

## Bills Sent to Governor in '95

NOTE: This is a preliminary release of this document in plain text format. The hyper-link (html) version of this document will be posted soon.

October 1995

At my direction, the staff to the Senate Committee on Criminal Procedure has prepared this summary of bills sent to the Governor in 1995 pertaining to the committee's subject-matter jurisdiction. It is my hope that this compilation of crime legislation will facilitate access to the new laws which were enacted this year. Most of the new laws will take effect on January 1, 1996 (urgency measures, which take effect upon enactment, are noted).

Measures vetoed by the Governor are included to note the disparate view on some issues between the Legislature and the Governor. Moreover, most vetoed bills are reintroduced in one form or another in subsequent years.

The Senate Committee on Criminal Procedure existed for the first time this year. We considered the largest number of bills of any Senate policy

committee. That workload is a reflection of the continuing interest and concern about crime in California. It is anticipated that the second half of the 1995-96 Legislative Session will be as intense as the first half.

All of the measures included in this summary are available from a variety of sources. Copies of chaptered bills may be requested at no cost from the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. Their phone number is (916) 445-2323. Copies of vetoed bills are available until February, 1996.

I hope this legislative summary is useful to you as you prepare for 1996.

Cordially,

MILTON MARKS

senate committee on criminal procedure

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#### CHILD ABUSE AND NEGLECT

SB 558 (Campbell): Chapter 406: Child abuse: false allegations in child custody proceedings.

(Adds Section 3022.5 to the Family Code.)

#### Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (8-0)

Senate Appropriations (11-0) Assembly Floor (72-0)

Senate Floor (32-0)

Senate Concurrence (40-0)

Existing law provides that, if a court determines that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it was false at the time they made it, the court may impose against the person who made the false accusations

reasonable money sanctions not to exceed all costs incurred by the party accused as a direct result of defending the accusation. (Family Code Section 3027.)

This bill adds a new section which states that a motion by a parent for reconsideration of an existing child custody order shall be granted if the motion is based on the fact that the other parent was convicted of a crime in connection with falsely accusing the moving parent of child abuse.

SB 816 (Peace): Chapter 935: Children: sexual abuse.

(Amends Section 13964 of the Government Code, to amend Sections 288.1, 1000.12, and 1203.066 of the Penal Code, and to amend Section 656 of the Welfare and Institutions Code.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (9-0)

Senate Floor (39-0) Assembly Floor (65-0)

Senate Concurrence (40-0)

Existing law provides that victims of crime are eligible to be compensated for their losses incurred as a result of crime, as specified. (Government Code Section 13964(a).) Current law specifies that a victim is not eligible for assistance if, among other things, the victim “failed to cooperate with a law enforcement agency in the apprehension and conviction of a criminal committing the crime.” (Govt. Code Sections 13964(c)(2),

(d)(2.)

This bill provides that uncooperative, for purposes of this section, does not apply to “a nonoffending parent in a child sexual abuse case” who “cooperates with the prosecution or Child Protective Services to the extent that he or she provides assistance to law enforcement in the disposition of the case.

Existing law provides that certain incest-related sex offenders shall not be granted probation unless, among other things, the defendant is placed in a recognized treatment program

SB 816 Continued

designed to deal with child molestation immediately after the grant of probation or the suspension of execution or imposition of sentence.

This bill defines recognized treatment program.

Existing law provides that any person convicted of committing specified sex acts with a child under 14 years of age shall not have his or her sentence suspended until the court obtains a report from a reputable psychiatrist or a reputable psychologist who meets specified standards.

This bill adds reports from a recognized treatment program as an option.

AB 653 (Davis): Chapter 539: Child deaths.

(Amends Penal Code Section 11166.9.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (5-0)

Assembly Floor (75-0) Senate Floor (37-0)

Assembly Concurrence (76-0)

Existing law provides that counties may collect and review information about deaths resulting from child abuse through the establishment of integrated review teams. The Department of Justice (DOJ) is directed under law to develop the protocols under which such teams are to operate and to help coordinate state and local efforts to address fatal child abuse and neglect.

This bill adds the Homicide Investigators Association to the list of organizations and agencies that coordinate and integrate state and local efforts to investigate fatal child abuse and neglect.

This bill also removes the responsibilities of the California Consortium for the Prevention of Child Abuse to collect, compile, and distribute an annual report to the Governor and the Legislature on fatal child abuse or neglect. Participating organizations and agencies are now required to

collect and compile the information for the annual report while the DOJ is solely responsible for printing and distributing the report.

AB 1038 (Vasconcellos): VETOED: Child abduction.

(Amends Family Code Sections 3132, 3411, 6240, 6250, 6251, 6252, 6253 and 3135; amends Penal Code Section 868.5 and repeals and amends Penal Code Sections 277 et. seq.)

Legislative History:

Assembly Public Safety (6-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (11-0) Senate Judiciary (7-0)

Assembly Floor (62-1) Senate Floor (39-0)

#### AB 1038 Continued

Existing law, the Uniform Child Custody Jurisdiction Act (UCCJA), provides a procedural scheme for determining which court has jurisdiction over a child custody where there are conflicting custody orders in different states.

This bill would have provided that the UCCJA be amended as follows: 1) adds the fact that a child is in immediate and present danger of being abducted as an additional basis for a court obtaining emergency jurisdiction over a child; and 2) expands a California court's jurisdiction

over parties to a custody proceeding so that it may order such parties to appear personally with the child, even though they are currently outside this state.

This bill would have also expanded the current bases for obtaining an emergency protective order to include that the child is in immediate and present danger of being abducted by a parent or relative, and would have reorganized and amend the Penal Code provisions regarding child abduction.

AB 1440 (Davis): Chapter 55: Child Abuse Reports: access for county health department personnel.

(Amends Section Penal Code 11167.5.)

Legislative History:

Assembly Human Services (5-0) Senate Criminal Procedure (7-0)

Assembly Appropriations (12-0) Senate Appropriations (28.8)

Assembly Floor (71-0) Senate Floor (24-11)

Existing law requires all counties to establish protocols regarding the application and use of an assessment of the needs of, and referral for, substance exposed infants. (Health and Safety Code Section 10901.) The county child welfare agency, law enforcement agency and the district attorney shall receive reports of suspected child abuse and neglect. (Penal Code Section 11166.) Each agency is charged with specific duties which must be discharged in response to these reports.

This bill provides that authorized persons within county health departments are permitted to receive copies of reports of suspected child abuse prepared by health practitioners, as specified.

AB 1491 (McPherson): Chapter 48: Child molestation: probation and visitation.

(Amends Sections 647.6 and 1203.066 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (5-0)

Assembly Floor (73-0) Senate Floor (38-0)

Assembly Concurrence (70-1)

AB 1491 Continued

Existing law provides that annoying or molesting any child under the age of 18 is a crime. (Penal Code Section 647.6.)

This bill provides that in any case in which a person is convicted of violating this section and, as a condition of probation, the court prohibits the defendant from having contact with the victim, the court order prohibiting contact may not be modified except upon the request of the victim and by a court finding that the modification is in the best

interest of the victim. "Contact with the victim" is defined to include "all physical contact, being in the presence of the victim, communication by any means, any communication by a third party acting on behalf of the defendant, and any gifts.

Existing law provides that in any case in which a person is convicted of violating Penal Code Section 647.6 and probation is granted, the court must require counseling as a condition of probation unless the court makes a written statement in the court record that counseling would be inappropriate or ineffective. The law also provides that a person convicted of committing child sexual abuse may not be eligible for probation, depending on various circumstances (See Comment 3). (Penal Code Section 1203.066.)

This bill provides that, in child molestation cases where probation is not prohibited and a defendant is removed from the household of the victim, while the defendant is removed from the household the court generally is required to prohibit contact by the defendant with the victim. This bill permits, however, contact between a defendant and a victim where the defendant has been removed from the victim's household 1) upon the request of the director of the court-ordered supervised treatment program and 2) with the agreement of the victim and the victim's parent or legal guardian, other than the defendant.

## CONTROLLED SUBSTANCES

SB 419 (Hurtt): Chapter 571: Controlled substances: hydriodic acid.

(Amends Section 11383 of the Health and Safety Code.)

### Legislative History:

Senate Criminal Procedure (5-0) Assembly Public Safety (8-0)

Senate Appropriations (11-0) Assembly Appropriations (13-3)

Senate Floor (39-0) Assembly Floor (72-3)

Senate Concurrence (39-0)

Existing law provides that manufacture of methamphetamine is punishable by 3, 5, or 7 years in prison. Under existing law, any person who, with intent to manufacture methamphetamine, possesses at the same time any of various specified controlled substances, including ephedrine and pseudoephedrine, plus hydriodic acid is guilty of a felony and is punishable by imprisonment for 2, 4, or 6 years.

This bill provides that possession of hydriodic acid by itself, or any product containing hydriodic acid, with intent to manufacture methamphetamine, is a felony punishable by imprisonment for 2, 4, or 6 years.

Existing law provides that possession of chemicals sufficient to manufacture the specified precursors of methamphetamine are deemed to be possession of the precursor itself.

This bill provides that possession of any essential chemicals sufficient to manufacture hydriodic acid, with intent to manufacture methamphetamine, is deemed to be possession of hydriodic acid.

SB 491 (Solis): Chapter 59: Controlled substances: anabolic steroids.  
(Amends Section 11056 of the Health and Safety Code.)

Legislative History:

Senate Criminal Procedure (5-0) Assembly Public Safety (8-0)

Senate Floor (36-0) Assembly Floor (76-0)

Existing law provides that controlled substances are listed in five schedules, with the greatest restrictions placed on those in Schedule I.

Drugs containing a combination of anabolic steroids and estrogen are in the Schedule III list, which requires additional prescription burdens on doctors and pharmacists, and which results in higher penalties for unauthorized sale, distribution, and possession.

Specified drugs containing estrogen/anabolic steroids (androgen) have been removed from the federal controlled substance list.

SB 491 Continued

This bill conforms California law to the federal controlled substance list insofar as these combination drugs have been removed from the federal list.

AB 264 (Battin): Chapter 714: Registration requirements: controlled substances and firearms.

(Amends Section 11590 of the Health and Safety Code.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (5-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (65-0) Senate Floor (27-0)

Assembly Concurrence (72-0)

Existing law provides that anyone convicted of a specified controlled substance offense must register with the city Chief of Police or the county Sheriff. Violation is a misdemeanor, punishable by imprisonment in county jail not exceeding 6 months and/or a fine not exceeding \$1,000.

Existing law makes it a felony to possess any amount of cocaine base, cocaine, heroin, methamphetamine, or phencyclidine while armed with a loaded firearm. Violation is a felony, punishable by imprisonment by 2, 3,

or 4 years in state prison.

This bill adds to the registration requirements any person convicted of possession of any amount of cocaine base, cocaine, heroin, methamphetamine, or phencyclidine (PCP) while armed with a loaded firearm.

However, the bill will become operative only if funds are appropriated in the annual Budget Act or by another statute to fund the cost of implementation.

AB 1113 (Rogan): Chapter 455: Controlled substances:

levoalphacetylmethadol.

(Amends Section 6929 of the Family Code, Section 655 of the Harbors and Navigation Code, Sections 11054, 11055, 11153, 11215, 11217, 11218, 11219, 11220, 11222, 11483, 11755, 11875, 11876, 11877, 11877.5, 11877.6, 11877.7, 11877.8, 11877.9, 11877.13, 11877.14, 11878, 11880, 11970.5, 11971 of, and the heading of Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of, the Health & Safety Code, adds Section 11875.1 to the Health and Safety Code, and amends Sections 12806 and 23152 of the Vehicle Code and Sections 3154 and 3200 of the Welfare and Institutions Code.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (77-0) Senate Floor (40-0)

Assembly Concurrence (69-0)

#### AB 1113 Continued

Existing law provides for the coordination and establishment of minimum requirements for the operation of methadone programs for the treatment of narcotics addicts by the State Department of Alcohol and Drug Programs.

This bill transfers the controlled substance levoalphacetylmethadol (LAAM) from the Schedule I to the Schedule II controlled substance list, making LAAM available for the treatment of heroin addicts. The bill also makes a number of conforming changes.

AB 1529 (Vasconcellos): VETOED: Medicinal use of marijuana.

(Amends Sections 11357 and 11358 of the Health and Safety Code.)

#### Legislative History:

Assembly Public Safety (5-2) Senate Criminal Procedure (6-1)

Assembly Floor (41-30) Senate Floor (22-14)

Assembly Concurrence (44-28)

Existing law criminalizes offenses relating to marijuana.

This bill provided that possessing, planting, cultivating, harvesting, drying, or processing marijuana for one's own personal medicinal use or for the personal medicinal use of another for whom the person is the legal guardian or caregiver, where the medicinal use has been approved in writing by a licensed physician for the treatment of AIDS, cancer, glaucoma, or multiple sclerosis, is exempt from prosecution.

## CORRECTIONS

### Local Corrections

AB 1804 (Goldsmith): Chapter 867: Electronic monitoring: San Diego and San Mateo County pilot projects.

(Adds and repeals Chapter 3 (commencing with Section 9000) of Title 9 of Part 3 of the Penal Code.)

### Legislative History:

Assembly Public Safety (6-0)      Senate Criminal Procedure (4-1)

Assembly Judiciary (11-0)      Senate Appropriations (11-0)

Assembly Appropriations (17-0) Senate Floor (33-0)

Assembly Floor (73-0)

Assembly Concurrence (70-0)

Existing law authorizes Boards of Supervisors to allow county administrators (i.e. the director of a county department of corrections, sheriffs and probation officers) to condition county probation or work furlough on voluntary participation in an electronic home detention program. (Penal Code Section 1203.016.)

This bill allows any correctional administrator authorized by a board of supervisors in San Diego County and San Mateo County to create a pilot project to continuously electronically monitor the whereabouts of probationers and persons released from jail. The pilot projects are contingent upon the counties obtaining necessary funding. The authority expires on January 1, 2001, with a report to the Legislature due January 1, 2000. The Department of Corrections and the Department of Youth Authority are authorized to participate in the pilots once they are implemented.

(NOTE: Continuous electronic monitoring generally refers to a system involving body devices worn by a person who resides in a geographical area where sensing units are mounted in a grid or pattern so that movement within that grid can be detected and tracked.)

Parole/Probation

SB 34 (Peace): Chapter 761: Parolees: mandatory treatment for severe mental disorders.

(Amends Section 2962 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (6-2)

Senate Appropriations (28.8) Assembly Appropriations (13-2)

Senate Floor (38-0) Assembly Floor (70-0)

SB 34 Continued

Existing law requires that any prisoner who has a severe mental disorder that is not in remission or cannot be kept in remission without treatment and who meets specified criteria shall as a condition of parole be treated by the State Department of Mental Health.

The precipitating crime must be one in which the prisoner used force or violence.

This bill lists additional specific crimes for which the person can be committed to the mentally disordered offender program, including such crimes as lewd and lascivious acts on a child under the age of 14 years.

The bill also clarifies that this procedure is to be used only in the case

of determinatively sentenced prisoners.

SB 561 (Mountjoy): Chapter 936: Parole Notification

(Adds Penal Code Section 3058.7.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (7-1)

Senate Floor (38-0) Assembly Floor (61-2)

Senate Concurrence (39-0)

Existing law requires the Board of Prison Terms (BPT) or the Department of Corrections (DOC) to provide written notice of the release of an inmate serving time for a violent felony to the sheriff or chief of police, or both, and the district attorney having jurisdiction over the community in which the inmate is scheduled to be released.

Existing law also requires the BPT or the DOC to notify each specified witness and each victim or next of kin of the victim of that offense who have previously requested notice of the inmate's release.

This bill authorizes local sheriffs or chiefs of police to notify any individual or institution designated by said sheriff or chief of police as an appropriate recipient of notice of a violent felon's release.

SB 856 (Thompson): Chapter 967: Release to parole.

(Adds Sections 3060.7 and 14202.2 to the Penal Code.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (9-0)

Senate Appropriations (12-0) Assembly Appropriations (19-0)

Senate Floor (39-0) Assembly Floor (67-0)

Senate Concurrence (39-0)

Existing law specifies that when a prisoner is released to parole, he or she is required to abide by conditions of parole both general as to all parolees and specific as to the particular parolee.

SB 856 Continued

This bill requires the parole authority to notify anyone in the highest control or risk classification being released on parole that he or she is required to report to the assigned parole officer within two days of release from state prison. Within 24 hours after a parolee fails to comply, the parole authority is be required to issue a warrant of arrest and to issue a written order suspending parole.

This bill also requires the Department of Justice, in conjunction with the Department of Corrections, to update any supervised release file that is available to law enforcement on the California Law Enforcement

Telecommunications System every 10 days to reflect the most recent inmates paroled from facilities under the jurisdiction of the Department of Corrections.

See also AB 133 (Hauser).

AB 133 (Hauser): VETOED: Release to parole: Pelican Bay State Prison.  
(Amends Section 3003 of the Penal Code.)

Legislative History:

Assembly Public Safety ( 7-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (10-7) Senate Appropriations (9-0)

Assembly Floor (64-11) Senate Floor (40-0)

Assembly Concurrence (56-22)

Existing law generally provides that an inmate who is released on parole shall be returned to the county from which he or she was committed.

This bill additionally requires the Department of Corrections to transport an inmate who is to be released on parole from Pelican Bay State Prison in Del Norte County to the prison facility nearest to the inmate's county of parole within 30 days of the inmates scheduled release date. This requirement applies only to an inmate who has served a part of his or her sentence in the Security Housing Unit at Pelican Bay State Prison and must be a condition of the inmate's parole. The bill allows adjustment of the

inmate's release date by up to two days if the scheduled release date falls on the day before a weekend or holiday.

See also SB 856 (Thompson).

AB 231 (Kuehl): Chapter 905: Commutation of Sentences: Battered Woman's Syndrome.  
(Amends Penal Code Section 4801.)

Legislative History:

Assembly Public Safety (5-3) Senate Criminal Procedure (4-2)

Assembly Floor (43-25) Senate Floor (21-17)

Assembly Concurrence (22-17)

AB 231 Continued

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

This bill provides "evidence of battered woman syndrome" for purposes of this provision "may include evidence of the effects of physical, emotional, or mental abuse upon the beliefs, perceptions, or behavior of victims of

domestic violence where it appears the criminal behavior was the result of that victimization.

AB 594 (Boland): Chapter 36: Probation: fees.

(Amends Section 1203.1b of the Penal Code.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (5-0)

Assembly Floor (75-0) Senate Floor (38-0)

Existing law requires probation officers to make a recommendation to the court regarding a defendant's ability to pay all or a portion of the reasonable costs of various probation-related expenses. These expenses include the cost of supervision, pre-sentence and pre-plea investigations, and reports. The court must make a finding of the defendant's ability or inability to pay costs for the record. Fees for work furlough, work release, and home detention are assessed without a court hearing to determine ability to pay.

This bill requires probation departments to make a determination of the defendant's ability to pay all or a portion of the reasonable costs of probation. Unless the defendant made a knowing and intelligent waiver of his or her right to have the court make the determination of the ability to pay costs, the probation officer's recommendation is to be implemented.

Existing law provides that when the probation department provides a payment plan for the defendant, it may charge up to \$35 for the use of that payment plan.

This bill raises the maximum amount of the fee to \$50.

Existing law provides that when making a determination of the defendant's ability to pay, the court may consider the defendant's probable financial condition up to six months from the date of the hearing.

This bill increases the assessment of future ability to pay to one year from the date of the hearing.

AB 716 (Lee): Chapter 49: Rehabilitation and education programs.  
(Amends Penal Code Section 1170.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (4-0)

Assembly Floor (44-27) Senate Floor (23-13)

Existing law provides that the Legislature finds and declares that the purpose of imprisonment for crime is punishment and declares the importance of uniformity in sentencing.

This bill declares the Legislature's intent to encourage the development of programs to rehabilitate nonviolent, first-time felony offenders. Though the stated purpose of imprisonment for a crime remains punishment under Penal Code Section 1170(a), this bill expresses the Legislature's desire to implement more educational and rehabilitative programs. AB 716 was inspired by a Little Hoover Commission report which found that the failure to equip criminals serving determinate sentences for life after prison contributes greatly to their high rate of recidivism.

This bill is similar to AB 2745 (Lee) which the Governor vetoed last year. AB 2745 was vetoed because it required the Director of the Department of Corrections to designate and evaluate six operational rehabilitation/educational programs. AB 716 does not require such evaluations.

AB 752 (Kuykendall): Chapter 934: Department of Corrections: report on paroles in San Bernardino County.  
(Amends Penal Code Section 3003.)

Legislative History:

Assembly Public Safety (7-0)    Senate Criminal Procedure (7-0)

Assembly Floor (63-5)    Senate Appropriations (28-8)

Assembly Concurrence (71-2)    Senate Floor (40-0)

Assembly Concurrence (69-0)    Senate Floor (27-0)

Existing law established a pilot project that electronically links the Department of Corrections and San Bernardino County for the purpose of transmitting information about parolees released in San Bernardino County.

On or before June 30, 1996, the Department of Corrections is required to issue a report to the Legislature on whether to expand the program statewide.

This bill requires the Department of Corrections to consult with the San Bernardino Sheriff's Department, the Los Angeles City Police Department and the Long Beach Police Department as to the feasibility of expanding the program statewide. This consultation should be completed before the Department of Corrections begins drafting their report to the legislature.

This bill also requires the Office of Criminal Justice Planning to explore the availability of funding, particularly federal, necessary to expand the project statewide

Prisons and Prisoners

SB 103 (Hurt): Chapter 440: Joint venture programs and unemployment insurance.

(Amends Penal Code Section 3003; adds Section 2719.9.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (5-4)

Senate Floor (35-0) Assembly Floor (44-15)

Senate Concurrence (35-0)

Existing law authorizes the Director of the Department of Corrections to establish joint venture programs (JVP) to employ state prisoners for the purpose of producing goods and services. Prisoners who participate in the JVP are eligible for unemployment benefits after their release from prison (Proposition 139: November 6, 1990).

This bill provides that a prisoner who participates in a JVP is ineligible for unemployment benefits upon his or her release from prison. Eliminating the eligibility of former JVP employees from claiming unemployment insurance is expected to reduce employer expenses.

This bill also states that serious consideration be given to releasing a former JVP employee into the county where the JVP employer is located if that employer states an intention to employ the inmate upon release.

These provisions become effective only when submitted to and approved by the voters of California.

SB 215 (Leonard): Chapter 557: Worktime credit.

(Amends Section 2933 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (4-3) Assembly Public Safety (7-1)

Senate Appropriations (10-1) Assembly Appropriations (14-1)

Senate Floor (34-3) Assembly Floor (60-5)

Senate Concurrence (32-2)

Existing law authorizes the Department of Corrections to reduce a prisoner's sentenced term of imprisonment through the accumulation of good behavior credits, and worktime credits by participating in work, training, and education programs established by the Director of Corrections.

Existing law specifies procedures under which a prisoner may forfeit worktime credits and have the forfeited credits restored. For purposes of the restoration of forfeited worktime credits, the department is authorized not to restore up to a specified amount of forfeited worktime credits under certain circumstances.

This bill provides that in any case in which the worktime credit was forfeited for a serious disciplinary infraction punishable by a credit loss of more than 90 days, restoration of credit shall be at the discretion of the director

SB 287 (Calderon): Chapter 262: Profits from crime: injunction (Son of Sam).

(Amends Section 2225 of the Civil Code.)

Legislative History:

Senate Judiciary (7-1) Assembly Judiciary (8-5)

Senate Floor (34-1) Assembly Floor (50-16)

Senate Concurrence (32-1)

Existing law makes proceeds from the sale of a convicted felon's story, and profits from the sale of things enhanced in value by the notoriety gained from the commission of a felony, subject to an involuntary trust for beneficiaries. Existing law gives beneficiaries a right to sue a convicted felon for trust proceeds, and requires a court prior to distributing the proceeds to first determine whether the felon owes restitution, or reimbursement for costs of defense or for an appeal. The court then orders payment of those obligations, but reserves at least 60% of the proceeds or profits for beneficiaries. Under existing law, the Attorney General may seek a preliminary injunction against a convicted felon requiring that proceeds or profits be held in an express trust for any beneficiaries, to prevent waste of proceeds or profits.

This bill authorizes the Attorney General or a beneficiary to seek a preliminary injunction against someone accused of a felony to prevent waste of proceeds or profits if there is probable cause to believe that they would be subject to an involuntary trust upon conviction. The bill amends the definition of "profits" to include income which may be accrued, earned

or paid before the conviction.

SB 346 (Campbell): VETOED: Department of Corrections: home detention.

(Adds Penal Code Section 5030.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (8-0)

Senate Appropriations (11-0) Assembly Appropriations (13-0)

Senate Floor (39-0) Assembly Floor (70-0)

Senate Concurrence (39-0)

Existing law, the Community-Based Punishment Act of 1994, provides for a comprehensive system of utilizing community-based punishment programs as an alternative to imprisonment in county jail or state prison for nonviolent offenders. The community-base punishment plans are established and operated by a participating county. The Board of Corrections oversees the implementation of these programs and ensures that the policies and activities of the community punishment programs are consistent with the requirements of this act. One of the alternative intermediate punishment options included in that Act is home detention with electronic monitoring.

(Penal Code Sections 8000 et seq.)

This bill would have authorized the Department of Corrections to implement a program for nonviolent offenders to participate in a home detention program in lieu of incarceration in the state prison. The Department is

allowed to set conditions on participation in such programs, including an agreement in writing to the use of electronic monitoring or supervising devices

SB 346 Continued

for the purposes of helping to verify compliance with the program. Specific categories of offenders prohibited from eligibility are listed; judges are provided the opportunity to comment on participation; and local jurisdictions are authorized to prescribe “reasonable” rules for home detention programs within local boundaries.

SB 485 (Solis): Chapter 106: Jails: work release programs.

(Add Section 4024.3 to the Penal Code.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (8-0)

Senate Floor (38-0) Assembly Floor (71-0)

Existing law permits counties to authorize their sheriffs or directors of corrections to institute work release programs in which county detainees may voluntarily participate. Instead of daily confinement, the individual may work on levees, roads, and public facilities, or on behalf of non-profit corporations, during regular hours of employment under county

supervision. Additionally, prisoners may receive work release credit for participation in educational, vocational, or substance abuse programs. For each day of manual labor, one day is taken off the sentence; a day is similarly deducted for participation in rehabilitative programs, but the days reduced may not exceed one-half of the total amount of time for which credit is possible.

This bill authorizes any county board of supervisors to create a separate, involuntary, work release program in their county provided the average daily inmate population is 90% of the county's correctional system's mandated capacity. This bill authorizes the sheriff in such counties to operate a work release program in which inmates are to be released and required to work on manual labor. This program allows for conduct credits equivalent to those that would be earned while incarcerated (generally 1/3 time off).

SB 615 (Maddy): Chapter 372: Alternative sentencing.

(Amends Section 1596.792 of the Health and Safety Code, and amends Sections 1174.2, 1174.4, 6225, and 6228 of, and adds Section 1174.9 to, the Penal Code.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (7-0)

Senate Appropriations (11-0) Assembly Appropriations (18-0)

Senate Floor (31-0) Assembly Floor (75-0)

Senate Concurrence (37-0)

Existing law establishes the Pregnant and Parenting Women's Alternative Sentencing Program for pregnant and parenting women with children under six years of age.

This bill requires that a county provide the director of Corrections with information to determine a woman's eligibility and placement status before she may be accepted into the program. The bill also clarifies that the one-year residential treatment phase and the one-year

SB 615 Continued

transition phase are both required for successful completion of the program. The bill requires that priority for services and aftercare be given to inmates who are incarcerated in or adjacent to a county in which a program facility is located. It also exempts these facilities from specified requirements of the Child Day Care Facilities Act.

Existing law provides for restitution centers, operated by the Department of Corrections.

This bill expands the eligibility requirements for the restitution center program to prohibit placement if the person has served a prior prison

sentence within 5 years, rather than the current 10 years, and it prohibits placement of a person with a prior conviction, rather than arrest or conviction, for the sale or use of drugs. The bill also allows for contracting out supervision of inmates in these facilities.

SB 775 (Costa): Chapter 317: Prisons: computer-assisted education.

(Adds Section 2053.4 to, and adds and repeals Section 2053.2 of, the Penal Code, and adds Section 1120.1 to the Welfare and Institutions Code.)

Legislative History:

Senate Criminal Procedure (5-0) Assembly Public Safety (6-0)

Senate Appropriations (28.8) Assembly Appropriations (18-0)

Senate Floor (37-0) Assembly Floor (61-3)

Senate Concurrence (26-0)

Existing law requires the Director of the Department of Corrections to implement a literacy education program in each state prison designed to ensure that upon parole, inmates are able to read at a ninth-grade level. Additionally, the Director of Corrections may establish and maintain classes for the education of inmates.

