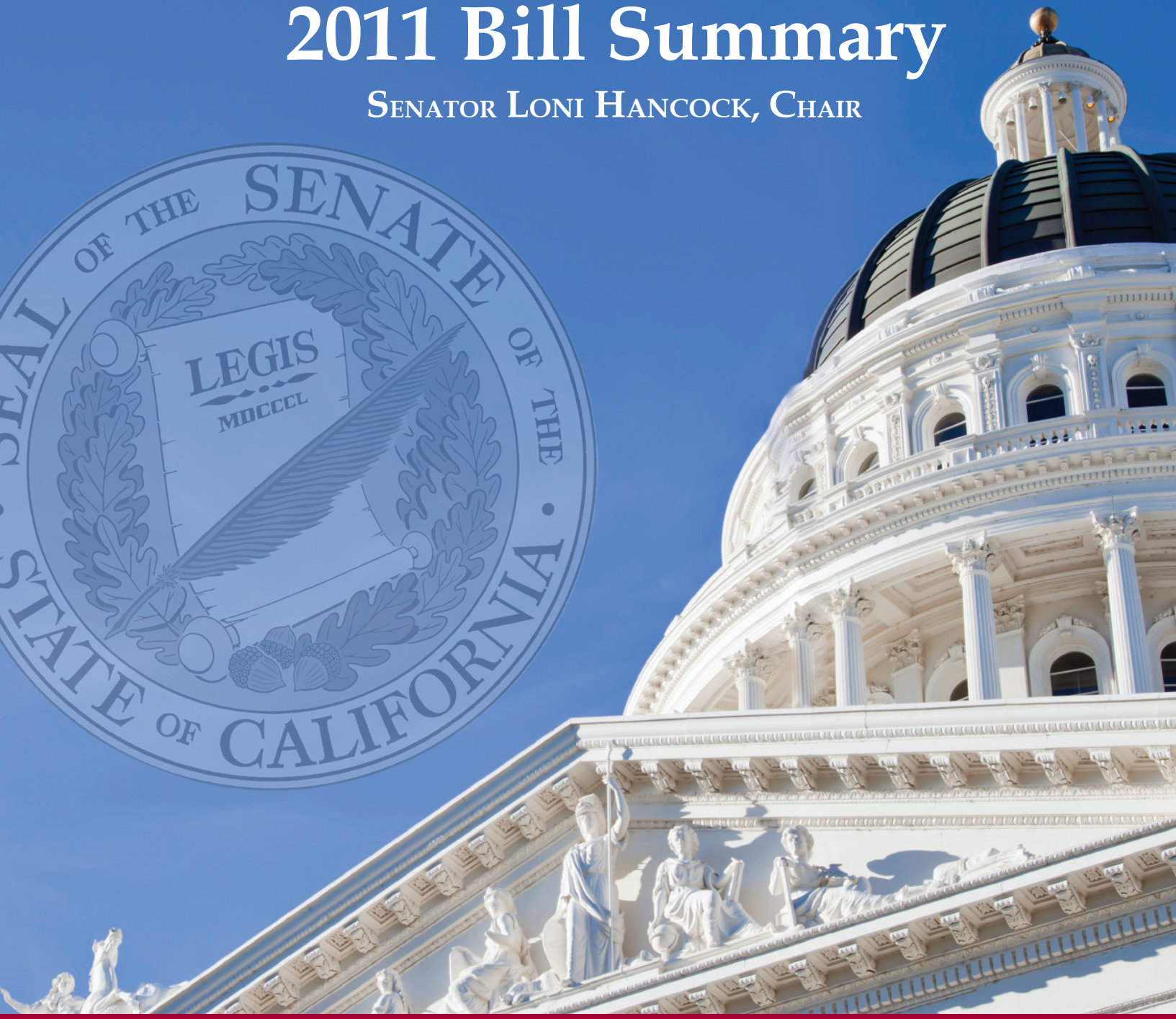
Senate Committee on Public Safety

2011 Bill Summary

Senator Loni Hancock, Chair



Senator Joel Anderson, Vice Chair
Senator Ron Calderon
Senator Tom Harman
Senator Carol Liu
Senator Curren D. Price, Jr.
Senator Darrell Steinberg

CHIEF COUNSEL
Alison Anderson

COUNSEL
Mary Kennedy
Jerome McGuire
Steven Meinrath

COMMITTEE ASSISTANTS
Mona Cano
Dina Lucero

1509-S

California Senate

COMMITTEE ON PUBLIC SAFETY

SENATOR LONI HANCOCK
CHAIR

STATE CAPITOL, ROOM 2031
SACRAMENTO, CA 95814
TEL (916) 651-4118
FAX (916) 445-4688

November 2011

For your information, the Senate Committee on Public Safety staff has prepared this summary of bills sent to the Governor in 2011 pertaining to this Committee's subject-matter jurisdiction. In addition, this year's summary contains a description of the 2011 criminal justice realignment, which enacted fundamental changes in how certain felony offenders are handled in California's criminal justice system. I hope this compilation of public safety legislation will facilitate your access to the new laws enacted this year.

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 2012.

- The Legislative Data Center maintains a website where these bills and analyses are available: http://www.leginfo.ca.gov.

The text of this summary also is available at the Committee's list of publications at: http://www.sen.ca.gov.

I hope this legislative summary is useful to you.

Sincerely,

Loni Hancock

LONI HANCOCK

Table of Contents

Controlled Substances and Alcohol Offenses

Corrections

Criminal Procedure

DNA

Domestic Violence

Elder Abuse

Elections

Firearms and Dangerous Weapons

Juvenile Justice

Penalty Assessments

Public Safety/Criminal Justice Realignment

Sentencing

Sexual Offenses and Sexual Offenders

Vehicles and Driving Under the Influence (DUI)

Victims and Restitution

Wiretapping and Eavesdropping

Miscellaneous

Indexes by:

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. Readers may wish to skim the Contents section to identify any new laws of particular interest. In addition, those who focus on specific code areas may skim the Table of Sections Affected information, described below.

- ***Previous Votes Not Relevant.*** The legislative history for some measures, contain this summary note where the committee/floor votes of a prior version of a measure are not included. The votes that are shown in each bill summary refer to the committee/floor votes of the signed or vetoed measure. Where measures well into the legislative process have been substantially amended (gutted) and replaced with new language, earlier votes do not provide relevant 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, ". . . 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 may contain a delayed "operative" date for all or part of the measure; that is most common when a start-up period may be useful to prepare for the measure's impact.

- ***Contingent Measures.*** A bill may have language added which makes it operative, if enacted, only if another measure (or measures) also is 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.

- ***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 that provides both the changes to the section made by the earlier measure(s) and the last enacted bill are to take effect. It generally may 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 Committees.*** Some bills have two separate votes in the Senate and Assembly Appropriations Committees; the first generally reflects 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 costs or revenues. Thus, SR 28.8 is reflected, where appropriate, instead of a vote.

- ***Jurisdiction of the Committee.*** The Senate Committee on Public Safety jurisdiction does not always include measures that involve misdemeanor and infraction criminal penalties. There are some bills, however, included in this summary which were not heard by this Committee but are included because they concern 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 Web site, 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 reflects only the final votes on a bill in each legislative location.

Animals

SB 425 (Calderon): Chapter 562: Cruelty to animals: fighting.
(Amends Sections 310, 597h, and 598.1 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (36-1)
Senate Concurrence (36-2)
Assembly Public Safety (7-0)
Assembly Appropriations (16-0)
Assembly Floor (76-0)

Existing law provides that any minor under 16 years of age who visits or attends any prizefight, cockfight, or place where any prizefight, or cockfight, is advertised to take place, and any owner, lessee, or proprietor, or the agent of any owner, lessee, or proprietor of any place where any prizefight or cockfight is advertised or represented to take place who admits any minor to a place where any prizefight or cockfight is advertised or represented to take place or who admits, sells, or gives to any minor a ticket or other paper by which that minor may be admitted to a place where a prizefight or cockfight is advertised to take place, is guilty of a misdemeanor, and is punishable by a fine not exceeding $100 or by imprisonment in the county jail for not more than 25 days.

This bill increases the fine in the case of cockfighting to an amount not to exceed $500.

Existing law provides that it shall be unlawful for any person to tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing that animal to be pursued by a dog or dogs, and that any person violating any of those provisions is guilty of a misdemeanor.

This bill provides that any fine imposed for that misdemeanor be in the amount of $2,500.

Existing law provides that the prosecuting agency in a criminal proceeding in which the defendant has been charged with the commission of any of certain crimes pertaining to dogfighting may, in conjunction with the criminal proceeding, file a petition for forfeiture as provided, and that if the prosecuting agency has filed a petition for forfeiture and the defendant is convicted of any of those crimes, specified assets would be subject to forfeiture, as specified. The prosecuting agency for purposes of these provisions includes the Attorney General.

This bill extends those provisions to criminal proceedings involving cockfighting.

SB 917 (Lieu): Chapter 131: Animal abuse.
(Amends Section 597 of, and adds Section 597.4 to, the Penal Code.)

***Legislative History*:**
Senate Public Safety (5-2)
Senate Appropriations, SR 28.8
Senate Floor (27-10)
Assembly Public Safety (5-2)
Assembly Appropriations (11-5)
Assembly Floor (44-23)

Existing law provides, subject to exceptions, that every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is guilty of a crime punishable as a misdemeanor or as a felony, or alternatively as a misdemeanor or a felony and a fine of not more than $20,000.

This bill revises the punishment for this offense to provide that it is punishable by imprisonment in a county jail for not more than one year, or in the state prison, or by a fine of not more than $20,000, or by both that fine and imprisonment. The bill makes other technical, nonsubstantive changes.

Existing law proscribes animal abuse, as specified, including the failure to maintain and care for the premises and animals at pet shops. Existing law also generally provides that a pet store shall not sell, offer for sale, trade, or barter any dog or cat that is under 8 weeks of age, but may sell, offer for sale, trade, or barter a dog or cat over 8 weeks of age only if the animal is weaned.

This bill also provides, in addition and with specified exceptions, that it shall be a crime, punishable as specified, for any person to willfully sell or give away as part of a commercial transaction, a live animal on any street, highway, public right-of-way, parking lot, carnival, or boardwalk, or to display or offer for sale, or display or offer to give away as part of a commercial transaction, a live animal if the act of selling or giving away the live animal is to occur on any street, highway, public right-of-way, parking lot, carnival, or boardwalk. The bill provides that a notice describing the charge and the penalty for a violation of this bill may be issued by a peace officer, animal control officer, or humane officer.

AB 1117 (Smyth): Chapter 553: Animal abuse: penalties.
(Amends Section 597.1 of, and adds Section 597.9 to, the Penal Code.)

***Legislative History*:**
Assembly Public Safety (6-0)
Assembly Appropriations (16-1)
Assembly Floor (71-0)
Assembly Concurrence (72-0)
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (37-0)

Existing law establishes various other crimes regarding cruelty to animals and the failure to care for animals.

This bill provides that any person who has been convicted of certain of these crimes, and who within a specified period after conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal, is guilty of a public offense punishable by a $1,000 fine. The bill provides that the court may reduce the duration of, or, in the case of livestock owners and in the interest of justice, exempt a defendant from, these restrictions under specified circumstances.

Assault and Battery

SB 390 (La Malfa): Chapter 249: Assault and battery: search and rescue personnel.
(Amends Sections 241 and 243 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (6-0)
Senate Appropriations, SR 28.8
Senate Floor (40-0)
Senate Concurrence (37-0)
Assembly Public Safety (7-0)
Assembly Appropriations (16-0)
Assembly Floor (76-0)

Existing law establishes the crime of assault against specified public safety officers, such as peace officers, firefighters, and emergency medical technicians, among others, while engaged in the performance of their duties, as specified. The offense is punishable by a fine not exceeding $2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill expands the scope of the offense to include search and rescue members, as defined, while engaged in the performance of their duties.

Existing law establishes the crime of battery against specified public safety officers, such as peace officers, firefighters, and emergency medical technicians, among others, while engaged in the performance of their duties, as specified. The offense is punishable,

except when the victim sustains an injury, by a fine not exceeding $2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill expands the scope of the battery offense described above where the victim does not sustain an injury, to include a search and rescue member, as defined, while engaged in the performance of his or her duty.

SB 406 (Liu): Chapter 250: Battery.
(Amends Section 243 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (38-0)
Senate Concurrence (37-0)
Assembly Public Safety (7-0)
Assembly Appropriations (16-0)
Assembly Floor (76-0)

Existing law establishes the crime of battery against, among other persons, any one of several specified public safety officers, or a physician or nurse rendering emergency medical care, when the person committing the offense knows or reasonably should know that the victim is such a person. The crime is punishable by a fine not exceeding $2,000, or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment when an injury is not inflicted on the victim.

This bill adds security officers and custody assistants to those lists of persons against whom the commission of a battery that does not result in an injury to the victim will be punishable by the penalties described above. The bill defines a security officer and a custody assistant for purposes of these provisions, as specified.

AB 1026 (Knight): Chapter 183: Felony assault: technical statutory classifications.
(Amends Section 245 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Floor (71-0)
Senate Public Safety (7-0)
Senate Floor (37-0)

Existing law provides that any person who commits an assault upon the person of another by any means of force likely to produce bodily injury shall be punished by imprisonment in the state prison for 2, 3, or 4 years, or in a county jail for not more than one year, or by a fine not to exceed $10,000, or by both the fine and imprisonment.

This bill reorganizes the most widely used assault and battery statute – Penal Code Section 245 – by placing assault by means of force likely to produce great bodily injury in a separate paragraph from assault with a deadly weapon or firearm. Assault by means of force likely to produce great bodily injury is not a serious felony, while the other forms of felony assault are serious felonies. This bill allows court and practitioners to more easily determine the nature of a defendant's prior assault conviction, which is critically important in Three Strikes issues and other matters.

Child Abuse and Neglect

AB 12 (Swanson): Chapter 75: Sexually exploited minors.
(Adds Section 261.9 to the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Floor (78-0)
Senate Public Safety (7-0)
Senate Floor (37-0)

Existing law provides that a person convicted of pimping or procuring a minor under the age of 16 for prostitution may be ordered by a court to pay an additional fine not to exceed $5,000 to be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs, as provided.

This bill enacts the Abolition of Child Commerce, Exploitation, and Sexual Slavery Act of 2011, and requires a person convicted of seeking to procure or procuring the sexual services of a prostitute, if the prostitute is under 18 years of age, to pay an additional fine not to exceed $25,000. The fine proceeds shall be available, upon appropriation by the Legislature, to fund programs and services for commercially sexually exploited minors in the counties where the underlying offenses are committed.

AB 90 (Swanson): Chapter 457: Human trafficking: sexually exploited minors.
(Amends Sections 186.2 and 186.8 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (79-0)
Assembly Concurrence (79-0)
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (36-0)

Existing law, the California Control of Profits of Organized Crime Act, provides for forfeiture of the proceeds of criminal profiteering activity, as defined, and requires the

prosecution to file a petition for forfeiture in conjunction with certain criminal charges. Criminal profiteering includes specified crimes, including human trafficking.

This bill includes within the definition of criminal profiteering any crime in which the perpetrator induces, encourages, or persuades, or causes through force, fear, coercion, deceit, violence, duress, menace, or threat of unlawful injury to the victim or to another person, a person under 18 years of age to engage in a commercial sex act.

Existing law provides that in any case involving human trafficking of minors for purposes of prostitution or lewd conduct, or in a case involving abduction or procurement by fraudulent inducement for prostitution, in lieu of the distribution procedure described above, the proceeds shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs.

This bill includes the proceeds from any case in which the perpetrator induces, encourages, or persuades, or causes through force, fear, coercion, deceit, violence, duress, menace, or threat of unlawful injury to the victim or to another person, a person under 18 years of age to engage in a commercial sex act, to be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs, as specified.

AB 123 (Mendoza): Chapter 161: Threatening the safety of school children.
(Amends Section 626.8 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (6-0)
Assembly Appropriations (11-1)
Assembly Floor (55-9)
Senate Public Safety (5-1)
Senate Appropriations, SR 28.8
Senate Floor (30-7)

Existing law provides that a person who comes into any school building or upon any school ground, or adjacent street, sidewalk, or public way, whose presence or acts interfere with or disrupt a school activity, without lawful business, or who remains after having been asked to leave, as specified, is guilty of a misdemeanor. "School" is defined to mean any preschool or public or private school having kindergarten or any of grades 1 to 12, inclusive.

This bill expands this provision to also apply to any person who comes into any school building or upon any school ground, or adjacent street, sidewalk, or public way, and willfully or knowingly creates a disruption with the intent to threaten the immediate physical safety of any pupil in preschool, kindergarten, or any of grades 1 to 8, inclusive, arriving at, attending, or leaving from school.

AB 717 (Ammiano): Chapter 468: Child Abuse Central Index.
(Amends Sections 11165.12, 11169, and 11170 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (75-0)
Assembly Concurrence (79-0)
Senate Public Safety (6-0)
Senate Appropriations (9-0)
Senate Floor (38-0)

Existing law requires the Department of Justice ("DOJ") to maintain an index of all reports of child abuse and severe neglect ("CACI") submitted by specified reporting agencies, as specified.

This bill makes several changes to the CACI laws; specifically this bill: (1) provides that CACI filings include only reports determined to be "substantiated," rather than those "determined not to be unfounded," as specified, and requires that all other determinations be removed from the CACI; (2) provides that on and after January 1, 2012, police and sheriff's departments shall no longer forward CACI reports to DOJ; (3) statutorily specifies that any person listed on the CACI has right to a hearing that satisfies due process requirements before the agency that requested his or her inclusion in the CACI to challenge his/her listing, as specified; (4) requires a reporting agency to notify DOJ when a hearing results in a finding that a CACI listing was based on a report that was not substantiated, and requires the DOJ to remove the person's name from the CACI when so notified; and (5) requires that any person listed on the CACI who has reached 100 years of age shall have his or her listing removed from CACI.

Controlled Substances

SB 41 (Yee): Chapter 738: Hypodermic needles and syringes.
(Amend Sections 4144, 4145, and 4148 of, adds Section 4149.5 to, adds and repeals Sections 4144.5, 4145.5, and 4148.5 of, and repeals Section 4140 of, the Business and Professions Code, and amends Section 11364 of, adds Section 121281 to, and adds and repeals Section 11364.1 of, the Health and Safety Code.)

***Legislative History*:**
Senate Health (5-3)
Senate Public Safety (5-1)
Senate Appropriations, SR 28.8
Senate Floor (24-13)
Senate Concurrence (24-13)
Assembly Health (12-6)
Assembly Appropriations (11-4)
Assembly Floor (52-26)

Existing law regulates the sale, possession, and disposal of hypodermic needles and syringes, and requires, with certain exceptions, a prescription to purchase a hypodermic needle or syringe.

This bill deletes the prohibition against any person possessing or having under his or her control any hypodermic needle or syringe, as specified.

Existing law provides that beginning January 1, 2011, and ending December 31, 2018, a county or city may authorize a pharmacist to sell or furnish 10 or fewer hypodermic needles or syringes to a person 18 years of age or older without a prescription if the pharmacy is registered with a local health department in the Disease Prevention Demonstration Project to evaluate such distribution in order to prevent the spread of bloodborne pathogens.

