



Senate Committee on Public Safety

2001 Bill Summary

Measures Signed and Vetoed

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For your information, the staff of our Senate Committee on Public Safety has prepared this summary of bills sent to the Governor in 2001 pertaining to our Committee's subject-matter jurisdiction. I hope this compilation of public safety legislation will facilitate access to the new laws enacted this year. Most will take effect January 1, 2002.

Measures vetoed by the Governor are included to note disparate views between the Legislature and Governor. Moreover, vetoed bills are often reintroduced – in one form or another – in subsequent years.

The Senate Committee on Public Safety again considered one of the largest number of bills of any Senate policy committee. Our workload reflects continuing interest and concern about issues pertaining to our public safety and the systems which are intended to secure and enhance it.

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 until February 2002.
- The Legislative Data Center maintains a website where these bills and analyses are available: <http://www.leginfo.ca.gov/bilinfo.html>

The text of this summary (without the two Indexes) is also available under "WHAT'S NEW!!!", Senate Committee Postings, at the Senate Home Page: <http://www.sen.ca.gov/>

I hope this legislative summary is useful to you, and to your constituents, as you – and they – prepare for 2002. I enjoyed the challenges of chairing the committee this past year and look forward to continuing to work with all interested parties on public safety issues.

Cordially,

A handwritten signature in cursive script that reads "Bruce McPherson".

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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 (TOSA) 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 – are 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 68 (Migden) - Chapter 242, Statutes of 2001 - creates new misdemeanor penalties for nursing home violations. 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 Sections 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/ 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** - SB 662 (Senate Committee on Judiciary) - Chapter 159. 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 4 sections of the Penal Code plus other code sections relevant to the criminal justice system. SB 662 contains the following proviso:

Any section of any act enacted by the Legislature during the 2001 calendar year that takes effect on or before January 1, 2002, 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 2001 calendar year and takes effect on or before January 1, 2002, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

ANIMALS

AB 1709 (Migden): Chapter 257: Animals: mischievous: great bodily injury.
(Amends Section 399 of the Penal Code.)

Existing law makes it a felony for any owner of a mischievous animal, knowing its propensities, to willfully suffer the animal to go at large, or to keep the animal without ordinary care, if the animal, while at large or not kept with ordinary care, kills any human being who has taken all the precautions which the circumstances permitted, or which a reasonable person would ordinarily take in the same situation.

This bill revises the above provision to also make subject to its proscription any person having custody or control of a mischievous animal, and would, in addition, make it a misdemeanor or a felony if the mischievous animal causes serious bodily injury to any human being who has taken all the precautions which the circumstances permitted, or which a reasonable person would ordinarily take in the same situation.

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (20-0)
Assembly Floor (75-0)
Assembly Concurrence (76-0)

Senate Public Safety (6-0)
Senate Appropriations (13-0)
Senate Floor (39-0)

BACKGROUND CHECKS

SB 299 (Scott): Chapter 342: Teacher credentialing.

(Amends Sections 44002, 44010, 44225.6, 44227, 44230, 44242.5, 44242.7, 44243, 44244, 44244.1, 44245, 44274.2, 44275.3, 44275.4, 44305, 44322, 44341, 44346.1, 44393, 44420, 44421.1, 44421.5, 44423, 44439, 44440, 44452, 44453, 44454, and 44456 of, and adds Sections 44000.5 and 44399 to, and repeals Sections 44226, 44227.2, 44227.3, 44239.5, 44252.6, 44255.5, and 44285 of, the Education Code.)

Existing law defines the term "sex offense" as used in provisions relating to school employees, in part, by referring to Penal Code provisions of law and includes in that definition any offense committed or attempted in any other state which if committed or attempted in this state would have been punishable as one of the offenses referred to in the Penal Code provisions.

This bill, in part, includes in the definition of "sex offense" any offense against the laws of the United States which if committed or attempted in this state would have been punishable as one of the offenses referred to in the cited Penal Code provisions.

Legislative History:

Senate Education (12-0)
Senate Public Safety (5-0)
Senate Appropriations, SR 28.8
Senate Floor (39-0)
Senate Concurrence (40-0)

Assembly Education (14-0)
Assembly Appropriations (21-0)
Assembly Floor (77-0)

AB 119 (Chavez): Chapter 547: Securities: broker-dealers: employee criminal background checks.

(Adds Section 25221 to the Corporations Code.)

Existing law provides for the licensing and regulation by the Commissioner of Corporations of broker-dealers handling transactions of securities. Existing law authorizes the Department of Justice to furnish state summary criminal history information (otherwise known as a background check) concerning an individual to various persons and entities that are authorized to receive that information, including banks and other financial institutions.

This bill authorizes a licensed broker-dealer, or affiliate, or any officer or employee thereof, to submit to the department fingerprints of an applicant for employment for the purpose of obtaining information on whether that applicant has a conviction or an arrest for which the applicant was released on bail or on his or her own recognizance pending trial, as established by the department.

Legislative History:

Assembly Business and Finance (11-0)

Assembly Appropriations (21-0)

Assembly Floor (76-0)

Assembly Concurrence (79-0)

Senate Public Safety (5-1)

Senate Appropriations, SR 28.8

Senate Floor (31-0)

AB 530 (Reyes): Chapter 845: Crime prevention and subsequent arrest information.

(Amends Section 14175 of the Penal Code, and Section 15660 of the Welfare and Institutions Code.)

Existing law authorizes specified counties to develop Rural Crime Prevention Programs to address the problems of agricultural and rural crime. This program sunsets on January 1, 2002.

This bill extends the sunset until July 1, 2002.

Existing law requires the Department of Justice to secure any criminal record to determine whether the person has been convicted or incarcerated within the

last 10 years for a sex offense against a minor or for a violation of other specified crimes, including any felony, if an employer of the person requests the determination and submits fingerprints of the person to the department and the person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult's own home.

This bill would also require the department to provide a subsequent arrest notification for the above persons.

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (21-0)

Assembly Floor (79-0)

Assembly Concurrence (80-0)

Senate Public Safety (5-0)

Senate Appropriations (10-0)

Senate Floor (40-0)

CHILD ABUSE

SB 962 (Polanco): VETOED: Child Death Review Team Training. (Uncodified Law.)

Existing law provides for the establishment of Child Death Review Teams.

This bill would have appropriated \$100,000 from the General Fund to the Office of Criminal Justice Planning for expenditure by the Interagency

Council on Child Abuse and Neglect (ICAN) for the purpose of a statewide Child Death Review Team (CDRT) training program to be coordinated with the state Child Death Review Council. This bill contained specified legislative findings and declarations.

Legislative History:

Senate Public Safety (4-0)
Senate Appropriations (9-0)
Senate Floor (28-1)
Senate Concurrence (33-0)

Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (78-0)

AB 102 (Rod Pacheco): Chapter 133: Child Abuse and Neglect Reporting Act. Urgency.

(Amends Penal Code sections 11165.5, 11165.6, 11165.7, 11165.9, 11166, 11166.2, 11166.3, 11166.5, 11166.7, 11166.9, 11166.95, 11167, 11169, 11170, and 11172, and adds Penal Code section 11166.05.)

Existing law establishes the Child Abuse and Neglect Reporting Act, which requires specified persons to report known or suspected instance of child abuse or neglect to a child protective agency, as specified.

This bill expressly authorizes any mandated reporter who has knowledge of or who reasonably

suspects that mental suffering has been inflicted upon a child, or that his or her emotional well-being is endangered in any other way, to report the known or suspected instance of child abuse or neglect, as specified. This bill also makes a number of technical, nonsubstantive changes to the mandatory child abuse and neglect reporting laws.

Legislative History:

Assembly Public Safety (5-0)
Assembly Floor (75-0)

Senate Public Safety (4-0)
Senate Floor (39-0)

AB 929 (Frommer): Chapter 210: Child abuse: enhanced prosecution.
(Amends Sections 999t and 999y of the Penal Code.)

Existing law creates the Child Abuser Prosecution Program Office within the Office of Criminal Justice and Planning.

This bill makes willful infliction of suffering or unjustifiable pain, injury or endangerment of person or health, assault resulting in death, as specified, cruel or inhumane corporal punishment, injury resulting in traumatic condition, and

distribution of harmful matter with the intent of seducing a minor, when committed in conjunction with any of the other violations listed, offenses eligible for enhanced prosecution efforts. This bill also requires the Office of Criminal Justice Planning to submit an evaluation of the Child Abuser Prosecution Program, as specified, using outcome measures to determine its effectiveness.

Legislative History:

Assembly Public Safety (7-0)

Assembly

Appropriations (21-0)

Assembly Floor (77-0)

Assembly Concurrence (69-0)

Senate Public Safety (4-0)

Senate Appropriations (8-0)

Senate Floor (40-0)

AB 1697 (Committee on Judiciary): Chapter 754: Child abuse: mandated reporters.
(Amends Section 1211 of the Code of Civil Procedure, amends Sections 750 and 7895 of the Family Code, amends Section 11165.7 of the Penal Code, and amends Sections 358.1 and 827 of the Welfare and Institutions Code.)

Existing law provides for the protection of children suspected to be subject to child abuse or neglect.

This bill adds employees or volunteers of a Court Appointed

Special Advocate program as "mandated reporters" under the Child Abuse and Neglect Reporting Act in the Penal Code. (This bill makes a number of other changes in law that are not directly related that Penal Code provision.)

Legislative History:

Assembly Judiciary (10-0)

Assembly Appropriations (21-0)

Assembly Floor (75-0)

Assembly Concurrence (80-0)

Senate Judiciary (7-0)

Senate Appropriations, SR 28.8

Senate Floor (40-0)

COMPUTER CRIMES

AB 821 (Simitian): Chapter 556: High technology crime task forces.
(Amends Sections 13848.4 and 13848.6 of the Penal Code.)

Existing law establishes the High Technology Theft Apprehension and Prosecution Program Trust Fund, and specifies the purposes for which it may be used. The High Technology Crime Advisory Committee includes representatives of government and private organizations. The members are appointed by the Executive Director of the Office of Criminal Justice Planning (OCJP).

This bill provides for the appointment to the Advisory Committee of a representative of the banking industry. Further, the bill allows OCJP to allocate up to 5% of the funds available from the trust fund to public agencies or private nonprofit organizations to establish statewide programs of education, training, and research for public prosecutors, investigators, and law enforcement officers for investigation and prosecution of high technology-related crimes.

Legislative History:

*Assembly Public Safety
(7-0)*

*Assembly Appropriations
(21-0)*

Assembly Floor (79-0)

*Assembly Concurrence
(79-0)*

Senate Public Safety (6-0)

*Senate Appropriations
(13-0)*

Senate Floor (40-0)

CONTROLLED SUBSTANCES

SB 223 (Burton): Chapter 721: Drug testing and testing standards: "Proposition 36" (Nov. 2000 Election) participants. Urgency.

(Adds Division 10.9 (commencing with Section 11999.20) to the Health and Safety Code, and amends Sections 1210, 1210.1, and 3063.1 of, and adds Sections 1210.5 and 3063.2 to, the Penal Code.)

Existing law, as enacted by Proposition 36 of the November 2000 General Election, requires drug treatment for most persons convicted of non-violent drug possession. The Initiative includes equivalent provisions for a parolee who commits a non-violent drug possession offense. The Initiative specified that none of the \$120 million appropriated for drug treatment and related services and administration may be spent for drug testing. Treatment providers must be licensed or certified by the California Department of Drug and Alcohol Programs.

This bill appropriates \$8.4 million from the Federal Substance Abuse Prevention and Treatment block grant to DADP

for allocation to counties for "drug testing and other purposes consistent with federal law." The Governor stripped \$9.6 million in General Fund money specifically appropriated by the bill for drug testing of Proposition 36 participants. The bill further provides that drug testing shall primarily be used as a treatment tool.

This bill exempts from state licensure treatment in Veteran's Administration hospitals and the Delancey Street program. The bill corrects technical errors in the Initiative and provides that prison inmates charged with specified prison drug crimes (listed in the Penal Code and not in the Health and Safety Code unlike other drug crimes) are not eligible for Initiative programs.

Legislative History:

Senate Public Safety (4-0)
Senate Appropriations (9-0)
Senate Floor (35-2)
Senate Concurrence (32-2)

Assembly Public Safety (7-0)
Assembly Appropriations (14-0)
Assembly Floor (77-0)

SB 537 (Vasconcellos): VETOED: Alcohol and drug abuse counselors.
(Uncodified Law.)

Existing law provides for the licensure and regulation of various healing arts practitioners, including those who provide counseling-related services, such as psychologists and social workers.

This bill would have required the Department of Consumer Affairs (Consumer Affairs) to review the need for licensing substance abuse counselors, and to notify the Governor and the Legislature of any determination that licensing is not needed by June 1, 2002. The bill would have also required Consumer Affairs to conduct an occupational analysis of drug

treatment counselors and to similarly report its findings and recommendations to the Governor and the Legislature. The bill would have required the State Department of Alcohol and Drug Programs to review its quality assurance mechanisms and facility licensing responsibilities regarding drug treatment counselors, to prepare regulations and propose statutory policies to establish professional standards by July 1, 2002, and to assist Consumer Affairs. This bill would have appropriated \$175,000 from the General Fund to Consumer Affairs to carry out the bill.

Legislative History:

Senate Business and Professions (4-0)
Senate Appropriations (8-2)
Senate Floor (24-9)
Senate Concurrence (27-11)

Assembly Health (16-0)
Assembly Appropriations (14-6)
Assembly Floor (57-21)

SB 1000 (Johannessen): VETOED: Schedule II controlled substances prescriptions.
(Amends Section 11165 of, and adds and repeals Section 11165.1 of, the Health and Safety Code.)

Existing law provides prescriptions for Schedule II controlled substances shall be prepared in triplicate. Existing law also provides, until July 1, 2003, for the electronic monitoring of the prescribing and dispensing of Schedule II controlled substances pursuant to the Controlled Substance Utilization Review and Evaluation System (CURES) program, as specified.

This bill would have stated the Legislature's intent to eliminate the triplicate prescription

requirement for Schedule II controlled substances when a secure stand-alone electronic monitoring system is in place. The bill would have directed the Attorney General to prepare a report describing how CURES would have to be modified in order to make it a secure stand-alone electronic monitoring system. In addition, a practitioner or pharmacist could have made a written request for the history of controlled substances dispensed to an individual under his or her care

based on data contained in CURES. The Department of Justice could have initiated the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to practitioners or pharmacists providing care or services to the individual. The bill further stated that the history of controlled substances dispensed to an individual based on data contained in CURES is medical information subject to the provisions of the Confidentiality

Controlled Substances

SB 1000 (Johannessen), continued

of Medical Information Act. This bill included an appropriation of \$145,000 to the department for the operation and evaluation of CURES during the 2001-02 fiscal year. It would have become inoperative on July 1, 2003, and repealed on January 1, 2004.

Legislative History:

Senate Health and Human Services (8-0)

Senate Appropriations (13-0)

Senate Floor (40-0)

Senate Concurrence (40-0)

Assembly Health (17-0)

Assembly Public Safety (7-0)

Assembly Appropriations (20-0)

Assembly Floor (80-0)

SB 1134 (Escutia): VETOED: Drug overdoses.

(Adds Sections 1797.8 and 1797.9 to the Health and Safety Code, and adds Chapter 2.5 (commencing with Section 11758) to Division 10.5 of the Health and Safety Code.)

Existing law – the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act – regulates emergency medical services.

This bill would have required the state Emergency Medical Services Authority (within the California Health and Human Services Agency) to convene a working group and adopt regulations for Emergency Medical Technicians I to be trained to administer naloxone hydrochloride for the treatment of people who have suffered drug overdoses. The bill would have established within the agency the Drug Overdose Prevention, Recognition, and Response Program, and would

have required the program to submit reports to various entities on drug overdose deaths. The bill would have required the program to provide assistance, including the publication of literature, for those involved with drug overdose prevention, recognition, and response programs, and to make grants to local agencies for drug overdose prevention, recognition, and response programs. Finally, the California Health and Human Services Agency would have been directed to convene a working group to develop guidelines for county medical examiners and coroners for improved and uniform data collection, classification, and reporting.

Legislative History:

Senate Health and Human Services (9-0)

Senate Appropriations (10-0)

Senate Floor (36-0)

Senate Concurrence (34-0)

Assembly Health (17-0)

Assembly Appropriations (19-0)

Assembly Floor (80-0)

AB 98 (Zettel): Chapter 838: Benzodiazepine drugs – Valium, Clonazepam, etc.
(Amends Sections 11375 and 11377 of the Health and Safety Code.)

Existing law provides in Health and Safety Code section 11375, as an exception to Health and Safety Code section 11378-11379, that sale or possession for sale of benzodiazepines and the diet drugs Phentermine and Fenfluramine is an alternate felony/misdemeanor. The Health and Safety Code does not define possession of these drugs as a crime. The code does list these drugs in Schedule IV. (Health and Safety Code § 11057.)

NOTE: Attempts to prosecute defendants for possession of benzodiazepines under a very general Business and Professions Code section

prohibiting possession of any controlled substance have met with mixed results.

This bill makes possession of benzodiazepines and the diet drugs Fenfluramine and Phentermine an alternate misdemeanor/infraction. This new crime is placed in Health and Safety Code section 11375, along with the crimes for sale and possession for sale of these drugs. The bill includes a cross-reference in Health and Safety Code section 11377, the section under which possession of most other Schedule IV drugs such as benzodiazepines are prosecuted.

Legislative History:

Assembly Public Safety (5-0)

Assembly Appropriations (17-0)

Assembly Floor (68-0)

Assembly Concurrence (79-0)

Senate Public Safety (4-0)

Senate Appropriations, SR 28.8

Senate Floor (34-0)

AB 258 (La Suer): Chapter 841: Gamma Hydroxybutyrate.

(Amends Sections 11054, 11055, 11056, 11100, 11377, 11378, 11379, 11380, and 11382 of the Health and Safety Code.)

Existing law categorizes controlled substances into 5 schedules and places the greatest restrictions and penalties on those contained in Schedule I including prohibiting the prescribing of any Schedule I controlled substance. Existing law places the controlled substance gamma-hydroxybutyrate or gamma-hydroxybutyric acid (GHB) into Schedule II. Existing law also makes it a misdemeanor for any manufacturer, wholesaler,

retailer, or other person in this state who sells, transfers, or otherwise furnishes any one of specified substances to any person or business entity to fail to submit specified reports to the Department of Justice regarding all those transactions or to sell or furnish those substances to a minor.

This bill deletes GHB from Schedule II, and instead classifies GHB as a Schedule I controlled substance, unless the

GHB is contained in a drug product approved pursuant to federal law, as specified. A federally approved drug which contains GHB is classified as a Schedule III controlled substance. (It appears that federal approval of an "orphan" drug containing GHB for treatment of narcolepsy is pending. Orphan drugs are those that target rare diseases or which have only a limited market potential. Manufacturers of orphan drugs are given limited quasi-patent protection.)

This bill makes conforming changes to related provisions. In particular, the bill revises provisions requiring a manufacturer, wholesaler, retailer, or other person to make a report to the Department of Justice.

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (21-0)
Assembly Floor (77-0)
Assembly Concurrence (80-0)

Senate Public Safety (5-0)
Senate Appropriations (13-0)
Senate Floor (32-0)

AB 767 (Goldberg): VETOED: CalWORKS public assistance programs.

(Amends and repeals Section 11251.3 of, and adds Section 18901.3 to, the Welfare and Institutions Code.)

Existing law provides that a person convicted of specified drug-related felonies shall be ineligible for aid under the CalWORKS program, and also for nonhealth-care general assistance benefits.

This bill would have provided that persons convicted of specified felonies would be ineligible for such public aid unless they meet one of several specified conditions related to drug treatment, including completing a state-licensed, certified, or county-run drug treatment program, and submitting to required periodic medical drug screening tests. Medical drug screening tests would be deemed private and confidential medical records.

This bill would have further required a county level interagency team composed of specified representatives of county social service agencies to manage services to families receiving benefits under these provisions, and would have required the services to be coordinated with certain corrections programs. Counties would have been required to issue vouchers or vendor payments for at least rent and utilities payments to families eligible for aid under CalWORKS pursuant to these provisions regardless of whether the family member who has been convicted of a crime involving the possession, use, or distribution of a controlled substance is eligible or ineligible pursuant to these provisions.

Legislative History:

Assembly Human Services (5-2)
Assembly Appropriations (12-7)
Assembly Floor (42-27)

Senate Health and Human Services (8-2)
Senate Appropriations (7-3)
Senate Floor (23-12)

AB 815 (Havice): Chapter 431: Unlawful detainer: tenants involved with drugs.
(Amends Section 11571.1 of the Health and Safety Code.)

Existing law – scheduled to be repealed on January 1, 2002 – provides that the city prosecutor or city attorney of specified judicial districts in the County of Los Angeles may file an action for unlawful detainer against any tenant who is unlawfully engaged in specified controlled substance offenses, and shall maintain records of all actions filed. After judgment is entered in any unlawful detainer proceeding, the court must submit specified information on the case to the Judicial Council.

This bill continues the existence of the above law until January 1, 2005, and provides that an action for unlawful detainer may be

brought if any of the specified controlled substance offenses occurs on the subject real property and is documented by the observations of a peace officer. The bill revises the information to be collected by the city attorney and city prosecutor regarding unlawful detainer actions. In particular, the bill requires the city attorney and city prosecutor, and not the court, to annually report information compiled on unlawful detainer actions to the Judicial Council. It also revises the designation of Los Angeles County judicial districts to which these provisions shall apply, and makes related changes.

Legislative History:

Assembly Judiciary (9-0)
Assembly Appropriations (21-0)
Assembly Floor (69-0)
Assembly Concurrence (72-5)

Senate Judiciary (4-2)
Senate Appropriations, SR 28.8
Senate Floor (23-11)

AB 1614 (Washington): Chapter 853: Multiagency prosecution programs (law enforcement, district attorney and social service): Methamphetamine cases: endangered children.

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

Existing law establishes the California Major Narcotic Vendors Prosecution Law in the Office of Criminal Justice Planning (OCJP) so as to provide financial and technical assistance for district attorneys' offices. 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.