Existing law generally provides that inmates who participate in full-time work or education programs can reduce their sentence by as much as one-half. Prisoners who desire to participate but are not able, due to a lack of available placements, are eligible to earn good-time credit for up to

one-third of their sentence.

Existing law also requires the Director of Corrections implement a cell-study program as a pilot program in three state prisons. This program requires inmates to spend 15 hours per week in the classroom with an instructor, and 15 hours per week in their cells studying and tutoring. Classroom size is limited to 20 inmates per teacher.

This bill implements a two-year prison education pilot program designed to increase inmate literacy through computer-assisted instruction that allows individualized self-paced literacy training. The program is to be implemented at six correctional institutions, to be chosen by the department. At least one site must be at an institution housing females.

SB 775 Continued

This bill also requires the Director of Corrections to appoint a Superintendent of Correctional Education to oversee and administer all prison education programs.

Existing law requires the Department of the Youth Authority to establish a statewide educational program for wards committed to the department. This educational program is required to be offered at each institution within the jurisdiction of the department, except as provided.

This bill provides that in furtherance of the purpose of the Department of the Youth Authority to protect society from the consequences of criminal activity, the department's educational programs shall focus on value-based character education, emphasizing curriculum leading to a crime-free lifestyle. The bill requires the department to establish the office of the Superintendent of Education, and it requires the Superintendent of Education to oversee educational programs under the jurisdiction of the department.

SB 1093 (Marks): Chapter 70: Prisoners: medical care.

(Amends Section 3502.5 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (6-0)                      Assembly Public Safety (8-0)

Senate Floor (39-0)                                  Assembly Floor (76-0)

Existing law authorizes any physician who provides medical care to prisoners to provide a prisoner patient with a drug or treatment available only through a treatment protocol or treatment investigational new drug, as specified, if the physician determines that access to that drug is in the best medical interest of the patient, and the patient has given informed consent. Current law sunsets on January 2, 1996.

This bill deletes that sunset.

AB 529 (Setencich): Chapter 145: Inmate Welfare Fund: authorized uses.  
(Amends 5006.1 of Penal Code.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (72-0) Senate Floor (39-0)

Existing law provides that money in the Inmate Welfare Fund (IWF) not be used for certain items and services such as athletic uniforms and musical instruments. Expenses not covered by the IWF are to be paid by the Department of Corrections out of funds appropriated for such purposes.

AB 529 Continued

This bill deletes a list of noneducational and nonvocational training activities from the list of items that may not be paid for out of the IWF. By removing these items from the IWF list of prohibited expenditures, this bill does not specify who must pay for these items and services. While the IWF may provide these services, neither the IWF or the Department of Corrections are required to do so.

AB 586 (Rainey): Chapter 740: Department of Corrections: pilot projects

for private health care services.

(Adds and repeals Chapter 8.5 (commencing with Section 6130) of Title 7 of Part 3 of the Penal Code.)

Legislative History:

Assembly Public Safety (4-4, 6-0)          Senate Criminal Procedure (7-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (72-0)    Senate Floor (26-1)

Assembly Concurrence (73-0)

Existing law requires the California Department of Corrections to provide general medical, surgical, psychiatric, and dental care for inmates at state prisons. The Department operates four licensed 24-hour inpatient hospitals at various prisons for inmates who need specialized or specific medical services which are not provided at other state prisons. In addition, the Department currently contracts with local hospitals, laboratories, pharmaceutical companies, medical equipment suppliers and specialist health care providers to provide services that are not available within prison infirmaries or hospitals.

This bill authorizes the Director of the Department of Corrections to establish pilot projects for contracts with private sector health care facilities for the provision of medical, developmental, and mental health services. Those services may include comprehensive health services for individuals with medical or rehabilitation needs, chronic diseases or

conditions, mental disorders, controlled substance addiction, or developmental disabilities. The costs of the services shall not exceed the costs to the Department if not provided by such a contract.

The Department shall report back to the Legislature about those projects.

Authorization for the pilot projects expires on January 1, 2000.

AB 1177 (Cunneen): Chapter 749: Department of Corrections: inmate health care. (Urgency Measure)

(Amends Section 650.01 of the Business and Professions Code, to add Section 1542.1 to the Civil Code, to add Article 5 (commencing with Section 827) to Chapter 1 of Part 2 of Division 3 of Title 1 of, and to add Sections 6254.14 and 12511.5 to, the Government Code, to amend Sections 1250 and 1250.1 of the Health and Safety Code, to amend Sections 5007.5 and 5023 of the Penal Code, and to add Section 14165.11 to the Welfare and Institutions Code.)

AB 1177 Continued

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (7-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (55-0) Senate Floor (37-0)

Assembly Concurrence (76-0)

Existing law generally requires a physician who refers a person to, or seeks consultation from, an organization in which the licensee has a financial interest to disclose the financial interest. (Business and Professions Code Section 650.01)

This bill provides that if the physician is acting pursuant to a contract with the Department of Corrections (CDC), or the California Youth Authority (CYA), and the patient is an inmate or parolee of either department, the physician is instead required to annually disclose any financial interest to the CDC or the CYA.

Existing law requires that specified public records be open to inspection at all times during the office hours of the state or local agency and any person has a right to inspect any public record, with certain exceptions which includes specified records related to prescribed health care service and insurance coverage contracts. However, these contracts are open to inspection by the Joint Legislative Audit Committee. (Government Code Section 6254)

This bill also make these contracts open to inspection by the Bureau of State Audits. In addition, this bill exempts CDC records relating to health care services contract negotiations, as specified, from public inspection requirements.

Existing law authorizes a correctional treatment center as a health facility which is operated by the CDC, the CYA, or local law enforcement agencies, when authorized to do so, to provide certain prescribed health services, generally basic in nature to inmates. Existing law requires the State Department of Mental Health to adopt regulations specifying acute and nonacute levels of 24-hour care for certain correctional treatment centers that provide psychiatric and psychological services provided by county mental health agencies in local detention facilities. Both of these correctional treatment center statutes are operative only until January 1, 1997. (Government Code Sections 1250 and 1250.1)

This bill deletes those sunset dates.

Existing law authorizes the Director of Corrections to charge a \$5 fee for each inmate-initiated medical visit of an inmate, and requires that the monies received be transferred to the General Fund. (Penal Code Section 5007.5)

This bill instead provides that, upon appropriation by the Legislature, the funds received are to be expended to reimburse the CDC for direct provision of inmate health care services.

Existing law authorizes the California Medical Assistance Commission to negotiate contracts that are binding on the CDC for providing inmate acute inpatient hospital services. The CDC is required to enter into contracts with hospitals under the terms and conditions negotiated by the commission. (Penal Code Section 5023)

This bill instead requires the CDC to consult with the commission and authorizes the commission to assist and advise the CDC in planning and negotiating contracts for the purchase of health care services. The commission could negotiate directly with providers on behalf of the CDC, if mutually agreed upon. The bill adds a new identical section in the Welfare and Institutions Code Article (new Section 14165.11) pertaining to the creation, purpose, and authority of the California Medical Assistance Commission.

Existing law provides that the CDC may contract with private medical providers to provide inmate health care services not otherwise available through state employees.

This bill allows the Attorney General to defend those private providers against lawsuits brought by inmates on the basis that the inmates' civil rights were violated in providing those services. It also requires those providers to release the state from any claim arising out of that defense and provides for specified indemnification of those health care providers

when defended by the state. Providers are required to maintain professional liability insurance in order to receive such representation.

AB 1408 (Villaraigosa): VETOED: Compassionate release of terminally ill and physically incapacitated inmates.

(Amends Penal Code Section 1170.)

Legislative History:

Assembly Public Safety (6-1) Senate Criminal Procedure (5-1)

Assembly Appropriations (12-6) Senate Appropriations (28.8)

Assembly Floor (52-18) Senate Floor (21-10)

Assembly Concurrence (50-20)

Existing law provides that a court may recall a sentence and commitment previously ordered and resentence a defendant in the same manner as if he or she had not previously been sentenced, as specified, if: 1) the court recalls the sentence within 120 days of the date of commitment on its own motion; or 2) at any time upon the recommendation of the Director of Corrections ("CDC") or the Board of Prison Terms ("BPT"). (Penal Code Section 1170(d).) Currently, determinately sentenced inmates are released from prison on the "Compassionate Release Program" of CDC pursuant to Penal Code Section 1170(d).

This bill would have authorized courts to recall the sentence of determinately or indeterminately sentenced inmates upon the recommendation

of the director of CDC if “the person poses no substantial risk to himself or herself or the community and either of the following circumstances apply

AB 1408 Continued

The prisoner is, in the determination of the medical staff of the Department of Corrections, permanently and totally physically incapacitated.

The prisoner is terminally ill with an incurable condition caused by an illness or disease that would, within reasonable medical judgment, produce death within six months.

This bill would have made other related changes.

## COURT HEARINGS AND PROCEDURES

Bail

SB 517 (Kopp): Chapter 56: Bail forfeiture.

(Amend Sections 1298, 1305.2, and 1306 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (5-0) Assembly Public Safety (7-1)

Senate Floor (37-0) Assembly Floor (73-0)

Existing law provides procedures with regard to the forfeiture of bail, including a requirement that if the court grants relief from bail forfeiture the court must impose a monetary payment reflecting actual costs as a condition of relief to compensate the people for the costs of returning the defendant to custody.

This bill provides that failure to act within the required time to make the payment imposed pursuant to this provision may not become the basis for a summary judgment against any or all of the underlying amount of the bail. The bill restricts the amount of payment when a summary judgment is entered to the amount of the costs owing at the time of summary judgment plus administrative costs and interests.

Existing law provides that instead of a deposit of money in a criminal action, the defendant or any other person may give as security any equity in real property which he or she owns, provided that no charge is made to the defendant for the giving as security the equity.

This bill also prohibits a charge to any other person, as well as to the defendant.

Existing law provides that if an assessment is made a condition of the order to set aside the forfeiture of an undertaking, deposit, or bail in a criminal action, the clerk of the court must mail a notice to the surety or depositor within 30 days, and if the assessment has not been paid by the date specified, the court shall determine if a certificate of mailing has been executed. If none has, the court must mail a notice to the surety or depositor, and the surety or depositor is allowed an additional 30 days to pay the assessment.

This bill requires that the notice also be sent to the bail agent whose name appears on the bond.

SB 1245 (Polanco): Chapter 434: Bail: extradition.

(Amends Section 1305 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (8-0)

Senate Floor (38-0) Assembly Floor (70-0)

Senate Concurrence (40-0)

SB 1245 Continued

Existing law provides that when a defendant is in custody in a foreign jurisdiction and the prosecuting agency elects not to extradite the defendant, the court must vacate the forfeiture and exonerate the bond.

This bill requires the court to vacate the forfeiture and exonerate the bond when the following conditions are met. 1) The defendant is not in custody and is beyond the jurisdiction of the state. 2) The defendant is temporarily detained by the bail agent in the presence of a local law enforcement officer of the foreign jurisdiction. 3) The defendant is positively identified as the wanted person in an affidavit signed under penalty of perjury by an authorized peace officer of the jurisdiction in which the defendant is located. 4) The prosecuting agency elects not to seek extradition.

AB 67 (Bowen): Chapter 51: Misdemeanor O.R. release: public safety consideration.

(Amends Section 1270 of the Penal Code.)

Legislative History:

Assembly Public Safety (5-3) Senate Criminal Procedure (4-0)

Assembly Floor (58-4) Senate Floor (38-0)

Assembly Concurrence (68-4)

Existing law requires a defendant who is in custody and is arraigned on a

complaint alleging a misdemeanor, including a defendant arrested pursuant to an out-of-county warrant involving only misdemeanors, to be released on his or her own recognizance, unless the court makes a finding on the record that the release will not reasonably assure the appearance of the defendant as required.

This bill creates another exception to releasing a defendant on his or her own recognizance when a court finds that releasing the defendant on his or her own recognizance will compromise public safety. The bill requires that public safety be the primary consideration in determining whether to release a misdemeanant on his or her own recognizance.

#### Courts

AB 1884 (Allen): Chapter 388: Extraordinary criminal trial costs.

(Urgency Measure)

(Amends Government Code Section 15202.)

#### Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (77-0) Senate Floor (36-0)

Existing law authorizes the State Controller to reimburse counties for extraordinary costs incurred during certain criminal trials if sufficient

justification for the reimbursement is

#### AB 1884 Continued

provided. Furthermore, without prior approval from the Attorney General, counties may not seek reimbursement for costs of travel in excess of 1,000 miles on any single round trip.

This bill provides that counties seeking reimbursement for extraordinary trial costs must include a written statement from the presiding or assigned trial judge. The letter must indicate that in the opinion of the court such costs are reasonably necessary for the prosecution or defense of the case.

This bill also repeals the prohibition of reimbursement of costs of travel in excess of 1,000 miles without prior approval from the Attorney General. This provision removes the Attorney General from situations which could potentially compromise cases in which his office is involved. For example, the Attorney General's office is now prosecuting the case of accused mass murderer Charles Ng. Since certain witnesses in Ng's trial will have to travel over 1,000 miles, requests for reimbursement for such extraordinary travel costs would have to go to the Attorney General. As the prosecutor in the case the Attorney General could potentially have a conflict of interest that may provide the defense with grounds for an appeal.

## Criminal Procedure

SB 33 (Peace): Chapter 563: Arrest warrants.

(Amends Penal Code Sections 813 and 826 and adds Penal Code Section 817.)

### Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (9-0)

Senate Floor (39-0) Assembly Appropriations (19-0)

Senate Concurrence (36-0) Assembly Floor (77-0)

Existing law sets forth the requirements for the issuance of warrants and summons for arrest.

Existing law provides that when a complaint is filed with a magistrate charging a public offense originally triable in the superior court of the county in which he or she sits, the magistrate, if satisfied from the complaint that the offense complained of has been committed and there is reasonable ground to believe that the defendant has committed it, shall issue a warrant or summons for the arrest, as specified.

This bill provides that a warrant or summons for arrest shall be issued pursuant to this provision if, and only if, the magistrate is satisfied from the complaint that the offense complained of has been committed and there is reasonable ground to believe that the defendant has committed it.

This bill also provides that a warrant of probable cause for arrest shall be issued if and only if the magistrate is satisfied from a declaration in support of the warrant, in a sworn statement made in writing or orally, including in person, telephonically, or by facsimile, that there exists probable cause that the offense has been committed and the defendant committed it. The bill

SB 33 Continued

specifies the content and authorizes a form for the warrant. The bill specifies that an original or duplicate original warrant is sufficient for booking a defendant into custody.

SB 121 (Thompson): Chapter 793: Evidence: voluntary intoxication.  
(Amends Penal Code Section 22.)

Legislative History:

Senate Criminal Procedure (4-3) Assembly Public Safety (5-3)

Senate Appropriations (12-0) Assembly Appropriations (15-1)

Senate Floor (34-2) Assembly Floor (66-3)

Existing law provides that evidence of voluntary intoxication is admissible solely on the issue of whether or not the defendant actually formed a required specific intent, premeditated, deliberated, or harbored malice

aforethought, when a specific intent crime is charged. Under existing law, as held by the California Supreme Court in *People v. Whitfield*, 7 Cal. 4th 437, the phrase “when a specific intent crime is charged” includes murder even where the prosecution relies on a theory of implied malice.

This bill provides that evidence of voluntary intoxication is admissible solely on the issue of whether or not the defendant actually formed a required specific intent, or, when charged with murder, whether the defendant premeditated, deliberated, or harbored express malice aforethought.

SB 734 (Marks): Chapter 704: Limitations of actions.

(Amends Section 801.5 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (9-0)

Senate Floor (38-0) Assembly Floor (74-0)

Existing law generally requires that prosecution of a felony offense punishable by less than eight years in prison be commenced within three years after commission of the offense. However, specified crimes in which a material element is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, may be prosecuted within three years after discovery of the offense.

This bill instead requires that those crimes be prosecuted within four years after date of discovery or four years after completion of the offense, whichever is later.

SB 840 (Beverly): Chapter 367: Arraignment: audio-video appearance.  
(Adds and repeals Section 977.2 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (3-2, 4-0) Assembly Public Safety (6-1)

Senate Appropriations (28.8) Assembly Appropriations (10-4)

Senate Floor (31-4) Assembly Floor (65-4)

Senate Concurrence (31-0)

Existing law provides for a defendant to be arraigned in municipal or superior court by two-way electronic audio-video communication between the defendant and the courtroom, when the defendant consents.

This bill creates a three-year pilot program authorizing the Department of Corrections to arrange for a defendant's initial court appearance and arraignment by two-way electronic audio-video communication, without obtaining the defendant's consent.

AB 80 (Napolitano): Chapter 40: Civil Procedure.

(Amends Revenue and Taxation Code Section 19707.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (5-0)

Assembly Floor (68-0) Senate Floor (38-0)

Existing law provides that state and municipal courts have jurisdiction in misdemeanor criminal cases that are committed within the county in which the court is established. (Penal Code Section 1462.) However, trials for violations of personal income tax and bank & corporation tax laws are to be held in the county of residence or principal place of business of the defendant at the time of the commission of the offense. (Revenue and Taxation Code Section 19707.)

This bill requires that venue for trials involving misdemeanor offenses of Personal Income Tax Law and the Bank & Corporation Tax Law be consistent with similar felony offenses. This seeks to fulfill the legislative intent of AB 2415 (Napolitano), Chapter 1036, Statutes of 1994, which provided that rules regarding venue for tax law violations be in general conformity with such rules for criminal cases. AB 2415 created a technical problem when it failed to make uniform the misdemeanor venue sections of Penal Code Sections 1462 and 1462.2.

AB 130 (Rainey): Chapter 86: Pretrial release.

(Amends Penal Code Section 1204.5.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (5-1)

Assembly Floor (70-1) Senate Floor (33-1)

AB 130 Continued

Existing law provides that a judge cannot review probation reports about the defendant prior to the defendant's conviction, unless the defendant consents.

This bill provides that a judge, who is not the preliminary hearing or trial judge, may consider probation and law enforcement reports in order to adopt a pre-trial sentencing plea, without the consent of the defendant, provided that: 1) the defendant is represented by counsel; 2) information provided to the judge is also provided to the District Attorney (D.A.) and defense attorney at least 5 days prior to the hearing; and 3) the D.A. and defense attorney are allowed to provide information to supplement the report.

AB 167 (Bordonaro): Chapter 131: Arraignment: audio-video appearance.

(Adds and repeals Section 977.4 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (7-0)

Assembly Floor (57-8) Senate Floor (38-0)

Assembly Concurrence (62-5)

Existing law provides for a defendant to be arraigned in municipal or superior court by two-way electronic audio-video communication between the defendant and the courtroom, when the defendant consents. If the defendant is represented by counsel, the attorney must be present with the defendant at the initial court appearance and arraignment, and may enter a plea during the arraignment.

This bill authorizes a three-year pilot project in Santa Barbara County in which the defense counsel may be present either with the defendant or in court at arraignment where a two way electronic audio-video communication system allows for confidential communication. In the case of a defendant in a holding facility and an attorney in court, the court must provide confidential two way electronic audio-video communication between the defendant and the attorney, unless the defendant expressly waives the right to be represented by an attorney.

This bill also requires the public defender of Santa Barbara County to evaluate the pilot project and submit a report to the Legislature on or before January 1, 1999.

AB 219 (Baca): Chapter 93: Identification of defendants: thumbprints.

(Amends Sections 853.5 and 853.6 of the Penal Code, and Sections 40500 and 40504 of the Vehicle Code.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (7-0)

Assembly Floor (75-0) Senate Floor (37-0)

Assembly Concurrence (75-0)

AB 219 Continued

Existing law provides that when a person is arrested for an infraction, the violator must be released after signing a promise to appear. Existing law also provides that when a person is arrested for a misdemeanor, the person may be released after presenting a peace officer with satisfactory identification and signing either a promise or notice to appear.

This bill authorizes a peace officer to obtain a thumbprint on a promise to appear from the person arrested for an infraction or misdemeanor if that person does not provide sufficient identification. The bill prohibits creation of a data base from the thumbprint information.

See also AB 1111 (Rogan).

AB 292 (Richter): Chapter 43: Arraignment: Sierra County.

(Amends Penal Code Section 976.5.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (5-0)

Assembly Floor (75-0) Senate Floor (38-0)

Existing law provides that because Sierra County houses its prisoners in Nevada County Jail, when an accusatory pleading is filed in Sierra County and the defendant is in the custody of Nevada County, he or she may be arraigned before a court in Nevada County. This law sunsets on January 1, 1996.

This bill extends the sunset clause to January 1, 1998.

AB 354 (Rogan): Chapter 18: Appeals.

(Amends Section 1237 of, and adds Section 1237.1 to, the Penal Code.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Floor (74-0) Senate Floor (37-0)

Existing law generally provides that an appeal may be taken by a defendant from a final judgment of conviction.

This bill prohibits an appeal by a defendant on the ground of an error in

the calculation of pre-sentence custody credits, unless the defendant first presents the claim in the trial court at the time of sentencing, or if the error is not discovered until after sentencing, the defendant first makes a motion for correction of the record in the trial court.

The purpose of the bill is to curtail misuse of the formal appellate process to correct minor sentencing errors when alternative forums for resolution exist, particularly in the area of calculation of pre-sentence custody credits.

AB 355 (Rogan): Chapter 87: Hearsay Rule.

(Amends Evidence Code Section 767 and adds Article 16 (commencing with Section 1360) to Chapter 2 of Division 10 to the Evidence Code.)

Legislative History:

Assembly Public Safety (5-0) Senate Criminal Procedure (4-1)

Assembly Floor (72-0) Senate Floor (30-1)

Assembly Concurrence (74-0)

Existing law provides that a leading question may not be asked of a witness on direct examination, but may be asked of a witness on cross-examination, except as provided.

Existing law provides that hearsay evidence, as defined, is inadmissible

except pursuant to specific exceptions to the hearsay rule.

Existing law authorizes the court, in the interests of justice, to permit a leading question to be asked of a child under 10 years of age in a case involving a prosecution under specified child abuse offenses.

This bill includes among these offenses, the offense of continuous sexual abuse of a child, for purposes of this provision.

This bill provides that evidence of a statement made by a victim who is a minor at the time of the proceedings, where the statement was made when the victim was under the age of 12, describing acts of child abuse or neglect, as provided, is not made inadmissible by the hearsay rule if the statement was made for purposes of medical diagnosis or treatment and describes medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

This bill also sets forth an exception to the hearsay rule, in a criminal prosecution where the victim is a minor, for the admission of statements by a victim describing acts of child abuse or child neglect, as specified.

AB 461 (Rogan): Chapter 55: Warrantless arrests for assault or battery on emergency personnel.

(Adds Section 836.1 to the Penal Code.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (5-0)

Assembly Floor (72-0) Senate Floor (28-0)

Assembly Concurrence (72-0)

Existing law provides that a peace officer may arrest a person without a warrant when the peace officer has a reasonable cause to believe that the person to be arrested has committed a public offense in the officer's presence; the person arrested committed a felony, although not

AB 461 Continued

in the officer's presence; the officer has reasonable cause to believe the person to be arrested has committed a felony, whether or not the felony has been committed. (Penal Code Section 836(a).)

This bill allows a peace officer to make an arrest without a warrant for a misdemeanor assault or battery against a firefighter, emergency medical technician, or mobile intensive care paramedic, as specified, whenever the peace officer has reasonable cause to believe the offense occurred, although not committed in the officer's presence, whether or not the offense has in fact been committed.

AB 882 (Rogan): Chapter 439: Sex crimes: evidence of prior acts.

(Amends Evidence Code Sections 1101 and 1108.)

Legislative History:

Assembly Public Safety (5-2) Senate Criminal Procedure (5-0)

Assembly Floor (66-2) Senate Judiciary Committee (7-1)

Assembly Concurrence (71-0) Senate Floor (33-1)

Existing law provides that, except as specified, evidence of a person's character or a trait of his or her character (whether in the form of an opinion, evidence of reputation, or evidence of specific instances of his or her conduct) is inadmissible when offered to prove his or her conduct on a specified occasion.

This bill creates a further exception to this rule by providing that in a criminal action in which the defendant is accused of a sexual offense, evidence of the defendant's commission of another sexual offense or offenses is not inadmissible under the above rule, except as specified.

This bill also requires the prosecution to disclose such evidence to the defendant 30 days prior to trial.

AB 884 (Rogan): Chapter 41: Time for judgment.

(Amends Penal Code Section 1449.)

Assembly Public Safety (7-0) Senate Criminal Procedure (5-0)

Assembly Floor (75-0) Senate Floor (38-0)

Existing law requires a court to appoint a time for pronouncing judgment of not less than 6 hours nor more than 5 days after a verdict or plea of guilty. The court may extend this time by not more than 21 days if probation is being considered.

This bill reduces this time for extension when probation is being considered from 21 to 20 judicial days.

AB 1111 (Rogan): Chapter 159: Identification of defendants: thumbprints.  
(Adds Section 992 to the Penal Code.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (73-0) Senate Floor (39-0)

Assembly Concurrence (73-0)

Existing law provides that upon the filing of a sentencing enhancement for a prior conviction, the district attorney must prove the prior conviction beyond a reasonable doubt. There is no requirement for specific identifying information, other than the defendant's name and Criminal Investigation and Identification (CII) number, to be entered on the

judgment of conviction.

This bill requires that upon conviction of a felony, the court must require the defendant to immediately provide a right thumbprint on the judgment of conviction. If the defendant could not physically comply, the bill requires the left thumbprint or some other suitable identifying characteristic as determined by the court. The bill prohibits creation of a data base from the thumbprint information.

See also AB 219 (Baca).

AB 1131 (Caldera): Chapter 46: Reasonable doubt. (Urgency Measure)  
(Amends Penal Code Section 1096 and 1096a.)

Legislative History:

Assembly Public Safety (5-0) Senate Criminal Procedure (6-0)

Assembly Floor (55-13) Senate Floor (30-0)

Assembly Concurrence (63-8)

Existing law requires the state in a criminal case to prove the defendant guilty beyond a reasonable doubt and defines reasonable doubt as “not a mere possible doubt; because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is that state of the case, which, after the entire comparison and consideration of all the evidence, leaves the minds of jurors in that

condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge

This bill deletes the phrases “depending on moral evidence” and “to a moral certainty” from the definition of reasonable doubt. This change was in response to two court cases which called into question the use of these phrases and conforms the Penal Code to the CALJIC instruction in *Victor v. Nebraska/Sandoval v. California* (1994) 114 S. Ct. 1239 and *People v. Freeman* (1994) 8 Cal 4th 450.

AB 1226 (Martinez): Chapter 184: Access to victim/witness information.  
(Amends Penal Code Section 1054.2.)

Legislative History:

Assembly Public Safety (6-0) Senate Criminal Procedure (6-0)

Assembly Floor (72-0) Senate Floor (39-0)

Existing law, added by initiative statute, prohibits any attorney from disclosing or permitting to be disclosed to a defendant the address or telephone number of a victim or witness, unless specifically permitted to do so by the court after a hearing and a showing of good cause.

This bill requires the court, when the defendant is acting as his or her

own attorney, to endeavor to protect the address and telephone number of a victim or witness by providing for contact only through a private investigator licensed by the Department of Consumer Affairs and appointed by the court or by imposing other reasonable restrictions, absent a showing of good cause as determined by the court.

AB 1343 (Sweeney): VETOED: Parole.

(Amends Penal Code Sections 3042, and 3058.6 and adds Penal Code Section 3044.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (12-0) Senate Appropriations (9-0)

Assembly Floor (76-0) Senate Floor (39-0)

Assembly Concurrence (80-0)

Existing law provides that at least 30 days before the Board of Prison Terms meets to review or consider the parole suitability or the setting of a parole date for any prisoner sentenced to a life term, the board is required to send a written notice thereof to several specified persons.

This bill would have added the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community into which the prisoner is scheduled or proposed to be released on parole, to the list of persons to whom that notice is required to be sent.

Existing law requires that, if an inmate was serving a term for committing a violent felony, the Board of Prison Terms and the Department of Corrections notify the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community in which the person is scheduled to be released on parole. Notification is required to be at least 15 days prior to the inmate's scheduled release date or, if the release is to a county other than the county from which the inmate was committed, at least 45 days prior to the inmate's scheduled release date. Excepted from the time limit for notification are specified circumstances that could not have been reasonably anticipated under which the release date of an inmate has been advanced and there are less than 30 days remaining on the sentence before the inmate's release on parole. Existing law permits those parties given notice to provide written comment to the board or department regarding the impending release.

AB 1343 Continued

This bill would have required that the notification, in all cases, be made by mail at least 45 days prior to the inmate's scheduled release date if the scheduled release date is known, or as soon as practicable, but in no case less than 15 days prior to that date. This bill would have revised the exceptions to this time limit for notification. The bill would have required that the comments submitted by recipients of the notice become a

part of the file of the person to be released.

