



Senate Committee on Public Safety

2003 Bill Summary

Measures Signed and Vetoed

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October 2003

For your information, the staff of our Senate Committee on Public Safety has prepared this summary of bills sent to the Governor in 2003 pertaining to our Committee's subject-matter jurisdiction. I hope this compilation of public safety legislation will facilitate access to the new laws enacted this year. Most will take effect January 1, 2004.

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

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

- Copies of chaptered bills may be requested at no cost from the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814 or by calling (916) 445-2323. Copies of vetoed bills are available until February 2004.
- The Legislative Data Center maintains a website where these bills and analyses are available: <http://www.leginfo.ca.gov/bilinfo.html>

The text of this summary is also available at the committee's list of publications at:

<http://www.sen.ca.gov/htbin/testbin/seninfo?SEN.COMMITTEE.STANDING.PUBLICSAFETY>

I hope this legislative summary is useful to you, and to your constituents, as you – and they – prepare for 2004. I enjoyed the challenges of chairing the Committee this past year and look forward to continuing to work with all interested parties on public safety issues.

Cordially,

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EDITOR'S NOTES

- **Categorization of bills** – Many of the bills in this summary could fall under several different subject headings, but have been limited to one category in the interest of brevity. It is therefore hoped that anyone wishing to find all of the bills of interest to them may simply skim the entire document to identify any new laws. In addition, those who focus on specific code areas may skim the Table of Sections Affected information mentioned below.
- **Previous votes not relevant** – Refers to the committee/floor votes of a prior version of the measure which are not included in this summary. The votes that are shown in each bill summary refer to the committee/floor votes of the signed or vetoed measure. Simply put, the prior version of the measure was substantially amended (gutted) and replaced with new language. The measure number remains the same, but generally, the replacement language differs greatly from the measure's prior language. Thus a vote on a prior version of the bill does not provide useful information in determining the action of the Legislature on the enacted or vetoed version of the measure.
- **Effective date of bills – effect of urgency clause** – Article IV, Section 8(c) of the California Constitution provides that ". . . a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute" and "urgency statutes shall go into effect immediately upon their enactment." Regardless of the date a bill takes effect, some measures do have a **delayed "operative" date** for all or part of the measure; that is most common when a start-up period may be useful in order to prepare for the measure's impact. Special session bills enacted without an urgency clause take effect on the 91st day after the adjournment of the special session.
- **Contingent measures** – Some bills have language added which make them operative, if enacted, only if another measure – or measures – are also enacted.
- **Sunset dates** – Some measures have sunset dates that make them inoperative unless a later enacted statute becomes effective on or before the sunset date, which deletes or extends the date on which it becomes inoperative.
- **Conflicts and "double-jointing" language** – If two or more measures both amend the same statutory section in the same year, then whichever measure is chaptered/enacted last will "chapter out" any changes made by the earlier measure(s) unless the last enacted bill contains double-jointing language which provides that both the changes to the section made by the earlier measure(s) and the last enacted bill are to take effect. It may generally be assumed that measures in this summary which amend the same statutory section have the requisite double-jointing language so that all of the changes made by all of the measures will take effect.
- **Two votes in Appropriations Committee** – Some bills have two separate votes in the Senate and Assembly Appropriations Committees; the first generally reflects that the measure met the dollar threshold limit to be considered on the "suspense" file before final action. The second vote is the vote to pass the bill out of committee off of "suspense." This summary only lists the second vote if a bill was referred to suspense.

- **SR 28.8** – Senate Rule 28.8 allows the chair to move bills out of the Senate Appropriations Committee without a formal committee hearing or vote if the bill has no significant effect on state revenues. Thus, SR 28.8 is reflected, where appropriate, instead of a vote.
- **Not all bills that create a new crime are included in this summary** – The Senate Committee on Public Safety jurisdiction does not always include measures that involve misdemeanor criminal penalties. For example, SB 175 (Kuehl) – Chapter 250, Statutes of 2003 – allows veterinarians to prescribe dangerous drugs and makes misdemeanor penalties for violations of that authority applicable. That measure is not in this summary since it did not fall within the committee's jurisdiction. (There are a few bills, however, in this summary which were not heard in this committee, but which are included as FYI's since they are on related subjects that may be of interest.)
- **Table of Sections Affected** – This summary does not contain a Table of Sections Affected (TOSA). However, the TOSA prepared by the Legislative Counsel is available online at the Legislative Counsel's "Official California Legislative Information" site at: www.leginfo.ca.gov/.

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

- **Only "final" votes included in this summary** – There may be more than one vote on a bill in a given legislative location. For example, hostile amendments (not offered by the author) may be proposed on the Senate Floor and those amendments may be defeated or "tabled"; a bill may first fail in a committee or on the Senate or Assembly Floor, reconsideration may be granted, and the bill may be amended and subsequently approved; or a bill may pass the Legislature and be returned at the Governor's request with amendments then adopted before the bill is sent again to the Governor. This summary only reflects the final votes on a bill in each legislative location.
- **Legislative Counsel's maintenance of the Codes bill** – SB 600 (Committee on Judiciary) – Chapter 62. This annual clean-up bill makes technical and nonsubstantive changes to hundreds of code provisions; it is not included in this summary notwithstanding that it changes language in 18 sections – plus repeals one duplicative article – of the Penal Code plus other code sections relevant to the criminal justice system. SB 600 contains the following proviso:

Any section of any act enacted by the Legislature during the 2003 calendar year that takes effect on or before January 1, 2004, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2003 calendar year and takes effect on or before January 1, 2004, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

ANIMALS

SB 732 (Soto): Chapter 256: Cockfighting.

(Amends Sections 597b, 597c, 597i, and 597j of the Penal Code.)

Legislative History:

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (32-0)

Senate Concurrence (31-3)

Assembly Public Safety (6-0)

Assembly Appropriations (22-0)

Assembly Floor (74-0)

Existing law makes it a misdemeanor to aid, abet, or be present at a cockfight; to own, possess, keep, or train any cock with intent that it be used for fighting; or to manufacture, buy, sell, or possess cockfighting implements.

This bill instead provides that these offenses are punishable as a misdemeanor by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed \$5,000, or by both that imprisonment and fine. This bill specifies that a 2nd or subsequent conviction of specified animal fighting provisions is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed \$25,000, or by both that imprisonment and fine, except in unusual circumstances where the interests of justice would be better served by the imposition of a lesser sentence. The bill also provides that aiding and abetting a cockfight shall consist of something more than merely watching.

BACKGROUND CHECKS

SB 873 (McPherson): Chapter 124: Criminal history information.

(Amends Section 11105.3 of the Penal Code, and amends Section 828 of, and repeals Sections 204 and 725.1 of, the Welfare and Institutions Code.)

Legislative History:

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

Assembly Public Safety (6-0)

Assembly Appropriations (23-0)

Assembly Floor (75-0)

Existing law provides that agencies responsible for determining the character and fitness of a person applying for employment, a license, or a volunteer position, within a human services field in which he or she would have supervisory or disciplinary power over members of vulnerable populations, including children, the elderly, or the mentally impaired, may request, and the Department of Justice shall provide, the criminal history information of those applicants or volunteers, as specified, with respect to certain enumerated offenses.

This bill provides that in that connection, requests for federal level criminal record information received by the department would be forwarded to the Federal Bureau of Investigation by the department to be searched for any record of arrests or convictions.

Existing law prohibits the Department of Justice from knowingly transmitting information relating to the arrest or the taking into custody of a minor at the time of the arrest or the taking into custody unless the information also includes the resulting disposition. Existing law also requires the juvenile court to report to the Department of Justice the complete criminal history of any minor found to be a person adjudged a ward of the court because of the commission of a specified felony offense. Existing law requires the Department of Justice to retain this information and make it available pursuant to provisions governing the California Criminal Index and Identification System.

This bill repeals those provisions.

SB 970 (Ortiz): Chapter 470: Fingerprinting: criminal offender record information.

(Adds Sections 11077.1 and 11077.2 to, and amends Section 11077 of, the Penal Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (40-0)

Senate Concurrence (40-0)

Assembly Public Safety (6-0)

Assembly Appropriations (24-0)

Assembly Floor (79-0)

Existing law provides that the Attorney General (AG) is responsible for the security of criminal offender record information (CORI).

This bill does the following:

- Requires the AG to establish a communication network that allows the transmission of requests from private service providers in California to the Department of Justice (DOJ) for criminal record information for purposes of employment, licensing, certification, custodial child placement or adoption. This network shall allow private service providers approved by DOJ to connect directly to DOJ.
- Requires as of July 1, 2005, DOJ to accept electronically transmitted fingerprint images and related information for the purpose of processing criminal record offender information for employment, licensing, certification, custodial child placement or adoption, only if those images and related information are electronically submitted.
- Allows DOJ to continue, based on regional unavailability of electronic transmission sites or when DOJ processing procedures show a need, to accept hard fingerprint cards in order to process criminal offender record information requests.
- Requires DOJ to continually monitor the statewide availability of electronic transmission sites and work with public and private entities to ensure reasonable availability.
- Requires users of the communications network to undergo training as determined by DOJ. Failure to comply with the training requirement shall terminate the connection to the communications network until the training is completed.
- Requires users of the communications network to comply with any policy, practice or procedure, or requirement deemed necessary by DOJ to maintain network stability and security. Failure to comply shall result in termination of the connection to the communications network until DOJ determines that there is satisfactory compliance.

- Requires users of the communications network to only use hardware and software in connecting to the communications network that is currently approved and certified by DOJ, the National Institute of Standards and Technology, and the Federal Bureau of Investigation.
- States that users of the communications network shall be responsible for securing all hardware, software, and telecommunication service or linkage necessary to accomplish connection to the communications network, once authorized by DOJ.
- Requires the communications network to be implemented by July 1, 2004.
- States that nothing in this section shall be intended to authorize any entity to access or receive criminal record information from DOJ.

AB 1774 (Committee on Banking & Finance): Chapter 404: Financial institutions. (Amends Sections 261, 772, 1500, 1560, 1808, 1900, 3375.5, 4839, 4843, 4946, 8152, 14250, 14354, 16151, 16701, 31507, and 33903 of, amends and renumbers Sections 4879.12, 4879.13, and 4879.135 of, and repeals Section 8012 of, the Financial Code.)

Legislative History:

Assembly Banking and Finance (12-0)
Assembly Appropriations (23-1)
Assembly Floor (63-1)
Assembly Concurrence (75-3)

Senate Banking Commerce & International Trade (9-0)
Senate Appropriations, SR 28.8
Senate Floor (38-0)

Existing law authorizes the Commissioner of Financial Institutions, to deliver fingerprints taken of an applicant for employment, or a director, officer, or employee of specified financial institutions to state or federal law enforcement agencies to check for a criminal record.

This bill among other things, authorizes the commissioner to deliver fingerprints taken of an applicant for employment, or a director, officer, or employee of these entities, or a controlling person, as defined, or an affiliate of these entities, including entities that are proposed but not yet in existence, to state or federal law enforcement agencies to check for a criminal record.

BATTERED WOMEN

SB 784 (Karnette): Chapter 136: Battered women's syndrome: writ of habeas corpus.

(Amends Section 1473.5 of the Penal Code.)

Legislative History:

Senate Public Safety (4-0)

Senate Floor (25-10)

Assembly Public Safety (6-0)

Assembly Floor (72-2)

Existing law, effective only until January 1, 2005, as specified, provides that a writ of habeas corpus may be prosecuted to inquire into the fact that evidence relating to battered women's syndrome, based on abuse committed on the perpetrator of a homicide by the victim of the homicide, was not introduced at trial, and, had it been introduced, there is a reasonable probability that the result of the proceedings would have been different. Under these circumstances, existing law authorizes a court to take certain actions, including ordering a new trial or reversing a conviction.

This bill provides that these provisions instead remain in effect until January 1, 2010.

CHILD ABUSE AND NEGLECT

SB 139 (Brulte): Chapter 150: Abandoned newborns.

(Amends Section 1255.7 of the Health and Safety Code and Section 271.5 of the Penal Code.)

Legislative History:

Senate Judiciary (7-0)

Senate Appropriations, SR 28.8

Senate Floor (37-0)

Senate Concurrence (35-0)

Assembly Public Safety (6-0)

Assembly Judiciary (13-0)

Assembly Appropriations (23-0)

Assembly Floor (75-0)

Existing law provides that a parent or other person having lawful custody of a minor child 72 hours old or younger who surrenders physical custody of the child to a designated employee on duty at a hospital emergency room or other location designated by a county board of supervisors by resolution may not be prosecuted for specified crimes related to child abandonment and neglect. Existing law requires the person designated pursuant to these provisions to take physical custody of the child in accordance with certain requirements if the parent or other person having lawful custody of the child voluntarily surrenders physical custody to that person.

This bill revises these provisions to provide that abandoned babies may be surrendered at "safe-surrender" sites instead of hospital emergency rooms or other designated location, require personnel at the safe-surrender site to transmit medical and related information about the baby to the county child protective services agency as soon as possible, and require the child protective services agency to report all known identifying information about the baby within 24 hours after it assumes temporary custody of the baby, with specified exceptions, to the California Missing Child Clearinghouse and to the National Crime Information Center. The bill also makes identifying information about the parent or person who surrenders the child confidential.

SB 316 (McPherson): Chapter 122: Mandated child abuse and neglect reporters.

(Amends Section 11165.7 of the Penal Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

Assembly Public Safety (6-0)

Assembly Appropriations (23-0)

Assembly Floor (75-0)

Existing law, the Child Abuse and Neglect Reporting Act (CANRA), requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.

This bill adds custodial officers, as defined, to the list of individuals who are mandated reporters.

CONTROLLED SUBSTANCES

SB 151 (Burton): Chapter 406: Controlled substances: Schedule II prescriptions. (Amends Sections 11165.1 and 11166 of, amends and repeals Sections 11162, 11168, and 11169 of, amends, repeals, and adds Sections 11159.2, 11161, 11164, 11165, 11167, 11167.5, and 11190 of, adds Sections 11029.5, 11161.5, 11161.7, 11162.1, and 11162.6 to, and adds, repeals, and adds Section 11164.1 to, the Health and Safety Code.)

Legislative History:

Senate Health and Human Services (9-0)

Assembly Public Safety (7-0)

Senate Public Safety (6-0)

Assembly Appropriations (24-0)

Senate Appropriations (13-0)

Assembly Floor (77-0)

Senate Floor (40-0)

Senate Concurrence (40-0)

Existing law provides that no person shall prescribe a Schedule II controlled substance unless it is written in ink or indelible pencil in the handwriting of the prescriber on the official triplicate copy prescription form issued by the Department of Justice, as specified [Controlled Substances Utilization Review and Evaluation System (CURES)]. (Health and Safety Code §§ 11161, 11162, 11164, and 11167.)

This bill does the following:

- Eliminates the triplicate prescription requirement for Schedule II controlled substances after July 1, 2004. Thereafter, prescribers of Schedule II controlled substances shall meet the same prescription requirements imposed with respect to Schedule III–V controlled substances.
- Provides that on January 1, 2005 prescriptions for Schedule II–V controlled substances shall be written on secure, forgery-resistant forms.
- Establishes a number of different requirements for printing prescription forms for controlled substances by "security printers" approved by the Board of Pharmacy, as specified. Provides that it is a misdemeanor to obtain or attempt to obtain by false pretenses, counterfeit, or possess a counterfeit controlled substance prescription form.
- Creates a procedure whereby a law enforcement agency may petition a court to require that a practitioner surrender all triplicate prescription blanks or controlled substance prescription forms in his or her possession.
- Eliminates the July 1, 2008 sunset date on the CURES program.

- Provides that contingent upon the availability of adequate funds from DOJ, the prescription of Schedule III controlled substances may be reported to CURES. DOJ may seek and use grant funds to pay the costs incurred from additional reporting. Funds shall not be appropriated from the contingent fund of the Medical Board of California, the Pharmacy Board, the State Dentistry Fund, the Registered Nursing Fund, or the Osteopathic Medical Board of California to pay the costs of reporting Schedule III controlled substances to CURES.
- Revises provisions relating to prescribing Schedule II controlled substances to terminally ill patients.
- Makes a number of conforming changes to statutes relating to the prescribing and dispensing of Schedule II controlled substances.

SB 276 (Vasconcellos): Chapter 369: Restricted chemicals: licenses, reports and penalties. Urgency.

(Amends Sections 11100, 11100.1, 11104, 11106, 11107, and 11107.1 of the Health and Safety Code.)

Legislative History:

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (36-1)

Senate Concurrence (33-0)

Assembly Public Safety (7-0)

Assembly Appropriations (22-0)

Assembly Floor (77-0)

Existing law:

- Provides any entity or other person in this state who sells, transfers, or otherwise furnishes any of a list of specified chemical substances to any person or business entity in this state or any other state shall, prior to the transaction, require a letter of authorization and "proper identification" from the purchaser, as specified, and submit a report containing specified information to the Department of Justice (DOJ). Failure to submit a report or to knowingly submit a false report, and a violation of the provisions on proper identification, are crimes. Selling, transferring, or otherwise furnishing or obtaining any of the specified chemical substances without a permit is a misdemeanor or a felony.
- Provides that any person who sells, transfers, or otherwise furnishes a restricted chemical substance to a person under 18 years of age shall be punished by imprisonment in a county jail not exceeding 6 months, by a fine not exceeding \$1,000, or by both that fine and imprisonment.

- Provides that any manufacturer, wholesaler, retailer, or other person in this state who purchases for sale, or who sells to any person in this state or any other state, any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, where the value of the goods sold in the transaction exceeds \$100 and payment for the goods is made by specified means, shall require proper purchaser identification and retain the bill of sale for 3 years. A violation of these provisions is a misdemeanor punishable by imprisonment in a county jail not exceeding 6 months, by a fine not exceeding \$1,000, or by both that fine and imprisonment.

This bill does the following:

- Applies reporting requirements to any entity in this state that sells, transfers, or otherwise furnishes any of the list of specified chemical substances to any person or entity in this state or any other state; adds red phosphorous, as defined, to the list of chemical substances for which a report is required; revises the definition of "proper identification"; and provides that information concerning the letter of authorization and proper identification, as well as the manifest of any common carrier used, must be retained in a readily available manner for 3 years.
- Provides that a second or subsequent conviction for a violation of the sales of restricted chemicals to minors – a misdemeanor with a maximum jail term of 6 months on the first conviction – shall be punished by a jail term not exceeding one year, by a fine not exceeding \$10,000, or by both that fine and imprisonment.
- Provides that for face-to-face sales or will-call sales of laboratory glassware, chemical solvents or reagents, a bill of sale containing specified information shall be prepared and retained for 5 years, and for all other sales specified sales information shall be maintained for 5 years. A second or subsequent conviction for a violation of these provisions shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$100,000, or by both that fine and imprisonment.
- Requires that any entity or person in this state that exports a restricted chemical to any person or business entity located in a foreign country shall submit to DOJ a notification of that transaction. The bill exempts any analytical research facility that is registered with the federal Drug Enforcement Administration of the United States Department of Justice from the reporting and licensing requirements.
- Took effect immediately upon enactment as an urgency measure.

