item, and the person fails to return the property to its owner within 10 days after written demand is made following expiration agreement. For other property, the 20-day rule in existing law applies.

***Legislative History:***

*Senate Public Safety (6-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (39-0)*

*Assembly Public Safety*  
*(8-0)*  
*Assembly Appropriations*  
*(21-0)*  
*Assembly Floor (77-0)*

**SB 1955 (Committee on Public Safety): Chapter 287: Public safety.**

(Amends Section 1560 of the Evidence Code, amends Sections 190.9, 209, 266c, 273.5, 289.6, 290, 347, 600, 667.71, 832.6, 976.5, 999I, 1170.11, 1170.17, 1174.4, 1240.1, 2933.5, 3046, 11160, 11165.1, 12020, 12022.53, and 12280 of the Penal Code, and amends Sections 21221.5 and 23612 of the Vehicle Code, and amends Sections 727.4 and 15610.63 of, and amends and renumbers Section 727.2 of, the Welfare and Institutions Code.)

**This bill** makes a number of clarifying and technical amendments to the Penal Code and penal provisions in other codes.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Floor (38-0)*  
*Senate Concurrence*  
*(38-0)*

*Assembly Public Safety*  
*(8-0)*  
*Assembly Appropriations*  
*(21-0)*  
*Assembly Floor (69-0)*

*Miscellaneous*

**SB 2097 (Hayden): VETOED: Law schools: study of wrongful convictions of innocent persons.**  
(Uncodified Law.)

**Existing law** establishes the various segments of the higher education system in the state.

**This bill** would have enacted Legislative findings and declarations about the possibility of wrongful convictions and would have requested the Regents of the University of California, as well as any interested private

postsecondary institution, to consider the creation of law school projects that undertake teaching and research on wrongful convictions of innocent persons, that study the causes of these wrongful convictions, and that propose remedies for this problem.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence*  
*(21-12)*

*Assembly Public Safety*  
*(5-0)*  
*Assembly Floor (74-4)*

**AB 1422 (Torlakson): Chapter 477: Reporting of crimes.**  
(Adds Section 152.3 to the Penal Code.)

**Existing law** makes it a felony or a misdemeanor for any person who, having knowledge of the actual commission of a crime, takes money or property of another, any gratuity or reward, or any engagement or promise thereof, upon any agreement or understanding to compound or conceal the crime, or to abstain from any prosecution thereof, or to withhold any evidence thereof, except as specified.

**This bill** requires, with specified exceptions, any person who reasonably believes that he or

she has observed the commission of either a murder or rape where the victim is a child under the age of 14 years or a lewd or lascivious act with a child under the age of 14 years, as specified, to notify a peace officer by telephone or any other means. The failure to notify as required is a misdemeanor punishable by a fine of \$1,500, or by imprisonment in a county jail for up to six months, or both.

***Legislative History:***

*Assembly Public Safety*  
*(8-0)*  
*Assembly Appropriations*  
*(19-0)*  
*Assembly Floor (72-1)*  
*Assembly Concurrence*  
*(47-28)*

*Senate Public Safety (5-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (22-8)*

**AB 1727 (Reyes): Chapter 310: Crime prevention: rural counties. Urgency.**  
(Amends Sections 14172 and 14175 of the Penal Code.)

**Existing law** authorizes the Counties of Tulare, Fresno, Kern, Kings, Madera, Merced, San Joaquin, and Stanislaus to develop the Rural Crime Prevention Program, modeled on the Rural Crime Prevention Demonstration Project to be administered as specified until June 30, 2000.

Legislative Analyst to submit the required evaluation by December 31, 2001, rather than December 31, 2000; and makes an appropriation by extending the time period for the expenditure of the \$100,000 appropriation from December 31, 2000 to December 31, 2001.

**This bill** extends the operation of the program until January 1, 2002; requires the

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (76-2)*  
*Assembly Concurrence (72-3)*  
  
*Senate Public Safety (5-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (40-0)*

**AB 1787 (Maddox): Chapter 149: Trespass: registered process servers.**  
(Amends Section 602 of the Penal Code.)

**Existing law** makes it a trespass punishable as a misdemeanor for a person to drive any vehicle, as defined, upon specified real property without consent. Existing law exempts from this provision a registered process server who is making a lawful service of process.

provision only if they exit the vehicle and proceed immediately to attempt the service of process and leave immediately, as specified.

**This bill** exempts registered process servers from this

***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (71-0)*  
*Assembly Concurrence (76-0)*  
  
*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (37-0)*

***Miscellaneous***

**AB 1799 (Baugh): Chapter 630: Indemnification: erroneously convicted persons.**  
(Amends Section 4904 of the Penal Code and adds Section 17157 to the Revenue and Taxation Code.)