Existing law makes it unlawful to possess a device or paraphernalia for unlawfully using controlled substances. Beginning January 1, 2011, and ending December 31, 2018, the above-described provisions, pursuant to local government authorization, shall not apply to the possession solely for personal use of 10 or fewer hypodermic needles or syringes.

This bill, until January 1, 2015, makes these provisions, including the local authorization requirement inoperative. The Disease Prevention Demonstration Project remains in effect. The bill authorizes a physician or pharmacist, without a prescription, to furnish 30 or fewer hypodermic needles and syringes to an adult and authorizes an adult, without a prescription, to obtain 30 or fewer hypodermic needles and syringes solely for personal use from a physician or pharmacist. The above-described provisions, making it unlawful to possess a device or paraphernalia for unlawfully using controlled substances, shall not apply to possession for personal use of 30 or fewer needles or syringes if acquired from a physician, pharmacist, needle and syringe exchange program, or any other lawful source.

This bill requires the state Office of AIDS to develop and maintain information on its Web site to educate consumers on how to protect themselves and the public from blood-borne diseases and requires the Board of Pharmacy to post, or post a link to, this information on its Web site.

This bill requires pharmacies that furnish nonprescription needles and syringes to store them so that they are not accessible to unauthorized persons, and requires pharmacies or needle and syringe exchange programs to provide consumers with prescribed options for safe disposal of the devices. Pharmacies must provide specified written information or oral counseling when furnishing nonprescription hypodermic needles or syringes.

SB 360 (DeSaulnier): Chapter 418: Controlled substance prescription tracking (CURES).
(Amends Sections 11161.5, 11162.1, 11165, and 11165.1 of, and adds Sections 11165.2 and 11165.3 to the Health and Safety Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations (9-0)
Senate Floor (39-0)
Senate Concurrence (37-0)
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (78-0)

Existing law classifies controlled substances into designated schedules. The Department of Justice (DOJ), contingent upon the availability of adequate specified funds, maintains the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances.

Existing law requires that prescription forms for controlled substance prescriptions be obtained from security printers approved by DOJ. DOJ may approve a security printer who gives DOJ specified information, including the applicant's agent for service of process, all principal corporate officers, if any, and all managing general partners, if any. Those persons shall provide a signed statement indicating whether they have ever been convicted of, or pled no contest to, a violation of any law or ordinance. DOJ may revoke its approval of a security printer for a violation of these provisions or action that would permit a denial of a security printer application.

This bill requires a security printer applicant to provide the location, names, and titles of any owner, partner, officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to or control of controlled substance prescription forms and require those persons to submit the signed statement described above. In addition, the bill requires that controlled substance prescription forms provided in person be restricted to established customers. Security printers shall obtain photo identification from the customer and maintain a log of the information. Security printers shall report to DOJ by fax or e-mail any theft or loss of controlled substance prescription forms within 24 hours of the incident. Controlled substance prescription forms shall be shipped only to the prescriber's address on file and verified with the federal Drug Enforcement Administration or the Medical Board of California. The bill specifies penalties for certain violations, including, among others, failure to comply with security printer guidelines, failure to take reasonable precautions related to the access and control of security prescription forms, and theft or fraudulent use of a prescriber's identity.

Existing law governs the prescription forms for controlled substances. Among other things, the forms must include the printed name, category of licensure, license number, and federal controlled substance registration number of the prescriber.

This bill requires that forms include the address of the prescriber. The bill changes the forms used by prescribers in treating patients in licensed health care facilities or clinics that are exempt from other requirements. Non-compliant prescription forms shall not be accepted after July 1, 2012. The bill creates a process by which a licensed health care practitioner or pharmacist may obtain approval to access information stored on the Internet on the controlled substance history of a patient, as specified.

DOJ must audit CURES and the department may establish a citation system for assessing and imposing administrative fines, not to exceed $2,500 for each violation. Fines are to be deposited in the CURES Fund.

SB 420 (Hernandez): Chapter 420: Synthetic cannabinoids.
(Adds Section 11357.5 to the Health and Safety Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (40-0)
Senate Concurrence (37-0)
Assembly Public Safety (6-0)
Assembly Appropriations (16-0)
Assembly Floor (73-0)

Existing law the California Uniform Controlled Substances Act, classifies controlled substances into five designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Under existing law, the sale or distribution of specified intoxicating substances is a crime, punishable by imprisonment or a fine or both. Existing law makes the possession of not more than 28.5 grams of marijuana an infraction, and the possession of more than 28.5 grams of marijuana a misdemeanor, as specified. Existing law makes possession of marijuana for sale a felony.

This bill makes it a misdemeanor to sell, dispense, distribute, furnish, administer, or give, or offer to sell, dispense, distribute, furnish, administer, or give, or possess for sale any synthetic cannabinoid compound or any synthetic cannabinoid derivative.

SB 514 (Simitian): Chapter 199: Dextromethorphan cough syrup: prohibited sale to minors.
(Adds Sections 11110 and 11111 to the Health and Safety Code.)

***Legislative History*:**
Senate Public Safety (6-0)
Senate Appropriations (6-0)
Senate Floor (38-0)
Assembly Public Safety (6-0)
Assembly Appropriations (11-5)
Assembly Floor (49-23)

Existing law prohibits a manufacturer, wholesaler, retailer, or other person from selling, transferring, or otherwise furnishing a specified substance, including ephedrine and pseudoephedrine, to a person under 18 years of age, except as specified. A first violation of this provision is a misdemeanor. Existing law further regulates the sale of nonprescription drugs, as specified.

This bill makes it an infraction, punishable by a fine not exceeding $250, for any person, corporation, or retail distributer, in an over-the-counter sale to, without a prescription, willfully and knowingly supply, deliver, or give possession of a nonprescription drug containing dextromethorphan to a person under 18 years of age. The fact that a defendant demanded and was shown bona fide evidence of majority and identity by the purchaser shall be a defense to any criminal prosecution.

A retail clerk who fails to require and obtain proof of age from the purchaser shall not be guilty of an infraction or subject to any civil penalties, unless the retail clerk is a willful participant in an ongoing criminal conspiracy to violate the provisions prohibiting the sale of dextromethorphan to minors. A person, corporation, or retail distributor that sells a product containing dextromethorphan shall use a cash register that is equipped with an age-verification feature that directs the retail clerk to request identification before the product may be purchased, as provided.

Corrections

SB 26 (Padilla): Chapter 500: Prisons: wireless communication devices. Urgency.
(Adds Section 4576 to the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations (8-0)
Senate Floor (39-0)
Senate Concurrence (40-0)
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (76-0)

Existing law prohibits unauthorized communication with inmates in state prison. A person who violates that provision is guilty of a misdemeanor. Existing law further prohibits a person in a local correctional facility from possessing a wireless communication device, except as specified.

This bill provides, with exceptions, that a person who possesses with the intent to deliver, or delivers, to an inmate or ward in the custody of the department any cellular telephone or other wireless communication device or any component thereof, including, but not limited to, a subscriber identity module or memory storage device, is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding 6 months, a fine not to exceed $5,000 for each device, or both that fine and imprisonment.

This bill provides that if a person who is visiting an inmate or ward under the jurisdiction of the Department of Corrections and Rehabilitation is found to be in possession of a cellular telephone, wireless communication device, or any component thereof, upon being searched or subjected to a metal detector, that device is subject to confiscation and would be returned the same day, except as specified. The bill requires that a notice to that effect be posted in each area where visitors are searched prior to visiting with an inmate or ward.

This bill provides that a person who brings, without authorization, a wireless communication device within the secure perimeter of a prison or institution housing offenders under the jurisdiction of the department is deemed to have consented to the department using available technology to prevent the device from sending or receiving calls or other electronic communication, and would require notice of this provision to be posted at all public entry gates.

Existing law provides for the accumulation, denial, or loss of time credits for inmates of the department based on each inmate's behavior while under the jurisdiction of the department.

This bill provides that an inmate who is found to be in possession of a wireless communication device would be subject to the denial of time credits, as specified.

This bill prohibits the department from accessing data or communications that have been captured using available technology from unauthorized use of a wireless communication device except after obtaining a valid search warrant, and would provide that any contractor or employee of a contractor or the department who knowingly and willfully, without authorization, obtains, discloses, or uses, confidential data or communications from an unauthorized wireless communication device is subject to an administrative fine or civil penalty not to exceed $5,000 for a first violation, $10,000 for a 2nd violation, and $25,000 for a 3rd or subsequent violation.

This bill further prohibits the department from capturing data or communications from an authorized wireless communication device, or accessing data or communications that have been captured from an authorized wireless communication device, except as authorized under existing law. The bill provides that any contractor or employee of a contractor or the department who knowingly and willfully, without authorization, obtains, discloses, or uses, confidential data or communications from an authorized wireless communication device is subject to an administrative fine or civil penalty not to exceed $5,000 for a first violation, $10,000 for a 2nd violation, and $25,000 for a 3rd or subsequent violation.

This bill also provides that until January 1, 2018, the state shall require as part of the contract for the Inmate Ward Telephone System that the total cost for intrastate and interstate calls be equal to or less than the total costs of a call established in the contract in effect on September 1, 2011, and that other than the conversation minute charges and prepaid account setup fees, there shall be no additional charges of any type, including administrative fees, call-setup fees, detail billing fees, hard copy billing fees, or any other fees.

SB 139 (Alquist): VETOED: Corrections: state prisons: searches.
(Adds and repeals Section 5040 of the Penal Code.)

***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 (17-0)
Assembly Floor (76-0)

Existing law establishes the Department of Corrections and Rehabilitation, and charges it with various duties and responsibilities related to inmates housed in state prisons.

This bill would have required, only until January 1, 2014, the Department of Corrections and Rehabilitation to oversee and conduct periodic and random searches of employees and vendors entering the secure perimeter of a state prison under the jurisdiction of the department for contraband, and would have required the department to report to the Legislature at least quarterly regarding those searches, as specified.

SB 179 (Pavley): Chapter 359: Parole tolling for persons evaluated as sexually violent predators.
(Amends Section 3000 of the Penal Code, and amends Section 6001 of the Welfare and Institutions Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations (8-0)
Senate Floor (39-0)
Senate Concurrence (40-0)
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (78-0)

Existing law, as amended by Proposition 83 of the November 7, 2006, general election, provides that the parole period of any person found to be a sexually violent predator (SVP) is tolled until that person is found to no longer be an SVP, as specified.

This bill provides that where a court finds that there is probable cause to believe that a person is an SVP, the person's parole shall be tolled through the evaluation and commitment if the person is committed as an SVP. If the person is not committed as an SVP, the tolling of the parole period shall be abrogated and the parole period shall be deemed to have commenced on the date of release from the Department of Corrections and Rehabilitation.

SB 484 (Rubio): Chapter 336: CDCR health services contracts.
(Amends Section 6254.14 of the Government Code.)

***Legislative History*:**
Senate Judiciary (3-2)
Senate Public Safety (5-2)
Senate Appropriations, SR 28.8
Senate Floor (34-4)
Senate Concurrence (37-0)
Assembly Judiciary (7-1)
Assembly Health (10-3)
Assembly Appropriations (17-0)
Assembly Floor (79-0)

Existing law generally provides for public access to public agency records under the California Public Records Act with some exceptions, including access limitations to records of California Department of Corrections and Rehabilitation (CDCR) that relate to its health care services contracts, as specified.

This bill authorizes the Legislative Analyst's Office (LAO) to have the same access to the CDCR health services contracts that the Joint Legislature Audit Committee (JLAC) and the Bureau of State Audits (BSA) have under existing law. This bill provides that, notwithstanding any restrictions imposed by law, CDCR records relating to health care services contracts, or any amendments thereto, shall be open to inspection to the LAO, and that the LAO shall maintain the confidentiality of any contract and amendment until the contract or amendment is fully open to inspection by the public.

SB 601 (Hancock): VETOED: Prison accountability report.
(Adds Section 5055.5 to the Penal Code.)

***Legislative History*:**
Senate Public Safety (5-2)
Senate Appropriations (6-3)
Senate Floor (25-13)
Senate Concurrence (39-0)
Assembly Public Safety (7-0)
Assembly Appropriations (16-0)
Assembly Floor (79-0)

Existing law provides that the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the Department of Corrections and Rehabilitation.

This bill would have required the Secretary of the Department of Corrections and Rehabilitation to develop a Corrections Accountability Report, as specified.

SB 608 (DeSaulnier): Chapter 307: Prison Industry Authority: nonprofit organizations: prison-made goods.
(Amends Section 2807 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations (6-3)
Senate Floor (26-8)
Senate Concurrence (33-4)
Assembly Public Safety (7-0)
Assembly Appropriations (16-0)
Assembly Floor (74-0)

Existing law establishes the Prison Industry Authority and authorizes it to operate industrial, agricultural, and service enterprises which will provide products and services needed by the state, or any political subdivision of the state, or by the federal government, or any department, agency, or corporation of the federal government, or for any other public use. Existing law provides that all things authorized to be produced by the authority shall be purchased by the state, and may be purchased by local governments, to offer for sale to persons residing in state-operated institutions, at the prices fixed by the authority.

Under existing law, it is unlawful for any person to sell, expose for sale, or offer for sale, any article manufactured by prison labor, except articles the sale of which is specifically sanctioned by law.

This bill provides that all products and services provided by the authority may be offered for sale to a tax-exempt nonprofit organization, provided that the products and services are provided to public school students at no cost and the nonprofit organization has entered into a memorandum of understanding with a local education agency, as defined.

SB 852 (Harman): Chapter 364: Corrections: victim notification. Urgency.
(Amends Sections 646.92, 679.03, 3043, 3058.8, and 11155 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations (9-0)
Senate Floor (39-0)
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (76-0)

Existing law requires the Department of Corrections and Rehabilitation, county sheriff, and director of the local department of corrections, upon request, to give notice, as specified, prior to the release from state prison or county jail, of any person convicted of specified offenses, or of any change in parole status or relevant change in parole location, or if the person absconds from supervision while on parole, to a victim of the offense and others, as specified. Existing law provides for this notice by telephone and certified mail, and requires those persons requesting notice to provide current address and telephone numbers, as specified.

This bill authorizes providing that notice by telephone, certified mail, or electronic mail, as selected by the requesting party, if that method is available.

Existing law requires the Department of Corrections and Rehabilitation to supply a form to designated agencies in order to enable persons to request and receive notification from the department of the release, escape, scheduled execution, or death of the violent offender. Existing law requires the agency to give the form to the victim, witness, or next of kin of the victim for completion, explain to that person or persons the right to be so notified, and forward the completed form to the department.

This bill provides that a victim, witness, or next of kin of the victim is not precluded from requesting notification using an automated electronic notification process, if available.

Existing law, added by Proposition 8, approved by the voters at the June 8, 1982, statewide primary election and amended by Proposition 9, approved by the voters at the November 4, 2008, statewide general election, requires the Board of Parole Hearings, upon request, to notify the victim, or next of kin of the victim, of any crime committed by a prisoner, of any hearing to review or consider the parole suitability or the setting of a parole date for that prisoner.

This bill permits the victim, or next of kin of the victim, to receive that notice, upon request to the department and verification of the identity of the requester, by telephone, electronic mail, or certified mail, using the method selected by the requester, if that method is available.

Existing law provides that as soon as placement of an inmate in any reentry or work furlough program is planned, but in no case less than 60 days prior to that placement, the Department of Corrections and Rehabilitation shall send written notice, if notice has been requested, to specified requesting parties, to the last address of the requesting party provided to the department.

This bill authorizes the notice to be sent to a victim or next of kin of a victim by telephone, certified mail, or electronic mail, using the method of communication selected by the requesting party, if that method is available, and requires the department to send the notices to the last mailing address, electronic mail address, or telephone number provided to the department by the victim or next of kin of the victim.

AB 44 (Logue): Chapter 355: Inmates: release: notification.
(Amends Section 3058.6 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (6-0)
Assembly Appropriations (16-0)
Assembly Floor (74-0)
Assembly Concurrence (78-0)
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (34-0)

Existing law requires the Department of Corrections and Rehabilitation, when releasing prisoners on parole who have been convicted of a violent felony, as defined, or certain other felonies, as specified, to notify the law enforcement agency and the district attorney having jurisdiction over the community in which the person was convicted and also the law enforcement agency and district attorney having jurisdiction over the community in which the person is scheduled to be released.

Existing law requires that this notification be made by mail at least 45 days prior to the scheduled release date, and provides deadlines for local authorities to respond with written comments regarding county placements, and for the department to reply. If notification cannot be provided within the 45 days due to an unanticipated release date change of an inmate, as specified, or because the department modifies its decision regarding the community of release due to comments received by the department from agencies in that community, existing law requires that notification be provided no less than 24 hours after a final decision is made regarding where the parolee is to be released.

Existing law requires that if there is a change of county placement after the 45-day notice is given to local law enforcement and the district attorney relating to an out-of-county placement, notice to the ultimate county of placement shall be made upon the determination of the county of placement.

This bill requires that notification be sent 60 days prior to the scheduled release date of an inmate. The bill conforms the timeline for local comments to the longer notification period, as specified.

Existing law prohibits the department from restoring credits or taking administrative action resulting in an inmate being placed in a greater credit earning category that would result in notification being provided less than 45 days prior to the inmate's scheduled release date.

This bill conforms this provision to its 60-day notification requirement.

AB 568 (Skinner): VETOED: Shackling of pregnant inmates and wards.
(Amends Section 5007.7 of, and amends and repeals Section 6030 of, the Penal Code, and amends Sections 222 and 1774 of the Welfare and Institutions Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (70-0)
Assembly Concurrence (78-0)
Senate Public Safety (6-0)
Senate Appropriations, SR 28.8
Senate Floor (37-0)

Existing law requires the Corrections Standards Authority, and commencing July 1, 2012, the Board of State and Community Corrections, to establish minimum standards for state and local correctional facilities, including standards restricting the shackling of women in labor, during childbirth, and while in recovery after giving birth, and to review those standards biennially and make any appropriate revisions, as specified.

This bill would have required that the standards ensure that women who are pregnant not be shackled by the wrists, ankles, around the abdomen, or to another person, including during time spent outside a correctional facility, during transport to or from a correctional facility, during labor, delivery, and while in recovery after giving birth, except that the least restrictive restraints possible may be used when deemed necessary for the inmate, consistent with the legitimate security needs of the inmate, the staff, and the public, and the restraints would only remain in place as long as the threat exists. The bill would have required the authority, and later the board, to develop these standards regarding the shackling of pregnant women as part of its biennial review of its standards.

Existing law provides that pregnant inmates of the Department of Corrections and Rehabilitation, wards of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, and wards in the custody of a local juvenile facility, are to be transported in the least restrictive way possible when being taken to a hospital for purposes of childbirth.

This bill would have prohibited inmates and wards of these facilities who are known to be pregnant from being shackled by the wrists, ankles, around the abdomen, or to another person, unless deemed necessary for the safety and security of the inmate or ward, the staff, and the public. If restraints are deemed necessary, the bill would have required the least restrictive means be used, consistent with the legitimate security needs of each inmate or ward, and the restraints would have only remained in place as long as the threat exists. The bill would have provided that these provisions are applicable to movement within the correctional facility, transport to and from the facility, time spent outside the facility to receive medical or dental care, to attend court, or other appointments.