SB 420 (Vasconcellos): Chapter 875: Medical marijuana: implementation of Proposition 215 of 1996 General Election.

(Adds Article 2.5 (commencing with Section 11362.7) to Chapter 6 of Division 10 of the Health and Safety Code and Uncodified Law.)

Legislative History:

Senate Health & Human Services (8-3)

Senate Public Safety (5-1)

Senate Appropriations (7-5)

Senate Floor (24-12)

Senate Concurrence (24-14)

Assembly Public Safety (5-2)

Assembly Health (14-5)

Assembly Appropriations (16-8)

Assembly Floor (42-32)

Existing law, the Compassionate Use Act of 1996, prohibits any negative action against a physician for having recommended medical marijuana to a patient. The act provides that a patient or a patient's primary caregiver who possesses or cultivates marijuana for the patient's personal medical use upon the recommendation of a physician shall not be punished for unlawful possession or cultivation of marijuana.

This bill requires the State Department of Health Services to establish and maintain a voluntary program for the issuance of identification cards to qualified patients and establishes procedures under which a qualified patient with an identification card may use medical marijuana. The bill specifies the department's duties in this regard, including developing protocols and forms, and establishing applicable fees. The bill imposes duties upon county health departments relating to the issuing of identification cards. This bill also enacts uncodified legislative findings and declarations.

Further, the bill creates various crimes related to the identification card program. The Attorney General may set forth and clarify details concerning possession and cultivation limits, and other regulations. The Attorney General may recommend modifications to the possession or cultivation limits set forth in the bill, and the Attorney General may develop and adopt guidelines to ensure the security and non-diversion of marijuana grown for medical use.

SB 496 (Alpert): Chapter 75: Drug endangered children.

(Adds Chapter 8.6 (commencing with Section 13879.80) to Title 6 of Part 4 of the Penal Code.)

Legislative History:

Senate Health & Human Services (8-0)

Assembly Public Safety (7-0)

Senate Public Safety (6-0)

Assembly Floor (77-0)

Senate Floor (39-0)

Existing law establishes a pilot program of technical and financial assistance for counties, entitled the California Drug Endangered Child (DEC) Protection Act. This program is administered by the Office of Criminal Justice Planning (OCJP). Counties implementing a DEC program and receiving funds pursuant to the program shall establish multiagency drug endangered child response teams in cooperation with local, state, and federal law enforcement agencies. In DEC programs, county health departments perform certain services, including response to cases involving an endangered child. District attorneys in counties receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals who endanger children through exposure to the clandestine manufacture of controlled substances.

This bill encourages every law enforcement and social services agency in this state to, by January 1, 2005, develop, adopt, and implement written policies and standards for their response to narcotics crime scenes where a child is either immediately present or where there is evidence that a child lives. The bill states that exposure to manufacturing, trafficking, and use of narcotics is very harmful to children, and coordinated response by law enforcement and social services agencies to this program is essential. The bill encourages communities to form multijurisdictional groups to develop standards and protocols for response to drug endangered children.

SB 599 (Perata): Chapter 792: Drug diversion: sealed records.

(Adds Section 851.90 to the Penal Code.)

Legislative History:

Senate Public Safety (6-0)

Assembly Public Safety (7-0)

Senate Appropriations, SR 28.8

Assembly Appropriations (22-0)

Senate Floor (39-1)

Assembly Floor (73-5)

Senate Concurrence (37-1)

Existing law authorizes the sealing of certain records in connection with the dismissal of charges.

This bill provides that whenever a person successfully completes a superior court drug diversion program or deferred entry of judgment program and the court finds that interests of justice would be served by sealing the records of the arrest and related court files, the judge may order those records and files sealed. The bill provides that the Department of Justice shall continue to be able to maintain and disseminate any records or documents received or maintained by it, as authorized by law.

SB 762 (Brulte): Chapter 155: Non-violent drug possession: treatment.
(Amends Section 1210 of the Penal Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations (13-0)

Senate Floor (40-0)

Assembly Public Safety (5-0)

Assembly Floor (69-0)

Existing law – the Substance Abuse and Crime Prevention Act (SACPA), added by Proposition 36 of the November 2000 General Election – generally provides that a person convicted of a nonviolent drug possession offense shall be placed on probation and be required to complete a drug treatment program. With respect to parolees, parole may not be suspended or revoked for commission of a nonviolent drug possession offense or for violation of a drug-related condition of parole. Parolees who engage in such conduct must complete a drug treatment program as an additional condition of parole. "Nonviolent drug possession offense" means unlawful possession, use, or transportation for personal use of any controlled substance.

This bill clarifies the definition of "nonviolent drug possession offense" by providing that the term means the unlawful personal use, possession for personal use, or transportation for personal use of any controlled substance, thereby eliminating an arguable ambiguity in SACPA.

AB 158 (Runner): Chapter 619: Methamphetamine and PCP precursor substances: prosecution for intent to manufacture.
(Amends Section 11383 of the Health and Safety Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (76-0)

Assembly Concurrence (77-0)

Senate Public Safety (4-0)

Senate Appropriations (12-0)

Senate Floor (39-0)

Existing law provides that:

- It is a felony for a person to possess specified substances with the intent to manufacture methamphetamine, N-ethylamphetamine, or phencyclidine (PCP). Possession of immediate precursors sufficient for the manufacture of the specified substances, or possession of any compound or mixture containing any of the specified substances, is deemed to be possession of those specified substances.
- Any person who possesses hydriodic acid with intent to manufacture methamphetamine is guilty of a felony and is subject to a prison term of 2, 4, or 6 years. Possession of essential chemicals sufficient to manufacture hydriodic acid, with intent to manufacture methamphetamine, is deemed to be possession of hydriodic acid.

- Any person who possesses isomers of any of certain compounds, with the intent to manufacture any of those compounds, is also guilty of a felony.

This bill does the following:

- Provides that possession of precursors, compounds, or mixtures relating to the specified substances, with an intent to manufacture methamphetamine, is a felony punishable by 2, 4, or 6 years in the state prison.
- Applies the 2, 4 or 6 year felony penalty to any person who, with intent to manufacture methamphetamine, possesses a reducing agent, as defined, essential chemicals sufficient to manufacture a reducing agent, or any compound or mixture containing a reducing agent.
- Revises the provisions concerning possession of isomers of controlled substances with intent to manufacture the controlled substances by specifically listing the controlled substances.

AB 233 (Cogdill): Chapter 620: Methamphetamine and PCP manufacturing: residence of children at scene as factor in aggravation.

(Amends Section 11379.6 of the Health and Safety Code.)

Legislative History:

Assembly Public Safety (6-0)

Senate Public Safety (6-0)

Assembly Appropriations (23-1)

Senate Appropriations (11-0)

Assembly Floor (77-0)

Senate Floor (39-0)

Assembly Concurrence (77-0)

Existing law makes it a felony to unlawfully manufacture, produce, prepare, etc. controlled substances, including methamphetamine or phencyclidine (PCP). Also, any person convicted of unlawfully manufacturing, or possessing specified precursors with the intent to manufacture, methamphetamine or, when the commission or attempted commission of the crime occurs in a structure where any child under 16 years of age is present, shall be punished by an additional 2 years in the state prison.

This bill requires a sentencing court, except when the enhancement for manufacturing methamphetamine or PCP in the presence of children applies, to consider as a factor in aggravation of the sentence the fact that a person under 16 years of age resided in a structure in which manufacturing (as defined to included preparation and the like) occurred.

AB 709 (Correa): Chapter 142: Restricted chemicals (controlled substance precursors): permits for businesses.

(Adds Section 11106.7 to the Health & Safety Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Appropriations (24-0)

Assembly Floor (73-0)

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (35-0)

Existing law requires that any entity or person that sells, transfers, or otherwise furnishes specified chemical substances to a person in this state, or who obtains such substances from a source outside of the state, apply for and obtain a permit for the conduct of that business from the Department of Justice (DOJ). An application may be denied, or a permit revoked or suspended, for specified reasons. Selling, transferring, obtaining, etc. restricted chemical substances without a permit is a crime. The Bureau of Narcotic Enforcement may issue an interim order suspending any permittee or imposing permit restrictions if there is evidence the permittee engaged in acts or omissions constituting a violation of the Health and Safety Code or has been convicted of a crime substantially related to the permitted activity, or that the permittee conduct endangers the public health, safety, or welfare.

This bill, in addition, authorizes DOJ to promulgate regulations for the issuance of a citation which may contain an order of abatement or an order to pay an administrative fine not exceeding \$2,500, if the permittee is in violation of a statutory provision or related regulation. The permittee can request a hearing or an informal conference to contest a citation. A criminal action may not be initiated for an offense for which a citation has been issued. A citation may not be issued for an offense for which a criminal action has been filed.

AB 1308 (Goldberg): VETOED: Acute withdrawal treatment of jail inmates: grant priority: narcotics replacement treatment generally.

(Amends Section 11880 of, adds Sections 11755.6, 11755.7, 11755.8, and 11880.5 to, the Health and Safety Code, and adds Section 4032 to the Penal Code.)

Legislative History:

Assembly Health (19-0)

Assembly Public Safety (6-0)

Assembly Floor (54-15)

Assembly Concurrence (48-30)

Senate Public Safety (4-1)

Senate Floor (25-12)

Existing law does the following:

- Provides for programs to treat state prison inmates who are addicted to alcohol or controlled substances.

- Provides that the Legislature has found that the ultimate goal of all narcotic treatment programs shall be to aid the patient in altering his or her lifestyle and eventually to eliminate all dependency on drugs.

This bill would have:

- Stated legislative intent to sustain and enhance care of persons needing alcohol and other drug abuse services. The State Department of Alcohol and Drug Programs (DADP) would have been authorized to specify fee systems for alcohol and other drug abuse service providers that receive funds from the department.
- Provided that narcotic treatment programs licensed by the state are those that use prescription medications to help rehabilitate patients. The bill stated that the ultimate goal of all narcotic treatment programs is to aid the patient in ending dependence on illicit drugs.
- Provided that a patient who is also a defendant because of the possession and use of heroin may be directed by a court to discontinue narcotic replacement therapy only when the defendant's treatment provider who is directly providing the narcotic replacement therapy recommends discontinuation and the court agrees that discontinuation is a necessary component of an effective treatment plan for the defendant.
- Required that on or before January 1, 2007, DADP should publish a model protocol for the treatment of in-custody addiction withdrawal to alcohol or controlled substances. Those counties that adopted the DADP protocols would have received priority eligibility for competitive grants for jail programs for in-custody substance abuse treatment and drug arrest program grants.

CORRECTIONS

Parole/Probation

SB 781 (Margett): Chapter 302: Board of Prison Terms: parole hearings.
(Amends Section 3042 of the Penal Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (37-0)

Senate Concurrence (39-0)

Assembly Public Safety (7-0)

Assembly Appropriations (22-0)

Assembly Floor (78-0)

Existing law states that at least 30 days before the Board of Prison Terms (BPT) meets to consider the parole suitability or the setting of a parole date for any prisoner sentenced to a life sentence, the BPT shall send written notice to specified persons.

This bill does the following:

- Provides that any person who receives notice from the BPT of a parole suitability hearing, or the setting of a parole date, for a prisoner sentenced to a life sentence who is authorized to forward information for consideration in that hearing may forward that information either by facsimile or electronic mail.
- States that the Department of Corrections shall establish procedures for receiving the information by facsimile or electronic mail.

Prisons and Prisoners

SB 278 (Ducheny): VETOED: State prison: (1) drug utilization and (2) release to parole to a medical facility.

(Amends Section 3041 of, and adds Title 2.5 (commencing with Section 3550) to Part 3 of, the Penal Code, and Uncodified Law.)

Legislative History:

Senate Public Safety (4-0)

Senate Appropriations (11-2)

Senate Floor (29-10)

Senate Concurrence (24-11)

Assembly Public Safety (6-1)

Assembly Appropriations (16-2)

Assembly Floor (50-29)

Existing law generally regulates the conditions of incarceration of prisoners.

This bill would have directed the Department of Corrections to adopt policies and procedures for drug utilization to optimize efficacy and cost-effectiveness, as specified, and required the department to report upon the impact of the policies to the Legislature no later than December 1, 2004.

Existing law generally regulates the granting and conditioning of parole.

This bill would have provided for release to parole to a medical facility, as specified, in the case of life prisoners by the Board of Prison Terms, and other prisoners by the Director of Corrections, if those prisoners are eligible for certain levels of care, as specified, and would not pose a threat to public safety; provided that the provisions would not apply to a condemned inmate, or any inmate who is serving a sentence for which medical parole is prohibited by the three-strikes initiative statute or by any other initiative statute; declared that the Legislature finds that these provisions will result in a cost savings; and required the Department of Corrections to report to the Legislature on this cost savings, as specified

This bill would have made a number of related uncodified findings and declarations.

SB 549 (Vasconcellos): Chapter 708: Inmates: skilled nursing facilities: geriatric facilities.

(Adds Chapter 9.7 (commencing with Section 6267) to Title 7 of Part 3 of the Penal Code and Uncodified Law.)

Legislative History:

Senate Public Safety (6-0)

Assembly Public Safety (5-1)

Senate Appropriations (12-1)

Assembly Health (18-0)

Senate Floor (38-0)

Assembly Appropriations (17-7)

Senate Concurrence (37-0)

Assembly Floor (58-21)

Existing law generally regulates the incarceration of inmates and authorizes the Director of Corrections to contract for the establishment and operation of community correctional facilities that offer programs for the treatment of addiction to alcohol or controlled substances.

This bill does the following:

- Allows CDC to contract with public or private entities for the establishment and operation of skilled nursing care facilities for the incarceration and care of inmates limited in ability to perform activities of daily living and in need of skilled nursing services, as specified.

- Requires CDC to ensure that these facilities meet certain security and licensing requirements, as specified, and authorizes CDC to revoke the agreement if the facility contractor is not in compliance.
- Requires CDC to enter into agreements to utilize these facilities.
- Defines "long-term care" as personal or supportive care services provided to people of all ages with physical or mental disabilities who need assistance with activities of daily living including bathing, eating, dressing, toileting, transferring, and ambulation.
- Requires CDC ombudsman program to provide ombudsman services to prisoner residents of CDC contracted skilled nursing facilities.
- Provides that, notwithstanding the provisions of Chapter 11 (commencing with Section 9700) of Division 8.5 of the Welfare and Institutions Code, the Office of the State Long-Term Care Ombudsman shall be exempt from advocating on behalf of, or investigating complaints on behalf of, residents of any skilled nursing facilities operated either directly or by contract by the CDC.
- Makes a number of related uncodified findings and declarations.

SB 973 (Machado): Chapter 717: Northern California Women's Facility: authorization for land swap with federal government.

(Adds Section 14669.7 to the Government Code.)

Legislative History:

(Prior votes not relevant)

Senate Floor (28-9)

Assembly Floor (78-0)

Existing law provides that the Department of General Services has various duties relating to state property. The Northern California Women's Facility in Stockton is no longer a women's facility and is currently empty pending approval by the Legislature for other use by the Department of Corrections. [Section 1 of SB 1574 – Chapter 1549, Statutes of 1982 – enacted uncodified law limiting the use of the NCWF property to a women's facility only.]

This bill authorizes the Director of General Services to enter into an agreement with federal authorities to sell, lease, or exchange land at the Northern California Women's Facility; provides that the conditions of the sale, lease, or exchange shall be in the best interests of the state; and requires that if used for the incarceration of inmates, any facility located on this land shall utilize state employees.

SBX1 13 (Committee on Budget & Fiscal Review): Chapter 5: Correctional peace officer training.

(Amends Section 13603 of the Penal Code.)

Legislative History:

Senate Floor (31-8)

Assembly Budget (30-0)

Assembly Floor (71-8)

Existing law requires the Department of Corrections and the Department of the Youth Authority to provide 16 weeks of training to each correctional peace officer cadet.

This bill provides that if an agreement is reached between the Department of Corrections and the bargaining unit for the correctional peace officers with the approval of the Commission on Correctional Peace Officer Standards and Training on how to implement the on-the-job training requirements of the bill, the training by the Department of Corrections would be 12 weeks of the training at the department's training academy and 4 weeks at the institution where the cadet is assigned to a post or position. This bill would also provide that cadets would be sworn in as correctional peace officers upon the completion of the initial 12 weeks of training.

SBX1 15 (Committee on Budget and Fiscal Review): VETOED: Department of Corrections: inmate reductions in time served.

(Amends Sections 2933 and 3057 of the Penal Code.)

Legislative History:

Senate Floor (24-15)

Assembly Budget (16-13)

Senate Concurrence (24-14)

Assembly Floor (42-38)

Existing law provides that certain prisoners in state prison may earn reductions in the time served for performance in work assignments or in elementary, high school, or vocational education programs, by which they may receive 6 months of credit for every 6 months of full-time performance in a qualifying program, as designated by the Director of Corrections. Existing law provides that less than maximum credit should be awarded to prisoners not assigned to a full-time program.

This bill would have provided that a prisoner who is willing to participate in a full-time credit qualifying assignment, but is either not assigned to a full-time assignment or assigned to a program for less than full time, and who is not excluded by specified criteria, shall receive the same credit awarded to prisoners performing in full-time credit qualifying assignments; this would not have applied to specified prisoners; eligible prisoners would have accrued these credits from the date of reception by the Department of Corrections; and these provisions would have applied only to time served under the jurisdiction of the Department of Corrections on and after the effective date of the bill.

SBX1 25 (Committee on Budget & Fiscal Review): Chapter 8: Department of Corrections: correctional peace officers. Urgency
(Amends Sections 13601 and 13602 of the Penal Code.)

NOTE: This budget trailer bill amends other sections of law that are not related to the jurisdiction of the Senate Committee on Public Safety and thus are not included in this summary.

Legislative History:

Senate Floor (37-0)

Assembly Floor (71-7)

Existing law establishes the Commission on Correctional Peace Officer Standards and Training, and charges it with various duties in connection with the training of correctional peace officers in both the Department of Corrections and the Department of the Youth Authority; requires correctional peace officers of the Department of Corrections and the Department of the Youth Authority to complete training for supervisory positions, and provides for stress management training.

This bill provides that those training provisions only apply to correctional peace officers in the Department of Corrections.

This bill took effect upon enactment as an urgency bill.

AB 369 (Bermúdez): Chapter 861: Public safety members: employment after retirement without loss of retirement benefits.
(Adds Section 21230 to the Government Code.)

Legislative History:

Assembly Public Emp., Retirement & SS (8-0)

Senate Public Emp. & Retirement (4-1)

Assembly Appropriations (23-1)

Senate Appropriations (8-1)

Assembly Floor (76-2)

Senate Floor (25-10)

Assembly Concurrence (74-3)

Existing law generally requires a person who has retired under the Public Employees' Retirement System to reinstate from retirement if he or she is subsequently employed by an employer under the system. However, existing law also exempts certain types of employment from that requirement.