This bill establishes in OCJP (until July 1, 2006) a program of financial and technical assistance for counties to provide district attorneys or county sheriffs with funds to coordinate multiagency drug endangered child (DEC) response teams in cooperation with law enforcement (local, state and federal) and county departments of health and children services. The multiagency programs will respond promptly to cases involving drug endangered

children. The Executive Director of OCJP must make an annual report to the Legislature on the fiscal and operational status of the program. The bill provides that available funds shall be distributed on a competitive grant basis in 7 specified counties and, if there are remaining funds, in up to an additional 5 counties. The bill provides that one representative of each local agency involved in implementing a county's DEC program shall form an executive

Controlled Substances

AB 1614 (Washington), continued

committee, the function of which is to equitably distribute the grant funds awarded to the county.

NOTE: AB 1614, as it passed on the Senate Floor and on Assembly concurrence contained the contents of AB 41, with the exception of a directive in AB 41 that \$10 million of the \$30 million in the 2001-2002 Budget for the "war on methamphetamine" be used for drug endangered children's programs. AB 41, including the \$10 million funding, was placed

on the Assembly inactive file pending the Governor's action on AB 1614. See the history of AB 41 for analysis and votes on the substance of AB 1614.

NOTE: See letter author entered in the Assembly Journal, September 14, 2001, page 4077, from the United State Department of Justice, pertaining to Byrne Formula Grant Program funds administered by the State Office of Criminal Justice Planning and used for the Drug Endangered Children Program.

<p><i>Legislative History:</i></p> <p><i>(Prior votes not relevant)</i></p> <p><i>Assembly Concurrence (80-0)</i></p> <p><i>Senate Floor (38-0)</i></p>

CORRECTIONS

Local Corrections

AB 1073 (Wesson): VETOED: Local correctional facilities: education funding. (Amends Section 41841.6 of the Education Code.)

Existing law limits increases in funding for schools or classes for adults in correctional facilities offered by school districts and county boards of education to 2.5% per fiscal year unless the Legislature approves a greater increase for a fiscal year in the annual Budget Act.

This bill would have permitted increases in funding for classes in domestic violence prevention and substance abuse prevention for adults in correctional facilities offered by school districts and

county boards of education to increase at a rate of 5% per fiscal year for fiscal years 2002-03 to 2005-06, inclusive, unless the Legislature required a lesser increase for a fiscal year in the annual Budget Act

<p><i>Legislative History:</i></p> <p><i>Assembly Education (14-0)</i></p> <p><i>Assembly Appropriations (21-0)</i></p> <p><i>Assembly Floor (74-0)</i></p> <p><i>Assembly Concurrence (79-0)</i></p> <p><i>Senate Education (14-0)</i></p> <p><i>Senate Appropriations (13-0)</i></p> <p><i>Senate Floor (40-0)</i></p>

Parole/Probation

SB 432 (Monteith): Chapter 470: Parole notification.

(Amends Section 3058.65 of the Penal Code and Section 16507 of the Welfare and Institutions Code.)

Existing law requires that whenever persons confined in prison for specified crimes are to be released upon parole, the parole authority must notify local law enforcement, the district attorney who has jurisdiction in the community where the parolee is to be released, and the immediate family, upon request, of the person's pending release, as specified.

This bill adds to this notice requirement the release of a person who was confined for an act of domestic violence. The bill also requires that notice also be given to a county child welfare

services agency that requests notification, and provides that when a county child welfare services agency is providing one parent with family reunification services and the other parent is serving a prison term for the conviction of child abuse, any sex offense specified as being perpetrated against a minor, or an act of domestic violence, the agency may request that it be provided with notification that the imprisoned parent is scheduled to be released on parole, or rereleased following a period of confinement pursuant to a parole revocation with a new commitment.

Legislative History:

Senate Health and Human Services (12-0)

Senate Public Safety (4-0)

Senate Appropriations (13-0)

Senate Floor (40-0)

Senate Concurrence (40-0)

Assembly Public Safety (7-0)

Assembly Human Services (7-0)

Assembly Appropriations (21-0)

Assembly Floor (78-0)

SB 778 (Burton): Chapter 131: Board of Prison Terms: powers: funding. Urgency.

(Amends Sections 3003, 3041, and 5075 of the Penal Code and Uncodified Law.)

Existing law creates the Board of Prison Terms (BPT) that, among other authority, has the power to allow parole for prisoners imprisoned in the state prisons for indeterminate sentence terms and eligible for parole (e.g. an inmate convicted of second degree murder shall be punished by imprisonment in the state prison for a term of fifteen years to life). (Penal Code §§ 3040 and 190(a).)

This bill does the following:

- Authorizes the BPT on an

emergency basis, and only until December 31, 2003, to conduct life parole consideration or life rescission hearings by panels consisting of at least one commissioner rather than two as required by existing law. Specifies that in the event of a tie vote, the matter shall be referred to the full BPT for a decision.

- Prohibits the BPT from revoking a parole decision unless it finds that the parole panel made an error of law or fact, or new information has

been presented to BPT where there is a substantial likelihood of a different decision upon re-hearing.

- Requires the BPT to consult with the commissioners who conducted the parole consideration hearing prior to referring a parole decision for re-hearing, and requires a majority vote of BPT en banc at a public hearing before rescinding or referring a parole decision for re-hearing.

Corrections

SB 778 (Burton), continued

- Provides that any decision of the parole panel finding an inmate suitable for parole shall become final within 120 days of the date of the hearing unless further action is taken by the BPT.
- States that it is the intent of the Legislature in enacting this section to allow BPT to increase the number of hearings conducted each month to eliminate the number of inmates awaiting a parole consideration hearing.
- Requires BPT to report monthly, as specified, on the number of hearings conducted in the previous month, the number scheduled in the current and subsequent months, the backlog of cases awaiting hearing, and progress toward eliminating the backlog.
- Requires each commissioner to participate in parole hearings each work day, except as specified.
- Requires the State Personnel Board (SPB) to conduct an investigation and review of the personnel practices of BPT with particular emphasis on the deputy commissioner classification including, but not limited to, hiring, transfers, promotions, and adverse actions.
- Requires SPB to complete the investigation and review of BPT and report to the Chair of the Senate Rules Committee, the Speaker of the Assembly, and the Governor, on or before December 1, 2001.
- Allows a parole consideration panel to return an inmate to a county other than to the county, which was the last legal residence.
- Appropriates \$31.7 million from the General Fund for support of BPT in fiscal year 2001-02 (this is the entire BPT budget).
- Took effect as an urgency bill.

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations (11-1)

Senate Floor (36-2)

Senate Concurrence (32-2)

Assembly Public Safety (5-1)

Assembly Appropriations (16-0)

Assembly Floor (72-6)

Prisons and Prisoners

SB 392 (Oller): VETOED: Prison Industry Authority: reports to the Legislature.
(Amends Section 2807 of the Penal Code.)

Existing law requires various state agencies and officers to report to the Director of General Services and to the Chairperson of the Joint Legislative Budget Committee specified information regarding goods and services provided by the Prison Industry Authority.

This bill would have deleted those reporting requirements.

Legislative History:

Senate Governmental Organization (12-0)
Senate Appropriations, SR 28.8
Senate Floor (38-0)
Senate Concurrence (40-0)

Assembly Business and Professions (11-0)
Assembly Appropriations (21-0)
Assembly Floor (75-0)

SB 396 (Kuehl): VETOED: Department of Corrections: medical services.
(Adds Section 2873.4 to the Business and Professions Code and amends Section 5007.5 of the Penal Code.)

Existing law creates the category of “medical technical assistant” employed by the Department of Corrections or the Department of the Youth Authority. (Business and Professions Code § 2873.6.)

This bill would have established guidelines for the decisionmaking authority of Medical Technical Assistants (MTA) who are Licensed Vocational Nurses and Senior Medical Technical Assistants who are Licensed Vocational Nurses with respect to the care and treatment of inmates, including specifically prohibiting MTA’s from making decisions involving access or kind of care or treatment an inmate may receive, any decision whether an

inmate should be examined by a clinician, and would have stated MTA’s may collect patient data to give to nurses or physicians for appropriate use.

Existing law authorizes the Director of Corrections to charge a \$5 fee for each inmate-initiated medical visit of an inmate and requires that the co-payments received be used to reimburse the Department of Corrections for direct provision of inmate health care services.

This bill would have required the department to report to the Legislature on the costs and benefits as well as other specified aspects of charging the \$5 fee for inmate-initiated medical visits.

Legislative History:

Senate Business and Professions (4-1)
Senate Public Safety (4-1)
Senate Appropriations (8-3)
Senate Floor (24-12)
Senate Concurrence (22-13)

Assembly Health (12-0)
Assembly Public Safety (6-1)
Assembly Appropriations (14-6)
Assembly Floor (49-26)

SB 404 (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.

This bill would have established within the Department of Corrections a Correctional Board of Education to oversee all

correctional education activities and to appoint a Superintendent of Correctional Education to administer educational programs within the Department of Corrections.

Legislative History:

Senate Public Safety (5-0)
Senate Education (11-2)
Senate Appropriations (8-2)
Senate Floor (26-9)

Assembly Public Safety (5-2)
Assembly Appropriations (14-6)
Assembly Floor (50-29)

SB 563 (Morrow): Chapter 141: Department of Corrections: regulations: exemptions from the Administrative Procedures Act.

(Amends Section 5058 of, and adds Sections 5058.1, 5058.2, and 5058.3 to, the Penal Code.)

Existing law provides that in general, all regulations shall be adopted pursuant to the Administrative Procedures Act, but exempts from that requirement Department of Corrections regulations relating to pilot programs or to imminent danger, as specified, and also exempts emergency regulations from certain requirements of the Administrative Procedures Act. (Penal Code § 5058.)

This bill makes changes to the emergency rulemaking authority of the Department of Corrections, including the following:

- Adds a definition of "pilot program."

- Specifies that procedures for adopting a pilot program regulation and emergency regulations also apply to the amendment or repeal of such regulations.
- Extends the period for Office of Administrative law review of an emergency regulation justified by the Department of Corrections on the basis of its operational needs, rather than on the basis of an emergency.

This bill makes related additions and changes to law all recommended by the California Law Revision Commission (October 2000 preprint recommendation "Rulemaking Under Penal Code Section 5058").

Legislative History:

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

Assembly Public Safety (7-0)
Assembly Appropriations (21-0)
Assembly Floor (76-1)

SB 700 (Karnette): VETOED: Female inmates: family visitation.

(Adds Section 3407 to the Penal Code and Uncodified Law.)

Existing law generally governs the conditions of incarceration for inmates in state prison. The Department of Corrections has through regulations adopted a program of family overnight visits for eligible inmates.

This bill would have enacted uncodified law that stated legislative findings about the unique problems facing women inmates with children and would have added a new provision to law as follows:

Any female prisoner serving an indeterminate term of imprisonment who is eligible for parole who has not had a release date set shall be subject to the same visiting restrictions applicable to a prisoner who has a release date set for purposes of visits by the female prisoner's children under 21 years of age, including the same visitation rights with a female relative who accompanies the prisoner's children under 21 years of age during the visit.

Legislative History:

Senate Public Safety (4-2)
Senate Appropriations,
SR 28.8
Senate Floor (22-17)
Senate Concurrence (21-18)

Assembly Public Safety (4-1)
Assembly Appropriations
(14-7)
Assembly Floor (42-32)

SB 890 (McPherson): Chapter 119: Department of Corrections: correctional counselor peace officer status.

(Amends Section 830.5 of the Penal Code.)

Existing law authorizes the Director of the Department of Corrections to designate any employee of the Department of Corrections as a peace officer and to carry a firearm while not on duty. (Penal Code § 830.5(b) and (c).) The Director has designated correctional counselors as peace officers and to carry firearms while not on duty.

This bill specifically adds to both Penal Code sections

830.5(b) and (c) "any correctional counselor series employee of the Department of Corrections" so that those persons are by statute peace officers and authorized to carry firearms while not on duty.

Legislative History:

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

Assembly Public Safety (6-0)
Assembly Appropriations
(21-0)
Assembly Floor (75-0)

AB 346 (Migden): VETOED: Youth and Adult Correctional Agency.
(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.

This bill would have done the following:

- Stated findings and declarations of the Legislature

concerning the need for leadership training for correctional managers.

- Directed the Youth and Adult Correctional Agency to report to specified committees of the Legislature by March 31, 2003, on a plan designed to improve the education and training of future leaders within the Departments of Corrections and the Youth Authority.
- Directed the agency to consult with the Department of the Youth Authority and the Department of Corrections, as well as entities of higher education in designing this program and in preparing this report.

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (18-0)

Assembly Floor (73-0)
Assembly Concurrence (77-1)

Senate Public Safety (6-0)
Senate Appropriations (9-0)
Senate Floor (35-1)

AB 675 (Migden): VETOED: Sentencing.
(Amends Section 1170 of the Penal Code.)

Existing law provides that a state prisoner who is diagnosed with a disease that would produce death within 6 months and whose release is deemed not to threaten the public safety may have his or her sentence recalled and be re-sentenced. Existing law additionally sets forth grounds under which the court has discretion to find that a prisoner is eligible for re-sentence or recall.

This bill would have expanded the grounds under which the court exercises discretion to find eligibility for re-sentencing or recall.

This bill also would have required California Department of Corrections prison officials to adhere to stricter guidelines and timeframes when acting in accordance with recall and re-sentencing procedures for compassionate release of inmates.

Legislative History:

Assembly Public Safety (6-1)
Assembly Appropriations (16-2)

Assembly Floor (55-18)
Assembly Concurrence (44-28)

Senate Public Safety (6-0)
Senate Appropriations (10-2)
Senate Floor (25-12)

AB 1003 (Frommer): Chapter 200: Inmates: criminal restitution.
(Amends Section 2085.5 of the Penal Code.)

Existing law provides that the Director of Corrections shall deduct any outstanding restitution orders or restitution fines from any award (compensatory or punitive damages) or settlement resulting from a civil action against a jail, prison or correctional facility awarded to an inmate. The director shall deduct and retain from any prisoner settlement or trial award, an administrative fee that totals 5% of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine, unless

prohibited by federal law. Those deductions shall be paid after payment of reasonable attorney's fees and litigation costs approved by the court. (Penal Code § 2085.5(c) and (j).)

This bill adds parolees to the existing provisions requiring the Director of Corrections to deduct outstanding restitution fines and orders from court awards or settlements relating to imprisonment and to require that the 5% administrative fee be deducted, as well.

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (20-0)

Assembly Floor (75-0)

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

AB 1149 (Florez): VETOED: State prison: confidentiality of personnel information.
(Adds Section 5029 to the Penal Code.)

Existing law provides that the Director of the Department of Corrections is responsible for the operations of the state prison system. (Penal Code §§ 5050 *et seq.*)

This bill would have required that the Director of Corrections shall ensure that documents, computers, or computer-accessible media containing personal information relating to an employee of the Department of Corrections are not removed from the state prison without proper authorization from the warden or his or her designee and would have required that an employee who removes personal information shall, once the employee is aware that the information either is lost or

stolen or cannot be accounted for, make a reasonable effort to immediately notify the warden, or his or her designee, of that fact. Violations would have subjected an employee to disciplinary action. The warden, or his or her designee, would have been required to attempt to notify the employee whose personal information either is lost or stolen or cannot be accounted for within 24 hours of receiving the notice about lost or stolen information. No employee would have been subject to disciplinary action for providing personal information that pertains to the disclosure of improper governmental activity pursuant to "whistleblower" provisions of law, as specified.

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (21-0)

Assembly Floor (79-0)

Assembly Concurrence (75-0)

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (40-0)

AB 1460 (Nation): Chapter 934: Department of Corrections: male inmates: condemned housing.

(Amends Section 3600 of the Penal Code.)

Existing law provides that every male inmate condemned to death shall be delivered to the warden of the California state prison designated by the department for the execution of the death penalty, there to be kept until the execution of the judgment.

This bill (1) permits a male inmate upon whom the sentence of death has been imposed and who commits certain offenses or whose medical or mental health needs are so critical as to endanger the inmate or others to be housed in either secure condemned housing designated by the Director of Corrections, at the California State Prison, Sacramento (CSPS) or an institution appropriate for medical or mental health treatment, as specified; (2) provides that attorney-client access procedures shall be afforded to inmates housed in

secure condemned housing or an institution for medical or mental health treatment, as specified; (3) requires an inmate placed in these alternative housing situations to be returned to San Quentin State Prison at least 60 days before his scheduled date of execution.

This bill also requires (1) that the condemned housing program at CSPS shall be fully operational prior to the transfer of any condemned inmate; (2) those local procedures relating to specified privileges and classification procedures provided to Grade B condemned inmates at San Quentin State Prison shall be similarly instituted at CSPS for specified condemned inmates; (3) no more than 15 condemned inmates may be rehoused for disciplinary reasons; (4) and prior to any relocation of condemned row from San Quentin State Prison,

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (21-0)
Assembly Floor (71-3)
Assembly Concurrence (68-7)

Senate Public Safety (4-0)
Senate Appropriations (7-3)
Senate Floor (29-3)

all maximum security Level IV, 180-degree housing unit facilities with an electrified perimeter shall be evaluated by the Department of Corrections for suitability for the secure housing and execution of condemned inmates.

AJR 12 (Firebaugh): Chapter 108: Incarceration: undocumented alien felons.

(Uncodified Law.)

This resolution requests the federal government to transfer out of California's prison system and into the federal prison system, all undocumented alien felons currently housed in institutions under the authority of the Department of Corrections.

Legislative History:

Assembly Public Safety (6-0)
Assembly Floor (78-0)

Senate Public Safety (6-0)
Senate Floor (40-0)

DEATH PENALTY

SB 129 (Burton): Chapter 71: Death penalty executions: physicians.
(Amends Section 3605 of the Penal Code.)

Existing law directs the warden of the state prison where an execution is scheduled to take place to invite various persons to witness the execution, including 2 physicians.

This bill removes the requirement that the warden invite physicians to the execution

and permits him or her to invite any Department of Corrections employee. The bill provides that no physician or any other invited person may be compelled to attend an execution, and that refusal to attend may not be used in any disciplinary action or negative job performance citation.

Legislative History:

Senate Public Safety (4-0)
Senate Floor (35-0)

Assembly Appropriations (7-0)
Assembly Floor (78-0)

DNA AND FORENSIC TESTING

SB 83 (Burton): Chapter 943: Forensic testing: post conviction.
(Amends Sections 1405 and 1417.9 of the Penal Code.)

Existing law grants a person who was convicted of a felony and is currently serving a term of imprisonment the right to make a written motion under specified conditions for the performance of forensic DNA testing. Existing law provides that if an indigent person files a motion for DNA testing, the court shall appoint counsel to represent the person.

This bill provides that an indigent person may request appointment of counsel to file a motion for the performance of

DNA testing by sending a written request to the court, as specified.

This bill requires the court to appoint counsel to investigate and, if appropriate, file the person's motion for DNA testing and to represent the person solely for the purpose of obtaining DNA testing if the person is indigent and has not previously been appointed counsel. The court may, in its discretion, appoint counsel to an indigent person who has previously been appointed counsel.

This bill also provides that the right to file a motion for postconviction DNA testing cannot be waived.

Existing law requires that DNA evidence secured in connection with a criminal case be retained by an appropriate governmental entity, as specified. That entity may dispose of the evidence if certain criteria are met, including notification of certain persons of the intent to dispose of the biological material.

This bill specifies that all DNA evidence be for the period of time that any person remains incarcerated in connection with the case.

This bill also provides that the right to receive notice that a governmental entity intends to dispose of biological material cannot be waived.

Legislative History:

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

Senate Floor (36-0)
Senate Concurrence (40-0)

Assembly Public Safety (6-1)
Assembly Appropriations (20-0)
Assembly Floor (47-29)

SB 297 (Speier): Chapter 467: DNA data base.
(Amends Section 14250 of the Penal Code.)

Existing law 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.

Existing law requires that the data base be comprised of DNA data from genetic markers that are appropriate for human identification, but have no capability to predict biological function.

Existing law provides that all samples and DNA extracted from

a living person shall be destroyed after a positive identification is made and a report is issued.

This bill allows the inclusion in the DNA data base of DNA data from genetic markers that predict gender, provides that all retained samples and DNA extracted from a living person and profiles developed therefrom shall be used solely for the purpose of identification of the deceased remains and makes other technical changes.

Legislative History:

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

Senate Floor (39-0)
Senate Concurrence (40-0)

Assembly Public Safety (6-0)
Assembly Appropriations (20-0)
Assembly Floor (80-0)

SB 824 (Poochigian): Chapter 477: Criminalists.
(Adds Sections 11061 and 11061.5 to the Penal Code.)

Existing law provides for the California Criminalistics Institute in the Bureau of Forensic Services of the Department of Justice. The purpose of the institute includes facilitation and coordination of approaches to meet the high technology and forensic science needs of crime laboratories operated by the department and local law enforcement agencies and provision of training and methodology development for all law enforcement agencies.

This bill provides that the Department of Justice, the California State University, and

upon agreement by the regents, the University of California, shall work together to enhance collaborative opportunities for DNA training of university students, graduates, and existing employees of crime laboratories. This bill provides that through its California Criminalistics Institute, the Department of Justice would develop and create an internship program for graduate-level students designed to prepare students to meet national standards for DNA analysis.

Legislative History:

Senate Education (12-0)
Senate Appropriations (13-0)
Senate Floor (40-0)
Senate Concurrence (40-0)

Assembly Higher Education (12-0)
Assembly Appropriations (20-0)
Assembly Floor (80-0)

SB 1026 (McPherson): VETOED: Innocence Protection Program.

(Adds and repeals Chapter 12 (commencing with Section 13898) of Title 6 of Part 4 of the Penal Code.)

Existing law provides that a person who was convicted of a felony, and is currently serving a term of imprisonment may make a written motion before the trial court that entered the judgment of conviction in his or her case for performance of forensic deoxyribonucleic acid (DNA) testing under specified circumstances and provides that the court shall appoint counsel for the convicted person who brings a motion to have his or her DNA tested if that person is indigent.