AB 1016 (Achadjian): Chapter 660: Reimbursement of local costs.
(Amends Section 4750 of the Penal Code, and Section 4117 of the Welfare and Institutions Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (75-0)
Assembly Concurrence (78-0)
Senate Public Safety (7-0)
Senate Appropriations (9-0)
Senate Floor (40-0)

Existing law provides that a city, county, or superior court is entitled to reimbursement for reasonable and necessary costs connected with trials and hearings relating to state prisons or prisoners, as specified.

This bill requires, commencing January 1, 2012, a county to be reimbursed for specified nontreatment costs incurred that are associated with a trial of a mentally disordered offender. The bill requires the specified costs to be paid by the Department of Corrections and Rehabilitation.

Criminal Procedure

SB 687 (Leno): Chapter 153: Criminal procedure: informants.
(Adds Section 1111.5 to the Penal Code.)

***Legislative History*:**
Senate Public Safety (5-2)
Senate Floor (23-15)
Assembly Public Safety (5-2)
Assembly Floor (47-26)

Existing law provides that a conviction cannot be had upon the testimony of an accomplice unless that testimony is corroborated by such other evidence which tends to connect the defendant with the commission of the offense and that corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.

This bill additionally provides that a judge or jury may not enter a judgment of conviction upon a criminal defendant, find a special circumstance true, or use a fact in aggravation based solely on the uncorroborated testimony of an in-custody informant, as defined. The bill provides that corroboration shall not be deemed sufficient if it merely shows the commission of the offense, the special circumstance, or the circumstance in aggravation. The bill provides that the corroboration of an in-custody informant shall not be provided by the testimony of another in-custody informant.

SB 914 (Leno): VETOED: Search warrants: portable electronic devices.
(Adds Section 1542.5 to the Penal Code.)

***Legislative History*:**
Senate Public Safety (6-1)
Senate Floor (28-9)
Senate Concurrence (32-4)
Assembly Public Safety (5-0)
Assembly Floor (70-0)

Existing law provides that a search warrant cannot be issued but upon probable cause supported by affidavit, naming or describing the person to be searched or searched for, and particularly describing the property, thing, or things and place to be searched. Existing case law authorizes arresting officers, without a warrant, to conduct a search incident to a lawful arrest, including to search the contents of a cellular telephone taken from a suspect during an arrest.

This bill would have prohibited the search of information contained in a portable electronic device, as defined, by a law enforcement officer incident to a lawful custodial arrest except pursuant to a warrant issued by a duly authorized magistrate using established procedures.

AB 141 (Fuentes): Chapter 181: Jurors: electronic communications.
(Amends Sections 611, 613, and 1209 of the Code of Civil Procedure, and amends Sections 166, 1122, and 1128 of the Penal Code.)

***Legislative History*:**
Assembly Judiciary (10-0)
Assembly Appropriations (16-0)
Assembly Floor (60-0)
Senate Public Safety (6-0)
Senate Judiciary (4-0)
Senate Appropriations, SR 28.8
Senate Floor (37-0)

Existing law requires the court in a jury trial to admonish the jury that it is their duty not to converse with, or permit themselves to be addressed by, any other person on any subject of the trial.

This bill expands those admonishments to include the conduct of research or dissemination of information on any subject of the trial. The bill requires the court, when admonishing the jury against conversation, research, or dissemination of information pursuant to these provisions, to clearly explain, as part of the admonishment, that the prohibition applies to all forms of electronic and wireless communication. The bill requires the officer in charge of a jury to prevent any form of electronic or wireless communication.

This bill also makes the willful disobedience by a juror of a court admonishment related to the prohibition on any form of communication or research about the case, including all forms of electronic or wireless communication or research, punishable as either a civil or criminal contempt of court pursuant to those provisions.

AB 142 (Fuentes): VETOED: Criminal procedure: pleas.
(Amends Section 1016.5 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (4-2)
Assembly Floor (51-19)
Senate Public Safety (4-2)
Senate Floor (22-16)

Existing law requires the court, prior to the acceptance of a plea of guilty or nolo contendere, to advise the defendant that if he or she is not a citizen, conviction of the crime charged may result in deportation, exclusion from admission to the United States, or denial of naturalization.

This bill would have additionally required the court to advise the defendant that, if he or she is deported from the United States and returns illegally, he or she could be charged with a separate federal offense.

AB 201 (Butler): VETOED: Veterans courts.
(Adds Chapter 2.97 (commencing with Section 1001.95) to Title 6 of Part 2 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (6-0)
Assembly Floor (74-0)
Senate Veterans (7-0)
Senate Public Safety (7-0)
Senate Floor (37-0)

Existing law provides for the diversion of specified criminal offenders in alternate sentencing and treatment programs.

This bill would have authorized superior courts to develop and implement veterans courts for eligible veterans of the United States military with the objective of, among other things, creation of a dedicated calendar or a locally developed collaborative court-supervised veterans mental health program or system that leads to the placement of as many mentally ill offenders who are veterans of the United States military, including those with post-traumatic stress disorder, traumatic brain injury, military sexual trauma, substance abuse, or any mental health problem stemming from military service, in community treatment as is feasible and consistent with public safety.

AB 648 (Block): Chapter 437: Clemency.
(Amends Sections 4801, 4802, 4803, 4806, 4807, 4810, 4812, and 4813 of, and adds Section 4805 to, the Penal Code.)

***Legislative History*:**
Assembly Public Safety (6-0)
Assembly Appropriations (14-0)
Assembly Floor (68-0)
Assembly Concurrence (77-0)
Senate Public Safety (7-0)
Senate Appropriations (8-0)
Senate Floor (34-0)

Existing law, under the California Constitution, authorizes the Governor to grant reprieves, pardons, or commutations after sentence has been entered, but prohibits the Governor from granting a pardon or commutation to a person twice convicted of a felony except on recommendation of the Supreme Court, 4 judges concurring. The California Constitution further requires the Governor to report to the Legislature each reprieve, pardon, and commutation stating the pertinent facts and reasons for granting it. Existing statutory law provides that at least 10 days before the Governor acts upon an application for a pardon, written notice of the intention to apply therefor, signed by the person applying, shall be served upon the district attorney of the county where the conviction was had, and proof, by affidavit, of the service is required to be presented to the Governor.

This bill requires that, except when there is imminent danger of the death of a person convicted or imprisoned, or when the term of imprisonment of the applicant is within 10 days of its expiration, at least 10 days before the Governor acts upon any application for a commutation, the application signed by the person applying be served upon the district attorney of the county where the conviction was had. The bill authorizes the district attorney to submit a written recommendation to the Governor for or against commutation of sentence. The bill further requires the district attorney to make reasonable efforts to notify the victim or victims of the crime or crimes related to the application for commutation of sentence and those persons' family members, and allow those persons to submit a recommendation to the Governor for or against commutation of sentence.

Existing law requires the Governor, at the beginning of every session of the Legislature, to communicate to the Legislature, in addition to each case of reprieve or pardon, each commutation and include specified information in that communication.

This bill instead requires the Governor, at the beginning of every regular session of the Legislature, to file a written report with the Legislature that includes each application that was granted for each reprieve, pardon, or commutation by the Governor, or his or her predecessor in office, during the previous regular session of the Legislature, as specified, and requires that the report be made available to the public.

AB 708 (Knight): Chapter 211: Crimes involving hidden recordings: statute of limitations.
(Amends Section 803 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (15-0)
Assembly Floor (74-0)
Assembly Concurrence (76-0)
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (39-0)

Existing law sets forth various statutes of limitations for various crimes. Existing law provides that the applicable period of limitations does not begin to run on various crimes until the offense has been discovered, or could have reasonably been discovered. Existing law makes it a misdemeanor to use a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape another, as specified, without consent, with specified intent, including to invade the other's privacy or arouse the sexual desires of the perpetrator, under circumstances in which the other person has a reasonable expectation of privacy.

This bill provides that a criminal complaint may be filed within one year of the date on which a hidden recording is discovered related to those specified provisions prohibiting the use of concealed camcorders, motion picture cameras, or photographic cameras of any type, to secretly videotape another, as specified above.

AB 1358 (Fuentes): Chapter 662: Vehicles: misdemeanor violations: amnesty.
(Amends Section 42008.7 of the Vehicle Code.)

***Legislative History*:**
Assembly Public Safety (6-0)
Assembly Transportation (13-0)
Assembly Appropriations (16-0)
Assembly Floor (74-1)
Assembly Concurrence (77-1)
Senate Public Safety (5-0)
Senate Appropriations (9-0)
Senate Floor (36-0)

Existing law requires a county to establish a one-time amnesty program for fines and bail for an infraction violation of the Vehicle Code, except for parking violations, and specified reckless driving and driving-under-the-influence (DUI) offenses. Existing law allows a person owing a fine or bail that is eligible for amnesty under this program to pay to the superior or juvenile court 50% of the total fine or bail, as defined, which must be accepted by the court in full satisfaction of the delinquent fine or bail.

This bill authorizes, in addition to and at the same time as the above one-time amnesty program, the court and the county to establish a one-time amnesty program that would allow a person to pay 50% of the total fine or bail for specified misdemeanor violations if certain conditions are met.

DNA

AB 239 (Ammiano): VETOED: Crime laboratories: oversight.
(Amends Section 11062 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (79-0)
Assembly Concurrence (79-0)
Senate Public Safety (6-0)
Senate Appropriations (9-0)
Senate Floor (38-0)

Existing law requires the Department of Justice to establish and chair a task force known as the Crime Laboratory Review Task Force to review and make recommendations as to how best to configure, fund, and improve the delivery of state and local crime laboratory services in the future and to report its findings to the Department of Finance and specified legislative committees by July 1, 2009.

This bill would have required the task force to be reconvened and to submit to the Legislature a supplemental report, on or before July 1, 2013, that includes recommendations regarding the composition of a statewide oversight body to perform

tasks relating to crime laboratories, including overseeing investigations into acts of misconduct or negligence committed by any employee or contractor of a crime laboratory, as specified.

AB 322 (Portantino): VETOED: Forensic evidence: rape kits.
(Adds and repeals Section 680.1 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (5-2)
Assembly Appropriations (12-0)
Assembly Floor (61-13)
Assembly Concurrence (66-10)
Senate Public Safety (7-0)
Senate Appropriations (9-0)
Senate Floor (37-2)

Existing law, the Sexual Assault Victims' DNA Bill of Rights, authorizes a law enforcement agency investigating certain felony sex offenses, upon the request of the victim, and subject to the commitment of resources, to inform the victim whether or not a DNA profile was obtained from the testing of the rape kit evidence or other crime scene evidence from the case, whether or not that information has been entered into the Department of Justice Data Bank of case evidence, and whether or not there is a match between the DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Data Base, as specified. Existing law also requires that the victim be given written notification by the law enforcement agency if the law enforcement agency elects not to perform DNA testing of the rape kit evidence or other crime scene evidence, or intends to destroy or dispose of the rape kit evidence or other crime scene evidence prior to the expiration of the statute of limitations.

This bill would have established a pilot program in 10 counties, commencing July 1, 2012, in which all rape kits collected in those counties after that date be processed by the Department of Justice in department laboratories. The pilot program would have been operative until July 1, 2015, or the date when all rape kits collected in the counties participating in the pilot project, during the period of July 1, 2012, through December 31, 2014, were counted, whichever came first. The department would have required testing every rape kit collected by a pilot project county during the period of the pilot project. The bill would have provided that these provisions be repealed on January 1, 2016.

AB 434 (Logue): Chapter 195: County penalties: forensic laboratories.
(Amends Section 76104.6 of the Government Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Floor (74-0)
Senate Public Safety (7-0)
Senate Floor (38-0)

Existing law provides that the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, an initiative measure, requires an additional penalty of $1 for every $10 or part thereof to be levied in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, as specified. The act requires the county board of supervisors to establish in the county treasury a DNA Identification Fund, into which the collected penalties are to be deposited. The act specifies the purposes for which funds in the county's DNA Identification Fund may be used, including to reimburse local sheriff, police, district attorney, and regional state crime laboratories for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples, as specified. The act provides for its amendment by the Legislature if the amendments further the act and are consistent with its purposes to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime solving and exonerating the innocent.

This bill provides that, if authorized by a resolution of the board of supervisors, a local sheriff or police department, or the district attorney's office, may use funds remaining in the county's DNA Identification Fund, either independently or in combination with remaining funds from another county, to provide supplemental funding to a qualified local or regional state forensic laboratory, as defined, for expenditures and administrative costs made or incurred in connection with the processing, analysis, and comparison of DNA crime scene samples and forensic identification samples, and testimony related to that analysis, as specified.

Domestic Violence

SB 430 (Kehoe): Chapter 129: Domestic violence: strangulation.
(Amends Section 273.5 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (5-0)
Senate Floor (39-0)
Senate Concurrence (37-0)
Assembly Public Safety (7-0)
Assembly Floor (78-0)

Existing law establishes various crimes against the person, such as assault and battery, and provides that any person who willfully inflicts upon a person who is his or her spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her

child, corporal injury resulting in a traumatic condition, is guilty of a felony punishable by imprisonment in the state prison for 2, 3, or 4 years, or by incarceration in a county jail not exceeding one year, or by a fine, or by both imprisonment and a fine, as specified. In this context, a "traumatic condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

This bill specifies that "traumatic condition" includes injury as a result of strangulation or suffocation and defines the terms "strangulation" and "suffocation" for those purposes.

SB 557 (Kehoe): Chapter 262: Family justice centers.
(Adds and repeals Title 5.3 (commencing with Section 13750) of Part 4 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (6-0)
Senate Judiciary (5-0)
Senate Appropriations (9-0)
Senate Floor (39-0)
Senate Concurrence (34-0)
Assembly Public Safety (7-0)
Assembly Judiciary (9-0)
Assembly Floor (76-0)

Existing law provides for various services and programs to assist victims of crime, including grants to child sexual exploitation and abuse victim counseling centers and prevention programs, and the establishment of a resource center to operate a statewide, information service consisting of legal information for crime victims and providers of services to crime victims.

This bill authorizes the cities of San Diego and Anaheim, and the counties of Alameda and Sonoma, until January 1, 2014, to establish a multiagency, multidisciplinary family justice center to assist victims of domestic violence, officer-involved domestic violence, sexual assault, elder or dependent adult abuse, stalking, cyberstalking, cyberbullying, and human trafficking, to ensure that victims are able to access all needed services in one location and to enhance victim safety, increase offender accountability, and improve access to services for victims of crime, as provided. The bill permits the family justice centers to be staffed by law enforcement, medical, social service, and child welfare personnel, among others. This bill requires each center to consult with community-based crime victim agencies, survivors of violence and abuse, and their advocates in the operation of the family justice center and to develop a procedure for input, feedback, and evaluation of the family justice center.

The bill prohibits victims of crime from being denied services at a center on the grounds of criminal history and prohibits a criminal history search from being conducted without the victim's written consent, unless the criminal history search is pursuant to an active

criminal investigation. Each family justice center shall develop policies and procedures to ensure coordinated services are provided and to enhance the safety of victims and professionals at the family justice centers, as specified. Each center shall maintain an informed consent policy and comply with all state and federal laws protecting the confidentiality of victims' information. The National Family Justice Center Alliance, with private funds, shall contract with an independent organization to evaluate and prepare a report on the family justice centers. The independent organization shall report to the Office of Privacy Protection and the National Family Justice Center Alliance for review and comment, and then submit the report to the Assembly Committee on Judiciary, the Senate Committee on Judiciary, the Assembly Committee on Public Safety, and the Senate Committee on Public Safety, no later than January 1, 2013. The National Family Justice Center Alliance may submit recommendations for statewide legislation, best practices, and model policies and procedures in its comments to the independent evaluation organization. Each family justice center shall maintain a formal training program with mandatory training for all staff members, volunteers, and agency professionals, as specified.

SB 723 (Pavley): Chapter 155: Restraining orders.
(Amends Section 136.2 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (39-0)
Assembly Public Safety (7-0)
Assembly Appropriations (16-0)
Assembly Floor (76-0)

Existing law authorizes any court with jurisdiction over a criminal matter to issue protective orders upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur. Current law requires, in cases where a defendant has been convicted of felony domestic violence, the sentencing court to consider issuing an order restraining the defendant from any contact with the victim, which may be valid for up to 10 years, as specified.

This bill expands the court's authority regarding restraining orders in domestic violence cases, authorizing a court to issue a protective order for up to 10 years, regardless of the sentence. The bill states that it "is the intent of the Legislature in enacting this subdivision that the duration of any restraining order issued by the court be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family."

Elder Abuse

SB 586 (Pavley): VETOED: Banks and credit unions: signature stamps.
(Adds Sections 953.5 and 14409.5 to the Financial Code, and amends Section 368 of the Penal Code.)

***Legislative History*:**
Senate Banking and Financial Institutions (5-2)
Senate Public Safety (5-2)
Senate Appropriations (6-3)
Senate Floor (25-14)
Senate Concurrence (25-13)
Assembly Public Safety (5-2)
Assembly Appropriations (12-5)
Assembly Floor (48-27)

Existing law, the Banking Law, regulates the organization and operations of state-organized banks, and the California Credit Union Law regulates the organization and operation of credit unions, the willful violation of which is a crime. Existing law does not regulate the issuance or use of a signature stamp in financial transactions.

This bill would have defined "signature stamp" and would have regulated the issuance of a signature stamp by a state-organized bank or credit union to an accountholder and the use of the signature stamp by the accountholder in financial transactions with a bank or credit union. The bill would have required a stampholder to report a lost or stolen signature stamp to the bank or credit union, as specified.

Existing law prohibits various types of elder abuse, punishable by incarceration, fines, or both incarceration and fines, including imprisonment in the county jail not exceeding one year, or by a fine not to exceed $1,000, for specified types of abuse involving theft, embezzlement, forgery, fraud, or identity theft.

This bill would have increased the amount of each of the fines otherwise imposed for the existing law offenses, and would have provided that the additional fine amount be allocated to the adult protective services agency, or equivalent elder abuse prevention agency, of the county prosecuting the offense.

AB 332 (Butler): Chapter 366: Elder abuse.
(Amends Section 368 of the Penal Code.)

***Legislative History*:**
Assembly Aging and Long-Term Care (6-0)
Assembly Public Safety (7-0)
Assembly Floor (78-0)
Assembly Concurrence (76-0)
Senate Public Safety (7-0)
Senate Floor (37-0)

Existing law provides that any person who is not a caretaker of an elder or dependent adult, who knows or reasonably should know that the victim is an elder or a dependent adult, or any person who is a caretaker of an elder or dependent adult, and that person violates specified identity theft provisions of law, with respect to the property or personal identifying information of an elder or a dependent adult, is punishable by imprisonment in a county jail not exceeding one year, or in a state prison for 2, 3, or 4 years, when the moneys, labor, goods, services, or real or personal property taken or obtained is of a value exceeding $950.

This bill makes those offenses punishable by a fine not exceeding $2,500, or by imprisonment in the county jail not exceeding one year, or by both that fine or imprisonment, or alternatively by a fine not exceeding $10,000, or by imprisonment in a state prison for 2, 3, or 4 years, or by both that fine and imprisonment, if the value of the assets taken is of a value exceeding $950.

AB 1293 (Blumenfield): Chapter 371: Elder abuse: theft or embezzlement: restitution.
(Adds Section 186.12 to the Penal Code.)

***Legislative History*:**
Assembly Aging and Long-Term Care (5-0)
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Concurrence (76-0)
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (34-0)

Existing law provides criminal penalties for any person who commits a crime involving theft, embezzlement, forgery, fraud, or identify theft, with respect to the property or personal information of the elder or dependent adult.