This bill authorizes a safety member who is retired from service, with at least 20 years of specified service, to serve, without reinstatement from service retirement, as the superintendent, deputy superintendent, or captain of a jail or other local correctional facility that houses state inmates pursuant to a long-term agreement, as specified, in a city that does not maintain a municipal police department.

AB 1219 (Montañez): VETOED: Prison education reform.

(Adds Chapter 10.8 (commencing with Section 6500) to Title 7 of Part 3 of, and repeals Section 2053.4 of, the Penal Code and Uncodified Law.)

Legislative History:

Assembly Public Safety (5-2)

Senate Public Safety (4-0)

Assembly Education (8-3)

Senate Appropriations (7-5)

Assembly Appropriations (17-7)

Senate Floor (22-12)

Assembly Floor (41-35)

Assembly Concurrence (43-33)

Existing law does the following:

- The Legislature finds and declares that the purpose of imprisonment for crime is punishment.
- The Legislature finds and declares that there is a correlation between prisoners who are functionally literate and those who successfully reintegrate into society upon release. It was the intent of the Legislature in enacting "The Prisoner Literacy Act" to raise the percentage of prisoners who are functionally literate in order to provide for a corresponding reduction in the recidivism rate.
- Requires the Director of the California Department of Corrections (CDC) 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 reading level. The CDC Director may also establish and maintain classes for the education of inmates.
- Establishes the position of Superintendent of Correctional Education to oversee and administer all prison education programs. The Superintendent shall set both short- and long-term goals for inmate literacy and testing and establish priorities for prison education programs. The Director of Corrections shall appoint the Superintendent of Correctional Education.

This bill would have enacted the Prison Education Reform Act, as follows:

- Enacted legislative findings and declarations.
- Established within the Department of Corrections the Robert E. Burton Correctional Education Board, composed of 15 members, appointed from a variety of interested parties, as specified; the board would have been required to adopt and enforce all rules and regulations for the management and operation of educational programs within the Department of Corrections, including operating procedures and the goals of correctional education, in accord with the rules and regulations of the Department of Corrections relating to security; and required the board to perform specified duties and functions.

- Repealed the existing Penal Code provision that requires the Director of Corrections to appoint the Superintendent of Correctional Education and instead required the Correctional Education Board to appoint the Superintendent, who would have served at the discretion of the board. The Superintendent would have been responsible for ensuring that correctional education programs met minimum performance standards and provided ninth-grade literacy skills and marketable vocational skills and would have also been responsible for developing a five-year comprehensive plan for a unified correctional school system by June 1, 2006.
- Required the board to submit a report to the Legislature on or before January 1, 2006, with recommendations for further restructuring of correctional education in this state and focusing on attaining parallel education structures between correctional and public education, funding sources, and correctional student rights.
- Provided that until the 2005-06 budget year, the budget for education programs would remain at no less than the level appropriated by the Legislature for the 2003-04 budget. Prior to development of the 2005-06 budget, the board, in cooperation with the Department of Corrections and the Department of Finance, would have determined the cost savings, if any, produced by education expenditure in the prior two budget years. These cost savings would be allocated to enhance the education program budget for fiscal year 2005-06, if needed. Similarly, a portion of program savings in subsequent years could have been allocated to enhance education programs, as needed.
- Made related changes in law.

AB 1765 (Committee on Budget): Chapter 157: Budget Act of 2003: Department of Corrections. Urgency.
(Uncodified Budget Language.)

Legislative History:

Assembly Budget (19-10)

Senate Floor (27-10)

Assembly Floor (47-0)

Assembly Concurrence (56-22)

Existing law enacts a state budget each fiscal year.

This bill does the following pertaining to the Department of Corrections:

- Rejects Finance Letter requesting \$10.8 million in lease revenue bonds to convert Northern California Women's Facility to a male reception center. (See SB 973.)
- Approves \$3.6 million General Fund to change the Basic Correctional Officer Academy from 16 weeks to 12 weeks at the Academy and 4 weeks on-the-job. (See SBX1 13.)

- Approves \$58.5 million due to increased projections for the inmate and parole populations.
- Approves funding from lease revenue bonds for a death row facility at San Quentin State Prison.
- Approves a reduction of \$5.4 million to delay activation of 500 substance abuse beds.
- Approves a reduction of \$8.8 million to delay activation of Delano II until April 2005.
- Approves a reduction of \$13 million for various healthcare services programs to reflect improved pharmacy protocols and reduced referrals to outside emergency care facilities.
- Approves a reduction of \$4.8 million and 53 positions to reflect a reduction in management positions at institutions statewide. The positions include 24 correctional captains, 19 facility captains, 8 associate wardens, and 2 chief deputy wardens.
- Approves a reduction of \$1.6 million and 15.5 positions to increase the span of control for Parole Administrators from supervision of five parole offices to eight offices.
- Approves a reduction of \$2.3 million and 32 positions through the elimination of Correctional Sergeant positions associated with the "7k" training program.
- Approves a net reduction of \$27.5 million from the expansion and restructuring of education, vocational education, and arts programs to maximize state savings. This action includes restoring \$10.9 million for education programs and the arts-in-corrections from the proposed \$37.4 million reduction for these programs, and expanding education programs by \$10 million in reception centers.
- Approves savings of \$400,000 from the elimination of three Community Correctional Facilities.
- Approves a net reduction of \$4.5 million from increasing the number of correctional academy graduates by 640 and establishing more correctional officer positions.
- Approves a reduction of \$20.1 million through a drug treatment furlough program which place nonviolent, nonserious inmates in the drug treatment program into a supervised, community residential drug treatment program for the final 120 days of the inmate's sentence.
- Approves a net reduction of \$10.3 million from fully funding the existing program that provides pre-release planning and enhanced community services for mentally ill parolees.

- Approves a net reduction of \$7.9 million from reduced recidivism through (1) improved prerelease planning, (2) development of a new risk assessment tool to ensure parole supervision is effectively targeted, and (3) expansion of the PACT (Police and Corrections Teams) program.
- Approves a net reduction of \$50.4 million from implementing policies that would employ appropriate sanctions for low-level parole violators, based on the offense and the underlying public safety risk of the parolees. The Substance Abuse Treatment Control Units (SATCUs) and Community Detention alternatives would be available to low-level parolees who commit parole violations of a technical nature.
- Approves a reduction of \$9.6 million from the expansion of Felony Drug Courts.
- Approves \$62.3 million to fund the local assistance deficiency for the department.
- Approves \$147,000 for the Sexually Violent Predators (SVPs) Conditional Release Program. This amount was vetoed by the Governor. These funds were intended to fund this program through the Department of Corrections. The veto message indicates that the Governor will Final Action Report: Summary of the 2003 Budget Act Subcommittee No. 2 instruct the departments to explore the most effective and least costly way to provide supervision for these SVPs.
- Took effect upon enactment as an urgency bill.

NOTE: This information was obtained from the "Final Action Report 2003" on the 2003-04 State Budget which may be accessed at the following website by selecting committees, standing committees, Budget and Fiscal Review, Budget Committee Reports, and then Publications: <http://www.sen.ca.gov>

CRIMINAL PROCEDURE

SB 877 (Hollingsworth): Chapter 238: Criminal procedure: discovery. Urgency.
(Adds Section 1054.10 to the Penal Code.)

Legislative History:

Senate Public Safety (5-0)

Senate Floor (39-0)

Senate Concurrence (39-0)

Assembly Public Safety (5-0)

Assembly Floor (73-0)

Existing law added by initiative statute, controls discovery obligations in criminal cases. In particular, existing law requires the prosecuting attorney and the attorney for the defendant to disclose to each other specified materials and information in his or her possession, or known to be in the possession of investigators, including, among other things, relevant real evidence seized or obtained as a part of the investigation of the offenses charged. This initiative measure also forbids attorneys, their employees, and others appointed by the court to disclose the addresses or telephone numbers of victims and witnesses in a criminal case to a defendant, the defendant's family, or any other person except as required to assist in the preparation of the defendant's case.

This bill forbids the disclosure of copies of child pornography evidence by an attorney to a defendant, members of a defendant's family, or anyone else, except for the attorney's employees or court appointees if required for preparation of the case. The attorney is required to inform persons provided this material that further dissemination of the material would be forbidden.

This bill took effect immediately upon enactment as an urgency measure.

AB 513 (Matthews): Chapter 353: Juries: peace officers.
(Adds Section 219.5 to the Code of Civil Procedure.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Judiciary (14-0)

Assembly Appropriations (25-0)

Assembly Floor (78-0)

Senate Judiciary (6-0)

Senate Public Safety (4-0)

Senate Appropriations, SR 28.8

Senate Floor (35-0)

Existing law exempts certain peace officers from jury panels sent to courtrooms for voir dire in civil and criminal matters, and other specified peace officers from jury panels sent to courtrooms for voir dire in criminal matters.

This bill requires the Judicial Council, on or before January 1, 2005, to adopt a rule of court to establish procedures for jury service to give scheduling accommodations to specified peace officers.

AB 1273 (Nakanishi): Chapter 133: Criminal procedure.
(Amends Sections 1050 and 1050.5 of the Penal Code.)

Legislative History:

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

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

Existing law provides that to continue a hearing in a criminal proceeding specified procedures must be followed. Existing law requires the court in felony cases to set a trial date within 60 days of the defendant's arraignment in superior court except upon a showing of good cause, and prohibits a court from granting a continuance in a criminal proceeding absent a showing of good cause. This law does not provide explicit authority to the court to dismiss a case that is not timely set. However, another provision of existing law requires a court, in the absence of good cause for the delay, to dismiss a criminal action when a defendant is not brought to trial in a superior court within specified periods.

This bill states that provisions specifying the procedures to continue a hearing in a criminal proceeding are directory only and do not mandate dismissal of an action. This bill also provides that a court or magistrate shall not dismiss a case if a party fails to comply with these procedures.

AB 1438 (Longville): VETOED: Seizure of business records.
(Adds Section 1536.5 to the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)
Assembly Appropriations (24-0)
Assembly Floor (73-0)
Assembly Concurrence (79-0)

Senate Public Safety (5-0)
Senate Appropriations (12-0)
Senate Floor (39-0)

Existing law authorizes the seizure of business records by a governmental agency pursuant to a search warrant supported by probable cause to believe that the records constitute evidence of the commission of a crime. The court is authorized to order the seized property, including business records, returned upon a motion made on specified grounds, including the grounds that the property taken is not the same as that described in the warrant, the warrant was not supported by probable cause, the warrant or its execution violated state or federal constitutional standards, or the property has not been offered or will not be offered as evidence against the defendant.

This bill would have provided a procedure for an entity whose business records have been seized by a government agency, to demand that agency provide to it, within a 5-business day period, copies of the business records or access to the original records so that the entity can make copies of the records. The demand for the records would have to be supported by a declaration, under penalty of perjury, that denial of access to the

records or copies of the records would either unduly interfere with the entity's ability to conduct its regular course of business or obstruct the entity from fulfilling an affirmative obligation that it has under the law. The government agency would have been authorized to refuse to produce copies of the records or deny access to the records if it rebutted this declaration, or on the grounds that possession of the records by the entity would pose a significant risk of ongoing criminal activity, or would impede or interrupt the investigation. This bill would have specified that procedures relating to government agency refusals to copy or provide access to records, including in camera hearings in specified circumstances.

**AB 1641 (Keene): Chapter 293: Court emergencies: effect on time limits.
Urgency.**

(Amends Section 68115 of the Government Code.)

Legislative History:

Assembly Judiciary (14-0)

Senate Judiciary (6-0)

Assembly Floor (78-0)

Senate Floor (39-0)

Assembly Concurrence (75-0)

Existing law provides that, in times of emergency, as specified, the presiding judge of a superior court may request, and the Judicial Council may authorize, various emergency court procedures, including the extension of certain time periods in criminal and juvenile court cases.

This bill does the following:

- Expands existing provisions for the extension of certain time limits in juvenile court cases during natural and human-made disasters to apply to release and detention hearings for minors and hearings to declare a minor a ward or dependent child of the court.
- Provides for the declaration by a superior court, as authorized by the Chair of the Judicial Council, that a certain date or dates on which it was necessary to close a court constitute a judicial holiday for purposes of computing time in civil, criminal, and juvenile court cases, as specified.
- Took effect immediately upon enactment as an urgency measure.

DEATH PENALTY

SB 3 (Burton): Chapter 700: Death penalty: mental retardation.

(Adds Section 1376 to the Penal Code.)

Legislative History:

Senate Public Safety (4-1)

Senate Appropriations (7-5)

Senate Floor (24-13)

Senate Concurrence (32-1)

Assembly Public Safety (5-1)

Assembly Appropriations (16-8)

Assembly Floor (67-10)

Existing law specifies that first-degree murder with "special circumstances" is punishable by death, or in the state prison for life without parole (LWOP). Existing law states that the execution of a mentally retarded criminal is cruel and unusual punishment. (*Atkins v. Virginia* (2002) 122 S.Ct. 2242.)

This bill defines mentally retarded as the condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before the age of 18 and provides for a procedure to determine if a person who may be subject to the death penalty is mentally retarded and thus ineligible under *Atkins*. It provides that a determination may be made pretrial by a judge if requested by the defendant. The request for a pretrial determination constitutes a waiver of the defendant's right to a jury trial on the issue. If a pretrial determination is not requested then the issue shall be decided following the guilt phase of the trial by the jury. The defense must prove that the defendant is retarded by a preponderance of the evidence.

DOMESTIC VIOLENCE

SB 265 (Kuehl): Chapter 243: Child custody.

(Amends Section 3044 of the Family Code.)

Legislative History:

Senate Judiciary (4-1)

Senate Floor (24-13)

Senate Concurrence (23-11)

Assembly Judiciary (14-0)

Assembly Floor (76-0)

Existing law provides that, when a court in a custody proceeding makes a finding that one party to the proceeding has perpetrated domestic violence against the other party within the previous five years, a rebuttable presumption shall be triggered against granting joint or sole physical or legal custody to the party who perpetrated the violence.

This bill makes changes to these provisions, including specifying what evidence is sufficient and insufficient to trigger the presumption against custody. This bill makes additional amendments in this area.

SB 399 (Kuehl): Chapter 134: Foreign protection orders.

(Amends Sections 6401 and 6402 of the Family Code.)

Legislative History:

Senate Judiciary (4-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

Assembly Judiciary (13-0)

Assembly Appropriations (23-0)

Assembly Floor (75-0)

Existing law, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, authorizes the enforcement of a valid foreign protection order in a tribunal of this state under certain conditions. Existing law also requires a law enforcement officer of this state to enforce a foreign protection order upon determining that there is probable cause to believe that a valid foreign protection order exists and has been violated.

This bill expands the definition of protection order by including orders issued under anti-stalking laws. This bill removes provisions prohibiting enforcement of a provision of a foreign protection order respecting support and makes a related statement of legislative findings and declarations. This bill also makes other clarifying changes.

AB 134 (Cohn): Chapter 262: Domestic violence penalties.
(Amends Section 273.5 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (77-0)

Assembly Concurrence (77-0)

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (35-0)

Existing law imposes specified enhanced penalties for repeat domestic violence offenses, as specified.

This bill provides that any person convicted of felony domestic violence, as specified, for acts occurring within seven years of a previous conviction for domestic battery (Penal Code § 243(e)) shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to \$10,000, or by both that imprisonment and fine.

AB 184 (Lowenthal): Chapter 720: "Safe at Home" Program.
(Amends Section 1808.21 of the Vehicle Code.)

Legislative History:

Assembly Transportation (16-2)

Assembly Appropriations (19-4)

Assembly Floor (78-1)

Assembly Concurrence (78-0)

Senate Public Safety (4-0)

Senate Transportation (12-0)

Senate Appropriations (8-0)

Senate Floor (39-0)

Existing law establishes the "Safe at Home" program, under which victims of domestic violence, stalking and specified others who meet the qualification requirements for the program can keep their addresses confidential by using a mail forwarding service through the Secretary of State's Office. Existing law provides that all residence addresses in any record of the State Department of Motor Vehicles (DMV) are confidential and shall not be disclosed to any person, except a court, law enforcement agency, or other governmental agency, or to an insurance company under specified circumstances or to vehicle manufacturers or dealers for warranty and recall information. Existing law provides that any person may seek suppression of any DMV registration or driver's license record, except as provided, if the person submits verification acceptable to the DMV that he or she has reasonable cause to believe that (1) he or she is the subject of stalking, or (2) a threat of death or great bodily injury, as specified.

This bill revises this provision to include, as a basis for suppression of any DMV registration or driver's license record, a certificate or identification card issued to the applicant as a "Safe at Home" program participant, as specified.

AB 352 (Goldberg): Chapter 431: Conditions of probation: fees.
(Amends, repeals, and adds Section 1203.097 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Appropriations (24-0)

Assembly Floor (73-0)

Assembly Concurrence (79-0)

Senate Public Safety (4-0)

Senate Appropriations (10-1)

Assembly Floor (35-1)

Existing law provides, until January 1, 2007, that upon application of the petitioner, there is no fee for the service of process of a protective order, restraining order, or injunction if that order or injunction is based upon specified acts or threats. Existing law provides for specified conditions to be required of persons granted probation on a domestic violence case, including a minimum payment of \$200 for specified purposes, which can be waived by a court for inability to pay.

This bill provides that, until January 1, 2007, 2/3 of the money should be retained by the county for those purposes and the reduced remainder be transferred to the Controller in an amount not less than \$133 for each defendant. However, the bill provides that if the court orders the defendant to pay less than \$200 because of his or her inability to pay, the state would receive 2/3 of the payment.

AB 383 (Cohn): Chapter 29: Court appearances.
(Amends Section 977 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Floor (72-0)

Senate Public Safety (6-0)

Senate Floor (38-0)

Existing law provides that a person charged with a misdemeanor offense may appear by counsel only except that if the accused is charged with an offense involving domestic violence, he or she shall be present for arraignment and sentencing.

This bill provides that a person accused of a misdemeanor offense involving domestic violence also is required to be present at any time during the proceeding to be informed by the court of the conditions of a protective order issued, as specified.

AB 1488 (Bates): Chapter 30: Protective orders.
(Amends Section 1270.1 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Floor (76-0)

Assembly Concurrence (77-0)

Senate Public Safety (4-0)

Senate Floor (38-0)

Existing law provides that persons arrested for serious or violent felonies, spousal rape, stalking, inflicting corporal injury on a spouse or cohabitant, battery on a spouse or cohabitant or felony witness intimidation and felony terrorist threats may not be released on his or her own recognizance or on bail in an amount that is either more or less than on the schedule without a hearing in open court.

This bill adds to this provision the intentional and knowing violation of a domestic violence protective order, as specified, if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party, as specified.

ELDER AND DEPENDENT ADULT ABUSE

AB 1131 (Jackson): Chapter 543: Elder and dependent adult abuse: additional crimes.