Existing law gives specified persons, including the victim, the right to appear at the hearing to review or consider the parole suitability or the setting of a parole date for any prisoner and to adequately and reasonably express his or her views concerning the crime and the person responsible.

This bill would have permitted the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community from which the prisoner was committed and, if different, the community in which the prisoner is scheduled or proposed to be released on parole, to attend and testify during any parole hearing to review or consider the parole suitability or the setting of a parole release date for that prisoner.

AB 1452 (Kaloogian): Chapter 14: Time for arraignment.

(Amends Penal Code Section 825.)

Legislative History:

Assembly Public Safety (6-0) Senate Criminal Procedure (6-0)

Assembly Floor (71-0) Senate Floor (40-0)

Assembly Concurrence (67-0)

Existing law requires that a defendant be taken before the magistrate without unnecessary delay, but not more than 2 days after his or her arrest. When the 2 days expire at a time when the court is not in session,

that time shall be extended to include the duration of the next regular court session on the judicial day immediately following. The court of appeal in *Youngblood v. Gates* (2d Dist.), 200 Cal. App. 3d 1302, 1313, construed this provision to require the arraignment of an in-custody defendant on the 2nd court day following an arrest, regardless of the time of day or night of the arrest.

This bill requires a defendant be taken before the magistrate without unnecessary delay, but not more than 48 hours after his or her arrest. The bill also requires that time be extended to include the duration of the next regular court session on the judicial day immediately following if the 48 hours expire at a time when the court is not in session.

#### Fees, Fines and Forfeitures

SB 133 (Boatwright): Chapter 67: Allocation of diversion fees.

(Amends Penal Code Sections 1001.15 and 1001.16.)

#### Legislative History:

Senate Criminal Procedure (5-0)            Assembly Public Safety (8-0)

Senate Floor (36-0)            Assembly Floor (76-0)

Existing law authorizes a judge to require a defendant accused of a felony

or a misdemeanor pursuant to violations of the California Uniform Controlled Substances Act to pay an administrative fee as part of an enrollment fee in a diversion program to cover the actual cost of any criminalistics laboratory analysis, the actual cost of processing a request or application for diversion, and the actual cost of supervising the divertee. One-third of the fee collected is required to be deposited in the criminalistics laboratory fund in the county treasury and the remaining 2/3 is required to be used to cover the administrative cost of processing the request or application and the cost of supervising the divertee.

This bill requires that these administrative fees may not exceed the actual costs required for the programs authorized to be reimbursed by the fee, and repeals the existing allocation formula for these fees. The bill also requires that all proceeds from the fee established pursuant to these provisions be allocated only for the programs authorized to be reimbursed by the fee.

AB 266 (Burton): Chapter 882: Restitution and reallocation of fines and forfeitures

(Adds Penal Code Section 1463.009.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (7-0)

Assembly Appropriation (18-0) Senate Appropriations (9-0)

Assembly Floor (75-0) Senate Floor (39-0)

## Assembly Concurrence (80-0)

Existing law requires all fines and forfeitures imposed for crimes other than parking offenses to be deposited with the local county treasurer and distributed each month to the state, county and cities as specified in Penal Code Section 1463.001.

This bill provides that bail forfeitures from cases in which a defendant is charged and convicted of specified sex offenses, or of a violent or serious felony, as defined, be allocated according to a new set of priorities. First, funds should be used to reimburse the county for reasonable administrative costs. Second, up to fifty percent of the remaining forfeited bail money should be distributed to any victims of the defendant's crimes. Third, the balance of the funds is to be deposited and distributed according to the guidelines in current law. The intent of this legislation is to increase the amount of restitution that victims will receive.

AB 433 (Rainey): Chapter 285: Distribution of fines and forfeitures.  
(Amends Penal Code Section 1463 & Vehicle Code Section 42200.)

### Legislative History:

Assembly Local Government (10-0)      Senate Criminal Procedure (7-0)

Assembly Floor (72-0) Senate Floor (37-0)

Assembly Concurrence (70-0)

Existing law requires that funds generated through the collection of fines and forfeitures for misdemeanor crimes be deposited into a special fund known as the Traffic Safety Fund (TSF). For purposes of disbursing fines and forfeitures deposited into the TSF, existing law defines “city” as any city, city and county, district, authority, or other local agency (other than a county) which employs persons authorized to make arrests or to issue notices to appear or notices of violation which may be filed in court.

This bill would expand the definition of a “city” found in the Vehicle Code and Penal Code to include, among others, special police protection districts. This would enable these districts to see a partial return of fines and forfeitures collected as a result of their efforts. The percentage retained by the ticketing agency varies from county to county.

AB 1075 (Martinez): Chapter 318: Fines.

(Amends Penal Code Sections 1463.14 and 1463.16.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (72-0) Senate Floor (37-0)

Assembly Concurrence (69-1)

Existing law requires \$50 for each conviction of a violation of specified Vehicle Code provisions shall be deposited in a special account to be used for alcohol and drug testing, and \$50 of each fine shall go to the county's alcoholism program.

This bill provides that public entities can forgo payment of \$100 to the County Treasurer for every conviction of certain Vehicle Code violations. Rather such entities must only contribute where a fine or forfeiture is collected. Where community service or jail time is imposed for certain Vehicle Code violations, public entities will no longer have \$100 debited from other collectible fines and forfeitures.

Judges, Jurors and Witnesses

SB 303 (Wright): Chapter 844: Video testimony.

(Adds Penal Code Section 1347.5.)

Legislative History:

Senate Criminal Procedure (4-2) Assembly Public Safety (7-0)

Senate Floor (26-5) Assembly Appropriations (14-0)

Senate Concurrence (30-0) Assembly Floor (65-0)

Existing law authorizes the court in a criminal proceeding to order that the testimony of a minor be taken by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant, and attorneys, and be communicated to the courtroom by means of closed-circuit television, as specified.

This bill authorizes the court to order that the testimony of a person with a disability, as specified, be taken in the same manner. The bill also authorizes the court, in its discretion, to make accommodations to support the person with a disability. The bill authorizes the prosecution to apply for an order that the testimony of the person with a disability be recorded and preserved on videotape.

SB 508 (Campbell): Chapter 964: Jurors.

(Amends Code of Civil Procedure Sections 206 and 237.)

Legislative History:

Senate Criminal Procedure (5-2) Assembly Public Safety (6-2)

Senate Appropriations (28.8) Assembly Appropriations (13-3)

Senate Floor (25-4) Assembly Floor (63-6)

Senate Concurrence (39-0)

Existing law provides that upon the conclusion of a criminal jury proceeding, a superior court may order that all or part of the court's record of personal juror identifying information be sealed upon a finding

that the sealing is warranted by a compelling governmental interest, as specified.

Existing law provides that any person may petition the court for access to these records, and in the absence of an express finding of continuing risk, the records shall be made available. Existing law also provides the procedure under which the court will hear the petition to unseal the records, as specified.

This bill provides that the names of all qualified jurors drawn from the qualified juror list for the superior court shall be made available to the public unless the court finds a compelling interest, as specified, to require its confidentiality or to limit its use.

This bill also provides that all records of personal juror identifying information, as specified, shall be sealed upon the recording of a verdict in a criminal jury proceeding but that upon the

SB 508 Continued

recording, any person may petition the court for access to these records. If the petition and supporting declaration establish a prima facie showing of good cause and there is no compelling interest against disclosure, the court is to set the matter for a hearing. Petitioners are to provide

specified notice of the petition and time and place of the hearing to the parties in the criminal action, including the Attorney General in a capital case. The bill requires the court to provide specified notice to any affected juror. Any affected former juror may appear at this hearing in person, in writing, by telephone, or by counsel to protest the granting of the petition. Juror records shall be made available unless the court sustains a former juror's protest to the granting of the petition, as specified. However, the court may require the person to whom disclosure is made to agree not to divulge the identity of jurors or any identifying information to others, as specified, and may otherwise limit disclosure in any manner it deems appropriate.

This bill also makes conforming changes and legislative findings and declarations.

SB 824 (Marks): VETOED: Grand Jury.

(Repeals Penal Code Section 904.4 and adds Penal Code Section 904.6.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (8-0)

Senate Floor (38-0) Assembly Floor (42-32)

Existing law authorizes, upon application by the District Attorney, the presiding judge of the Superior Court in any county with a population between 370,000 and 400,000 to order and direct the impanelment, at any

time, of one additional grand jury. Existing law authorizes this judge to select persons at random, from the list of trial jurors in civil and criminal cases, and it requires the judge to determine if they are competent to serve as grand jurors.

This bill would have deleted these provisions and thus eliminates a separate Section applying to only these counties.

Existing law authorizes, in any county or city and county, the presiding judge of the Superior Court to order and direct the impanelment of one additional grand jury and provides that this additional grand jury may serve for a period of one year from the date of impanelment, but may be discharged at any time within the one-year period by order of the presiding judge.

This bill would have specified that this authority is limited to the impanelment of an additional criminal grand jury and provides that the additional grand jury may serve for a period not to exceed 120 days, unless the presiding judge extends this period to complete an existing investigation.

AB 1470 (W. Brown): Chapter 53: Witnesses: rewards for information.  
(Amends Section 132.5 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (5-0)

Assembly Floor (75-0) Senate Floor (38-0)

Existing law prohibits any person who witnesses an event that he or she knows is a crime or who has personal knowledge of facts that he or she knows or reasonably should know may require that person to be called as a witness in a criminal action from accepting any money or other compensation for providing that information for one year after the event or until a final judgment in a prosecution commenced within that one year. Violations are subject to a misdemeanor and/or fine. The Attorney General or the District Attorney of the county in which the alleged violation occurs may initiate a civil action for a fine equal to 150 percent of the compensation received. (Penal Code Section 132.5.) The existing prohibition provides specific exceptions to that prohibition, including the acceptance of statutorily authorized rewards by governmental agencies.

This bill adds an additional exception for private reward programs offered by victims of crimes for information leading to the arrest and conviction of offenders. "Victims of crimes" is to be construed in a manner consistent with the "Victims Bill of Rights" and the provisions of Penal Code Section 136 which defines "victim".

AB 1736 (Harvey): Chapter 349: Retired judges.

(Adds and repeals Code of Civil Procedure Section 107.65.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (4-0)

Assembly Floor (74-0) Senate Appropriations (28.8)

Assembly Concurrence (50-15) Senate Floor (37-0)

Existing law allows the Chief Justice to appoint retired judges to hear cases in order to facilitate the smooth operation of the courts.

This bill prohibits a retired judge from hearing or trying any criminal cause if both parties stipulate, as specified, that he or she is not capable or qualified to hear and try the cause. This bill requires, commencing January 1, 1997, the clerk of the municipal and superior courts of each county to submit a copy of the stipulations to the Judicial Council.

DEATH PENALTY

SB 9 (Ayala): Chapter 478: Death penalty: discharging firearm from a motor vehicle.

(Amends Penal Code Section 190.2.)

Legislative History:

Senate Criminal Procedure (4-1) Assembly Public Safety (6-3)

Senate Appropriations (8-0) Assembly Appropriations (14-5)

Senate Floor (33-2) Assembly Floor (55-12)

Senate Concurrence (29-3)

Existing law provides that the penalty for a defendant found guilty of murder in the first degree shall be death or confinement in the state prison for a term of life without the possibility of parole where one or more special circumstances has been charged and found to be true.

This bill includes within the enumeration of special circumstances a murder that was perpetrated by means of intentionally discharging a firearm from a motor vehicle, as defined, at another person or persons outside the vehicle with the intent to inflict death.

This bill provides that the above provisions shall become effective only when submitted to, and approved by, the voters.

This bill also makes technical, nonsubstantive changes to existing law.

SB 32 (Peace): Chapter 477: Death penalty: carjacking.

(Amends Penal Code Section 190.2.)

Legislative History:

Senate Criminal Procedure (4-0) Assembly Public Safety (6-3)

Senate Appropriations (10-0) Assembly Appropriations (14-5)

Senate Floor (31-1) Assembly Floor (59-7)

Senate Concurrence (28-2)

Existing law specifies that the penalty for a defendant who is found guilty of murder in the first degree is death or imprisonment in the state prison for life without the possibility of parole, where one or more special circumstances have been found to be true.

This bill includes within that list of special circumstances a murder that was committed while the defendant was engaged in, or an accomplice to, the commission or attempted commission of a carjacking, as defined, and a murder of a juror, as specified.

This bill only becomes effective when submitted to, and approved by, the voters.

SB 32 Continued

This bill incorporates additional amendments to Section 190.2 of the Penal Code proposed by SB 9, to be operative only if both the provisions of the bill and SB 9 are submitted to and approved by the voters and this bill receives more affirmative votes than SB 9.

## DOMESTIC VIOLENCE

SB 132 (Watson): Chapter 965: Peace officer training.

(Amends Penal Code Sections 13519 and 13730.)

### Legislative History:

Senate Criminal Procedure (6-1) Assembly Public Safety (8-0)

Senate Floor (21-11) Assembly Appropriations (19-0)

Senate Concurrence (24-11) Assembly Floor (55-4)

Existing law requires the Commission on Peace Officer Standards and Training to implement a course of instruction for the training of law enforcement officers in the handling of domestic violence complaints. The course of instruction is required to be developed by the commission in consultation with specified groups and individuals.

Existing law also requires each law enforcement agency to develop an incident report form that includes a domestic violence identification code and requires a report to be written following all incidents of domestic violence.

This bill requires each law enforcement officer below the rank of supervisor who is assigned to patrol duties and would normally respond to domestic violence calls or incidents of domestic violence to complete, every 2 years, an updated course of instruction on domestic violence. This instruction is to be funded from existing resources.

This bill also specifies certain information to be included in domestic violence incident reports.

SB 169 (Hayden): Chapter 641: Repeal of diversion in misdemeanor domestic violence cases.

(Repeals Penal Code Sections 1000.6, et. seq. and amends Section 1203.097.)

Legislative History:

Senate Criminal Procedure (4-3)            Assembly Public Safety (9-0)

Senate Floor (31-1)        Assembly Appropriations (16-0)

Senate Concurrence (35-0)        Assembly Floor (64-0)

Existing law specifies procedures for the diversion of a defendant charged

with a misdemeanor domestic violence offense under specified circumstances prior to the entry of a plea. These provisions require a defendant to successfully complete a batterer's program and impose various duties on the court and the probation department in connection with the defendant's participation in, and the minimum standards of, the batterer's program.

This bill repeals diversion in misdemeanor domestic violence cases. This bill also incorporates procedures and requirements governing a batterer's program, which are

SB 169 Continued

components of the diversion program referred to above, into these terms of probation and as additional terms of formal probation.

SB 208 (Solis): Chapter 177: Spousal rape.

(Amends Sections 261.7 and 262 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (5-0) Assembly Public Safety (8-0)

Senate Appropriations (28.8) Assembly Appropriations (13-0)

Senate Floor (39-0) Assembly Floor (69-0)

Existing law provides that in prosecutions for non-spouse rape, sodomy,

child molestation and foreign object rape in which consent is at issue, evidence that the victim asked the defendant to use a condom or other birth control device is not sufficient to constitute consent without additional evidence of consent. (Penal Code Section 261.7.)

This bill adds spousal rape to this provision.

Existing law provides that non-spouse rape is an act of sexual intercourse where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance and this condition was known, or reasonably should have been known by the accused. (Penal Code Section 261(a) (3).) Current law provides a different standard to the accused with respect to the condition of the victim -- "administered by or with the knowledge of" -- to spouse rape involving an intoxicating, anesthetic or controlled substance. (Penal Code Section 262.)

This bill applies the above "known, or reasonably should have been known language to spousal rape.

SB 591 (Solis): Chapter 246: Domestic violence protective orders; law enforcement training.

(Amends Sections 2047, 6305, and 7720 of the Family Code, and to amend Section 13701 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (8-0)

Senate Appropriations (28.8) Assembly Appropriations (19-0)

Senate Floor (37-0) Assembly Floor (77-0)

Senate Concurrence (37-0)

Existing law authorizes courts to issue a mutual protective order in a domestic violence situation if both parties personally appear and each party presents written evidence of abuse or domestic violence. Current law further provides that written evidence is not required if both parties waive this requirement. (Family Code Section 6305.)

#### SB 591 Continued

This bill eliminates the waiver provision and prohibits a court from issuing a mutual protective order unless both parties personally appear and present written evidence of abuse or violence and the court finds that both parties acted primarily as aggressors and neither party acted primarily in self-defense.

Existing law requires every law enforcement agency in this state to develop, adopt and implement written policies and standards for officer responses to domestic violence calls. These policies must “reflect that domestic violence is alleged criminal conduct” and “that a request for assistance in a situation involving domestic violence is the same as any

other request for assistance where violence has occurred.” (Penal Code Section 13701.)

This bill requires these local policies to require the arrest of domestic violence offenders, absent exigent circumstances, if there is probable cause that specified protective orders have been violated; to discourage , when appropriate, but not prohibit, dual arrests; and to encourage officers to make reasonable efforts to determine the primary aggressor in any incident. The bill requires these arrest policies to be developed, adopted, and implemented by July 1, 1996.

This bill makes related changes.

SB 1230 (Solis): Chapter 710: Domestic violence: death review teams.

(Adds Sections 11163.3, 11163.4, and 11163.5 to the Penal Code.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (9-0)

Senate Appropriations (28-8) Assembly Appropriations (19-0)

Senate Floor (38-0) Assembly Floor (78-0)

Senate Concurrence (39-0)

Existing law authorizes counties to establish interagency child death review teams to assist local agencies in identifying and reviewing suspicious child deaths.

This bill authorizes counties to establish interagency domestic violence death review teams to assist local agencies in identifying and reviewing domestic violence deaths. The bill requires the Attorney General to develop a protocol for the development and implementation of domestic violence death review teams and authorizes the Department of Justice to coordinate state and local efforts to address fatal domestic violence and to create a body of information to prevent domestic violence.

AB 168 (Alpert): VETOED: Deferred entry of judgment in misdemeanor domestic violence cases.

(Amends Penal Code Sections 1000.6, 1000.7, 1000.8, 1000.9, 1000.91, 1000.92, 1000.93, 1000.94, and 1000.95.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (4-1)

Assembly Floor (73-1) Senate Floor (29-0)

Assembly Concurrence (73-0)

Existing law specifies procedures for the diversion of a defendant charged with a misdemeanor domestic violence offense under specified circumstances prior to the entry of a plea. These provisions require a defendant to successfully complete a batterer's program and impose various duties on the

court and the probation department in connection with the defendant's participation in, and the minimum standards of, the batterer's program.

This bill would have provided instead for a deferred entry of judgment program that requires a defendant, otherwise eligible for the program, to enter a plea of guilty prior to referral to the program and required the court to enter judgment on the plea if the defendant failed to successfully complete the program.

(NOTE: The Governor signed SB 169 which repeals domestic violence diversion altogether.)

#### FIREARMS AND DANGEROUS WEAPONS

SB 23 (Peace): Chapter 178: Unlawful possession; dealer sales.

(Amends Penal Code Sections 12021, 12071, and 12072; repeals 12021.3.)

#### Legislative History:

Senate Criminal Procedure (5-0) Assembly Public Safety (8-0)

Senate Appropriations (9-0) Assembly Appropriations (19-0)

Senate Floor (39-0) Assembly Floor (77-0)

## Senate Concurrence (37-0)

Existing law provides that any person who has been convicted of specified misdemeanor violations and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense that is punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding \$1,000, or by both. (Penal Code Section 12021.)

This bill adds to those misdemeanor violations the possession of a deadly weapon with intent to commit an assault, the unauthorized transportation of a machine gun, and the possession, purchase, or receipt of a firearm or deadly weapon by a person who is being treated for or has a mental disorder or who has been adjudicated to be a mentally disordered sex offender.

Existing law requires a dealer in firearms to meet specified requirements to qualify as a licensee, including the requirement that the dealer's business be conducted only in the buildings designated in the license and that a warning must be posted, as prescribed, that a person may be jailed or fined for leaving a loaded firearm where a child obtains and improperly uses it. (Penal Code Section 12071.)

This bill further provides that a firearm may be delivered to the purchaser, transferee, or person being loaned the firearm - subject to all other statutory requirements - at gun shows, auctions or similar events conducted by nonprofit mutual or public benefit corporations, or at the

place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm. The bill also requires that a warning be posted about exposure to lead when discharging a firearm in poorly ventilated areas, when cleaning a firearm, and when handling ammunition.

This bill repeals Penal Code Section 12021.3 which prohibits persons convicted of a misdemeanor offense for threatening a public official (Penal Code Section 76) from possessing a firearm for ten years after conviction. Section 12021.3 is duplicative because that specific prohibition was added to Section 12021(c) in 1994. This bill makes Welfare and Institutions Code cross-reference changes in Penal Code Section 12072(g)(2)(D).

SB 557 (Campbell): VETOED: Misdemeanor firearms penalty increases.  
(Amends Penal Code Sections 12025 and 12031.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (6-0)

Senate Appropriations (28.8) Assembly Appropriations (16-1)

Senate Floor (22-12) Assembly Floor (45-20)

Senate Concurrence (21-15)

Existing law generally makes it a crime to carry a concealable weapon

concealed in public, in person or in a vehicle. First time violators are generally subject to a misdemeanor penalty. Those previously convicted of this and other crimes are subject to an increased penalty; specified minimum punishments apply. (Penal Code Section 12025.)

Existing law generally makes it a misdemeanor offense to carry a loaded firearm in a public place or in a vehicle. Increased penalties are applicable for subsequent violations and a minimum three month jail term is to be imposed, except in the interest of justice. (Penal Code Section 12031.)

This bill would have generally increased those misdemeanor penalties and the applicable minimum punishment.

SB 670 (Lewis): Chapter 901: Maximum fee limit; dealers record of sales of firearms.

(Amends Penal Code Section 12076.)

Legislative History:

Senate Criminal Procedure (4-1) Assembly Public Safety (5-4)

Senate Appropriations (28.8) Assembly Appropriations (16-2)

Senate Floor (34-0) Assembly Floor (55-19)

Senate Concurrence (29-2)

Existing law requires a firearms dealer to record on a dealer register

specified information regarding the identity, residence address, and date of birth of any purchaser or transferee of a firearm. A copy of the register is required to be sent by mail to the Department of Justice in order to determine whether the purchaser or transferee is among a specified category of persons and the department is required to immediately notify the dealer and local law enforcement upon ascertaining that fact. The department is authorized to charge the dealer a fee sufficient to reimburse specified costs, including, but not limited to, the costs of furnishing this information. (Penal Code Section 12076.)

This bill limits that fee to a maximum of \$14 with increases limited to future rises in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The Department of Justice is also prohibited from using the fee to directly fund, or as a loan to fund, any program other than the costs specified.

AB 70 (W. Murray): VETOED: Licensed federal gun collectors: exemptions.  
(Amends Penal Code Sections 12027, 12070, 12076, 12077, 12078, and 12081.)

Legislative History:

Assembly Public Safety (5-2) Senate Criminal Procedure (4-1)

Assembly Appropriations (11-1) Senate Appropriations (8-0)

Assembly Floor (47-20) Senate Floor (23-6)

## Assembly Concurrence (52-17)

Existing law generally requires that persons purchasing or transferring firearms are required to comply with a number of requirements, including a waiting period and background check. Purchases and transfers between private parties must generally be made through a licensed firearms dealer.

This bill would have exempted persons who are licensed collectors of curio and relic firearms under federal law from the usual 15-day waiting period and completion of sale through a dealer for the purchase or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person, as specified. Those persons must have a valid Certificate of Eligibility in order to receive that exemption.

This bill would have also added an exemption for the basic firearm safety certificate for persons licensed as collectors who are obtaining a pistol, revolver, or other firearm which is defined as a curio or relic under federal law. It would have also added a specific exemption for such persons from the general prohibition on carrying concealable weapons concealed in public when he or she is transporting such unloaded firearms while engaged in the course and scope of collecting. Other related and unrelated changes to the firearms statutes would have been made.

AB 92 (Hauser): Chapter 322: Concealed weapons: exemptions.

(Amends Penal Code Sections 12026, 12026.1, and 12026.2.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (14-2) Senate Appropriations (28.8)

Assembly Floor (70-2) Senate Floor (37-0)

Assembly Concurrence (59-0)

Existing law provides exceptions to the law against carrying concealed weapons in public; those exceptions specifically allow specified persons over the age of 18 to carry, openly or concealed, any concealable handgun at a person's legal residence, place of business, or on private property owned or lawfully possessed.

This bill rewrites those provisions to include a separate subdivision stating that "no permit to purchase, own, or possess, keep, carry, either openly or concealed, shall be required" for the existing exceptions in law (thus bifurcating the "exemption" and the "preemption" parts of the existing statute into two subdivisions). It also adds mentally unstable persons and violent

AB 92 Continued

felons to the list of persons who are not exempted from the concealed weapons prohibition in this section.

Existing law provides exemptions from the general prohibition on carrying concealed weapons for firearms transported in a locked container or in a locked trunk.

This bill specifically adds mentally unstable persons and violent felons to the list of persons who are not exempted from the concealed weapons prohibition by that section.

Existing law provides exemptions from the general prohibition on carrying concealed weapons for a variety of activities, including television or movie production; transporting a firearm to or from hunter safety courses; and transporting a firearm to or from a gun show. All require the firearm to be unloaded and locked as prescribed.

This bill adds an additional exemption for persons transporting a firearm to a voluntary government buying program for disposal.

AB 99 (Burton): Chapter 263: Advertising and ammunition restrictions.

(Amends Penal Code Sections 12020.5, 12021.5, and 12323.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (5-0)

Assembly Floor (66-2) Senate Floor (25-9)

Assembly Concurrence (57-5)

Existing law prohibits advertising the sale of certain otherwise prohibited weapons or devices, including machine guns and assault weapons.

This bill includes handgun ammunition designed primarily to penetrate metal or armor within those advertising prohibitions.

Existing law prohibits manufacturing, importing, selling, offering to sell, knowingly transporting or knowingly possessing any handgun ammunition designed primarily to penetrate metal or armor and defines “handgun ammunition” for these purposes.

This bill redefines “handgun ammunition” and defines “handgun ammunition designed primarily to penetrate metal or armor,” “body vest or shield,” and “rifle” for the purposes of this provision. This bill states these changes are declaratory of existing law.

Existing law redefines “rifle” for purposes of an enhancement for carrying a loaded or unloaded firearm during the commission of a street gang crime.

This bill states these changes are declaratory of existing law. (The new definition is a cross-reference to Penal Code Section 12020[c][20] which includes all rifles; the old cross-reference is to 12020[c][2], which pertains only to “short-barrelled rifles”, and the intent of the Legislature in enacting the

AB 99 Continued

enhancement seems to have been to include all rifles. The cross-reference has been off by 18 subparagraphs.)

AB 144 (W. Murray): Chapter 751: Firearms: technical changes to law.  
(Amends Penal Code Sections 1203.06, 12101, and 12323.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (7-0)

Assembly Appropriations (17-1) Senate Appropriations (28.8)

Assembly Floor (70-3) Senate Rules Committee (5-0)

Assembly Concurrence (73-2) Senate Floor (40-0)

Existing Penal Code Section 1203.06 provides that, notwithstanding the general authority for courts to grant probation, no probation shall be granted when the defendant personally used a firearm in the commission of listed offenses, including kidnapping in violation of Penal Code Section 209.5 (a carjacking). The reference to Section 209.5 appears twice in Section 1202.06.

This bill eliminates the redundant reference to Section 209.5 and, to the extent such change is necessary, makes no substantive change in law.

Existing law exempts a minor, at least 16 years of age, from the general prohibition against possessing a concealable firearm if the minor has the prior written consent of his or her parent and the minor is engaged in specified lawful recreational activity involving the firearm. (Penal Code Section 12101(a)(2)(C).)

This bill makes purely technical changes in Section 12101.

Existing law, as amended by Chapter 263 - Statutes of 1995, defines “handgun ammunition” for purposes of prohibited ammunition designed primarily to penetrate metal or armor.

This bill replaces the term “handgun” added by Chapter 263 in Penal Code Section 12323(b)(2) to read instead: “pistol, revolver, or other firearm capable of being concealed upon the person”. The change made to Section 12323 is “declaratory of existing law.

AB 175 (Bowler): Chapter 902: Donation of handguns and medals to peace officers killed in the line of duty.

(Amends Penal Code Section 12081 and Government Code Section 50081.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (7-0)

Assembly Appropriations (17-0) Senate Appropriations (28.8)

Assembly Floor (75-0) Senate Floor (37-0)

## Assembly Concurrence (76-0

### AB 175 Continued

Existing law provides that local agencies shall generally furnish each newly hired police officer and deputy sheriff employed full time with a suitable pistol, holster, and other equipment. Other safety equipment, such as a protective vest, an off-duty holster, and a flashlight, may be furnished as well. Issued equipment shall remain the property of the local agency and shall be returned upon request of the local agency. (Government Code Section 50081.)