This bill would have established the California Innocence Protection Program within the Office of Criminal Justice Planning. This program would

have provided funds, upon an appropriation in the Budget Act, for the purpose of assisting convicted persons who are attempting to establish their actual innocence through the use of DNA testing for the crime for which they are currently incarcerated. The bill would have required the OCJP to award annual grants to eligible nonprofit organizations that operate legal clinics using law students and to county public defenders and private counsel based upon specified criteria. This bill also would have specified the purposes for which funds may be spent. The bill would have required entities receiving funding under this program to report to the OCJP,

Legislative History:

Senate Public Safety (5-0)
Senate Appropriations (12-0)
Senate Floor (30-5)
Senate Concurrence (27-7)

Assembly Public Safety (4-1)
Assembly Appropriations (13-1)
Assembly Floor (66-8)

as specified, and would have, in turn, required the OCJP to report to the Joint Legislative Budget Committee. This program would have been repealed on January 1, 2004.

AB 453 (Correa): Chapter 482: Department of Justice: DNA testing: infectious disease: employee contact.

(Amends Section 121065 of, and adds Section 121056 to, the Health and Safety Code.)

Existing law specifies that persons convicted of specified felonies are required to give DNA samples to be included in the Department of Justice DNA Data Bank. Existing law provides that a law enforcement employee who believes that he or she came into contact with bodily fluids of a prisoner in a youth, local, or state correctional facility shall report the incident by completing a DHS form. The employee may request a human immunodeficiency virus (HIV) test of the person who is the subject of the report. Existing law also authorizes inmates of correctional institutions to request HIV testing of other inmates if the inmate has reason to believe that he or she has come into contact with bodily fluids in such situations as rape, sexual contact, tattoo or drug needle sharing, incidents involving injury, or confinement with a cellmate under circumstances involving possible mingling of bodily fluids. Existing law provides that a victim may request the court to issue a search warrant for the purpose of testing the blood of the accused with any HIV test.

This bill provides that any forensic scientist, including, but not limited to, any criminalist, toxicologist, and forensic pathologist, or any other employee required to handle or perform DNA or other forensic evidence analysis within the scope of his or her duties who comes into contact with blood or other bodily fluids, on his or her person, may file an ex parte petition on the court having jurisdiction over the laboratory in which he or she works for an order for HIV testing. This bill provides that before filing a petition, the requesting party shall make a reasonable effort to obtain the consent of the person whose blood or bodily fluids is to be tested. It further provides that copies of the test results shall be sent to each requesting employee named in the petition, and his or her employing agency, officer or entity, to the person whose sample was tested and to the officer in charge and the chief medical officer of the facility in which the person was incarcerated.

Legislative History:

Assembly Public Safety (6-0)
Assembly Health (14-0)
Assembly Appropriations (21-0)
Assembly Floor (74-0)
Assembly Concurrence (75-0)

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

AB 673 (Migden): Chapter 906: Forensic identification.
(Amends Sections 296, 299.5, and 299.6 of the Penal Code.)

Existing law requires various criminal offenders, persons found guilty by reason of insanity, and registered sex offenders to provide DNA samples to the Department of Justice for inclusion in the DNA and Forensic Identification Data Base.

This bill requires people who have been convicted of or who have pled guilty or no contest to burglary, robbery, arson, or carjacking, or an attempt to commit these offenses, to provide DNA samples to the Department of Justice for inclusion in the data base.

This bill further adds probation officers, prosecuting city attorneys' offices, courts, and administrative tribunals to the list of agencies and officers to which DNA and other forensic identification information may be released; imposes criminal and civil penalties if a person uses an offender sample or DNA profile for other than criminal identification or exclusion

purposes, or the knowing disclosure of DNA or other forensic identification information, developed pursuant to these provisions, to an unauthorized individual or agency, or for other than identification purposes; subjects the Department of Justice, but not its employees, to liability for an unauthorized disclosure under the provisions; provides, among a number of exemptions, that the public disclosure by a law enforcement agency of the fact of a DNA profile match would not be a violation of the provisions; and makes clarifying changes to related provisions.

This bill was contingent on SB 83 being enacted and becoming effective. SB 83 was signed.

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (21-0)

Assembly Floor (77-0)

Assembly Concurrence (80-0)

Senate Public Safety (4-0)

Senate Appropriations (9-1)

Senate Floor (31-0)

DOMESTIC VIOLENCE

SB 66 (Kuehl): Chapter 572: Protective orders.

(Amends Section 6300 of, and adds Section 6306 to, the Family Code, adds Section 273.75 to the Penal Code, and amends Section 213.5 of the Welfare and Institutions Code.)

Existing law authorizes the court to issue a protective order, as defined, either ex parte or after a hearing, to restrain any person to prevent a recurrence of domestic violence, as specified.

This bill requires courts, prior to a hearing on a protective order, to ensure that a search of specified records and data bases is or has been made to determine if the proposed subject of the order has any specified prior convictions, outstanding warrants, is on parole or probation, or is or was the subject of other protective or restraining orders, and to consider and release to the parties certain discovered information in determining whether to issue an order, as specified. The bill requires information obtained as a result of the search and relied upon by the court to be maintained in a confidential case file and disclosed only as specified.

Existing law makes it a crime for any person to commit specified acts of violence against his or her spouse, the person with whom he or she

is cohabiting, the mother or father of his or her child, or any child.

This bill requires the district attorney or prosecuting city attorney, on any charge involving acts of domestic violence, to perform or cause to be performed a thorough investigation of the defendant's history, including the search of specified data bases, and to present this information for consideration by the court when setting bond or when releasing a defendant on his or her own recognizance at the arraignment, if the defendant is in custody, and upon consideration of any plea agreement.

Existing law authorizes the issuance of certain restraining orders in proceedings to declare a minor a dependent child of the juvenile court.

This bill imposes search requirements in these proceedings analogous to those that would be imposed by the bill pertaining to orders under the Domestic Violence Protection Act, as summarized above.

Legislative History:

Senate Public Safety (6-0)

Senate Judiciary (5-2)

Senate Appropriations (9-2)

Senate Floor (25-11)

Senate Concurrence

(26-10)

Assembly Judiciary (7-0)

Assembly Public Safety

(7-0)

Assembly Appropriations

(17-1)

Assembly Floor (72-4)

SB 425 (Torlakson): Chapter 90: Contra Costa County: fees.

(Adds and repeals Section 26840.9 of the Government Code, adds and repeals Section 103626 of the Health and Safety Code, and adds and repeals Section 18308 of the Welfare and Institutions Code.)

Existing law provides for county domestic violence program special funds for the purpose of funding local domestic violence programs. Certain fees payable at the time a marriage license is issued may be collected by the county clerks for deposit into these funds. Existing law requires the collection of fees for certified copies of fetal death or death records and marriage or birth certificates. Existing law authorizes the board of supervisors of a county that has established a county children's trust fund to increase the fee for a certified copy of a birth certificate for purposes of the fund.

This bill authorizes the Board of Supervisors of Contra Costa County, until 2007, to increase fees, up to a maximum increase of \$2, for certified copies of marriage certificates, birth certificates, fetal death records and death records. The purpose of the fee increase would be to provide funding for governmental oversight and for the coordination of domestic violence prevention, intervention, and prosecution efforts in the county. The bill would specify that these fees shall only apply in Contra Costa County. The bill also requires the Contra Costa County Board of Supervisors to submit to the Assembly and Senate Judiciary

Legislative History:

Senate Judiciary (4-2)
Senate Floor (21-16)
Senate Concurrence
(22-12)

Assembly Judiciary (7-2)
Assembly Floor (43-26)

Committees, by July 1, 2006, a report regarding the receipt of these fees, the expenditure of these funds, and the outcomes achieved as a result of certain activities as specified. This bill makes specified legislative findings regarding the need for special legislation.

SB 961 (Polanco): VETOED: Domestic violence reporting.

(Amends Section 11167.5, and adds Section 13732 to, the Penal Code.)

Existing law requires law enforcement agencies to prepare reports regarding calls for assistance that are related to domestic violence.

This bill would have required child protective services agencies to develop protocols in collaboration with other groups, as specified, as to how law enforcement and child welfare agencies will cooperate in their response to a domestic violence related incident in a home in which a child resides. This bill also stated specified legislative findings and declarations with respect to the relationship between domestic violence and

the abuse and neglect of children.

This bill also would have made a technical, nonsubstantive amendment to the child abuse reporting law.

Legislative History:

Senate Public Safety (4-0)
Senate Health and Human Services (9-0)
Senate Appropriations,
SR 28.8
Senate Floor (31-0)
Senate Concurrence (34-0)

Assembly Public Safety
(5-0)
Assembly Health (16-0)
Assembly Appropriations
(19-0)
Assembly Floor (61-13)

AB 160 (Bates): Chapter 698: Protective orders.

(Amends Sections 6380 and 6383 of the Family Code, and amends Section 136.2 of the Penal Code.)

Existing law provides that if a defendant is charged with a domestic violence crime, the court with jurisdiction over that matter may issue, upon a good cause belief that harm, intimidation, or dissuasion of a victim or witness has occurred or is reasonably likely to occur, specified orders, including restraining or protective orders against the defendant. Existing law further provides that a restraining or protective order issued in a domestic violence criminal case has precedence over any other court order against the defendant.

This bill specifies that the criminal restraining order or protective order has precedence in enforcement over any civil court order that pertains to the same persons. The bill directs the Judicial Council of California to promulgate a protocol, for adoption by local courts, to provide for coordination of all orders regarding the same persons.

Existing law requires the Department of Justice to maintain a Domestic Violence Restraining Order System containing information regarding various protective and restraining orders and injunctions, including orders to protect victims of violent crime from specified types of contact

with the defendant. Under existing law, when a court issues an order to protect a victim of violent crime from contact with the defendant, the court or its designee must transmit that order to law enforcement personnel within one business day. Existing law further provides that specified information regarding the order must be transmitted to the Department of Justice for inclusion in the Domestic Violence Restraining Order System.

This bill requires a court that modifies, extends, or terminates an order protecting a victim of violent crime from contact with the defendant to transmit that modification, extension, or termination to the law enforcement agency that entered the protective order into the Domestic Violence Restraining Order System. This bill also requires modifications, extensions, and terminations of orders protecting victims of violent crime from contact with the defendant to be issued on forms adopted by the Judicial Council of California and approved by the Department of Justice.

This bill provides that its provisions shall be implemented on January 1, 2003, and includes specified legislative findings and declarations.

Legislative History:

Assembly Judiciary (10-0)

Assembly Public Safety (7-0)

Assembly Appropriations (21-0)

Assembly Floor (77-0)

Assembly Concurrence (75-0)

Senate Public Safety (5-0)

Senate Judiciary (6-0)

Senate Appropriations (9-0)

Senate Floor (40-0)

AB 477 (Cohn): Chapter 82: Criminal procedure.
(Amends Section 977 of the Penal Code.)

Existing law provides that, with respect to persons charged with a misdemeanor offense involving domestic violence, as specified, or a misdemeanor violation of a protective order, as specified, upon a satisfactory showing of necessity the court may order through counsel that the accused be personally present in court for the purpose of the service of specified orders, unless the court determines that the defendant will make another court appearance within a reasonable period of

time and the defendant could be served with a restraining order at that time.

This bill revises this provision to require persons accused of specified misdemeanor domestic violence-related offenses to be present for arraignment and sentencing.

Legislative History:

Assembly Public Safety (7-0)

Assembly Floor (76-0)

Assembly Concurrence (77-0)

Senate Public Safety (4-0)

Senate Floor (39-0)

AB 664 (Dutra): Chapter 707: Domestic violence programs. Urgency.
(Uncodified Law.)

Existing law provides that the Office of Criminal Justice Planning may expend funds for local domestic violence programs, subject to the availability of funds.

This bill sets forth legislative intent and appropriates \$2,000,000 to the Office of Criminal Justice Planning to fund programs that have previously received funds, but were not selected for funding in 2001. This bill took effect immediately.

Legislative History:

(Prior votes not relevant)
Assembly Concurrence (69-2)

Senate Appropriations (13-0)

Senate Floor (39-5)

AB 731 (Wayne): Chapter 816: Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(Amends Section 6380 of, adds Part 5 (commencing with Section 6400) to Division 10 of, and repeals Section 6380.5 of, the Family Code, and amends Section 273.6 of the Penal Code.)

Existing law provides for the issuance and enforcement of protective orders in cases involving domestic violence and provides that a protective or restraining order related to domestic or family violence and issued by a court of another state, a tribe, or a military tribunal shall be deemed valid if the issuing court had jurisdiction over the parties and the matter.

This bill deletes the existing relevant provision of law and instead enacts in California the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, which authorizes the enforcement of a valid foreign protection order in a tribunal of this state under certain conditions. This bill makes related changes in law.

Legislative History:

Assembly Judiciary (9-0)
Assembly Appropriations (20-0)
Assembly Floor (75-0)
Assembly Concurrence (79-0)

Senate Judiciary (7-0)
Senate Appropriations, SR 28.8
Senate Floor (40-0)

AB 1570 (Pavley): Chapter 568: Batterer's programs.

(Amends Section 1203.097 of the Penal Code.)

Existing law prescribes terms of probation, including successful completion of a batterer's program for persons convicted of domestic violence, as specified.

This bill requires (see "Note" below) persons required to participate in batterer's programs to attend *consecutive* weekly sessions, unless granted an

excused absence for good cause by the program for no more than 3 individual sessions during the entire program, and to complete the program within a period of 18 months unless, after a hearing, the court finds good cause to modify these requirements.

NOTE: This bill was chaptered out by SB 205 (McPherson).

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (21-0)
Assembly Floor (79-0)
Assembly Concurrence (79-0)

Senate Public Safety (4-0)
Senate Appropriations, SR 28.8
Senate Floor (40-0)

DMV CONFIDENTIALITY

AB 84 (Hertzberg): Chapter 809: Department of Motor Vehicles: records: confidentiality: psychiatric social workers and trial court employees.
(Amends Section 1808.4 of the Vehicle Code.)

Existing law prohibits the disclosure of the home addresses of certain public employees and officials that appear in any records of the Department of Motor Vehicles, except to a court, a law enforcement agency, and certain other official entities. Existing law makes a violation of the prohibition specified above a crime if the disclosure is of the home address of the public officials and employees, or the spouses or children of these officials or employees.

This bill requires the home addresses of employees of a trial court, psychiatric social workers employed by counties, and the spouses and children of these employees and workers to be withheld from public inspection. The bill also authorizes the disclosure of the home addresses of certain public employees and officials to an attorney in a civil or criminal action who demonstrates to a court the need for the information, if the disclosure is made pursuant to a subpoena.

Legislative History:

*Assembly Transportation
(16-0)*

*Assembly Appropriations
(21-0)*

Assembly Floor (74-1)

*Assembly Concurrence
(68-11)*

Senate Public Safety (4-0)

*Senate Appropriations
(10-0)*

Senate Floor (25-9)

AB 1029 (Oropeza): Chapter 486: Confidential DMV records.
(Amends Section 1808.4 of the Vehicle Code.)

Existing law makes confidential the home address of certain persons appearing in the Department of Motor Vehicles records, if the person requests it be kept confidential, with certain exemptions for information available to specified governmental agencies. Violation of the confidentiality requirements is a felony.

This bill includes any employee designated for 3-year periods by a chief of police or sheriff as being in a sensitive position.

Legislative History:

*Assembly Transportation
(16-0)*

*Assembly Appropriations
(21-0)*

Assembly Floor (73-0)

*Assembly Concurrence
(74-5)*

Senate Public Safety (4-0)

Senate Appropriations (7-0)

Senate Floor (29-5)

ELDER AND DEPENDENT ADULT ABUSE

SB 333 (Escutia): Chapter 301: Elder Death Review Teams.

(Adds Article 2.7 (commencing with Section 11174.4) to Chapter 2 of Title 1 of Part 4 of the Penal Code.)

Existing law establishes Child Death Review Teams (Penal Code § 11166.7) and Domestic Violence Death Review Teams. (Penal Code § 11163.3.)

This bill authorizes counties to establish an interagency elder death team to assist local agencies in identifying and reviewing suspicious elder deaths and facilitating communications among persons who perform autopsies and persons involved in the investigation or reporting of elder abuse or neglect. This bill specifies that the county elder death review teams be comprised of certain state and local agency staff and private entities, and establishes procedures for the sharing or disclosure of information by elder death review teams. This bill contains specified legislative declarations and findings.

Legislative History:

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

Senate Floor (39-0)
Senate Concurrence (40-0)

Assembly Public Safety
(7-0)
Assembly Appropriations
(21-0)
Assembly Floor (79-0)

SB 502 (Ortiz): Chapter 579: Elder abuse.
(Adds Section 11161.2 to the Penal Code.)

Existing law requires specified persons to report physical injury as a result of assaultive or abusive behavior, including elder or dependent adult abuse and domestic violence, to local law enforcement. Existing law also authorizes the County of San Mateo to establish a pilot project to create, after consultation with the Department of Justice, a standardized form for reporting violence and abuse of elder and dependent adults.

This bill establishes a uniform approach for providing medical examinations, documentation and evidence collection for victims of domestic violence and elder and dependent adult abuse.

Legislative History:

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

Assembly Aging and Long Term Care (6-0)
Assembly Public Safety (7-0)
Assembly Appropriations (20-0)
Assembly Floor (80-0)

AB 1111 (Simitian): VETOED: Adult abuse: financial abuse specialist teams.
(Adds and repeals Title 3.5 (commencing with Section 13750) to Part 4 of the Penal 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. Various procedures exist for the protection of individuals by the public guardian and by programs implemented by the State Department of Social Services.

This bill would have established in the Office of Criminal Justice Planning (OCJP) a program of technical and financial assistance for counties in order to enable a county to form a financial abuse specialist team with a rapid response component that would respond within 24 to 48 hours to reports of financial abuse or exploitation against elders and dependent adults.

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (14-6)
Assembly Floor (68-0)
Assembly Concurrence (75-2)

Senate Public Safety (5-0)
Senate Appropriations (7-3)
Senate Floor (32-4)

ENVIRONMENT

AB 960 (Keeley): VETOED: Crime prevention: environmental prosecution project.
(Adds Section 13823.21 to the Penal Code.)

Existing law creates criminal penalties for violations of specified air and water pollution and other environmental laws and regulations.

This bill provides that the Office of Criminal Justice Planning (OCJP) shall establish the Environmental Circuit Prosecutor Project to assist district attorneys in the prosecution of criminal violations of air and water pollution and other environmental laws and regulations, where a district attorney has requested assistance.

Legislative History:

Assembly Public Safety

(7-0)

Assembly Appropriations

(14-6)

Assembly Floor (65-10)

Assembly Concurrence

(69-9)

Senate Public Safety (6-0)

Senate Appropriations

(7-2)

Senate Floor (28-8)

EVIDENCE AND PROCEDURE

SB 205 (McPherson): Chapter 854: Technical revisions of penal provisions.

(Amends Sections 1282.3 and 5536 of the Business and Professions Code, amends Sections 670, 1036.2, and 1350 of the Evidence Code, amends Section 11019.9 of the Government Code, amends Sections 11362.9, 11372.7, 11550, 11573.5, 42400.1, 42400.2, 42400.3, 42402.1, 42402.2, 42402.3, and 109580 of the Health and Safety Code, amends Sections 28, 182, 186.11, 186.22, 186.26, 243.1, 312.1, 320.5, 368, 466, 481.1, 530.7, 593d, 593e, 645, 646.93, 666.7, 667.7, 670, 778a, 933.06, 1170.11, 1174.4, 1203.044, 1203.097, 1280.1, 2677, 2717.4, 3000, 3000.1, 3058.9, 4011.1, 6008, 6126.5, 6236, 7012, 11180, 11418, 12022.53, 12094, 12288, and 13519.4 of, amends and renumbers Sections 113, 597.2, 1511, and 5058.5 of, amends and renumbers the heading of Title 10.5 (commencing with Section 14150) of Part 4 of, the Penal Code, amends Section 19705 of the Revenue and Taxation Code, amends Sections 1808.21, 13202.4, and 22658.1 of the Vehicle Code, amends Sections 302, 319.1, 367, 602, 635.1, and 5270.55 of, amends and renumbers Sections 602.5 and 730.7 of, and amends and renumbers the heading of Article 18.5 (commencing with Section 743) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.)

Existing law contains numerous provisions pertaining to crime and the implementation of the criminal laws of this state.

This bill makes numerous, nonsubstantive changes to clarify and update these provisions. The bill also makes various technical revisions. As this bill amends an initiative statute, a 2/3 vote was required.

NOTE: This bill chaptered out the provisions of AB 1107 (Leach), which amended Health and Safety Code section 11372.7, and the provisions of AB 1570 (Pavley), which amended Penal Code section 1203.097.

Legislative History:

Senate Public Safety (6-0)
Senate Appropriations,
SR 28.8
Senate Floor (37-0)
Senate Concurrence (40-0)

Assembly Public Safety
(4-0)
Assembly Floor (76-0)

SB 303 (Torlakson): Chapter 55: Juries: peace officer exemption.
(Amends Section 219 of the Code of Civil Procedure.)

Existing law exempts certain peace officers from voir dire in civil and criminal matters, and other specified peace officers from voir dire in criminal matters.

This bill exempts San Francisco Bay Area Rapid Transit District police, as specified, from voir dire in civil and criminal matters.

Legislative History:

Senate Public Safety (6-0)
Senate Judiciary (4-1)
Senate Floor (23-12)

Assembly Judiciary (9-0)
Assembly Floor (64-9)

SB 683 (Ortiz): Chapter 444: Public health information: confidentiality. Urgency.
(Amends Sections 103850 and 103885 of the Health and Safety Code.)

Existing law provides for the collection of information with respect to birth defects monitoring, and also with respect to determination of the incidence of cancer and further provides for the confidentiality of this information, except as specified.

This bill designates the information collected as "confidential information" and recasts and revises the confidentiality requirements relating to that information, including providing that the confidential information shall not be available for subpoena, or disclosed, discoverable, compelled to be produced, or admissible as evidence in any civil, criminal, administrative, or other proceeding. The person to

whom the information relates would be able to obtain it under the Information Practices Act of 1977.