**Existing law** requires the State Board of Control to report to the Legislature the facts of a case involving a claimant who has sustained pecuniary injury as a result of having been convicted of a crime for which the claimant was found to be innocent if, in addition, the claimant did not contribute to his or her arrest or conviction. The board is also required to include in its report to the Legislature, its recommendation that an appropriation be made to indemnify the claimant for the pecuniary injury, but the amount of the appropriation recommended is limited to \$10,000.

**This bill** removes the \$10,000 limitation on the appropriation recommended and would instead make the recommended appropriation equivalent to the sum of \$100 per day of incarceration served subsequent to the claimant's conviction. The bill also provides that the appropriation not be treated as gross income to the recipient under California law.

***Legislative History:***

*Assembly Public Safety (7-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (74-1)*

*Senate Public Safety (6-0)*

*Senate Appropriations (13-0)*

*Senate Floor (37-0)*

**AB 1881 (Gallegos): Chapter 324: Mentally disordered offenders.**

(Amends Sections 1600.5, 1607, and 2972 of, and adds Section 2972.1 to, the Penal Code.)

**Existing law**, the Mentally Disordered Offenders Law (Pen. Code §§ 2960-2981), sets forth the following criteria for the involuntary commitment and treatment of mentally disordered offenders who would otherwise be released into society:

- The MDO has a severe mental disorder that requires treatment.
- The MDO's severe mental disorder was the cause of, or aggravating factor in, the crime for which the MDO was committed to prison.
- The MDO has been under psychiatric care for at least ninety days in the preceding year.
- Mental health professionals from the Department of Corrections (CDC) and the Department of Mental Health (DMH) have certified that the MDO "represents a substantial danger of physical harm to others." If CDC and DMH professionals have reached no agreement, two independent professionals (psychologist/psychiatrist) shall review the MDO.
- The MDO was committed to prison for a crime in which he or she used force or violence, or caused serious bodily injury, or used a firearm in the commission of any crime, or used a dangerous weapon in the commission of a robbery or carjacking, or committed one of approximately ten other crimes such as murder,

forcible sex crimes and kidnapping. (Pen. Code § 2962)

A person found to be a MDO shall be committed to Department of Mental Health. After an initial adverse hearing by the Board of Prison Terms, the alleged MDO can demand a jury trial. A MDO can be held through the period of parole with yearly reviews. Following the parole period, a MDO can be held indefinitely. However, the District Attorney must prove MDO status in a jury trial each successive year. (Pen. Code §§ 2962-2972) A community program director or treatment supervisor is to prepare progress reports every 90 days on any persons placed on outpatient status and submit those reports to the court, the prosecutor and defense counsel. (Pen. Code § 1605)

A MDO on outpatient status can be returned to inpatient custody after a hearing equivalent to probation revocation. (Pen. Code §§ 1603, 1608, 1609) A MDO who has been committed to inpatient care for a year may be released early upon the recommendation of the treating facility after a hearing. Such a person is subject to revocation proceedings. (Pen. Code §§ 1603, 1609)

**This bill** changes the recommitment hearings from an automatic proceeding to a hearing that may be dispensed

with if the MDO affirmatively waives his or her right to a trial. The bill specifies that a person may not be held on outpatient status for more than one year (without a new commitment) and would require the community program director to submit a written opinion and report stating whether or not the committed person is no longer mentally disordered. Further, the bill clarifies that the time that a prisoner is placed on an outpatient status would not be counted as actual custody or credited toward the maximum term or extended commitment (as an inpatient MDO).

***Legislative History:***

*Assembly Public Safety (8-0)*

*Assembly Appropriations (19-0)*

*Assembly Floor (67-0)*

*Assembly Concurrence (73-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (38-0)*



**AB 2124 (McClintock): VETOED: Crime prevention: criminal justice information.**  
(Amends Sections 13100.1 and 13100.2 of the Penal Code.)

**Existing law** requires the Attorney General to appoint an advisory committee, with a specified membership, to the California-Criminal Index and Identification (Cal-CII) system, to assist in the ongoing management of the system regarding the operating policies, criminal records content, and records retention. The committee serves at the pleasure of the Attorney General and is required to meet twice annually.

**This bill** instead would have created in the state government the Integrated Justice Information System Task Force to

include specified members. The task force would have been required to establish a California integrated justice information system plan to be used for the purpose of maximizing standardization of data elements and communications technology, reducing unnecessary duplication of data collection, storage, or entry and to formulate recommendations regarding the establishment of a permanent planning or development process.