This bill authorizes the prosecuting agency, as defined, in conjunction with a criminal proceeding alleging theft or embezzlement of property of an elder or dependent adult worth $100,000 or more, to file a petition, as prescribed, with the superior court of the county in which the defendant has been charged with the underlying criminal offense, for preservation of property of the defendant for purposes of restitution to the victim.

Elections

SB 168 (Corbett): VETOED: Petitions: compensation for signatures.
(Adds Section 102.5 to the Elections Code.)

***Legislative History*:**
Senate Elections and Constitutional Amendments (3-2)
Senate Public Safety (5-2)
Senate Appropriations, SR 28.8
Senate Floor (23-15)
Assembly Elections and Redistricting (5-2)
Assembly Appropriations (10-5)
Assembly Floor (48-28)

Existing law provides that a person who is a voter or is qualified to register to vote in this state may circulate an initiative or referendum petition, and a person who is a voter may circulate a recall petition.

This bill would have provided that it is a misdemeanor for a person to pay or to receive money or any other thing of value based on the number of signatures obtained on a state or local initiative, referendum, or recall petition and would prescribe penalties for doing so.

AB 547 (Gatto): Chapter 260: Voting.
(Adds Section 18573.5 to the Elections Code.)

***Legislative History*:**
Assembly Elections and Redistricting (6-0)
Assembly Appropriations (17-0)
Assembly Floor (75-0)
Assembly Concurrence (71-0)
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (38-0)

Existing law permits a voter who is unable to mark a ballot to receive the assistance of not more than 2 persons, selected by the voter, at a polling place. In addition, existing law imposes criminal penalties on specified activities that interfere with another person's right to vote, including defrauding a voter who cannot read the ballot by deceiving and causing him or her to vote for a candidate that he or she did not intend to vote for.

This bill provides that a person is guilty of a misdemeanor if he or she, while providing care or direct supervision to an elder, as defined, in a state-licensed or state-subsidized facility or program, coerces or deceives the elder into voting for or against a candidate or measure contrary to the elder's intent or in the absence of any intent of the elder to cast a vote for or against that candidate or measure. A violation of that provision would be punishable by imprisonment in a county jail or a fine or by both that imprisonment and fine.

Firearms and Dangerous Weapons

SB 427 (De León): VETOED: Ammunition and firearms.
(Amends Section 3479 of the Civil Code, and amends Sections 16650, 30312, 30352, 30355, 30357, 30362, and 30365 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (5-2)
Senate Appropriations, SR 28.8
Senate Floor (22-14)
Senate Concurrence (21-18)
Assembly Public Safety (5-2)
Assembly Appropriations (11-5)
Assembly Floor (48-30)

Existing law authorizes issuance of an injunction prohibiting specified criminal gang activity for purposes of abating a nuisance.

This bill would have required the court issuing an injunction against gang activity, as specified, to state on the record whether any or all of the defendants are enjoined from possessing a firearm as a term of the injunction.

Existing law defines "handgun ammunition" for most purposes as ammunition principally for use in handguns, notwithstanding that the ammunition may also be used in some rifles.

This bill would have deleted the phrase "principally" from that definition and recast the definition of handgun ammunition to mean ammunition capable of being used in pistols, revolvers, and other firearms capable of being concealed upon the person, notwithstanding that the ammunition may also be used in some rifles. Further, the bill would have defined "handgun ammunition" for the purposes of delivery or transfer of handgun ammunition and for the purposes of specified provisions related to handgun ammunition vendors as any variety of ammunition of a specified caliber, notwithstanding that the ammunition may also be used by some rifles.

Existing law prohibits a vendor from selling or otherwise transferring ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor. Existing law also provides that the records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.

This bill would have required that the information described above in connection with the transfer of handgun ammunition be legibly or electronically recorded. The bill would have provided that commencing February 1, 2012, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the information described above to any 3rd party without the written consent of the purchaser or transferee and requires the records to be maintained in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill also would have permitted records containing that information to be copied for investigatory or enforcement purposes by any person authorized to inspect those records, as specified. The bill would have provided that anyone who uses, copies, or discloses any of the information for any purpose that is unauthorized by these provisions is guilty of a misdemeanor. Any required ammunition records that are no longer required to be maintained would have been required to be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill would have provided that violation of these provisions is a misdemeanor.

This bill would have required ammunition vendors, commencing February 1, 2012, to provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent to conduct business in the jurisdiction, and to obtain any regulatory or business license required by the jurisdiction for ammunition sellers.

Existing law provides that the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face transaction with the deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee.

This bill also would have provided that handgun ammunition may be purchased over the Internet or through other means of remote ordering if a handgun ammunition vendor in California initially receives the ammunition and processes the transfer, as specified.

Existing law provides that a handgun ammunition vendor shall not permit any employee who the vendor knows or reasonably should know is a person prohibited from possessing firearms, as specified, to handle, sell, or deliver handgun ammunition in the course and scope of employment. Existing law also provides that a handgun ammunition vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor. Existing law, operative January 1, 2012, provides that specified records of handgun ammunition transfers created by handgun ammunition vendors shall be subject to inspection by a peace officer district attorney or by an employee of the Department of Justice, as specified.

This bill would have made a violation of these provisions a misdemeanor.

SB 610 (Wright): Chapter 741: Firearms: concealed weapons permits.
(Amends Sections 26165, 26190, and 26205 of, and adds Section 26202 to, the Penal Code.)

***Legislative History*:**
Senate Public Safety (4-1)
Senate Appropriations (8-0)
Senate Floor (29-8)
Senate Concurrence (27-9)
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (52-13)

Existing law establishes an application process, including a determination of good cause and completion of a training course, for persons seeking a license to carry a concealed firearm. Existing law authorizes the licensing authority of any city, city and county, or county to charge a fee in addition to the application fee in an amount equal to the actual costs for processing the application for a new license, excluding fingerprint and training costs, but in no case to exceed $100. Existing law provides that no requirement, charge, assessment, fee, or condition that requires the payment of any additional funds by the applicant, other than those costs already specified in those provisions, may be imposed by any licensing authority as a condition of the application for a license.

This bill provides that the applicant not be required to pay for any training courses prior to a determination of good cause being made, as specified. The bill clarifies that the application fee for a new license includes the costs of required notices. The bill also provides that no applicant be required to obtain liability insurance as a condition of the license.

This bill requires the licensing authority to provide written notification of the determination of good cause to the applicant, as specified.

Existing law requires the licensing authority to give written notice to the applicant indicating if the license is approved or denied within 90 days of the initial application for a new license or a license renewal, or 30 days after receipt of the applicant's criminal background check from the Department of Justice, whichever is later.

This bill also requires that the notice provide which requirement was not satisfied, if the license is denied.

SB 819 (Leno): Chapter 743: Firearms.
(Amends Section 28225 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (5-2)
Senate Appropriations (6-2)
Senate Floor (22-16)
Assembly Public Safety (5-2)
Assembly Appropriations (12-5)
Assembly Floor (50-27)

Existing law authorizes the Department of Justice to require a firearms dealer to charge each firearm purchaser a fee, as specified, to fund various specified costs in connection with, among other things, a background check of the purchaser, and to fund the costs associated with the department's firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms.

This bill also authorizes using those charges to fund the department's firearms-related regulatory and enforcement activities related to the possession of firearms, as specified.

SJR 7 (Padilla): Resolution Chapter 63: Large capacity ammunition magazines.

***Legislative History*:**
Senate Public Safety (5-2)
Senate Floor (21-15)
Assembly Public Safety (5-2)
Assembly Floor (47-27)

This resolution urges the President and the Congress of the United States to enact the Large Capacity Ammunition Feeding Device Act.

AB 144 (Portantino): Chapter 725: Firearms: open carry.
(Amend Sections 7574.14 and 7582.2 of the Business and Professions Code, and amends Sections 16520, 16750, 16850, 25595, and 25605 of, adds Sections 626.92, 16950, 17040, 17295, 17512, and 25590 to, and adds Chapter 6 (commencing with Section 26350) to Division 5 of Title 4 of Part 6 of, the Penal Code.)

***Legislative History*:**
Assembly Public Safety (5-2)
Assembly Appropriations (12-5)
Assembly Floor (46-29)
Assembly Concurrence (48-30)
Senate Public Safety (4-2)
Senate Appropriations, SR 28.8
Senate Floor (21-18)

Existing law, subject to certain exceptions, makes it an offense to carry a concealed handgun on the person or in a vehicle, as specified. Existing law provides that firearms carried openly in belt holsters are not concealed within the meaning of those provisions.

This bill establishes an exemption to the offense for transportation of a firearm between certain areas where the firearm may be carried concealed, or loaded, or openly carried unloaded, as specified.

Existing law prohibits, with exceptions, a person from possessing a firearm in a place that the person knows or reasonably should know is a school zone, as defined.

This bill exempts a security guard authorized to openly carry an unloaded handgun and an honorably retired peace officer authorized to openly carry an unloaded handgun from that prohibition.

Existing law, subject to certain exceptions, makes it an offense to carry a loaded firearm on the person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.

This bill, subject to exceptions, makes it a misdemeanor to openly carry an unloaded handgun on the person or openly and exposed in a motor vehicle in specified public areas and would make it a misdemeanor with specified penalties to openly carry an exposed handgun in a public place or public street, as specified, if the person at the same time possesses ammunition capable of being discharged from the handgun, and the person is not in lawful possession of the handgun, as specified.

Existing law makes it a misdemeanor for any driver or owner of a motor vehicle to allow a person to bring a loaded firearm into the motor vehicle in a public place, as specified.

This bill expands the scope of that crime to include allowing a person to bring an open and exposed unloaded handgun into the vehicle, as specified.

AB 809 (Feuer): Chapter 745: Firearms: long gun registration.
(Amends Section 21628.2 of the Business and Professions Code, amends Sections 17000, 26600, 26610, 26615, 26805, 26820, 26840, 26845, 26850, 26865, 26890, 26905, 26955, 26960, 26965, 27050, 27060, 27065, 27130, 27400, 27410, 27415, 27540, 27560, 27565, 27590, 27600, 27610, 27615, 27655, 27660, 27665, 27730, 27860, 27875, 27880, 27920, 28000, 28060, 28100, 28160, 28170, 28180, 28210, 28215, 28220, 28230, 28240, 28245, 28400, 28410, 28415, 30105, 30150, 30160, 30165, 31705, 31715, 31720, 31735, 33850, 33860, 33865, 34355, 34365, and 34370 of, amends and repeals Sections 27110, 27710, 27870, 27915, 27965, 28165, 31775, 31795, and 33890 of, amends, repeals, and adds Section 11106 of, and adds Section 27966 to, the Penal Code.)

***Legislative History*:**
Assembly Public Safety (5-1)
Assembly Appropriations (11-6)
Assembly Floor (47-29)
Assembly Concurrence (47-29)
Senate Public Safety (5-1)
Senate Appropriations (6-3)
Senate Floor (21-19)

Existing law generally regulates the transfer of firearms and provides for retaining specified information regarding firearm transfers by the Department of Justice. Existing law establishes different requirements regarding reportable information for handguns and firearms that are not handguns. Under existing law, the Department of Justice requires

firearms dealers to keep a register or record of electronic or telephonic transfers of information pertaining to firearms transactions, as specified. Existing law exempts from these requirements certain transactions involving firearms that are not handguns.

This bill conforms those provisions so that the transfers and information reporting and retention requirements for handguns and firearms other than handguns are the same. This bill provides that those exemptions become inoperative on January 1, 2014.

Existing law, subject to specified exceptions, prohibits peace officers, Department of Justice employees, and the Attorney General from retaining or compiling certain information relating to transactions regarding firearms that are not handguns, as specified. A violation of these provisions is a misdemeanor.

This bill provides that those provisions are repealed on January 1, 2014, and thereafter requires those peace officers to retain and compile information regarding firearms that are not handguns, as specified.

Existing law requires a personal handgun importer to report certain information relative to bringing a handgun into the state, as specified. Violation of these provisions is a misdemeanor.

This bill, commencing January 1, 2014, applies these reporting requirements instead to a "personal firearm importer," as defined, and expands the reporting requirements to apply to the importation of firearms that are not handguns. The bill further prohibits a personal firearm importer from importing a firearm that is a .50 BMG rifle or a destructive device.

AB 1402 (Committee on Public Safety): Chapter 285: Deadly weapon statutes. (Amends Sections 527.6, 527.8, 527.85, and 527.9 of the Code of Civil Procedure, amends Section 49330 of the Education Code, amends Section 6389 of the Family Code, amends Sections 6254 and 53071.5 of the Government Code, amends Sections 166, 171c, 171.7, 186.22, 273.6, 626.95, 626.10, 629.52, 1203.4, 1203.4a, 2933.5, 2962, 11105, 11105.03, 11106, 12003, 23505, 25105, and 29510 of the Penal Code, and amends Sections 8103 and 15657.03 of the Welfare and Institutions Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Floor (77-0)
Assembly Concurrence (78-0)
Senate Public Safety (5-1)
Senate Floor (38-1)

Existing law generally regulates deadly weapons. Existing law, operative January 1, 2012, reorganizes and renumbers sections of the Penal Code relating to deadly weapons.

This bill makes nonsubstantive cross-reference changes to provisions of law that reference various deadly weapons provisions in the Penal Code that have been

reorganized and renumbered, to be operative January 1, 2012. The bill makes additional technical, nonsubstantive changes to some of those provisions.

Juvenile Justice

SB 695 (Hancock): Chapter 647: County juvenile detention facilities: Medi-Cal.
(Amends Section 14011.10 of, and adds and repeals Section 14011.11 of, the Welfare and Institutions Code.)

***Legislative History*:**
Senate Health (9-0)
Senate Appropriations (9-0)
Senate Floor (40-0)
Senate Concurrence (39-0)
Assembly Health (19-0)
Assembly Appropriations (17-0)
Assembly Floor (76-0)

Existing law generally provides for the detention of minors in the juvenile justice system, and for Medi-Cal, as specified.

This bill authorizes, until January 1, 2014, Medi-Cal benefits to be provided to a Medi-Cal eligible individual awaiting adjudication in a county juvenile detention facility, if specified conditions are met.

SB 913 (Pavley): Chapter 256: Juvenile offenders: medical care.
(Amends Section 739 of the Welfare and Institutions Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Floor (40-0)
Senate Concurrence (34-0)
Assembly Health (18-0)
Assembly Public Safety (7-0)
Assembly Floor (76-0)

Existing law provides that when a minor is taken into temporary custody and is in need of medical, surgical, dental, or other remedial care, the probation officer may authorize the performance of that care, as specified. Existing law requires the probation officer to notify the minor's parent or guardian prior to the provision of the medical care.

This bill provides that a probation officer may authorize medical care for a minor who is taken into temporary custody under specified circumstances.

AB 177 (Mendoza): Chapter 258: Parenting classes.
(Amends Section 727.7 of the Welfare and Institutions Code.)

***Legislative History*:**
Assembly Public Safety (6-0)
Assembly Floor (67-0)
Assembly Concurrence (77-0)
Senate Public Safety (6-0)
Senate Floor (38-0)

Existing law gives juvenile courts broad discretion to make reasonable orders for the care, supervision, custody, conduct, maintenance, and support of minors adjudged to be delinquent. In addition, existing law authorizes juvenile courts to direct orders to the parent or guardian of a minor who is subject to any proceedings under the Juvenile Court Law as the court deems necessary and proper for the best interest or rehabilitation of the minor. Existing statute also expressly provides that if a minor is found to be delinquent by reason of the commission of a gang-related offense, and the court finds that the minor is a first-time offender and orders that a parent or guardian retain custody of that minor, the court may order the parent or guardian to attend antigang violence parenting classes.

This bill expands the explicit statutory authority of the juvenile court to order the parent or guardian of a minor to attend antigang violence parenting classes to additionally apply to a minor who is within the jurisdiction of the juvenile court for habitual disobedience, a curfew violation, truancy, or an offense that is not gang-related if the court finds the presence of significant risk factors for gang involvement on the part of the minor.

AB 220 (Solorio): Chapter 356: Interstate Compact for Juveniles.
(Amends Section 1403 of the Welfare and Institutions Code.)

***Legislative History*:**
Assembly Public Safety (6-0)
Assembly Appropriations (16-0)
Assembly Floor (77-0)
Assembly Concurrence (79-0)
Senate Public Safety (7-0)
Senate Appropriations (9-0)
Senate Floor (38-0)

Existing law provides for the Interstate Compact for Juveniles which, among other things, provides for the establishment of rules and procedures for the tracking and supervision or return of juveniles and juvenile offenders among compacting states. Existing law makes the Interstate Compact for Juveniles operative in this state, and designates the executive director of the Correction Standards Authority as the compact administrator, until January 1, 2012.

This bill extends the operation of those provisions in this state until January 1, 2014.

AB 396 (Mitchell): Chapter 394: Juvenile detention facilities: Medi-Cal.
(Adds Sections 14053.8 and 14053.9 to the Welfare and Institutions Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Health (18-0)
Assembly Appropriations (17-0)
Assembly Floor (75-0)
Assembly Concurrence (79-0)
Senate Health (9-0)
Senate Public Safety (7-0)
Senate Appropriations (9-0)
Senate Floor (35-0)

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. Existing law also generally provides for the case and custody of juvenile offenders.

This bill requires the Department of Health Care Services to develop a process to allow counties to receive any available federal financial participation for acute inpatient hospital services and inpatient psychiatric services provided to juvenile inmates who are admitted as inpatients in a medical institution off the grounds of the correctional facility, and who, but for their institutional status as inmates, are otherwise eligible for Medi-Cal benefits, as specified.

AB 446 (Carter): VETOED: Restorative justice.
(Adds Section 237 to the Welfare and Institutions Code.)

***Legislative History*:**
Assembly Public Safety (5-2)
Assembly Appropriations (12-5)
Assembly Floor (50-24)
Senate Public Safety (4-3)
Senate Appropriations, SR 28.8
Senate Floor (24-12)

Existing law sets forth the purposes of the juvenile law, as specified.

This bill would have authorized a county to adopt a restorative justice program for juveniles, as specified.

AB 1122 (John A. Pérez): Chapter 661: Tattoo removal.
(Adds and repeals Section 1916 to of the Welfare and Institutions Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (16-0)
Assembly Floor (78-0)
Assembly Concurrence (78-1)
Senate Public Safety (7-0)
Senate Appropriations (9-0)
Senate Floor (38-0)

Existing law establishes a pilot program requiring the Division of Juvenile Facilities of the Department of Corrections and Rehabilitation to purchase two medical laser devices for the removal of tattoos, as specified, from eligible participants who are at-risk youth, ex-offenders, and current or former gang members, as specified.

This bill additionally establishes the California Voluntary Tattoo Removal Program, as specified.

Penalty Assessments

AB 412 (Williams): Chapter 268: Emergency medical services.
(Adds and repeals Section 76104.1 of the Government Code, and adds and repeals Section 42007.5 of the Vehicle Code.)

***Legislative History*:**
Assembly Health (15-0)
Assembly Local Government (9-0)
Assembly Appropriations (17-0)
Assembly Floor (72-0)
Senate Health (8-0)
Senate Public Safety (7-0)
Senate Floor (33-2)

Existing law, until January 1, 2011, provided, upon the establishment of a Maddy EMS Fund in Santa Barbara County, that the amount that would have been collected as penalty assessments pursuant to the above provision shall be deposited in the Maddy EMS Fund established by the county.