Legislative History:

Senate Judiciary (4-1)
Senate Appropriations, SR 28.8
Senate Floor (27-2)
Senate Concurrence (38-0)

Assembly Judiciary (7-0)
Assembly Health (17-0)
Assembly Appropriations (20-0)
Assembly Floor (80-0)

SB 716 (Machado): Chapter 142: Evidence: privileged communications.
(Amends Section 1010 of the Evidence Code.)

Existing law provides that confidential communications between a psychotherapist and a patient are privileged. Existing law defines psychotherapist to mean a person authorized, or reasonably believed by the patient to be authorized, to practice medicine in any state or nation who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry. Existing

law also defines psychotherapist to include other professionals, but does not include the patient's reasonable belief standard in their definition.

This bill changes the definition of psychotherapist by applying the patient's reasonable belief standard to all professionals identified as psychotherapists.

Legislative History:

Senate Judiciary (5-0)
Senate Floor (38-0)
Senate Concurrence
(38-1)

Assembly Judiciary (10-0)
Assembly Floor (78-0)

SB 799 (Karnette): Chapter 858: Battered women's syndrome: writ of habeas corpus.
(Adds and repeals Section 1473.5 of the Penal Code.)

Existing law specifies circumstances under which a writ of habeas corpus may be prosecuted to inquire into the cause of a person's imprisonment.

This bill includes within those circumstances the fact that evidence relating to battered women's syndrome, based on abuse committed on the perpetrator of a homicide by the victim of the homicide, was not introduced at trial, and, had it been introduced, there is a reasonable probability that the result of the proceedings would have been different. The bill specifies that provisions authorizing a court to take certain actions, including ordering a new trial or reversing a conviction, would apply to these provisions. This bill provides that it is

grounds for denial of a petition if a petitioner filed a petition prior to the effective date of these provisions and a court determined on the merits that the omission of evidence relating to battered woman's syndrome at trial was not prejudicial and did not entitle the petitioner to habeas relief. The bill specifies that its provisions are limited to murder convictions resulting from pleas entered, or trials commenced, before January 1, 1992, and the bill's provisions are repealed as of January 1, 2005.

Legislative History:

Senate Public Safety (4-1)
Senate Appropriations
(7-3)
Senate Floor (25-11)
Senate Concurrence
(24-11)

Assembly Public Safety
(5-1)
Assembly Appropriations
(14-6)
Assembly Floor (53-21)

AB 77 (Havice): Chapter 62: Criminal proceedings: persons with disabilities.
(Amends Section 868.8 of the Penal Code.)

Existing law requires courts to take special precautions to provide for the comfort and protection of a child witness testifying in criminal proceedings alleging certain sex offenses committed with or upon a minor under the age of 11. The court may, among other things, allow the witness reasonable periods of relief and relocate parties within the courtroom.

This bill extends these provisions to a person with a mental disability. This bill would also expand these protections to cases of domestic violence, as specified.

Legislative History:

Assembly Public Safety (7-0)
Assembly Floor (78-0)
Assembly Concurrence (76-0)

Senate Public Safety (5-0)
Senate Floor (37-0)

AB 380 (Wright): Chapter 517: Evidence of prior sexual offenses.
(Amends Section 1108 of the Evidence Code.)

Existing law provides that, except as specified, evidence of a person's character is inadmissible when offered to prove his or her conduct on a specified occasion. Existing law creates exceptions to that rule, including that in a criminal action in which the defendant is accused of a sexual offense, evidence of the defendant's commission of another sexual offense or offenses is not inadmissible under that rule, except as specified. Existing law defines the term "sexual offense" as conduct proscribed by various sections of the Penal Code as well as other types of conduct.

This bill expands the definition of "sexual offense" for the purposes of the aforementioned exception to the rule against the admission of character evidence to include aggravated sexual assault of a child. Aggravated sexual assault of a child is defined by cross-reference to other Penal Code sections which are already included in the definition of "sexual offense."

Legislative History:

Assembly Public Safety (7-0)
Assembly Floor (76-0)
Assembly Concurrence (78-0)

Senate Public Safety (6-0)
Senate Floor (40-0)

AB 1304 (Rod Pacheco): Chapter 231: Criminal procedure.
(Amends Section 1538.5 of the Penal Code.)

Existing law provides that a defendant in a misdemeanor case may move for the return of property or to suppress as evidence any tangible or intangible thing obtained as a result of a search or seizure based on specified grounds. Under existing law, if the defendant's motion is denied, the defendant may appeal that decision. Existing statutory law does not specify whether the trial court has discretion to stay the trial pending disposition of the defendant's appeal, although case law has interpreted existing law to grant the trial court that discretion.

the return of property or to suppress evidence, the trial court has discretion to grant a stay of the trial pending disposition of the appeal.

This bill amends statutory law to specify that if a defendant in a misdemeanor case appeals denial of his or her motion for

Legislative History:

Assembly Public Safety (7-0)

Assembly Floor (75-0)

Assembly Concurrence (76-0)

Senate Public Safety (5-0)

Senate Floor (39-0)

FIREARMS AND DANGEROUS WEAPONS

SB 9 (Soto): Chapter 126: Firearms: criminal storage: minors.
(Amends Sections 12035, 12036, and 12071 of the Penal Code.)

Existing law provides that:

- “Criminal storage of a firearm in the first degree” occurs when a person keeps any loaded firearm within any premise which is under his or her custody or control and he or she knows, or reasonably should know, that a child under sixteen years of age is likely to gain access to the firearm without the permission of his or her parent or guardian, and the child obtains access to the firearm and thereby causes death or great bodily injury to himself, herself, or any other person.
- “Criminal storage of a firearm in the second degree” occurs when a person keeps any loaded firearm within any premise which is under his or her custody or control and he or she knows, or reasonably should know, that a child under sixteen years of age is likely to gain access to the firearm without the permission of his or her parent or guardian, and the child gains access to the firearm and thereby causes injury, other than great bodily injury, to himself, herself, or any other person, or carries the firearm either in a public place or brandishes it in violation of Penal Code section 417 (regarding public displays of the firearm).
- Various exceptions and conditions are provided, such as a defense if the firearm is stored in a locked container, or with a locking device on the weapon, or if the child entered the premises illegally, or that the firearm is carried on the person or within such a close proximity thereto so that the individual can readily retrieve and use the firearm as if carried on the person.
- A violation of first degree criminal storage of a firearm is an alternate felony/misdemeanor, punishable by sixteen months, two or three years in state prison and/or a fine of up to \$10,000 or up to one year in county jail.
- A violation of second degree criminal storage of a firearm is a misdemeanor, punishable by up to one year in county jail and/or a fine of up to \$1,000.
- Criminal storage of a handgun, whether loaded or not, is a crime applicable to any person who keeps a pistol, revolver, or other firearm capable of being concealed upon the person, loaded or unloaded, within any premise that is under his or her custody or control and he or she knows, or reasonably should know, a child under sixteen years of age is likely to gain access to that firearm without the permission of the child’s parent or legal guardian, and the child obtains access to that firearm and thereafter carries that firearm off-premises, as specified. Violations shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both imprisonment and fine. The same exceptions as in criminal storage in the first or second degree.
- A licensed firearms dealer must include in required posted notices: “If you keep a loaded firearm, or a firearm concealable upon the person, within any premises under your custody or control, and a person under sixteen gains access to the firearm, you may be guilty of a misdemeanor or a felony, unless you stored the firearm in a locked container, or locked the firearm with a locking device, to keep it from temporarily functioning.”

This bill does the following:

- Raises to “under 18 years of age” the definition of a child for the existing laws pertaining to criminal storage of a firearm, thereby expanding the existing laws.

- Adds to the current section pertaining to the criminal storage of a handgun a new “crime” applicable to any person who keeps any firearm within any premises that is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child’s parent or legal guardian and the child obtains access to the firearm and thereafter carries that firearm off-premises to any public or private preschool, elementary school, middle school, high school, or to any school-sponsored event,

activity, or performance whether occurring on school grounds or elsewhere, shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$5,000, or by both that imprisonment and fine.

- Changes the dealer notice requirements to reflect the age change made by this bill.
- Makes related changes in law.

Legislative History:

Senate Public Safety (4-0)
Senate Appropriations,
SR 28.8
Senate Floor (24-6)

Assembly Public Safety
(4-2)
Assembly Appropriations
(12-2)
Assembly Floor (48-16)

SB 52 (Scott): Chapter 942: Firearms: handgun safety certificate.

(Amends Sections 12001, 12071, 12072, 12076, 12077, 12078, and 2084 of, amends and repeals Section 12081 of, adds Sections 12076.5 and 12810 to, and repeals and adds Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 of, the Penal Code.)

Existing law includes the following:

- Generally requires that the sale, loan or transfer of a firearm (handguns, rifles and shotguns) in California must be conducted through a state-licensed firearms dealer or through a local sheriff’s department in counties of less than 200,000 population. That requirement is applicable to both purchases from a licensed firearms dealer and private party transactions, which must be made through a licensed dealer or a local sheriff’s department in smaller counties. A 10-day waiting period, background check, and handgun safety certificate for

handgun transfers are required prior to delivery of the firearm. (Penal Code §§ 12072(c) and (d) and 12084.)

- Sets forth the requirements for the Department of Justice creation of the requisite handgun safety certificate and provides exemptions for specified classes of persons who do not need to either successfully take the course or challenge the course with a specified exam. (Penal Code §§ 12081 and 12800-12809.)
- Provides where neither party to the transaction holds a firearms dealer’s license the parties to the transaction shall complete

the sale, loan, or transfer of that firearm through either a licensed dealer or a sheriff’s office in smaller counties. Violations involving handguns shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed \$1,000, or by both the fine and imprisonment. (Penal Code § 12072(d) and (g)(3)(E).)

- Requires the dealers register of sale of a concealable handgun to contain specified information, such as date of sale; time of sale; make of firearm; the purchaser’s basic firearms safety certificate number; manufacturer’s name if

stamped on the firearm; serial number; any identification number or mark assigned to the firearm; caliber of the firearm; type of firearm; whether the firearm is new or used; barrel length; color of the firearm; full name of the purchaser; purchaser's complete date of birth; purchaser's local address; purchaser's permanent if local address is temporary; identification of purchaser, place of birth, complete telephone number, occupation, purchaser's sex, physical description, all legal names and aliases ever used by purchaser, whether the purchaser has suffered specified criminal convictions, or has a history of specified mental health, signature; and specified other information about the dealer. (Penal Code § 12077(b).)

This bill does the following:

- Effective January 1, 2003, repeals the Basic Firearms Safety and Certificate (BFSC) program administered by the Department of Justice (DOJ) and replaces it with a handgun safety certificate (HSC) program.
- Provides that, effective January 1, 2003, no person shall do either of the following: (1) purchase or receive any handgun, except an antique firearm, as defined, without a valid handgun safety certificate; (2) sell, deliver, loan, or transfer any handgun, except an antique firearm, as defined, to any person who does not have a valid handgun safety certificate. Violations of these

requirements are punishable as a misdemeanor.

- Requires that, effective January 1, 2003, no handgun may be delivered by a dealer – or county sheriff in smaller counties – unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

- Provides that, commencing January 1, 2003, except as authorized by the DOJ, no firearms dealer may deliver a handgun unless the recipient performs a specified safe handling demonstration with that handgun. The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam. The firearms dealer shall sign and date an affidavit stating that these requirements have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this

requirement. The recipient shall perform the safe handling demonstration for a department certified instructor.

- Provides that infrequent loans of handguns between persons known to each other for less than 30-days shall be exempted from specified dealer/sheriff transfer requirements after January 1, 2003, only if the person being loaned the handgun has an HSC except that handgun loans for less than three days shall be exempt from that HSC where all of the following conditions exist: the person loaning the firearm is at all times within the presence of the person being loaned the firearm; the loan is for a lawful purpose; the loan does not exceed three days in duration; the individual receiving the firearm is not prohibited from owning or possessing a firearm; and the person loaning the firearm is 18 years of age or older and the person being loaned the firearm is 18 years of age or older.
- Requires that an applicant for an HSC complete and pass a written test with a passing grade of at least 75%. The test prepared by the DOJ, as specified, shall include but not be limited to laws applicable to carrying and handling firearms, particularly handguns; the responsibilities of ownership of firearms, particularly handguns; current law as it relates to the private sale and transfer of firearms; current law as it relates to the permissible use of lethal force; what constitutes safe firearm storage; issues

associated with bringing a handgun into the home; and prevention strategies to address issues associated with bringing firearms into the home. The test must be administered by an instructor certified by the DOJ and offered in English or Spanish. If the person taking the test is unable to read, the test may be taken orally. No certified instructor may issue a HSC to a person who is under 18 years of age.

- Exempts specified categories of persons from the HSC requirements, including active, retired, and reserve peace officers.
- Authorizes certified instructors to charge specified fees and authorizes other specified fees.
- Specifies that the HSC expires in five years and that an

applicant for renewal must again pass the written test.

- States that it is not the intent of the Legislature to require a handgun safety certificate for the mere possession of a firearm.
- Makes numerous other related changes to law, including specifically adding to Penal Code section 12072 (a) (3) that no person, corporation, or dealer "shall sell a handgun to an individual under 21 years of age" and exempting from the HSC requirement after January 1, 2003, of otherwise authorized loans of handguns at a target range and authorized loans to minors.
- Makes this bill operative if enacted only if AB 35 is also enacted (see below; AB 35 was enacted).

Legislative History:

Senate Public Safety (4-1)
Senate Appropriations (8-3)
Senate Floor (25-15)
Senate Concurrence (23-13)

Assembly Public Safety (5-2)
Assembly Appropriations (12-8)
Assembly Floor (41-31)

SB 274 (Karnette): Chapter 128: Switchblade knives: exceptions.
(Amends Section 653k of the Penal Code.)

Existing law contains a misdemeanor penalty applicable to every person who possesses in the passenger's or driver's area of any motor vehicle in any public place or place open to the public, carries upon his or her person, and every person who sells, offers for sale, exposes for sale, loans, transfers, or gives to any other person a switchblade knife having a blade over two inches in length. A "switchblade knife" means a knife having the

appearance of a pocketknife and includes a spring-blade knife, snap-blade knife, gravity knife or any other similar type knife, the blade or blades of which are two or more inches long and which can be released automatically by a flick of a button, pressure on the handle, flip of the wrist or other mechanical device, or is released by the weight of the blade or by any type of mechanism whatsoever. "Switchblade knife" does not

include a knife that is designed to open with one hand utilizing thumb pressure applied solely to the blade of the knife or a thumb stud attached to the blade.

This bill modifies the 1999 exception added to section 653k which pertains to knives which open with one hand using pressure applied to the knife or a thumb stud by further specifying that the exception only applies: "provided that the knife has a

detent or other mechanism that provides resistance that must be overcome in opening the blade, or that biases the blade back toward its closed position.”

This bill also changes the existing law by deleting “designed to open” regarding “thumb opening” knives and inserts instead “opens” with one hand.

Legislative History:

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

Assembly Public Safety
(6-0)
Assembly Appropriations
(20-0)
Assembly Floor (74-2)

SB 294 (Scott): Chapter 138: (1) firearms dealers inspections and (2) victims of crime program.

(Adds Section 13974.6 to the Government Code and amends Section 12071 of the Penal Code.)

Existing law (1) provides that the Department of Justice may inspect firearms dealers to ensure compliance with various statutory requirements, and that the department may assess an annual fee, not to exceed \$85, to cover the reasonable cost to cover the inspections and for other regulatory purposes, as specified; and (2) authorizes the California Victim Compensation and Government Claims Board (CVCGCB) to 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.

specified, and also makes technical changes to certain warnings that are required to be posted by firearms dealers; and (2) requires the CVCGCB to select up to 5 sites to operate victim recovery, resource, and treatment programs to provide comprehensive recovery services to victims of crime, according to specified criteria and requires a report to the Legislature on the programs no later than May 1, 2004.

This bill (1) increases the maximum firearm dealer inspection fee to \$115, to cover the inspections and for those same regulatory purposes, as

Legislative History:

(Prior votes not relevant)
Senate Concurrence (25-11)

Assembly Floor (54-14)

SB 578 (Figueroa): Chapter 130: Ammunition: flechette darts.
(Amends Section 12020 of the Penal Code.)

Existing law makes it unlawful, punishable by imprisonment in a county jail not exceeding one year or in the state prison (misdemeanor/felony penalty), for any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any ammunition which contains or consists of any flechette dart. Existing law defines "flechette dart" as "a dart, capable of being

fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body." (Penal Code § 12020(c)(6).)

This bill changes the existing definition of "flechette dart" by adding the word "approximately" before "five-sixteenths of an inch" pertaining to tail fins in the current definition.

Legislative History:

Senate Public Safety (6-0)
Senate Appropriations,
SR 28.8
Senate Floor (30-0)

Assembly Public Safety (7-0)
Assembly Appropriations
(21-0)
Assembly Floor (76-1)

SB 626 (Perata): Chapter 937: Firearms: assault weapons: large-capacity magazines.
(Amends Sections 12020 and 12280 of the Penal Code.)

Existing law generally prohibits the manufacturing, causing to be manufactured, importation into the state, keeping, offering or exposing for sale, giving, or lending, of various weapons, including any large-capacity magazine, with specified exceptions. Existing law also defines "large-capacity magazine" and specifies certain magazines that are not included within the definition.

Existing law makes it an offense, with specified exceptions, to possess an assault weapon, as defined.

This bill exempts the manufacture of a large-capacity magazine for certain law

enforcement agents, peace officers, government agencies, the military, or for export; exempts certain purchases and loans of large-capacity magazines, as specified; and specifies additional magazines that are not included within the definition of "large-capacity magazine."

This bill also provides additional exceptions to the offense of possessing an assault weapon, regarding the loan at a target range of an assault weapon by a retired peace officer, as specified, and receipt and possession of an assault weapon by certain peace officers, if those officers register the assault weapon, as specified.

Legislative History:

Senate Public Safety (4-0)
Senate Appropriations,
SR 28.8
Senate Floor (30-0)
Senate Concurrence (34-0)

Assembly Public Safety (7-0)
Assembly Appropriations
(20-0)
Assembly Floor (71-2)

SB 950 (Brulte): Chapter 944: Prohibited firearm possession data base.

(Amends Sections 12001.6, 12021, and 12071 of, and adds Section 12028.7 to, the Penal Code.)

Existing law provides that specified classes of persons, including convicted felons, certain misdemeanants, narcotics addicts and persons with certain mental disorders may not possess firearms. Some classes, such as felons, are subject to a lifetime ban. Other prohibited persons, such as certain misdemeanants, may not possess firearms for specified time periods. The law also provides for seizure and return of firearms in specified circumstances.

This bill – subject to an appropriation in the 2002-03 Budget – authorizes and funds the creation of a “Prohibited Armed Persons File” to be maintained by the Attorney General. Essentially, this data

base would be created from cross-references of lists of persons in prohibited classes with persons listed in firearm transfer records. Further, the bill requires the court, at the time the judgment is imposed, to provide to the defendant, on a form supplied by the Department of Justice, a notice regarding that firearm prohibition. This bill also requires firearms dealers to provide the notice under specified circumstances. This bill in addition provides a procedure for the return of seized firearms where existing procedures are not applicable. Finally, the bill also calls for a study of how persons who enter a prohibited class can legally dispose of or transfer any firearms they may own or possess.

Legislative History:

Senate Public Safety (5-0)
Senate Appropriations (10-0)
Senate Floor (39-0)
Senate Concurrence (40-0)

Assembly Public Safety (7-0)
Assembly Appropriations (20-0)
Assembly Floor (75-0)

AB 35 (Shelley): Chapter 940: Firearms: handgun safety certificate.

(Amends Sections 12001, 12071, 12072, 12076, 12077, 12078, and 12084 of, amends and repeals Section 12081 of, adds Sections 12076.5 and 12810 to, and repeals and adds Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 of, the Penal Code.)

(See the entry for SB 52 (Scott), which is identical to AB 35 and which was chaptered after AB 35. Both bills were contingent on the enactment of the other and both were in fact enacted.)

Legislative History:

Assembly Public Safety (5-2)
Assembly Appropriations (11-5)
Assembly Floor (41-36)
Assembly Concurrence (41-33)

Senate Public Safety (5-1)
Senate Appropriations (8-4)
Senate Floor (22-13)

HATE CRIMES

SB 257 (Kuehl): Chapter 890: Schools: hate crimes.

(Amends Sections 32261, 32270, 32271, 32280, 32290, 32295, and 35294.2 of the Education Code.)

Existing law requires the School/Law Enforcement Partnership to establish interagency safe school programs to address the problems of school safety, truancy, excessive absenteeism, and school crime including vandalism, drug and alcohol abuse, gang membership, and gang violence.

This bill specifies that for partnership purposes, school crime includes hate crimes.

Existing law makes each school

district and county office of education responsible for the overall development of comprehensive school safety plans that include, among other things, a sexual harassment policy.

This bill requires the comprehensive school safety plan to include development of a discrimination and harassment policy, as specified, and development of hate crime reporting procedures, thereby imposing a state-mandated local program.

Legislative History:

Senate Education (8-2)

Senate Appropriations (7-4)

Senate Floor (25-13)

Senate Concurrence (23-13)

Assembly Education (10-3)

Assembly Appropriations (14-6)

Assembly Floor (46-26)

AB 1193 (Steinberg): Chapter 253: Insurers: hate crimes: cancellation or refusal to renew.

(Amends Section 790.03 of, and adds Section 676.10 to, the Insurance Code.)

Existing law provides for the regulation of insurers by the Insurance Commissioner. Existing law imposes various limitations on insurers relative to cancellation or nonrenewal of policies protecting against certain residential, liability, and commercial risks.

This bill provides that an insurer issuing policies protecting against certain residential, liability, and commercial risks may not cancel or refuse to

renew a policy solely on the basis that one or more claims have been made against the policy during the preceding 60 months for a loss that is the result of a hate crime committed against the person or property of an insured, if the insured is a religious or educational organization or other nonprofit organization organized and operated for religious, charitable, or educational purposes.

Legislative History:

Assembly Insurance (15-0)

Assembly Appropriations (21-0)

Assembly Floor (71-0)

Assembly Concurrence (69-2)

Senate Insurance (4-1)

Senate Appropriations, SR 28.8

Senate Floor (29-2)

AB 1312 (Nakano): Chapter 566: The Asian Pacific Islander Anti-Hate Crimes Program.