***Legislative History:***

*Assembly Public Safety (7-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (78-0)*

*Assembly Concurrence (73-0)*

*Senate Public Safety (4-0)*

*Senate Appropriations (8-0)*

*Senate Floor (38-0)*

**AB 2580 (Cox): Chapter 546: Vandalism: cemeteries and places of worship.**  
(Repeals Section 8101 of the Health and Safety Code, and amends Section 594.3 of, and adds Section 594.35 to, the Penal Code.)

**Existing law** (Health and Saf. Code § 8101) provides that a person is guilty of a felony or a misdemeanor punishable by imprisonment in the state prison or by imprisonment in a county jail for a period not to exceed one year who maliciously commits specified acts relating to the destruction or mutilation of cemetery graves and markers.

**This bill** transfers this provision from the Health and Safety Code to the Penal Code.

**Existing law** provides that any person who knowingly commits any act of vandalism to a church or related/similar institution is guilty of a crime punishable by

imprisonment in a state prison or by imprisonment in the county jail for not exceeding one year. Any person who knowingly commits any act of vandalism to a church or similar place or structure, and which was committed by reason of the race, color, religion, or national origin of another individual or groups and for the purpose of intimidating the free exercise of religious beliefs, is guilty of a felony punishable by imprisonment in the state prison.

**This bill** makes both of these provisions applicable to acts of vandalism to a cemetery.

***Legislative History:***

*Assembly Public Safety (6-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (75-0)*

*Assembly Concurrence (73-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations (9-0)*

*Senate Floor (38-0)*

**AB 2594 (Cox): Chapter 843: Insurance fraud.**

(Amends Section 650 of the Business and Professions Code, amends Sections 750 and 1873 of the Insurance Code, and amends Section 549 of the Penal Code.)

**Existing law** relative to insurance fraud generally provides that it is a crime for health practitioners to receive consideration for, or to engage in various related activities with respect to, the referral of patients, clients, or customers to any person, with certain exceptions. Similar provisions in the Insurance and Penal Codes apply to persons engaged in the processing, presenting, or negotiation of claims and to persons in general. Existing law specifies varying criminal penalties for these various offenses, generally providing for a fine of up to \$10,000 or one year in jail or prison, or both the fine and imprisonment, as specified.

**This bill** instead provides, upon a first conviction, for a fine of up to \$50,000 for these related public offenses and the possibility of one year in jail or prison, or both the fine and imprisonment. This bill provides for a second or subsequent conviction to be punishable by imprisonment in the state prison or by that imprisonment and a \$50,000 fine.

**Existing law** authorizes certain peace officers to submit a written request to an insurer for relevant information that the insurer may have relating to insurance fraud.

**This bill** corrects certain erroneous cross-references in that authorization provision.

***Legislative History:***

*Assembly Public Safety (5-3)*

*Assembly Appropriations (21-0)*

*Assembly Floor (73-1)*

*Assembly Concurrence (72-0)*

*Senate Business and Professions (7-0)*

*Senate Insurance (8-0)*

*Senate Floor (38-0)*

**AB 2608 (Rod Pacheco): VETOED: District attorneys: relocation expenses.**

(Amends Section 832.9 of the Penal Code.)

**Existing law** requires a government entity employing a peace officer to reimburse the actual and necessary moving expenses of the peace officer or any member of his or her immediate family, as defined, when it is necessary to move because the officer has received a credible threat, as defined, that a life-threatening action may be taken against the officer or his or her immediate family as a result of the officer's employment.

**This bill** would have extended these provisions to district attorneys, assistant district attorneys, deputy district attorneys, public defenders, assistant public defenders, deputy public defenders, the Attorney General, and any attorney who works for the Attorney General.

***Legislative History:***

*Assembly Public Safety (7-0)*

*Assembly Appropriations (19-0)*

*Assembly Floor (75-0)*

*Assembly Concurrence (74-1)*

*Senate Public Safety (4-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (40-0)*

**AB 2941 (Committee on Water, Parks and Wildlife): Chapter 388: Commercial fishing.** (Amends Sections 391, 5521.5, 6432, 7072, 7655, 8022, 8101, 8150.5, 8150.7, 8394.5, 8411, 8412, 8550.5, 8552.8, 11019, 12002.3, 12006.6, 12009, and 12157 of, and amends and renumbers Section 6439 of, and repeals Sections 6433, 6434, 6435, 6436, 6437, 6438, 8150.8, 8150.9, 8151, 8152, 8410, 8413, 8414, 8415, and 8664.65 of, the Fish and Game Code.)