(Amends Section 368 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Appropriations (24-0)

Assembly Floor (76-0)

Assembly Concurrence (78-0)

Senate Public Safety (4-0)

Senate Appropriations (12-0)

Senate Floor (40-0)

Existing law provides for specific penalties for specified crimes against the elderly and dependent adults in Penal Code Section 368.

This bill does the following:

- Expands the provisions in Penal Code Section 368(d) and (e) which now are applicable to theft and embezzlement to also include forgery, fraud or identity theft committed against an elder or dependent adult.
- Adds to the current list of "money, labor, or real or personal property" "goods" and "services" and adds "obtain" to the current reference to "taken" all in Section 368(d) and (e).

FIREARMS AND DANGEROUS WEAPONS

SB 226 (Cedillo): Chapter 498: Firearms prohibition: elder and dependent adult abuse restraining orders.

(Amends Sections 527.6 and 527.8 of, and adds Section 527.9 to, the Code of Civil Procedure, amends Section 6389 of the Family Code, amends Sections 136.2, 273.6, and 12021 of the Penal Code, and amends Section 15657.03 of the Welfare and Institutions Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations (13-0)

Senate Floor (36-0)

Senate Concurrence (37-0)

Assembly Public Safety (7-0)

Assembly Appropriations (22-0)

Assembly Floor (79-0)

Existing law provides that every person who owns, possesses, purchases, or receives a firearm, or attempts to purchase or receive a firearm, knowing he or she is prohibited from doing so by the provisions of specified protective orders, is guilty of a criminal offense.

This bill adds to these provisions violations of a protective order arising from elder or dependent adult abuse; provides a procedure for relinquishing firearms prohibited by those protective orders; and makes other conforming changes.

SB 238 (Perata): Chapter 499: Firearms and deadly weapons.

(Amends Section 12101 of the Health and Safety Code, and amends Sections 666.7, 11108.3, 12021, 12028, 12201, 12280, 12285, 12287, 12290, and 12301 of the Penal Code.)

Legislative History:

Senate Public Safety (4-1)

Senate Appropriations, SR 28.8

Senate Floor (24-13)

Senate Concurrence (25-14)

Assembly Public Safety (5-2)

Assembly Appropriations (16-7)

Assembly Floor (51-23)

Existing law contains specific statutes pertaining to firearms and destructive devices, as defined.

This bill does the following:

- Corrects a cross-reference in Penal Code Section 666.7(a)(16).

- Authorizes other law enforcement entities to report information about recovered firearms to the federal Bureau of Alcohol, Tobacco and Firearms, except in situations where the firearm is voluntarily placed with the agency for safekeeping.
- Removes from the list of misdemeanor crimes on the 10-year prohibition for possession of a firearm the crime of discharging a firearm at an inhabited dwelling house, occupied building, vehicle, or aircraft, or inhabited housecar or camper, as specified, thereby creating a lifetime prohibition for the conviction of a misdemeanor violation of Penal Code Section 246.
- Creates an alternative so that a firearm used in violation of specified provisions of law that would under current law be declared a nuisance would instead provide that if the firearm owner disposes of the firearm pursuant to Penal Code Section 12021(d)(2), the firearm would not be deemed a nuisance.
- Requires firearm dealers to record the date the firearm is delivered on the register or record of electronic transfer and requires that the information be electronically submitted to Department of Justice (DOJ).
- Requires that machinegun sales to specified law enforcement agencies be performed by a person who is licensed and has a DOJ permit for such firearms.
- Clarifies that the DOJ is authorized to issue annual permits, as specified, for the sale and transfer of lawfully possessed assault weapons.
- Provides that a person may be charged with an infraction penalty for a first-time violation of the Roberti-Roos Assault Weapons Control Act of 1989, as specified, and requires that the assault weapon be destroyed. Corrects cross-references in various Penal Code sections.
- Adds to the list of weapons defined as "destructive devices" any device designed or intended to emit or propel a burning stream of combustible or flammable liquid a distance of 10 feet or more.
- Repeals the exemption provided to retired peace officers relative to the possession, transfer, and sale of assault weapons, as specified. [See *Silveira v. Lockyer*, 312 F.3d 1052, 1088: "The district court held that both the off-duty provision and the retired officers exception comport with the requirements of the Equal Protection Clause. We affirm the district court's decision with respect to the off-duty provision, but reverse as to the exception for retired peace officers."]
- Exempts various dangerous weapons and destructive device permit holders from duplicative background checks.

SB 255 (Ducheny): Chapter 298: Firearms: firearm eligibility checks.
(Adds Section 12077.5 to the Penal Code.)

Legislative History:

Senate Public Safety (5-0)

Senate Appropriations (12-0)

Senate Floor (39-0)

Senate Concurrence (39-0)

Assembly Public Safety (6-0)

Assembly Appropriations (23-0)

Assembly Floor (78-0)

Existing law requires a licensed firearms dealer to submit specified information to the Department of Justice in connection with the purchase of a firearm to enable the department to determine whether the prospective purchaser is prohibited from purchasing or otherwise possessing a firearm.

This bill provides a procedure to allow individuals to request that determination without the necessity of a firearm purchase; authorizes the department to charge a fee for this service; prohibits any person or agency from requiring or requesting another person obtain a firearms eligibility check or notification of a firearms eligibility check; and makes a violation of that prohibition a misdemeanor.

SB 489 (Scott): Chapter 500: Firearms: chamber load indicators and magazine disconnect mechanisms.

(Amends Sections 12126, 12130, and 12132 of the Penal Code.)

Legislative History:

Senate Public Safety (4-1)

Senate Appropriations, SR 28.8

Senate Floor (23-16)

Senate Concurrence (23-16)

Assembly Public Safety (4-3)

Assembly Appropriations (14-8)

Assembly Floor (44-34)

Existing law provides that commencing January 1, 2001, no "unsafe handgun" may be manufactured or sold in California by a licensed dealer, as specified, and requires that the Department of Justice (DOJ) prepare and maintain a roster of handguns which are determined not to be unsafe handguns. Private party sales and transfers of handguns through a licensed dealer or sheriff in smaller counties are exempted from those restrictions. (Penal Code §§ 12125-12133.)

This bill does the following:

- Requires, commencing January 1, 2006, all center-fire semiautomatic pistols not already found to be not "unsafe" to have either a chamber load indicator or a magazine disconnect mechanism if the pistol has a detachable magazine in order to be added to the DOJ roster of approved not "unsafe" firearms.

- Requires, commencing January 1, 2007, all center-fire semiautomatic pistols not already found to be not "unsafe" to have both a chamber load indicator and a magazine disconnect mechanism if the pistol has a detachable magazine in order to be added to the DOJ roster of approved not "unsafe" firearms.
- Requires, commencing January 1, 2006, all rimfire semiautomatic pistols not already found to be not "unsafe" to have a magazine disconnect mechanism if the pistol has a detachable magazine in order to be added to the DOJ roster of approved not "unsafe" firearms.
- Defines "chamber load indicator" as a device that plainly indicates that a cartridge is in the firing chamber. A device satisfies this definition if it is readily visible, has incorporated or adjacent explanatory text or graphics, or both, and is designed and intended to indicate to a reasonably foreseeable adult user of the pistol, without requiring the user to refer to a user's manual or any other resource other than the pistol itself, whether a cartridge is in the firing chamber.
- Defines "magazine disconnect mechanism" as a mechanism that prevents a semiautomatic pistol from operating to strike the primer of the ammunition in the firing chamber when a detachable magazine is not inserted in the semiautomatic pistol.
- Defines "semiautomatic pistol" as a pistol, as defined, the operating mode of which uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with a single pull of the trigger.
- Prohibits semiautomatic pistols without chamber load indicators and magazine disconnect mechanisms, as specified, from being submitted to the DOJ for testing according to the above "phased in" schedule.
- Exempts the sale, loan, or transfer of any firearm that is to be used as a prop during the course of a motion picture, television, or video production from specified safety requirements.

NOTE: The existing provisions of law pertaining to "unsafe handguns" provide an exemption from the law for law enforcement, as specified. Senator Scott entered a letter into the Senate Journal (page 2482) on September 10, 2003, that states the following:

The purpose of this letter is to clarify the intent of my bill, SB 489, that was passed by the Senate yesterday and enrolled to the Governor.

SB 489 requires most new models of firearms introduced for sale in California after 2007 to have both a chamber load indicator (which indicates to users whether the firearm is loaded) and a magazine disconnect safety mechanism (which prevents firearms with removable magazines from discharging when the magazine is removed).

It is my intent to clarify that nothing in SB 489 should be interpreted to increase liability or otherwise expose local governments, law enforcement agencies or peace officers to any additional theory of civil liability. Law enforcement is specifically exempted from the provisions of SB 489, as it is exempt from the current "unsafe handgun" law in Penal Code Section 12125 *et seq.*, because peace officers have strenuous and ongoing training in use of their duty weapons.

Also, law enforcement has special needs for and from their duty weapons. It is perfectly reasonable, for example, for law enforcement to use firearms either with or without magazine disconnect safeties. It is not the intent of SB 489 to limit or proscribe the choices of firearms available for law enforcement, or to create civil liability for law enforcement for its failure to use certain firearms.

To prevent any possible interpretation that existing law or SB 489 exposes law enforcement to liability for using firearms that are not on the roster of "Not Unsafe Handguns" established under Penal Code Section 12131, I intend to author legislation that will preclude such a legal theory. In fact, I have amended my bill, SB 166, for that purpose. SB 166 will be heard by policy committees next year.

SB 824 (Scott): Chapter 502: Firearms: transactions.

(Amends Sections 12071, 12074, 12077, and 12082, of the Penal Code.)

Legislative History:

Senate Public Safety (5-0)

Senate Floor (25-12)

Senate Concurrence (24-13)

Assembly Public Safety (5-1)

Assembly Appropriations (18-4)

Assembly Floor (52-23)

Existing law generally regulates licensed firearms dealers and requires that private party transactions be conducted through a licensed dealer, as specified.

This bill does the following:

- Deletes, for a city and county, in the unincorporated area of a county with a population of less than 200,000, or within a city with a population of less than 50,000 the current exemption regarding dealer security requirements applicable to larger counties and cities.
- Deletes the existing reference to the authority of the licensing authority in specified unincorporated area of counties and cities to impose the existing larger county dealer security requirements and, instead, specifically allows the imposition of higher standards.

- Specifically authorizes firearms dealers to require any agent who handles, sells, or delivers firearms to obtain a certificate of eligibility (COE) which is issued following a background check.
- Requires the agent or employee to provide on the background check application the name and California firearms license number of the dealer with whom he or she is employed.
- Requires the Department of Justice (DOJ) to notify the firearms dealer if the agent or employee is prohibited from possessing firearms.
- Provides that where local jurisdictions require agents and employees of firearm dealers to obtain a background check, it be performed by DOJ and the person obtaining a COE.
- Allows local jurisdictions to require additional background checks, as specified, but prohibits the jurisdiction from charging for the background check.
- Requires, specifically, firearm dealers to prohibit any agent who the dealer knows or reasonably should know is within a class of persons prohibited from possessing firearms from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open specified locking devices. Adds definitions of an "agent" and "secured" in these new requirements.
- Provides that nothing in these new requirements shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents.
- Requires that the dealers record of sale (DROS) information include the "salesperson's certificate of eligibility number if he or she has obtained a "certificate of eligibility" and be transferred electronically (thus deleting any reference to "telephonic" submission to the DOJ).
- Provides that if the dealer reports to DOJ that the dealer's equipment has failed, the specified information shall be obtained by an alternative method to be determined by DOJ.
- Requires that the firearms dealer record on the register or record of electronic transfer the date that the firearm – handgun and long gun (rifle or shotgun) – is delivered.
- The purchaser or transferee or person being loaned a firearm may not be charged any other fee by the dealer for a sale, loan, or transfer of a firearm conducted pursuant to Section 12082 pertaining to private party transfers beyond the fees currently authorized in that section (not to exceed \$10 and specified DOJ applicable fees).
- Changes two existing "longer" handgun references in the Penal Code to simply "handguns" and makes related changes to law.

AB 161 (Steinberg): Chapter 754: Dealer's Record of Sale Special Account: appropriation: specified limitations on use.

(Amends Section 12076 of, and repeals Section 12071 of, the Penal Code, and amends Section 3 of Chapter 909 of the Statutes of 2002, and Section 4 of Chapter 911 of the Statutes of 2002.)

Legislative History:

(Prior votes not relevant)

Assembly Public Safety (5-1)

Assembly Appropriations (14-8)

Assembly Concurrence (46-31)

Senate Public Safety (4-1)

Senate Appropriations (7-4)

Senate Floor (22-14)

Existing law creates Dealer Record of Sales (DROS) fees, as specified, and creates the Firearms Trafficking Prevention Act of 2002.

This bill does the following:

- Expands the existing specific limitations on the use of the DROS fees in the Dealers' Record of Sale Special Account of the General Fund by adding use by the Department of Justice "for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to" Chapter 1 of the Dangerous Weapons Control Law.
- Adds to the limit on the DROS fee inclusion of estimated costs "the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to" Chapter 1 of the Dangerous Weapons Control Law.
- Appropriates \$548,000 from the Dealers' Record of Sale Special Account to the Department of Justice to implement the Firearms Trafficking Prevention Act of 2002.
- Makes related changes in law.

AB 319 (Frommer): Chapter 490: Firearms: prohibitions: juvenile offenders.
(Amends Section 12021 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Appropriations (24-0)

Assembly Floor (78-0)

Assembly Concurrence (78-0)

Senate Public Safety (4-0)

Senate Appropriations (11-0)

Senate Floor (31-7)

Existing law makes it a crime for persons convicted of specified offenses to own or possess a firearm for a specified period. For juvenile offenders, this prohibition applies until the age of 30 years to any person who is (1) alleged to have committed specified offenses and (2) subsequently adjudged a ward of the juvenile court for the commission of specified offenses. A violation shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. (Penal Code § 12021(e).)

This bill adds specified offenses involving carrying concealed or loaded firearms, including firearms in vehicles, to the specified juvenile offenses that impose the penalty for possessing firearms until 30 years of age.

AB 580 (Nuñez): Chapter 49: Clarifies that a successful Penal Code § 1203.4 motion (dismiss charges after completion of probation) does not relieve the person of an applicable prohibition on possessing a firearm, including a rifle.
(Amends Section 1203.4 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Floor (72-0)

Senate Public Safety (4-1)

Senate Floor (23-7)

Existing law includes a section (Pen. Code § 1203.4) providing a procedure for eligible persons to have convictions dismissed following successful completion of probation. The person is then released from all penalties and disabilities resulting from the offense of which they have been convicted, subject to exceptions. Section 1203.4 also specifically provides that dismissal does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person.

This bill provides, consistent with applicable decisional law, that dismissal pursuant to Section 1203.4 does not permit a person to possess, etc., *any* firearm.

AB 1044 (Negrete McLeod): Chapter 541: Licenses to carry concealable firearms.
(Amends Sections 11106 and 12051 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (23-1)

Assembly Floor (73-2)

Assembly Concurrence (69-6)

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (29-2)

Existing law does the following:

- Requires the Department of Justice (DOJ) to maintain summary criminal history information and specifies the persons who may have access to that information. (Penal Code § 11105.)
- Provides that the Attorney General (AG) shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry concealable loaded firearms in public and information from the licensing agency; dealers' records of sales (DROS) of firearms and other information from licensed firearms dealers (and sheriffs who may effect the lawful transfer of firearms in smaller counties) pertaining to handguns; and other specified firearms reports which are submitted pursuant to law. (Penal Code § 11106(a).)
- Requires the AG to permanently keep, properly file, and maintain all information reported to DOJ pursuant to law pertaining to pistols, revolvers, or other firearms capable of being concealed upon the person and maintain a registry of that information. Registry information shall be furnished to the owner or lawful possessor of the firearm and to officers referred to in Penal Code Section 11105. (Penal Code § 11106(c).)
- Defines a "CCW" as a license to carry a concealable firearm in public. (Penal Code § 12050.)
- Provides that a sheriff or a police chief may issue a CCW pursuant to specified requirements and restrictions, such as that the applicant is of good moral character, the applicant is not within certain prohibited categories, and "good cause" exists for the issuance. (Penal Code § 12050.)
- Provides that the licensing authority for CCWs shall maintain in the office of the authority the following: (1) the denial of a license; the denial of an amendment to a license; the issuance of a license; the amendment of a license; and (5) the revocation of a license. (Penal Code § 12053(a).)

Existing law exempts the following from disclosure pursuant to the California Public Records Act:

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(Government Code § 6254(u).)

This bill does the following:

- Removes DOJ's obligation to file and store all copies of CCW permits and, instead, requires DOJ to maintain a list of all CCWs.
- Provides that DOJ will no longer be required to maintain hard copy printouts (e.g., photographic, photostatic and non-erasable optically stored reproduction copies) of firearm-related information in its databases.
- Relieves DOJ of the obligation to adopt and implement the Standard CCW application form and provides that DOJ review and, as necessary, revise the standard CCW application.
- Exempts the CCW applications form from the requirements of the Administrative Procedures Act by stating that the standard form is deemed to be a local form and thus exempt from that Act.
- Makes other minor technical changes.

AB 1290 (Jackson): Chapter 495: Protective and restraining orders: firearms restrictions.
(Amends Sections 646.91, 836, and 12021 of the Penal Code, and amends Section 15657.03 of the Welfare and Institutions Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (74-0)

Assembly Concurrence (76-1)

Senate Public Safety (4-0)

Senate Appropriations (10-1)

Senate Floor (27-8)

Existing law provides for various types of protective or restraining orders.

This bill does the following:

- Adds to specified ex parte emergency protective orders a specific statement that "A person subject to an emergency protective order under this section shall not own, possess, purchase, or receive a firearm while the order is in effect" and makes related changes in that section.
- Adds to the protective order violations and lawful arrest authority by a peace officer without a warrant stalking protective orders and elder and dependent abuse protective orders.
- Amends Section 12021 regarding prohibitions on firearms to:
 1. Add "purchases" and "receives" to the current general prohibitions regarding persons prohibited from owning, having in their possession or under their custody or control any firearm in subdivision (a);
 2. Delete the existing specific notice requirements in law pertaining to the firearms prohibition and protective orders in order for the penalties to apply, leaving the requirement that the person knows that he or she is subject to that prohibition and retaining the requirement that the Judicial Council include the prohibition on the appropriate forms in subdivision (g).
 3. Add a reference regarding stalking and elder and dependent adult protective orders to subdivision (g).
- Adds to the elder and dependent adult abuse protective orders that "Every order issued pursuant to this section [Welfare and Institutions Code § 1657.03] shall prohibit the person subject to it from owning, possessing, purchasing, or receiving a firearm" except that the prohibition "shall not apply to a case consisting solely of financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse."
- Adds to the elder and dependent adult protective orders specific notice and service provisions regarding temporary restraining orders.
- Makes related changes in law.

AB 1455 (Negrete McLeod): Chapter 246: Imitation firearms: exemption for "BB" devices.