This bill reenacts those provisions that were repealed on January 1, 2011, until January 1, 2014. The bill requires the Board of Supervisors for Santa Barbara County, if it adopts a resolution to implement these provisions, to report to the Legislature whether, and to the extent that, any actions are taken by Santa Barbara County to implement alternative local sources of funding. The bill also makes specified findings and declarations that the special legislation contained in the act is necessarily applicable only to Santa Barbara County.

Public Safety/Criminal Justice Realignment

THE "2011 CALIFORNIA PUBLIC SAFETY REALIGNMENT": AB 109 AND RELATED MEASURES

The "2011 Realignment Legislation Addressing Public Safety" ("criminal justice realignment"[1]) fundamentally alters how convicted felons will be handled under California law.[2] In his signing message, Governor Edmund G. Brown, Jr., declared, "California's correctional system has to change, and this bill is a bold move in the right direction. For too long, the State's prison system has been a revolving door for lower-level offenders and parole violators who are released within months—often before they are even transferred out of a reception center. Cycling these offenders through state prisons wastes money, aggravates crowded conditions, thwarts rehabilitation, and impedes local law enforcement supervision."[3]

Criminal justice realignment occurs in a context that includes a recidivism rate reported to be among the highest in the nation,[4] and a state prison system which, as of June 2011, had approximately 143,500 adult inmates – a population level of about 179 percent of the design capacity for California's prisons.[5] In a May 23, 2011, decision, the United States Supreme Court affirmed the judgment of a three-judge panel convened pursuant to the Prison Litigation Reform Act of 1995 (18 U. S. C. § 3626) ordering California to reduce its prison population to no more than 137.5 percent of its design capacity within 2 years of the panel's order.[6] In its June 2011 response to these decisions, the state submitted that realignment, "(o)nce funded and implemented, . . . will dramatically reduce prison

---

[1] In 2011, realignment – the shifting of programs and responsibilities from the state to local governments - also began in other government areas, such as child welfare services, foster care, and adoptions, mental health services, substance abuse treatment, and adult protective services. This discussion is limited to the 2011 criminal justice realignment.

[2] AB 109 (Committee on Budget) (Ch. 15, Stats. 2011) is the principal measure establishing the 2011 public safety realignment. As discussed in the text, several subsequent measures revised AB 109 and enacted additional provisions relating to other aspects of realignment.

[3] AB 109 Signing Message (http://gov.ca.gov/docs/AB_109_Signing_Message.pdf).

[4] *Brown v. Plata* (2011) 131 S.Ct. 1910, 1942 ("The former head of correctional systems in Washington, Maine, and Pennsylvania, likewise referred to California's prisons as "'criminogenic.'" . . . The Yolo County chief probation officer testified that "'it seems like [the prisons] produce additional criminal behavior.'" . . . A former professor of sociology at George Washington University reported that California's present recidivism rate is among the highest in the Nation. . . . And the three-judge court noted the report of California's Little Hoover Commission, which stated that "s[e]ach year, California communities are burdened with absorbing 123,000 offenders returning from prison, often more dangerous than when they left." (citations omitted.)

[5] Defendants' Report in Response to January 12, 2010, Order, dated June 7, 2011. (*Coleman v. Brown, Plata v. Brown*, Three-Judge Court No. 2:90-cv-00520 LKK JFM P.)

[6] *Brown v. Plata, supra,* 131 S.Ct. 1910.

crowding by authorizing a realignment that will require tens of thousands of adult felons to serve their sentences under local authority."[7]

Together with directing hundreds of millions of dollars from state revenue sources to local governments for public safety purposes,[8] five key reforms reflect the essential changes put in play by criminal justice realignment:

- Beginning October 1, 2011, certain felons – generally, offenders who have never been convicted of a "serious" or "violent" crime, an aggravated white collar crime, or required to register as a sex offender – will serve their felony sentences in local custody, and not in state prison;
- Beginning October 1, 2011, some offenders released from prison who historically would have been subject to a 3-year parole period instead will be subject to a 3-year period of local "postrelease community supervision," as specified;
- Beginning October 1, 2011, courts will hear and decide petitions to revoke supervision and impose custodial sanctions for persons who are under local postrelease community supervision after having served time in prison, as specified;
- Beginning October 1, 2011, persons who have been released from prison on either parole or local postrelease community supervision cannot be returned to prison for a violation of any condition of release – any custodial punishment will be served in county jail; and
- Beginning July 1, 2013, courts will hear and decide petitions to revoke supervision and impose custodial sanctions for persons who are under either state parole or local postrelease community supervision after having served time in prison, as specified.

As discussed in more detail below, criminal justice realignment reforms cover the following general areas:

I. Incarceration: felons will be subject to serving their term of imprisonment in state prison or local custodial facilities depending upon their crimes and criminal record histories;
II. Parole or Postrelease Community Supervision: felons released from prison will be supervised either by state parole or by local postrelease community supervision, depending upon the felony for which they have just served time in prison;
III. Parole or Postrelease Community Supervision Revocations: parole revocations will be adjudicated by the Board of Parole Hearings until July of 2013, and postrelease community supervision revocations will be adjudicated by the courts commencing on October 1, 2011; on and after July 1, 2013, courts will adjudicate both parole and postrelease community supervision revocations;

---

[7] Defendants' Report in Response to January 12, 2010, Order, dated June 7, 201, *supra*, fn. 4.
[8] *See* Section IV, *infra*.

IV. Funding and Local Capacity: criminal justice realignment is funded through specified revenue sources, and local capacity to implement criminal justice realignment is impacted by other changes in law; and

V. State and Local Leadership: statutory changes reshape the roles of local and state governments in promoting effective efforts and partnerships in state and local adult and juvenile criminal justice.[9]

In enacting criminal justice realignment, the Legislature adopted a number of specified findings and declarations, including reaffirming "its commitment to reducing recidivism among criminal offenders," and expressing its intent to "improve public safety through reinvesting resources into strategies more likely to improve outcomes among criminal offenders."[10]

2011 CRIMINAL JUSTICE REALIGNMENT LEGISLATION

Criminal justice realignment is reflected in a series of legislation enacted between April and September of 2011:

- AB 109 (Committee on Budget) (Ch. 15, Stats. 2011) is the main criminal justice realignment bill.
- AB 94 (Committee on Budget) (Ch. 23, Stats. 2011) is a budget trailer bill relating to the financing of local jails.
- AB 111 (Committee on Budget) (Ch. 16, Stats. 2011) is a budget trailer bill relating to the financing of local jails.
- AB 117 (Committee on Budget) (Ch. 39, Stats. 2011) is the first clean-up budget trailer bill to AB 109.
- SB 92 (Committee on Budget and Fiscal Review) is a public safety budget trailer bill.
- AB 118 (Committee on Budget) (Ch. 40, Stats. 2011) is the funding measure for the public safety realignment.
- SB 87 (Leno) (Ch. 33, Stats. 2011), the budget bill, includes appropriations to assist counties and principal stakeholders in planning for the implementation of the criminal justice realignment under AB 109.

---

[9] The further realignment of state juvenile justice resources, by providing for a "bed buy-back" system under which counties could continue to have access to the Division of Juvenile Justice ("DJJ") for an annual rate, was place-marked in AB 109 (*See, e.g.*, Section 620) but later eliminated in AB 117, AB 116 and SB 92. Thus, in this respect realignment does not include DJJ reforms. However, the 2011-12 state budget includes a "trigger" provision under which counties generally would be required to pay the state an annual rate of $125,000 for persons committed to DJJ if the Director of the Department of Finance makes specified findings concerning General Fund revenues by December 15, 2011, and, on or after January 1, 2012, makes specified budget reductions. (*See* Section 84 of SB 92, and Section 1 of AB 121 (Committee on Budget) (Ch. 41, Stats. 2011), which adds Section 3.94 to the Budget Act of 2011.)

[10] *See, e.g.,* Penal Code Section 17.5, enacted by AB 109. ("California must reinvest its criminal justice resources to support community-based corrections programs and evidence-based practices that will achieve improved public safety returns on this state's substantial investment in its criminal justice system.")

- SB 89 (Committee on Budget and Fiscal Review)(Ch. 35, Stats. 2011) dedicates a portion of the Vehicle License Fee to the Local Revenue Fund, which includes funding for the criminal justice realignment.
- AB 116 (Committee on Budget) (Ch. 136, Stats. 2011) is a clean-up budget trailer bill for AB 109 and the public safety trailer bill (SB 92).
- ABx1 16 (Blumenfield)(Ch. 13, Stats. 2011) is a clean-up budget trailer bill to AB 118, concerning funding for public safety realignment.
- ABx1 17 (Blumenfield)(Ch. 12, Stats. 2011) is a clean-up budget trailer bill for AB 109.
- SBx1 4 (Committee on Budget and Fiscal Review)(Ch. 14, Stats. 2011) is a clean-up budget trailer bill for ABx1 16, regarding public safety realignment funding.

DISCUSSION

I. Incarceration: Felons subject to state prison or local custodial facilities.

Under California law operative until October 1, 2011, a felony is a crime punishable by death or imprisonment in state prison.[11] Effective October 1, 2011, criminal justice realignment[12] redefines the term "felony" to include crimes punishable by imprisonment in a county jail, as specified, depending upon the criminal history of the offender.[13]

The confinement changes under criminal justice realignment – that is, modifications to where felons will serve their sentences in custody, either in state prison or in local facilities – apply only to persons sentenced on or after October 1, 2011. These changes are not retroactive; they do not apply to or in any way affect the sentences of persons sentenced prior to October 1, including those who are serving terms of imprisonment in state prison at the time realignment becomes effective. Accordingly, there is no "early release" of prison inmates under the criminal justice realignment.[14]

Two essential questions determine whether a convicted felon will serve time in state prison or a county custodial facility under realignment: (1) does the felony for which the person was convicted *expressly* provide for imprisonment in a county facility pursuant to subdivision (h) of Penal Code section 1170; and (2) if so, is the convicted offender

---

[11] (Penal Code Section 17.) This classification does not affect the ability of the court to suspend execution of a felony sentence and impose conditions of probation where allowable, supervised, and performed locally. (*See* Penal Code § 1203.1.) A misdemeanor is a crime punishable by imprisonment by 6 months or not more than one year. (Penal Code Sections 19 and 19.2.)

[12] For purposes of this document, "criminal justice realignment" is used broadly to refer to the cumulative statutory revisions concerning criminal law and correctional practices enacted in 2011 by the measures enumerated in the text above.

[13] Penal Code § 17, as amended by Section 228 of AB 109 and Section 6 of ABx1 17.

[14] Paragraph (6) of subdivision (h) of Section 1170 of the Penal Code, as amended by Sections 27 and 28 of AB 117, and Section 12 of ABx1 17, states: "The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011." With the exception of the role of courts in adjudicating parole violations, which starts on July 1, 2013, the major criminal law provisions of realignment will become operative on and after October 1, 2011. (*See* Section 68 of AB 117 and Section 46 of ABx1 17.)

otherwise ineligible for local custody – and therefore subject to prison – because of his or her criminal record history. Realignment provides that numerous felonies are punishable by a term of imprisonment in county jail – *not prison* – unless the crime of conviction or a defendant's criminal history makes the defendant ineligible for serving their felony sentence in jail.[15] This change, contained in subdivision (h) of Penal Code section 1170, applies only to criminal statutes which have been expressly amended to provide for a felony jail term where otherwise allowable.[16]

Even if a felony can be punished locally, certain felons nevertheless are categorically prohibited from serving an executed felony sentence in county jail. The following persons are *statutorily ineligible* to serve any executed felony sentence in county jail:

- The defendant has a *prior or current* felony conviction for:
  - a serious felony described in subdivision (c) of Section 1192.7, or
  - a violent felony described in subdivision (c) of Section 667.5;
- The defendant has a prior felony conviction in another jurisdiction for an offense that has all the elements of a serious or violent felony in California, as specified;
- The defendant is required to register as a sex offender; or
- The defendant is convicted of a crime and as part of the sentence receives an aggravated while collar crime enhancement, as specified.[17]

For convicted felony offenders subject to confinement in a county jail, courts are authorized to impose the felony sentence to commit a defendant to county jail as follows:

- For a full term in custody as determined in accordance with the applicable sentencing law.
- For a term as determined in accordance with the applicable sentencing law, but suspend execution of a concluding portion of the term selected in the court's discretion, during which time the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. During the period when the defendant is under such supervision, unless in actual custody

---

[15] Just like the law prior to realignment about the length of terms, if a term is not specified in the underlying offense, the crime shall be punishable by a term of imprisonment for 16 months, or two or three years and, for crimes where the underlying criminal statute specifies the term, the felony shall be punishable by imprisonment for the term described in the underlying offense. (*See* Penal Code Section 18, as amended in Section 230 of AB 109 and Section 7 of ABx1 17, and Penal Code Section 1170(h), as amended by Sections 27 and 28 of AB 117.)

[16] This feature of criminal justice realignment – that its newly-created felony jail sanction can be applied only to those criminal statutes expressly amended to include a cross-reference authorizing that sanction – largely accounts for the length of AB 109 (663 pages).

[17] Penal Code Section 1170(h) (3), as amended in Sections 450 and 451 of AB 109, Sections 27 and 28 of AB 117, and Section 12 of ABx1 17.

related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court.[18]

II. Post-Prison Supervision: Felons released from prison will be supervised either by state parole or by local postrelease community supervision, depending upon their commitment offense.

California law generally provides that persons who have served a determinate sentence in state prison for a felony are subject to up to three years of conditional release ("parole") supervised by the Department of Corrections and Rehabilitation ("CDCR").[19] This policy of providing a period of conditional, supervised release for felons immediately following a determinate prison term will continue.[20] Criminal justice realignment requires, however, that on and after October 1, 2011 some of these felons – generally depending upon the crime that sent them to prison – will be subject instead to postrelease community supervision ("PRCS") by a local entity determined by each county's board of supervisors. As explained more fully below, state parole will continue to supervise some felons immediately following their release from prison.

A. State Parole Supervision Following a Prison Term

Criminal justice realignment enacts a new post-prison release supervision structure which assigns felons either to state parole supervision or PRCS, depending upon the crime for which the offender has just served time in prison. Certain inmates are categorically excluded from PRCS; these offenders will be subject to state parole supervision. Specifically, prison inmates conditionally released after serving a sentence for one of the following crimes are statutorily excluded from PRCS, and will continue to be supervised by state parole:

1) A serious felony as described in subdivision (c) of Section 1192.7.
2) A violent felony as described in subdivision (c) of Section 667.5.
3) A crime for which the person has been sentenced to a life term under the 3-strikes law.
4) Any crime where the person eligible for release from prison is classified as a High Risk Sex Offender.
5) Any crime where the person is required, as a condition of parole, to undergo treatment by the Department of Mental Health as a mentally ill offender.

---

[18] Penal Code Section 1170(h) (5), as amended in Section 12 of ABx1 17.

[19] *See* Penal Code Section 3000. Parole periods for certain offenses, such as sex crimes, can exceed three years; realignment does not change the length of these parole periods.

[20] *See* Penal Code Section 3000(a) (1), as amended by Section 36 of AB 117. Persons sentenced for a *jail* felony pursuant to Penal Code Section 1170(h) are not subject to the same conditional, supervised release period immediately following completion of a prison sentence. However, as explained under Section I, *supra*, in these cases courts are authorized to suspend execution of a *concluding* portion of a term, at which time a defendant shall be supervised by county probation as ordered by the court, as specified. (*See* Penal Code Section 1170(h) (5), as amended in Section 12 of ABx1 17.)

6) Any felony committed while the person was on parole for a period exceeding three years where the person was required to register as a sex offender or was subject to parole for life, as specified.[21]

Inmates who are conditionally released on state parole on and after October 1, 2011, will continue to be subject to the same general discharge provisions as applicable under the law prior to criminal justice realignment. Inmates paroled on and after October 1, 2011, who are subject to up to three years of parole supervision and were not imprisoned for a serious or violent offense or required to register for a sex offense shall be discharged from parole after *six months* of continuous parole supervision unless CDCR recommends that the person be retained on parole and a determination based on good cause is made that the person should remain on parole, as specified.[22] Prior to realignment, this discharge was authorized after one year. These provisions apply prospectively. With respect to persons on parole *prior to* October 1, 2011, these discharge provisions apply only if the person has been on parole continuously for six consecutive months after October 1, 2011, and is not retained by the Board of Parole Hearings for good cause. Similarly, on or after October 1, 2011, eligible persons who have been on parole for one year and not retained by the Board of Parole Hearings are subject to discharge.[23]

B. "Grandfathered" Parolees: Persons Paroled Prior to October 1, 2011

As part of the criminal justice realignment transition, parolees who were released on parole *prior to* October 1, 2011, will continue to be supervised by state parole for the duration of their parole period regardless of their offense histories unless they are revoked to prison and released again conditionally. These "grandfathered" parolees – that is, persons released on parole before realignment becomes effective – shall remain under state parole supervision until one of the following occurs:

1) Jurisdiction over the parolee is terminated by operation of law.

2) The supervising agent recommends to the parole authority that the parolee be discharged and the parole authority approves the discharge.

3) The parolee is subject to a period of parole of up to three years and was not imprisoned for committing a violent felony, a serious felony, or is required to register as a sex offender, and completes six consecutive months of parole without violating their conditions, at which time the supervising agent shall review and make a recommendation on whether to discharge the offender to the parole authority and the parole authority approves the discharge.[24]

---

[21] Penal Code Section 3000.08, as amended by Sections 37 and 38 of AB 117, and Section 17 of ABx1 17; *see also* Penal Code Section 3451(b), as amended by Section 47 of AB 117.

[22] Penal Code Section 3001 as amended by Section 472 of AB 109, Section 41 of AB 117, and Section 20 of ABx1 17. The six-month discharge language in this section appears to contemplate a different operation than that described in Penal Code Section 3000.09(b)(3), discussed in the text, although both sections appear to apply to the same parolee population.

[23] *Id.*

[24] Penal Code Section 3000.09(b), as amended by Section 19 of ABx1 17.

As discussed in more detail below, these "grandfathered" parolees will be subject to parole revocation procedures by the Board of Parole Hearings until July 1, 2013, at which time they will become subject to revocation proceedings conducted by judicial officers.[25]

Parolees *in custody* on October 1, 2011, for a parole violation shall be subject to the following:

- Parolees being held in prison shall be subject to parole or PRCS, whichever applies to the parolee, upon the completion of a revocation term on or after November 1, 2011.
- Parolees being held in jail serving a term of parole revocation who are released directly from county jail without being returned to prison on or after October 1, 2011, shall remain under state parole supervision.
- Parolees pending final adjudication of a parole violation charge prior to October 1, 2011, may be returned to state prison, generally for up to 12 months, as specified.[26]

Unless they are subject to lifetime parole or a parole violation "hold" on October 1, 2011, under the criminal justice realignment parolees cannot be returned to prison for a parole violation; instead, they may be subject to a jail sanction of up to 180 days, under the legal custody and jurisdiction of local county facilities.[27]

C. *Postrelease Community Supervision ("PRCS") Following a Prison Term*

On and after October 1, 2011, persons released from prison after serving a determinate prison sentence for a non-excluded felony[28] will be subject to PRCS provided by a county agency designated by each county's board of supervisors "which is consistent with evidence-based practices, including, but not limited to, supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under postrelease supervision."[29] The criminal justice realignment codifies legislative findings and declarations including, with respect to PRCS, the following:

- Realigning the postrelease supervision of certain felons reentering the community after serving a prison term to local community corrections programs, which are strengthened through community-based punishment, evidence-based practices, and improved supervision strategies, will improve public safety outcomes among adult felon parolees and will facilitate their successful reintegration back into society.