This bill provides that the local agency shall donate the personal effects, including handguns that have been rendered inoperable and shooting medals of a police officer or deputy sheriff employed by the agency who is killed in the line of duty, to the family of the officer upon the request of the family. The bill excludes the officer's protective vest, ammunition, and chemical mace from the equipment which shall be transferred upon request. It also restricts transfers of any item needed as evidence in a pending criminal or civil action or investigation.

This bill also adds an exception that such transfers of inoperable handguns shall not trigger the need for the transferee to present a basic firearms safety certificate. A cross-reference is added to Penal Code Section 12081

which provides other exemptions from the safety certificate requirement for the usual transfer of handguns.

AB 176 (Bowler): Chapter 15: Custodial officers: tear gas weapons.

(Amends Penal Code Section 12403; add Section 12403.9.)

Legislative History:

Assembly Public Safety (6-0) Senate Criminal Procedure (6-0)

Assembly Floor (68-0) Senate Floor (37-0)

Existing law generally provides that peace officers are authorized to purchase, possess, transport, or use any tear gas weapon certified as acceptable, if the peace officer has completed a Commission on Peace Officer Standards and Training approved course of instruction in the use of tear gas. (Penal Code Section 12403.)

This bill adds custodial officers to Penal Code Section 12403 which authorizes peace officers to possess, transport, or use any certified tear gas weapon, if the peace officer has completed an approved course of instruction in the use of tear gas.

This bill also adds a new Penal Code Section 12403.9 which provides that custodial officers of any county may carry tear gas weapons pursuant to Section 12403 only while on duty. These custodial officers may carry tear gas weapons while off duty only in accordance with all other laws.

AB 624 (Allen): Chapter 659: Gun-Free School Zones.

(Amends Penal Code Section 626.9.)

Legislative History:

Assembly Public Safety (5-1) Senate Criminal Procedure (7-0)

Assembly Appropriations (17-0) Senate Appropriations (28.8)

Assembly Floor (58-10) Senate Floor (31-2)

Assembly Concurrence (57-0)

Existing law, the Gun-Free School Zone Act of 1995, generally makes it a felony punishable by two, three, or five years in state prison for any person to possess a firearm in a place that a person knows or reasonably should know is a "school zone", which is defined as in, on, or within 1,000 feet of the grounds of a K-12 private or public school.

This bill adds a potential misdemeanor penalty to the existing felony penalty for possession of a firearm within 1,000 feet of the school grounds, unless specified circumstances exist (such as the person is prohibited from possessing a firearm or the firearm is a handgun and the possession could only be charged as a felony under Penal Code Section 12025).

This bill also adds additional exemptions to the Gun-Free School Zone Act for persons who are licensed or otherwise authorized to engage in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms; duly authorized military or civil organizations; specified guards or messengers; and persons operating a licensed common carrier.

AB 633 (Lee): Chapter 328: Weapons: confiscation.

(Amends Welfare and Institutions Code Section 8102.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (5-0)

Assembly Floor (62-4) Senate Floor (25-8)

Existing law provides that whenever a person, who has been detained or apprehended for examination of his or her mental condition or who is under treatment for a mental disorder, is a danger to others or self, or has been adjudged by a court of any state to be a danger to others or self as a result of mental illness or disorder, is found to own, possess or have under his or her control, any firearm or other deadly weapon, the firearm or other deadly weapon shall be confiscated and retained by law enforcement. Upon the release of any person described above, the confiscating law enforcement agency shall have 10 days, unless good cause is shown, to petition the superior court for a hearing to determine if the return of the firearm or other deadly weapon would be likely to endanger the person or others. If the law enforcement agency does not initiate

proceedings within the 10-day limit, it shall make any lawfully possessed weapon available for return.

This bill allows the confiscating law enforcement agency 30 days to petition the superior court.

AB 756 (Burton): VETOED: Pawnbrokers and secondhand dealers; exclusion of infrequent firearms sellers.

(Amends Sections 21626, 21627, 21642, and 21647 of the Business and Professions Code; amends Sections 21301 and 21304 of, and to add Section 21301.1 to, the Financial Code, and to amend Section 484.1 of the Penal Code.)

Legislative History:

Assembly Public Safety (5-1) Senate Criminal Procedure (4-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (72-0) Senate Floor (39-0)

Assembly Concurrence (80-0)

Existing law regulates secondhand dealers. A “secondhand dealer” is defined as an entity or person whose “business” includes buying, selling, trading, and other specified transactions. (Business and Professions Code Section 21625 et seq.)

This bill would have specifically excluded from the definition and regulation as a secondhand dealer, participants at gun shows or events who comply with existing Penal Code provisions pertaining to persons who are not required to be licensed as a firearms dealer. Such persons are generally engaged in the infrequent sale, lease, or transfer of firearms and must complete firearm transactions through either a licensed gun dealer or a law enforcement agency.

Existing law provides a comprehensive scheme relative to regulation of tangible personal property in the possession of a pawnbroker, secondhand dealer, or coin dealer.

This bill would have revised the definition of “secondhand dealer” to exclude participants at gun shows or events; specified that tangible personal property received as security for a loan by a pawnbroker includes motor vehicles; revised certain “hold” requirements as respects property in the possession of a pawnbroker, secondhand dealer, or coin dealer; provided that it is a misdemeanor to advertise certain pawnbroker services unless licensed; and specified alternatives to the posting of a surety bond as a condition precedent to licensing as a pawnbroker.

AB 830 (Speier): Chapter 437: Tear gas weapons and pepper spray: deregulation.

(Amends Section 49330 of the Education Code; amends Sections 171b, 12403, 12403.5, 12403.7, 12403.8, 12423, and 12426 of, and repeals Sections

12403.6, 12435, and 12460 of, and repeals Article 5 [commencing with Section 12450] of Chapter 4 of Title 2 of, the Penal Code.)

Legislative History:

Assembly Public Safety (6-1) Senate Criminal Procedure (5-0)

Assembly Appropriations (16-0) Senate Appropriations (28.8)

Assembly Floor (70-2) Senate Floor (40-0)

Assembly Concurrence (60-6)

AB 830 Continued

Existing law provides that any person may purchase, possess, or use tear gas and tear gas weapons for the projection of tear gas, if the tear gas and tear gas weapons are approved by the Department of Justice (DOJ) and are used solely for self-defense purposes, subject to certain requirements and restrictions, as specified. The DOJ shall authorize by regulation the type of tear gas weapons which are to be available in this state and shall develop standards in cooperation with the Department of Health Services for such weapons. The DOJ licenses tear gas sellers and regulates the record-keeping required for the sale of tear gas weapons. Any person who is otherwise in compliance with the above referenced laws, may purchase, possess, or use tear gas, or a tear gas weapon, in which the active ingredient is oleoresin capsicum (OC). However, no OC tear gas weapon, as specified, shall be purchased, possessed, used, sold, or transported in

this state unless the DOJ has certified that the particular brand is acceptable, as defined.

This bill:

1. Revises and recasts the laws relating to purchase, possession, transportation, and use of any tear gas or tear gas weapon, by generally repealing the DOJ licensing requirements.
2. Deletes other requirements covering OC certification and the regulations applicable to tear gas and tear gas weapons that utilize OC as an active ingredient. Allows for over-the-counter sale of tear gas weapons by non-prohibited persons, with no training requirements.
3. Deletes the requirement of the DOJ to certify as acceptable, particular types and brands of tear gas weapons to be acceptable, as specified. Because the DOJ will no longer be required to certify such items, the requirement that law enforcement use only certified tear gas weapons has been deleted as well.
4. Amends the existing provision providing that no tear gas or tear gas weapon shall be possessed within any state or local building or at any meeting required by state law to be open to the public unless a person has a tear gas card. Since tear gas will be unregulated, only those prohibited from having tear gas weapons (felons, etc.) will be prohibited from having

such weapons in those places.

5. Deletes the DOJ form and the affidavit under penalty of perjury by a minor who has attained the age of 16. Retains the requirement that a parent or guardian accompany a minor or provide written consent to purchase tear gas or a tear gas weapon.

6. Retains the prohibitions against purchase, possession, or use of tear gas or tear gas weapons, by persons convicted of assault or misuse of tear gas, felons, drug addicts, and minors, except as specified. Retains the prohibition against any tear gas weapon that expels tear gas by any method other than an aerosol spray.

7. Makes other related, technical and conforming changes.

AB 1222 (Martinez): Chapter 128: Definition of dirks and daggers.

(Amends Penal Code Sections 626.10 and 12020.)

Legislative History:

Assembly Public Safety (5-0) Senate Criminal Procedure (4-1)

Assembly Appropriations (16-0) Senate Appropriations (28.8)

Assembly Floor (75-0) Senate Floor (38-0)

Assembly Concurrence (74-0)

Existing law prohibits the concealed possession of dirks and daggers and prohibits the possession of dirks and daggers on school grounds. Both of the existing sections define a dirk or dagger as “a knife or other instrument with or without a handguard that is primarily designed, constructed, or altered to be a stabbing instrument designed to inflict great bodily injury or death.

This bill changes that definition of “dirk” or “dagger” to mean “a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.

AB 1305 (Bowler): Chapter 321: Use of shotguns larger than 10-gauge to take wildlife.

(Amends Section 2010 of the Fish and Game Code.)

#### Legislative History:

Assembly Water, Parks and Wildlife (10-0) Senate Natural Resources and Wildlife (11-0)

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (10-7) Senate Appropriations (28.8)

Assembly Floor (56-14) Senate Floor (35-0)

Assembly Concurrence (48-19)

Existing law, Fish and Game Code Section 2010, provides that “(i)t is unlawful to use or possess a shotgun larger than 10-gauge, or to use or

possess a shotgun capable of holding more than six cartridges at one time.

(Note: gauges larger than 10-gauge have smaller numbers; an 8-gauge shotgun is larger than a 10-gauge shotgun and a 12-gauge shotgun is smaller than a 10-gauge shotgun.)

This bill amends Section 2010 to explicitly state in the Fish and Game Code that the prohibition on shotguns refers to their use or possession “to take any mammal or bird.” After public hearings the Fish and Game Commission is explicitly allowed to adopt regulations relative to the ammunition capacity of shotguns for taking mammals or birds that are further restrictive or as it determines may be needed to conform to federal law.

This bill also indicates that shotguns which have been modified with the insertion of a plug shall be deemed to have a cartridge capacity equal to the number of cartridges which can be loaded into the weapon as modified.

## HATE CRIMES

SB 911 (Marks): Chapter 876: Hate crimes.

(Amends Penal Code Sections 422.75, 422.95, 1547, 2085.5, and 11413; amends Government Code Section 50050.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (5-1)

Senate Appropriations (8-1)      Assembly Appropriations (14-1)

Senate Floor (28-5)      Assembly Floor (62-1)

Senate Concurrence (23-11)

Existing law provides that it is an offense for a person to willfully injure, intimidate, interfere with, oppress, or threaten a person in the free exercise or enjoyment of any right or privilege secured to him or her, or to commit a crime against a person or property for one of those purposes, because of the person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation. In addition, it is unlawful for any person to knowingly commit an act of vandalism to a religious institution. Further, it is unlawful for any person to place or display a sign, symbol, emblem, or other physical impression on the private property of another for the purpose of terrorizing the owner or occupant of that property. Each of these offenses is subject to specific fines and imprisonment terms.

This bill specifies that if probation is granted to a person convicted of committing any of the above acts, the court may require the defendant to complete a counseling program intended to reduce the tendency towards violence and anti-social behavior. The bill also authorizes a court to impose certain conditions of probation relating to restitution to the victim or community, in lieu of a fine. Because these provisions imposes additional costs on local government, the bill creates a state-mandated local program.

This bill provides that a person who commits a felony or attempts to commit a felony against the property of a public agency or private institution or the grounds adjacent to, owned, or rented by the public agency or private institution, because the property of the public agency or private institution is identified or associated with a person or group that has any of those characteristics shall receive an additional term of imprisonment of 1, 2, or 3 years, at the court's discretion.

Existing law provides that the Governor may offer a reward of not more than \$50,000 for information leading to the arrest and conviction of persons who have committed any of several specified acts.

This bill adds to that list of acts a felony that is committed because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, or sexual orientation if the act resulted in serious bodily injury or in property damage of more than \$10,000, or the act of placing or displaying a sign, mark, symbol, emblem, or other physical impression on the private property of another for the purpose of terrorizing the owner or occupant of that property, under specified circumstances.

Existing law provides that any person who explodes, ignites, or attempts to explode or ignite any destructive device or explosive, or who commits arson on or about any of several specified places, for the purpose of terrorizing another, or in reckless disregard of terrorizing another, is guilty of a felony.

This bill adds to that list of places any private property, if the property is targeted because of the race, color, religion, ancestry, national origin, disability, gender, or sexual orientation of the owner or occupant of the property.

This bill also includes language from SB 481 (Maddy; Chapter 105, Stats. 1995) which was inadvertently chaptered out by AB 817 (Hoge; Chapter 313, Stats. 1995), and portions of AB 817 which were inadvertently chaptered out by SB 1095 (Marks; Chapter 377, Stats. 1995). The language from SB 481 and AB 817 deal with the collection and payment of restitution.

## HUMANE OFFICERS AND ANIMALS

AB 1481 (Martinez): Chapter 151: Animals.

(Amends Penal Code Section 487g.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (5-0)

Assembly Floor (69-1) Senate Floor (39-0)

Existing law makes it a crime to steal or carry away an animal of another for purposes of sale, medical research, or other commercial use, or to defraud a person of an animal for purposes of medical research or slaughter.

This bill cleans-up inconsistencies in existing law. It makes it a crime to steal or carry away an animal of another for the purpose of slaughter, or to defraud a person of an animal for purposes of sale or other commercial use.

AB 1571 (Caldera): Chapter 806: Humane Officers.

(Amends Civil Code Section 607f; Amends Penal Code Section 11105.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (5-0)

Assembly Floor (54-21) Senate Floor (24-5)

Assembly Public Safety (5-0)

Assembly Concurrence (64-4)

Existing law provides for, and regulates, humane societies incorporated for

the prevention of cruelty to animals. These provisions provide for the appointment of members of those societies as humane officers and authorizes those persons to have specified powers, including the power to arrest and to carry weapons.

This bill provides that on and after July 1, 1996 no entity, other than a humane society or society for the prevention of cruelty to animals, shall be eligible to apply for an appointment of any individual as a level 1 or level 2 humane officer. The duty of such officers, who must meet specified requirements for appointment, shall be the enforcement of the laws for the prevention of cruelty to animals. The bill also provides that any person appointed as a humane officer prior to July 1, 1996, may continue to serve as a humane officer until the expiration of the term of appointment only if the appointing agency maintains records documenting that both the appointing agency and the humane officer meet specified requirements.

This bill prescribes qualifications for both the appointing society and the appointed individual in order to lawfully appoint a humane officer. The bill provides for a level 1 humane officer and a level 2 humane officer who may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal, and

who may use necessary force, make arrests, and serve search warrants, as specified. A level 1 humane officer is authorized, upon satisfactory completion of specified training, including the basic training for a level 1 reserve officer by the Commission on Peace Officer Standards and Training, to carry firearms, as specified. Level 2 humane officer are not authorized to carry firearms.

This bill makes it a misdemeanor for any humane society, society for the prevention of cruelty to animals, or person to knowingly provide a court with false or forged documentation for the appointment of a humane officer.

This bill provides that persons appointed as a humane officer are not peace officers but may exercise the powers of arrest of a peace officer during the course and within the scope of their employment, if they successfully complete a course in the exercise of those powers.

## JUVENILE JUSTICE

SB 7 (Peace): Chapter 61: Technical clean-up.

(Amends Welfare and Institutions Code Sections 707.1 and 1767.1.)

Legislative History:

Senate Criminal Procedure ( 5-0)      Assembly Public Safety (8-0)

Senate Floor ( 39-0)      Assembly Appropriations (18-0)

Assembly Floor (76-0)

This bill makes technical, clean-up changes regarding when prosecutors may file accusatory pleadings in criminal court against a minor. The bill also requires the Youthful Offender Parole Board to send progress reports regarding wards prepared by the Department of the Youth Authority to the committing court at the same time it sends the court notice of a parole hearing.

SB 604 (Rosenthal): Chapter 72: Juveniles: Community-Based Punishment Act.

(Amends Sections 47700, 47701, 47703, and 47710 of the Education Code, to amend Sections 856, 893, 940, 941, and 1820.47 of the Welfare and Institutions Code, and to amend Section 3 of Chapter 1255 of the Statutes of 1994.)

Legislative History:

Senate Criminal Procedure (6-0)      Assembly Public Safety (8-0)

Senate Appropriations (28.8)      Assembly Appropriations (18-0)

Senate Floor (37-0)      Assembly Floor (76-0)

Existing law provides that minors adjudged wards of the juvenile court based on criminal conduct may be subject to disposition including, but not limited to, commitment to county correctional institutions such as juvenile homes, ranches, camps and juvenile hall. (Welfare and Institutions Code (WIC) Sections 725 and 730.)

Existing law provides that, subject to the availability of federal funds, the Department of the Youth Authority (“YA”) maintain a program of financial assistance to county offices of education for the operation of school activities within existing camps, ranches, and boot camps for juvenile offenders. (Education Code Section 47700.) Current law requires YA to select three counties to receive such assistance. (Education Code Section 47701.)

This bill clarifies this program to include county probation departments.

This bill also makes clear that its boot camp provisions apply both to residential and nonresidential boot camps and that, in selecting the three counties authorized under current law, nonresidential military boot camp style school programs be included as a preference along with 24-hour boot camps.

This bill also adds “nonresidential” boot camps to other sections of law addressing juvenile boot camps and adds “other measurable factors” to the assessment criteria counties must include in their requests for proposals.

SB 822 (Dills): Chapter 410: School crime reporting program: technical changes. (Urgency measure)

(Amends Sections 628.1, 628.2, 628.4, 628.5, and 628.6 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Education (11-0)

Senate Appropriations (28-8) Assembly Appropriations (17-0)

Senate Floor (29-0) Assembly Floor (73-0)

Senate Concurrence (40-0)

Existing law requires the Department of Education (“DOE”) in consultation with the Department of Justice and a representative selection of school districts to develop a standard school crime reporting form for use by school districts throughout the state. (Penal Code Section 628.1.)

This bill requires DOE in addition to consult with county offices of education, and adds county offices of education to the list of entities using the crime reporting forms.

Existing law requires the form to include “offender” characteristics, if known.

This bill changes “offender” to “suspect.

This bill deletes the requirement in current law that the form include the total number of students enrolled, as specified.

Existing law requires DOE, as specified, to identify criteria for validating the incidence of each crime description contained on reporting forms.

This bill provides instead that DOE identify “guidelines for reporting and documentation for” validating these incidents.

Existing law requires that validation criteria must be established for each crime description, and specifically includes assault, battery, assault with a deadly weapon, unlawful fighting, homicide, sex offenses, robbery, extortion, chemical substance offenses, possession of weapons, destructive devices, arson, burglary, theft, and vandalism.

This bill revises this list to delete assault, unlawful fighting and chemical substance (abuse), and adds graffiti and drug and alcohol offenses.

This bill also make additional technical language changes to these provisions

SB 1092 (Marks): Chapter 71: Minors: records maintained by school authorities. (Urgency measure)

(Amends Section 827 of the Welfare and Institutions Code, relating to minors.)

Legislative History:

Senate Criminal Procedure (5-0) Assembly Public Safety (8-0)

Senate Floor (36-0) Assembly Floor (76-0)

Existing law requires that written notice that a minor enrolled in a public school (K-12) has been found to have committed specified crimes must be provided by the court to the superintendent of the school district of attendance. (Penal Code Section 827 (b)(2).) Current law further provides that any information received from the court must be kept in a confidential file, as specified, and:

maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches the age of 18, whichever occurs first. After that time the confidential record shall be destroyed. Any information received from the court shall be destroyed by school authorities 12 months after its receipt from the court or 12 months after the minor returns to public school, whichever occurs last.

This bill deletes the last sentence of that provision.

AB 361 (Napolitano): Chapter 112: Juvenile court proceedings during state of emergency.

(Amends Government Code Section 68115.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (6-0)

Assembly Floor (75-0) Senate Floor (38-0)

Current law permits certain adult proceedings to be extended during public emergencies.

This bill gives courts the authority to extend juvenile proceedings during public emergencies.

AB 488 (Baca): Chapter 803: Juvenile justice data collection; juvenile facilities. (Urgency measure)

(Amends Penal Code Sections 4497.34 and 13012; adds Section 13010.5.)

Legislative History:

Assembly Public Safety (7-1) Senate Criminal Procedure (7-0)

Assembly Appropriations (13-1) Senate Floor (33-0)

Assembly Floor (67-5)

AB 488 Continued

Existing law requires the Department of Justice (DOJ) to collect certain crime statistical data.

This bill expressly requires the DOJ to collect and report statistics showing administrative actions taken by those agencies or institutions in the juvenile justice system. The bill requires the DOJ to collect data pertaining to the juvenile justice system for statistical purposes. The bill requires that this information serve to assist the department in complying with the reporting requirement described above, measuring the extent of juvenile delinquency, determining the need for and effectiveness of relevant legislation, and identifying long-term trends in juvenile delinquency.

Existing law specifies procedures under which counties are eligible to receive funding to construct, reconstruct, remodel, or replace juvenile facilities. These procedures require the county to enter into a contract with the Department of the Youth Authority and begin construction or renovation work within 4 years of the operative date of the regulations that implement the provisions.

This bill extends the period in which a county may begin construction or

renovation work on juvenile facilities and still be eligible to receive funding under these provisions to within 6 years of the operative date of the regulations that implement the provisions. This bill also requires the Department of the Youth Authority to immediately reallocate unused awards to eligible participating counties, excluding money allocated to San Bernardino County.

AB 605 (McPherson): Chapter 132: Disturbing the peace in juvenile justice facilities.

(Amends Penal Code Section 404.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Floor (74-0) Senate Floor (37-0)

Existing law defines a riot as any use of force or violence, disturbing the public peace, or any threat to use force or violence, if accompanied by immediate power of execution, by 2 or more persons acting together. For purposes of this definition, disturbing the public peace may occur in any place of confinement.

This bill specifies that disturbing the public peace may occur in any juvenile hall, juvenile camp, juvenile ranch, or juvenile forestry camp.

AB 637 (Bowler): Chapter 356: Juvenile Department of Justice data.

(Amends Welfare and Institutions Code Section 204.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Floor (74-0) Senate Floor (37-0)

AB 637 Continued

Existing law prohibits the Department of Justice (DOJ) from knowingly transmitting any information relating to the arrest or taking into custody of a minor, as specified, unless the information also includes the resulting disposition, as specified. Existing law specifies that this provision shall not be construed to prohibit the DOJ from transmitting fingerprints or photographs of the minor for specified purposes.

This bill provides that the above provision shall not be construed to prohibit the DOJ from transmitting the physical description and identification data for specified purposes.

AB 774 (Aguiar): Chapter 336: Restitution.

(Amends Welfare and Institutions Code Section 1752.82.)

Legislative History:

Assembly Public Safety (6-0) Senate Criminal Procedure (7-0)

Assembly Floor (77-0) Senate Floor (37-0)

Existing law authorizes the Director of the Youth Authority to deduct a reasonable amount, not to exceed 50%, from the wages of an adult or minor committed to or housed in a Youth Authority facility when the adult or minor owes restitution to a victim or owes a restitution fine. Under existing law, the amount so deducted is required to be transferred to the State Board of Control for deposit in the Restitution Fund in the case of a restitution fine, or upon the request of the victim, to be paid to the victim in the case of a restitution order, except as specified.

This bill provides that whenever a victim has died, cannot be located, or has not requested the restitution payment, the Director of the Youth Authority may deduct a reasonable amount, not to exceed 50%, of the wages of that adult or minor, which is required to be transferred to the State Board of Control for deposit in the Restitution Fund, as provided. The bill requires victims to request restitution payments within one year of the ward's discharge by the Youthful Offender Parole Board where the Youth Authority has collected payments on behalf of the victim, as specified.

The bill also requires the director to transfer all restitution to the Restitution Fund all restitution payments collected prior to the effective date of the bill on behalf of victims who have died, cannot be located, or have not requested restitution payments to the State Board of Control.

AB 889 (Rogan): Chapter 234: Victim statements in juvenile proceedings.

(Amends Welfare and Institutions Code Sections 656.2 and 706.)

Legislative History:

Assembly Public Safety (6-0) Senate Criminal Procedure (6-0)

Assembly Floor (71-0) Senate Floor (37-0)

Existing law requires that in any case in which a minor is alleged to have committed an act which would have been a felony if committed by an adult, the probation officer is required to

AB 889 Continued

obtain a statement concerning the offense from the victim, the parent or guardian of the victim if the victim is a minor, or if the victim has died, the victim's next of kin. Existing law provides that any person who gives such a statement has the right to attend the minor's disposition hearing and, subject to the court's discretion, may express his or her views concerning the offense and the disposition of the case.

This bill deletes the court's discretion over the right of these persons to express their views, and includes the victim's next of kin if the victim is incapacitated.

Existing law requires the court to hear evidence on the question of the

proper disposition to be made of a minor after it finds that the minor is within the jurisdiction of the juvenile court. Existing law requires the court to receive in evidence the social study of the minor made by the probation officer, and to state that the social study has been read and considered by the court.

This bill requires the court to receive in evidence any written or oral statement of the views concerning the offense and the disposition of the case offered by the victim, the parent or guardian of the victim if the victim is a minor, or if the victim has died or is incapacitated, the victim's next of kin. The bill requires the court to state that any statement has been considered by the court.

AB 904 (Bowler): Chapter 304: Juvenile justice facilities: inspections.  
(Urgency measure)

Legislative History:

Assembly Budget (14-0) Senate Floor (39-0)

Assembly Floor (56-8)

Assembly Concurrence (68-0)

Existing law specifies that until the July 1, 1995 sunset, the California Youth Authority is not responsible for inspecting local juvenile detention facilities. Counties are responsible for self-certification of local juvenile facility standards, capacity, staff performance and training

standards, and population limits.

This bill extends permanently the self-certification processes for juvenile detention facilities, except for annual inspection of facilities, which are to be conducted by the Board of Corrections.

Existing law provides that a minor who is alleged to have committed specified offenses may be detained in a jail or other secure facility for the confinement of adults if certain conditions are met, including that the adult facility has been approved by the Department of the Youth Authority as an appropriate place for the detention of minors.

This bill deletes that condition.

#### AB 904 Continued

Existing law requires the Department of the Youth Authority to establish a maximum population limit for each juvenile hall.

This bill deletes that provision and makes related changes.

Existing law provides that the Department of the Youth Authority shall adopt and prescribe the minimum standards of construction, operation, programs of education, and training and qualifications of personnel for

juvenile homes, ranches, camps, or forestry camps. Existing law requires the department to annually inspect each juvenile home, ranch, camp, or forestry camp which was used to confine a minor for more than 24 hours, and prohibits the use of those facilities that are not in compliance.

This bill instead requires every person in charge of one of those facilities to annually certify to the Department of the Youth Authority that the facility is in conformity with the regulations adopted by the department.

Existing law prohibits any juvenile home, ranch, camp, or forestry camp, as specified, from receiving or containing more than 100 children at any one time, except where the Department of the Youth Authority has approved the request of a county to receive or contain up to 125 children.

This bill instead permits those facilities to have up to 125 children, if the county has determined that there is a consistent need for placements in these facilities which exceeds the beds available in the county and has certified to the Department of the Youth Authority that the expanded facility will continue to meet minimum standards.

Existing law requires the Department of the Youth Authority to conduct an annual inspection of each regional youth educational facility and to provide notice of its findings where a facility has been found not to be in compliance with specified standards. It prohibits the confinement of

minors at any facility until the conditions which rendered the facility unsuitable have been remedied.

This bill instead requires persons in charge of those facilities to certify to the Department of the Youth Authority that the facilities are in conformity with specified regulations and standards.

Note: This bill was debated as part of the budget process and was not reviewed by policy committees of the Senate or Assembly.

AB 989 (Hawkins): Chapter 268†: Juvenile restitution: parental liability.

(Amends Welfare and Institutions Code Sections 729.6 and 731.1; adds Section 729.5.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (7-0)

Assembly Floor (72-0) Senate Floor (37-0)

Existing law requires the juvenile court to order the payment of restitution as a condition of probation if a minor is declared a ward of the court as a result of criminal conduct. Existing law also makes a parent or guardian having custody and control of a minor jointly and

severally liable, up to specified amounts, for willful misconduct by the minor which results in injury or death to another person or in any injury to the property of another. Under existing law, an insurer is not liable for the willful act of the insured.