(Amends Sections 417.2 and 12001 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (73-0)

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (37-0)

Existing law does the following:

- Provides that any person who purchases, sells, manufactures, ships, transports, distributes, or receives, by mail order or in any other manner, an imitation firearm shall be liable for a civil fine of up to \$10,000.
- Provides that the manufacture, purchase, sale, shipping, transport, distribution, or receipt, by mail or in any other manner, of imitation firearms is permitted for any of specified purposes.
- Defines "imitation firearm" as a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

Existing law provides that "imitation firearm" does not include any of the following:

- A nonfiring collector's replica of an antique firearm that was designed prior to 1898, offered for sale in conjunction with a wall plaque or presentation case.
- A nonfiring collector's replica of a firearm that was designed after 1898, issued as a commemorative by a nonprofit organization, and is offered for sale in conjunction with a wall plaque or presentation.
- Any instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, carbon dioxide pressure, or spring action, or any spot marker gun (through cross-reference to Penal Code § 12001(g)).
- An imitation firearm where the coloration of the entire exterior surface of the device is bright orange or bright green, either singly or in combination.
- An instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO2 pressure, or spring action, or a spot marker gun.

This bill does the following:

- Changes the definition of the exempted "BB or pellet" instruments in the imitation firearms law to delete the reference to "metallic" and to instead refer to "projectile, such as a BB or pellet, not exceeding 6mm caliber."
- Makes related changes to the definition section of the firearms law.

HATE CRIMES

AJR 34 (Koretz): Resolution Chapter 110: Hate crimes: federal legislation.
(Resolution language.)

Legislative History:

Assembly Public Safety (5-0)

Senate Public Safety (5-0)

Assembly Floor (54-3)

Senate Floor (24-9)

Existing law in California defines and criminalizes hate crimes.

This bill urges the U.S. Congress to pass, and the President of the United States to sign, S. 966, the Local Law Enforcement Enhancement Act of 2003, and makes other related findings.

HIGH TECHNOLOGY TASK FORCE

AB 49 (Simitian): Chapter 618: High Technology Theft Apprehension and Prosecution Program (HTTAPP): reorganization to include individually denominated regional task forces.

(Amends Section 13848.6 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (25-0)

Assembly Floor (74-1)

Assembly Concurrence (79-0)

Senate Public Safety (4-0)

Senate Appropriations (12-0)

Senate Floor (40-0)

Existing law establishes the High Technology Theft Apprehension and Prosecution Program (HTTAPP) Trust Fund, and specifies the purposes for which the moneys in the fund may be used. Funding for the program is contingent upon appropriation by the Legislature. Existing law establishes the High Technology Crime Advisory Committee (HTCAC), composed of members representing various governmental agencies and professional organizations, appointed by the Executive Director of the Office of Criminal Justice Planning, to create a written strategy for addressing high technology crime and advising on the appropriate disbursement of funds from the High Technology Theft Apprehension and Prosecution Program Trust Fund to regional task forces.

This bill creates the California High Technology Crimes Task Force which would be comprised of each regional task force funded by the High Technology Theft Apprehension and Prosecution Program; provides that the committee would annually review the effectiveness of the California High Technology Crimes Task Force; and makes conforming changes necessitated by the elimination of the Office of Criminal Justice Planning.

AB 1277 (Cohn): Chapter 662: High Technology Crime Advisory Committee: representative of Record Industry Association of America (RIAA): changes unrelated provisions concerning the California Film Commission.

(Amends Sections 14998.2 and 14998.4 of, adds Sections 14998.11 and 14998.12 to, and adds Chapter 1.4 (commencing with Section 15363.60) to Part 6.7 of Division 3 of Title 2 of, the Government Code, and adds Section 13848.8 to the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (78-0)

Assembly Concurrence (76-1)

Senate Public Safety (4-0)

Senate Judiciary (7-0)

Senate Appropriations (11-0)

Senate Floor (25-8)

Existing law includes the following:

- The High Technology Crime Advisory Committee (HTCAC) was established for the purpose of formulating a comprehensive written strategy for addressing high technology crime and to advise the agency or agencies designated by the Director of Finance on the appropriate disbursement of funds to regional task forces. Specified members – largely from various law enforcement and industry entities – are appointed to serve on the committee.
- In formulating the strategy for high technology crime investigation, the committee identifies various priorities for law enforcement, including the apprehension and prosecution of organizations and groups of persons engaged in specified crimes, including robbery, sale of counterfeit goods and related crimes, removal of a manufacturer's identification, and pirating of cable television services.
- Existing law, known as the Motion Picture, Television, and Commercial Industries Act of 1984 creates within the Technology, Trade, and Commerce Agency, the California Film Commission consisting of 26 members to encourage motion picture and television filming in California and the Film Office as the permitting authority for the use of state-owned property and state employee services for the purpose of making commercial motion pictures.
- Existing law requires the commission to develop and oversee the implementation of a Cooperative Motion Picture Marketing Plan and establishes the Film California First Program which includes the Film California First Fund in the State Treasury for the purpose of reimbursing film costs incurred by a public agency.
- Existing law, that will become effective January 1, 2004, abolishes the Technology, Trade, and Commerce Agency and repeals these provisions as of that date.

This bill does the following:

- Requires the appointment of a designee of the Recording Association of America and a designee of the Consumers Union to the HTCAC.
- Provides that the HTCAC shall identify as a priority for law enforcement attention the goal of apprehending and prosecuting criminal organizations, networks, and groups of individuals engaged in the crimes of misappropriation of recorded music for commercial advantage or private financial gain; the transportation of articles containing unauthorized recordings of live performances; the creation and distribution of pirated sound recordings or audiovisual works; and the failure to disclose the origin of a recording or audiovisual work.
- Transfers the administrative authority of the Motion Picture, Television, and Commercial Industries Act of 1984 and the Film California First Program to the Business, Transportation and Housing Agency.

IDENTITY THEFT

SB 602 (Figueroa): Chapter 533: Identity theft: consumer credit reports and related matters.

(Amends Sections 1785.11.1 and 1785.11.2 of, adds Section 1799.1b to, adds Title 1.81.2 (commencing with Section 1798.90.1) to Part 4 of Division 3 to, the Civil Code, amends Sections 530.6 and 530.8 of the Penal Code, and amends Section 2891 of the Public Utilities Code.)

Legislative History:

Senate Judiciary (4-1)

Senate Public Safety (4-1)

Senate Appropriations (8-4)

Senate Floor (26-14)

Senate Concurrence (23-11)

Assembly Judiciary (10-4)

Assembly Banking & Finance (7-3)

Assembly Appropriations (17-7)

Assembly Floor (50-29)

Existing law includes the following provisions and rules:

- The Consumer Credit Reporting Agencies Act permits a consumer to place a security alert in his or her credit report by making a written or telephonic request to a credit reporting agency.
- A credit reporting agency may charge a reasonable fee to any consumer who elects to freeze his or her credit report, with a specified exception.
- A business may use information data encoded on a driver's license for verification purposes.
- Business entities are prohibited from making specified disclosures of individual records.
- Existing law includes procedure to initiate an investigation of potential identity theft.
- A person who discovers that he or she may be a victim of identity theft can request specified reports from certain businesses and entities.
- Telephone companies may not make available specified information, without consent.

This bill does the following:

- Provides for a penalty of up to \$2,500 and reasonable attorneys' fees for a failure of a consumer credit reporting agency to place a requested security alert.
- Requires that a consumer credit reporting agency provide additional notice to the consumer regarding the expiration date of that security alert; provides that the charge for freezing a credit report can be no more than \$10 for each freeze, removal of a freeze, or temporary lift of a freeze; and provides that the agency can charge a fee of no more than \$12 for a temporary lift of a freeze for a specific party.
- Provides that the use and retention of information encoded on drivers' licenses is prohibited, except to verify age or the authenticity of a driver's license or identification card, to comply with a legal requirement to record, retain, or transmit that information, to transmit information to a check service company, as specified, or for the collection or disclosure of that information if required for specified purposes.
- Makes a violation of provisions prohibiting a business from disclosing specified personal information a crime; provides further that any credit card issuer that receives a change of address request from a cardholder who orders a replacement credit card, and any telephone accounts provider that receives a change of address request from an account holder who orders new service, must send specified change of address notices to the original address of the account holders.
- Clarifies provisions concerning initiation of identity theft investigations.
- Permits a cause of action for a failure of a person or entity to provide these reports concerning a suspected identity theft, and would provide for penalties and reasonable attorneys' fees, among other things.
- Exempts from information release prohibitions applicable to telephone companies certain information needed to pursue an identity theft investigation.

SB 684 (Alpert): Chapter 534: Identity theft.
(Amends Section 530.8 of the Penal Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Floor (39-0)

Senate Concurrence (38-0)

Assembly Public Safety (7-0)

Assembly Banking & Finance (12-0)

Assembly Floor (77-0)

Existing law provides that any person who discovers that he or she is likely the victim of identity theft is entitled to receive the identifying information that was used by the unauthorized individual to apply for any service or open any account, upon the presentation of a copy of a police report and identifying information.

This bill adds applications and accounts regarding mail receiving or forwarding services and office or desk space rental services to the applications and accounts covered by these provisions. "Application" is defined to mean a new application for credit or service, the addition of authorized users to an existing account, the renewal of an existing account, or any other changes made to an existing account.

SB 752 (Alpert): Chapter 467: Identification.

(Amends Sections 853.5 and 853.6 of the Penal Code, and amends Sections 40303, 40305, 40305.5, 40500, and 40504 of the Vehicle Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations (10-1)

Senate Floor (32-2)

Senate Concurrence (35-0)

Assembly Public Safety (7-0)

Assembly Appropriations (22-0)

Assembly Floor (76-0)

Existing law provides that in any case in which a person is arrested for an offense declared to be an infraction or a misdemeanor, including a violation of any city or county ordinance or a violation of the Vehicle Code, the person may be released pursuant to specified procedures that include presenting to a peace officer satisfactory identification or signing a promise or notice to appear. Existing law also authorizes a peace officer to obtain a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on a promise to appear from the person arrested for an infraction if that person does not provide satisfactory evidence of identity, or when the person is arrested for a misdemeanor and he or she has no satisfactory identification. Existing law provides that this thumbprint or fingerprint shall not be used to create a database.

This bill adds that the print may not be included in a database or otherwise distributed for any except law enforcement purposes relating to the identity of the arrestee.

Existing law provides that a person reasonably believing he or she is a victim of identity theft may petition the court for a factual finding of innocence, which shall be granted if there is no reasonable cause to believe that person committed the associated offense, as specified.

This bill provides that a person contesting a charge by claiming under penalty of perjury not to be the person issued a notice to appear under the circumstances described above may choose to submit a print to the issuing court through his or her local law enforcement agency for comparison with the one placed on the notice to appear. This bill authorizes a local law enforcement agency providing this service to charge the requester no more than the actual costs.

AB 1105 (Jackson): Chapter 73: Identity theft: statutes of limitations.
(Amends Section 803 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Senate Public Safety (4-0)

Assembly Floor (77-0)

Senate Floor (40-0)

Assembly Concurrence (75-0)

Existing law includes the crime of willfully obtaining the "personal identifying information" of another and using the information for any unlawful purpose. It is also a crime to acquire, transfer, or retain possession of the personal identifying information of another person with intent to defraud. (These crimes are commonly called identity theft.) It is also a crime to knowingly procure or offer any false or forged instrument to be filed or recorded in any public office. With certain exceptions, prosecution for an offense punishable by imprisonment in the state prison must be commenced within 3 years of the commission of the offense. However, with respect to offenses involving fraud, certain other elements and specifically listed crimes, the statute does not begin to run until the discovery of the offense.

This bill provides that the limitations period for the crimes involving the unlawful use of personal identifying information and procuring or offering a false or forged instrument for recording does not begin to run until discovery of the offense.

AB 1772 (Committee on Banking & Finance): Chapter 90: Identity theft.
(Amends Section 530.8 of the Penal Code.)

Legislative History:

Assembly Banking & Finance (9-0)
Assembly Floor (76-0)

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

Existing law provides that if an identity theft victim discovers that an unauthorized person has applied for certain services or opened certain accounts, the victim is entitled to receive the identifying information that was used by the unauthorized person to apply for or open the account or service and a record of transactions and charges associated with the account. To obtain such material, the victim must present the business or entity holding with a copy of a police report and identifying information.

This bill adds applications and accounts regarding mail receiving or forwarding services and office or desk space rental services to the applications and accounts covered by these provisions.

AB 1773 (Committee on Banking & Finance): Chapter 137: Identity theft: search warrants.
(Amends Section 1524 of the Penal Code.)

Legislative History:

Assembly Banking & Finance (12-0)
Assembly Public Safety (7-0)
Assembly Floor (7-0)

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

Existing law authorizes a court or magistrate to issue a search and seizure warrant where probable cause is established to support the search. Although the statute does not directly address the issue, case law permits a magistrate to issue a warrant for a person or property in another county under certain circumstances.

This bill provides that, in addition to any other circumstances permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute any evidence that tends to show a violation of specified identity theft crimes, a magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in that other county.

JUVENILE JUSTICE

SB 459 (Burton): Chapter 4: Youthful Offender Parole Board.

(Amends Sections 731, 779, 780, 1000.7, 1009, 1176, 1177, 1178, 1179, 1703, 1712, 1714, 1716, 1717, 1718, 1719, 1720, 1721, 1722, 1723, 1725, 1726, 1732.8, 1737, 1737.1, 1752.82, 1754, 1757, 1760, 1765, 1766, 1766.1, 1767.1, 1767.3, 1767.4, 1767.5, 1768.10, 1772, 1778, 1780, 1781, 1800, 1802, and 1830 of, and adds Sections 1731.8 and 1800.5 to, and repeals Sections 1724 and 1727 of, the Welfare and Institutions Code and Uncodified Law.)

Legislative History:

Senate Public Safety (5-0)

Senate Appropriations (11-0)

Senate Floor (38-0)

Senate Concurrence (38-0)

Assembly Public Safety (6-0)

Assembly Appropriations (17-0)

Assembly Floor (72-0)

Existing law establishes the seven-member state Youthful Offender Parole Board ("YOPB"), comprised of gubernatorial appointees confirmed by the Senate, which generally is responsible with overseeing a number of decisions regarding Youth Authority wards, including length of stay and readiness to parole, handling certain disciplinary matters, revoking parole, and required programming.

This bill consolidates the operations of the Youthful Offender Parole Board under the State Department of the Youth Authority, including: places YOPB under CYA; reduces board from seven to five appointees, plus chair; grandfather-in existing board members, as specified; provides for transfer of YOPB staff to CYA depending upon workforce needs; requires mandatory training for the YOPB and their designees; limits the YOPB's function to release (discharges and parole), parole revocation, and disciplinary appeals; authorizes the YOPB to use designees who have specified ward and staff experience, and are subject to the same mandatory training requirements as YOPB members; allows wards the right to appeal time adjustments to a panel of at least two YOPB members; and, restores the YOPB's previous name of "Youth Authority Board."

This bill makes additional changes to the operation of the Board.

This bill also makes changes to the juvenile law, as specified, including clarifying the juvenile court's authority to remove a ward from CYA, and authorizing the juvenile court to set a maximum term of confinement that is not necessarily the adult term maximum.

This bill appropriates funding to augment the Board's usual and current year budget expenses.

AB 355 (Pacheco): Chapter 263: Escape from custody.
(Amends Section 871 of the Welfare and Institutions Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Appropriations (24-0)

Assembly Floor (73-0)

Assembly Concurrence (76-0)

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (35-0)

Existing law makes it a misdemeanor for any person who is under the custody of a probation officer or any peace officer in a county juvenile hall or who is committed to, or being transported to or from, a county juvenile ranch, camp, or forestry camp to escape or attempt to escape from that place or during transportation to or from that place.

This bill revises and recasts this provision. In addition, the bill expands existing law to impose a misdemeanor for any person who is under the custody of a probation officer or any peace officer in a county juvenile hall, or committed to a county juvenile ranch, camp, forestry camp, or regional facility, as defined, to escape or attempt to escape while outside or away from such an institution or facility while under the custody of a probation officer or any peace officer.

AB 945 (Nuñez): Chapter 332: Detention of minors in adult facilities.
(Adds Section 207.6 to the Welfare and Institutions Code.)

Legislative History:

Assembly Public Safety (5-2)

Assembly Appropriations (16-8)

Assembly Floor (42-34)

Assembly Concurrence (70-4)

Senate Public Safety (5-0)

Senate Floor (34-0)

Existing law generally prohibits the detention of minors in adult confinement facilities unless specified circumstances and conditions are met.

This bill permits a minor to be detained in a jail or other secure facility for the confinement of adults pursuant to those provisions only if the court makes its findings on the record, and, in addition, finds that the minor poses a danger to the staff, other minors in the juvenile facility, or to the public, as specified.

PEACE OFFICERS

SB 221 (Romero): Chapter 297: "Professional Certificates" and the Commission on Peace Officer Standards and Training: disqualifying convictions.

(Amends Section 1029 of the Government Code, amends Sections 13503, 13506, and 13510.1 of, and adds Section 13510.7 to, the Penal Code.)

Legislative History:

Senate Public Safety (4-0)

Senate Appropriations (13-0)

Senate Floor (40-0)

Senate Concurrence (39-0)

Assembly Public Safety (7-0)

Assembly Appropriations (21-0)

Assembly Floor (78-0)

Existing law includes the following:

- Any person who has been convicted of a felony is prohibited from holding office as a peace officer or being employed as a peace officer.
- The Commission on Peace Officer Standards and Training (POST) has the power to, among other things, establish a certification program for peace officers and for the California Highway Patrol. Existing law grants the commission power to cancel certificates and provides that the commission must cancel certificates issued to persons convicted of a felony. Pursuant to existing law, the commission has issued regulations providing for the cancellation of certificates in various circumstances.

This bill does the following:

- Disqualifies any person from holding office as a peace officer or being employed as a peace officer who, after January 1, 2004, has been convicted of a crime based on a verdict or finding of guilt of a felony by the trier of fact, or upon entry of a plea of guilty or nolo contendere to a felony, regardless of whether or not the court deems the offense to be a misdemeanor pursuant to Penal Code Section 17, subdivision (b). In other words, where a person is charged with the felony form of a wobbler (alternate felony-misdemeanor) and he or she is found guilty of the charged offense by the jury or court, or where the person pleads guilty or no-contest to a wobbler that has been charged as a felony, the person is permanently disqualified from peace officer status. The court cannot remove the disqualification by deeming the wobbler to be a misdemeanor, either at the time of sentencing or upon completion of probation.
- Provides that despite the general rule of disqualification, a plea of guilty to a felony for purposes of a deferred entry of judgment drug treatment program does not alone disqualify a person from being a peace officer unless a judgment of guilty was entered. Further, a person who pleads guilty or nolo contendere to, or who is found guilty by the trier of fact of, a wobbler drug possession offense and successfully completes a "Prop 36" treatment program is not disqualified to be a peace officer solely on the basis of that plea or finding if the court reduces the offense to a misdemeanor.