---

[25] Penal Code Section 3000.09(d), as amended by Section 19 of ABx1 17. *See also,* Section III, *infra.*

[26] Penal Code Section 3000.09(b), as amended by Section 19 of ABx1 17.

[27] Penal Code Section 3056, as amended by Section 474 of AB 109, Section 44 of AB 117, and Section 22 of ABx1 17; Penal Code Section 3057, as amended by Section 23 of ABx1 17.

[28] *See* Section II (A), *supra,* for the description of felonies excluded from community supervision and subject to parole.

[29] Penal Code Section 3451 as enacted by Section 479 of AB 109 and amended by Section 47 of AB 117. Realignment requires counties notify CDCR on or before August 1, 2011 of the county agencies that have been designated as the local entity responsible for providing postrelease supervision. (Section 69, AB 117.)

- Community corrections programs require a partnership between local public safety entities and the county to provide and expand the use of community-based punishment for offenders paroled from state prison. Each county's local Community Corrections Partnership . . . should play a critical role in developing programs and ensuring appropriate outcomes for persons subject to postrelease community supervision.[30]

Prison inmates eligible for PRCS are required to enter into a postrelease community supervision agreement prior to, and as a condition of, their release from prison.[31] This agreement includes 19 statutorily-enumerated conditions of their release from prison. These conditions generally reflect parole conditions applicable to inmates released on parole, and additionally require an inmate to agree to a period of "flash incarceration" in county jail of not more than 10 consecutive days for any violation without the right to a court hearing.[32] Every person placed on PRCS, and his or her residence and possessions, are required by statute to be subject to search or seizure at any time of the day or night, with or without a warrant, by an agent of the supervising county agency or by a peace officer.[33]

Criminal justice realignment provides that PRCS shall not extend beyond three years from the date of the person's initial entry onto postrelease supervision, except when a bench or arrest warrant has been issued by a court or its designated hearing officer and the person has not appeared. During the time the warrant is outstanding, the supervision period shall be tolled and when the person appears before the court or its designated hearing officer the supervision period may be extended for a period equivalent to the time tolled.[34] PRCS is required to be "implemented by a county agency according to a postrelease strategy designated by each county's board of supervisors."[35]

PRCS continues until one of the following occurs:

1) The person has been subject to postrelease supervision pursuant to this title for three years at which time the offender shall be immediately discharged from postrelease supervision.
2) Any person on postrelease supervision for six consecutive months with no violations of his or her conditions of postrelease supervision that result in a custodial sanction may be considered for immediate discharge by the supervising county.
3) The person who has been on postrelease supervision continuously for one year with no violations of his or her conditions of postrelease supervision that result in a custodial sanction shall be discharged from supervision within 30 days.

---

[30] Penal Code Section 3450, as enacted by Section 479 of AB 109 and amended by Section 27 of ABx1 17.
[31] Penal Code Section 3452, as enacted by Section 479 of AB 109.
[32] Penal Code Section 3453, as enacted by Section 479 of AB 109, and amended by Section 48 of AB 117 and Section 28 of ABx1 17.
[33] Penal Code Section 3465, as enacted by Section 33 of ABx1 17.
[34] Penal Code Section 3455, as enacted by Section 479 of AB 109 and amended by Section 50 of AB 117 and Section 30 of ABx1 17.
[35] Penal Code Section 3451(c) (1), as amended by Section 47 of AB 117.

4) Jurisdiction over the person has been terminated by operation of law.
5) Jurisdiction is transferred to another supervising county agency.
6) Jurisdiction is terminated by the revocation hearing officer upon a petition to revoke and terminate supervision by the supervising county agency.[36]

Time during which a person on PRCS is suspended because the person has absconded shall not be credited toward any period of PRCS.[37]

Criminal justice realignment also provides a statutory process for the transfer of persons subject to PRCS between counties, as specified.[38]

D. Transitioning Inmates from Prison to PRCS

On and after October 1, 2011, CDCR is required to inform inmates subject to PRCS of the inmate's responsibility to report to the county agency that will supervise the inmate. CDCR also is required to notify the county of all information otherwise required for parolees, as specified, thirty days prior to the inmate's release, as specified.[39]

III. Parole and PRCS Violations and Revocations

A. Parole Violations and Revocations

Parole violations will continued to be addressed by parole agents according to the practices and regulations in place prior to criminal justice realignment; realignment does not make explicit statutory changes to the authority of parole agents in supervising persons subject to parole. The Board of Parole Hearings will continue to handle violation adjudications for all parolees until July 1, 2013. During that time, the parole authority shall have full power to suspend or revoke any parole for these persons, and its written order shall be a sufficient warrant for any peace or prison officer to return to actual custody any conditionally released or paroled prisoner.[40]

On and after July 1, 2013, when courts will assume specified functions relating to parole revocation, the following conditions will apply to persons supervised by state parole:

- Warrantless arrest if any parole agent or peace officer has probable cause to believe that the parolee is violating any term or condition of his or her parole, as specified;
- Additional and appropriate conditions of supervision imposed by the parole authority, including rehabilitation and treatment services and appropriate

---

[36] Penal Code Section 3456 as enacted by Section 479 of AB 109 and amended by Section 51 of AB 117 and Section 31 of ABx1 17.
[37] *Id.*
[38] Penal Code Section 3460 as enacted by Section 32 of ABx1 17.
[39] Penal Code Section 3451(c) (2), as enacted by Section 479 of AB 109 and amended by Section 47 of AB 117.
[40] Penal Code Section 3060, as enacted by Section 46 of AB 117.

incentives for compliance, and immediate, structured, and intermediate sanctions for parole violations, including flash incarceration[41] in a county jail; and

- A petition to revoke parole, where upon a finding that the parolee has violated conditions of parole, the parolee would face specified sanctions, including confinement in county jail that shall not exceed 180 days, as specified.[42]

Parolees subject to these provisions will not be returned to prison for a parole violation unless they are on lifetime parole. For lifetime parolees, if there is good cause to believe that the person has committed a violation of law or violated his or her conditions of parole, and there is imposed a period of imprisonment of longer than 30 days, that person shall be remanded to the custody of CDCR and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.[43] Once remanded, persons sentenced to a term of life imprisonment will continue to be subject to the parole revocation confinement provisions that existed prior to realignment.[44]

B. PRCS Violations

Supervising county agencies are required to establish a review process for assessing and refining a person's program of PRCS.[45] Any additional PRCS conditions are required to be reasonably related to the underlying offense for which the offender spent time in prison, or to the offender's risk of recidivism, and the offender's criminal history, and be otherwise consistent with law.[46]

Supervising county agencies responsible for persons subject to PRCS are authorized to determine additional appropriate supervision conditions consistent with public safety, order appropriate rehabilitation and treatment services, determine appropriate incentives and order appropriate responses to alleged violations, including immediate and structured sanctions. Sanctions may include referral to a reentry court or "flash incarceration" in a county jail, a period of detention in county jail which can range between one and ten consecutive days," as specified.[47]

---

[41] "Flash incarceration" is a period of detention in county jail defined to range between one and 10 consecutive days, as specified. Penal Code Section 3000.08 as enacted by Sections 37 and 38 of AB 117 and amended by Section 5 of AB 116.

[42] Penal Code Section 3000.08, as enacted by Section 38 of AB 117 and amended by Section 5 of AB 116 and Section 18 of ABx1 17. "Upon a finding that the person has violated the conditions of parole, the revocation hearing officer shall have authority to do any of the following: (1) Return the person to parole supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail. (2) Revoke parole and order the person to confinement in the county jail. (3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion."

[43] *Id. See* subdivision (h).

[44] Penal Code Section 3057 as amended by Section 23 of ABx1 17.

[45] Penal Code Section 3454, as enacted by Section 479 of AB 109 and amended by Section 49 of AB 117 and Section 29 of ABx1 17.

[46] *Id.*

[47] Penal Code Section 3454 as enacted by Section 479 of AB 109 and amended by Section 49 of AB 117.

C. PRCS Revocations

On and after October 1, 2011, the courts will hear revocation petitions for persons subject to PRCS.[48] Criminal justice realignment authorizes superior courts to appoint hearing officers, with specified qualifications, for these proceedings.[49]

Upon a finding that a person has violated the conditions of PRCS, the revocation hearing officer has the authority to do all of the following:

- Return the person to PRCS with modifications of conditions, if appropriate, including a period of incarceration in county jail.
- Revoke PRCS and order the person to confinement in the county jail.
- Refer the person to a reentry court or other evidence-based program in the court's discretion.[50]

Confinement sanctions ordered pursuant to these provisions cannot exceed a period of 180 days in the county jail.[51]

D. Parole and PRCS Revocations on and after July 1, 2013

On and after July 1, 2013, persons who are on either state parole or PRCS will be subject to the jurisdiction of the court in the county where the person is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody.[52]

Where intermediate sanctions are determined by the supervising county agency to be not appropriate, they may petition a revocation hearing officer to revoke and terminate PRCS, as specified.[53] Upon a violation finding, the hearing officer is authorized to impose the measures enumerated above.[54]

Revocation hearings are required to be held within a reasonable time after the filing of the revocation petition. "Based upon a showing of a preponderance of the evidence that a person under supervision poses an unreasonable risk to public safety, or the person may not appear if released from custody, or for any reason in the interests of justice, the

---

[48] Penal Code Section 3455, as enacted by Section 479 of AB 109 and amended by Section 50 of AB 117 and Section 30 of ABx1 17.

[49] Government Code Section 71622.5 as enacted by Section 1 of AB 117.

[50] Penal Code Section 3455, as enacted by Section 479 of AB 109 and amended by Section 50 of AB 117 and Section 30 of ABx1 17.

[51] *Id.*

[52] *Id. See also* Penal Code Section 3000.08, as enacted by Section 469 of AB 109 and amended by Section 5 of AB 116 and Section 18 of ABx1 17. As explained in Section II, *supra,* parolees who are being held for a parole violation in a county jail on July 1, 2013, shall be subject to the jurisdiction of the Board of Parole Hearings.

[53] Penal Code Section 3455 as enacted by Section 479 of AB 109 and amended by Section 50 of AB 117 and Section 30 of ABx1 17; Penal Code Section 3000.08, as enacted by Section 469 of AB 109 and amended by Section 5 of AB 116 and Section 18 of ABx1 17.

[54] *Id.*

supervising county agency shall have the authority to make a determination whether the person should remain in custody pending a revocation hearing, and upon that determination, may order the person confined pending a revocation hearing."[55]

At any time during the PRCS period, if any peace officer has probable cause to believe a person is violating any term or condition of his or her PRCS, the officer may arrest the person without a warrant or other process and bring him or her before the reviewing authority, as specified.[56] Supervising county agents also are expressly authorized to seek a warrant and a court or its designated hearing officer shall have the authority to issue a warrant for that person's arrest.[57] The criminal justice realignment also authorizes courts to issue a warrant for any person who is the subject of a petition filed under these provisions who has failed to appear for a hearing on the petition or for any reason in the interests of justice, or to remand to custody a person who does appear at a hearing on the petition for any reason in the interests of justice.[58]

Custody sanctions for PRCS violations are to be served in county jail. No person who is on PRCS may be returned to prison for a violation of any condition of the person's postrelease supervision agreement.[59] Similarly, no person who is on parole for less than life may be returned to prison for a violation of any condition of the person's parole.[60]

IV. Funding and Capacity: How local public safety realignment efforts will be funded; other changes impacting local capacity.

The criminal justice realignment is expressly contingent upon funding being made available for local implementation.[61] AB 118 (Committee on Budget),[62] subsequently revised and clarified by ABx1 16 (Blumenfield),[63] generally provides the funding for realignment through the establishment of the Community Corrections Grant Program. These measures create specified accounts in the "Local Revenue Fund 2011," and require moneys from identified tax sources and other moneys that may be specifically appropriated to be deposited in the Local Revenue Fund 2011 and to be continuously

---

[55] *Id.*

[56] *Id.*

[57] *Id.*

[58] *Id.*

[59] Penal Code Section 3458 as enacted in Section 479 of AB 109. This limitation applies solely to PRCS violations, and does not apply to a conviction for a new felony offense.

[60] Penal Code Section 3000.08 as enacted by Section 469 of AB 109 and amended by Section 5 of AB 116 and Section 18 of ABx1 17. This provision excludes persons to whom Penal Code section 3000.1 applies who are on parole where "there is good cause to believe that the person has committed a violation of law or violated his or her conditions of parole, and there is imposed a period of imprisonment of longer than 30 days, . . ." These persons are required to be remanded to the custody of CDCR and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.

[61] Section 636 of AB 109 states: "This act will become operative no earlier than July 1, 2011, and only upon creation of a community corrections grant program to assist in implementing this act and upon an appropriation to fund the grant program."

[62] Chapter 40, Statutes of 2011. ABx1 16 also was revised in SBx1 4 (Ch. 14, Stats. 2011), to rescind a provision that would have created a maintenance of effort requirement for cities for the receipt of funds from the Local Law Enforcement Services Account in the Local Revenue Fund 2011.

[63] Chapter 13, Statutes of 2011.

appropriated. Designated portions of the state sales tax are dedicated to funding the Local Revenue Fund "to be used exclusively for the public safety purposes" of AB 118, including criminal justice realignment.[64] A portion of the Vehicle License Fee is dedicated to the Local Revenue Fund for the public safety realignment.[65] In addition, the state budget provides for $489.9 million for local public safety grants through the "Local Law Enforcement Services Account."[66]

The criminal justice realignment lowers the county contribution for jail construction funding available under AB 900 (Solorio)(Ch. 7, Stats. of 2007) from 25 to 10 percent of the total project's costs, and additionally provides for the relinquishment of conditional awards under phased AB 900 funding programs, as specified, consistent with the reductions in county contributions under the program.[67]

The availability of jail construction funding is accelerated by shifting $132.9 million in undesignated funds appropriated in AB 900, from Phase I to Phase II, and removing requirements that this funding cannot be awarded until at least 4,000 local jail beds and 2,000 reentry beds are under construction or sited.[68] Criminal justice realignment also removes requirements under AB 900 that the state give funding preference to those counties seeking jail funding that assist the state in siting reentry facilities, or those that assist the state in siting mental health day treatment and crisis care and continuum of care programs for parolees, and instead requires that preference shall be given to counties that have the largest percentage of inmates in state prison in 2010.[69]

The criminal justice realignment generally provides for, effective October 1, 2011, day-for-day sentencing credit for qualifying county jail inmates.[70] These credit changes apply prospectively, to prisoners confined in a local custodial setting, as specified, for a crime committed on or after October 1, 2011. Credits do not apply to periods of flash incarceration, as specified.[71] Any days earned by a prisoner prior to that date are calculated at the rate required by the prior law.[72] Realignment also makes technical or

---

[64] Sections 3, 9, and 10 of AB 118.
[65] SB 89 (Committee on Budget and Fiscal Review)(Ch. 35, Stats. 2011).
[66] Section 3 of AB 118.
[67] Government Code Section 15820.17, as amended by Section 3 of AB 94 (Committee on Budget) (Ch. 23, Stats. 2011.)
[68] AB 111 (Committee on Budget) (Ch. 16, Stats. 2011).
[69] *Id.*
[70] Penal Code Section 4019 as amended by Section 482 of AB 109, Section 53 of AB 117, and Section 35 of ABx1 17. *See also* conforming changes to Penal Code Section 2933 in Section 16 of ABx1 17.
[71] Penal Code Section 4019 as amended by Section 35 of ABx1 17.
[72] *Id.* For a more detailed analysis of conduct credit changes, see *Awarding Conduct Credits Under P.C. §§ 4019 And 2933 After October 1, 2011,* Couzens and Bigelow, available online at http://www.courts.ca.gov /partners/documents/awarding_conduct_credits.pdf.

conforming revisions to statutory provisions concerning the denial or loss of these credits with respect to both CDCR and local custodial facilities, as specified.[73] Realignment also establishes discrete credit provisions applicable to county jail inmates assigned to a conservation camp by a sheriff or assigned as an inmate firefighter, as specified.[74]

Effective October 1, 2011, statutory reimbursement provisions under which CDCR has reimbursed cities or counties for the detention of parolees in jails are eliminated, as specified.[75]

Until January 1, 2015, upon agreement with the sheriff or director of the county department of corrections, county boards of supervisors are authorized to enter into contracts with other public agencies to provide housing for inmates sentenced to county jail in community correctional facilities, as specified, for inmates eligible after October 1, 2011.[76]

The criminal justice realignment authorizes counties to establish an electronic monitoring program for qualifying inmates being held in lieu of bail, as specified.[77]

Counties are authorized to contract with CDCR for the commitment of persons who have been convicted of a felony, and require offenders sentenced to a county jail who serve their sentence in the state prison pursuant to this section to comply with CDCR rules and regulations, as specified.[78]

The criminal justice realignment also authorizes, upon agreement with the sheriff or director of the county department of corrections, a board of supervisors to enter into a contract with CDCR to house inmates who are within 60 days or less of release from the state prison to a county jail facility for the purpose of reentry and community transition purposes. These inmates would be under the legal custody and jurisdiction of local county facilities and not under the jurisdiction of CDCR.[79]

---

[73] Penal Code Section 2932, as amended by Section 467 of AB 109, Section 35 of AB 117, and Section 15.5 of ABx1 17.

[74] Penal Code Section 4019.2, as enacted by Section 36 of ABx1 17.

[75] Penal Code Section 4016.5 as amended by Section 481 of AB 109 and Section 52 of AB 117.

[76] Penal Code Section 4115.55 as enacted by Section 53.3 of AB 117. Existing law authorizes CDCR to transfer determinately-sentenced inmates to community correctional centers, which "provide housing, supervision, counseling and other correctional programs" for inmates. (Penal Code Section 6250 *et seq.*)

[77] Penal Code Section 1203.018 as enacted by Section 455 of AB 109 and amended by Section 31 of AB 117.

[78] Penal Code Section 2057 as enacted by Section 461 of AB 109 and amended by Section 34 of AB 117.

[79] Penal Code Section 4115.56, as enacted by Section 37 of ABx1 17.

V. State and Local Leadership: Statutory changes affecting the roles of local and state governments in promoting effective efforts and partnerships in state and local adult and juvenile criminal justice.

A. Local Implementation Plans

Current law generally provides for a county-based "Community Corrections Partnership" ("CCP") with specified members responsible for developing a community corrections program pursuant to the California Community Corrections Performance Incentives Act of 2009.[80] The criminal justice realignment requires each county's CCP to recommend a local plan to the county board of supervisors for the implementation of the 2011 public safety realignment.[81] These plans "may include recommendations to maximize the effective investment of criminal justice resources in evidence-based correctional sanctions and programs, including, but not limited to, day reporting centers, drug courts, residential multiservice centers, mental health treatment programs, electronic and GPS monitoring programs, victim restitution programs, counseling programs, community service programs, educational programs, and work training programs."[82]

Local plans must be voted on by an executive committee of each county's CCP,[83] and shall be deemed accepted by the county board of supervisors unless the board rejects the plan by a vote of four-fifths, in which case the plan goes back to the CCP for further consideration.[84]

B. State Government

Effective July 1, 2012, SB 92 (Committee on Budget and Fiscal Review) [85] creates the Board of State and Community Corrections ("BSCC").[86] At that time the BSCC will supersede the Corrections Standards Authority ("CSA"), continue the CSA core functions,[87] and additionally assume some functions of the California Council on

---

[80] SB 678 (Leno) (Ch. 608, Statutes of 2009).