(Adds and repeals Title 10.2 (commencing with Section 14125) to Part 4 of the Penal Code.)

Existing law prohibits hate crimes and provides for specified programs relating to hate crimes for students and law enforcement agencies.

This bill appropriates \$250,000 from the General Fund to the Department of Justice to establish the Asian Pacific Islander (API) Anti-Hate Crimes Program to create hard copy brochures and workbooks to provide to Asian Pacific Islander communities throughout the state that define what are hate crimes, how to report a hate

crime, how hate crimes impact a community and community strategies on responding to hate crimes; and to conduct training seminars for community organizations in order to better train them to assist themselves or other Asian Pacific Islander communities in dealing with hate crimes.

NOTE: While the Governor signed the bill he vetoed the appropriation requesting that DOJ “conduct this important program using existing resources.”

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (19-0)

Assembly Floor (73-0)

Assembly Concurrence (76-1)

Senate Public Safety (5-0)

Senate Appropriations (8-2)

Senate Floor (28-7)

IDENTITY THEFT

SB 125 (Alpert): Chapter 493: Identity theft: victim information.

(Adds Section 1748.95 to the Civil Code, adds Section 4002 to, and adds Article 6 (commencing with Section 22470) to Chapter 2 of Division 9 of the Financial Code, amends Section 7480 of the Government Code, and adds Section 530.8 to the Penal Code.)

Existing law provides that every person who willfully obtains the personal identifying information of another person without the authorization of that person, and uses that information without consent, is guilty of a public offense. A person who learns or reasonably suspects that his or her personal identifying information has been used by another to commit a crime may initiate a law enforcement investigation by

contacting an appropriate local agency. The law enforcement agency must make a report of the matter and provide the complainant with a copy of that report.

Existing law further generally prescribes procedures for the disclosure of financial records in order to ensure customers’ financial privacy and provides for specified exceptions to these requirements.

This bill entitles an identity theft victim who discovers that an unauthorized person has applied for a loan, credit card, utility service, or opened a financial account, to receive a copy of the application or information related to the application or account. The victim may also designate a law enforcement officer to receive this information. The institution or company shall inform the requesting person of the

categories of identifying information that the unauthorized person used to complete the application. The victim must then provide identifying information in the noted categories and a copy of the police report before he or she can receive the requested information. Additionally, before the entity provides copies to a specified law enforcement officer, the entity can require the requesting person to provide them with a signed and dated statement authorizing the disclosure.

Legislative History:

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

Assembly Public Safety (4-0)
Assembly Banking and Finance (10-0)
Assembly Floor (79-0)

SB 168 (Bowen): Chapter 720: Consumer credit protection.

(Amends Section 1785.15 of, and adds Sections 1785.11.1, 1785.11.2, 1785.11.3, 1785.11.4, and 1785.11.6 to, and adds Title 1.81.1 (commencing with Section 1798.85) to Part 4 of Division 3 of, the Civil Code.

Existing law – the Consumer Credit Reporting Agencies Act and the federal Fair Credit Reporting Act – provides for the regulation of consumer credit reporting agencies that collect credit-related information on consumers and report this information to subscribers. The Act requires certain notices and disclosures be provided to consumers with a mailing address in California, including a requirement for providing a copy of a consumer’s credit file for a reasonable fee not exceeding \$8. The Act further requires credit agencies to provide a toll-free telephone number for certain purposes, including the opportunity for a consumer to elect to have his or her name removed from lists supplied to creditors that are used to make firm offers of credit that were not

initiated by the consumer. Existing law further provides for the use of social security numbers as a means of identification in numerous applications.

This bill requires consumer credit reporting agencies, beginning July 1, 2002, to accept “security alerts” from consumers by written request or toll-free telephone number. It allows a consumer to request a consumer credit reporting agency to impose a security freeze on release of any information from his or her file. A credit reporting agency shall place a security alert in a consumer credit report within 5 business days of receiving a request to do so and to notify persons using consumer credit reports of the existence of a security alert. The

alert shall remain in effect for at least 90 days and may be renewed. Beginning January 1, 2003, a consumer credit reporting agency shall place a security freeze, as defined, on a credit report within 5 business days of receiving a written request by certified mail, and prohibits the release of information from a consumer credit report while the freeze is in place, except as provided. The bill requires a credit reporting agency to provide a consumer an identification number to be used for temporarily lifting a freeze upon a consumer credit report or authorizing the subsequent release of information from a consumer credit report that is subject to a security freeze. A security freeze shall remain in place until either the consumer requests to have it removed, or

Identity Theft

SB 168 (Bowen), continued

upon discovery by the consumer credit reporting agency that the credit report was frozen due to a material misrepresentation by the consumer.

A consumer credit reporting agency may charge a reasonable fee to freeze, remove a freeze, or temporarily lift a freeze regarding access to a consumer credit report. Beginning January 1, 2003, if a security freeze is in place, a consumer credit reporting agency must provide a consumer with written confirmation within 30 days after making specified changes to information in his or her credit report. The bill exempts specified information services companies from the security freeze requirements. Certain consumer credit reporting agencies that act only as resellers of consumer credit information and do not maintain permanent consumer credit data bases from which new credit reports are produced are exempted from the bill's requirements. Nevertheless, these reporting agencies must honor any security freeze placed on a credit report by any other consumer credit reporting agency. The bill revises the written summary of rights that a consumer credit reporting agency is required to provide to

a consumer to include information about security alerts and security freezes and their consequences.

This bill prohibits any person or entity, not including a state or local agency, as of July 1, 2002, from using an individual's social security number in certain ways, including posting it publicly or requiring it for access to products or services. The bill includes specified exceptions. However, an individual may, without charge, prohibit the use of his or her social security number in these circumstances by making a written request. The bill does not prevent the collection, use, or retention of social security numbers as required by state or federal law, or the use of social security numbers for internal verification or administration. The bill does not cover certain records required by law to be open to the public. The prohibition on the use of social security numbers shall apply to providers of health care, health care service plans, licensed health care professionals, contractors, as defined, pursuant to delayed operative provisions.

Legislative History:

Senate Judiciary (4-2)
Senate Floor (24-13)
Senate Concurrence
(24-10)

Assembly Banking &
Finance (7-3)
Assembly Judiciary (6-3)
Assembly Floor (47-31)

AB 245 (Wyland): Chapter 478: Identity theft.

(Amends Section 530.5 of the Penal Code.)

Existing law provides that any person who obtains the personal identifying information of another person without consent and thereafter uses such information without consent to obtain goods, services or medical record data is guilty of an alternate felony/misdemeanor. Identifying information includes social security numbers, birth certificates, driver's license numbers, etc.

This bill eliminates the element of identity theft that the perpetrator must have obtained the victim's identifying information without the consent or authorization of the victim. The perpetrator need only use the victim's identifying information to obtain goods, services or medical records without consent or authorization to commit identity theft.

Legislative History:

Assembly Public Safety (6-0)
Assembly Appropriations (21-0)
Assembly Floor (76-1)
Assembly Concurrence (78-0)

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

AB 655 (Wright): Chapter 354: Identity theft: personal identifying information.

(Amends Sections 1785.10, 1785.16, 1786, 1786.2, 1786.10, 1786.11, 1786.16, 1786.18, 1786.20, 1786.24, 1786.26, 1786.28, 1786.50, and 1786.52 of, adds Sections 1785.11.8, 1785.16.1, 1785.16.2, 1785.20.3, 1786.29, and 1786.53 to, adds Title 1.81.3 (commencing with Section 1798.92) to Part 4 of Division 3 of, and repeals Article 3 (commencing with Section 1786.40) of Title 1.6A of Part 4 of Division 3 of, the Civil Code.)

Existing law requires consumer credit report agencies to allow a consumer to elect to have his or her name removed from any list provided by the consumer credit reporting agencies for offers of credit not initiated by the consumer. A consumer may dispute the accuracy of a credit report. A credit reporting agency shall promptly and permanently block certain information when a consumer provides a valid copy of a police report indicating that another person has unlawfully used the consumer's personal identifying information.

The law places certain requirements on users of consumer credit reports, including the right of the consumer to prohibit the use of

information in a consumer's files in connection with credit transactions not initiated by the consumer. The law restricts dissemination of certain types of personal identifying information by specific professions and businesses. Generally, a consumer is not liable on debt incurred by a third party. A consumer's liability on the unauthorized use of a credit card is limited.

This bill permits a consumer to specify that his or her name shall be removed from lists that a consumer credit reporting agency furnishes for credit card solicitations for a minimum of two years. Credit agencies shall inform a consumer of this option. A credit reporting agency shall

promptly and permanently block certain information when a consumer provides a valid copy of a Department of Motor Vehicles report indicating that another person has unlawfully used the consumer's personal identifying information. The bill sets forth requirements regarding the unblocking of certain information by a consumer reporting agency after an allegation of identity theft by a consumer, and permits a consumer reporting agency to disregard a consumer's version of disputed information, as specified. The bill also requires that a consumer credit reporting agency delete inquiries for credit reports that were initiated as the result of identity theft.

Identity Theft

AB 655 (Wright), continued

Under this bill, a person may bring a cause of action against a claimant (e.g., a creditor) to establish that he or she is an identity theft victim. If the claimant has sued on the claim, the person could file a cross-complaint to establish that the he or she is a victim of identity theft. An identity theft victim may obtain a civil judgment that declares that he or she is not obligated on these claims, voids any security interests in the victim's property and restrains collection. Judgment may include actual damages, equitable relief, a civil penalty up to \$30,000 and attorney's fees and costs. The victim may join any person purporting to have a claim arising from identity theft in the action regardless of whether those claims arise out of the same transaction.

Any person who uses a consumer credit report in connection with a transaction and discovers that the consumer's address on the report does not match the address of the person requesting or being offered credit shall take reasonable steps to verify the accuracy of the consumer's address. The person or entity shall confirm that the credit

transaction is not the result of identity theft. Similar requirements apply for any person who uses a credit report in connection with a credit transaction and who receives specified notification from a consumer credit reporting agency that information in the report has been blocked as the result of an identity theft. A consumer damaged by a failure to fulfill the above-described requirements may file a claim against the person using the report.

This bill revises and recasts various provisions governing the activities of investigative consumer reporting agencies. It expands the definition of "investigative consumer reporting agency," increases disclosure requirements, eliminates certain exemptions and increases penalties. Creditors may not sell a consumer debt to a debt collector, except as specified, if the consumer's file with a credit reporting agency is blocked or the creditor has reason to believe the consumer is an identity theft victim.

Legislative History:

Assembly Banking and Finance (6-1)
Assembly Judiciary (7-2)
Assembly Floor (52-16)
Assembly Concurrence (58-20)

Senate Judiciary (5-2)
Senate Floor (25-13)

JUVENILE JUSTICE

SB 314 (Alpert): Chapter 468: Data collection. Urgency.

(Amends Sections 13010.5 and 13012 of, and adds Section 13012.5 to, the Penal Code.)

Existing law requires the Department of Justice to present an annual report to the Governor containing the criminal statistics of the preceding year, as specified, and to collect data pertaining to the juvenile justice system.

This bill requires the report to contain statistics on the administrative actions taken by various branches of law enforcement and the criminal

justice system in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court, as specified, beginning with the report due on July 1, 2003. This bill also requires that the data collected serve to assist the department in making the report noted above.

Legislative History:

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

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

SB 505 (Perata): Chapter 536: Youth Authority: special education. Urgency.

(Adds and repeals Chapter 8.5 (commencing with Section 56867) to the Education Code.)

Existing law requires the provision of education and related services to individuals with exceptional needs.

This bill would require the State Department of Education and the California State University to enter into an interagency agreement to have the Center for the Study of Correctional Education, located on the California State University, San Bernardino campus, provide technical assistance to the State Department of Education

regarding compliance with state and federal laws and regulations regarding special education at the Department of the Youth Authority, as specified. These provisions sunset January 1, 2007.

Legislative History:

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

Assembly Higher Education (8-0)
Assembly Public Safety (7-0)
Assembly Appropriations (20-0)
Assembly Floor (80-0)

SB 515 (Alpert): VETOED: California Council on Youth Development.

(Adds and repeals Chapter 12.6 (commencing with Section 18985) to Part 6 of Division 9 of the Welfare and Institutions Code.)

Existing law provides various services for youth in the state.

This bill would have established the California Council on Youth Development and Violence Prevention, comprised of specified members, to advise the Governor, state agencies and departments and the Legislature on the ways and means to establish programs, systems, and processes designed to meet

specified goals relating to youth services. These provisions would have sunseted January 1, 2004. This bill contained specified legislative declarations and findings.

Legislative History:

Senate Health and Human Services (9-0)
Senate Appropriations (8-0)
Senate Floor (26-0)
Senate Concurrence (26-10)

Assembly Human Services (5-2)
Assembly Appropriations (14-6)
Assembly Floor (50-30)

SB 663 (Vasconcellos): VETOED: Self-esteem training.

(Uncodified Law.)

Existing law directs the Board of Corrections to establish guidelines for the training of local corrections and probation personnel who provide for the custody, supervision, treatment, or rehabilitation of persons accused or convicted of criminal or delinquent conduct. Cities and counties receiving aid from the state's Corrections Training Fund are required to adhere to those training guidelines.

This bill would have required the Board to require that participating probation departments consider, when developing their annual training plans, courses of training that will emphasize personal security, selfhood, affiliation, mission, and competence, as defined, in addition to training in identifying

characteristics of a person with low self-esteem, for probation officers who provide direct service to juvenile probationers. This bill would have provided that the chief probation officer shall determine whether a staff member's job responsibilities warrant the training, and if so, how frequently. This bill also would have required the Board of Corrections to survey local probation departments to determine which departments are using the self-esteem training specified in the bill. This bill contained specified legislative declarations and findings.

Legislative History:

Senate Public Safety (4-0)
Senate Appropriations (8-3)
Senate Floor (23-13)
Senate Concurrence (25-13)

Assembly Public Safety (5-1)
Assembly Appropriations (14-6)
Assembly Floor (47-29)

SB 768 (McPherson): Chapter 476: Youth Authority.
 (Adds Section 1732.8 to the Welfare and Institutions Code.)

Existing law generally authorizes courts to commit minors who have been adjudicated to have committed a criminal offense to the Department of the Youth Authority.

This bill authorizes the Director of the Youth Authority to transfer and cause to be confined within the custody of the Director of Corrections any Youth Authority ward who is 18 years of age or older who is scheduled to be returned, or has been returned to the Department of the Youth Authority after serving time in state prison, as specified. This bill requires that these wards voluntarily, intelligently, and

knowingly execute a consent to the transfer, which would be irrevocable. Additionally, this bill requires that the ward meet with a parole agent or appropriate Department of the Youth Authority staff member who must explain specified matters to the ward prior to his or her return to the Youth Authority. The bill also requires any ward housed in the Department of Corrections pursuant to these provisions who has not attained a high school diploma or its equivalent to participate in educational or vocational programs to the extent the appropriate programs are available.

Legislative History:

(Prior votes not relevant)
Senate Concurrence
(33-0)

Assembly Public Safety
(6-0)

Assembly Appropriations
(21-0)

Assembly Floor (78-0)

SB 940 (Committee on Judiciary): Chapter 830: Juveniles.

(Amends Section 40513 of the Vehicle Code, amends Sections 202, 241.1, 257, 727.3, and 828 of, and adds Sections 727.32 and 827.9, to the Welfare and Institutions Code.)

Existing law provides for minors subject to the jurisdiction of the juvenile court.

This bill requires juvenile court judges to act in accordance with a specified standard of judicial administration recommended by the Judicial Council that encourages juvenile court judges, among other things, to play a role in the leadership of a community in developing resources for prevention, intervention, and treatment services for at-risk children and families.

Existing law provides that a minor may come within the jurisdiction of the juvenile court as a dependent or a delinquent ward of the court. Whenever a minor appears to come within both of these jurisdictions, the county probation department and the county welfare department are required to initially determine which status will serve the best interests of the child and the protection of society. These recommendations are required to be presented to the juvenile court, which must determine which status is appropriate for the minor.

This bill establishes a similar procedure whenever a minor who is under the jurisdiction of the juvenile court in one county is alleged to come within the jurisdiction of the juvenile court in another county. This bill also requires that any other juvenile court having jurisdiction over the minor must receive a specified notice from the court in which the petition is filed. The bill also makes additional technical changes.

Existing law generally provides that the status of every child who

Juvenile Justice

SB 940 (Committee on Judiciary), continued

has been declared a ward of the juvenile court and placed in foster care shall be reviewed at least every 6 months. These provisions also provide that there shall be a permanency planning hearing within 12 months of the date the child first entered foster care and no less often than every 12 months during the period of placement. Under certain conditions, the court may order a hearing to terminate parental rights.

This bill requires the probation department, in any case where a child has been declared a ward of the juvenile court and has been in foster care for 15 of the most recent 22 months, to follow existing procedures to terminate parental rights, unless the probation department has documented a compelling interest for determining that termination of parental rights is not in the child's best interests or that reasonable reunification efforts have not been provided, as specified. In addition, the bill requires the probation department to make efforts to identify a family for adoption at the time it sets a hearing for termination of parental rights.

Existing law generally allows information contained in a juvenile offender's case file to be inspected by a person designated by court order of a judge of the juvenile court upon filing a petition. Existing law also authorizes a law enforcement agency to disclose

information regarding the taking of a minor into custody to another law enforcement agency or to any person or agency which has a legitimate need for the information, as specified. Existing law requires a law enforcement agency to disclose information regarding a minor who has escaped from a secure detention facility, as specified, to a person who has specifically requested this information.

This bill establishes additional disclosure requirements for Los Angeles County, as specified. The bill requires the juvenile court and law enforcement in Los Angeles County to conduct an evaluation of the procedures for the release of police records containing information about minors and to report the results of that evaluation to the Legislature on or before December 31, 2006.

Existing law provides that a hearing may be conducted with the consent of the minor, where a minor is charged with a traffic or nontraffic offense.

This bill excludes infraction violations from that provision and would provide that consent of the minor is not required prior to conducting a hearing upon written notice to appear in the case of an infraction violation. The bill also authorizes a minor to enter a plea at the arraignment upon a written notice to appear in the case of an infraction violation.

Legislative History:

Senate Judiciary (4-2)
Senate Public Safety (5-0)
Senate Appropriations (11-0)
Senate Floor (26-4)
Senate Concurrence (25-12)

Assembly Judiciary (10-0)
Assembly Appropriations (20-0)
Assembly Floor (68-8)

AB 333 (Wright): Chapter 675: Foster care.

(Amends Section 16516.5 of, and adds Section 16516.6 to, the Welfare and Institutions Code.)

Existing law requires all foster children placed in group homes by county welfare departments or county probation departments to be visited at least monthly by a county social worker or probation officer.

to the group home staff, except under specified circumstances. The bill extends similar provisions to visits by county social workers or probation officers to foster children in licensed, certified, or approved foster homes.

This bill requires each of those visits to include a private discussion between the foster child and the county social worker or probation officer. The bill prohibits the contents of the discussion from being disclosed

Legislative History:

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

Senate Health and Human Services (8-0)
Senate Public Safety (5-0)
Senate Floor (40-0)

AB 701 (Dickerson): Chapter 334: Citations.

(Amends Section 626 of the Welfare and Institutions Code.)

Existing law authorizes law enforcement officers to cite and release minors who have been taken into custody for delinquent conduct, as specified.

This bill provides that if the minor is released upon written notice to appear, the written notice to appear may require the minor to be fingerprinted, photographed, or both, upon appearance before the probation officer if the minor is a person described in section 602 and he or she was taken into custody upon reasonable cause for the commission of a felony.

Legislative History:

Assembly Public Safety (5-2)
Assembly Appropriations (21-0)
Assembly Floor (70-0)
Assembly Concurrence (74-0)

Senate Public Safety (4-0)
Senate Floor (40-0)

AB 932 (Migden): VETOED: Youth Leadership Through Education and Crime Prevention Pilot Program.

(Adds Chapter 3 (commencing with Section 2400) to Division 2.5 of the Welfare and Institutions Code.)

Existing law provides training and treatment toward the correction and rehabilitation of young persons who have committed public offenses.

This bill would have created the Youth Leadership Through Education and Crime Prevention Pilot Program, as specified, with the purpose to have been to provide greater opportunities for young people from disadvantaged circumstances to realize their full potential as productive, responsible citizens and to help maintain safe neighborhoods.

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (21-0)

Assembly Floor (73-0)
Assembly Concurrence (55-22)

Senate Public Safety (6-0)
Senate Appropriations (9-0)
Senate Floor (28-6)

AB 1536 (Cardenas): VETOED: Truancy Court Pilot in Los Angeles.

(Adds and repeals Article 2 (commencing with Section 69540) of Chapter 5 of Title 8 of the Government Code.)

Existing law provides for making habitually truant minors a ward of the juvenile court.

This bill would have established a pilot project for a truancy court in a Los Angeles County juvenile court selected by the Judicial Council. The court would have had jurisdiction over the parents or guardians of a truant, as well as the truant, but would have been authorized to exercise such jurisdiction only upon referral by specified agencies. The bill would have specified the staff of the truancy court, and provided for other procedures. The pilot

would have sunseted on January 1, 2004, and required a specified evaluation to the Legislature by April 15, 2004. The bill would have appropriated \$750,000 from the General Fund to the Judicial Council for the pilot.

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (14-7)

Assembly Floor (67-6)
Assembly Concurrence (54-21)

Senate Public Safety (5-0)
Senate Appropriations (8-3)
Senate Floor (27-12)

AB 1626 (Pescetti): VETOED: California Safe Alternatives and Violence Education (SAVE) Program.

(Adds Article 1 (commencing with Section 32070) to Chapter 2 of Part 19 of the Education Code.)

Existing law establishes a number of youth crime prevention programs.

This bill would have established the California Safe Alternatives and Violence Education (SAVE) Program to provide nonpunitive intervention for adolescent first-time offenders, ages 10 to 17, inclusive, who have been involved in violence or weapons possession on or near a school

campus. The bill would have appropriated \$400,000 to the Attorney General's office for purposes of funding programs in Sacramento and San Jose, as specified.