- Eliminates power of POST to withdraw or revoke professional certificates. POST can only cancel a certificate if it is obtained as the result of fraud or administrative error. The bill also prohibits POST from following existing regulations for the revocation or withdrawal of certificates and from issuing any new regulations that provide for the revocation or withdrawal of certificates.
- Provides that POST shall enter a notation in the commission's training record whenever a person holding a certificate is determined to be disqualified from holding office or being employed as a peace officer on the ground that the person committed a specified offense. In addition, where a person who must hold a basic peace officer certificate is convicted of a disqualifying offense, POST must notify the employing agency that the person is ineligible to be a peace officer. POST must enter a notation in the person's training record that his or her certificate is null and void. The bill requires POST to reinstate a person's basic certificate in the event a conviction of the offense requiring ineligibility is subsequently overturned or reversed by the action of a court of competent jurisdiction.

SB 362 (Figueroa): Chapter 788: Boards, bureaus, and commissions.

(Amends Section 830.3 of the Penal Code.)

NOTE: This bill amends numerous other sections of law that are not related to the jurisdiction of the Senate Committee on Public Safety and thus are not included in this summary.

Legislative History:

Senate Business & Professions (5-0)

Senate Appropriations, SR 28.8

Senate Floor (37-0)

Senate Concurrence (26-10)

Assembly Business & Professions (13-0)

Assembly Appropriations (22-0)

Assembly Business & Professions (13-0)

Assembly Floor (76-2)

Existing law requires that that the Director of Consumer Affairs shall designate as peace officers seven persons who shall at the time of their designation be assigned to the investigations unit of the Board of Dental Examiners.

This bill deletes that requirement.

SB 570 (Chesbro): Chapter 710: Local government: correctional deputy sheriffs.
(Amends Sections 24011 and 25502.3 of the Government Code, amends Section 830.1 of the Penal Code, and amends Section 16809.4 of the Welfare and Institutions Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Floor (39-0)

Senate Concurrence (40-0)

Assembly Public Safety (6-0)

Assembly Local Government (8-0)

Assembly Floor (77-0)

Existing law provides that any deputy sheriff of the County of Los Angeles and the Counties of Kern, Humboldt, Imperial, Mendocino, Plumas, Riverside, San Diego, Santa Barbara, Siskiyou, Sonoma, Sutter, and Tehama, who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state-of-emergency. (Penal Code § 830.1(c).)

This bill adds the County of Solano to the authority to utilize Section 830.1(c) correctional deputy sheriffs.

This bill also incorporates additional amendments to Section 830.1(c) which were enacted in AB 354 (Ch. 47, Stats. 2003); AB 1254 (Ch. 70, Stats. 2003); and SB 79 (Ch. 149, Stats. 2003). The other amendments to law made to the Government Code and the Welfare and Institutions Code were first added to the bill on September 5, 2003, and do not relate to the jurisdiction of the Senate Committee on Public Safety.

AB 354 (Lowenthal): Chapter 47: Los Angeles County port police officers.
(Amends Section 830.1 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Floor (80-0)

Assembly Concurrence (77-1)

Senate Public Safety (5-0)

Senate Floor (38-0)

Existing law grants full peace officer status to any sheriff, undersheriff, deputy sheriff, chief of police, city police officer, officer of special districts authorized to maintain police departments, marshal, deputy marshal, San Diego Unified Port District Harbor Police, Los Angeles Harbor Department port warden or special officer, and inspector or investigator employed by a district attorney.

This bill changes the reference in Penal Code Section 830.1(a) from "special officer" to "port police officer" of the Harbor Department of the City of Los Angeles to reflect a city change in civil service classification title for those specified existing peace officers.

AB 359 (Koretz): Chapter 104: Public safety officers: off-duty employment.
(Amends Section 70 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Senate Public Safety (5-0)

Assembly Floor (77-0)

Senate Floor (31-9)

Existing law provides that every executive or ministerial officer, employee, or appointee of the State of California, or any county or city therein, or any political subdivision thereof, who knowingly asks, receives, or agrees to receive any emolument, gratuity, or reward, or any promise thereof excepting such as may be authorized by law for doing an official act, is guilty of a misdemeanor. Existing law exempts from that offense, certain employment by a peace officer as a security guard or patrolman while off duty, as specified.

This bill adds the following to Penal Code Section 70:

- Nothing in this section precludes a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from engaging in, or being employed in, other employment while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency.
- Subject to subdivisions (c) and (d) [existing language pertaining to private security guards and patrolmen], and except as provided by written regulations or policies adopted by the employing state or local agency, or pursuant to an agreement between the employing state or local agency and a recognized employee organization representing the peace officer, no peace officer shall be prohibited from engaging in, or being employed in, other employment while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency.
- If an employer withholds consent to allow a peace officer to engage in or be employed in other employment while off duty, the employer shall, at the time of denial, provide the reasons for denial in writing to the peace officer.

AB 608 (Daucher): Chapter 536: Peace officer notices of arrest: school employees.
(Amends Section 11591 of the Health and Safety Code, and amends Sections 291 and 291.1 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (25-0)

Assembly Floor (78-0)

Assembly Concurrence (79-0)

Senate Education (11-0)

Senate Public Safety (6-0)

Senate Appropriations (8-0)

Senate Floor (39-0)

Existing law requires every sheriff or chief of police, upon the arrest of a school employee for specified controlled substance offenses or sex offenses, to immediately notify specified school officials, including the Commission on Teacher Credentialing if the school employee is a teacher in a public school.

This bill provides that those notices would be given if the law enforcement officer knows that the arrestee is a school employee and would additionally require the Commissioner of the California Highway Patrol to give those notices upon the arrest of a school employee for those offenses.

Existing law requires every sheriff or chief of police, upon the arrest of any private school teacher for a sexual offense that would require registration, to give immediate written and telephonic notice of that arrest to school authorities employing that teacher.

This bill provides that those notices shall be given in the case of an arrest of a private school teacher for those sexual offenses and for specified controlled substances offenses if the law enforcement officer knows that the arrestee is a school employee and would additionally require the Commissioner of the California Highway Patrol to give these notices.

Existing law requires the county superintendent of schools, upon receiving notice of the arrest of a public school teacher for those offenses, to immediately notify the governing board of the school district employing that person.

This bill additionally requires the Commission on Teacher Credentialing, upon receiving notice of the arrest, to immediately notify the governing board of the school district employing that person.

AB 991 (Negrete McLeod): Chapter 624: Peace officer training: Special Weapons and Tactics (SWAT) teams.

(Adds Section 13514.1 to the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (80-0)

Assembly Concurrence (79-0)

Senate Public Safety (4-0)

Senate Appropriations (12-0)

Senate Floor (39-0)

Existing law provides that the Commission on Peace Officer Standards and Training (POST) shall adopt rules establishing minimum standards relating to physical, mental, and moral fitness that shall govern the recruitment and training of the following local law enforcement officers to raise their level of competence. Existing law also provides that, for the purpose of maintaining the level of competence of state law enforcement officers, POST shall adopt minimum standards for the training of various types of peace officers.

This bill provides that by July 1, 2005, POST shall develop and disseminate guidelines and standardized training recommendations for all law enforcement officers, supervisors, and managers whose agency assigns them to perform, supervise, or manage Special Weapons and Tactics (SWAT) operations. This bill further provides that the standardized training recommendations shall at a minimum include initial training requirements for SWAT operations, refresher or advanced training for experienced SWAT members, and supervision and management of SWAT operations.

AB 1102 (Yee): Chapter 269: Peace officer training: response to mental illness and developmental disability. Urgency.

(Amends Section 13515.25 of the Penal Code and Uncodified Law.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (80-0)

Assembly Concurrence (78-0)

Senate Public Safety (6-0)

Senate Appropriations (12-0)

Senate Floor (35-0)

Existing law requires law enforcement officers to complete instruction in responding to persons with developmental disabilities and/or mental illness as part of the Commission on Peace Officer Standards and Training (POST) basic training course. Further training courses are established by POST as deemed necessary.

This bill does the following:

- Makes legislative findings and declarations, as specified.
- Changes the date from October 1, 2003 to October 1, 2004, by which time POST shall submit the existing required report regarding the course and training regarding mentally ill and developmentally disabled persons, as specified.
- Requires that the report include an analysis of the Police Crisis Intervention Training (CIT) Program used by the San Francisco and San Jose Police Departments, to assess the training used in these programs and compare it with existing courses offered by the Commission in order to evaluate the adequacy of mental illness and developmental disability training available to local law enforcement officers.
- Took effect immediately upon enactment as an urgency measure.

AB 1106 (Horton): Chapter 102: Access to peace officer personnel records by Attorney General, District Attorney or Grand Jury.

(Amends Section 832.7 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Floor (73-0)

Senate Public Safety (5-0)

Senate Floor (37-0)

Existing law provides that peace officer or custodial officer personnel records, as defined, are confidential and shall not be disclosed in any criminal or civil proceeding except through specified procedures and standards. These confidentiality provisions do not apply to investigations or proceedings concerning the conduct of police officers or a police agency conducted by a grand jury, a district attorney's office, or the Attorney General's office.

This bill expands the exception by providing that the provisions insuring confidentiality do not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs these officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

AB 1254 (La Malfa): Chapter 70: Local government: correctional deputy sheriffs.
(Amends Sections 830.1 and 832 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Senate Public Safety (5-0)

Assembly Floor (73-0)

Senate Floor (38-0)

Assembly Concurrence (79-0)

Existing law provides that any deputy sheriff of the County of Los Angeles and the counties of Kern, Humboldt, Imperial, Mendocino, Plumas, Riverside, San Diego, Santa Barbara, Siskiyou, Sonoma, Sutter, and Tehama, who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state-of-emergency. (Penal Code § 830.1(c).)

This bill adds the County of Shasta to the authority to utilize Section 830.1(c) correctional deputy sheriffs.

Existing law requires every peace officer to complete an introductory course of training prescribed by the Commission on Peace Officer Standards and Training and requires any person who completes that training, but is not employed as a peace officer within 3 years, or who has a 3-year or longer break in service as a peace officer, to pass a specified examination, except for specifically exempted persons.

This bill would add to those exempted from the requirement to take this prescribed test after 3 years without peace officer status a peace officer specified in Penal Code Section 830.1(c) who is assigned to perform duties exclusively or initially relating to specified custodial assignments, if the peace officer has previously successfully completed the required training, and since that time has been continually employed as a custodial officer by the agency appointing him or her as a peace officer.

AB 1436 (Runner): Chapter 292: Reserve peace officers: authority and related changes.

(Amends Sections 35021.5 and 72330 of the Education Code, amends Section 18124 of the Health and Safety Code, amends Section 830.6 of the Penal Code, and amends Sections 2806, 4453.6, 4460, 22855, 27900, 34507.5, 35790.1, and 40600 of the Vehicle Code.)

Legislative History:

Assembly Public Safety (6-0)

Senate Public Safety (5-0)

Assembly Floor (74-0)

Senate Floor (40-0)

Assembly Concurrence (76-0)

Existing law provides for the appointment of reserve peace officers, as specified.

This bill does the following:

- Deletes the "unpaid volunteer" restriction in Education Code Section 38000 so that a school police department may assign a school police reserve officer to supplement the school police personnel.
- Authorizes the governing board of a community college district that establishes a community college police department to also establish a police reserve officer program to supplement that police department.
- Adds community college police departments to the specified entities in Penal Code Section 830.6.
- Adds reserve peace officers to specified sections of law that grant peace officers the authority to perform certain functions.

AB 1669 (Chu): Chapter 777: Peace officers: psychological evaluations.

(Adds Sections 2247 and 2960.2 to the Business and Professions Code, amends, repeals, and adds Section 1031 of the Government Code, and adds Section 832.05 to the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Bus. & Prof. (11-0)

Assembly Appropriations (22-1)

Assembly Floor (77-1)

Assembly Concurrence (75-2)

Senate Bus. & Prof. (4-1)

Senate Public Safety (6-0)

Senate Appropriations (7-4)

Senate Floor (24-11)

Existing law does the following:

- Provides for the licensing and regulation of *physicians* by the Medical Board of California (Medical Board).
- Provides that the Medical Board's Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. Provides that unprofessional conduct includes (but is not limited to) violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.
- Provides for the licensing and regulation of *psychologists* by the Board of Psychology.
- Provides that the Board of Psychology may refuse to issue any license, or may issue a license with terms and conditions, or may suspend or revoke the license of any licensee if the licensee has been guilty of unprofessional conduct. Provides that unprofessional conduct includes (but is not limited to) violating any of the provisions of the Psychology Licensing Law or regulations duly adopted thereunder.
- Requires peace officer applicants to meet certain minimum requirements, including but not limited to being found to be free from any physical, emotional or mental condition, which might adversely affect the exercise of the powers of a peace officer.
- Requires a peace officer applicant's emotional and mental condition to be evaluated by a licensed *physician* or by a licensed *psychologist* who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. (Government Code § 1031.)

- Provides that for the purpose of raising the level of competence of local law enforcement officers, the California Commission on Peace Officer Standards and Training (POST) shall establish, and amend from time to time, minimum standards for relating to physical, mental and moral fitness for law enforcement officers. Requires POST to conduct research concerning job-related educational standards and job-related selection standards including vision, hearing, physical ability, and emotional stability. (Penal Code § 13510.)

This bill does the following:

- Provides, as of January 1, 2005, that a peace officer applicant's emotional and mental condition shall be evaluated by either (revised Government Code Section 1031(f)):
 - a) A *physician* who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program; or
 - b) A *psychologist* licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.
- Requires that, after January 1, 2005, a *physician* or a *psychologist* shall meet the requirements set forth in subdivision (f) of Section 1031 of the Government Code prior to performing either: (a) an evaluation of a peace officer applicant's emotional and mental condition or (b) an evaluation of a peace officer's fitness for duty.
- Provides, as of January 1, 2005, that each department or agency in California that employs peace officers shall utilize a person meeting the specified requirements applicable to emotional and mental examinations, for any emotional and mental evaluation done in the course of the department or agency's screening of peace officer recruits or the evaluation of peace officers to determine their fitness for duty.

SENTENCING

AB 187 (Runner): Chapter 138: Crime.

(Adds Sections 241.8 and 243.10 to the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Appropriations (25-0)

Assembly Floor (78-0)

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (35-0)

Existing law provides that an assault is a misdemeanor punishable by a fine not exceeding \$1,000 or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment. The penalties are increased when the victim is a part of a specified category of persons.

This bill makes the penalty for any person who commits an assault against a member of the United States Armed Forces, because of the victim's service in the United States Armed Forces, punishable by a fine not exceeding \$2,000, by imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment which is identical to the penalty for the assault of specified others including law enforcement, firefighters and persons on school property.

Existing law provides that a battery is a misdemeanor punishable by a fine not exceeding \$2,000 or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment. The penalties are increased when the victim is a part of a specified category of persons.

This bill makes the penalty for any person who commits a battery against a member of the United States Armed Forces, because of the victim's service in the United States Armed Forces, punishable by a fine not exceeding \$2,000, by imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment which is identical to the penalty for the battery of specified others including law enforcement, firefighters and persons on school property.

SEX OFFENSES

SB 903 (Chesbro): Chapter 27: Sexual Predator Apprehension Teams.

(Amends the heading of Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 13885.1 of the Penal Code.)

Legislative History:

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

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

Existing law establishes the Statewide Sexual Habitual Offender Program. Existing law requires the Attorney General to establish and maintain the program, upon appropriation of funds by the Legislature.

This bill recasts these provisions to rename and reorganize the program as the Statewide Sexual Predator Apprehension Team, as specified, and makes other technical conforming changes.

AB 506 (Maze): Chapter 535: Sexual assault victims.

(Amends Section 13823.11 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)
Assembly Appropriations (24-0)
Assembly Floor (72-0)
Assembly Concurrence (75-0)

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

Existing law sets forth minimum standards for the examination and treatment of victims of sexual assault, including the collection of physical evidence.

This bill provides, in addition and subject to the victim's refusal, that where indicated by the history of the contact, the victim's urine and blood sample be collected for toxicology purposes, to determine if drugs or alcohol were used in connection with the assault. The bill provides that the toxicology results obtained are inadmissible in any criminal or civil action or proceeding against any victim and would be confidential except for purposes of prosecuting or defending the crime or crimes necessitating the examination. This bill also requires that victims be informed of specified information regarding the testing.

AB 898 (Chu): Chapter 537: Sexual assault victims: DNA Bill of Rights.
(Adds Section 680 to the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Appropriations (18-5)

Assembly Floor (80-0)

Assembly Concurrence (79-0)

Senate Public Safety (6-0)

Senate Appropriations (11-0)

Senate Floor (39-0)

Existing law specifies various rights for crime victims.

This bill authorizes law enforcement agencies investigating certain felony sex offenses to, upon the request of the victim, and subject to the commitment of resources, inform the victim whether or not a DNA profile was obtained from the testing of the rape kit evidence or other crime scene evidence from their case, whether that information had been entered into the Department of Justice Data Bank of case evidence, and whether or not there is a match between the DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Data Base, as specified. The bill also provides that the victim be given written notification by the law enforcement agency if the law enforcement agency elects not to perform DNA testing of the rape kit evidence or other crime scene evidence, or intends to destroy or dispose of the rape kit evidence or other crime scene evidence prior to the expiration of the statute of limitations as specified. The bill further provides that the victim's sole remedy for the failure of a law enforcement agency to comply with these provisions would be to file a writ of mandamus.

AB 949 (Pavley): Chapter 2: Statute of limitations. Urgency.
(Amends Section 803 of the Penal Code.)

Legislative History:

Assembly Public Safety (4-0)

Assembly Floor (76-0)

Senate Public Safety (5-0)

Senate Floor (37-0)

Existing law provides a statute of limitations for sex offenses against children, as specified.

This bill provides that in a criminal investigation involving child sexual abuse as described in specified cases, when the limitations period set forth therein has not expired, that period shall be tolled from the time a party initiates litigation challenging a grand jury subpoena until the end of that litigation, including any associated writ or appellate proceeding, or until the final disclosure of evidence to the investigating or prosecuting agency, if that disclosure is ordered pursuant to the subpoena, as specified.

This bill took effect immediately upon enactment as an urgency measure.

AB 1495 (Chavez): Chapter 51: Parole placement.
(Amends Section 3003 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Floor (72-0)

Assembly Concurrence (77-0)

Senate Public Safety (5-0)

Senate Floor (38-0)

Existing law provides that persons released on parole for specified sex offenses involving child victims may not be placed or reside, for the duration of parole, within 1/4 mile of a school including any or all of kindergarten or grades 1 to 6, inclusive.

This bill specifies that the 1/4-mile exclusion applies to public or private schools, and expands the exclusion to cover schools that include 7th or 8th grade.