[81] Penal Code Section 1230.1 as enacted by Section 458 of AB 109 and amended by Section 33 of AB 117.

[82] *Id.*

[83] This executive committee is comprised of the following persons: the chief probation officer, who serves as chair; a chief of police; the sheriff; the District Attorney; the Public Defender; the presiding judge of the superior court (or designee); and, as designated by the board of supervisors, the head of the county's department of social services, mental health, or alcohol and substance abuse programs. (*Id.*)

[84] *Id.*

[85] Chapter 36, Stats. of 2011, technically amended in AB 116.

[86] Penal Code Section 6024, as repealed by Section 30, and added by Section 31, of SB 92.

[87] As explained on its website, the CSA "works in partnership with city and county officials to develop and maintain standards for the construction of local jails and juvenile detention facilities and operation of state and local jails and juvenile detention facilities, and for the selection and training of state and local corrections personnel. The CSA also inspects local adult and juvenile detention facilities; administers grant programs that respond to facility construction needs, juvenile crime and delinquency; and conducts special studies relative to the public safety of California's communities." (http://www.cdcr.ca.gov/CSA/Admin/About_us/CSA_Major_Duties_And_ Responsibilities.html) The Commission on Correctional Peace Officer Standards and Training, the functions of which had been folded into CSA when it was created as part of the Governor's Reorganization Plan of 2005 (SB 737 (Romero, Ch. 10, Stats. 2005), is not part of the new BSCC under realignment. (*See* Section 50 *et seq.* of SB 92.)

Criminal Justice and the Governor's Office of Gang and Youth Policy, both of which were eliminated as part of budget actions.[88]

The new BSCC will be an entity independent from CDCR. BSCC will continue to be chaired by the Secretary of CDCR, and by statute its vice-chair will be a local law enforcement representative, as specified. The BSCC will have 12 members, streamlined from both its immediate predecessor (CSA), with 19 members, and its former predecessor (the Board of Corrections), which had 15 members. Members will reflect state, local, judicial, and public stakeholders.[89]

In addition, BSCC will be charged with "providing statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system, including addressing gang problems. This mission shall reflect the principle of aligning fiscal policy and correctional practices, including, but not limited to prevention, intervention, suppression, supervision, and incapacitation, to promote a justice investment strategy that fits each county and is consistent with the integrated statewide goal of improved public safety through cost-effective, promising, and evidence-based strategies for managing criminal justice populations."[90]

BSCC also will have the duty to "collect and maintain available information and data about state and community correctional policies, practices, capacities, and needs, including, but not limited to, prevention, intervention, suppression, supervision, and incapacitation, as they relate to both adult corrections, juvenile justice, and gang problems. The board shall seek to collect and make publicly available up-to-date data and information reflecting the impact of state and community correctional, juvenile justice, and gang-related policies and practices enacted in the state, as was well as information and data concerning promising and evidence-based practices from other jurisdictions."[91]

---

[88] *See* Sections 56 and 65, SB 92, effective July 1, 2012.

[89] The BSCC composition will be: (1) The Chair of the Board of State and Community Corrections, who shall be the Secretary of the Department of Corrections and Rehabilitation. (2) The Director of the Division of Adult Parole Operations for the Department of Corrections and Rehabilitation. (3) A county sheriff in charge of a local detention facility which has a Corrections Standards Authority rated capacity of 200 or less inmates, appointed by the Governor, subject to Senate confirmation. (4) A county sheriff in charge of a local detention facility which has a Corrections Standards Authority rated capacity of over 200 inmates, appointed by the Governor, subject to Senate confirmation. (5) A county supervisor or county administrative officer. This member shall be appointed by the Governor, subject to Senate confirmation. (6) A chief probation officer from a county with a population over 200,000, appointed by the Governor, subject to Senate confirmation. (7) A chief probation officer from a county with a population under 200,000, appointed by the Governor, subject to Senate confirmation. (8) A judge appointed by the Judicial Council of California. (9) A chief of police, appointed by the Governor, subject to Senate confirmation. (10) A community provider of rehabilitative treatment or services for adult offenders, appointed by the Speaker of the Assembly. (11) A community provider or advocate with expertise in effective programs, policies, and treatment of at-risk youth and juvenile offenders, appointed by the Senate Committee on Rules. (12) A public member, appointed by the Governor, subject to Senate confirmation. (Penal Code Section 6025, as amended by Section 32 of SB 92.

[90] Penal Code Section 6024, as added by Section 31 of SB 92.

[91] Penal Code Section 6027, as added by Section 33 of SB 92.

Sentencing

SB 576 (Calderon): Chapter 361: Sentencing. Urgency.
(Amends Sections 186.22, 186.33, 667.61, 1170, 1170.1, and 1170.3 of, and amends, adds, and repeals Sections 12021.5, 12022.2, and 12022.4 of, the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations (9-0)
Senate Floor (40-0)
Senate Concurrence (37-0)
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (79-0)

Existing law provides that a defendant shall be punished by imprisonment in the state prison for 25 years to life if convicted of specified crimes. Existing law further provides that a defendant shall be punished by imprisonment in the state prison for 15 years to life if convicted of specified crimes and if, among other things, in the commission of that offense any person, except as specified in the provisions above, kidnapped the victim, committed the offense during the commission of a burglary, used a dangerous or deadly weapon in the commission of the offense, or under other specified circumstances.

This bill additionally includes the infliction of great bodily injury on the victim or another person among that list of circumstances that if committed by any person in the commission by the defendant of specified set offenses would subject the defendant to imprisonment in the state prison for 15 years to life.

Existing law provides that most felonies are punishable by a triad of terms of incarceration in the state prison, comprised of low, middle, and upper terms. Previous law that required the court to impose the middle term, unless there were circumstances in aggravation or mitigation of the crime, was amended to provide that the choice of the appropriate term rests within the sound discretion of the court. Existing provisions related to sentence enhancements involving criminal street gang activity, firearms, and sentencing, operative until January 1, 2012, generally specify that the appropriate term rests within the sound discretion of the court.

Existing law, operative on and after January 1, 2012, instead requires the court to impose the middle term, unless there are circumstances in mitigation or aggravation of the crime.

This bill extends to January 1, 2014, the provisions of law that provide that the court shall, in its discretion, impose the term or enhancement that best serves the interests of justice.

This bill amends Proposition 21, an initiative statute adopted by the voters at the March 7, 2000, statewide primary election, that provides that its provisions may be amended by the Legislature by a 2/3 vote of the membership of each house.

AB 1384 (Bradford): Chapter 284: Expungement standards.
(Amends Section 1203.4a of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (4-2)
Assembly Appropriations (12-5)
Assembly Floor (47-25)
Assembly Concurrence (48-26)
Senate Public Safety (5-1)
Senate Appropriations, SR 28.8
Senate Floor (21-18)

Existing law subject to exceptions, provides that every defendant convicted of a misdemeanor and not granted probation and every defendant convicted of an infraction shall be permitted by the court to withdraw his or her plea of guilty or nolo contendere and enter a plea of not guilty or, if he or she has been convicted after a plea of not guilty, have the court set aside the verdict of guilty after one year from the date of judgment, provided he or she satisfies certain conditions. In either case, the court is required to dismiss the accusatory pleading against the defendant, as specified.

This bill makes this relief unavailable for misdemeanor convictions of specified sex offenses that apply if the victim is a child 14 or 15 years of age or a dependent person. This bill authorizes, if a defendant does not satisfy all of the above requirements, the court, in its discretion and in the interests of justice, to afford a defendant that relief as to other charges to which these provisions apply if, after a lapse of one year from the date of pronouncement of judgment, the defendant has fully complied with his or her sentence, is not currently serving a sentence for any offense, and is not under charge of commission of any crime. The bill specifies that the dismissal of an accusatory pleading pursuant to the above provisions does not permit a person to own, possess, or have a firearm, or to hold public office if the person is prohibited from holding public office as a result of the conviction.

Sexual Offenses and Sexual Offenders

SB 622 (Corbett): Chapter 362: Sex offender registration.
(Amends Section 290.005 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (6-0)
Senate Appropriations (9-0)
Senate Floor (40-0)
Senate Concurrence (39-0)
Assembly Public Safety (4-1)
Assembly Appropriations (17-0)
Assembly Floor (76-1)

Existing law generally requires persons who have been convicted of specified crimes to register as sex offenders, including persons who have been convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more specified sex crimes.

This bill states that it is intended to address the holding of In re Rodden (2010) 186 Cal.App.4th 24. The bill expressly provides that out-of-state convictions, for purposes of sex offender registration in California, are based on the elements of the convicted offense or facts admitted by the person or found true by the trier of fact or stipulated facts in the record of conviction.

SB 756 (Price): Chapter 363: Sex offender registration.
(Amends Section 290.015 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (6-0)
Senate Appropriations (8-0)
Senate Floor (39-0)
Senate Concurrence (38-0)
Assembly Public Safety (7-0)
Assembly Floor (77-0)

Existing law generally requires persons who have been convicted of specified crimes to register as sex offenders, including persons who have been convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more specified sex crimes.

This bill provides that if a person fails to so register after release, the district attorney in the jurisdiction where the person was to be paroled or to be on probation, or the district attorney in another specified jurisdiction if the person was not released on parole or probation, may request that a warrant be issued for the person's arrest and shall have authority to prosecute that person, as specified.

AB 799 (Swanson): Chapter 51: Commercially sexually exploited minors.
(Amends Section 18259.5 of, and adds Section 18259.1 to, the Welfare and Institutions Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Floor (62-0)
Senate Public Safety (6-0)
Senate Floor (36-0)

Existing law authorizes the District Attorney of Alameda County to create a pilot project, contingent upon local funding, for the purposes of developing a comprehensive, replicative, multidisciplinary model to address the needs and effective treatment of commercially sexually exploited minors, as specified.

This bill extends the sunset of these provisions to January 1, 2017, and requires the district attorney to submit, on or before April 1, 2016, a prescribed report to the Legislature, contingent upon specified events.

AB 813 (Fletcher): Chapter 357: Sex offender management.
(Amends Section 11126 of the Government Code, and amends Sections 290.04, 290.09, 1203.067, 3008, 9002, and 9003 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Judiciary (9-0)
Assembly Appropriations (17-0)
Assembly Floor (75-0)
Assembly Concurrence (77-0)
Senate Public Safety (6-0)
Senate Judiciary (4-0)
Senate Appropriations, SR 28.8
Senate Floor (37-0)

Existing law provides for the Sex Offender Management Board, and contains numerous provisions relating to the management of sex offenders, as specified.

This bill makes a number of largely technical changes to issues relating to the management of sex offenders. The bill also provides good faith immunity for members of the Sex Offender Management Board and certified sex offender management professionals, and allows the Board to conduct certain activities in closed session, as specified.

Vehicles and Driving Under the Influence (DUI)

SB 859 (Padilla): Chapter 346: Vehicles: records: confidentiality.
(Amends Section 1808.23 of the Vehicle Code.)

***Legislative History*:**
Senate Public Safety (6-1)
Senate Judiciary (4-0)
Senate Appropriations (8-0)
Senate Floor (35-3)
Senate Concurrence (34-2)
Assembly Transportation (10-3)
Assembly Judiciary (8-1)
Assembly Appropriations (13-4)
Assembly Floor (58-21)

Existing law requires the residence address in a record of the Department of Motor Vehicles to be kept confidential, with specified exceptions. One exception applies to a vehicle manufacturer licensed to do business in this state if the manufacturer, or its agent, under penalty of perjury, requests and uses the information only for the purpose of safety, warranty, or product recall if the manufacturer offers to make and makes any changes at no cost to the vehicle owner. Another exception applies to a dealer licensed to do business in this state if the dealer, or its agent, under penalty of perjury, requests and uses the information only for the purpose of completing registration transactions and documents. A violation of the Vehicle Code is a crime.

This bill adds an exception for an electrical corporation, as defined, or a local publicly owned electric utility, if the corporation or utility, or its agent, under penalty of perjury, requests and uses the information only for the purposes of identifying where an electric vehicle is registered and if certain conditions are met.

AB 353 (Cedillo): Chapter 653: Vehicles: checkpoints.
(Amends Section 2814.1 of, and adds Sections 2814.2 and 14602 to, the Vehicle Code.)

***Legislative History*:**
Assembly Transportation (11-0)
Assembly Appropriations (13-2)
Assembly Floor (55-8)
Assembly Concurrence (64-12)
Senate Public Safety (5-2)
Senate Appropriations, SR 28.8
Senate Floor (30-7)

Existing law allows a peace officer who determines that a person was driving a vehicle without ever having been issued a driver's license, to either immediately arrest that person and cause the removal and seizure of that vehicle or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle without the necessity of arresting the person.

Existing law allows counties, by ordinance, to establish on highways under their respective jurisdictions, a combined vehicle inspection and sobriety checkpoint program to check for violations of vehicle exhaust standards and to identify drivers who are driving under the influence of alcohol or drugs or are persons under 21 driving with a blood alcohol content (BAC) of .05 or more.

Existing law requires the driver of a motor vehicle to stop and submit to an inspection conducted under these provisions when signs and displays are posted requiring that stop.

This bill repeals the authority of counties to establish, on highways under their jurisdiction, combined vehicle inspection and sobriety checkpoint programs and instead provides that a jurisdiction may establish sobriety checkpoints and may establish vehicle inspection checkpoints.

This bill prohibits a peace officer or any other authorized person from causing the impoundment of a vehicle at a sobriety checkpoint if the driver's only offense is his or her failure to hold a valid driver's license.

This bill requires a law enforcement officer who, during the conduct of a sobriety checkpoint encounters an unlicensed driver, to make a reasonable attempt to identify the registered owner of the vehicle.

This bill requires the officer, if the registered owner is present or if the officer is able to identify the registered owner and obtain the registered owner's authorization to release the motor vehicle to a licensed driver by the end of the checkpoint, to release the vehicle to either the registered owner of the vehicle if he or she is a licensed driver or to the licensed driver authorized by the registered owner of the vehicle.

This bill requires the name and driver's license number of the licensed driver to whom the vehicle was released to be listed on the officer's copy of any notice to appear issued to an unlicensed driver.

This bill requires a vehicle that cannot be released to be removed, whether a notice to appear has been issued or not.

This bill requires the removed vehicle to be released to the registered owner or his or her agent at any time the facility to which the vehicle has been removed is open, upon presentation of the registered owner's or his or her agent's currently valid driver's license and proof of current vehicle registration.

AB 520 (Ammiano): Chapter 657: Vehicles: reckless driving: suspension of licenses.
(Amends Sections 12813, 13353.3, 13353.4, and 23575 of the Vehicle Code.)

***Legislative History*:**
Assembly Public Safety (4-3)
Assembly Appropriations (11-6)
Assembly Floor (48-27)
Assembly Concurrence (53-24)
Senate Public Safety (7-0)
Senate Appropriations (6-3)
Senate Floor (31-4)

Existing law requires a person's driving privilege to be suspended upon conviction of specified driving-under-the-influence (DUI) offenses for one year. Existing law terminates the licensing suspension if certain conditions are met, including if the person is eligible to apply for a restricted license. Under existing law, a person who drives a vehicle upon a highway in willful or wanton disregard for the safety of a person or property is guilty of reckless driving. Existing law provides that, when a person is charged with, and pleads guilty or nolo contendere to, reckless driving in satisfaction of, or as a substitute for, an original charge for a DUI, and the court accepts the plea of guilty or nolo contendere, the conviction is a prior offense for purposes of specified laws relating to punishments imposed for DUI convictions.

This bill terminates a driver's license suspension, and makes the person eligible for a restricted driver's license, for a person convicted of reckless driving in satisfaction of, or substitute for, an original charge of driving-under-the-influence, if certain conditions are met, including that the person complete a 90-day suspension period and install an ignition interlock device. The bill requires the department to advise the person of the above conditions. The bill requires that the restricted driver's license privilege be subject to certain restrictions, including, among other things, that upon receipt of notification from the installer that a person has attempted to remove, bypass, or tamper with the ignition interlock device, the privilege to operate a motor vehicle shall immediately be suspended.

AB 1389 (Allen): VETOED: Vehicles: sobriety checkpoints: impoundment.
(Amends Section 2814.1 of, and adds Section 2814.3 to, the Vehicle Code.)

***Legislative History*:**
Assembly Transportation (11-3)
Assembly Appropriations (12-5)
Assembly Floor (54-22)
Assembly Concurrence (48-25)
Senate Public Safety (5-2)
Senate Appropriations, SR 28.8
Senate Floor (21-19)

Existing law provides that a board of supervisors may, by ordinance, establish a combined vehicle inspection and sobriety checkpoint program to check for violations of smog standards and to identify drivers who are DUI.

Existing law provides that a driver of a motor vehicle shall stop and submit to an inspection when signs and displays are posted requiring that stop.

This bill would have separated vehicle inspection checkpoints from sobriety checkpoints.

This bill would have codified the case of *Ingersoll v. Palmer,* which sets forth the requirements of a valid sobriety checkpoint.

Victims and Restitution

SB 534 (Corbett): Chapter 360: Victims of sexual assault.
(Amends Section 17612 of the Government Code, and amends Sections 13823.7, 13823.13, and 13823.95 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (6-0)
Senate Appropriations (9-0)
Senate Floor (39-0)
Senate Concurrence (35-0)
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (78-0)

Existing law provides that no costs incurred by a qualified health care professional, hospital, or other emergency medical facility for the examination of the victim of a sexual assault for the purposes of gathering evidence for possible prosecution shall be charged directly or indirectly to the victim of the assault. Existing law provides that the law enforcement agency, in the jurisdiction in which the alleged sexual assault was committed, which requests the examination has the option of determining whether or not the examination will be performed in the office of a physician and surgeon, and bills for those costs shall be submitted to that local jurisdiction and the local jurisdiction shall bear those costs.

This bill revises these provisions to specify that any sexual assault victim who seeks a forensic medical exam is not required to engage with law enforcement in order to receive the exam; authorizes a local law enforcement agency to seek reimbursement for the cost of a forensic medical exam involving a victim who has declined to participate in the criminal justice system by applying to the California Emergency Management Agency (CalEMA) for federal discretionary VAWA funding from the Services, Training, Officers and Prosecutors (STOP) Violence Against Women Formula Grant Program (the authorization to use the VAWA STOP funds for medical forensic examinations sunsets January 1, 2014); and encourages CalEMA to partner with specified professional organizations when developing the required training course for health professionals relating to examination and treatment of sexual assault victims.

AB 886 (Cook): Chapter 77: Victim's rights: victim impact statement.
(Amends Section 679.02 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Floor (73-0)
Senate Public Safety (7-0)
Senate Floor (37-0)

Existing law establishes the rights of crime victims, witnesses, and other specified persons to appear, reasonably express his or her views, and to have the court consider his or her statements.

This bill prohibits the court from releasing the statements to the public prior to being heard in court.