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (21-0)
Assembly Floor (76-0)
Assembly Concurrence (80-0)

Senate Public Safety (6-0)
Senate Appropriations (8-0)
Senate Floor (28-4)

AB 1696 (Committee on Human Services): Chapter 831: Probation.

(Amends Sections 628, 636, 636.1, 658, 706.6, 727.1, 727.31, 727.4, and 728 of, and adds Section 727.32 to, and repeals and adds Sections 706.5, 727.2, and 727.3 of, the Welfare and Institutions Code.)

Existing law imposes specified duties on probation officers with respect to minors.

This bill makes a number of changes concerning these duties with respect to minors at risk of entering foster care placement.

Legislative History:

Assembly Human Services (6-0)
Assembly Public Safety (7-0)
Assembly Appropriations (20-0)
Assembly Floor (75-0)
Assembly Concurrence (80-0)

Senate Judiciary (7-0)
Senate Public Safety (6-0)
Senate Appropriations, SR 28.8
Senate Floor (40-0)

PEACE OFFICERS

SB 304 (Karnette): Chapter 33: Los Angeles County sheriffs: mandatory retirement. Urgency.

(Adds Section 31663.1 to the Government Code.)

Existing law – the County Employees Retirement Law of 1937 – authorizes counties to require specified sheriffs and undersheriffs who are safety members to be retired at the age of 60 or at the age of 70.

This bill exempts Los Angeles County, any assistant sheriff or a chief in a sheriff's office who is a safety member and whose primary duties are administrative from the mandatory retirement

provisions of the Government Code, if that change in law is adopted by the Los Angeles County Board of Supervisors.

Legislative History:

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

*Assembly Public
Employment, Retirement
and Social Security (7-0)
Assembly Floor (80-0)*

SB 379 (Alarcon): Chapter 801: Local police departments: civilian employees.

(Adds Section 3508.1 to the Government Code.)

Existing law creates the Myers-Milias-Brown Act pertaining to collective bargaining rights of local public employees and the Public Safety Officers Procedural Bill of Rights Act that extends specific protections to sworn peace officers who may be subject to punitive action or other specified actions.

This bill adds to the Myers-Milias-Brown Act that for civilian employees of local police departments no punitive action, nor denial of promotion on grounds other than merit, shall

be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. Specific provisions that toll that one-year time limit are included. (See analyses of AB 417 (Cedillo) for relevant background on the issue; AB 417 did not pass the Legislature in 2001.)

Legislative History:

*(Prior votes not relevant)
Senate Concurrence
(22-13)*

Assembly Floor (48-30)

SB 448 (Perata): Chapter 140: Modification of “Firefighter’s Rule” regarding liability.
(Amends Section 1714.9 of the Civil Code.)

Existing law provides that notwithstanding statutory or decisional law to the contrary, any person is responsible not only for the results of that person’s willful acts causing injury to a peace officer, firefighter, or any emergency medical personnel employed by a public entity, but also for any injury occasioned to that person by the want of ordinary care or skill in the management of the person’s property or person, in any of enumerated circumstances. (Civil Code section 1714.9)

This bill deletes the enumerated circumstance requiring that the person knows or should have

known of the responder’s presence and instead imposes liability “Where the conduct causing injury violates a statute, ordinance, or regulation, and the conduct causing injury was itself not the event that precipitated either the response or presence of the peace officer, firefighter, or emergency medical personnel.”

This bill adds that “This section is not intended to change or modify the common law independent cause exception to the firefighter’s rule as set forth in *Donohue v. San Francisco Housing Authority* (1993) 16 Cal.App.4th 658.”

Legislative History:

Senate Judiciary (5-2)
Senate Floor (26-12)
Senate Concurrence (25-1)

Assembly Judiciary (7-0)
Assembly Floor (61-8)

SB 736 (Poochigian): Chapter 475: Law enforcement and juvenile justice funding. Urgency.

(Amends Sections 30061 and 30063 of, and repeals Section 30064.1 of, the Government Code.)

Existing law establishes in each county treasury a Supplemental Law Enforcement Services Fund that receives from the Controller an annual allocation of state funds. Moneys from this fund are required to be allocated by local government, as specified. Known as the “COPS/Juvenile Justice” program, the moneys are allocated for, among other things, frontline law enforcement services and the implementation of a comprehensive multiagency juvenile justice plan with specified components and objectives, developed by the local juvenile justice

coordinating council in each county and city and county.

This bill deletes the January 1, 2003 sunset date for this provision. This bill makes additional technical amendments to the COPS/Juvenile Justice program.

NOTE: This bill was amended to reflect provisions contained in SB 823 (Poochigian) which was heard in and passed by legislative policy committees. See also AB 86 (Cardenas).

Legislative History:

(Prior votes not relevant; see “Note” below)
Senate Floor (40-0)
Senate Concurrence (40-0)

Assembly Appropriations (20-0)
Assembly Floor (80-0)

SB 826 (Margett): Chapter 859: Dental Board of California: peace officer investigators.

(Adds and repeals Section 19080.4 of the Government Code, and amends and repeals Section 830.29 of the Penal Code.)

Existing law – the Dental Practice Act – provides for, among other matters, the regulation of dentists and of dental auxiliaries by the Dental Board of California within the Department of Consumer Affairs, and authorizes the director of that department, for a period extending to July 1, 2002, to designate as peace officers an additional 7 persons who shall at the time of their designation, be assigned to the investigations unit of the board.

This bill extends until January 1, 2004, the director’s authority to designate these additional peace officers for assignment to the board; requires the board to contract with an entity to perform a follow-up study of an initial study it made, examining the board’s needs for sworn peace officers in its investigations unit; and makes related changes to law.

Legislative History:

Senate Public Safety (6-0)
Senate Business and Professions (6-0)
Senate Appropriations (9-0)
Senate Floor (39-0)
Senate Concurrence (40-0)

Assembly Health (15-0)
Assembly Appropriations (21-0)
Assembly Floor (77-1)

SB 926 (Battin): Chapter 68: Riverside County Deputy Sheriffs: county custodial assignments.

(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] and San Diego 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 Riverside” to the existing authority now granted only to Los Angeles County and San Diego 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 (6-0)
Senate Floor (39-0)

Assembly Public Safety (6-0)
Assembly Floor (80-0)

AB 147 (Longville): Chapter 34: Local law enforcement: California Law Enforcement Telecommunications System.

(Adds Section 15164.1 to the Government Code.)

Existing law requires the Department of Justice to maintain the California Law Enforcement Telecommunications System (CLETS), for use by law enforcement agencies and requires the Attorney General, upon advice of an advisory committee, to adopt policies, practices and procedures, and conditions of qualification for connection to the system.

This bill provides that the person designated as a county's "control agent" as defined by policies, practices, and procedures adopted by the Attorney General, or the chief officer of any other agency that has been granted direct access to the system, shall have sole and

exclusive authority to ensure that the county's or other agency's equipment connecting to the system complies with all security requirements that are conditions of access to the system, or the policies, practices, and procedures adopted by the Attorney General, and that the equipment complies with the county control agent's security policy.

NOTE: See author's letter to the Senate and Assembly Journals stating the author's intent about AB 147; that letter can be found on pages 1676-77 in the Senate Journal at: <http://www.leginfo.ca.gov/senate-journal.html>.)

Legislative History:

Assembly Public Safety (5-0)

Assembly Floor (76-0)

Assembly Concurrence (76-0)

Senate Public Safety (5-0)

Senate Floor (34-0)

AB 311 (Bill Campbell): Chapter 162: CHP: maximum age for entry level officer.
(Amends Section 2256 of the Vehicle Code.)

Existing law limits entry level appointment as a peace officer of the Department of the California Highway Patrol to persons between the ages of 21 and 31 years.

This bill changes the maximum age to 35 years of age.

Legislative History:

Assembly Transportation (16-0)

Assembly Appropriations (21-0)

Assembly Floor (76-0)

Senate Transportation (13-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

AB 443 (Aanestad): Chapter 205: Law enforcement funding: sheriffs in smaller counties. Urgency.

(Adds Chapter 6.9 (commencing with Section 30070) to Division 3 of Title 3 of the Government Code.)

Existing law provides specified funding for local law enforcement through the Local Public Safety Fund and local supplemental law enforcement services funds.

This bill appropriates \$18,500,000 annually from the General Fund to the Controller for allocation to 37 specified rural and small county sheriffs' departments to enhance law enforcement efforts.

This bill restricts the use of the funds appropriated by this bill and specified funds appropriated in the Budget Act of 2001 and subsequent budget acts for the COPS program, budget funding for local law enforcement agencies and local government

purchase of high-technology equipment, as follows:

- (1) The funds may only be used by law enforcement personnel or employees of governmental agencies or other entities, either public or private, for video surveillance or monitoring when there is an articulable suspicion that the persons who are the target of the surveillance or monitoring are engaging or have engaged in illegal conduct.
- (2) The funds may not be used for any video surveillance or monitoring of the general population.

This bill is an urgency measure that took effect upon enactment.

Legislative History:

(Prior votes not relevant)

Assembly Concurrence (74-0)

Senate Floor (37-1)

AB 867 (Cardoza): Chapter 784: Law enforcement funding: sheriffs in smaller counties. Urgency.

(Amends Section 30070 of the Government Code.)

Existing law annually appropriates \$18,500,000 from the General Fund to the Controller to allocate \$500,000 each to specified county sheriffs' departments to enhance law enforcement efforts.

This bill requires that those funds be used to supplement rather than supplant existing law enforcement resources. This bill is an urgency measure that took effect upon enactment.

Legislative History:

(Prior votes not relevant)
Assembly Concurrence (80-0)

Senate Public Employment and Retirement (5-0)
Senate Floor (30-1)

AB 1023 (Canciamilla): Chapter 527: Animal control officers: use of batons.
(Amends Section 12002 of the Penal Code.)

Existing law provides that animal control officers are not peace officers but may exercise the powers of arrest of a peace officer, as specified, and the power to serve warrants, as specified, during the course and within the scope of their employment, if those officers successfully complete a course in the exercise of those powers pursuant to section 832. That part of the training course specified in section 832 pertaining to the carrying and use of firearms shall not be required for any animal control officer whose employing agency prohibits the use of firearms. For the purposes of this section,

“firearms” includes capture guns, blowguns, carbon dioxide operated rifles and pistols, air guns, handguns, rifles, and shotguns. (Penal Code § 830.9.) There is no specific authority for animal control officers to carry a wooden club or baton.

This bill authorizes an animal control officer to carry a wooden club or baton if he or she has satisfactorily completed a specified course of instruction certified by the Department of Consumer Affairs.

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (21-0)
Assembly Floor (76-0)
Assembly Concurrence (75-0)

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

AB 1152 (Vargas): Chapter 29: Peace officers: high school degree equivalency.
(Amends Section 1031 of the Government Code.)

Existing law sets minimum education requirements for peace officers, including a high school degree, passing the general education development test (GED) indicating high school graduation level, or attaining a two-year or four-year degree from a college or university accredited by the Western Association of Colleges and Universities.

- Provides that a two or four-year degree be from a college or university accredited by any accrediting association recognized by the Secretary of the United States Department of Education, rather than only colleges and universities accredited by the Western Association of Colleges and Universities.

This bill does the following:

- Establishes that a person who attains a California High School Certificate of Proficiency (CHSPE) satisfies the minimum education requirement to become a peace officer.

- Requires that the high school from which a person establishing the minimum education requirement graduates from be a U.S. public school that meets the high school standards set by the state in which it is located; an accredited U.S. Department of Defense high school; or an

Legislative History:

Assembly Public Safety (7-0)
Assembly Floor (77-0)

Senate Public Safety (5-0)
Senate Floor (35-0)

accredited nonpublic high school.

- Provides that high school accreditation shall also be by an accrediting association recognized by the Secretary of the U.S. Department of Education.

AB 1184 (Oropeza): Chapter 788: Local public employee: punitive actions.
(Adds Section 3502.1 to the Government Code and Uncodified Law.)

Existing law – the Meyers-Milias-Brown Act – governs local public employer-employee relations, establishes the right of local public employees to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations.

This bill expressly adds to that Act that no public employee shall be subject to punitive action or denied promotion, or threatened with any such treatment, for the exercise of lawful action as an

elected, appointed, or recognized representative of any employee bargaining unit.

This bill enacts uncodified law stating that the Legislature finds and declares that the provisions of this Act are declaratory of existing law.

Legislative History:

Assembly Public Safety (6-0)
Assembly Floor (56-8)
Assembly Concurrence (46-25)

Senate Public Safety (4-0)
Senate Floor (22-14)

AB 1361 (Cardoza): VETOED: Department of the California Highway Patrol.
(Adds Section 9250.135 to the Vehicle Code and Uncodified Law.)

Existing law requires that an additional fee of \$1 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, upon appropriation by the Legislature, available to offset the costs of increasing the uniformed field strength 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 enacted uncodified legislative finding and required that the CHP report annually to specified legislative committees the extent to which the sufficient staffing level of the department is being attained and to update a staff report prepared in 1990 and report the results to the legislative committees.

Legislative History:

Assembly Transportation (19-0)
Assembly Appropriations (21-0)
Assembly Floor (78-0)

Senate Transportation (13-1)
Senate Appropriations (8-0)
Senate Floor (26-11)

REPRODUCTIVE CARE AND RELIGIOUS WORSHIP ACCESS

SB 780 (Ortiz): Chapter 899: Access to medical clinics and places of worship.

(Adds Title 11.7 (commencing with Section 423) of Part 1 of, and adds and repeals Title 5.7 (commencing with Section 13775) to Part 4 of, the Penal Code.)

Existing law – the federal Freedom of Access to Clinics Act (FACE) – makes it a crime and provides civil remedies for certain acts that interfere with a person’s access to reproductive health services or participation in religious services or that damage property of a reproductive health facility or place of worship. State law authorizes a civil action for damages resulting from a specified act that interferes with access to a health facility or with the facility’s functioning. The court in such an action must take all reasonable action to protect the parties and witnesses. Under other existing provisions of state law, it is a crime to make a threat causing a person to refrain from engaging in a religious service or to commit an act of terrorism at a place of religious worship or at a location where abortion counseling services, education, or other specified activities are conducted. Further, it is a crime to damage or destroy the property of a place of worship or to interfere with the exercise of a person’s religious beliefs.

The Attorney General (AG) is required to collect information

relating to crimes motivated by a person’s religion and the Department of Justice (DOJ) annually analyzes and submits this information to the Legislature.

This bill creates a California FACE Act, with misdemeanor crimes and civil actions. As outlined below, the misdemeanor penalties depend on whether the crime involved violence, or whether the defendant has previously been convicted under the federal FACE Act, the California FACE act or an equivalent state law:

The bill includes the following definitions:

“Crime of violence” – A crime that involves force, attempted use of force, or threatened use of force.

“Intimidate” – To place a person in reasonable apprehension of bodily harm.

“Physical obstruction” – To make ingress or egress impassable or unreasonably difficult.

“Interfere with” – To restrict a person’s freedom of movement.

Violent crime to injure, intimidate or obstruct a person who accesses or provides reproductive services or who seeks to exercise religious rights:

1st offense: Maximum 1 year in jail and/or fine up to \$25,000

2nd etc. offense: Maximum 1 year in jail and/or fine up to \$50,000

Non-violent physical obstruction to injure, intimidate, or interfere with another’s providing or accessing reproductive services, or those exercising religious rights:

1st offense: Maximum 6 months in jail and/or fine up to \$2,000

2nd etc. offense: Maximum 6 months in jail and/or fine up to \$5,000

Intentional destruction of property at health clinic of place of worship:

1st offense: Maximum 1 year in jail and/or fine up to \$25,000

2nd etc. offense: Maximum 1 year in jail and/or fine up to \$50,000

This bill requires a court in proceedings regarding the prohibited acts to take all reasonable actions to protect the safety and privacy of the parties, witnesses, and persons who are victims, or at risk of becoming victims. The bill allows specified persons to use pseudonyms in civil action. Civil remedies of injunctive relief, compensatory and punitive damages, attorneys' fees, costs of the suit, and statutory damages are authorized. The AG, a district

attorney, or a city attorney may file specified civil actions. The bill also requires the AG to make plans to counter anti-reproductive and religious rights crimes, gather and analyze information about such crimes and submit reports to the Legislature. The Commission on Peace Officer Standards and Training (POST) shall develop a training course on anti-reproductive-rights crimes. The portion of the bill prescribing the duties of the AG is repealed on January 1, 2007.

Legislative History:

Senate Judiciary (5-1)
Senate Public Safety (4-1)
Senate Appropriations (9-3)
Senate Floor (26-12)
Senate Concurrence (25-11)

Assembly Judiciary (6-1)
Assembly Public Safety (4-2)
Assembly Appropriations (13-5)
Assembly Floor (50-24)

SCHOOL RELATED CRIME AND DISCIPLINE

SB 166 (Poochigian): Chapter 116: Pupils: mandatory expulsion for possession of explosives.

(Amends Section 48915 of the Education Code and Uncodified Law.)

Existing law authorizes the governing board of a K-12 school to order the expulsion of a pupil for possession of an explosive.

This bill requires the governing board of a school to order the expulsion of a pupil possessing an explosive, as defined, and makes legislative findings and declarations.

Legislative History:

Senate Education (14-0)
Senate Appropriations, SR 28.8
Senate Floor (39-0)
Senate Concurrence (39-0)

Assembly Education (14-1)
Assembly Appropriations (14-0)
Assembly Floor (68-0)

AB 653 (Horton): Chapter 484: School ground assaults and school discipline.

(Amends Section 48900 of the Education Code; amends Sections 241.2 and 243.2 of the Penal Code; and adds Section 729.6 to the Welfare and Institutions Code.)

Existing law provides that a battery or assault committed on school property against any person is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment. (Pen. Code §§ 241.2 and 243.2.) Students can be suspended or expelled from school for numerous violations of discipline and behavior rules, including batteries or attempted batteries on school ground or at school functions. (Education Code §§ 48900 et seq.)

This bill provides generally that a student who aids and abets (as defined in the Penal Code) an assault or battery on school grounds or at a school activity may be suspended, but not expelled, from school. However,

the bill specifically provides that where a pupil has been adjudged by a court to have aided and abetted an assault or battery in which a victim suffered great or serious injury, the student can be expelled or suspended according to the rules for those who actually commit such acts. The bill specifically grants superintendents and principals the discretion to order a student to attend counseling as an alternative to suspension or expulsion in specified circumstances.

This bill also would specifically authorize the court, if a battery or assault on school grounds was committed by a minor, to order the minor to undergo counseling, with the cost of counseling to be borne by the minor's parents, as specified.

Legislative History:

Assembly Education (11-0)
Assembly Public Safety
(7-0)

Assembly Appropriations
(21-0)

Assembly Floor (73-0)
Assembly Concurrence
(79-0)

Senate Public Safety (4-0)
Senate Appropriations,
SR 28.8
Senate Floor (40-0)

SENTENCING

SB 923 (McPherson): Chapter 282: Bribery: punishment.

(Amends Sections 68, 86, and 93 of the Penal Code.)

Existing law includes various forms of the felony of bribery, punishable by a prison term of 2, 3, or 4 years and a fine of up to \$10,000 (the statutory maximum "default" fine). Bribery is committed where any executive or ministerial officer, employee or appointee of the State of California or a local government

entity, any member of the Legislature, or any judicial officer, juror, referee, etc., who asks, receives, or agrees to receive, any bribe under specified circumstances. (Penal Code §§ 68, 86, and 93.)

This bill provides that in a case where the defendant did not

actually receive a bribe, the court shall impose a restitution fine of not less than \$2,000 and not more than \$10,000. In a case where the defendant did actually receive the bribe, the minimum restitution fine must be at least \$2,000, or the amount of the bribe, whichever is greater. The maximum restitution fine shall

Sentencing

SB 923 (McPherson), continued

be the greater of twice the amount of the bribe received or \$10,000. The court shall consider the defendant's ability to pay the fine to be imposed.

Legislative History:

Senate Public Safety (5-0)
Senate Floor (39-0)
Senate Concurrence (38-0)

Assembly Public Safety (6-0)
Assembly Floor (73-0)

SEX OFFENSES

AB 78 (Alquist): Chapter 235: Limitations period.
(Amends Section 803 of the Penal Code.)

Existing law provides that, notwithstanding other limitations periods, a criminal complaint may be filed within one year of a report to a California law enforcement agency by a person of any age that he or she was, while under 18 years of age, a victim of certain sex crimes if certain requirements are met, including independent evidence that clearly and convincingly corroborates the victim's allegation.

This bill provides that the corroborating evidence does not need to be "clear and convincing" where, in an otherwise time-barred case which fulfills specified conditions, a complaint is filed before the victim's 21st birthday.

Legislative History:

Assembly Public Safety (6-0)
Assembly Floor (73-0)
Assembly Concurrence (74-0)

Senate Public Safety (5-0)
Senate Floor (38-0)

Children and Minors

AB 1012 (Corbett): Chapter 559: Child pornography. (Amends Section 311.11 of the Penal Code.)

Existing law provides that simple possession of child pornography (no commercial intent) is an offense generally punishable as a misdemeanor. This crime is a felony if the defendant has previously been convicted of (simple) possession of child pornography.

This bill makes possession of child pornography a felony if a person has specified prior

commercial child pornography convictions. These convictions include possession of child pornography for sale, distribution, as well as production of matter depicting sexual conduct by a minor, and use of a minor to produce matter depicting sexual conduct by a minor.

Legislative History:

Assembly Public Safety (4-0)
Assembly Appropriations (21-0)
Assembly Floor (73-0)
Assembly Concurrence (79-0)

Senate Public Safety (4-0)
Senate Appropriations (12-0)
Senate Floor (39-0)

Sex Crimes/Offenders

AB 659 (Correa): Chapter 248: Alleged sexually violent predators: confinement conditions in jail pending completion of commitment proceedings. (Amends Sections 1610 and 4002 of the Penal Code.)

Existing law requires that the following classes of persons be separated in jails: 1) those detained for criminal trial; 2) those serving their sentences; and 3) persons held upon civil process. (Pen. Code § 4002.)