This bill would have authorized a court to issue a citation to the parents or guardians of a minor where a petition alleging that the minor has committed a crime is sustained, ordering the parents or guardians to appear in court and notifying them that they may be liable for the payment of restitution. The bill would have provided that a parent or guardian who has joint or sole legal and physical custody and control of that minor may be held jointly and severally liable for the amount of the restitution under specified circumstances. The bill also made additional changes in the law.

† Note: this bill was partially chaptered out by AB 817 (Hoge), supra, Chapter 313, Statutes of 1995.

AB 1115 (Hawkins): Chapter 343: Remand of juvenile offenders.  
(Amends Welfare and Institutions Code Section 707.2.)

#### Legislative History:

Assembly Public Safety (8-0)    Senate Criminal Procedure (7-0)

Assembly Floor (72-0)    Senate Floor (37-0)

Existing law requires probation departments to recommend whether a minor who is tried as an adult should be remanded to the custody of the Department of the Youth Authority for an evaluation and report on the minor's amenability to the training and treatment offered by the department. Existing law also authorizes courts of criminal jurisdiction to remand minors to the Department of the Youth Authority for that evaluation and report.

This bill provides that these remand provisions shall not apply where commitment to the Department of the Youth Authority is prohibited pursuant to the provision of law mentioned above describing a minor who is convicted in a criminal action for certain offenses and sentenced to a prescribed term.

AB 1445 (Baca): Chapter 55: Juvenile traffic hearing officers.  
(Amends Section 256 of the Welfare and Institutions Code.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (7-0)

Assembly Floor (75-0) Senate Floor (38-0)

Existing law provides that the juvenile court may appoint traffic hearing officers. (Welfare and Institutions Code Sec. 255.) Traffic hearing

officers are authorized to hear a lengthy list of charges involving a minor.

This bill authorizes juvenile traffic hearing officers to hear misdemeanor cases involving the possession of not more than 28.5 grams (one ounce) of marijuana under Health and Safety Code Section 11357(b).

#### PEACE OFFICERS

SB 1204 (Hughes): VETOED: California Museum of Science and Industry: safety officers.

(Amends Penal Code Section 830.3; amends Food and Agriculture Code Section 4108.)

#### Legislative History:

Senate Criminal Procedure (5-1) Assembly Public Safety (8-0)

Senate Appropriations (28.8) Assembly Appropriations (19-0)

Senate Floor (22-11) Assembly Floor (74-1)

Senate Concurrence (21-11)

Existing law authorizes the Executive Director of the California Museum of Science and Industry to appoint the chief and assistant chief of museum security and safety. Those individuals have the specified power of peace officers granted in Penal Code Section 830.3, which generally includes the usual authority of peace officers - although certain limitations are placed on some of the 830.3 designations - as well as the authority to carry firearms if granted that power by their employing agency. (Food and Agriculture Code Section 4108.) The Museum employs additional security guards who generally operate under the authority granted in Business and Professions Code Sections 7580 et seq. Arrest authority is provided under Penal Code Section 837 which allows arrests by a "private person" when a public offense is committed or attempted in the person's presence; when a felony has not been committed in the presence; or when a felony has been committed and there is reasonable cause to believe the person arrested has committed the felony. The Los Angeles Police Department must take custody of persons arrested by Museum security guards.

This bill would have authorized the Director to appoint other safety officers with the same peace officer status as the chief and assistant chief of security.

SB 1214 (Hughes): Chapter 62: Airport law enforcement officers.

(Amends Penal Code Section 633.1.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (14-0)

Senate Floor (29-0) Assembly Floor (76-0)

Existing law permits a person regularly employed as an airport law enforcement officer, acting within the scope of his or her authority, to record any communication received on an incoming telephone line, if the person initiating the call utilized a telephone number known to the public to be a means of contacting airport law enforcement officers, and if a series of electronic beeps is used to place the caller on notice that the call is being recorded.

This bill, which initially exempted airport law enforcement officers from jury duty, as chaptered only makes a nonsubstantive, technical correction to this provision.

SB 1224 (Mountjoy): Chapter 526: California-Nevada Interstate Law Enforcement Compact; yacht and ship brokers; Department of Motor Vehicles: abstracts of judgments.

(Amends Sections 701 and 710 of the Harbors and Navigation Code; amends the heading of Chapter 5B [commencing with Section 853.1] of Title 3 of Part 2 of, to add an article heading immediately preceding Section 853.1 of, and to add Article 2 [commencing with Section 853.3] to Chapter 5B of Title 3 of Part 2 of, the Penal Code; and amends Section 1804 of the Vehicle Code.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (8-0)

Senate Appropriations (28.8) Assembly Appropriations (19-0)

Senate Floor (38-0) Assembly Floor (73-1)

Existing law creates and ratifies the Colorado River Crime Enforcement Compact with the State of Arizona. The compact allows California law enforcement and courts in counties along the Colorado River to share concurrent jurisdiction with Arizona.

This bill proposes and ratifies a similar interstate compact with Nevada to encompass the areas of Lake Tahoe and Topaz Lake. Nevada has already proposed and ratified the compact (See Nevada Revised Statutes Annotated @171.077).

Existing law defines broker for purposes of the Yacht and Ship Brokers Act as a person engaged in the sale of vessels for compensation. The Department of Boating and Waterways and the Boating and Waterways Commission regulate such persons under the Brokers Act who sell used vessels 16 feet or more in length that they do not own. Violations of the Act may be punished as a misdemeanor or with a fine or by both. Civil penalties may also be applicable.

This bill expands the definition of brokers to further include any person

who “(l)leases or rents, offers to lease or rent, places for rent, solicits listings of yachts for rent, or negotiates the sale, purchase, or exchange of leases on yachts, for a period of more than 90 days during any 12-month period, and who does not own those yachts.

This bill also corrects a technical cross-reference error in Vehicle Code Section 1804 pertaining to the definition of “recreational vessel” and makes a technical change to the existing requirement that every court clerk forward a prescribed abstract of judgment regarding specified offenses to the Department of Motor Vehicles.

AB 290 (Cannella): Chapter 17: Custodial Officers in Stanislaus County.  
(Amends Penal Code Section 831.5.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (6-0)

Assembly Floor (73-0) Senate Floor (37-0)

AB 290 Continued

Existing law provides that all cities and counties are authorized to employ custodial officers, public officers who are not peace officers, for the purpose of maintaining order in local detention facilities. (Penal Code Section 831.) Notwithstanding Section 831, “enhanced powers” custodial

officers may be employed in San Diego and Fresno counties and in counties with a population of 425,000 or less. (Penal Code Section 831.5.)

This bill adds Stanislaus County by name to the category of counties which may employ Section 831.5 custodial officers.

AB 646 (Woods): Chapter 44: Department of Forestry and Fire Protection employees: peace officer status.  
(Amends Penal Code Section 830.7.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (5-0)

Assembly Floor (74-0) Senate Floor (38-0)

Existing law provides that certain employees of the Department of Forestry and Fire Protection designated as public officers by the Director of Forestry and approved by the Secretary of the Resources Agency, are not peace officers but may exercise the powers of arrest during the course and within the scope of their employment, upon successful completion of a course in the exercise of those powers. (Penal Code Section 830.7 and Public Resources Code Section 4156.) The Director of Forestry and Fire Protection has the power to appoint peace officers, provided that the employee's primary duty is the enforcement of laws. (Penal Code Section 830.2 (h).)

This bill revises the appointment process of Section 830.7 public officers of the Department of Forestry and Fire Protection by removing the requirement that those appointments require approval by the Secretary of the Resources Agency. The bill also makes technical changes.

AB 664 (Brulte): Chapter 192: San Bernardino county pilot project: peace officer status for reserve DA investigators.  
(Amends Penal Code Section 830.61.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Floor (67-0) Senate Floor (39-0)

Assembly Concurrence (71-0)

Existing law provides that any sheriff, deputy sheriff, city police officer, any inspector or investigator employed in that capacity in the office of a District Attorney, and other specified persons, is a peace officer pursuant to Penal Code Section 830.1. Reserve peace officers are authorized pursuant to Penal Code Section 830.6 for most of the categories of peace officers in Section 830.1, but are not authorized for District Attorney investigators.

AB 664 Continued

This bill authorizes the San Bernardino County to establish a pilot project to appoint reserve District Attorney investigators with specified peace officer powers. Such authority expires on January 1, 2001. The bill also requires a study and report back to the Legislature. The reserve DA's would be allowed to carry firearms only if authorized by the appointing authority and under the terms and conditions set by the appointing authority.

AB 787 (McDonald): Chapter 54: Reserve park rangers: peace officer status. (Urgency Measure)  
(Amends Penal Code Section 830.6.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (5-0)

Assembly Floor (74-0) Senate Floor (38-0)

Assembly Concurrence (74-0)

Existing law provides peace officer status for a person designated by a local agency as a park ranger who is regularly employed and paid in that capacity, if the primary duty of the officer is the protection of the park and other property and the preservation of the peace therein. (Penal Code Section 830.31.)

This bill adds reserve park rangers to the category of reserve peace officers who may be appointed with Section 830.6 powers. Those reserve

officers are to comply with the requirements of Public Resources Code Section 4022 and are park rangers for purposes of that statute. The urgency clause language states that this bill is necessary for the immediate preservation of the public peace in order to allow the City of Long Beach to continue to utilize a previously existing program.

AB 1437 (Brulte): Chapter 666: Threats to peace officers: reimbursement for moving expenses.

(Amends Penal Code Section 832.9.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Public Safety (18-0) Senate Appropriations (28.8)

Assembly Floor (72-0) Senate Floor (40-0)

Assembly Concurrence (74-0)

Existing law provides that any governmental entity employing a peace officer is required to reimburse the actual and necessary moving and relocation expenses of the officer or any member of his or her immediate family when it is necessary to move because the officer has received a verified threat that a life threatening action may be taken against the officer or his or her immediate family as a result of the peace officer's employment. Total reimbursement from state funds in any given fiscal year shall be limited to \$50,000 for all agencies. (Penal Code Section 832.9(a)(b)&(c).)

AB 1437 Continued

This bill revises that existing law and deletes the \$50,000 limitation for any given fiscal year. In addition, the bill revises the requisite “threat” to require “a credible threat that a life threatening action may be taken against the officer or his or her immediate family as a result of the officer's employment.

AB 1732 (Boland): Chapter 590: False reports of police misconduct.

(Adds Penal Code Section 148.6.)

Legislative History:

Assembly Public Safety (5-2) Senate Criminal Procedure (4-1)

Assembly Public Safety (18-0) Senate Appropriations (28.8)

Assembly Floor (63-5) Senate Floor (32-2)

Assembly Concurrence (70-3)

Existing law provides that each department or agency in this state which employs peace officers must establish a procedure to investigate complaints against the personnel of such departments or agencies, and must make a written description of the procedure available to the public. All complaints, reports or findings relating thereto must be retained for a period of at least five years. (Penal Code § 832.5.)

Existing law provides that every person who reports to any peace officer, as specified, district attorney, or deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor. (Penal Code § 148.5(a).) This section does not apply to reports made by persons who are required by statute to report known or suspected instances of child abuse, dependent adult abuse, or elder abuse. (Penal Code § 148.5 (e).)

This bill provides that every person who files any allegation of misconduct against any peace officer, as defined, knowing the report to be false, is guilty of a misdemeanor. It also provides that any law enforcement agency accepting an allegation of misconduct against a peace officer shall require the complainant to read and sign an admonition advising him or her of the provisions of this section.

## SEX OFFENSES

SB 295 (Peace): Chapter 840: Community care facilities - disclosure of

clients who are registered sex offenders/additional person required to register as sex offenders.

(Adds Section 1522.01 to the Health and Safety Code, and to amend Sections 290 and 290.4 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (5-2) Assembly Public Safety (8-1)

Senate Appropriations (28.8) Assembly Human Services (5-1)

Senate Floor (32-1) Assembly Appropriations (19-0)

Senate Concurrence (34-1) Assembly Floor (58-1)

Existing law requires the Department of Social Services to secure a criminal record of certain persons, residing in, or having client contact at a community care facility, excluding clients of the facility, before issuing a license or special permit to any person or persons to operate such a facility.

This bill requires any person who is required to be registered as a sex offender, to disclose this fact to the licensee of a community care facility before becoming a client of that facility; failure to do so is a misdemeanor. Anyone operating a community care facility that accepts a client who is required to be registered as a sex offender is required to confirm or deny this information in response to any person, that meets certain prescribed criteria, who inquires whether any client of the facility is a registered sex offender. The facility must disclose the

person's name to the inquiring person if the licensee has indicated a client is a registered sex offender and the inquiring person describes physical characteristics of the client. Immunity is provided for a licensee who is not given the required disclosure if the licensee did not know that the person is required to register. Criminal and civil penalties apply for persons who use the information disclosed pursuant to these provisions to commit a felony, misdemeanor, or for certain other unauthorized purposes. The civil and criminal penalty money is to be transferred to the Community Care Licensing Division of the Department of Social Services upon appropriation by the Legislature.

Existing law requires that any person convicted of enumerated sex offenses must register with law enforcement officials in the city, county or city and county where they are domiciled, and with the chief of police on any University of California or California State University campus where he or she is domiciled. (Penal Code Section 290.) The Department of Justice is required to operate a "900" telephone number which members of the public may call to access the list of registered sex offenders, as specified. (Penal Code Section 290.4.)

This bill requires offenders convicted of specified kidnapping offenses involving intent to commit certain sex offenses to register under these provisions.

SB 857 (Thompson): Chapter 860: Hospital-based training centers: sexual assault evidentiary examinations.

(Adds Section 13823.93 to the Penal Code.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (9-0)

Senate Appropriations (10-2) Assembly Appropriations (19-0)

Senate Floor (39-0) Assembly Floor (78-0)

Senate Concurrence (39-0)

Existing law requires the Office of Criminal Justice Planning, in consultation with an advisory committee, to establish a protocol for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation.

This bill requires 2 hospital-based training centers to be established through a competitive bidding process to train medical personnel on how to perform medical evidentiary examinations of victims of child abuse and neglect, sexual assault, elder abuse, or domestic violence. It also specifies the characteristics and the responsibilities of the centers.

SB 1143 (Mountjoy): Chapter 762: Sexually violent predators: civil commitments.

(Amends Section 6250 of, and to add Article 4 (commencing with Section 6600) to Chapter 2 of Part 2 of Division 6 of, the Welfare and Institutions

Code.)

Legislative History:

Senate Criminal Procedure (5-0) Assembly Public Safety (5-3)

Senate Appropriations (13-0) Assembly Appropriations (10-9)

Senate Floor (32-0) Assembly Floor (70-1)

Senate Concurrence (34-0)

Existing law provides for continued treatment of mentally disordered prisoners when they are paroled.

This bill provides a civil commitment process for sexually violent predators, as defined. It provides that at least 6 months prior to an inmate's scheduled release date, the person may be referred for evaluation by the Director of Corrections, and the Department of Mental Health may request a petition for civil commitment for a two-year period, which may be renewed indefinitely. "Sexually violent predator" is defined as a person who has been convicted of a sexually violent offense, as defined, against two or more victims for which he or she received a determinate sentence and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

This bill requires an initial review by a court or jury to determine whether the person is a sexually violent predator. Upon such a finding,

the person will be held for two years or until the Director of Mental Health finds that the person's mental abnormality is so changed that he

#### SB 1143 Continued

or she is not likely to commit an act of sexual violence. The committed person has the right to a review after one year. This process may be repeated every two years.

This bill's list of predicate offenses is similar to the "One Strike" offenses enumerated in Penal Code Section 667.61, which result in a life term under existing law. It is anticipated that this Act will be used primarily against persons who committed their crimes before November 30, 1994, when the "One Strike" law became effective, and who continue to be in custody as of January 1, 1996.

This bill is identical to AB 888 (Rogan).

AB 173 (Machado): Chapter 85: Sex offender registration.

(Amends Penal Code Sections 290 and 290.4.)

#### Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (4-1)

Assembly Floor (70-1) Senate Floor (32-0)

Existing law requires specified sex offenders to register with local officials, as provided, within 14 days of coming into a city, county, or city and county in which the offender temporarily resides or is domiciled for that length of time, and imposes criminal penalties for failure to comply with registration requirements.

This bill requires offenders convicted of specified kidnapping offenses involving intent to commit certain sex offenses to register under these provisions, and provides that willful failure by those offenders to comply with these registration requirements is a felony.

AB 681 (Hannigan): Chapter 396: Mandatory AIDS testing.

(Amends Penal Code Section 1202.1.)

Legislative History:

Assembly Public Safety (6-0) Senate Criminal Procedure (5-1)

Assembly Appropriations (18-0) Senate Floor (38-0)

Assembly Floor (49-0)

Existing law requires a court to order a person convicted of, or adjudged to be a ward of the court by reason of, a violation of any specified sex offense to submit to a blood test for acquired immune deficiency syndrome (AIDS).

This bill, in addition, requires a court to order a person convicted of, or adjudged to be a ward of the court by reason of, a violation of the offense of lewd or lascivious acts with a child to submit to this blood test for AIDS.

AB 888 (Rogan): Chapter 763: Sexually violent predators: civil commitments.

(Amends Section 6250 of, and adds Article 4 (commencing with Section 6600) to Chapter 2 of Part 2 of Division 6 of, the Welfare and Institutions Code.)

Legislative History:

Assembly Public Safety (5-0) Senate Criminal Procedure (5-0)

Assembly Appropriations (15-3) Senate Appropriations (11-0)

Assembly Floor (67-10) Senate Floor (37-0)

Assembly Concurrence (72-1)

Existing law provides for continued treatment of mentally disordered prisoners when they are paroled.

This bill provides a civil commitment process for sexually violent predators, as defined. It provides that at least 6 months prior to an inmate's scheduled release date, the person may be referred for evaluation

by the Director of Corrections, and the Department of Mental Health may request a petition for civil commitment for a two-year period, which may be renewed indefinitely. "Sexually violent predator" is defined as a person who has been convicted of a sexually violent offense, as defined, against two or more victims for which he or she received a determinate sentence and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

This bill requires an initial review by a court or jury to determine whether the person is a sexually violent predator. Upon such a finding, the person will be held for two years or until the Director of Mental Health finds that the person's mental abnormality is so changed that he or she is not likely to commit an act of sexual violence. The committed person has the right to a review after one year. This process may be repeated every two years.

This bill's list of predicate offenses is similar to the "One Strike" offenses enumerated in Penal Code Section 667.61, which result in a life term under existing law. It is anticipated that this Act will be used primarily against persons who committed their crimes before November 30, 1994, when the "One Strike" law became effective, and who continue to be in custody as of January 1, 1996.

This bill is identical to SB 1143 (Mountjoy).

## UNDOCUMENTED PERSONS

SJR 17 (Peace): Chapter 103: Undocumented persons.

### Legislative History:

Senate Rules (4-0)      Assembly Appropriations (13-0)

Senate Appropriations (28.8)      Assembly Rules (9-0)

Senate Floor (40-0)      Assembly Floor (68-0)

This resolution memorializes the President and Congress of the United States to take various actions to provide for the reimbursement of state costs for the provision of services to undocumented immigrants, and for the transfer of undocumented immigrants in state and local correctional facilities to federal custody.

AB 156 (Napolitano): Chapter 133: Deceptive Identification Cards.

(Amends Business and Professions Code Section 22430; Adds Penal Code Section 483.5.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (4-1)

Assembly Appropriations (16-0) Senate Appropriations (28.8)

Assembly Floor (73-0) Senate Floor (38-0)

Existing law provides that the production or sale of fraudulent identification documents, which are not specifically marked "NOT A GOVERNMENT DOCUMENT" is a wobbler punishable by 16 months, two or three years in state prison or by up to one year in county jail. (Penal Code Section 472; Business and Professions Code Section 22430.)

This bill adds to existing law a provision which would also make the furnishing, transporting, or importing of a deceptive identification document which is not a government document, or offering to do any of these acts, a wobbler punishable by 16 months, two or three years in state prison or by up to one year in county jail.

VEHICLE OFFENSES

SB 307 (Wright): Chapter 243: Vehicles.

(Amends Vehicle Code Section 14610.5.)

Legislative History:

Senate Transportation (5-2) Assembly Transportation (11-3)

Senate Criminal Procedure (6-0) Assembly Appropriations (13-0)

Senate Appropriations (28.8) Assembly Floor (55-6)

Senate Floor (29-2)

Existing law makes it unlawful for any person to commit proscribed acts relating to cheating on a driver's license examination. Existing law makes a first conviction of a violation of that provision punishable as an infraction and a second or subsequent conviction punishable as a misdemeanor.

This bill makes the first offense of cheating on a driver's license examination a wobblette.

SB 414 (Thompson): Chapter 841: Traffic violations.

(Adds Streets and Highways Code Section 97; Adds and repeals Vehicle Code Section 42010.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Transportation (10-4)

Senate Appropriations (11-1) Assembly Public Safety (5-3)

Senate Floor (26-5)      Assembly Appropriations (10-6)

Senate Concurrence (24-4)      Assembly Floor (42-24)

Existing law imposes various duties on the Department of Transportation.

This bill requires the department, in consultation with the Department of the California Highway Patrol, to develop three pilot projects, two in Northern California and one in Southern California, in which local highways are designated and identified as "Safety Enhancement-Double Fine Zones.

This bill requires the department to report to the Legislature on January 1, 1998, as specified.

This bill, in the case of specified violations relating to rules of the road and driving under the influence, doubles the fine, in the case of misdemeanors, and increases the fine, as specified, in the case of infractions, if the violation is committed by the driver of a vehicle within a Safety Enhancement-Double Fine Zone, except as specified.

This bill requires the department to adopt rules and regulations prescribing uniform standards for warning signs to notify motorists that increased penalties apply for traffic violations that are committed within Safety Enhancement-Double Fine Zones.

SB 414 Continued

This bill requires the department or local authorities, with respect to highways under their respective jurisdictions, to place and maintain the warning signs specified above in areas that have been designated as Safety Enhancement-Double Fine Zones.

This bill has a January 1, 1998 sunset clause.

SB 814 (Alquist): Chapter 898: Penalties.

(Amends Code of Civil Procedure Section 1094.6; Adds Government Code Section 53069.4.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (8-0)

Senate Floor (32-0) Assembly Floor (66-1)

Senate Concurrence (25-9)

Existing law establishes procedures for the enforcement and criminal prosecution of certain standing and parking offenses by the issuing local agency.

This bill authorizes the legislative body of a local agency to adopt an ordinance to make any violation of an ordinance enacted by the local agency subject to an administrative fine or penalty. The bill requires that the

ordinance set forth the administrative procedures that govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties. The bill sets forth certain requirements for those procedures.

SB 1263 (Dills): Chapter 58: Traffic violator schools. (Urgency Measure)

(Amends Vehicle Code Section 11205.)

Legislative History:

Senate Criminal Procedure (5-2) Assembly Transportation (10-0)

Senate Floor (38-0) Assembly Floor (65-0)

Senate Concurrence (27-4)

Existing law authorizes a court to utilize a nonprofit agency to provide certain traffic violator school administration services. A court is authorized to charge a traffic violator a fee to defray the costs incurred by the nonprofit agency as a result of providing those services. The provision authorizing the court to charge the fee is to become inoperative on June 30, 1995, and be repealed on December 31, 1996.

This bill deletes the inoperative and repeal dates in the above existing law authorizing a court to charge a fee, and thus extends the provisions indefinitely.

AB 129 (Rainey): Chapter 9: DUI.

(Amends Penal Code Section 1463.14.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (6-0)

Assembly Floor (68-0) Senate Floor (39-0)

Existing law permits every county to levy two assessments upon drivers convicted of DUI violations, in addition to any fines levied upon a defendant. The revenue derived from the penalties should be used to defray laboratory testing and related costs. In all counties except Contra Costa, the full amount of the penalty revenue stays with the county for the intended purpose while in Contra Costa 75% of the amount of Contra Costa's penalty is captured by the state.

This bill, by repealing the provision which allows Contra Costa courts to impose a \$50 assessment upon each defendant convicted of a DUI violation, gives Contra Costa the same authority as all other counties to use penalty revenue assessed on drivers convicted of a DUI.

AB 232 (K. Murray): Chapter 83: Challenges to prior offenses.

(Amends Vehicle Code Section 41403.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Floor (76-0) Senate Floor (38-0)

Assembly Concurrence (75-0)

Existing law provides that in most cases when a defendant attacks prior misdemeanor or felony convictions, the prosecutor must put on evidence that the prior conviction exists and then the defendant must prove by a preponderance of the evidence that the prior conviction is constitutionally invalid. However, when a defendant challenges a prior conviction regarding a specified Vehicle Code violation, the prosecution has the burden of proving that the prior conviction was constitutional beyond a reasonable doubt.

This bill removes the explicit requirement that when prior specified Vehicle Code violations are challenged, the prosecution maintains the burden beyond a doubt throughout the challenge. The bill adds that, when challenging specified Vehicle Code violations, the defendant has the burden to prove beyond a preponderance of the evidence that the conviction was unconstitutional.

AB 1228 (Martinez): Chapter 734: Parking and standing violations.

(Amends Vehicle Code Sections 22651, 22651.7, 40200.3, 40200.4, 40200.6, 40202, 40203, 40203.5, 40207, 40209, 40210, 40211, 40220, 40224, 40230;

Repeal and adds Vehicle Code Section 40215; Repeal Vehicle Code Section 40200.7.)

Legislative History:

Assembly Transportation (12-0) Senate Criminal Procedure (7-0)

Assembly Appropriations (18-0) Senate Floor (39-0)

Assembly Floor (72-0) Senate Floor (40-0)

Assembly Concurrence (80-0)

Existing law generally provides that the enforcement of penalties for violations regarding the unlawful standing or parking of vehicles shall be governed by a civil procedure that includes a processing procedure, an administrative investigation and review procedure, and an administrative and judicial appeal process.

This bill revises the existing civil procedure governing the enforcement of penalties for violations regarding the unlawful standing or parking of vehicles.

Existing law authorizes any peace officer to remove a vehicle located within the territorial limits in which the officer may act, under specified circumstances, including when it is known that a vehicle has been issued 5 or more notices of parking violation to which the owner or person in control of the vehicle has not responded within 21 days of citation issuance or 10 days of a notice of delinquent parking violation.

This bill revises those provisions to authorize the removal of a vehicle if the owner or described person has not responded within 21 calendar days of notice of citation issuance or citation issuance or 14 calendar days of a notice of delinquent parking violation.

## VICTIMS

SB 221 (Hayden): Chapter 411: Crime victims: notification.

(Amends Penal Code Section 679.02.)

### Legislative History:

Senate Criminal Procedure (6-1) Assembly Public Safety (8-0)

Senate Appropriations (10-0) Assembly Appropriations (14-0)

Senate Floor (36-0) Assembly Floor (60-0)

Senate Concurrence (37-0)

Existing law sets forth certain rights of victims and witnesses to crimes, including, upon request of the victim or witness, the right to be informed by the prosecuting attorney of the final disposition of the case.

This bill, in addition, creates a right in the victim of a violent felony, or, in the event of a homicide, the victim's next of kin, to be notified by the district attorney's office of a pending pretrial disposition before a change of plea is entered before a judge. Additionally, the bill creates a right in a victim of any felony to request to be notified by the district attorney's office of a pretrial disposition.

AB 149 (Hoge): Chapter 332: Crime victims: trial attendance.

(Repeals and adds Section 1102.6 of the Penal Code and adds Section 676.5 to the Welfare and Institutions Code.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (6-0)

Assembly Floor (66-0) Senate Floor (38-0)

Assembly Concurrence (64-0)

Existing law entitles a victim of a criminal offense or up to 2 members of the victim's immediate family to be present and seated at the trial for the criminal offense unless (a) the court finds that the victim's presence would pose a substantial risk of influencing or affecting the content of any testimony, (b) the parties or the court move that the victim be removed for behavior so disorderly, disruptive, and disrespectful of the court that the trial cannot continue with the victim present, or (c) the prosecution requests the removal of the victim. Upon the objection of the defendant to the victim's presence, the victim is required to testify first, subject to

exclusion under specified circumstances.

This bill repeals those provisions and instead creates a right in the victim of a criminal offense entitling the victim or other persons, as specified, to be present and seated at all criminal proceedings open to the public unless each of the following four criteria are met: (1) Any moving party demonstrates that there is a substantial probability that overriding interests will be prejudiced by the presence of the victim. (2) The court considers reasonable alternatives to exclusion. (3) The exclusion or limitation on the presence of the victim is narrowly tailored to

AB 149 Continued

serve the overriding interests. (4) The court makes specific factual findings that support the exclusion or limitation on the presence of the victim.

Existing law does not generally authorize the public to be admitted to a juvenile court hearing. However, juvenile court hearings concerning petitions filed alleging the commission of specified offenses, including murder, arson of an inhabited building, kidnapping for ransom, and carjacking while armed with a dangerous or deadly weapon, are open to the public. Additionally, the victim in any case in which a minor is alleged to have committed an act that would have been a felony if committed by an

adult has the right to attend the disposition hearing, and express their views concerning the offense and disposition of the case, as specified.