AB 898 (Alejo): Chapter 358: Restitution fines.
(Amends Section 1202.4 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (76-0)
Assembly Concurrence (40-0)
Senate Public Safety (7-0)
Senate Appropriations (9-0)
Senate Floor (78-0)

Existing law requires the court to order defendants convicted of any crime to pay restitution to the victim or victims and a separate restitution fine. The restitution fine shall be set in an amount that is commensurate with the seriousness of the offense, but shall not be less than $200 and not more than $10,000, for a felony, and not less than $100 and not more than $1,000, for a misdemeanor. The court shall impose the restitution fine unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. Restitution fines are deposited in the Restitution Fund in the State Treasury for victim compensation.

This bill makes the minimum restitution fine not less than $240 starting on January 1, 2012, $280 starting on January 1, 2013, and $300 starting on January 1, 2014, if the person is convicted of a felony, and not less than $120 starting on January 1, 2012, $140 starting on January 1, 2013, and $150 starting on January 1, 2014, if the person is convicted of a misdemeanor.

Wiretapping/Eavesdropping

SB 61 (Pavley): Chapter 663: Wiretapping: authorization.
(Amends Sections 629.62 and 629.98 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations (8-0)
Senate Floor (39-0)
Senate Concurrence (40-0)
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (78-0)

Existing law authorizes the Attorney General, chief deputy attorney general, chief assistant attorney general, district attorney or the district attorney's designee to apply to the presiding judge of the superior court for an order authorizing the interception of wire or electronic communications under specified circumstances and provides that the provisions governing wiretap sunsets on January 1, 2012.

This bill extends that sunset to January 1, 2015.

AB 1010 (Furutani): Chapter 659: Law enforcement: communications.
(Adds Section 633.05 to the Penal Code.)

***Legislative History*:**
Assembly Public Safety (4-1)
Assembly Floor (42-13)
Senate Public Safety (7-0)
Senate Floor (32-1)

Existing law prohibits a variety of electronic eavesdropping, such as wiretapping and electronic recording that is done without a person's permission or knowledge. Existing law provides that violations of these provisions are crimes. Existing law exempts a variety of law enforcement entities from these prohibitions when acting within the scope of their authority.

This bill additionally provides that a city attorney acting under the authority granted by the district attorney of the county to prosecute misdemeanors, as specified, provided that the authorization is granted prior to January 1, 2012, will be exempt from certain of these prohibitions, including eavesdropping on or recording confidential communications.

Miscellaneous

SB 208 (Alquist): Chapter 45: Identity theft restitution.
(Amends Section 1202.4 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Floor (40-0)
Assembly Public Safety (7-0)
Assembly Floor (75-0)

Existing law establishes various offenses relating to identity theft. The law establishes a procedure for purposes of imposing restitution obligations on defendants, as specified.

This bill authorizes restitution for expenses to monitor an identity theft victim's credit report and for the costs to repair the victim's credit for a period of time reasonably necessary to make the victim whole, as specified.

SB 285 (Correa): Chapter 149: Massage therapy: false claims of certification.
(Adds Chapter 1.3 (commencing with Section 628) to Title 15 of Part 1 of the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (38-0)
Assembly Public Safety (7-0)
Assembly Appropriations (16-0)
Assembly Floor (76-0)

Existing law provides for the voluntary certification of massage practitioners and massage therapists by a massage therapy organization and authorizes the legislative body of a city or county to enact ordinances providing for the licensing and regulation of the business of massage when carried on within the city or county.

This bill provides that a person who provides a diploma or other document, or who otherwise affirms, that another person has received instruction in massage therapy knowing that he or she has not received such instruction, or who knows that the other person has not received massage therapy instruction, is guilty of a misdemeanor. The bill provides that where any person is criminally prosecuted for a violation of law in connection with massage therapy, the arresting agency may provide to the California Massage Therapy Council information concerning the massage therapy instruction received by the person prosecuted.

SB 291 (Vargas): Chapter 67: Bail: returned fugitives.
(Adds Section 1554.3 to the Penal Code.)

***Legislative History*:**
Senate Public Safety (7-0) *Assembly Public Safety (4-2)*
Senate Floor (40-0) *Assembly Floor (62-4)*

Existing constitutional provisions prohibit excessive bail and requires the court, in fixing the amount of bail, to take into consideration the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of the defendant appearing at the trial or hearing of the case. Statutory provisions regulate bail, including forfeiture, vacation of forfeiture, and exoneration of bail or bond.

This bill provides that after a person has been extradited back to California, the person shall be committed to a county jail with bail set in the amount of $100,000 in addition to the amount of bail appearing on the warrant. A 48-hour noticed bail hearing, excluding weekends and holidays, shall be required to deviate from the prescribed bail. Other bail enhancements or restrictions apply as well.

SB 296 (Wright): VETOED: Gang injunctions.
(Amends Section 186.22a of the Penal Code.)

***Legislative History*:**
Senate Public Safety (5-2) *Assembly Public Safety (5-2)*
Senate Appropriations (6-2) *Assembly Appropriations (10-6)*
Senate Floor (23-15) *Assembly Floor (42-35)*

Existing law provides for injunctive relief from the unlawful activities of criminal street gangs, the duration of which is within the court's discretion. Existing law provides for injunctive relief from a person who engages in harassment, as specified, of a duration of not more than 3 years, and provides that, at any time within the 3 months before the expiration of the injunction prohibiting harassment, the plaintiff may apply for a renewal of that injunction by filing a new petition.

This bill would have provided that, in addition to any other remedies, in an action relating to a specified form of gang injunction, an individual may file with the court a notice petition, as specified, to exempt him or her from the injunction or portions thereof. The bill would have allowed the court to hold an evidentiary hearing on the petition. The bill would have permitted the court to require the petitioner to testify at this hearing. The bill also would have permitted the court to charge the petitioner for the reasonable costs of filing the petition.

SB 428 (Strickland): Chapter 304: Lester's Law of 2011.
(Amends Sections 7480, 15202.1, and 70372 of the Government Code, and amends Sections 633.8, 904.7, 992, 1203.4, 1203.4a, 1466, 14303, and 14314 of the Penal Code.)

Legislative History:
Senate Public Safety (6-0)
Senate Appropriations (8-0)
Senate Floor (39-0)
Senate Concurrence (37-0)
Assembly Public Safety (7-0)
Assembly Appropriations (16-0)
Assembly Floor (78-0)

This bill is the annual omnibus bill which makes clarifying or non-controversial changes to various code sections.

SB 550 (Padilla): Chapter 421: Administrative searches: optical discs.
(Amend Sections 21800, 21804, 21805, and 21806 of, adds Section 21807 to, and repeals and adds Sections 21801, 21802, and 21803 of, the Business and Professions Code.)

Legislative History:
Senate Business, Professions and Economic Development (8-0)
Senate Public Safety (5-2)
Senate Appropriations, SR 28.8
Senate Floor (33-6)
Senate Concurrence (36-3)
Assembly Business, Professions Consumer Protection (8-0)
Assembly Public Safety (7-0)
Assembly Appropriations (14-3)
Assembly Floor (56-18)

Existing law requires every person who manufactures an optical disc, as defined, for commercial purposes to permanently mark the manufactured optical disc with an identification mark or a unique identifying code, as specified. Existing law sets forth various definitions for purposes of these provisions. Existing law makes a manufacturer that violates these provisions guilty of a crime punishable by specified fines. Existing law also makes a person that engages in specified prohibited acts in violation of these provisions guilty of a crime punishable by specified fines or imprisonment.

This bill provides that a person who manufactures optical discs for commercial purposes may not possess, own, control, or operate manufacturing equipment or any optical disc mold unless it has been adapted to apply the appropriate identification mark or unique identifying code. Commercial optical disc manufacturers may not make, possess, or adapt any optical disc mold for the purpose of applying a forged, false, or deceptive identification mark or identifying code. Law enforcement officers may perform inspections at commercial optical disc manufacturing facilities during business hours without a warrant to verify compliance with these provisions. Law enforcement officers,

in performing these investigations, may seize any disc or production part manufactured in violation of these provisions. A commercial optical disc manufacture shall maintain specified records. The bill also increases applicable fines.

SB 636 (Corbett): Chapter 200: Safe at home program: internet disclosure.
(Amends Sections 6206.5, 6206.7, 6208, 6215.3, 6215.4, and 6215.7 of, and adds Sections 6208.1, 6208.2, and 6218.01 to, the Government Code.)

***Legislative History*:**
Senate Judiciary (4-0)
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (39-0)
Senate Concurrence (37-0)
Assembly Judiciary (10-0)
Assembly Appropriations (16-0)
Assembly Floor (76-0)

Existing law generally provides for the "Safe at Home" address confidentiality program for domestic violence victims.

This bill makes a number of changes to the provisions of this program; the bill (1) clarifies that the Secretary of State (SOS) may not disclose the personal information of a "Safe at Home" participant unless the participant's certification has been cancelled because false information was used in the application process to avoid detection of illegal activity or apprehension by law enforcement; (2) prohibits a person, business, or association from knowingly and intentionally posting, displaying, soliciting, selling, or trading on the Internet the home address, home telephone number, or image of a program participant or other individual residing at the same address as the participant with the intent to imminently cause great bodily harm to the person or to place the person in reasonable fear for his or her safety; (3)prohibits a person, business, or association from knowingly and intentionally posting or displaying the home address or home phone number of a program participant if the participant has made a written demand of that person, business, or association to not disclose his or her information; (4) provides that a participant whose information is posted or displayed in violation of the above provisions may bring an action for injunctive relief or money damages, as specified; (5) creates a misdemeanor for a person to post on the Internet the personal information of a program participant, or of a participant's family member, with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against the participant or the program participant's family members who are participating in the program; and (6) creates a misdemeanor for similar activity regarding a provider, employee, volunteer, or patient of a reproductive health service facility, or other individuals residing at the same address.

SB 796 (Blakeslee): Chapter 201: State hospitals: prohibited items: misdemeanor penalty.
(Adds Section 4139 to the Welfare and Institutions Code.)

***Legislative History*:**
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (38-0)
Senate Concurrence (34-0)
Assembly Public Safety (7-0)
Assembly Appropriations (16-0)
Assembly Floor (76-0)

Existing law provides for state mental hospitals for the treatment of mentally disordered persons. Existing law places these hospitals under the jurisdiction of the State Department of Mental Health, and authorizes the department to adopt uniform rules and regulations regarding the conduct and management of these facilities, including prohibiting patients from possessing certain items.

This bill makes the possession with the intent to deliver, or delivery, to a patient in a state hospital specified items, if they have been prohibited for possession by a patient either by statute or by regulation, a misdemeanor, punishable by a fine not to exceed $1,000 for each item. The bill also requires the confiscation from a visitor of an item prohibited for possession by a patient if discovered upon being searched or subjected to a metal detector and requires, unless the item is held as evidence, the return of the item the same day.

SB 888 (Lieu): VETOED: Crime: picketing.
(Adds Section 594.37 to the Penal Code.)

***Legislative History*:**
Senate Public Safety (6-1)
Senate Appropriations, SR 28.8
Senate Floor (37-1)
Senate Concurrence (36-1)
Assembly Public Safety (6-0)
Assembly Appropriations (14-0)
Assembly Floor (75-0)

Existing law makes it a crime for a person to disturb, obstruct, detain, or interfere with any person carrying or accompanying human remains to a cemetery or funeral establishment, or engaged in a funeral service or an interment.

This bill would have made it a crime, punishable by a fine not exceeding $1,000, imprisonment in a county jail not exceeding 6 months, or by both, for a person to engage in picketing, as defined, except upon private property, which is targeted at a funeral, as defined, during the time period beginning one hour prior to the funeral and ending one hour after the conclusion of the funeral.

AB 109 (Committee on Budget): Chapter 15: The 2011 Realignment legislation addressing public safety.
(Numerous statutory provisions.)

***Legislative History*:**
Assembly Floor (51-27) *Senate Floor (24-16)*

Existing law defines "felony" for purposes of punishment, prescribes criminal sanctions for crimes, and prescribes a period of supervision following a term of imprisonment in the state prisons, as specified.

This bill is the principal measure enacting the 2011 Public Safety Realignment pertaining to criminal justice. AB 109 and additional measures related to the criminal justice realignment are described in more detail at page 42.

AB 316 (Carter): Chapter 317: Grand theft of copper.
(Adds Section 487j to the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (74-2)
Assembly Concurrence (78-0)
Senate Public Safety (6-0)
Senate Floor (37-0)

Existing law provides that grand theft is theft when the money, labor, or real or personal property taken is of a value exceeding $950 and is punishable as either a misdemeanor or a felony.

This bill provides that every person who steals, takes, or carries away copper materials which are of a value exceeding $950 is guilty of grand theft, punishable by a fine not exceeding $2,500, imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, or by imprisonment in a county jail or the state prison not exceeding 16 months, or 2 or 3 years and a fine not to exceed $10,000, as specified.

AB 364 (Bonilla): Chapter 182: Preservation of assets for restitution in large-scale financial crimes.
(Amends Section 186.11 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (15-0)
Assembly Floor (73-0)
Senate Public Safety (5-0)
Senate Appropriations, SR 28.8
Senate Floor (37-0)

Existing law provides for enhanced penalties in the case of a person who commits 2 or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking or loss of more than $100,000, and further provides that assets or property may be preserved by the court, as specified, in order to pay restitution and fines imposed in connection with those enhanced penalties.

This bill provides for the preservation of a defendant's assets and property in order to pay all restitution and fines in a case where the defendant committed a single felony, a material element of which is fraud or embezzlement, if the crime involved the taking or loss of more than $100,000.

AB 366 (Allen): Chapter 654: Involuntary administration of antipsychotic medication to defendants who are incompetent to stand trial.
(Amends, repeals, and adds Section 1370 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (79-0)
Assembly Concurrence (79-0)
Senate Public Safety (7-0)
Senate Appropriations (9-0)
Senate Floor (35-0)

Existing law provides that if a criminal defendant is mentally incompetent, trial or judgment is suspended. The court determines the appropriate facility for treating the incompetent defendant, and determines whether the defendant consents to the administration of antipsychotic medication, or determines whether involuntary administration of antipsychotic medication is appropriate.

This bill requires, as of July 1, 2012, the court to determine if the defendant has capacity to make decisions regarding antipsychotic medication before seeking consent from the defendant for those medications. When the defendant is found incompetent to stand trial and committed for treating, if the treating psychiatrist determines that involuntary administration of antipsychotic medication is necessary, medication may be administered

to the defendant for not more than 21 days. However, within 72 hours an administrative law judge (ALJ) shall conduct a hearing and review the psychiatrist's determination. The defendant shall be represented at the hearing by an attorney or patients' rights advocate. If the ALJ concurs with the treating psychiatrist, antipsychotic medication is authorized for the 21-day certification period. If the ALJ disagree, the medication shall not be administered until a court so orders.

The treating psychiatrist shall file a copy of the certification and a petition with the court for an order to administer antipsychotic medication beyond the 21-day period. The court shall then determine, prior to expiration of the 21-day period, whether the medication should be continued. The involuntary administration of medication shall be valid for no more than one year. The court shall review the order every 6 months, until the defendant becomes competent, to determine if the grounds for involuntary medication remain. Reports submitted for the review shall address whether or not the defendant has the capacity to make decisions concerning antipsychotic medication. The court shall determine whether the need for administration of antipsychotic medication continues or new grounds exist. A defendant may file a petition for habeas corpus to challenge the continuing validity of an order authorizing the involuntary administration of antipsychotic medication.

AB 665 (Torres): Chapter 658: Invasion of privacy for sexual gratification.
(Amends Section 647 of the Penal Code.)

***Legislative History*:**
Assembly Public Safety (7-0)
Assembly Appropriations (17-0)
Assembly Floor (70-0)
Assembly Concurrence (79-0)
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (38-0)

Existing law establishes the offense of disorderly conduct to include specified invasions of privacy, and makes the offense a misdemeanor, punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not exceeding $1,000, or by both that fine and imprisonment.

This bill, for those specified invasions of privacy, makes a 2nd or subsequent violation, or a *first* violation of these provisions if the victim of the violation was a minor, punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding $2,000, or by both that fine and imprisonment.

AB 716 (Dickinson): Chapter 534: Transit districts: prohibition orders.
(Amends Sections 369i and 830.14 of the Penal Code, and amends Sections 99171, 99172, and 102122 of, the Public Utilities Code.)

***Legislative History*:**
Assembly Transportation (11-1)
Assembly Appropriations (17-0)
Assembly Floor (66-8)
Assembly Concurrence (73-2)
Senate Trans. and Housing (7-0)
Senate Public Safety (7-0)
Senate Appropriations, SR 28.8
Senate Floor (38-0)

Existing law makes a person guilty of a misdemeanor if the person enters or remains upon any rail transit-related property, as defined, owned or operated by a county transportation commission or transportation authority without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the railline or rail-related facility.

This bill instead makes it a misdemeanor if a person enters or remains upon any transit-related property, as defined, that is used to provide public transportation by rail or passenger bus, without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the railline or rail-related or transit-related facility.

Existing law authorizes a local or regional transit agency or a joint powers agency operating rail service to contract with designated persons to act as its agent in the enforcement of specified provisions relative to certain prohibited acts on or in public transportation systems or vehicles if the persons satisfy specified training requirements.

This bill authorizes the governing board of the Sacramento Regional Transit District to designate persons regularly employed by the district as inspectors or supervisors to enforce those provisions or any ordinance that is adopted by the district relative to prohibited acts on or in public transportation systems or vehicles, if the persons satisfy specified training requirements. The bill makes changes to cross-references in these provisions. The bill also deletes similar provisions that authorize the board to designate persons to enforce district ordinances and specified state laws, but which do not require the persons to satisfy the training requirements described above.

Existing law prohibits certain acts by a person with respect to the property, facilities, or vehicles of a transit district. A violation is an infraction punishable by a fine not exceeding $75 on a first offense, or a fine not exceeding $250 or by community service on a subsequent offense.

Existing law, until January 1, 2012, authorizes the Sacramento Regional Transit District and the Fresno Area Express to issue a prohibition order to any person cited for committing one or more of certain prohibited acts in specified transit facilities, including, among other things, if a person has been cited on at least 3 separate occasions, within a period of 60 days, for specified infractions committed in or on a vehicle, bus stop, or light

rail station of the transit district. Existing law prohibits a person subject to a prohibition order from entering the property, facilities, or vehicles of the transit district for specified periods of time up to one year. Existing law establishes notice requirements in that regard and provides for initial and administrative review of the order.

This bill removes the January 1, 2012, repeal date for these provisions and makes these provisions operative indefinitely. The bill authorizes the Sacramento Regional Transit District, the Fresno Area Express, and, until January 1, 2015, the San Francisco Bay Area Rapid Transit District, to issue a prohibition order to a person who has been cited on at least 3 separate occasions, within a period of 90 days, for specified infractions committed in or on a vehicle, bus stop, or train or light rail station of the transit district.

Index by Senate Bill

Index by Senate Bill (continued)

Index by Senate Author

Index by Senate Author (continued)

Index by Assembly Bill

Index by Assembly Bill (continued)

Index by Assembly Author

Index by Assembly Author (continued)

1509-S

Additional copies of this publication may be purchased for $5.75 per copy
(includes shipping and handling), **plus current California sales tax.**

Senate Publications & Flags
1020 N Street, B-53
Sacramento, CA 95814
(916) 651-1538

Make checks or money orders payable to **Senate Rules Committee**. Credit cards not accepted.
Please include Stock Number **1509-S** when ordering.