The Sexually Violent Predator (SVP) Act is civil in nature. (Welfare and Institutions Code §§ 6600 et seq.) An "SVP" is a person who has been convicted of sexually violent offenses and

who has a diagnosable mental disorder such that he or she will likely commit violent sex crimes. (Welfare and Institutions Code §§ 6600-6608.) If found to meet specified criteria, an SVP is committed to DMH for a two-year term treatment in a secure facility. Unlimited subsequent commitments may be sought under standards and procedures equivalent to the original commitment proceedings. Alleged SVPs are often held in

jail pending process. (Welfare and Institutions Code § 6602.)

This bill provides: "Inmates who are held pending [SVP] process . . . shall be held in administrative segregation . . . Administrative segregation [is] separate and secure housing that does not involve any deprivation of privileges other than . . . necessary to protect the inmates and staff. [T]o the extent possible, the person shall

Sex Offenses

AB 659 (Correa), continued

continue in his or her course of treatment . . . An alleged [SVP] held pending civil process may waive placement in secure housing by petitioning the court for a waiver . . . [T]he court must find that the waiver is voluntary and intelligent, and that granting the waiver would not interfere with . . . treatment . . . A person granted a waiver shall be placed with inmates charged with similar offenses or . . . criminal histories, based on the objective criteria . . .”

Legislative History:

Assembly Public Safety (5-0)

Assembly Floor (63-0)

Assembly Concurrence (72-0)

Senate Public Safety (5-0)

Senate Floor (36-1)

AB 1142 (Runner): Chapter 323: Psychiatric/psychological evaluation: alleged sexually violent predators. Urgency.

(Amends Section 6603 of the Welfare & Institutions Code.)

Existing law provides that a prison inmate who has been convicted of specified offenses may be referred for evaluation as a possible Sexually Violent Predator (SVP) at least 6 months prior to release. If additional criteria are established, he or she may be required to stand trial and may be committed to the custody of the State Department of Mental Health (DMH) for treatment and secure confinement. If the petitioning attorney (typically the district attorney) determines that updated evaluations are necessary in order to properly present the case for commitment, he or she may request DMH to perform updated evaluations. If one or more of the original evaluators is no longer available to testify in court proceedings, the attorney petitioning for commitment may request the

DMH to perform replacement evaluations.

This bill provides that if one or more of the original evaluators is unable to testify for the petitioner, the petitioning attorney may request DMH to perform replacement evaluations. This bill also defines the phrase “no longer available to testify for the petitioner in court proceedings,” to mean that the evaluator, for any of specified reasons such as loss of professional license, is no longer authorized by the DMH Director to perform SVP evaluations. This bill would require that any updated evaluation performed be provided to counsel for the alleged SVP. This bill would declare that it is to take effect immediately as an urgency statute.

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (21-0)

Assembly Floor (76-0)

Assembly Concurrence (75-0)

Senate Public Safety (4-0)

Senate Appropriations, SR 28.8

Senate Floor (40-0)

Sex Offender Registration

SB 1192 (Figueroa): Chapter 224: Employment or volunteer work. (Amends Section 290.95 of the Penal Code.)

Existing law requires persons convicted of specified sex offenses to register with local law enforcement agencies, as specified. Existing law further requires every person required to register as a sex offender who applies or accepts a position as an employee or volunteer with any person, group, or organization where the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis, or have supervision or disciplinary power over minor children, to disclose his or her status as a registered sex

offender, as specified. Failure to comply with this requirement is a misdemeanor.

This bill additionally prohibits a person who is required to register as a sex offender because of a conviction for a crime where the victim was a minor under 16 years of age from serving as an employee or volunteer with any person, group, or organization, where the registrant would be working directly and in an unaccompanied setting with minor children, as specified.

Legislative History:

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

Assembly Public Safety (7-0)
Assembly Appropriations
(19-0)
Assembly Floor (75-0)

AB 4 (Bates): Chapter 544: Registration requirements. (Amends Section 290 of, and adds Section 290.01 to, the Penal Code.)

Existing law requires persons who have been convicted of specified sex offenses to register with local law enforcement, as specified.

This bill applies these provisions to persons carrying on a vocation, as defined. This bill also adds a provision that, commencing July 1, 2002, requires every person otherwise required to register as sex offenders to additionally register as a sex offender on college

campuses, as defined, if he or she is residing or is located upon the campus or in any of its facilities, as specified, or is, with or without compensation, a full-time or part-time employee of that university, college, community college, or other institution of higher learning for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year. This bill makes additional conforming changes.

Legislative History:

Assembly Public Safety
(7-0)
Assembly Appropriations
(16-0)
Assembly Floor (74-0)
Assembly Concurrence
(79-0)

Senate Public Safety (6-0)
Senate Appropriations
(10-0)
Senate Floor (34-0)

AB 349 (La Suer): Chapter 843: Sex offenders: registration.
(Amends Section 290 of the Penal Code.)

Existing law requires specified sex offenders to register with law enforcement for the rest of his or her life while residing or located within California; within 5 working days of coming into, or changing his or her residence or location within, any city, county, or city and county, or campus, and annually thereafter within 5 working days of his or her birthday. Specified provisions for persons without a residence address also may apply. Existing law additionally requires the person, at the time of the subsequent annual registration, to update his or her registration with those entities, including verifying his or her name and address and place of employment on a form as may be required by the Department of Justice.

This bill revises this registration update provision to require the person to provide current information as required on the Department of Justice annual update form including information to parallel the requirement already established for preregistration that additionally includes the fingerprints and a current photograph of the person and the license plate of any vehicle owned by, regularly driven by, or registered in the name of, the person.

This bill makes related changes, including a statement of legislative intent about treatment for specified sex offenders in Penal Code section 290; that language would have been moved into Penal Code section 1202.7 by AB 1004 had that bill been signed after this bill.

Legislative History:

Assembly Public Safety (7-0)
Assembly Floor (74-0)
Assembly Concurrence (79-0)

Senate Public Safety (4-0)
Senate Floor (40-0)

AB 1004 (Bates): Chapter 485: Homeless registrants.
(Amends Sections 290, 1202.7, and 3000 of the Penal Code.)

Existing law requires persons who have been convicted of specified sex offenses to register with local law enforcement, as specified. Existing law also requires that if the person who is registering has no residence address, he or she update his or her registration no less than once every 90 days, in addition to the previous registration requirement.

registration to no less than once every 60 days if the person who is registering has no residence address.

This bill also amends specific parole and probation sections of law to include legislative intent that registered sex offenders be engaged in treatment.

This bill changes the requirement to update the

Legislative History:

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

Senate Public Safety (4-0)
Senate Appropriations, SR 28.8
Senate Floor (35-0)

Vehicle Offenses/DMV

Driving Under the Influence (DUI)

SB 776 (Torlakson): Chapter 857: DUI offenses: fines.
(Adds and repeals Section 1680 of the Vehicle Code.)

Existing law provides a person who is convicted of a driving while under the influence offense is required to be punished by terms of imprisonment, fines, and other sanctions, including required attendance in a licensed driving-under-the-influence program. Existing law requires the Department of Motor Vehicles to undertake various functions with regard to administering driver's licenses, including certain functions

concerning the imposition of sanctions involving driving-under-the-influence offenders.

This bill requires the department to review the effectiveness of programs, procedures, sanctions, fines, and fees provided for in current law relating to the offense of driving under the influence of alcohol or drugs and to report those findings to the Legislature on or before July 1, 2002.

Legislative History:

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

Assembly Public Safety (7-0)
Assembly Appropriations (20-0)
Assembly Floor (80-0)

AB 1078 (Jackson): Chapter 849: Driving under the influence.
(Amends Section 23550.5 of the Vehicle Code.)

Existing law provides that after a person has been convicted of a felony DUI, gross vehicular manslaughter while DUI, vehicular manslaughter or vehicular manslaughter while intoxicated, any DUI he or she is convicted of within the next ten years will be a wobbler.

vehicular manslaughter while intoxicated or felony vehicular manslaughter while intoxicated and is convicted of a subsequent DUI, thus that person is subject to a wobbler indefinitely.

This bill provides that there is no washout period for a person who has been convicted of gross

Legislative History:

Assembly Public Safety (6-0)
Assembly Appropriations (21-0)
Assembly Floor (78-0)
Assembly Concurrence (80-0)

Senate Public Safety (4-0)
Senate Appropriations (13-0)
Senate Floor (27-1)

Vehicles

SB 81 (Speier): Chapter 95: Motor vehicle insurance: coverage for criminal activity. (Amends Section 11580.2 of the Insurance Code.)

Existing law requires a policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of a motor vehicle to include uninsured motorist coverage.

This bill requires that uninsured motorist coverage include coverage for bodily injury to an

insured that is caused by a person operating the injured insured's vehicle without the consent of the injured insured in connection with criminal activity that has been documented in a police report and that the injured insured is not a party to.

Legislative History:

Senate Insurance (5-1)
Senate Judiciary (5-2)
Senate Floor (24-13)

Assembly Insurance (12-3)
Assembly Floor (46-25)

SB 255 (Speier): Chapter 855: Crimes: unattended children in vehicles. (Adds Division 6.7 (commencing with Section 15600) to the Vehicle Code.)

Existing law makes it a crime for any person, under circumstances or conditions likely to produce great bodily harm or death, to willfully cause or permit any child to suffer, or inflict thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully cause or permit the person or health of that child to be injured, or willfully cause or permit that child to be placed in a situation where his or her person or health is endangered. This crime is required to be punished by imprisonment in a county jail not exceeding one year, or in the state prison for 2, 4, or 6 years.

Existing law provides that no person shall leave standing a locked vehicle in which there is any person who cannot readily escape therefrom. The penalty for such a violation is an infraction.

This bill additionally makes it an infraction, punishable by a fine of \$100, for the parent, legal guardian, or other person responsible for a child who is 6 years of age or younger to leave that child inside a motor vehicle, without being subject to the supervision of a person who is 12 years of age or older, and where there are conditions that present a significant risk to the child's health or safety, or when the vehicle's engine is running or the vehicle's keys are in the ignition, or both. This bill authorizes the court to reduce or waive the fine if the defendant is economically disadvantaged and attends a community education program. This bill provides that the infraction provision and a related infraction provision do not apply if an unattended child is injured or medical services are rendered.

Legislative History:

Senate Public Safety (5-0)
Senate Appropriations (8-3)
Senate Floor (26-10)
Senate Concurrence (24-11)

Assembly Transportation (13-2)
Assembly Appropriations (13-3)
Assembly Floor (53-17)

SB 667 (Peace): Chapter 496: Automated enforcement system.

(Amends Section 21455.5 of, and adds Section 21455.7 to the Vehicle Code.)

Existing law authorizes governmental agencies, in cooperation with law enforcement agencies, to operate an automated enforcement system. Under existing law, an automated enforcement system is a system that photographically records a driver's response to a rail or rail transit signal or crossing gate, or both, or to an official traffic control signal (stoplight) and is designed to obtain a clear photograph of the vehicle's license plate and the driver of the vehicle.

This bill provides that at each intersection at which there is an automated enforcement system in operation, the minimum yellow light change intervals to be established in accordance with the Traffic Manual of the Department of Transportation.

Legislative History:

Senate Transportation (12-0)

Senate Appropriations (13-0)

Senate Floor (40-0)

Senate Concurrence (40-0)

Assembly Transportation (18-0)

Assembly Appropriations (21-0)

Assembly Floor (78-0)

SB 871 (Burton): Chapter 298: Commercial vehicles: compliance with drug and alcohol regulations.

(Adds Section 3333.7 to the Civil Code, and amends Sections 15242, 34520, and 34623, of the Vehicle Code.)

Existing law requires motor carriers and drivers to comply with the controlled substances and alcohol use, transportation, and testing requirements of the United States Secretary of Transportation.

Existing law requires every motor carrier to make available for inspection, upon request of an authorized employee of the Department of the California Highway Patrol, copies of all results and other records pertaining to controlled substances and alcohol use and testing conducted pursuant to federal law, including those records contained in individual driver qualification files.

This bill permits any person who suffers injury that is proximately caused by the driver of a commercial motor vehicle to recover treble damages from the driver's employer where it is shown that the driver of a commercial motor vehicle was under the influence of alcohol or a controlled substance at the time that the injury was caused and that the driver's employer willfully failed, as defined, at the time of the injury to comply with specified federal law requirements.

This bill requires the suspension of the motor carrier permit of a motor carrier of property for failure to comply with the above regulations with

respect to controlled substances and alcohol use, or for failure to make available for inspection the results and other records pertaining to alcohol use and testing pursuant to federal law.

This bill prohibits an applicant for employment as a commercial driver or owner-operator seeking to provide transportation services from being placed on duty by the motor carrier, until compliance with certain federal regulations concerning controlled substance and alcohol use and employment history has occurred.

This bill requires every motor carrier to document all activities regarding the making or

receiving of drivers' employment histories.

This bill provides that a motor carrier that utilizes a preemployment screening service to review applications for purposes of the above is in compliance with the employer duties under those provisions if the preemployment screening services that are provided satisfy the requirements of state and federal law and the motor carrier abides by any findings that would, under federal law, disqualify an applicant from operating a commercial vehicle.

Existing law requires a person who is self-employed as a commercial motor vehicle driver to comply with the commercial motor vehicle safety program and the statutes pertaining to employees.

This bill provides that any motor carrier that engages an owner-operator meeting specified statutory requirements to provide transportation services under the direction and control, as defined, of that motor carrier is responsible for the compliance of that owner-operator with the provisions of the motor carrier safety program and for purposes of certain

Legislative History:

Senate Public Safety (6-0)
Senate Appropriations,
SR 28.8
Senate Floor (28-9)
Senate Concurrence (26-9)

Assembly Transportation
(13-2)
Assembly Appropriations
(16-0)
Assembly Floor (64-11)

safety regulations adopted by the Department of the California Highway Patrol during the period of that direction and control.

AB 360 (Wesson): Chapter 480: Vehicle impoundment.
(Amends Section 14602.6 of the Vehicle Code.)

Existing law allows peace officers to impound vehicles driven by persons whose driving privileges are suspended or revoked or who have never been issued a driver's license. Under existing law, the agencies that impound vehicles are required to notify the legal owner of an impounded vehicle that his or her vehicle has been impounded. Existing law further provides that the registered owner of an impounded vehicle is entitled to a hearing regarding the validity of, and any mitigating circumstances attendant to, the storage of the impounded vehicle. Existing law also requires that in specified circumstances, impounding agencies release impounded vehicles to registered owners within 30 days of impoundment.

This bill requires impounding agencies to have a published telephone number that provides information 24 hours a day regarding vehicle impoundment and the rights of registered owners to request a hearing regarding the storage of their vehicles. The bill also requires that an impounding agency release an impounded vehicle to the registered owner within 30 days of impoundment if the vehicle was seized for an offense that does not authorize seizure of a vehicle or if the person driving the vehicle reinstates or acquires his or her driver's license and proper insurance. Finally, the bill directs the Department of Motor Vehicles and the California Highway Patrol to educate the public that a vehicle driven by an unlicensed driver may be impounded.

Legislative History:

Assembly Transportation
(18-0)
Assembly Appropriations
(20-0)
Assembly Floor (75-0)
Assembly Concurrence
(79-0)

Senate Transportation
(13-0)
Senate Public Safety (6-0)
Senate Appropriations,
SR 28.8
Senate Floor (40-0)

AB 370 (Wright): Chapter 676: Vehicles: residence addresses.

(Amends and repeals Section 1808.25 of the Vehicle Code.)

Existing law requires the Department of Motor Vehicles, until January 1, 2002, to implement a pilot program to provide residence address information to an independent institution of higher education that operates pursuant to a memorandum of understanding that permits a security officer of that institution to have arrest powers, if the institution requests the address solely for the purposes of enforcing parking restrictions. Existing law requires the department to submit a report to the Legislature containing its evaluation of the pilot program on or before January 1, 2001.

This bill extends the January 1, 2002, repeal date of this program until January 1, 2004. The bill

restricts the program to an accredited degree-granting nonprofit independent institution of higher education incorporated in the state. The bill further requires that the independent institution, under penalty of perjury, request and use the information solely for the purpose of enforcing parking restrictions, thereby creating a crime and imposing a state-mandated local program. The bill further requires the contract with the department to provide that access to confidential residence address information will only be provided through an approved commercial requestor requester account. The bill requires the department to submit a report to the Legislature containing its evaluation of the pilot program on or before January 1, 2003.

Legislative History:

Assembly Transportation (18-0)

Assembly Appropriations (21-0)

Assembly Floor (77-0)

Assembly Concurrence (74-4)

Senate Transportation (14-0)

Senate Appropriations, SR 28.8

Senate Floor (27-2)

AB 398 (Salinas): Chapter 481: Highways: safety enhancement-double fine zones.

(Amends Section 97 of the Streets and Highways Code.)

Existing law creates a pilot project that 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 County of Monterey, in consultation with the California Highway Patrol, to develop a Safety Enhancement-Double Fine Zone pilot project that would be administered by the county for a designated portion of Monterey County Road 16 (Carmel Valley Road).

Legislative History:

Assembly Transportation (16-0)

Assembly Appropriations (21-0)

Assembly Floor (70-0)

Assembly Concurrence (78-1)

Senate Transportation (11-2)

Senate Public Safety (4-0)

Senate Appropriations, SR 28.8

Senate Floor (23-9)

AB 783 (Kelley): Chapter 554: Repossession agencies.

(Amends Section 7507.10 of the Business and Professions Code, and amends Sections 14602.6, 14602.7, and 22850.5 of the Vehicle Code.)

Existing law authorizes a peace officer, if he or she determines that a driver was driving a vehicle with driving privileges suspended or revoked, or without a license, to cause the removal and seizure of the vehicle. A legal owner or their agent is required to present specified documents to the impounding agency to secure release of the vehicle. The impounding agency is authorized to impose a charge equal to the cost of a hearing or appeal on the legal owner or their agent if the legal owner or their agent requests a hearing or appeal relating to the removal, impound, storage, or release of the vehicle.

This bill prohibits a city, county, city and county, or state agency from requiring a specific legal owner, who is not the registered owner, to request a poststorage hearing as a requirement for release of the vehicle to the legal owner. The bill also revises the documents that a legal owner or agent is required to present to the impounding agency for release of the vehicle and would prohibit the agency from requiring documents other than those specified. The bill also provides that the impounding agency is not liable to the registered owner for improper release of the vehicle to the legal owner or the legal owner's agent so long as the release complies with the bill.

Legislative History:

Assembly Business and Professions (11-0)
Assembly Appropriations (20-0)
Assembly Floor (78-0)
Assembly Concurrence (75-0)

Senate Business and Professions (7-0)
Senate Public Safety (5-0)
Senate Appropriations, SR 28.8
Senate Floor (40-0)

Victims of Crime

SB 551 (Machado): Chapter 346: Mental health counseling reimbursement. Urgency.

(Adds and repeals Sections 13961.6, 13965.6, 13965.7, and 13968.8 of the Government Code.)

Existing law provides for the indemnification of victims and derivative victims of specified types of crimes for specified expenses that become necessary as a direct result of the crime. Indemnification is made under these provisions from the Restitution Fund, which is continuously appropriated to the California Victim Compensation and Government Claims Board for these purposes.

This bill, until January 1, 2004, authorizes the board to provide reimbursement up to a specified amount to county boards of supervisors for specified services provided as a result of specified crimes of terrorism. This bill also authorizes the board to expand the scope of assistance to specified derivative victims, to provide reimbursement for mental health services for members of California trauma or search and rescue teams, and to

Legislative History:

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

Assembly Floor (80-0)

allocate \$1 million to the victim compensation program in the State of New York, as a result of the 4 terrorist attacks that occurred on September 11, 2001.

AB 409 (Correa): Chapter 552: Victims of crime program.
(Amends Section 13961.01 of the Government Code.)

Existing law creates the Victims of Crime Program (VOCP), administered by the California Victim Compensation and Government Claims Board – formerly known as the State Board of Control – to reimburse victims of crime for the pecuniary losses they suffer as a direct result of criminal acts.

Existing law:

- Requires that a victim apply for VOCP assistance within one year of the crime with certain exceptions for minors. Authorizes the Board to grant up to a three-year extension for “good cause” to allow a victim to apply for VOCP benefits, as specified. (Government Code § 13961.)
- Authorizes the Board to grant an extension beyond three years for “good cause” to allow a victim to apply for VOCP benefits, as specified. This provision currently sunsets on January 1, 2003, unless otherwise extended. (Government Code § 13961.05.)

This bill adds the following to the circumstances in which the Board may for good cause grant an extension beyond the usual extension of three years:

- The application is filed by a victim or derivative victim of a crime for which the perpetrator or perpetrators received a sentence of death or life without possibility of parole and either of the following is true:

(A) The prosecuting attorney or a law enforcement officer documents that the victim or derivative victim filing the application was not informed of the provisions of law pertaining to filing an application, as specified.

(B) The victim or derivative victim filing the application provides documentation that he or she received notice from the Board of Prison Terms, the Attorney General, or the prosecuting district attorney’s office that a date was set for a clemency hearing or an execution of the perpetrator or perpetrators.

This bill also adds two years to the current sunset on section 13961.01 so that the section would remain in effect until January 1, 2004, unless otherwise extended.

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (21-0)

Assembly Floor (75-0)

Assembly Concurrence (79-0)

Senate Public Safety (5-0)

Senate Appropriations (12-0)

Senate Floor (40-0)

AB 431 (Committee on Budget): Chapter 81: Victim compensation claims. Urgency.
(Adds Uncodified Law.)

Existing law requires the California Victim Compensation and Government Claims Board to report to the Legislature when there is no sufficient appropriation available for the payment of a claim against the state allowed by the board.

This bill appropriates \$1,237,186.25 from the General Fund various specified funds to

the Executive Officer of the California Victim Compensation and Government Claims Board to pay claims accepted by the board in accordance with a schedule that identifies the funds and accounts from which the payments are to be made and makes related changes, all to take effect as urgency measures.

Legislative History:

Assembly Budget (25-0)
Assembly Floor (74-0)

Senate Appropriations (11-0)
Senate Floor (39-0)

AB 1017 (Jackson): Chapter 712: Victims of crime program.

(Amends Sections 13961, 13961.01, 13965, and 13965.5 of, amends and repeals Sections 13960 and 13964 of, and adds and repeals Section 13960.6 of the Government Code.)