**Existing law** creates the Fish and Game Commission with members appointed by the Governor. The Legislature may delegate to the Commission regulatory power over the propagation of fish and game. (Cal. Const., Art. IV, 20) The Fish and Game Code grants the commission authority to regulate the taking of fish and other creatures from state waterways. (Fish & Game Code § 200) It is a misdemeanor, punishable by up to six months in the county jail and/or a fine of up to \$1,000, except where otherwise specified in code, to violate any section of the Fish and Game Code, or violate any regulation or rule promulgated by the Department of Fish and Game (DFG) as to the taking of fish and game. (Fish & Game Code §§ 12000, 12002)

**Existing law** provides that where any person is convicted of the illegal taking of deer, elk, antelope, feral pigs, wild boars, or bears, the court "may order forfeiture of any device or apparatus used in committing the offense, including . . . any vehicle." The court shall consider the severity of the violation and any other relevant factors. (Fish & Game Code § 2157)

### **Abalone Codes and Regulations**

**Existing law** provides that the taking of abalone south of San Francisco Bay, or the taking of abalone for commercial purposes in any California waters, or the sale of abalone, is a misdemeanor. Penalties for these abalone-related code sections and "any regulation adopted pursuant thereto" are any combination of the following: a county jail term of up to one year in county jail, a fine of up to \$10,000 or 5 times the market value of the abalone taken, and the loss of any sport or commercial fishing license for up to 10 years. (Fish & Game Code §§ 5521, 5521.5 and 12009)

**Existing regulations** include detailed controls and limits on the taking of abalone. (Fish & Game Code § 12009; Cal. Code of Regs., Title 14, Section 29.15, subds. (a)-(f)) The abalone regulations are set out, as follows:

- Section 29.15 prohibits the taking of abalone under the following circumstances:
  - South of San Francisco Bay
  - Out of season
  - At night
  - Using scuba gear
- Section 29.15 imposes the following limits:
  - 4 maximum abalone per

- day
- 100 maximum in calendar year
- Only red abalone can be taken
- Abalone must be at least 7" in length
- Section 29.15 imposes these requirements for taking abalone
  - Must use caliper gauge
  - Abalone must be possessed in the shell
  - Abalone report card must be properly used and filed
  - No scuba gear or knives

**Existing law** provides that the court shall revoke the commercial fishing license of any person taking or possessing abalone out of season, or taking abalone illegally north of Point Sur. The court shall also revoke the commercial fishing license of any person who possessed more than 24 abalone at the time the following acts were done: Possessing undersized abalone, removing abalone from the shell, or illegally possessing abalone removed from the shell. (Fish & Game Code § 12002.8) Where abalone was taken by a person who possesses a sport-fishing license, the applicable penalty shall be between \$15,000 to \$30,000 for illegal purchase, sale, or receipt of abalone. Where the defendant purchased or received the abalone for commercial

purposes, the fine shall be between \$20,000 and \$40,000. (Fish & Game Code § 12002.3)

**Existing law** provides that where any person is convicted of taking more than 36 abalone in an area closed to commercial fishing north of Point Lobos (Area 10), he or she shall be fined, and all DFG licenses and permits shall be revoked. Further, any vessel, diving or fishing gear, or vehicle used in committing the crime shall be forfeited after conviction. It also appears that forfeiture can be done through a civil nuisance procedure that would not require conviction. (Fish & Game Code §§ 12006.6 and 5521.5, 8630, 12006.6)

**This bill** states that enhanced penalties, including civil nuisance-based forfeiture, would apply where the defendant possessed 12 abalone at one time or 100 in a year. This bill would increase the maximum fine for sale or purchase of abalone "by a person required to be licensed pursuant to section 7145" (sport fishing license) from \$30,000 to \$40,000. (No commercial abalone fishing license is available under current law.)

**This bill** increases the fines for taking of abalone for sport purposes south of the mouth of San Francisco Bay from \$10,000 or 5 times the commercial value of the abalone, to from between

\$15,000 and \$40,000. The maximum jail term would remain one year.

**This bill** establishes a rebuttable presumption that the possession of more than 12 abalone was for commercial purposes. That is, once the prosecution puts forth evidence that the defendant possessed more than 12 abalone, the defendant would have the burden of defeating a presumption that the abalone was possessed for commercial purposes. Further, the bill clarifies that the penalties for illegal commerce involving abalone can be imposed upon a person who does not possess a valid license for taking abalone or fish.