This bill creates a right in the victim of an offense committed by a minor entitling the victim or other persons, as specified, to be admitted to juvenile court hearings concerning petitions filed alleging the commission of any one of the offenses specified in the above provision.

AB 817 (Hoge): Chapter 313: Crime victims: restitution.

(Amends Sections 13966.01 and 50050 of, and adds Section 13969.4 to, the Government Code, amends Sections 1202.4, 1203, 1203.3, 1214, 1297, 2085.5, 3000, and 11177.2 of, adds Sections 1202.45 and 3060.1 to, adds Chapter 2.95 (commencing with Section 1001.90) to Title 6 of Part 2 of, and repeals Section 1203.04 of, the Penal Code, amends Section 1095 of the Unemployment Insurance Code, and amends Sections 656, 659, 700, and 730.6 of, adds Section 730.7 to, and repeals Sections 729.6 and 731.1 of, the Welfare and Institutions Code.)

Legislative History:

Assembly Floor (62-4) Senate Floor (30-0)

Assembly Concurrence (67-0)

Existing law addresses the procedures available to indemnify private citizens who are victims of crime. Under existing law, the State of California is subrogated to the rights of a victim to whom cash payments

have been granted from the Restitution Fund to the extent of the cash payments. Additionally, the state is entitled to a lien on any judgment, award, or settlement in the amount of the cash payments on any recovery made by or on behalf of the victim.

This bill, among other provisions, provides that repayment obligations of the victim to the Restitution Fund is enforceable as a summary judgment. The bill also authorizes the executive officer of the State Board of Control or his or her designees to recover money owed to the Restitution Fund by filing a civil action against the liable person.

Existing law requires direct restitution to the victim of a crime who has incurred any economic loss as a result of the commission of a crime from any defendant convicted of that crime. However, under existing law, the prosecution of specified offenses may be postponed, temporarily or permanently, to permit the defendant to participate in a diversion program.

#### AB 817 Continued

This bill requires the court to impose a diversion restitution fee on a defendant whose case is diverted.

Existing law sets forth procedures under which a restitution fine is imposed upon a person convicted of a crime or a minor found in violation of

the law.

This bill adds provisions relating to the criteria used to set the restitution fine required under some of these procedures and revises and recasts provisions relating to the imposition of restitution when probation is denied or the imposition of restitution as a condition of probation.

The bill also requires the court at the time of imposing the restitution fine to assess an additional restitution fine in the same amount, but which is suspended unless the person's parole is revoked.

Existing law authorizes the court to revoke, modify, change, or terminate probation subject to specified limitations.

This bill authorizes the court to modify the time and manner of the term of probation for purposes of measuring the timely payment of restitution obligations or the good conduct and reform of the defendant while on probation. The bill also prohibits the court from modifying the dollar amount of the restitution obligations and prohibits the court from limiting the ability of the payees to enforce the obligations in the manner of judgments in civil actions.

Existing law provides that, in a case in which a defendant is ordered to pay restitution as a condition of probation or of a conditional sentence, the order to pay restitution is deemed a money judgment, as provided.

This bill provides instead that the order to pay restitution is deemed a money judgment in any case in which the defendant is ordered to pay restitution.

Existing law requires the clerk of a court to apply money that has been deposited in lieu of bail by a defendant in satisfaction of any judgment for the payment of a fine if the money remains on deposit at the time of the judgment.

This bill authorizes the clerk to also apply the money deposited toward restitution orders.

Existing law requires the Director of Corrections, in any case in which a prisoner owes a restitution order or a restitution fine, to deduct specified amounts from the wages and trust account deposits of the prisoner, and to transfer those amounts to the State Board of Control for direct payment to the victim or deposit in the Restitution Fund. Existing law also authorizes the Department of Corrections to provide, under guidelines specified by the parole authority, the conditions of parole of any prisoner and authorizes the Board of Prison Terms to impose any conditions that it may deem proper on the parole of any prisoner.

This bill requires the Department of Corrections or the Board of Prison Terms to impose as a condition of parole that a prisoner make payments on any outstanding restitution orders or fines. Additionally, the bill authorizes the Director of Corrections to collect any moneys owing on a restitution order or a restitution fine, and requires the director to transfer those amounts to the State Board of Control for direct payment to the victim or deposit in the Restitution Fund. The bill authorizes the director to deduct and retain from any moneys collected from parolees an administrative fee totaling 10% of any amount transferred to the State Board of Control.

Existing law requires parents and guardians to be advised that if the minor is ordered to make restitution to the victim, the parent or guardian may be liable for the payment of that restitution.

This bill additionally requires parents and guardians to be advised that if the minor is ordered to pay fines or penalty assessments, the parent or guardian additionally may be liable for the payment of those fines or penalty assessments.

Existing law makes a parent or guardian having custody and control of a minor jointly and severally liable for civil damages, up to specified amounts, for willful misconduct by the minor that results in death, personal injury, or property damage, as specified, as well as for specified fines imposed on the minor for certain acts of vandalism.

This bill creates a rebuttable presumption that a parent or guardian with joint or sole legal and physical custody and control of a minor who is the subject of a juvenile court restitution order, fine, or penalty assessment is jointly and severally liable therefor.

Note: This bill was debated as part of the budget process and was not reviewed by policy committees of the Senate or Assembly. The provisions of this bill chapter out some of the provisions of AB 989 (Hawkins), Chapter 268, Statutes of 1989.

## GENERAL CRIMES

SB 317 (Solis): Chapter 101: Vehicle theft.

(Amends Section 666.5 of the Penal Code and Sections 10851 and 40000.11 of the Vehicle Code.)

### Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (8-0)

Senate Appropriations (28.8) Assembly Floor (76-0)

Senate Floor (37-0)

## Senate Concurrence (38-0)

Existing law generally provides that offenses related to vehicle theft are punishable as either a misdemeanor or a felony and that any person who has previously been convicted of 2 misdemeanor offenses related to vehicle theft and who is subsequently convicted of a misdemeanor or felony offense related to vehicle theft shall be punished for the subsequent conviction by imprisonment in the state prison for 2, 3, or 4 years. A provision in the Penal Code provides that any person who has previously been convicted of felony vehicle theft and who is subsequently convicted of felony vehicle theft shall be punished for the subsequent conviction by imprisonment in the state prison for 2, 3, or 4 years, by a \$10,000 fine, or both.

This bill makes a clarifying change to the Penal Code and the Vehicle Code by providing that any person who has been convicted of one or more previous felony offenses related to vehicle theft shall be sentenced as provided in the Penal Code provision.

Existing law specifies a fine and term of imprisonment in the county jail for a person convicted of driving a motor vehicle when that person's driving privilege is suspended or revoked.

This bill clarifies that such a crime is a misdemeanor and not an infraction.

SB 465 (Rosenthal): Chapter 574: Insurance fraud.

(Amends Sections 1871.4 and 1871.7 of, and repeals Section 1879.1 of the Insurance Code, and amends Section 550 of, and repeals Section 550 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Judiciary (13-0)

Senate Appropriations (28-8) Assembly Appropriations (18-1)

Senate Floor (39-0) Assembly Floor (72-0)

Senate Concurrence (35-0)

Existing law provides that it is unlawful to knowingly employ runners, cappers, steerers, or other persons to procure clients or patients to perform or obtain workers' compensation services or benefits or for purposes of engaging in certain insurance fraud activities.

SB 465 Continued

This bill provides that it is also unlawful to knowingly employ runners, cappers, steerers, or other persons to procure clients or patients to perform or obtain workers' compensation services or benefits or to procure clients or patients to perform or obtain services or benefits under a contract of insurance or that will be the basis for a claim against an insured individual or his or her insurer. It also provides that a person

may not aid, abet, solicit, or conspire with any person to knowingly present a false claim for payment of auto or health insurance or to present multiple claims for payment of the same health care benefit with intent to defraud.

Existing law provides that a person who violates the provisions against runners, cappers, and steerers, in addition to other penalties, is subject to a civil penalty of not less than \$5,000 nor more than \$10,000, plus an assessment of not more than three times the amount of each claim for compensation, or fraudulent claim.

This bill also makes those civil penalties applicable to the new prohibitions against runners, cappers, and steerers, and to specified acts of insurance fraud. It also provides that the court has the power to grant other equitable relief, including temporary injunctive relief, as is necessary to prevent the transfer, concealment, or dissipation of illegal proceeds, or to protect the public. It authorizes these actions to be brought by the Insurance Commissioner, as well as the Attorney General and district attorneys. The bill retains the discretion to impose sanctions otherwise allowed by law, including the ability to order a party to pay expenses.

Existing law proscribes knowingly presenting a false or fraudulent claim for the payment of a loss under an insurance policy.

This bill also provides that it is unlawful to knowingly present a false or fraudulent claim for the payment of an injury.

Existing law provides that if an alternate remedy is pursued, a finding of fact or conclusion of law made in the other proceeding that has become final is conclusive.

This bill instead provides that if a civil action and a criminal action are both pending, the civil action shall be stayed, as specified.

Existing law provides that if the Attorney General or district attorney demonstrates that certain actions of discovery interfere with an investigation or prosecution, the court may stay discovery for no more than 60 days.

This bill increases the stay period to a maximum of 180 days.

Existing law provides for the allocation of penalties collected under insurance fraud provisions.

SB 465 Continued

This bill increases the maximum that an individual bringing an action to recover penalties may recover. Instead of recovering 30 percent of the

proceeds, an individual is entitled to up to double the amount paid to the defendant.

This bill also provides for the payment of 1/2 of penalties not awarded to a private party as well as costs to the treasurer of a county if a local district attorney has proceeded with the action. It provides that remaining funds go to the state and be deposited in the General Fund, and, when appropriated, be apportioned between the Department of Justice and the Department of Insurance for enhanced fraud investigation and prevention efforts.

This bill eliminates a provision for the award of a civil penalty of \$250,000 per violation for certain insurance fraud violations, and a provision permitting civil penalties of up to \$5,000 per violation for certain insurance fraud violations.

SB 639 (Peace): Chapter 373: Fraud: contractor repairs.  
(Amends Penal Code Section 551.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly C.P., G.E. & E.D. (13-0)

Senate Appropriations (10-0) Assembly Public Safety (8-0)

Senate Floor (38-0) Assembly Appropriations (19-0)

Assembly Floor (73-0)

Existing law makes it a wobbler for any automobile repair dealer or its employees or agents to offer to any insurance agent, broker, or adjuster any fee, commission, profit sharing, or other form of direct or indirect consideration for referring an insured motorist to that automobile repair dealer for vehicle repairs covered under a policyholder's automobile physical damage or automobile collision coverage. It is also a wobbler for any automotive repair dealer or its employees or agents to knowingly offer or give any discount intended to offset a deductible required by a policy of insurance covering a motor vehicle for making repairs to the motor vehicle.

This bill extends these provisions to apply to a contractor, as defined, and any of its employees or agents for purposes of the repair or replacement of a structure covered by a residential or commercial insurance policy.

SB 778 (Marks): VETOED: Graffiti.

(Amends Penal Code Sections 594.8 and 640.5.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (9-0)

Senate Floor (26-12) Assembly Appropriations (19-0)

Senate Concurrence (21-13) Assembly Floor (74-2)

SB 778 Continued

Existing law requires the county treasurer to credit any fine levied for specified graffiti violations to the governmental entity having jurisdiction over, or responsibility for, the vehicle or facility involved, to be used as specified.

This bill, instead, would have required the county treasurer or other public officer performing the functions of a county treasurer to credit any fine levied for those violations to either the governmental entity or a specified community awareness and education program, or to both.

SB 950 (Killea): Chapter 794: White collar crime: freezing assets.

(Adds Penal Code Section 186.11.)

Legislative History:

Senate Criminal Procedure (6-1) Assembly Public Safety (8-0)

Senate Appropriations (9-1) Assembly Appropriations (16-3)

Senate Floor (24-13) Assembly Floor (69-6)

Senate Concurrence (27-9)

Existing law makes it unlawful for any person to engage in unfair business practices and makes any violator of these provisions subject to a civil penalty and an order of restitution to a victim.

This bill provides additional penalties for any person convicted of an aggravated white collar crime, as defined. In addition to penalties currently prescribed in law, persons convicted of aggravated white collar crime shall be subject to two, three or five additional years in state prison. Furthermore, the perpetrator shall be liable for the costs of restitution to any victim of the alleged offense.

This bill also authorizes freezing a convicted white collar criminal's assets in order to obtain restitution for the crime victims, fines, penalties, and reasonable costs imposed pursuant to this bill.

SB 1016 (Boatwright): Chapter 971: Wiretapping.

(Amends Penal Code Sections 629, 629.02, 629.06, 629.08, 629.10, 629.32, 629.38, 629.44, 629.48; Adds and repeals Chapter 1.4 (commencing with Section 629.50) of Title 15 of Part 1 of, the Penal Code.)

Legislative History:

Senate Criminal Procedure (5-2) Assembly Public Safety (8-1)

Senate Judiciary (8-1) Assembly Appropriations (13-1)

Senate Floor (28-2) Assembly Floor (62-5)

Existing law governs until January 1, 1999, the interception of wire communications by law enforcement officers investigating certain controlled substance violations under specified judicial authorization procedures.

Specifically, it allows a judge, upon application, to

## SB 1016 Continued

authorize interception of wire communications if he or she determines, among other things, that probable cause exists to believe that an individual is committing, has committed, or is about to commit one of various specified offenses involving controlled substances, or conspiring to commit any of those crimes.

This bill instead allows a judge to authorize interception of wire, electronic digital pager, or electronic cellular telephone communications, from January 1, 1996, to December 31, 1997, and only wire communications from January 1 to December 31, 1998, if he or she determines, among other things, that probable cause exists to believe that an individual is committing, has committed, or is about to commit any controlled substance offense specified above or murder, solicitation to commit murder, the commission of a crime involving the bombing of public or private property, or aggravated kidnapping, or conspiring to commit any of those crimes.

Existing law provides that every order authorizing the interception of a communication shall contain a provision that the authorization to intercept shall be executed as soon as practicable and shall be conducted so as to minimize the interception of communications not otherwise subject to interception.

This bill provides that, in the event the intercepted communication is in a foreign language, an interpreter of that foreign language may assist peace officers in executing the authorization provided in this bill, provided that the interpreter has the same training as any other authorized interceptor and provided that the interception shall be conducted so as to minimize the interception of communications not otherwise subject to interception under this bill.

Existing law requires specified written reports to be made to the judge who issued the order authorizing interception at least every 72 hours.

This bill provides that the reports shall be made by any reasonable and reliable means, as determined by the judge. Existing law specifies those provisions which are not to be construed as prohibiting a peace officer from intercepting a communication pursuant to a properly issued order, rendering inadmissible in any criminal proceeding in a court or before a grand jury any evidence obtained by means of a properly issued order, or prohibiting the disclosure of the contents of any communication properly obtained by authorized means.

This bill specifies additional provisions for this purpose.

Existing law provides that the Attorney General shall set minimum standards for certification and periodic recertification of investigative or law

enforcement officers as eligible to apply for orders authorizing the interception of private communications, to conduct interceptions, and to use the communications or evidence derived from them in official proceedings.

This bill adds to this list of eligible persons those persons needed to provide linguistic interpretation who are designated by the Attorney General or the district attorney and are supervised by an investigative or law enforcement officer

SB 1095 (Marks): Chapter 377: Criminal statute clean-up.

(Amends Section 11356.5 of the Health and Safety Code, and amends Sections 186.22, 674, 1203.095, 1417.6, 2085.5, 4532, 12022, 12022.5, and 12316 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (8-0)

Senate Floor (39-0) Assembly Floor (78-0)

Senate Concurrence (37-0)

Existing law directs when and how restitution fines are to be imposed.

This bill would correct a cross-reference to those statutes.

This bill would make nine other technical and non-substantive changes in criminal law.

The purpose of this bill is to clarify various penal statutes.

SB 1161 (Leslie): Chapter 890: Offenses against dependent adults.

(Amends Section 288 of the Penal Code.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (8-1)

Senate Appropriations (12-0) Assembly Appropriations (13-1)

Senate Floor (39-0) Assembly Floor (77-0)

Senate Concurrence (33-0)

Existing law provides that a person who commits specified lewd or lascivious acts upon a child under the age of 14 years, with a specified sexual intent, by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years. Existing law further provides that a person who commits specified lewd or lascivious acts, if the victim is a child of 14 or 15 years of age, and the defendant is at least 10 years older than the child, with a specified sexual intent, is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than

one year.

This bill makes these provisions applicable to a caretaker who commits these acts upon a dependent adult (suffering from a mental disability or disorder) and, among other things, applies this provision to the owners, operators, administrators, employees, agents, independent contractors, and volunteers working at specified facilities but only to the extent that the individuals personally commit, conspire, aid, abet, or facilitate any act prohibited by this bill.

SB 1228 (Insurance Committee): Chapter 573: Insurance fraud.

(Urgency measure)

(Amends Insurance Code Section 1879.2; amends Penal Code Section 550.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (9-0)

Senate Insurance (8-0) Assembly Insurance (14-0)

Senate Floor (39-0) Assembly Appropriations (19-0)

Senate Concurrence (35-0) Assembly Floor (76-0)

Existing law requires insurance claim forms for liability policies to carry a specific warning about the penalties surrounding false claims. Auto insurance applications are also required to contain a statement warning

applicants of the penalties for providing false domicile information.

Existing law prohibits the making of a fraudulent insurance claim for a loss.

This bill requires that a specific warning be printed on all insurance claim forms indicating the penalties surrounding false claims. SB 1228 further prohibits persons from making a fraudulent claim for an injury.

This bill makes other technical changes regarding disclosure statements on auto insurance applications and insurance claim forms. These changes are intended to clean up technical problems arising from SB 1833 (Torres), Chapter 1008, Statutes of 1994 and AB 3751 (Margolin), Chapter 841, Statutes of 1994.

SB 1244 (Watson): Chapter 416: Interference with helicopter operation.  
(Adds Section 248 to the Penal Code.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (8-0)

Senate Appropriations (11-0) Assembly Appropriations (19-0)

Senate Floor (29-0) Assembly Floor (73-0)

Senate Concurrence (40-0)

Existing law provides that it is an alternative felony/misdemeanor to

willfully and maliciously discharge a laser at an aircraft, whether in motion or in flight, while occupied, punishable by 16 months, two or three years in state prison or up to one year in the county jail.

This bill makes it a misdemeanor for any person, with the intent to interfere with the operation of a helicopter, to willfully shine a light or a bright device of an intensity capable of impairing the vision of an occupant of the helicopter, punishable by up to one year in the county jail and/or a fine up to \$1,000.

AB 145 (Rogan): Chapter 593: Conservatorship.

(Amends Section 1370 of the Penal Code and Sections 5328.3, 5350, and 5358 of the Welfare and Institutions Code.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (15-3) Senate Judiciary (9-0)

Assembly Floor (70-1) Senate Appropriations (36-0)

Assembly Concurrence (69-0) Senate Floor (37-0)

Existing law provides for the commitment of a defendant who is found mentally incompetent to a state hospital (a Murphy Commitment) and requires the criminal court to order the initiation of conservatorship proceedings

in Superior Court when the defendant is gravely disabled.

This bill enacts special procedures, designed to protect the public, to create conservatorships for persons who pose a danger to society. It requires that the committing court send a copy of any report regarding the defendant's progress toward recovery of mental competence to the prosecutor and defense counsel. It prioritizes placement in a facility that achieves the purposes of treatment of the conservatee and protection of the public and requires the court to determine the most appropriate placement for the conservatee. It requires notification of the district attorney or attorney representing the originating county prior to any change of placement, except in cases of transfers between state hospitals.

This bill prohibits release of a conservatee found mentally incompetent to stand trial and who is subject to an indictment or information without a hearing and court approval. The district attorney could request a hearing within 10 days of receiving notification of the requested release. The bill also limits the circumstances in which the placement may be approved pursuant to a hearing, and it limits the frequency with which hearings may be granted for the purpose of determining the placement of the conservatee to once every six months.

This bill requires that notice be given to the committing court, the district attorney, and governmental law enforcement agencies, as designated by the physician in charge of the patient, within 24 hours of the patient's

disappearance or removal from the facility.

AB 207 (Rogan): Chapter 468: Felony assault and battery: flammable substances.

(Amends Section 244 of the Penal Code.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (5-0)

Assembly Appropriations (18-0) Senate Appropriations (11-0)

Assembly Floor (70-0) Senate Floor (38-0)

Existing law provides that every person who willfully and maliciously places or throws, or causes to be placed or thrown, upon the person of another, any vitriol, corrosive acid, or

AB 207 Continued

caustic chemical of any nature, with the intent to injure the flesh or disfigure the body of that person is punishable by imprisonment in state prison for two, three, or four years.

Existing law provides that a person who possesses any flammable, explosive or combustible material or substance, or any device in an arrangement or preparation, with the intent to willfully and maliciously use such

material, substance or device to set fire to or burn any structure, forest land or property, is punishable by imprisonment in the state prison, or in the county jail, not exceeding one year.

This bill provides that a person who willfully and maliciously places or throws or causes to be placed or thrown, upon the person of another a “flammable substance,” along with the substances listed above, with the intent to injure the flesh or disfigure the body of that person is punishable by imprisonment in state prison for two, three, or four years. “Flammable substance” is defined as gasoline, petroleum products, or flammable liquids with a flashpoint of 150 degrees Fahrenheit or less.

The purpose of the bill is to provide a felony penalty for those who douse a person with gasoline with intent to ignite them.

AB 392 (Gallegos): Chapter 38: Graffiti.

(Amends Penal Code Section 594.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (5-0)

Assembly Floor (74-0) Senate Floor (38-0)

Existing law provides that any person who maliciously defaces, with graffiti or other inscribed material, real property belonging to any public entity or the federal government is subject to a permissive inference that

he or she neither owned the property nor had the permission of the owner to deface the property.

This bill creates a permissive inference that a person who defaces, damages or destroys vehicles, signs, fixtures or furnishings belonging to a public entity does not own or have permission to conduct such acts against the property.

AB 400 (Gallegos): Chapter 460: False Representation.

(Adds Penal Code Section 538f.)

Legislative History:

Assembly Public Safety (5-2) Senate Criminal Procedure (7-0)

Assembly Appropriations (11-0) Senate Appropriations (28.8)

Assembly Floor (57-8) Senate Floor (40-0)

Assembly Concurrence (64-4)

AB 400 Continued

Existing law makes it a misdemeanor to fraudulently impersonate a peace officer, member of a fire department or a fire marshall. No statute prohibits the fraudulent impersonation of a utility worker.

This bill would make it a misdemeanor to falsely represent oneself as an

employee of a public utility or municipal utility district. Those found guilty of this misdemeanor shall be punished in a county jail for up to six months and/or pay a fine not to exceed \$1,000.

AB 662 (Boland): Chapter 786: Career Criminal Apprehension Program.  
(Adds and repeals Section 13854.5 of the Penal Code and repeals Section 2 of Chapter 1292 of the Statutes of 1982.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (13-0) Senate Appropriations (9-0)

Assembly Floor (75-0) Senate Floor (40-0)

Assembly Concurrence (77-0)

Existing law establishes the Career Criminal Apprehension Program in the Office of Criminal Justice Planning to provide financial, training, and technical assistance to local law enforcement. These provisions are effective only until January 1, 1996, and will be repealed as of that date.

This bill extends the operation of these provisions until July 1, 1996, and repeals the provisions on January 1, 1997.

AB 928 (Battin): Chapter 341: Great bodily injury: crimes against the elderly.

(Amends Section 12022.7 of the Penal Code.)

Legislative History:

Assembly Public Safety (5-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (11-6) Senate Appropriations (8-0)

Assembly Floor (50-14) Senate Floor (35-0)

Existing law provides that the intentional infliction of great bodily injury in the commission or attempted commission of a felony will be punished as a three year enhancement to the base felony sentence. If the victim is at least 70 years of age, the enhancement is five years.

This bill removes the requirement of intent from these enhancements.

AB 985 (Firestone): Chapter 438: Stalking: credible threat.

(Amends Section 6254 of the Government Code, and amends Section 646.9 of, and adds Section 646.92 to, the Penal Code.)

Legislative History:

Assembly Public Safety (6-0) Senate Criminal Procedure (5-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (77-0) Senate Floor (31-0)

Assembly Concurrence (68-0)

Existing law provides that stalking is the willful, malicious, and repeated, following or harassing of a victim by a person who makes a credible threat with the intent to place the victim in reasonable fear for his or her safety or the safety of his or her immediate family. Stalking is an alternate felony/misdemeanor, punishable by 16 months, two or three years in state prison or up to one year in the county jail and/or a fine of up to \$1,000. If there is a temporary restraining order in effect, the offense is a felony, punishable by two, three or four years. A subsequent violation of stalking is punishable by two, three or four years in state prison.

Existing law provides that a credible threat means “a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat, so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.

This bill re-defines “credible threat” to mean “a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her

family. It is not necessary to prove that the defendant had the intent to actually carry out the threat.

This bill requires a court to consider issuing an order restraining a convicted stalker from having any contact with the victim for up to 10 years. The length of the restraining order is based on 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. The duration of the restraining order may be longer than five years only in extreme cases, where a longer duration is necessary to protect the safety of the victim or his or her immediate family.

This bill eliminates the five year general limitation on the duration of the restraining order.

Existing law requires specified sex offenders to register with local officials within 14 days of coming into the city, county or city and county in which the offender temporarily resides or is domiciled for that length of time.

AB 985 Continued

This bill provides the sentencing court with authority to order a person who is guilty of a felony stalking offense to register as a sex offender if

the court finds that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.

Existing law, the California Public Records Act, prohibits state and local law enforcement agencies from disclosing specified information regarding victims of certain crimes.

This bill prohibits disclosure of information regarding a victim of stalking and of assault with intent to commit mayhem, rape, sodomy, or oral copulation.

AB 1035 (Katz): Chapter 981: Loitering: intent to commit a drug offense or to engage in prostitution.

(Adds Chapter 9.5 (commencing with Section 11530) to Division 10 of the Health and Safety Code, and adds Chapter 2.5 (commencing with Section 653.20) to Title 15 of Part 2 of the Penal Code.)

#### Legislative History:

Assembly Public Safety (4-3, 5-1) Senate Criminal Procedure (5-2)

Assembly Appropriations (10-5) Senate Appropriations (28.8)

Assembly Floor (51-21) Senate Floor (30-1)

Assembly Concurrence (61-9)

Existing law provides that it is a misdemeanor to solicit or agree to engage in prostitution. Existing law provides that it is a misdemeanor or

felony to commit specified offenses relating to controlled substances.

Existing law provides that it is a misdemeanor to loiter, prowl, or wander on private property without visible or lawful business on the property.

This bill provides that it is a misdemeanor for any person to loiter in any public place in a manner and under circumstances manifesting the purpose and with the intent to commit a controlled substance offense, punishable by not more than 6 months in jail and/or a fine not exceeding \$1,000. The bill provides a non-exclusive list of circumstances that may be considered in determining whether a person has the requisite intent to engage in drug-related activity.

This bill also provides that it is a misdemeanor for any person to loiter in any public place with the intent to commit prostitution, punishable by not more than 6 months in jail and/or a fine not exceeding \$1,000. The intent is evidenced by acting in a manner and under circumstances which openly demonstrate the purpose of inducing, enticing, or soliciting prostitution, or procuring another to commit prostitution. The bill also provides a non-exclusive list of circumstances that may be considered in determining whether a person has the requisite intent to commit prostitution.

This bill provides that local governing bodies can adopt and enforce laws consistent with the provisions of the bill and with prostitution laws in general, specifying that the state statutes do not preempt the field.

AB 1344 (Sweeney): Chapter 163: Loitering on school property.

(Amends Section 626.6 of, and to add Section 626.7 to, the Penal Code.)

Legislative History:

Assembly Public Safety (7-0) Senate Criminal Procedure (6-0)

Assembly Appropriations (15-0) Senate Appropriations (28.8)

Assembly Floor (70-0) Senate Floor (39-0)

Assembly Concurrence (73-0)

Existing law provides that persons who appear on the campus of a public school and who are disruptive may be ordered to leave. Failure to do so, as well as willfully and knowingly reentering the campus or facility within seven days after being directed to leave, is a misdemeanor.

This bill extends the seven day prohibition to 30 days.

AB 1454 (W. Murray): VETOED: Multijurisdictional Gang and Drug Task Force.

(Adds and repeals Chapter 10.5 (commencing with Section 13895) of Title 6 of Part 4 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-2) Senate Criminal Procedure (5-1)

Assembly Appropriations (13-3) Senate Appropriations (28.8)

Assembly Floor (41-28) Senate Floor (24-11)

This bill would have established a three-year pilot project for a gang and drug task force in a targeted area of Los Angeles County, subject to approval of participating local law enforcement agencies. The targeted area includes the Cities of Compton, Lynwood, Carson, Long Beach, Paramount, and the adjacent unincorporated areas.