Sex Offender Registration

SB 356 (Alpert): Chapter 538: School district police departments.
(Amends Sections 290 and 290.4 of the Penal Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (37-0)

Senate Concurrence (40-0)

Assembly Public Safety (6-0)

Assembly Appropriations (23-0)

Assembly Floor (76-0)

Existing law requires persons convicted of any specified sexual offense to register with local law enforcement officials, as specified. Existing law authorizes designated law enforcement entities to advise the public of the presence of high-risk sex offenders in their communities, including municipal police and sheriff's departments, district attorney's offices, county probation departments, the Department of Justice, the Department of Corrections, the Department of the Youth Authority, the Department of the California Highway Patrol, and the police department of any campus of the University of California, California State University, or community college.

This bill includes in the list of designated law enforcement entities any school district police department. It specifies that the authorization given to school district police to make disclosures about registrants does not apply to disclosures intended to reach persons beyond the school community, as specified.

This bill also makes an additional technical change to the sex offender registration statute.

SB 879 (Margett): Chapter 540: Child pornography.
(Amends Section 290 of the Penal Code.)

Legislative History:

Senate Public Safety (5-0)

Senate Appropriations (13-0)

Senate Floor (40-0)

Senate Concurrence (40-0)

Assembly Public Safety (6-0)

Assembly Appropriations (24-0)

Assembly Floor (76-0)

Existing law generally requires persons convicted of enumerated sex offenses to register within five working days of coming into a city or county, with law enforcement officials in the city, county or city and county where he or she is domiciled, with the chief of police on any University of California or California State University where he or she is domiciled or located, as specified.

This bill requires a person convicted of conveying or distributing obscene matter depicting minors engaged in actual or simulated sexual conduct (Penal Code § 311.1) to register as a sex offender.

AB 236 (Bermúdez): Chapter 348: Physicians and surgeons.

(Amends Section 2221 of, and adds Section 2232 to, the Business and Professions Code.)

Legislative History:

Assembly Business & Professions (11-1)

Assembly Appropriations (22-0)

Assembly Floor (72-0)

Assembly Concurrence (76-0)

Senate Business & Professions (4-0)

Senate Appropriations, SR 28.8

Senate Floor (38-0)

Existing law, the Medical Practice Act, provides for the licensing and regulation of physicians and surgeons by the Medical Board of California.

This bill prohibits any person from being licensed under that act who is required to register as a sex offender, subject to an exception. The bill requires the licensing board to promptly revoke the license of any person who is subject to or becomes subject to that registration requirement, subject to the same exception. The bill authorizes the revoked licensee, 5 years after the revocation and 3 years after termination of parole or probation, to petition the superior court for a license reinstatement hearing, as specified.

AB 1098 (Garcia): Chapter 245: Sex offender registrants on parole or probation.
(Amends Section 290.85 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (73-0)

Assembly Concurrence (77-0)

Senate Public Safety (5-0)

Senate Appropriations (9-0)

Senate Floor (35-0)

Existing law generally requires parolees who are registered sex offenders to provide their parole agent with proof of registration within six working days of release on parole. Current law also requires parolees to provide proof of a "revision or annual update" to his or her parole agent at his or her next scheduled supervision appointment.

This bill requires, in addition, that every person released on probation who is required to register as a sex offender provide his or her probation officer proof of their registration within 6 working days of his or her release, as specified. This bill also requires every person who is released on probation or parole and who is required to register as a sex offender to provide proof of any revision or annual update for so long as that person is required to be under the supervision of a parole officer. This bill also requires a probation officer or parole agent who supervises a registered sex offender to inform him or her of their duties under this section, as specified. This bill further requires a law enforcement agency that registers an individual subject to these provisions to provide him or her proof of their registration, as defined.

AB 1313 (Parra): Chapter 634: Megan's Law: college campuses. Urgency.
(Amends Section 290.01 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (80-0)

Assembly Concurrence (78-0)

Senate Public Safety (4-0)

Senate Appropriations, SR 28.8

Senate Floor (40-0)

Existing law generally requires registered sex offenders who are on campus to register with college campus police, and provides that campus law enforcement may advise the public of the presence of high-risk sex offenders in its community, as specified.

This bill revises these provisions to provide that campus law enforcement or, if the campus has no police department, local law enforcement, may release to members of the campus community information regarding the presence of any registered sex offender on campus, as specified. This bill requires a member of the campus community to sign a specified statement before an agency would release offender information to him or her

upon his or her request and would require the agency to maintain the statement in a file in the agency' s office for at least 5 years. This bill requires an agency disseminating printed information pursuant to its provisions to maintain records of the means and dates of dissemination for a minimum of 5 years. This bill defines campus police department and campus community. This bill provides that the Department of Justice may develop a training program for the disclosure of the information.

Existing law concerning public access to information about sex offender registration sunsets on January 1, 2004.

This bill extends that sunset date to January 1, 2007.

This bill additionally reorganizes these statutes to provide separate sections for sex offender registration, public access to registered sex offender information, and law enforcement public notification concerning registered sex offenders, as specified.

This bill took effect immediately upon enactment as an urgency measure.

TRESPASS

SB 993 (Poochigian): Chapter 805: Trespass.
(Amends Section 602 of the Penal Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (37-0)

Senate Concurrence (37-0)

Assembly Public Safety (6-0)

Assembly Appropriations (21-0)

Assembly Floor (63-5)

Existing law makes it a misdemeanor to willfully commit a trespass by engaging in specified acts, including, entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any of those lands, whether covered by water or not, without the license of the owner or legal occupant; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

This bill makes it a trespass to enter upon lands or buildings owned by any other person without the license of the owner or legal occupant, where signs forbidding trespass are displayed, and whereon cattle, goats, pigs, sheep, fowl, or any other animal is being raised, bred, fed, or held for the purpose of food for human consumption; or to injure, gather, or carry away any animal being housed on any of those lands, without the license of the owner or legal occupant; or to damage, destroy, or remove, or cause to be removed, damaged or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

AB 924 (Maldonado): Chapter 101: Trespass: rural areas.
(Amends Section 602.8 of the Penal Code.)

Legislative History:

Assembly Public Safety (6-0)

Assembly Floor (75-0)

Assembly Concurrence (76-0)

Senate Public Safety (4-0)

Senate Floor (40-0)

Existing law provides, with specified exceptions, that any person who, without the written permission of the landowner, owner's agent, lawful possessor of the land, willfully enters any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, is guilty of an infraction punishable by a fine of \$10 for a first offense. For a second offense, the person is guilty of an infraction punishable by a fine of not less than \$100 or more than \$250.

This bill revises these penalty provisions to instead provide that for a trespass on the same land or any contiguous land of the same landowner, without valid permission, a first offense is an infraction punishable by a fine of \$75 and a second offense is an infraction punishable by a fine of \$250. The bill exempts licensed land surveyors engaged in authorized work from these provisions and makes clarifying and conforming changes to these and related provisions.

AB 936 (Reyes): Chapter 355: Trespass in maternity ward.
(Amends Section 602 of the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (73-0)

Assembly Concurrence (75-0)

Senate Public Safety (4-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

Existing law makes it unlawful for persons to engage in certain acts of trespass, and punishes most trespasses as misdemeanors.

This bill provides that a person is guilty of trespass if he or she, without lawful business, knowingly enters or remains in a maternity ward or similar facility if the area has been posted so as to give reasonable notice of restricted access. This form of trespass is an infraction, with a fine of not more than \$100. However, where an offender refuses to leave when instructed, he or she can be convicted of a misdemeanor, punishable by imprisonment in a county jail for a period not to exceed one year, a fine not to exceed \$1,000, or both. A second or subsequent violation is punishable as a misdemeanor, with a maximum jail term of one year, a fine not to exceed \$2,000, or both.

If probation is granted, the court must order the convicted person to participate in counseling, unless the court finds good cause not to impose the counseling. The bill requires the cost of this counseling to be paid by the defendant, unless a showing of good cause not to pay is made.

AB 1263 (Benoit): Chapter 361: Trespass: sterile area of an airport.
(Amends Section 602 of the Penal Code.)

Legislative History:

Assembly Public Safety (5-0)

Assembly Appropriations (24-0)

Assembly Floor (68-3)

Assembly Concurrence (72-0)

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

Existing law makes it unlawful for an unauthorized person to knowingly enter upon any airport operations area if the area has been posted with notices restricting access to authorized personnel only and the postings occur not greater than every 150 feet along the exterior boundary. Any person convicted of a violation of such airport trespass shall be punished (a) by a fine not exceeding \$100; (b) by imprisonment in the county jail not exceeding six months, or by a fine not exceeding \$1,000, or both, if the person refuses to leave the airport operations area after being requested to leave by a peace officer or authorized personnel; and, (c) by imprisonment in the county jail not exceeding six months, or by a fine not exceeding \$1,000, or both, for a second or subsequent offense.

Existing law defines "airport operations area," "authorized personnel," and "airport" for purposes of airport trespass.

Existing law makes it unlawful for any person to knowingly possess within any sterile area of an airport, any of a list of weapons, and defines sterile area. Specified exceptions are provided. Violations are punishable as a misdemeanor.

This bill makes the following trespass a crime:

- Except as permitted by federal law, intentionally avoiding submission to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access when entering or reentering a sterile area of an airport as defined in Penal Code Section 171.5.
- Makes a violation of this trespass that is responsible for the evacuation of an airport terminal and is responsible in any part for delays or cancellations of scheduled flights punishable by imprisonment of not more than one year in a county jail if the sterile area is posted with a statement providing reasonable notice that prosecution may result from the described trespass.

VEHICLE OFFENSES/DMV

Driving Under the Influence (DUI)

SB 408 (Torlakson): Chapter 254: Vehicles: driving under the influence: driver's license sanctions.

(Amends Sections 13353.8 and 23612 of the Vehicle Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (37-0)

Assembly Public Safety (6-0)

Assembly Transportation (17-0)

Assembly Appropriations (22-0)

Assembly Floor (78-0)

Existing law authorizes the Department of Motor Vehicles to impose restrictions on a person's privilege to drive, instead of a complete suspension, based upon a showing of a critical need to drive, after the department has issued an order suspending or delaying the driving privilege as a result of a violation of a specified provision prohibiting a person under the age of 21 years from driving with a blood-alcohol concentration of 0.01% or greater, as measured by a preliminary alcohol screening test or other chemical test.

This bill requires the department to determine that the person has no prior DUI convictions within 7 years of the current offense, and that the person's driving privilege has not been suspended or revoked under certain DUI provisions, prior to imposing a restriction instead of a suspension on the driving privilege.

Existing law provides that any document containing data prepared and maintained in the governmental forensic laboratory computerized database system that is electronically transmitted or retrieved through public or private computer networks to or by the department is the best available evidence of the chemical test results in all administrative proceedings conducted by the department.

This bill, additionally, provides that any other official record that is maintained in the governmental forensic laboratory, relates to a chemical test analysis prepared and maintained in the governmental forensic laboratory computerized database system, and is electronically transmitted and retrieved through a public or private computer network to or by the department is admissible as evidence in the department's administrative proceedings.

SB 416 (Alpert): Chapter 705: Vehicles: driving under the influence: license restriction.

(Amends Section 13352.5 of the Vehicle Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (26-12)

Senate Concurrence (23-11)

Assembly Public Safety (4-2)

Assembly Appropriations (17-2)

Assembly Floor (47-24)

Existing law requires the court to impose as one of the conditions of probation for a second conviction of a violation of a specified provision prohibiting driving under the influence (DUI) that the person have the privilege to operate a vehicle suspended until the person meets certain conditions. However, the person may be granted a restriction instead of the suspension under certain conditions.

This bill requires the Department of Motor Vehicles to grant a driver's license restriction instead of suspension to a person who (1) has been convicted of a second violation of the specified DUI provision that occurred on or before July 1, 1999; (2) was granted probation under a specified provision for that conviction; (3) is no longer subject to that probation; (4) has not completed the licensed driving-under-the-influence program requirements in existing law for reinstatement of the driving privilege; and (5) has no violations in his or her driving record that would preclude issuance of a restricted driver's license.

Vehicles

SB 60 (Cedillo): Chapter 326: Vehicles: social security account number: driver's licenses: identification cards.

(Amends Sections 1653.5, 12800, 12801, 12801.5, 12814.5, and 13000 of, adds Sections 12801.2 and 12801.9 to, the Vehicle Code.)

Legislative History:

Senate Transportation (8-4)

Senate Appropriations (7-5)

Senate Floor (24-14)

Senate Concurrence (23-15)

Assembly Transportation (13-7)

Assembly Appropriations (16-7)

Assembly Floor (44-31)

Existing law provides every form prescribed by the Department of Motor Vehicles for use by an applicant for the issuance or renewal by the department of a driver's license or identification card is required to contain a section for the applicant's social security account number.

This bill requires those forms to contain a section for the applicant's social security account number, federal individual taxpayer identification number, or other identifier or number that is deemed appropriate by the department. The bill allows an applicant for a driver's license or identification card who is presently not eligible for a social security account number, but who submits a specified affidavit signed under penalty of perjury, and a federal individual taxpayer identification number or other number or identifier that is deemed appropriate by the department, to submit those documents to the department in lieu of a social security account number, and those documents would be acceptable until the applicant obtains a social security account number.

SB 247 (Murray): Chapter 410: Vehicles: residence addresses.
(Amends Section 1808.25 of the Vehicle Code.)

Legislative History:

Senate Transportation (12-1)

Senate Appropriations, SR 28.8

Senate Floor (33-0)

Senate Concurrence (40-0)

Assembly Transportation (18-0)

Assembly Appropriations (24-0)

Assembly Floor (66-10)

Existing law requires the State Department of Motor Vehicles (DMV), until January 1, 2004, to implement a pilot project to provide residence address information to an independent institution of higher education if the institution meets certain requirements and requests the address information solely for the purposes of enforcement of parking restrictions. It also requires DMV to submit a report to the Legislature containing its evaluation of the pilot project on or before January 1, 2003.

This bill deletes the January 1, 2004, repeal date of this program and continues it indefinitely as an ongoing program. This bill requires the memorandum of understanding to include a requirement, that the institution establish and maintain a system that ensures that confidential information obtained from the DMV is used solely for the purposes of enforcing parking restrictions.

AB 213 (Leslie): Chapter 427: Vehicles: manufacturers: disclosure.
(Adds Section 9951 to the Vehicle Code.)

Legislative History:

Assembly Transportation (18-0)

Assembly Appropriations (25-0)

Assembly Floor (72-0)

Assembly Concurrence (75-0)

Senate Judiciary (6-0)

Senate Appropriations, SR 28.8

Senate Floor (38-0)

Existing law sets forth various provisions governing vehicle manufacturers.

This bill requires a manufacturer of a new motor vehicle sold or leased in this state that is equipped with one or more recording devices, commonly referred to as "event data recorders (EDR)" or "sensing and diagnostic modules (SDM)," to disclose that fact in the owner's manual for the vehicle.

AB 365 (Horton): Chapter 127: Department of Motor Vehicle records: access by city attorneys.

(Amends Section 1810.5 of the Vehicle Code.)

Legislative History:

Assembly Public Safety (14-0)

Assembly Appropriations (18-5)

Assembly Floor (72-1)

Assembly Concurrence (73-2)

Senate Public Safety (4-0)

Senate Appropriations, SR 28.8

Senate Floor (35-1)

Existing law authorizes various governmental entities to have access to the records of the Department of Motor Vehicles.

This bill authorizes city attorneys prosecuting misdemeanor actions to have access to those records.

AB 1675 (Longville): Chapter 649: Vehicles: Department of Motor Vehicles: records.

(Amends, repeals, and adds Section 1808.22 of the Vehicle Code.)

Legislative History:

Assembly Transportation (20-0)

Assembly Appropriations (24-0)

Assembly Floor (73-0)

Assembly Concurrence (77-0)

Senate Transportation (9-2)

Senate Appropriations, SR 28.8

Senate Floor (31-4)

Existing law provides that the residence address in any record of the Department of Motor Vehicles is confidential, with specified exceptions. One exception applies to an attorney when the attorney states that the motor vehicle or vessel registered owner or driver residential address information is needed in a civil or criminal action, as specified.

This bill provides that the attorney exemption does not apply to an action or case on behalf of a private parking owner or private parking entity in order to pursue fees on delinquent charges arising from parking notices issued on private property.

VICTIMS OF CRIME

SB 478 (Dunn): Chapter 630: Victims of crime: work absences for judicial proceedings.
(Adds Section 230.2 to the Labor Code.)

Legislative History:

Senate Labor & Ind. Relations (5-1)
Senate Appropriations, SR 28.8
Senate Floor (26-11)
Senate Concurrence (23-12)

Assembly Labor & Emp. (6-1)
Assembly Appropriations (17-6)
Assembly Floor (54-25)

Existing law prohibits an employer from discharging or discriminating against an employee for taking time off to serve on a jury.

This bill requires that an employer allow an employee who is a victim of a crime, as defined, or certain persons who are related to a crime victim, to be absent from work in order to attend judicial proceedings related to the crime; prohibits an employer from discharging or in any manner discriminating against an employee, in compensation or other terms, conditions, or privileges of employment, including, but not limited to the loss of seniority or precedence, because the employee is absent from work pursuant to this bill; authorizes the employee to file a complaint with the Division of Labor Standards Enforcement; and encourages district attorneys and victim/witness offices to make information regarding this bill available for distribution at their offices.

AB 976 (Montañez): Chapter 281: Victims of crime: authorized representative.
Urgency.
(Amends Section 13952 of the Government Code.)

Legislative History:

Assembly Public Safety (6-0)
Assembly Appropriations (23-1)
Assembly Floor (77-0)
Assembly Concurrence (78-0)

Senate Public Safety (5-0)
Senate Appropriation, SR 28.8
Senate Floor (35-0)

Existing law provides for the indemnification of victims and derivative victims of specified types of crimes, for certain expenses for which the victim or derivative victim has not been and will not be reimbursed from any other source; applications for compensation under these provisions are filed with the California Victim Compensation and Government Claims Board in the manner determined by the board.

This bill authorizes the board to recognize an authorized representative of the victim or derivative victim to represent the victim or derivative victim, including, among others, legal guardians, conservators, relative caregivers, immediate family members, parents, and other persons acting pursuant to rules adopted by the board.

This bill took effect immediately upon enactment as an urgency measure.

MISCELLANEOUS

SB 44 (Denham): Chapter 18: Central Coast Rural Crime Prevention Program.
(Adds and repeals Title 11.7 (commencing with Section 14180) of Part 4 of the Penal Code.)

Legislative History:

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

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

Existing law provides that the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare may develop within its respective jurisdiction a Central Valley Rural Crime Prevention Program.

This bill encourages the Counties of Monterey, San Luis Obispo, Santa Barbara, and San Benito to develop, adopt, and implement a Central Coast Rural Crime Prevention Program that models the Central Valley Rural Crime Prevention Program, as specified.

SB 337 (Romero): Chapter 152: Statutes of limitations: illegal immigration consultation.
(Amends Section 803 of the Penal Code.)