Existing law creates the Victims of Crime Program (VOCP), administered by the California Victim Compensation and Government Claims Board – formerly known as the State Board of Control – to reimburse victims of crime for the pecuniary losses they suffer as a direct result of criminal acts and, until January 1, 2003, provides for specified conditions on the reimbursement for mental health counseling for certain derivative victims of crime.

This bill does the following:

- Existing law provides for the indemnification of victims and derivative victims of specified types of crimes, for certain expenses for which the victim or derivative victim has not

been and will not be reimbursed from any other source.

This bill includes the grandparent or grandchild of the victim within the definition of “derivative victim” for the Victims of Crime Program and authorizes, until January 1, 2007, reimbursement for outpatient mental health services to a nonresident of the United States who otherwise meets the criteria for reimbursement, as a derivative victim under these provisions. This bill also provides for the reimbursement of specified individuals for expenses incurred in an amount not to exceed \$1,000 for cleaning the scene of a crime in a residence when the victim has died as a result of the crime.

- Existing law authorizes the prescribed period for filing an application for crime victim assistance with the board to be extended for a period not to exceed 3 years after the date of the crime or 3 years after the victim attains 18 years of age, whichever is later, except that the board may grant an additional extension under certain circumstances, some of which apply only until January 1, 2003.

This bill provides that the period of time prescribed for filing by or on behalf of a derivative victim shall be tolled when the board accepts the application filed by a victim of the same qualifying crime and extends the application of certain circumstances for extension of

the filing period to January 1, 2004.

- Existing law provides that no reimbursement shall be made for any expense that is submitted more than 3 years after it is incurred by a victim or derivative victim.

This bill provides that reimbursement may be made for an expense submitted more than 3 years after the date it is incurred if the victim or derivative victim has affirmed the debt and is liable for the debt at the time the expense is submitted for reimbursement, or has paid the expense as a direct result of a crime for which a timely application has been submitted.

- Existing law, until January 1, 2003, includes the primary caretaker of a minor victim who was not the primary caretaker at the time of the crime within the definition of "derivative victim" for purposes of indemnification, defines "injury" to include emotional injury when sustained as a result of a crime committed in violation of specified provisions of law under certain circumstances, defines "crime" to include injury or death caused by a person in violation of specified provisions of law, and authorizes reimbursement for services provided by a person who qualifies as a psychology intern according to specified criteria, including that the intern is under the supervision of a licensed mental health professional, described as a psychiatrist, psychologist, or social worker.

This bill extends the operation of these provisions until January 1, 2004, except that it would extend indefinitely the provisions authorizing reimbursement for services provided by a person who qualifies as a psychology intern. This bill also expands the description of a licensed mental health professional for purposes of intern supervision to include a marriage and family therapist and provides for reimbursement for services provided by a person licensed as a registered nurse according to specified criteria (the AB 1017 amendments to Government Code section 13960(d)(2)(J) take effect in place of the provisions of AB 1253, below, which become inoperative on that date).

- Existing law, until January 1, 2003, requires the board to consider certain factors with respect to a victim's age, physical condition, and psychological state, as well as any compelling health and safety concerns, in determining eligibility for indemnification as a victim of crime, and provides certain exceptions for prohibitions on indemnification.

This bill extends the operation of these provisions until January 1, 2004.

- Existing law, until January 1, 2003, provides for specified conditions on the reimbursement for mental health counseling for certain derivative victims of crime.

This bill extends the operation of these provisions to January 1, 2004.

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (21-0)
Assembly Floor (78-0)
Assembly Concurrence (80-0)

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

- Existing law allows certain victims to apply for reimbursement for, among other things, up to \$2,000 for specified relocation expenses, including first and last month's rent, in the case of an adult victim of domestic violence, and \$5,000 or more when justified, to make a residence accessible or vehicle operational in the case of a victim disabled as a result of the crime.

This bill provides that the victim need not be an adult to qualify for those relocation expenses, and would include a security deposit within the reimbursable expenses and deletes any limit on reimbursement to make a residence or vehicle accessible or a vehicle operational for a disabled victim.

This bill makes other technical, nonsubstantive changes to existing law.

AB 1019 (Corbett): Chapter 419: Victims of crime program.
(Amends Sections 13961.1 and 13965 of the Government Code.)

Existing law creates the Victims of Crime Program (VOCP), administered by the California Victim Compensation and Government Claims Board – formerly known as the State Board of Control – to reimburse victims of crime for the pecuniary losses they suffer as a direct result of criminal acts and, until January 1, 2003, provides for specified conditions on the reimbursement for mental health counseling for certain derivative victims of crime.

This bill provides for the indemnification of any victim of sexual assault or domestic violence for specified expenses under those provisions and extends until January 1, 2004, the operation of the provisions specifying conditions on the reimbursement for mental health counseling for certain derivative victims of crime.

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (21-0)
Assembly Floor (77-0)
Assembly Concurrence (78-0)

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

AB 1253 (Matthews): Chapter 420: Victims of crime program: reimbursement for services. Urgency.

(Adds and repeals Section 13960.7 of the Government Code.)

Existing law provides for the indemnification of crime victims, as specified, for certain expenses including counseling related fees if the counseling services are provided by a designated professional.

Government Code § 13960(d)(2)(J)).

NOTE: See also **SB 294 (Scott) – Chapter 138, Statutes of 2001** – under FIREARMS AND DANGEROUS WEAPONS in this summary for the addition of Section 13974.6 to the Government Code pertaining to the Victims of Crime Program.

This bill includes within these designated professionals a person licensed as a registered nurse who meets specified requirements and an advanced practice registered nurse who meets the requirements also enacted in this bill. The provisions in this bill, enacted as an urgency bill effective upon enactment, pertaining to the reimbursement under the Victims of Crime Program become inoperative and are repealed on January 1, 2002, when similar provisions in AB 1017 take effect (see amendment in AB 1017 to

Legislative History:

Assembly Health (13-0)
Assembly Floor (77-0)
Assembly Concurrence (79-0)

Senate Health and Human Services (8-0)
Senate Judiciary (6-0)
Senate Floor (40-0)

AB 1497 (Negrete McLeod): VETOED: Victim Restitution Fund.

(Adds and repeals Section 13969.7 to the Government Code, and adds Sections 11166.6 and 11166.65 to the Penal Code.)

Existing law establishes the California Victim Compensation and Government Claims Board that provides for compensation to victims and derivative victims, as defined, who sustain injury or death as a direct result of a crime.

This bill would have authorized counties to establish multidisciplinary teams or centers, as defined, to coordinate the activities of the various agencies involved in the investigation and prosecution of alleged child abuse, as specified. The bill would have authorized

counties to submit claims to the board for the recovery of costs associated with the provision of child victim forensic evidentiary interviews conducted by multidisciplinary teams or centers, as specified. The bill would have required the board to draw funds from the Victim Restitution Fund, a continuously appropriated fund, for purposes of entering into contracts for interview services as specified, and to provide the Legislature with a report by January 30, 2007. These provisions would have sunsetted on July 1, 2007.

Legislative History:

Assembly Public Safety (6-0)
Assembly Appropriations (18-3)
Assembly Floor (70-6)
Assembly Concurrence (69-5)

Senate Public Safety (5-0)
Senate Appropriations (8-3)
Senate Floor (27-12)

MISCELLANEOUS

SB 153 (Knight): Chapter 115: Obsolete pilot-projects: deletion.

(Amends Sections 14114 and 4119 of, repeals Sections 1348.5, 2053.3, 5020, 6247, 13823.20, and 14113 of, repeals Chapter 2.67 (commencing with Section 1000.30) of Title 6 of Part 2 of, and repeals Chapter 10.3 (commencing with Section 13894.5) of Title 6 of Part 4 of, the Penal Code and amends Section 11265.5 of, repeals Sections 729.11, 1760.3, 14115.6, 14133.61, 16515, 18600, 18919, and 18920 of, repeals Article 2 (commencing with Section 18210) of Chapter 3 of Part 6 of Division 9 of, repeals Chapter 1 (commencing with Section 8016) of Division 8 of, and repeals Chapter 13 (commencing with Section 18990) of Part 6 of Division 9 of, the Welfare and Institutions Code.)

Existing law creates numerous state and local pilot, demonstration, and other projects and programs of limited duration that were created to, among other things, make studies, collect data, and make reports to the Legislature pertaining to, among other

things, criminal law and juvenile justice.

This bill repeals a bunch of these provisions that have become obsolete and makes related technical and conforming changes.

Legislative History:

Senate Governmental Organization (11-0)
Senate Floor (37-0)

Assembly Business and Professions (12-0)
Assembly Floor (75-0)

SB 485 (Committee on Public Safety): Chapter 473: Public safety.

(Repeals Sections 131.3, 131.4, 131.5, 131.6, and 131.7 of the Code of Civil Procedure, amends Sections 832.6, 1000, 1203.1b, 1417.8, 12600, and 12601 of, adds Sections 1203.7, 1203.71, 1203.72, 1203.73, and 1203.74 to, the Penal Code, amends Sections 1808, 13353, 13353.1, 13353.3, 13386, 23249, and 23575 of the Vehicle Code, and repeals Chapter 1797 of the Statutes of 1963 and Chapter 1032 of the Statutes of 1969.)

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 (6-0)
Senate Appropriations,
SR 28.8
Senate Floor (39-0)
Senate Concurrence (40-0)

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

SB 757 (Ortiz): Chapter 376: Tobacco control.

(Amends Section 22952 of, and adds Section 22962 to, the Business and Professions Code; amends Section 118950 of the Health and Safety Code; amends Section 308 of, and adds Section 308.3 to, the Penal Code.)

Existing law generally establishes the "STAKE" Act - the "Stop Tobacco Access to Kids Enforcement" Act. The primary responsibility for enforcing STAKE is the Department of Health Services.

This bill makes a number of changes to the STAKE Act, including authorizing the department to conduct onsite sting inspections in response to public complaints regarding the sale of tobacco products to minors or at retail locations where previous violations have

occurred and to investigate illegal sales of tobacco products to minors by telephone, mail, or the Internet. This bill also makes changes concerning retail establishments that have been subject to a sting inspection, and the sale of tobacco products in vending machines.

Existing law provides that every person, firm, or corporation that knowingly sells, gives, or in any way furnishes to another person under 18 years of age, any tobacco or prescribed tobacco-related product, is

subject to either a criminal action for a misdemeanor or to a civil action to be brought by a city attorney, a county counsel, or a district attorney.

This bill makes a person, firm, or corporation who knowingly, or under circumstances in which it has or should have had knowledge of the person's minority age, subject to criminal prosecution.

Existing law imposes an infraction on a person who sells cigarettes that are not contained

in a sealed and properly labeled package, as defined.

This bill imposes an infraction or civil penalty for the manufacturing, distribution, sale, or offering of a package of cigarettes that does not contain at least 20 cigarettes or a package of roll-your-own tobacco that does not contain at least 0.60 ounces of tobacco.

Legislative History:

Senate Public Safety (4-0)
Senate Appropriations,
SR 28.8
Senate Floor (39-0)
Senate Concurrence
(23-6)

Assembly Governmental
Organization (17-0)
Assembly Public Safety
(4-1)
Assembly Appropriations
(12-2)
Assembly Floor (49-25)

SB 884 (Escutia): Chapter 445: Dependent children: placement with relatives with criminal convictions. Urgency.

(Amends, repeals, and adds Section 361.4 of the Welfare and Institutions Code.)

Existing law provides that whenever a child may be placed in the home of a relative or a prospective guardian or other person who is not a licensed or certified foster parent, the county social worker is required to check the Child Abuse Index, as specified, to be requested from the Department of Justice. If the fingerprint clearance check indicates that the person has been convicted of a crime that would preclude that person from receiving a license or permit to operate a foster family home, the child may not be placed in the home, except that existing law authorizes the Director of Social Services, upon request from a county, to waive the application of these requirements, as specified.

This bill revises the authority for a county to grant an exemption

from these requirements if the Director of Social Services has granted the county permission to issue criminal records exemptions, as specified; requires the State Department of Social Services to conduct an evaluation of the implementation of these provisions through random sampling; authorizes the State Department of Social Services to evaluate a request from an Indian tribe for an exemption from these requirements to allow placement into an Indian home, as specified; and provides that these provisions remain operative only until January 1, 2005. Operative January 1, 2005, the bill deletes the provision in existing law authorizing the Director of Social Services to waive the application of these requirements.

Legislative History:

Senate Health and Human
Services (10-0)
Senate Public Safety (6-0)
Senate Appropriations,
SR 28.8
Senate Floor (38-0)
Senate Concurrence
(40-0)

Assembly Human Services
(6-1)
Assembly Appropriations
(20-1)
Assembly Floor (76-1)

SB 1059 (Perata): Chapter 860: Mentally ill offenders.

(Adds and repeals Article 3.5 (commencing with Section 6044) to Chapter 5 of Title 7 of Part 3 of the Penal Code.)

Existing law establishes a program of mentally ill offender crime reduction grants provided to counties to expand or establish a plan to reduce crime and criminal justice costs related to mentally ill offenders, administered and evaluated by the Board of Corrections in consultation with the State Department of Mental Health and the State Department of Alcohol and Drug Programs.

This bill establishes the Council on Mentally Ill Offenders,

comprised of specified members, to investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who are likely to become criminal offenders or have a history of offending. This bill appropriates \$100,000 from the General Fund to the Youth and Adult Correctional Agency for this Council (which the Governor vetoed from the bill before signing it). The provisions of this bill sunset January 1, 2007.

Legislative History:

Senate Public Safety (4-0)
Senate Appropriations (11-0)

Senate Floor (34-1)
Senate Concurrence (29-5)

Assembly Public Safety (7-0)

Assembly Appropriations (20-0)
Assembly Floor (80-0)

SB 1090 (Bowen): Chapter 731: Cable television and satellite television: monitoring limits and prohibitions.

(Amends Section 637.5 of the Penal Code.)

Existing law provides that no person who owns, controls, etc. a cable television corporation, or who leases cable channels, shall do any of the following:

- a. Use any electronic device to monitor events or conversation that take place inside a subscriber's residence or workplace, without express written consent.
- b. Provide a third party with individually identifiable information regarding any of its subscribers, without the subscriber's express written consent.

Violation of these provisions is a misdemeanor, punishable by a fine not exceeding \$3,000 or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. (Penal Code § 637.5 (a) and (j).)

This bill extends the cable television monitoring limitations and prohibitions to satellite television providers.

Legislative History:

Senate Public Safety (5-0)
Senate Appropriations, SR 28.8
Senate Floor (26-8)

Assembly Public Safety (6-0)
Assembly Appropriations (21-0)
Assembly Floor (76-4)

SB 1191 (Speier): Chapter 745: State and local reporting requirements: deletion of obsolete references. Urgency.

(Repeals Sections 1170.6, 9008, 13510.6, and 13892 of the Penal Code and amends Sections 8610, 11912, 12830 and amends Sections 8610, 11912, 12830, 12875, 12879.5, 12890.4, and 12939 of, and amends Sections 4640.6, 4669.75, 5673, 10609.5, 10740, 10790, 11329, 11450.3, 11461.1, 11487.5, 14017.1, 14085.5, 14103.2, 14104.3, 14132, 14132.90, 14133.5, 14138.5, 14145.1, 14148, 14148.8, 14501, 16500.5, 18206, and 18240 of, and repeals Sections 366.28, 5586, 10603.3, 14618, 15452, and 18214 of, the Welfare and Institutions Code.)

Existing law requires or requests various state and local agencies to prepare and submit reports to the Governor, the Legislature, or other state entities.

This bill revises and deletes certain reporting requirements for state and local agencies; deletes obsolete references; and took effect immediately as an urgency statute.

Legislative History:

Senate Governmental Organization (12-0)
Senate Appropriations, SR 28.8
Senate Floor (39-0)
Senate Concurrence (40-0)

Assembly Business and Professions (12-0)
Assembly Appropriations (21-0)
Assembly Floor (75-0)

SR 18 (Burton): Adopted: Department of Justice: study of crimes against homeless persons.

(Uncodified Law.)

Existing law creates the Attorney General and the Department of Justice.

This resolution asks the Attorney General to do the following:

- Assess the extent of the problem of crimes against homeless persons and develop a plan to prevent and report these crimes and to apprehend and prosecute the perpetrators of these crimes. The Senate requests that, in developing the assessment and plan, the

Attorney General consult homeless persons and their advocates, law enforcement agencies experienced with antihomeless crime, and the Commission on Peace Officer Standards and Training.

- Make an initial report to the Legislature by January 7, 2002, and a final report by December 1, 2002. The Senate requests that the reports include recommendations for any legislation necessary to carry out the plan, and a recommendation on whether to

Legislative History:

(Senate Floor, Adopted by unanimous consent)

expand the definition of hate crimes to include crimes committed in whole or part because the victim is homeless or is perceived to be homeless.

AB 153 (Nakano): Chapter 930: Board of Corrections.
(Amends Section 6025 of the Penal Code.)

Existing law provides that the Board of Corrections is composed of 13 members, 3 of whom are ex officio members and 10 of whom are appointed by the Governor. Existing law requires that the 10 appointed members include persons from specified backgrounds, including one member who is a rank and file representative of a local corrections facility at the level of the first line supervisor or below with a minimum of 5 years of experience.

This bill expands the board to 15 members by adding to the appointed members a second rank and file representative of a local corrections facility. One of these two representatives would be required to be a juvenile probation officer and one would be required to be a deputy sheriff, as specified. A representative of a community-based youth service organization would also be added.

Legislative History:

Assembly Public Safety (5-0)
Assembly Appropriations (20-0)
Assembly Floor (73-1)
Assembly Concurrence (70-0)

Senate Public Safety (5-0)
Senate Appropriations, SR 28.8
Senate Floor (27-6)

AB 188 (Vargas): Chapter 150: Playgrounds: smoking.
(Adds Section 104495 to the Health and Safety Code and Uncodified Law.)

Existing law provides for the establishment of programs relating to tobacco use prevention.

This bill makes legislative findings and declarations and provides that:

- No person shall smoke a cigarette, cigar, or other tobacco-related product within the boundaries of any playground, or tot lot sandbox area; nor dispose of cigarette butts, cigar butts, or any other tobacco-related waste within a playground, or a tot lot sandbox area; nor shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another

person who seeks to attain compliance with this section.

- Makes violations an infraction punishable by a fine of one hundred dollars for each violation.

This bill does not apply to private property; does not preempt local authority to regulate such activity, as specified; and provides that " 'Smoke or smoking' means the carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind, including, but not limited to, tobacco, or any other weed or plant."

Legislative History:

Assembly Governmental Organization (11-4)
Assembly Appropriations (11-6)
Assembly Floor (53-20)

Senate Health and Human Services (8-1)
Senate Appropriations (7-2)
Senate Floor (23-11)

AB 423 (Hertzberg): Chapter 157: Farm labor contractors: license requirements.

(Amends Sections 1695.7 and 1698 of, and adds Sections 1695.8, 1695.9, 1696.8, and 1697.3 to, the Labor Code.)

Existing law provides for the regulation of farm labor contractors.

This bill provides that among other things, on or after January 1, 2003, any grower, farm labor contractor, or other specified person who knowingly and willfully fails to pay or causes the failure to pay minimum wage, or any higher wages that have been agreed to, is guilty of a misdemeanor.

Legislative History:

Assembly Labor and Employment (5-1)
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AB 489 (Migden): Chapter 732: Predatory lending.

(Adds Division 1.6 (commencing with Section 4970) to the Financial Code.)

Existing law provides that the Department of Financial Institutions regulates banks and savings associations and that the Department of Real Estate regulates real estate brokers. The Department of Corporations regulates finance lenders and residential mortgage lenders. Willful violations of provisions governing savings associations, real estate brokers, and residential mortgage lenders are crimes.

ability of a borrower to repay the loan, financing specified types of credit insurance into a consumer loan transaction, recommending or encouraging a consumer to default on an existing consumer loan in order to solicit or make a covered loan that refinances the consumer loan, and making a covered loan without providing the consumer a specified disclosure. A violation of these provisions is subject to a civil penalty.

This bill imposes various requirements on consumer loans secured by specified real property, defined as "covered loans." The bill prohibits the following as to covered loans: failing to consider the financial

Legislative History:

Assembly Banking and Finance (7-3)
Assembly Appropriations (13-6)
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Senate Judiciary (4-1)
Senate Banking Commerce and International Trade (5-2)
Senate Floor (23-12)

HR 8 (Runner): Adopted: Child abduction: The Amber Plan.
(Uncodified resolution language.)

Existing law provides that every person, not having a right to custody, who maliciously takes, entices away, keeps, withholds, or conceals any child with the intent to detain or conceal that child from a lawful custodian shall be punished by imprisonment in a county jail not exceeding one year, a fine not exceeding \$1,000, or both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years, a fine not exceeding \$10,000, or both that fine and imprisonment. (Penal Code § 278.)

This resolution makes specified findings and resolves that the Governor and the Office of Emergency Services implement the use of the emergency alert system and other warning systems in the Child Abduction Regional Emergency (C.A.R.E.) Alert Program and establish it statewide so that it resembles The Amber Plan, Texas' early-warning system to prevent child kidnappings.

Legislative History:

Assembly Public Safety (7-0)
Assembly Floor (76-0)

ABX2 4 (Cardoza): Chapter 3, 2nd Extraordinary Session: Notice of power shortages. Urgency.

(Adds Section 2774.5 to the Public Utilities Code.)

Existing law provides that in the event that any electrical or gas corporation experiences any shortage of electricity or gas and is unable to obtain electricity or gas from any other source so that it is unable to meet the demand of its customers, the Public Utilities Commission is authorized to order that service be temporarily reduced.

This bill requires an electrical corporation or local publicly owned electric utility to immediately notify law enforcement officials (Highway Patrol, sheriff and police chiefs)

as to a planned loss of power as soon as the planned loss becomes known. Notice shall include when and where the power loss will occur.

NOTE: ABX2 4 had been previously introduced as ABX1 30. ABX1 30 failed in Senate Public Safety. In the second extraordinary session, the penalty provision was stripped from the bill, introduced as ABX2 4, and the bill was not heard in Senate Public Safety.

Legislative History:

Assembly Floor (71-0)
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