The purpose of the bill was to coordinate law enforcement efforts in the target area.

AB 1837 (Figueroa): Chapter 42: Vandalism.

(Amends Penal Code Section 594.5; Amends Welfare and Institutions Code Section 656.)

Legislative History:

Assembly Public Safety (8-0) Senate Criminal Procedure (5-0)

Assembly Floor (64-0) Senate Floor (38-0)

AB 1837 Continued

Existing law provides that nothing in the Penal Code shall invalidate any local ordinance that regulates the sale of aerosol containers of paint or other liquid substances capable of defacing property.

This bill clarifies that the Penal Code does not preempt local ordinances in setting forth civil administrative remedies, regulations, procedures or civil penalties governing graffiti.

Existing law provides that a petition to commence proceedings in the juvenile court to declare a minor a ward of the court shall be verified and contain, among other things, a notice to his or her parent or legal guardian if a proceeding is pending against the minor child for any specified offense involving graffiti.

This bill includes other specified offenses involving vandalism within these provisions.

AB 1866 (Baldwin): Chapter 354: Threats against specified public officials.

(Amends Section 76 of the Penal Code.)

**Legislative History:**

Assembly Public Safety (6-0) Senate Criminal Procedure (7-0)

Assembly Appropriations (18-0) Senate Appropriations (28.8)

Assembly Floor (72-0) Senate Floor (37-0)

Existing law provides that every person who knowingly and willfully threatens the life of, or threatens serious bodily harm to, any elected public official, county public defender, county clerk, exempt appointee of the Governor, or judge, their staff or immediate family members with the specific intent that the statement is to be taken as a threat, and the apparent ability to carry out that threat by any means, is guilty of a public offense. Upon a first conviction, the offense is punishable by a fine not exceeding \$5,000, and/or by imprisonment in the state prison, or in a county jail for not more than one year. The second conviction is a felony. (Penal Code Section 76(a)(1)&(2).)

This bill expands the protected classes in Penal Code Section 76 to additionally include all Deputy Commissioners of the Board of Prison Terms, their staff and immediate members..

AB 1892 (Burton): Chapter 129: Eavesdropping.  
(Amends Penal Code Section 636.)

Legislative History:

Assembly Public Safety (5-1) Senate Criminal Procedure (7-0)

Assembly Appropriations (14-0) Senate Appropriations (28.8)

Assembly Floor (70-0) Senate Floor (38-0)

Existing law provides that every person who, without permission from all

parties to the conversation, eavesdrops on or records by means of an electronic or other device, a

AB 1892 Continued

conversation between a person who is in the physical custody of a law enforcement officer and his or her attorney, religious adviser, or licensed physician is guilty of a felony.

This bill changes that provision to apply only to eavesdropping by means of an electronic device and provides, in addition, that every person who, intentionally and without permission from all parties to the conversation, nonelectronically eavesdrops upon a conversation, or any portion thereof, that occurs in a place where there exists a reasonable expectation of privacy, between a person who is in the physical custody of a law enforcement officer or other public officer and that person's attorney, religious adviser, or licensed physician, is guilty of a misdemeanor or felony, and upon conviction shall be punished as specified.

MISCELLANEOUS (CRIMES NOT IN PENAL CODE)

SB 82 (Kopp): Chapter 879: School districts and community colleges:  
governing boards.

(Amends Sections 7054, 7056 and 35107 of, and adds Sections 7054.1 and 7058  
to, and repeals Sections 35174 and 72632 of the Education Code.)

Legislative History:

Senate Education (7-2) Assembly E., R., and C.A. (5-1)

Senate Criminal Procedure (4-2) Assembly Public Safety (5-3)

Senate Appropriations (28.8) Assembly Appropriations (10-3)

Senate Floor (27-0) Assembly Floor (52-18)

Senate Concurrence (40-0)

Existing law generally prohibits the use of public funds for the purpose of  
supporting or opposing local district ballot measures or candidates.

Existing law, however, exempts from this blanket prohibition the  
preparation or dissemination of information by school or community college  
governing boards (or their individual members) which urges the passage or  
defeat of certain local ballot measures or which supports the candidacy of  
individuals for election as district trustees. Constitutional law permits  
governing boards and their members to make public or private appearances on  
behalf of local ballot measures or candidates. The local ballot measures  
subject to this exemption are school facilities bond measures; increases in

the maximum tax rate (no longer permitted, pursuant to Proposition 13); and the acceptance, expenditure, and repayment of state funds for facilities construction (no longer used).

This bill conforms the rule on the use of public funds by school or community college districts with the rule on the use of public funds by a city, county or state. The bill makes it a crime punishable as an alternate felony/misdemeanor to use school or community college district funds, services, supplies or equipment to urge the support or defeat of any ballot measure or candidate.

This bill provides that the prohibition does not apply to forums under the control of the governing boards which are made available to all sides on an equitable basis, and it clarifies that the prohibition does not apply to dissemination of information about bond issues or other ballot measures when the activity is otherwise constitutionally or statutorily protected and constitutes a fair and impartial presentation of relevant facts intended to aid the electorate in reaching an informed judgment regarding the measure. That is, this bill provides that public facilities may be used if the facilities are made available to all sides on an equitable basis and that public funds may be used to provide information to voters, so long as the information provided is impartial.

Existing law permits school or community college administrative employees to advocate on behalf of certain ballot measures, and permits any district

employee to solicit or receive campaign funds related to measures that affect their compensation or working conditions,

SB 82 Continued

subject to optional district-imposed limitations regarding such activities during working hours and use of district facilities.

This bill prohibits district employees from using working hours or district facilities to solicit or receive funds to support or defeat ballot measures that affect their compensation or working conditions.

This bill also contains an expression of legislative intent that information dissemination and appearances and statements are authorized so long as no public funds are involved.

This bill specifies that the prohibitions on using public funds for political activities are not to be construed as prohibiting any administrative officer of a school district from appearing at any time before a group or organization that requests the officer to answer questions on the reasons for the governing board placing a bond issue on the ballot.

SB 83 (O'Connell): Chapter 175: Unauthorized entry on to a schoolbus.

(Adds Education Code Section 39842.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Public Safety (8-0)

Senate Appropriations (28.8) Assembly Appropriation (15-0)

Senate Floor (32-0) Assembly Floor (71-0)

Existing law prohibits persons from entering school grounds with the intent to disrupt, obstruct, or inflict damage to property or bodily injury upon any person.

This bill makes it a misdemeanor for any unauthorized person to enter a school bus or school activity bus with the intent to commit any crime and who refuses to disembark after being ordered to do so by specified persons.

This bill also allows the placement of notice at the entrance of all school buses warning people against unauthorized entry.

SB 123 (Thompson): Chapter 827: Increased fines for commercial poaching.

(Urgency measure)

(Amends Fish & Game Code Section 3050; adds Sections 715, 9025.1, 12012 and 12013; adds and repeals Sections 9027 and 9029.5.)

Legislative History:

Senate Criminal Procedure (5-0) Assembly Water, Parks & Wildlife (11-0)

Senate Appropriations (28.8) Assembly Public Safety (8-0)

Senate Floor (38-0) Assembly Appropriations (14-0)

Senate Concurrence (39-0)

### SB 123 Continued

Existing law generally classifies violations of the Fish and Game Code as misdemeanors. Penalties for such violations include one year in county jail, loss of hunting and/or fishing privileges, specified fines, and forfeiture of any devices used in commission of the violation.

This bill makes it a criminal offense with specified punishment to knowingly and unlawfully take, possess, or sell for commercial purposes wildlife in violation of the Fish and Game Code, including parts of specified animals. These new penalties do not apply to persons possessing a commercial fishing license provided they take no more than 1,000 pounds of fin fish over authorized limits.

This bill makes violations of commercial poaching laws punishable by fine and/or imprisonment in county jail. It also provides for a three year statute of limitations on commencing prosecutions for violations of the new commercial poaching provisions.

This bill directs the Department of Fish and Game to study and report back

to the legislature by January 30, 1996 on the feasibility of the department entering into the National Wildlife Violator Compact to help ensure nonresident violators appear in California for violations of the Fish and Game Code.

This bill also places limitations on the number of hooks a vessel can use in certain Fish and Game Districts and re-establishes the prohibition of the use of hook and line gear during weekends within one mile of shore from the San Mateo County line north to Humboldt Bay. Additional restrictions on commercial fishing are specified in the bill.

SB 163 (Johannessen): Chapter 966: Violations of fuel standards.

(Adds and repeals Chapter 1.5 of Part 5 of Division 26 of the Health & Safety Code; repeals and adds Health & Safety Code Section 43021.)

Legislative History:

Senate Criminal Procedure (6-0) Assembly Natural Resources (8-4)

Senate Appropriations (10-2) Assembly Transportation (11-0)

Senate Floor (24-2) Assembly Floor (47-24)

Senate Concurrence (23-6)

Existing law imposes a civil penalty for any person who violates various provisions of air quality law, or any order, rule or regulation of the state Air Resources Board (ARB). Furthermore, any person who knowingly violates any regulation adopted by the ARB pertaining to motor vehicle

fuels is guilty of a misdemeanor and fine of up to \$1,000 for each violation. Violations of law concerning motor vehicle fuel distribution, marketing and sales are also punishable by various civil and criminal penalties.

This bill establishes a tiered system of fines for violations of fuel requirements and standards. It also provides that, in lieu of civil penalties, the ARB may impose administrative civil penalties for violations of rules or regulations that the ARB has adopted. According to this bill

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all funds recovered by the ARB are to be deposited in the Air Pollution Control Fund and may only be used for certain projects.

This bill also requires the ARB to report to three legislative committees as to all violations subject to this bill, any settlements reached, and the rate of compliance with any requirements that are subject to this bill. SB 163 makes additional changes to the Health & Safety Code.

SB 170 (Leonard): Chapter 68: Evading a police officer on a bicycle.

(Amends Vehicle Code Section 2800.1.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (8-0)

Senate Floor (38-0) Assembly Floor (76-0)

Existing law makes it a misdemeanor for any person operating a motor vehicle to evade or willfully flee from an officer who is pursuing in a motor vehicle.

This bill expands current law to criminalize the act of evading or willfully fleeing from a peace officer on a bicycle provided certain conditions exist. First, the peace officer's bicycle must be operated by the officer and be distinctively marked. Second, the officer must give a verbal command to stop. Third, the officer must sound a horn of at least 115 decibels. Fourth, the officer must give a hand signal directing the person to stop. A person shall be found guilty of a misdemeanor if the person is aware of the verbal command, horn and hand signal, but refuses to comply with the command to stop.

This bill intends to give peace officers on bicycles the same authority to detain criminal suspects as those officers in motor vehicles.

SB 233 (Hughes): Chapter 100: School safety: asset forfeiture funds.  
(Amends Section 11489 of the Health and Safety Code.)

Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (8-0)

Senate Appropriations (28.8) Assembly Appropriations (11-1)

Senate Floor (28-7) Assembly Floor (74-0)

Existing law, California's drug asset forfeiture statutes, provides that 24% of asset forfeiture monies remaining after program expenses are appropriated to the General Fund, with the first \$10 million collected during the 1995 calendar year being directed to the Conflict Resolution and School Violence Reduction Program. However, 1995 general fund revenues from drug asset forfeiture actions will not reach the anticipated \$10 million.

#### SB 233 Continued

This bill deletes the requirement that the \$10 million be appropriated during 1995 and instead provide that the first \$10 million received by the General Fund under the Asset Forfeiture provisions be appropriated to the program.

SB 633 (Kopp): Chapter 845: Fraudulent tax returns.

(Adds Sections 18626, 19720, and 19721 to the Revenue and Taxation Code.)

#### Legislative History:

Senate Revenue & Taxation (7-0) Assembly Revenue & Taxation (9-1)

Senate Criminal Procedure (7-0) Assembly Public Safety (7-0)

Senate Appropriations (12-0) Assembly Appropriations (19-0)

Senate Floor (33-0) Assembly Floor (65-8)

Senate Concurrence (33-2)

Existing law specifies various penalties for failure to comply with the state's tax laws. Misdemeanor or felony charges may be filed when there are criminal and willful violations of the state's tax laws. Some actions, such as forging a spouse's signature on the tax return, are misdemeanors. Others, such as failing to remit withheld taxes, are felonies. Actions such as failure to file a return may alternatively be a misdemeanors or felonies.

This bill creates new crimes for persons who fraudulently file for an income tax refund which they are not entitled to receive or advise others to fraudulently file for a tax refund. The bill provides that the signature of an individual on a income tax refund check is prima facie evidence for these crimes. If there is intent to defraud, there is a civil tax penalty of up to \$10,000 and a criminal penalty punishable as a misdemeanor by not more than one year in county jail. When the person knows that the recipient is not entitled to the refund, but intent to defraud is not shown, the penalty is a civil penalty of not more than \$5,000 and a misdemeanor penalty of not more than one year in county jail and/or a fine of not more \$10,000. Individuals guilty of these crimes are subject to forfeiture of computers used in committing the crimes. The bill also expands the definition of tax return to include returns filed

electronically.

SB 634 (Kopp): Chapter 227: Public social services: confidential information disclosure.

(Amends Section 17006.5 of, and to amend, repeal, and add Section 10850.3 of, the Welfare and Institutions Code.)

Legislative History:

Senate Criminal Procedure (4-0) Assembly Public Safety (5-3)

Senate Appropriations (28.8) Assembly Appropriations (13-2)

Senate Floor (39-0) Assembly Floor (61-9)

Senate Concurrence (35-0)

SB 634 Continued

Existing law generally provides that information held by county welfare departments concerning public social services applicants or recipients is confidential. (See Welfare and Institutions Code Sec. 17006.) Exceptions permit the disclosure of specified information concerning such applicants or recipients in certain circumstances, including that welfare departments and employees may disclose confidential information concerning applicants or recipients to law enforcement “where a warrant has been issued for the arrest of the applicant or recipient for the commission of a felony or a misdemeanor. Information that may be released pursuant to this section

shall limited to the name, address, telephone number, birthdate, social security number, and physical description, of the applicant . . . .” (WIC Section 10850.3.) Current law permits the release of this information only upon a written request from the agency specifying that an arrest warrant has been issued, and only where the written request has been made by the head of the law enforcement agency. (WIC Section 10850.3(b).)

This bill adds “physical whereabouts” to the information that could be released by a welfare employee and states that the disclosures of information authorized by this bill may be made only if knowledge of the outstanding warrant comes to the attention of the county welfare department as a result of an unsolicited disclosure in specified circumstances. This bill specifies that the section, as amended, should not be construed to authorize the release of a general list identifying welfare applicants or recipients and provides that its provisions affecting federal aid applicants and recipients become effective only after any federal approval required for the implementation of these provisions has been obtained.

SB 662 (Boatwright): VETOED: False statements to legislative committees.

(Adds Government Code Section 9415.

#### Legislative History:

Senate Criminal Procedure (7-0) Assembly Public Safety (8-1)

Senate Rules (4-0) Assembly Appropriations (18-0)

Senate Floor (27-8) Assembly Floor (44-24)

## Senate Concurrence (27-6)

Existing law provides that any person who testifies under oath before any competent tribunal, including a legislative committee, and willfully states as true any material matter which he or she knows to be false is guilty of the crime of perjury.

This bill would have provided that any person who knowingly makes any unsworn, false statement on any material matter as a witness testifying voluntarily before a legislative committee is punishable by imprisonment in the county jail not exceeding one year. The bill further provided that any person who, as a witness before a legislative committee, offers any document or other writing to the legislative committee knowing that it is false or fraudulent is punishable by imprisonment in the county jail not exceeding one year.

SB 1059 (Peace): Chapter 778: California Public Records Act: disclosure of information.

(Amends Section 6254 of the Government Code.)

### Legislative History:

Senate Governmental    Assembly Governmental

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Senate Appropriations (28.8)    Assembly Public Safety (9-0)

Senate Floor (37-0)    Assembly Appropriations (19-0)

Senate Concurrence (39-0)    Assembly Floor (57-9)

Existing law, the California Public Records Act, requires state and local enforcement agencies to make public the name and current address of every individual arrested by the agency and of every victim of a crime or incident reported to the agency, subject to certain exceptions.

This bill requires a state or local law enforcement agency to make public the current address of every individual arrested by the agency and the current address of crime victims where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator. The bill would prohibit the direct or indirect use of this information to sell a product or service to any individual or group of individuals, and requires the requester to execute a declaration to that effect under penalty of perjury.

This bill also adds, as exceptions to the requirement that the name and address of crime victims be made public, persons who are victims of certain types of assault and persons who are stalked.

This bill takes effect July 1, 1996.

SCR 7 (Hayden): Chapter 66: Violence against health facilities.

Legislative History:

Senate Criminal Procedure (5-0) Assembly Public Safety (8-0)

Senate Floor (21-0) Assembly Floor (48-1)

Senate Concurrence (28-0)

This resolution denounces the violence and incitement to violence at family planning clinics; urges all Californians to denounce the violence and in particular call upon those who have supported or engaged in such violence against health care providers and family planning clinics to immediately cease such activities and refrain from any such activities in the future; and urges the Governor, Attorney General, and all law enforcement officials to continue to take all steps necessary and feasible to protect citizens from this violence and threat of violence.

AB 552 (House): Chapter 618: Air pollution.

(Adds Health and Safety Code Section 42400.6.)

Legislative History:

Assembly Natural Resources (12-0) Senate Criminal Procedure (6-1)

Assembly Floor (67-0) Senate Floor (30-4)

Assembly Natural Resources (8-6)

Assembly Concurrence (45-30)

Existing law, provides that any person who violates specified provisions relating to air pollution is subject to prescribed penalties.

Existing law also prescribes penalties for conduct defined as unfair competition.

This bill authorizes the collection of a fine or monetary penalty for the same conduct either under specified air pollution provisions or under those unfair competition provisions, but not under both.

AB 1532 (K. Murray): Chapter 946: Voter registration crimes.  
(Amends Sections 2159 and 18108 of the Elections Code.)

Legislative History:

Assembly E., R., & C.A. (4-0) Senate Elections & Reapportionment (3-0)

Assembly Appropriations (14-0) Senate Criminal Procedure (6-0)

Assembly Floor (65-5) Senate Appropriations (9-1)

Assembly Concurrence (69-5) Senate Floor (34-2)

Existing law requires any person who is hired to assist another to register to vote by receiving the voter's completed affidavit of registration to personally affix on the affidavit the telephone number of their employer; requires persons who pay people to help register votes to maintain a list

of the names, addresses, and telephone numbers of the persons hired; and provides criminal penalties for failing to affix the required information on the affidavit of registration, knowingly registering a person not entitled to register, and registering nonexistent persons.

This bill requires that the individual assisting the registrant sign the affidavit in his or her handwriting and also include his or her full name, address and telephone number on the affidavit. In addition, it requires the company or organization paying individuals to register voters to provide each person they are paying with a written statement of that individuals' personal responsibilities and liabilities outlined in the Elections Code. The bill also increases the misdemeanor penalties for violations of these provisions.

AB 1836 (Figueroa): Chapter 813: Reports on abuse: sharing of investigative reports.

(Amends Section 15630 of the Welfare and Institutions Code.)

Legislative History:

Assembly Human Services (5-0) Senate Criminal Procedure (4-0)

Assembly Appropriations (17-0) Senate Appropriations (28.8)

Assembly Floor (75-0) Senate Floor (39-0)

Assembly Concurrence (70-0)

Existing law requires persons who are employed in specified professions and specified public officials to report observed or suspected incidents of physical abuse against elders or dependent adults to defined law enforcement or regulatory agencies. These reports must be made by telephone as soon as possible and in writing within 2 working days.

This bill adds that when a county adult protective services agency is required to report incidents of abuse to a law enforcement agency, the law enforcement agency must, with specified limitations, upon request, furnish a copy of its investigative report concerning the reported matter to that county adult protective services agency. It also provides that when a law enforcement agency is required to report incidents of abuse to a county adult protective services agency, the county adult protective services agency must, with specified limitations, upon request, furnish a copy of its investigative report concerning the reported matter to that law enforcement agency.

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100

AB 0664

Brulte

Ch. 192

73

AB 0681

Hannigan

Ch. 396

79

AB 0716

Lee

Ch. 49

13

AB 0752

Kuykendall

Ch. 934

13

AB 0756

Burton

VETOED

54

AB 0774

Aguiar

Ch. 336

65

AB 0787

McDonald

Urgency

Ch. 54

74

AB 0817

Hoge

Ch. 313

88

AB 0830

Speier

Ch. 437

54

AB 0882

Rogan

Ch. 439

31

AB 0884

Rogan

Ch. 41

31

AB 0888

Rogan

Ch. 763

80

AB 0889

Rogan

Ch. 234

65

AB 0904

Bowler

Urgency

Ch. 304

66

AB 0928

Battin

Ch. 341

100

AB 0985

Firestone

Ch. 438

101

AB 0989

Hawkins

Ch. 268

68

AB 1035

Katz

Ch. 981

102

AB 1038

Vasconcellos

VETOED

2

AB 1075

Martinez

Ch. 318

36

AB 1111

Rogan

Ch. 159

32

AB 1113

Rogan

Urgency

Ch. 455

6

AB 1115

Hawkins

Ch. 343

68

AB 1131

Caldera

Urgency

Ch. 46

32

AB 1177

Cunneen

Urgency

Ch. 749

19

AB 1222

Martinez

Ch. 128

56

AB 1226

Martinez

Ch. 184

33

AB 1228

Martinez

Ch. 734

86

AB 1305

Bowler

Ch. 321

56

AB 1343

Sweeney

VETOED

33

AB 1344

Sweeney

Ch. 163

103

AB 1408

Villaraigosa

VETOED

21

AB 1437

Brulte

Ch. 666

74

AB 1440

Davis

Ch. 391

3

AB 1445

Baca

Ch. 55

69

AB 1452

Kaloojian

Ch. 465

34

AB 1454

Murray, W.

VETOED

103

AB 1470

Brown, W.

Ch. 53

39

AB 1481

Marinez

Ch. 151

59

AB 1491

McPherson

Ch. 48

3

AB 1529

Vasconcellos

VETOED

7

AB 1532

Murray, K.

Ch. 946

114

AB 1571

Caldera

Ch. 806

59

AB 1732

Boland

Ch. 590

75

AB 1736

Harvey

Ch. 349

39

AB 1804

Goldsmith

Ch. 867

9

AB 1836

Figuroa

Ch. 813

115

AB 1837

Figueroa

Ch. 42

103

AB 1866

Baldwin

Ch. 354

104

AB 1884

Allen

Urgency

Ch. 388

24

AB 1892

Burton

Ch. 129

104

TABLE OF SECTIONS AFFECTED

| Section | Assembly |  | Senate |  | Effect | Chapter | Urgency |
|---------|----------|--|--------|--|--------|---------|---------|
|         | Bill     |  | Bill   |  |        |         |         |

Business and Professions Code

|        |     |      |  |     |      |         |
|--------|-----|------|--|-----|------|---------|
| 650.01 |     | 1177 |  | Amd | 749  | Urgency |
| 21626  | 756 |      |  | Amd | Veto |         |
| 21627  | 756 |      |  | Amd | Veto |         |
| 21642  | 756 |      |  | Amd | Veto |         |
| 21647  | 756 |      |  | Amd | Veto |         |
| 22430  | 156 |      |  | Amd | 133  |         |

Civil Code

|      |      |  |  |     |     |  |
|------|------|--|--|-----|-----|--|
| 607f | 1571 |  |  | Amd | 806 |  |
|------|------|--|--|-----|-----|--|

|            |     |     |     |         |
|------------|-----|-----|-----|---------|
| 1542.11177 |     | Add | 749 | Urgency |
| 2225       | 287 | Amd | 262 |         |

#### Code of Civil Procedure

|        |      |     |            |     |
|--------|------|-----|------------|-----|
| 107.65 | 1736 |     | Add/Repeal | 349 |
| 206    | 508  | Amd | 964        |     |
| 237    | 508  | Amd | 964        |     |
| 1094.6 | 814  | Amd | 898        |     |

#### Education Code

|        |     |        |     |  |
|--------|-----|--------|-----|--|
| 7054   | 82  | Amd    | 879 |  |
| 7054.1 | 82  | Add    | 879 |  |
| 7056   | 82  | Amd    | 879 |  |
| 7058   | 82  | Add    | 879 |  |
| 35107  | 82  | Amd    | 879 |  |
| 35174  | 82  | Repeal | 879 |  |
| 39842  | 83  | Add    | 175 |  |
| 47700  | 604 | Amd    | 72  |  |
| 47701  | 604 | Amd    | 72  |  |
| 47703  | 604 | Amd    | 72  |  |
| 47710  | 604 | Amd    | 72  |  |
| 49330  | 830 | Amd    | 437 |  |
| 72632  | 82  | Repeal | 879 |  |

### Elections Code

|       |      |     |     |
|-------|------|-----|-----|
| 2159  | 1532 | Amd | 946 |
| 18108 | 1532 | Amd | 946 |

### Evidence Code

|      |     |     |     |
|------|-----|-----|-----|
| 767  | 355 | Amd | 87  |
| 1101 | 882 | Amd | 439 |
| 1108 | 882 | Add | 439 |
| 1253 | 355 | Add | 87  |
| 1360 | 355 | Add | 87  |

### Family Code

|        |      |     |      |
|--------|------|-----|------|
| 2074   | 591  | Amd | 246  |
| 3022.5 | 558  | Add | 406  |
| 3132   | 1038 | Amd | Veto |
| 3135   | 1038 | Add | Veto |
| 3411   | 1038 | Amd | Veto |
| 6240   | 1038 | Amd | Veto |
| 6250   | 1038 | Amd | Veto |

|      |      |     |     |      |         |
|------|------|-----|-----|------|---------|
| 6251 | 1038 |     | Amd | Veto |         |
| 6252 | 1038 |     | Amd | Veto |         |
| 6253 | 1038 |     | Amd | Veto |         |
| 6305 |      | 591 | Amd | 246  |         |
| 6929 | 1113 |     | Amd | 455  | Urgency |
| 7720 |      | 591 | Amd | 246  |         |

Financial Code

|         |     |     |     |      |      |
|---------|-----|-----|-----|------|------|
| 21301   | 756 |     | Amd | Veto |      |
| 21301.1 |     | 756 |     | Add  | Veto |
| 21304   | 756 |     | Amd | Veto |      |

Fish and Game Code

|        |      |     |            |     |             |
|--------|------|-----|------------|-----|-------------|
| 715    |      | 123 | Add        | 827 | Urgency     |
| 2010   | 1305 |     | Amd        | 321 |             |
| 3050   |      | 123 | Amd        | 827 | Urgency     |
| 9025.1 |      |     | 123        | Add | 827 Urgency |
| 9027   |      | 123 | Add/Repeal | 827 | Urgency     |

Fish and Game Code Continued

|        |  |  |     |        |             |
|--------|--|--|-----|--------|-------------|
| 9029.5 |  |  | 123 | Repeal | 827 Urgency |
|--------|--|--|-----|--------|-------------|

|       |     |     |     |         |
|-------|-----|-----|-----|---------|
| 12012 | 123 | Add | 827 | Urgency |
| 12013 | 123 | Add | 827 | Urgency |

Food and Agricultural Code

|      |      |     |      |
|------|------|-----|------|
| 4108 | 1204 | Amd | Veto |
|------|------|-----|------|

Government Code

|          |      |     |      |         |
|----------|------|-----|------|---------|
| 827      | 1177 | Add | 749  | Urgency |
| 6254     | 985  | Amd | 438  |         |
|          | 1059 | Amd | 778  |         |
| 6254.15  | 1177 | Add | 749  | Urgency |
| 9415     | 662  | Add | Veto |         |
| 12511.5  | 1177 | Add | 749  | Urgency |
| 13964    | 816  | Amd | 935  |         |
| 13966.01 | 817  | Amd | 313  |         |
| 15202    | 1884 | Amd | 388  | Urgency |
| 50050    | 911  | Amd | 876  |         |
|          | 817  | Amd | 313  |         |
| 50081    | 175  | Amd | 902  |         |
| 53069.4  |      | 814 | Add  | 898     |
| 68115    | 361  | Amd | 112  |         |

Harbors and Navigation Code

|     |      |      |     |     |         |
|-----|------|------|-----|-----|---------|
| 655 | 1113 |      | Amd | 455 | Urgency |
| 701 |      | 1224 | Amd | 526 |         |
| 710 |      | 1224 | Amd | 526 |         |