**This bill** applies forfeiture provisions that now apply to the illegal taking of deer, elk, feral pigs, bear, etc., which allow forfeiture of any device or vehicle used in the violation, to any violation of the rules or regulations governing the taking of abalone, including the taking of abalone for sport and the purchase or sale of abalone. The court shall consider whether or not the owner of the vehicle was involved in the crime underlying the forfeiture.

**This bill** provides that where a person is convicted of any abalone law or regulation, the court shall permanently revoke the person's commercial or sport fishing license.

### General Fishery Resource Provisions

**Existing law** includes various provisions for interstate and interagency agreements concerning fish and wildlife law management and law enforcement. (Fish & Game Code § 391)

**This bill** authorizes greater cooperation and information sharing among various agencies. This bill reforms various fish and wildlife resource management provisions.

#### ***Legislative History:***

*Assembly Water, Parks and Wildlife (8-0)*

*Assembly Public Safety (5-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (71-4)*

*Assembly Concurrence (68-5)*

*Senate Natural Resources and Wildlife (8-0)*

*Senate Public Safety (4-0)*

*Senate Appropriation, SR 28.8*

*Senate Floor (22-9)*

# ***INDEX BY AUTHOR***

<b>Author</b>	<b>Bill No.</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
<i>- Senators -</i>				
Alarcon	SB 1574		42	32
Alarcon	SB 1578		VETOED	75
Alarcon	SB 1854		VETOED	76
Alpert	SB 1386		165	111
Alpert	SB 1762		61	75
Alpert	SB 2196	Urgency	662	66
Bowen	SB 983		VETOED	10
Bowen	SB 1611		908	62
Brulte	SB 1368		824	5
Burton	SB 370		692	108
Burton	SB 499		652	17
Burton	SB 1342		821	36
Burton	SB 1831	Urgency	VETOED	21
Chesbro	SB 1739		VETOED	63
Chesbro	SB 1769		VETOED	33
Chesbro	SB 1802		198	103
Chesbro	SB 1859		233	113
Costa	SB 1558		VETOED	112
Costa	SB 1951		178	6
Dunn	SB 446		649	96
Dunn	SB 1910		902	22
Figueroa	SB 1784		657	88
Hayden	SB 1489		VETOED	74
Hayden	SB 1735		VETOED	20
Hayden	SB 1765		VETOED	101
Hayden	SB 1978		VETOED	22
Hayden	SB 2097		VETOED	116
Hayden	SB 2098		659	65
Hughes	SB 865		653	54

<b>Author</b>	<b>Bill No.</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
Hughes	SB 1742		813	44
Hughes	SB 2087		VETOED	18
Johnson	SB 1463		VETOED	91
Johnston	SB 550	Urgency	8	10
Johnston	SB 1357		654	7
Karnette	SB 1942		430	77
Kelley	SB 1526		446	100
Lewis	SB 580		561	98
Lewis	SB 1458		VETOED	20
Lewis	SB 1539		564	74
Lewis	SB 2023		658	18
Lewis	SB 2106		VETOED	86
McPherson	SB 639		778	109
McPherson	SB 1913		465	64
Monteith	SB 1343		314	17
Monteith	SB 1616		50	55
Murray	SB 1102		684	73
Ortiz	SB 1715		207	32
Ortiz	SB 1943		481	64
Peace	SB 31		VETOED	47
Peace	SB 577	Urgency	987	19
Peace	SB 1603		663	62
Perata	SB 795		VETOED	72
Perata	SB 1865		805	114
Perata	SB 2062	Urgency	VETOED	65
Polanco	SB 127		VETOED	16
Polanco	SB 1256		754	19
Polanco	SB 1845		VETOED	21
Polanco	SB 2133		289	77
Polanco	SB 2149		VETOED	1
Polanco	SCR 91		156	23
Rainey	SB 1353		244	73
Schiff	SB 451	Urgency	41	90
Schiff	SB 1486		563	111
Schiff	SB 1520		994	112
Schiff	SB 1542	Urgency	366	61
Schiff	SB 1565		261	113
Schiff	SB 2018	Urgency	420	92

<b>Author</b>	<b>Bill No.</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
Schiff	SB 2052		254	48
Solis	SB 1340		VETOED	37
Solis	SB 1944		1001	38
Solis	SB 2059		VETOED	39
Soto	SB 2183		VETOED	104
Speier	SB 1818		822	36
Speier	SB 1867		176	115
Speier	SB 1988		867	102
Vasconcellos	SB 1310		940	110
Vasconcellos	SB 1807		815	11
Vasconcellos	SB 1866		VETOED	11
Committee on Business & Professions	SB 1384		120	110
Committee on Public Safety	SB 1955		287	115