Health and Safety Code

|            |      |     |     |     |         |
|------------|------|-----|-----|-----|---------|
| 1250       | 1177 |     | Amd | 749 | Urgency |
| 1250.11177 |      |     | Amd | 749 | Urgency |
| 1522.01    |      |     | 295 | Add | 840     |
| 1596.792   |      |     | 615 | Amd | 372     |
| 11054      | 1113 |     | Amd | 455 | Urgency |
| 11055      | 1113 |     | Amd | 455 | Urgency |
| 11056      |      | 491 | Amd | 59  |         |
| 11153      | 1113 |     | Amd | 455 | Urgency |

Health and Safety Code Continued

|       |      |  |     |     |         |
|-------|------|--|-----|-----|---------|
| 11215 | 1113 |  | Amd | 455 | Urgency |
| 11217 | 1113 |  | Amd | 455 | Urgency |
| 11218 | 1113 |  | Amd | 455 | Urgency |
| 11219 | 1113 |  | Amd | 455 | Urgency |
| 11220 | 1113 |  | Amd | 455 | Urgency |
| 11222 | 1113 |  | Amd | 455 | Urgency |

|          |      |      |     |      |         |
|----------|------|------|-----|------|---------|
| 11356.5  |      | 1095 | Amd | 377  |         |
| 11357    | 1529 |      | Amd | Veto |         |
| 11358    | 1529 |      | Amd | Veto |         |
| 11383    |      | 419  | Amd | 571  |         |
| 11483    | 1113 |      | Amd | 455  | Urgency |
| 11489    |      | 233  | Amd | 100  | Urgency |
| 11530    | 1035 |      | Add | 981  |         |
| 11532    | 1035 |      | Add | 981  |         |
| 11534    | 1035 |      | Add | 981  |         |
| 11536    | 1035 |      | Add | 981  |         |
| 11538    | 1035 |      | Add | 981  |         |
| 11540    | 1035 |      | Add | 981  |         |
| 11590    | 264  |      | Amd | 714  |         |
| 11755    | 1113 |      | Amd | 455  | Urgency |
| 11875    | 1113 |      | Amd | 455  | Urgency |
| 11875.1  |      | 1113 | Add | 455  | Urgency |
| 11876    | 1113 |      | Amd | 455  | Urgency |
| 11877    | 1113 |      | Amd | 455  | Urgency |
| 11877.5  |      | 1113 | Amd | 455  | Urgency |
| 11877.6  |      | 1113 | Amd | 455  | Urgency |
| 11877.7  |      | 1113 | Amd | 455  | Urgency |
| 11877.8  |      | 1113 | Amd | 455  | Urgency |
| 11877.9  |      | 1113 | Amd | 455  | Urgency |
| 11877.13 |      | 1113 | Amd | 455  | Urgency |
| 11877.14 |      | 1113 | Amd | 455  | Urgency |

|         |      |            |     |         |
|---------|------|------------|-----|---------|
| 11878   | 1113 | Amd        | 455 | Urgency |
| 11880   | 1113 | Amd        | 455 | Urgency |
| 11970.5 | 1113 | Amd        | 455 | Urgency |
| 11971   | 1113 | Amd        | 455 | Urgency |
| 42400.6 | 552  | Add        | 618 |         |
| 43021   | 163  | Repeal/Add | 966 |         |
| 43025   | 163  | Add/Repeal | 966 |         |
| 43026   | 163  | Add/Repeal | 966 |         |
| 43027   | 163  | Add/Repeal | 966 |         |
| 43028   | 163  | Add/Repeal | 966 |         |

Health and Safety Code Continued

|         |     |            |     |  |
|---------|-----|------------|-----|--|
| 43029   | 163 | Add/Repeal | 966 |  |
| 43030   | 163 | Add/Repeal | 966 |  |
| 43031   | 163 | Add/Repeal | 966 |  |
| 43031.5 | 163 | Add/Repeal | 966 |  |
| 43032   | 163 | Add/Repeal | 966 |  |
| 43033   | 163 | Add/Repeal | 966 |  |

Insurance Code

|        |     |     |     |  |
|--------|-----|-----|-----|--|
| 1871.4 | 465 | Amd | 574 |  |
| 1871.7 | 465 | Amd | 574 |  |

|        |      |        |     |         |
|--------|------|--------|-----|---------|
| 1879.1 | 465  | Repeal | 574 |         |
| 1879.2 | 1228 | Amd    | 573 | Urgency |

Penal Code

|           |      |            |     |      |
|-----------|------|------------|-----|------|
| 22        | 121  | Amd        | 793 |      |
| 76 1866   |      | Amd        | 354 |      |
| 132.51470 |      | Amd        | 53  |      |
| 148.61732 |      | Add        | 590 |      |
| 171b 830  |      | Amd        | 437 |      |
| 186.11    |      | 950 Add    | 794 |      |
| 186.22    |      | 1095 Amd   | 377 |      |
| 190.2     |      | 32 Amd     | 477 |      |
| 190.2     |      | 9 Amd      | 478 |      |
| 244 207   |      | Amd        | 468 |      |
| 248       | 1244 | Add        | 416 |      |
| 261.7     | 208  | Amd        | 177 |      |
| 262       | 208  | Amd        | 177 |      |
| 278 1038  |      | Repeal/Add |     | Veto |
| 278.11038 |      | Repeal/Add |     | Veto |
| 278.51038 |      | Repeal/Add |     | Veto |
| 279 1038  |      | Repeal/Add |     | Veto |
| 279.51038 |      | Repeal/Add |     | Veto |
| 280 1038  |      | Repeal/Add |     | Veto |
| 280.51038 |      | Repeal/Add |     | Veto |

288 1161 Amd 890

Penal Code Continued

288.1 295 Amd 840

290 173 Amd 85

290.4 295 Amd 840

173 Amd 85

404 605 Amd 132

422.75 911 Amd 876

422.95 911 Amd 876

484.1 756 Amd Veto

483.5 156 Add 133

487g 1481 Amd 151

538f 400 Add 460

550 465 Amd/Repeal 574

1228 Amd/Repeal 573 Urgency

551 639 Amd 373

594 392 Amd 38

594.51837 Amd 42

594.8 778 Amd Veto

626.61344 Amd 163

626.71344 Add 163

|        |     |      |      |            |         |
|--------|-----|------|------|------------|---------|
| 626.9  | 624 |      | Amd  | 659        |         |
| 626.10 |     | 1222 |      | Amd        | 128     |
| 628.1  |     | 822  | Amd  | 410        | Urgency |
| 628.2  |     | 822  | Amd  | 410        | Urgency |
| 628.4  |     | 822  | Amd  | 410        | Urgency |
| 628.5  |     | 822  | Amd  | 410        | Urgency |
| 628.6  |     | 822  | Amd  | 410        | Urgency |
| 629    |     | 1016 | Amd  | 971        |         |
| 629.02 |     |      | 1016 | Amd        | 971     |
| 629.06 |     |      | 1016 | Amd        | 971     |
| 629.08 |     |      | 1016 | Amd        | 971     |
| 629.10 |     |      | 1016 | Amd        | 971     |
| 629.32 |     |      | 1016 | Amd        | 971     |
| 629.38 |     |      | 1016 | Amd        | 971     |
| 629.44 |     |      | 1016 | Amd        | 971     |
| 629.48 |     |      | 1016 | Amd        | 971     |
| 629.50 |     |      | 1016 | Add/Repeal | 971     |
| 629.51 |     |      | 1016 | Add/Repeal | 971     |
| 629.52 |     |      | 1016 | Add/Repeal | 971     |
| 629.54 |     |      | 1016 | Add/Repeal | 971     |
| 629.56 |     |      | 1016 | Add/Repeal | 971     |

Penal Code Continued

|        |      |      |            |     |
|--------|------|------|------------|-----|
| 629.58 |      | 1016 | Add/Repeal | 971 |
| 629.60 |      | 1016 | Add/Repeal | 971 |
| 629.62 |      | 1016 | Add/Repeal | 971 |
| 629.64 |      | 1016 | Add/Repeal | 971 |
| 629.66 |      | 1016 | Add/Repeal | 971 |
| 629.68 |      | 1016 | Add/Repeal | 971 |
| 629.70 |      | 1016 | Add/Repeal | 971 |
| 629.72 |      | 1016 | Add/Repeal | 971 |
| 629.74 |      | 1016 | Add/Repeal | 971 |
| 629.76 |      | 1016 | Add/Repeal | 971 |
| 629.78 |      | 1016 | Add/Repeal | 971 |
| 629.80 |      | 1016 | Add/Repeal | 971 |
| 629.82 |      | 1016 | Add/Repeal | 971 |
| 629.84 |      | 1016 | Add/Repeal | 971 |
| 629.86 |      | 1016 | Add/Repeal | 971 |
| 629.88 |      | 1016 | Add/Repeal | 971 |
| 629.89 |      | 1016 | Add/Repeal | 971 |
| 629.90 |      | 1016 | Add/Repeal | 971 |
| 629.91 |      | 1016 | Add/Repeal | 971 |
| 629.92 |      | 1016 | Add/Repeal | 971 |
| 629.94 |      | 1016 | Add/Repeal | 971 |
| 629.96 |      | 1016 | Add/Repeal | 971 |
| 629.98 |      | 1016 | Add/Repeal | 971 |
| 633.1  | 1214 | Amd  | 62         |     |
| 636    | 1892 | Amd  | 129        |     |

|           |      |     |      |     |
|-----------|------|-----|------|-----|
| 640.5     | 778  | Amd | Veto |     |
| 646.9     | 985  | Amd | 438  |     |
| 646.92    | 985  |     | Amd  | 438 |
| 647.61491 |      | Amd | 48   |     |
| 653.20    | 1035 |     | Add  | 981 |
| 653.22    | 1035 |     | Add  | 981 |
| 653.24    | 1035 |     | Add  | 981 |
| 653.26    | 1035 |     | Add  | 981 |
| 653.28    | 1035 |     | Add  | 981 |
| 666.5     |      | 317 | Amd  | 101 |
| 674       | 1095 | Amd | 377  |     |
| 679.02    |      | 221 | Amd  | 411 |
| 801.5     | 734  | Amd | 704  |     |
| 813       | 33   | Amd | 563  |     |
| 817       | 33   | Add | 563  |     |
| 825       | 1452 | Amd | 465  |     |

Penal Code Continued

|        |      |     |      |         |
|--------|------|-----|------|---------|
| 826    | 33   | Amd | 563  |         |
| 830.3  | 1204 | Amd | Veto |         |
| 830.6  | 787  | Amd | 54   | Urgency |
| 830.61 | 664  |     | Add  | 192     |
| 830.7  | 646  | Amd | 44   |         |

|         |      |            |      |
|---------|------|------------|------|
| 831.5   | 290  | Amd        | 17   |
| 832.9   | 1437 | Amd        | 666  |
| 836.1   | 461  | Add        | 52   |
| 853.1   | 1224 | Amd        | 526  |
| 853.3   | 1224 | Add        | 526  |
| 853.4   | 1224 | Add        | 526  |
| 853.5   | 219  | Amd        | 93   |
| 853.6   | 219  | Amd        | 93   |
| 868.5   | 1038 | Amd        | Veto |
| 904.4   | 824  | Repeal     | Veto |
| 904.6   | 824  | Amd        | Veto |
| 976.5   | 292  | Amd        | 43   |
| 977.2   | 840  | Add/Repeal | 367  |
| 977.4   | 167  | Add/Repeal | 131  |
| 992     | 1111 | Add        | 159  |
| 1000.12 |      | 816 Amd    | 935  |
| 1000.6  | 169  | Repeal     | 641  |
|         | 168  | Amd        | Veto |
| 1000.7  | 169  | Repeal     | 641  |
|         | 168  | Amd        | Veto |
| 1000.8  | 169  | Repeal     | 641  |
|         | 168  | Amd        | Veto |
| 1000.9  | 169  | Repeal     | 641  |
|         | 168  | Amd        | Veto |
| 1000.91 |      | 169 Repeal | 641  |

|            |     |     |        |      |
|------------|-----|-----|--------|------|
| 168        |     | Amd | Veto   |      |
| 1000.92    | 168 |     | Amd    | Veto |
| 1000.93    |     | 169 | Repeal | 641  |
| 168        |     | Amd | Veto   |      |
| 1000.94    |     | 169 | Repeal | 641  |
| 168        |     | Amd | Veto   |      |
| 1000.95    |     | 169 | Repeal | 641  |
| 168        |     | Amd | Veto   |      |
| 1000.96    |     | 169 | Repeal | 641  |
| 1001.90    | 817 |     | Add    | 313  |
| 1054.21226 |     | Amd | 184    |      |

Penal Code Continued

|        |      |            |      |         |
|--------|------|------------|------|---------|
| 1096   | 1131 | Amd        | 46   | Urgency |
| 1096a  | 1131 | Amd        | 46   | Urgency |
| 1102.6 | 149  | Repeal/Add | 332  |         |
| 1170   | 716  | Amd        | 49   |         |
|        | 1408 | Amd        | Veto |         |
| 1174.2 | 615  | Amd        | 372  |         |
| 1174.4 | 615  | Amd        | 372  |         |
| 1174.9 | 615  | Add        | 372  |         |
| 1202.1 | 681  | Amd        | 396  |         |
| 1202.4 | 817  | Amd        | 313  |         |

|          |      |          |     |
|----------|------|----------|-----|
| 1202.45  | 817  | Add      | 313 |
| 1203     | 817  | Amd      | 313 |
| 1203.04  | 817  | Repeal   | 313 |
| 1203.06  | 144  | Amd      | 751 |
| 1203.066 |      | 816 Amd  | 935 |
| 1203.067 | 1491 | Amd      | 48  |
| 1203.095 |      | 1095 Amd | 377 |
| 1203.097 |      | 169 Amd  | 641 |
| 1203.1b  | 594  | Amd      | 36  |
| 1203.3   | 817  | Amd      | 313 |
| 1204.5   | 130  | Amd      | 86  |
| 1214     | 817  | Amd      | 313 |
| 1237     | 354  | Amd      | 18  |
| 1237.1   | 354  | Add      | 18  |
| 1270     | 67   | Amd      | 51  |
| 1297     | 817  | aMD      | 313 |
| 1298     | 517  | Amd      | 56  |
| 1305     | 1245 | Amd      | 434 |
| 1347.5   |      | 303 Add  | 844 |
| 1305.2   | 517  | Amd      | 56  |
| 1306     | 517  | Amd      | 56  |
| 1370     | 145  | Amd      | 593 |
| 1417.6   | 1095 | Amd      | 377 |
| 1449     | 884  | Amd      | 41  |
| 1463     | 433  | Amd      | 285 |

|          |      |     |     |
|----------|------|-----|-----|
| 1463.009 | 266  | Add | 882 |
| 1463.14  | 129  | Amd | 9   |
|          | 1075 | Amd | 318 |
| 1463.16  | 1075 | Amd | 318 |
| 1547     | 911  | Amd | 876 |

Penal Code Continued

|            |      |            |      |
|------------|------|------------|------|
| 1804       | 1224 | Amd        | 526  |
| 2053.2     | 775  | Add/Repeal | 317  |
| 2053.4     | 775  | Add        | 317  |
| 2085.5     | 911  | Amd        | 876  |
|            | 817  | Amd        | 313  |
|            | 1095 | Amd        | 377  |
| 2717.9     |      | 103 Add    | 440  |
| 2933       | 215  | Amd        | 557  |
| 2962       | 34   | Amd        | 761  |
| 3000       | 817  | Amd        | 313  |
| 3003       | 103  | Amd        | 440  |
|            | 133  | Amd        | Veto |
|            | 752  | Amd        | 934  |
| 3042       | 1343 | Amd        | Veto |
| 3044       | 1343 | Add        | Veto |
| 3058.61343 |      | Amd        | Veto |

|            |      |      |      |     |         |
|------------|------|------|------|-----|---------|
| 3058.7     | 561  | Add  | 936  |     |         |
| 3060.1     | 817  | Add  | 313  |     |         |
| 3060.7     | 856  | Add  | 967  |     |         |
| 3502.5     | 1093 | Amd  | 70   |     |         |
| 4024.3     | 485  | Add  | 106  |     |         |
| 4497.34    | 488  |      | Amd  | 803 | Urgency |
| 4532       | 1095 | Amd  | 377  |     |         |
| 4801       | 231  | Amd  | 905  |     |         |
| 5006.1     | 529  | Amd  | 145  |     |         |
| 5007.51177 |      | Amd  | 749  |     | Urgency |
| 5023       | 1177 | Amd  | 749  |     | Urgency |
| 5030       | 346  | Add  | Veto |     |         |
| 6130       | 586  | Add  | 740  |     |         |
| 6131       | 586  | Add  | 740  |     |         |
| 6132       | 586  | Add  | 740  |     |         |
| 6133       | 586  | Add  | 740  |     |         |
| 6134       | 586  | Add  | 740  |     |         |
| 6225       | 615  | Amd  | 372  |     |         |
| 6228       | 615  | Amd  | 372  |     |         |
| 11105      | 1571 | Amd  | 806  |     |         |
| 11163.3    |      | 1230 | Add  | 710 |         |
| 11163.4    |      | 1230 | Add  | 710 |         |
| 11163.5    |      | 1230 | Add  | 710 |         |
| 11166.9    | 653  |      | Amd  | 539 |         |

Penal Code Continued

|            |      |            |        |         |
|------------|------|------------|--------|---------|
| 11167.5    | 1440 | Amd        | 391    |         |
| 11177.2    | 817  | Amd        | 313    |         |
| 11413      | 911  | Amd        | 876    |         |
| 12020 1222 |      | Amd        | 128    |         |
| 12020.5    | 99   | Amd        | 263    | Urgency |
| 12021      | 23   | Amd        | 178    |         |
| 12021.3    |      | 23         | Repeal | 178     |
| 12021.5    | 99   | Amd        | 263    | Urgency |
| 12022      | 1095 | Amd        | 377    |         |
| 12022.5    |      | 1095       | Amd    | 377     |
| 12022.7    | 928  | Amd        | 341    |         |
| 12025      | 557  | Amd        | Veto   |         |
| 12026 92   |      | Amd        | 322    |         |
| 12026.1    | 92   | Amd        | 322    |         |
| 12026.2    | 92   | Amd        | 322    |         |
| 12027 70   |      | Amd        | Veto   |         |
| 12031      | 557  | Amd        | Veto   |         |
| 12038 92   |      | Add/Repeal | 322    |         |
| 12070 70   |      | Amd        | Veto   |         |
| 12071      | 23   | Amd        | 178    |         |
| 12072      | 23   | Amd        | 178    |         |
| 12076      | 670  | Amd        | 901    |         |

|         |     |      |        |      |         |
|---------|-----|------|--------|------|---------|
|         | 70  |      | Amd    | Veto |         |
| 12077   | 70  |      | Amd    | Veto |         |
| 12078   | 70  |      | Amd    | Veto |         |
| 12081   | 70  |      | Amd    | Veto |         |
|         | 175 |      | Amd    | 902  |         |
| 12101   | 144 |      | Amd    | 751  |         |
| 12316   |     | 1095 | Amd    | 377  |         |
| 12323   | 99  |      | Amd    | 263  | Urgency |
|         | 144 |      | Amd    | 751  |         |
| 12403   | 176 |      | Amd    | 15   |         |
|         | 830 |      | Amd    | 437  |         |
| 12403.5 |     | 830  | Amd    | 437  |         |
| 12403.6 |     | 830  | Repeal | 437  |         |
| 12403.7 |     | 830  | Amd    | 437  |         |
| 12403.8 |     | 830  | Amd    | 437  |         |
| 12403.9 |     | 176  | Add    | 15   |         |
| 12423   | 830 |      | Amd    | 437  |         |
| 12426   | 830 |      | Amd    | 437  |         |

Penal Code Continued

|       |     |  |        |     |  |
|-------|-----|--|--------|-----|--|
| 12435 | 830 |  | Repeal | 437 |  |
| 12450 | 830 |  | Repeal | 437 |  |
| 12451 | 830 |  | Repeal | 437 |  |

|          |      |            |      |         |  |
|----------|------|------------|------|---------|--|
| 12452    | 830  | Repeal     | 437  |         |  |
| 12453    | 830  | Repeal     | 437  |         |  |
| 12454    | 830  | Repeal     | 437  |         |  |
| 12455    | 830  | Repeal     | 437  |         |  |
| 12456    | 830  | Repeal     | 437  |         |  |
| 12457    | 830  | Repeal     | 437  |         |  |
| 12457.1  | 830  | Repeal     | 437  |         |  |
| 12458    | 830  | Repeal     | 437  |         |  |
| 12460    | 830  | Repeal     | 437  |         |  |
| 13010.5  | 488  | Add        | 803  | Urgency |  |
| 13012    | 488  | Amd        | 803  | Urgency |  |
| 13519    | 132  | Amd        | 965  |         |  |
| 13701    | 591  | Amd        | 246  |         |  |
| 13730    | 132  | Amd        | 965  |         |  |
| 13823.93 |      | 857        | Add  | 860     |  |
| 13854.5  | 662  | Add/Repeal | 786  |         |  |
| 13895    | 1454 | Add/Repeal | Veto |         |  |
| 13895.1  | 1454 | Add/Repeal | Veto |         |  |
| 13895.2  | 1454 | Add/Repeal | Veto |         |  |
| 13895.3  | 1454 | Add/Repeal | Veto |         |  |
| 13895.4  | 1454 | Add/Repeal | Veto |         |  |
| 13895.5  | 1454 | Add/Repeal | Veto |         |  |
| 13895.6  | 1454 | Add/Repeal | Veto |         |  |
| 13895.7  | 1454 | Add/Repeal | Veto |         |  |
| 13895.8  | 1454 | Add/Repeal | Veto |         |  |

|          |      |            |      |
|----------|------|------------|------|
| 13895.9  | 1454 | Add/Repeal | Veto |
| 13895.10 | 1454 | Add/Repeal | Veto |
| 13895.11 | 1454 | Add/Repeal | Veto |
| 13895.12 | 1454 | Add/Repeal | Veto |
| 13895.13 | 1454 | Add/Repeal | Veto |
| 13895.14 | 1454 | Add/Repeal | Veto |
| 14202.2  | 856  | Add        | 967  |

Revenue and Taxation Code

|       |     |     |     |
|-------|-----|-----|-----|
| 1826  | 633 | Add | 845 |
| 19707 | 80  | Amd | 40  |
| 19720 | 633 | Add | 845 |
| 19721 | 633 | Add | 845 |

Streets and Highways Code

|    |     |            |     |
|----|-----|------------|-----|
| 97 | 414 | Add/Repeal | 841 |
|----|-----|------------|-----|

Unemployment Insurance Code

|      |     |     |     |
|------|-----|-----|-----|
| 1095 | 817 | Amd | 313 |
|------|-----|-----|-----|

Vehicle Code

|          |      |     |            |         |
|----------|------|-----|------------|---------|
| 2800.1   |      | 170 | Amd        | 68      |
| 10851    | 317  | Amd | 101        |         |
| 11205    | 1263 | Amd | 58         | Urgency |
| 12806    | 1113 | Amd | 455        | Urgency |
| 14610.5  |      | 307 | Amd        | 243     |
| 22651    | 1228 | Amd | 734        |         |
| 22651.7  | 1228 |     | Amd        | 734     |
| 23152    | 1113 | Amd | 455        | Urgency |
| 40000.11 |      | 317 | Amd        | 101     |
| 40200.3  | 1228 |     | Amd        | 734     |
| 40200.4  | 1228 |     | Amd        | 734     |
| 40200.6  | 1228 |     | Amd        | 734     |
| 40200.7  | 1228 |     | Repeal     | 734     |
| 40202    | 1228 | Amd | 734        |         |
| 40203    | 1228 | Amd | 734        |         |
| 40203.5  | 1228 |     | Amd        | 734     |
| 40207    | 1228 | Amd | 734        |         |
| 40209    | 1228 | Amd | 734        |         |
| 40210    | 1228 | Amd | 734        |         |
| 40211    | 1228 | Amd | 734        |         |
| 40215    | 1228 |     | Repeal/Add | 734     |
| 40220    | 1228 | Amd | 734        |         |
| 40224    | 1228 | Amd | 734        |         |

|       |      |     |     |
|-------|------|-----|-----|
| 40230 | 1228 | Amd | 734 |
|-------|------|-----|-----|

Vehicle Code Continued

|       |     |            |     |
|-------|-----|------------|-----|
| 40500 | 219 | Amd        | 93  |
| 40504 | 219 | Amd        | 93  |
| 41403 | 232 | Amd        | 83  |
| 42010 | 414 | Add/Repeal | 841 |
| 42200 | 433 | Amd        | 285 |

Welfare & Institutions Code

|       |      |            |             |
|-------|------|------------|-------------|
| 204   | 637  | Amd        | 356         |
| 207.1 | 904  | Repeal/Add | 304 Urgency |
| 256   | 1445 | Amd        | 55          |
| 290   | 904  | Amd        | 304 Urgency |
| 656   | 816  | Amd        | 935         |
|       | 817  | Amd        | 313         |
|       | 1837 | Amd        | 42          |
| 656.2 | 889  | Amd        | 234         |
| 659   | 817  | Amd        | 313         |
| 676.5 | 149  | Add        | 332         |
| 700   | 817  | Amd        | 313         |
| 706   | 889  | Amd        | 234         |

|           |      |            |        |         |  |
|-----------|------|------------|--------|---------|--|
| 707.1     | 7    | Add        | 61     |         |  |
| 707.21115 |      | Amd        | 343    |         |  |
| 729.5 989 |      | Add        | 268    |         |  |
| 729.6 989 |      | Amd        | 268    |         |  |
|           | 817  |            | Repeal | 313     |  |
| 730.6 817 |      | Amd        | 313    |         |  |
| 730.7 817 |      | Add        | 313    |         |  |
| 731.1 989 |      | Amd        | 268    |         |  |
|           | 817  |            | Repeal | 313     |  |
| 827       | 1092 | Amd        | 71     | Urgency |  |
| 856       | 604  | Amd        | 72     |         |  |
| 872 904   |      | Repeal/Add | 304    | Urgency |  |
| 885 904   |      | Repeal/Add | 304    | Urgency |  |
| 886.5 904 |      | Repeal/Add | 304    | Urgency |  |
| 893       | 604  | Amd        | 72     |         |  |
| 896 904   |      | Repeal/Add | 304    | Urgency |  |
| 940       | 604  | Amd        | 72     |         |  |
| 941       | 604  | Amd        | 72     |         |  |
| 1120.1    | 775  | Add        | 317    |         |  |
| 1752.82   | 774  | Amd        | 336    |         |  |

Welfare & Institutions Code Continued

|        |   |     |    |  |  |
|--------|---|-----|----|--|--|
| 1767.1 | 7 | Add | 61 |  |  |
|--------|---|-----|----|--|--|

|         |      |      |     |             |
|---------|------|------|-----|-------------|
| 1820.47 |      | 604  | Amd | 72          |
| 3154    | 1113 |      | Amd | 455 Urgency |
| 3200    | 1113 |      | Amd | 455 Urgency |
| 5328.3  | 145  |      | Amd | 593         |
| 5350    | 145  |      | Amd | 593         |
| 5358    | 145  |      | Amd | 593         |
| 6250    |      | 1143 | Amd | 762         |
|         | 888  |      | Amd | 763         |
| 6600    |      | 1143 | Add | 762         |
|         | 888  |      | Add | 763         |
| 6601    |      | 1143 | Add | 762         |
|         | 888  |      | Add | 763         |
| 6602    |      | 1143 | Add | 762         |
|         | 888  |      | Add | 763         |
| 6603    |      | 1143 | Add | 762         |
|         | 888  |      | Add | 763         |
| 6604    |      | 1143 | Add | 762         |
|         | 888  |      | Add | 763         |
| 6605    |      | 1143 | Add | 762         |
|         | 888  |      | Add | 763         |
| 6606    |      | 1143 | Add | 762         |
|         | 888  |      | Add | 763         |
| 6607    |      | 1143 | Add | 762         |
|         | 888  |      | Add | 763         |
| 6608    |      | 1143 | Add | 762         |

|          |      |     |             |         |
|----------|------|-----|-------------|---------|
|          | 888  | Add | 763         |         |
| 8102     | 633  | Amd | 328         |         |
| 10850.3  |      | 634 | Amd/Repeal/ |         |
|          |      | Add | 227         |         |
| 14165.11 | 1177 | Add | 749         | Urgency |
| 15630    | 1836 | Amd | 813         |         |
| 17006.5  |      | 634 | Amd         | 227     |

Statues Other Than Codes

|              | Assembly | Senate |                 |
|--------------|----------|--------|-----------------|
| Year/Chapter | Bill     | Bill   | Effect          |
| 1994/1255    |          | 604    | Am 3            |
| 1995/72      |          | 604    | Ch. 1255 (1994) |
| 1995/R66     |          | CR 7   |                 |
| 1995/        | JR 17    |        |                 |

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|         |          |        |        |         |
|---------|----------|--------|--------|---------|
|         | Assembly | Senate |        |         |
| Section | Bill     | Bill   | Effect | Chapter |
|         | Urgency  |        |        |         |

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