*- Assemblymembers -*

Ackerman	AB 2665		972	4
Bates	AB 1840		399	33
Bates	AB 2240		293	13
Baugh	AB 1478		249	24
Baugh	AB 1799		630	118
Bock	AB 2683		974	107
Bock	AB 2685		444	108
Briggs	AB 719		123	49
Cardenas	AB 1913	Urgency	353	68
Cardenas	AB 2166		VETOED	40
Cardenas	AB 2595		VETOED	31
Cardenas	AB 2885	Urgency	100	69
Cardoza	AB 2559		971	84
Cardoza	AB 2821		VETOED	84
Cedillo	AB 2267		209	82
Corbett	AB 2425		669	99
Correa	AB 1349		184	88
Correa	AB 1742		235	94
Cox	AB 2580		546	120

<b>Author</b>	<b>Bill No.</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
Cox	AB 2594		843	121
Davis	AB 1897		956	57
Davis	AB 2294		VETOED	14
Dickerson	AB 1989		400	51
Dickerson	AB 1999	Urgency	709	26
Dickerson	AB 2320		226	95
Florez	AB 1449		627	24
Frusetta	AB 1178		374	1
Gallegos	AB 751	Urgency	350	12
Gallegos	AB 1881		324	119
Granlund	AB 1307	Urgency	VETOED	3
Havice	AB 1899		236	67
Havice	AB 2849		643	96
Hertzberg	AB 1717		271	50
Hertzberg	AB 1718		200	79
Hertzberg	AB 1949		VETOED	58
Hertzberg	AB 2837		VETOED	85
Honda	AB 1340		648	97
Honda	AB 2357		487	41
Honda	AB 2375		VETOED	68
Honda	AJR 62		112	85
Jackson	AB 2491		1016	105
Jackson	AB 2567		242	60
Jackson	AJR 53		70	54
Kuehl	AB 2479		1061	2
Lempert	AB 2371		545	105
Lowenthal	AB 1886		544	39
Lowenthal	AB 1891		186	34
Machado	AB 1961		668	51
Machado	AB 2814		823	37
Maddox	AB 1787		149	117
Maldonado	AB 788		VETOED	66
Mazzoni	AB 2315		VETOED	28
Mazzoni	AB 2316		965	29
McClintock	AB 2124		VETOED	120
Migden	AB 132		VETOED	33
Migden	AB 1597		VETOED	25



<b>Bill No.</b>	<b>Author</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
Migden	AB 1860		377	34
Migden	AB 2101		VETOED	27
Migden	AB 2108		VETOED	28
Migden	AB 2406		192	59
Migden	AB 2418		43	59
Migden	AB 2866	Urgency	127	30
Nakano	AB 559		214	45
Oller	AB 2232		634	8
Oller	AB 2744		228	69
Pacheco, Rod	AB 1241		916	6
Pacheco, Rod	AB 1300	Urgency	142	93
Pacheco, Rod	AB 1890		525	26
Pacheco, Rod	AB 2110		58	55
Pacheco, Rod	AB 2125		268	35
Pacheco, Rod	AB 2608		VETOED	121
Pacheco, Rod	AB 2623		623	4
Reyes	AB 1704		VETOED	67
Reyes	AB 1727	Urgency	310	117
Reyes	AB 1890		525	26
Romero	AB 1098		322	70
Romero	AB 1993		620	81
Romero	AB 2484		622	83
Romero	AB 2502		240	97
Romero	AB 2506		401	102
Scott	AB 2107		442	46
Scott	AB 2536	Urgency	479	53
Shelley	AB 1819		559	45
Shelley	AB 2003		47	40
Steinberg	AB 1654	Urgency	VETOED	25
Steinberg	AB 1768		629	79
Steinberg	AB 2021		621	8
Strickland	AB 1988		153	95
Thomson	AB 1302		484	94
Thomson	AB 2018		1092	13
Thomson	AB 2523		478	53
Torlakson	AB 803		1063	42
Torlakson	AB 1422		477	116

<b>Bill No.</b>	<b>Author</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
Torlakson	AB 1862		631	57
Torlakson	AB 2227	Urgency	1064	43
Villaraigosa	AB 1785		955	56
Vincent	AB 1928		354	80
Vincent	AB 2059		633	81
Washington	AB 800		265	50
Washington	AB 2501		VETOED	15
Washington	AB 2518	Urgency	VETOED	15
Wayne	AB 1808		689	87
Wesson	AB 2053		275	52
Wesson	AB 2727		635	9
Wiggins	AB 1458		VETOED	89
Wildman	AB 1494	Urgency	96	78
Wildman	AB 2429	Urgency	640	30
Wildman	AB 2446		59	69
Zettel	AB 1767		626	7
Zettel	AB 1789		919	87
Zettel	AB 2063		97	35
Zettel	AB 2351		967	52
Committee on Judiciary	AB 1669		688	78
Committee on Water, Parks & Wildlife	AB 2941		388	122

# ***INDEX BY BILL NUMBER***

<b>Bill No.</b>	<b>Author</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
<i>- Senators -</i>				
SB 31	Peace		VETOED	47
SB 127	Polanco		VETOED	16
SB 370	Burton		692	108
SB 446	Dunn		649	96
SB 451	Schiff	Urgency	41	90
SB 499	Burton		652	17
SB 550	Johnston	Urgency	8	10
SB 577	Peace	Urgency	987	19
SB 580	Lewis		561	98
SB 639	McPherson		778	109
SB 795	Perata		VETOED	72
SB 865	Hughes		653	54
SB 983	Bowen		VETOED	10
SB 1102	Murray		684	73
SB 1256	Polanco		754	19
SB 1310	Vasconcellos		940	110
SB 1340	Solis		VETOED	37
SB 1342	Burton		821	36
SB 1343	Monteith		314	17
SB 1353	Rainey		244	73
SB 1357	Johnston		654	7
SB 1368	Brulte		824	5
SB 1384	Committee on Business and Professions		120	110
SB 1386	Alpert		165	111
SB 1458	Lewis		VETOED	20
SB 1463	Johnson		VETOED	91
SB 1486	Schiff		563	111

<b>Author</b>	<b>Bill No.</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
SB 1489	Hayden		VETOED	74
SB 1520	Schiff		994	112
SB 1526	Kelley		446	100
SB 1539	Lewis		564	74
SB 1542	Schiff	Urgency	366	61
SB 1558	Costa		VETOED	112
SB 1565	Schiff		261	113
SB 1574	Alarcon		42	32
SB 1578	Alarcon		VETOED	75
SB 1603	Peace		663	62
SB 1611	Bowen		908	62
SB 1616	Monteith		50	55
SB 1715	Ortiz		207	32
SB 1735	Hayden		VETOED	20
SB 1739	Chesbro		VETOED	63
SB 1742	Hughes		813	44
SB 1762	Alpert		61	75
SB 1765	Hayden		VETOED	101
SB 1769	Chesbro		VETOED	33
SB 1784	Figueroa		657	88
SB 1802	Chesbro		198	103
SB 1807	Vasconcellos		815	11
SB 1818	Speier		822	36
SB 1831	Burton	Urgency	VETOED	21
SB 1845	Polanco		VETOED	21
SB 1854	Alarcon		VETOED	76
SB 1859	Chesbro		233	113
SB 1865	Perata		805	114
SB 1866	Vasconcellos		VETOED	11
SB 1867	Speier		176	115
SB 1910	Dunn		902	22
SB 1913	McPherson		465	64
SB 1942	Karnette		430	77
SB 1943	Ortiz		481	64
SB 1944	Solis		1001	38
SB 1951	Costa		178	6

<b>Author</b>	<b>Bill No.</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
SB 1955	Committee on Public Safety		287	115
SB 1978	Hayden		VETOED	22
SB 1988	Speier		867	102
SB 2018	Schiff	Urgency	420	92
SB 2023	Lewis		658	18
SB 2052	Schiff		254	48
SB 2059	Solis		VETOED	39
SB 2062	Perata	Urgency	VETOED	65
SB 2097	Hayden		VETOED	116
SB 2087	Hughes		VETOED	18
SB 2098	Hayden		659	65
SB 2106	Lewis		VETOED	86
SB 2133	Polanco		289	77
SB 2149	Polanco		VETOED	1
SB 2183	Soto		VETOED	104
SB 2196	Alpert	Urgency	662	66
SCR 91	Polanco		156	23

*– Assemblymembers –*

AB 132	Migden		VETOED	23
AB 559	Nakano		214	45
AB 719	Briggs		123	49
AB 751	Gallegos	Urgency	350	12
AB 788	Maldonado		VETOED	66
AB 800	Washington		265	50
AB 803	Torlakson		1063	42
AB 1098	Romero		322	70
AB 1178	Frusetta		374	1
AB 1241	Rod Pacheco		916	6
AB 1300	Rod Pacheco	Urgency	142	93
AB 1302	Thomson		484	94
AB 1307	Granlund	Urgency	VETOED	3
AB 1340	Honda		648	97
AB 1349	Correa		184	88
AB 1422	Torlakson		477	116

<b>Author</b>	<b>Bill No.</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
AB 1449	Florez		627	24
AB 1458	Wiggins		VETOED	89
AB 1478	Baugh		249	24
AB 1494	Wildman	Urgency	96	78
AB 1597	Migden		VETOED	25
AB 1654	Steinberg	Urgency	VETOED	25
AB 1669	Committee on Judiciary		688	78
AB 1704	Reyes		VETOED	67
AB 1717	Hertzberg		271	50
AB 1718	Hertzberg		200	79
AB 1727	Reyes	Urgency	310	117
AB 1742	Correa		235	94
AB 1767	Zettel		626	7
AB 1768	Steinberg		629	79
AB 1785	Villaraigosa		955	56
AB 1787	Maddox		149	117
AB 1789	Zettel		919	87
AB 1799	Baugh		630	118
AB 1808	Wayne		689	87
AB 1819	Shelley		559	45
AB 1840	Bates		399	33
AB 1860	Migden		377	34
AB 1862	Torlakson		631	57
AB 1881	Gallegos		324	119
AB 1886	Lowenthal		544	39
AB 1890	Rod Pacheco/Reyes		525	26
AB 1891	Lowenthal		186	34
AB 1897	Davis		956	57
AB 1899	Havice		236	67
AB 1913	Cardenas	Urgency	353	68
AB 1928	Vincent		354	80
AB 1949	Hertzberg		VETOED	58
AB 1961	Machado		668	51
AB 1988	Strickland		153	95
AB 1989	Dickerson		400	51
AB 1993	Romero		620	81

<b>Author</b>	<b>Bill No.</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
AB 1999	Dickerson	Urgency	709	26
AB 2003	Shelley		47	40
AB 2018	Thomson		1092	13
AB 2021	Steinberg		621	8
AB 2053	Wesson		275	52
AB 2059	Vincent		633	81
AB 2063	Zettel		97	35
AB 2101	Migden		VETOED	27
AB 2107	Scott		442	46
AB 2108	Migden		VETOED	28
AB 2110	Rod Pacheco		58	55
AB 2124	McClintock		VETOED	120
AB 2125	Rod Pacheco		268	35
AB 2166	Cardenas		VETOED	40
AB 2227	Torlakson	Urgency	1064	43
AB 2232	Oller		634	8
AB 2240	Bates		293	13
AB 2267	Cedillo		209	82
AB 2294	Davis		VETOED	14
AB 2315	Mazzoni		VETOED	28
AB 2316	Mazzoni		965	29
AB 2320	Dickerson		226	95
AB 2351	Zettel		967	52
AB 2357	Honda		487	41
AB 2371	Lempert		545	105
AB 2375	Honda		VETOED	68
AB 2406	Migden		192	59
AB 2418	Migden		43	59
AB 2425	Corbett		669	99
AB 2429	Wildman	Urgency	640	30
AB 2446	Wildman		59	69
AB 2479	Kuehl		1061	2
AB 2484	Romero		622	83
AB 2491	Jackson		1016	105
AB 2501	Washington		VETOED	15
AB 2502	Romero		240	97
AB 2506	Romero		401	102

<b>Author</b>	<b>Bill No.</b>	<b>Urgency</b>	<b>Chapter</b>	<b>Page No.</b>
AB 2518	Washington	Urgency	VETOED	15
AB 2523	Thomson		478	53
AB 2536	Scott	Urgency	479	53
AB 2559	Cardoza		971	84
AB 2567	Jackson		242	60
AB 2580	Cox		546	120
AB 2594	Cox		843	121
AB 2595	Cardenas		VETOED	31
AB 2608	Rod Pacheco		VETOED	121
AB 2623	Rod Pacheco		623	4
AB 2665	Ackerman		972	4
AB 2683	Bock		974	107
AB 2685	Bock		444	108
AB 2727	Wesson		635	9
AB 2744	Oller		228	69
AB 2814	Machado		823	37
AB 2821	Cardoza		VETOED	84
AB 2837	Hertzberg		VETOED	85
AB 2849	Havice		643	96
AB 2866	Migden	Urgency	127	30
AB 2885	Cardenas	Urgency	100	69
AB 2941	Committee on Water, Parks & Wildlife		388	122
AJR 53	Jackson		70	54
AJR 62	Honda		112	85



## ***HOW TO FIND SECTIONS AFFECTED***

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