Legislative History:

Senate Public Safety (6-0)
Senate Appropriations (13-0)
Senate Floor (37-1)

Assembly Public Safety (7-0)
Assembly Appropriations (22-0)
Assembly Floor (71-1)

Existing law includes specified limitations of time after which a criminal complaint or indictment may not be filed against a defendant. These limitations can be extended or waived for various specified reasons. In particular, for specified crimes and categories of crime, certain provisions delay the commencement of the time permitted for filing until the offense has been discovered, or could reasonably have been discovered.

This bill adds violations of provisions relating to unlawful practice of law to those for which the commencement of the applicable limitation of time commences only when the offense has been, or could reasonably have been, discovered.

SB 401 (Flores): Chapter 195: Legislative committee hearings: immunity.
(Amends Section 9410 of the Government Code.)

Legislative History:

Senate Public Safety (6-0)
Senate Floor (28-10)

Assembly Public Safety (7-0)
Assembly Rules (5-0)
Assembly Floor (78-0)

Existing law establishes procedures to be followed by the houses of the Legislature and their respective investigating committees to compel the appearance and testimony of witnesses, and the production of documents, in connection with legislative investigations.

This bill makes various changes to clarify these procedures by which a witness may be compelled to give testimony or produce documents or other materials in a legislative proceeding despite an assertion of the privilege against self-incrimination, and thereby be granted immunity from criminal prosecution, as specified.

SB 434 (Escutia): Chapter 876: Securities and commodities fraud: authority of Attorney General to investigate.

(Amends Sections 25533, 25533.5, and 29544 of the Corporations Code; amends Sections 3309.5, 11180.5, 11181, 11183, 11184, 11185, 11186, 11187, and 11188 of the Government Code; adds Article 10 (commencing with Section 12657) to Chapter 6 of Part 2 of Division 3 of Title 2 of, the Government Code, and adds Section 131 to the Penal Code.)

Legislative History:

Senate Judiciary (4-1)
Senate Public Safety (4-2)
Senate Appropriations (7-4)
Senate Floor (22-13)
Senate Concurrence (23-14)

Assembly Judiciary (9-4)
Assembly Public Safety (4-1)
Assembly Appropriations (16-7)
Assembly Floor (47-32)

Existing law includes the following:

- The Corporate Securities Law of 1968 and the California Commodity Law of 1990 authorize the Commissioner of Corporations to bring an action or conduct an investigation when it appears that any person has violated or is about to violate these laws. The commissioner may refer any evidence uncovered in an investigation to the district attorney. The commissioner shall bring a civil action in superior court to recover a civil fine imposed against a person for violation of these laws.
- Existing law provides that, at the request of a prosecuting attorney or the Attorney General, any state agency or department may assist in conducting an investigation of an unlawful activity that involves matters within or reasonably related to the jurisdiction of the agency, etc.

- The head of a state department – when investigating unlawful activity – is authorized to inspect records, issue subpoenas for the attendance of witnesses and the production of documents and to draft interrogatories for witnesses.
- Except in a report to the head of a department or when testifying or reporting to a prosecutor, any state officer who divulges information acquired from the private records of a person is guilty of a misdemeanor and disqualified from office.

This bill makes the following changes and additions to the law:

- Authorizes the Attorney General, not only the Commissioner of Corporations, to bring an action or conduct an investigation when it appears any person has violated or is about to violate securities or commodities laws. The bill also authorizes the Attorney General to bring a civil action in superior court to recover a civil fine imposed against a person for violation of these laws.
- Provides that, at the request of a prosecuting attorney or the Attorney General, any agency of *any other state, or the United States*, as well as any California agency, may assist in conducting an investigation of an unlawful activity that involves matters within or reasonably related to the jurisdiction of the agency. The prosecuting attorney or the Attorney General may disclose documents or information acquired pursuant to the investigation to another agency, bureau, or department if that entity agrees to maintain the confidentiality of the information. A department head may divulge specified information or evidence discovered in the investigation to the Attorney General or to any prosecuting attorney of this state, any other state, or the United States who has responsibility for investigating the unlawful activity. The department head may present evidence related to the investigation to a court or at an administrative hearing. The bill states that these provisions are declaratory of existing law.
- Provides that in conducting an authorized investigation, the department head may copy appropriate books and records as well as other specified materials and issue a subpoena for the production of any other "writing," as defined. The bill specifies procedures for the appearance of witnesses when the witness named in a subpoena is not a natural person and authorize specified procedures for securing compliance with a subpoena.
- Expands the materials of a private person that protected from being unlawfully divulged in an investigation of specified forms of wrongdoing.
- Requires that investigation and enforcement by the Attorney General and the commissioner of securities and commodities fraud be accomplished without duplication of effort. This bill also provides that the Attorney General shall use existing resources in exercising this authority.

SB 443 (Figueroa): Chapter 706: Contracting violations: minimum penalties.
(Amends Section 7028 of the Business and Professions Code.)

Legislative History:

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

Assembly Public Safety (7-0)

Assembly Appropriations (22-1)

Assembly Bus. & Prof. (13-0)

Assembly Floor (70-4)

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. It is a misdemeanor for any person to act in the capacity of a contractor without a license. The court, in the instance of a repeat offender, shall impose a specified fine or imprison the repeat offender in the county jail for not less than 10 days nor more than 6 months, or both.

This bill instead requires, except in unusual cases, that a repeat offender be confined in the county jail for not less than 90 days. The bill would require the court to state on the record its reasons if the court imposed a jail sentence of less than 90 days or only a fine.

SB 450 (Poochigian): Chapter 23: Kidnapping of unresisting infant: force required.

(Amends Section 207 of the Penal Code.)

Legislative History:

Senate Public Safety (4-0)

Senate Floor (37-0)

Assembly Public Safety (6-0)

Assembly Floor (78-0)

Existing law generally provides that every person who – by force or fear – takes and carries away (asports) another by force or fear is guilty of kidnapping. Some forms of kidnapping require that the carrying away be accomplished by force. As regards an unresisting infant or child, the California Supreme Court, in the case of *In re Michelle D.* (2002) 29 Cal.4th 600, has defined the element of force for purposes of kidnapping as that amount of force required to take and carry the child away a substantial distance for an illegal purpose or with an illegal intent.

This bill codifies the decision of the Supreme Court in *In re Michelle D.*

SB 567 (Torlakson): Chapter 60: Local ordinances: penalties for violation.
(Amends Sections 25132 and 36900 of the Government Code and Uncodified Law.)

Legislative History:

Senate Public Safety (4-1)

Senate Floor (25-14)

Senate Concurrence (21-14)

Assembly Public Safety (5-1)

Assembly Floor (45-24)

Existing law provides with respect to city and county ordinances that the violation of an ordinance is a misdemeanor unless the ordinance makes it an infraction. A violation determined to be an infraction is punishable by a fine not exceeding \$100, by a fine not exceeding \$200 for a 2nd violation of the same ordinance within one year, and by a fine not exceeding \$500 for each additional violation of the same ordinance within one year.

This bill specifically provides that the violations of local building and safety codes determined to be infractions are punishable by a fine not exceeding \$100 for a first violation, a fine not exceeding \$500 for a second violation of the same ordinance within one year, and a fine not exceeding \$1,000 for each additional violation of the same ordinance within one year of the first violation.

This bill also enacts uncodified legislative findings and declarations.

SB 851 (Committee on Public Safety): Chapter 468: Public safety.

(Amends Section 44010 of the Education Code, amends Section 917 of the Evidence Code, amends Section 6250 of the Family Code, amends Section 6254.24 of the Government Code, amends Sections 11561 and 121070 of the Health and Safety Code, amends Sections 171.5, 629.62, 633, 803, 830.31, 836, 847, 981, 1170.11, 1202.1, 1203.1abc, 1203.3, 3520, 11171, 12022.5, 12022.53, 13864, and 14309 of, adds Section 803.5 to, and repeals Section 13864 of, the Penal Code, amends Sections 14601, 23109.2, and 35400 of, amends and repeals Section 23249 of, and repeals Section 23249.1 of, the Vehicle Code, and amends Sections 355, 387, and 15763 of the Welfare and Institutions Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

Senate Concurrence (40-0)

Assembly Public Safety (7-0)

Assembly Appropriations (22-0)

Assembly Floor (75-0)

This bill makes a number of clarifying and technical amendments to the Penal Code and penal provisions in other codes.

SB 919 (Ortiz): Chapter 274: Battery on "Code Enforcement Officers".
(Amends Sections 241 and 243 of the Penal Code.)

Legislative History:

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

Senate Concurrence (39-0)

Assembly Public Safety (7-0)

Assembly Appropriations (22-0)

Assembly Floor (78-0)

Existing law provides generally that assault is punishable by a fine not exceeding \$1,000, or by imprisonment in a county jail not exceeding 6 months, or both. However, when an assault is committed against specified persons (peace officers, fire fighters, emergency medical technicians, process servers, emergency physicians, etc.) the offense is a misdemeanor punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

Similarly, battery is generally a misdemeanor punishable by county jail time not exceeding 6 months or a specified fine, or both. However, a battery of one of a list of specified officers or other persons is a misdemeanor punishable by county jail time not exceeding one year and by a specified fine or by both.

This bill includes a code enforcement officer in the list of specified officers or persons to which these enhanced assault and battery penalties apply.

A "code enforcement officer" is defined thus: "Any person employed by any governmental subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, [with] enforcement authority for health, safety, and welfare requirements, and whose duties include enforcement of any statute, rules, regulations, or standards, and who is authorized to issue citations, or file formal complaints. 'Code enforcement officer' also includes any person . . . employed by the Department of Housing and Community Development [with] enforcement authority for health, safety, and welfare requirements [under] the Health and Safety Code."

SB 968 (Bowen): Chapter 125: Recycling fraud: organized crime.
(Amends Sections 186.2 and 186.8 of the Penal Code.)

Legislative History:

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (39-0)

Assembly Public Safety (6-0)

Assembly Appropriations (23-0)

Assembly Floor (75-0)

Existing law specifies various offenses and organized criminal activity for purposes of defining "criminal profiteering." The proceeds of criminal profiteering can be forfeited upon conviction of a qualifying underlying offense. Proceeds of forfeited assets are distributed according to statute.

This bill adds fraud or theft against the state's beverage container recycling program to the list of criminal profiteering crimes and specifies how forfeited criminal profiteering proceeds are to be distributed, including payment to local entities for the costs of prosecution.

SB 1032 (Murray): Chapter 670: Copying of motion pictures in theaters.
(Adds Section 653z to the Penal Code.)

Legislative History:

Senate Public Safety (5-0)

Senate Appropriations, SR 28.8

Senate Floor (37-0)

Senate Concurrence (39-0)

Assembly Arts, Ent., Sports, etc. (15-0)

Assembly Public Safety (6-0)

Assembly Appropriations (23-0)

Assembly Floor (75-0)

Existing law provides that a person admitted to a theater in which a motion picture is exhibited who refuses to cease operating a video recorder upon request of the theater owner is guilty of intentionally interfering with the operation of a lawful business, a misdemeanor, with a maximum jail term of six months.

This bill creates a new crime that is committed where a person operates a recording device in a motion picture theater for the purpose of recording a theatrical motion picture and without the express written authority of the theater owner. This new offense is a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,500, or both.

AB 172 (Nakanishi): Chapter 377: Supplemental Law Enforcement Services Fund.
(Amends Section 30061 of the Government Code.)

Legislative History:

Assembly Local Government (9-0)

Senate Public Safety (5-0)

Assembly Floor (72-0)

Senate Floor (38-0)

Assembly Concurrence (71-0)

Existing law requires the board of supervisors, at a public hearing held in September in each year that the Legislature appropriates funds for law enforcement purposes through the Supplemental Law Enforcement Services Fund established in each county treasury, to consider and determine each submitted request within 60 days of receipt.

This bill deletes the requirement that the hearing be held in September and instead requires the hearing to be held at a time determined by the board, or within 30 days after a request by a recipient agency for a hearing, if the funds have been received by the county from the state prior to that request.

AB 245 (Cohn): Chapter 818: Crimes: professional sporting events.
(Adds Section 243.83 to the Penal Code.)

Legislative History:

Assembly Arts, Ent., Sports, etc. (19-0)

Senate Public Safety (5-1)

Assembly Public Safety (7-0)

Senate Appropriations, SR 28.8

Assembly Appropriations (24-1)

Senate Floor (33-3)

Assembly Floor (74-3)

Assembly Concurrence (72-4)

Existing law establishes that "infractions" are punishable by a fine not exceeding \$250, except where a lesser maximum fine is expressly provided. Existing law defines "battery" as the unlawful use of force or violence against the person of another, and is punishable by a fine not exceeding \$2,000; by imprisonment in the county jail not exceeding six months; or by both. Existing law also provides that any person who commits an assault upon another person with force likely to produce great bodily injury is punishable by two, three or four years in the state prison or by up to one year in the county jail, or by a fine not exceeding \$10,000, or by both the fine and the imprisonment.

This bill provides that it is unlawful for any person attending a professional sporting event to throw any object on or across the court or field of play with the intent to interfere with play or distract a player. This bill also provides that it is unlawful for any person attending a professional sporting event to enter upon the court or field of play without permission from an authorized person any time after the authorized participants of play have entered the court or field of play to begin the sporting event and until the participants of play have completed the playing time of the sporting event. This bill makes a violation of this proposed law an infraction punishable by a fine not exceeding \$250.

AB 522 (Diaz): VETOED: Local officers and employees: identity of individuals.
(Adds Section 1227 to the Government Code and Uncodified Law.)

Legislative History:

Assembly Public Safety (5-2)

Senate Public Safety (4-2)

Assembly Floor (56-9)

Senate Floor (25-14)

Assembly Concurrence (46-28)

Existing law provides for the issuance of driver's licenses and identification cards by the Department of Motor Vehicles.

This bill would have authorized a city, county, city and county officer or city, county, or city and county peace officer to ask for additional evidence of identification if the officer believes an identification document is forged or altered, or identifies another individual. The bill would have also required every city, county, and city and county officer or employee to accept for purposes of personal identification an identification card issued by the Mexican Consulate Office the same as a driver's license or identification card issued by the Department of Motor Vehicles, or Matricula Consular, except as specified. The bill would have also limited the use of a Matricula Consular, or information collected from, or appearing thereon.

AB 568 (Goldberg): Chapter 621: Community Law Enforcement and Recovery Demonstration Project.

(Amends Section 14006 of the Penal Code.)

Legislative History:

Assembly Public Safety (5-0)

Senate Public Safety (4-0)

Assembly Appropriations (17-7)

Senate Appropriations, SR 28.8

Assembly Floor (75-4)

Senate Floor (35-1)

Assembly Concurrence (77-2)

Existing law establishes the Community Law Enforcement and Recovery Demonstration Project, a multiagency gang intervention program composed of local agencies in Los Angeles County. Existing law provides that these provisions will be repealed on January 1, 2004.

This bill instead provides that the provisions establishing the project become inoperative on July 1, 2004, and would be repealed on January 1, 2005.

AB 836 (La Suer): Chapter 143: Wireless telephones.
(Adds Section 591.5 to the Penal Code.)

Legislative History:

Assembly Public Safety (7-0)

Assembly Appropriations (24-0)

Assembly Floor (76-0)

Senate Public Safety (4-0)

Senate Appropriations, SR 28.8

Senate Floor (35-0)

Existing law provides that a person who unlawfully and maliciously takes down, removes, injures, or obstructs any telephone line is guilty of a misdemeanor or a felony.

This bill provides that a person who unlawfully and maliciously removes, injures, destroys, or damages any wireless communication device with the intent to prevent the use of the device to summon assistance or notify law enforcement or any public safety agency of a crime is guilty of a misdemeanor.

AB 928 (Pacheco): Chapter 391: Theft of vessels.
(Amends Section 499b of the Penal Code.)

Legislative History:

Assembly Public Safety (5-1)

Assembly Appropriations (23-1)

Assembly Floor (78-2)

Assembly Concurrence (77-0)

Senate Public Safety (6-0)

Senate Appropriations, SR 28.8

Senate Floor (38-0)

Existing law provides that any person who takes any bicycle or motorboat or vessel without the owner's permission, for the purpose of temporarily using or operating the bicycle or vessel, is guilty of a misdemeanor. This offense is subject to a fine not exceeding \$400, or by a jail term not exceeding 3 months, or both.

This bill provides that any person who, without permission of the owner, takes any motorboat or vessel, for the purpose of temporarily using or operating the same, is guilty of a misdemeanor, punishable by a fine not exceeding \$1,000, or by imprisonment in a county jail not exceeding one year, or both.

AB 941 (Yee): Chapter 356: State mental hospitals: required reports.

(Amends Section 1372 of the Penal Code, amends Sections 4100, 7200, and 7200.06 of, and repeals Sections 7229 and 7233 of, the Welfare and Institutions Code.)

Legislative History:

Assembly Health (22-0)

Assembly Public Safety (7-0)

Assembly Appropriations (25-0)

Assembly Floor (78-0)

Senate Health & Human Services (11-0)

Senate Public Safety (6-0)

Senate Appropriations (7-0)

Senate Floor (38-0)

Existing law provides the following about state mental hospitals in the context of criminal law and proceedings:

- Under existing law, a mentally incompetent person cannot be tried or adjudged to punishment. A criminal defendant, who had been found incompetent and who has regained mental competence, shall be returned to court. The person can be returned to a hospital or other commitment facility based on a need for continued treatment in order to maintain competence to stand trial. The state shall only pay for 10 hospital days for patients following the filing of a certificate of restoration of competency. The State Department of Mental Health (DMH) must report annually in January to specified committees of the Legislature on the number of days that exceed this 10-day limit.
- Limits the number of patients who can be admitted to Napa State Hospital whose placement has been required pursuant to the Penal Code, until specified conditions are met, except as provided.
- Establishes certain state hospitals for the care and treatment of the mentally disordered, and provides that DMH has jurisdiction over these entities.

This bill revises applicable law as follows:

- Provides that the annual report from DMH on the holding of persons restored to mental competence in excess of the 10-day limit shall be filed in February. The report shall include an itemization by county the number of days that exceed the 10-day limit.
- Repeals the provision concerning the patient population of Napa State Hospital and revises other hospital requirement. Certain obsolete statutory requirements concerning the construction of the Atascadero State Hospital are repealed.
- Specifies Coalinga State Hospital as one of the entities providing care to the mentally disordered under the jurisdiction of DMH.

AB 996 (Wiggins): Chapter 647: Insurance.
(Amends Section 676.10 of the Insurance Code.)

Legislative History:

Assembly Insurance (13-6)
Assembly Floor (49-23)
Assembly Concurrence (51-26)

Senate Insurance (6-3)
Senate Floor (24-14)

Existing law provides that a commercial property insurance policy, if the insured is a religious, educational, or other nonprofit organization that is organized and operated for religious, charitable, or educational purposes, as specified, may not be canceled, nor may the insurer refuse to renew the policy, because a claim was made against the policy in the preceding 60 months for a loss that was the result of a hate crime, as defined, committed against the person or property of the insured. Existing law requires an insurer to report a cancellation or nonrenewal to the Insurance Commissioner if the insured has submitted a claim that is the result of a hate crime.

This bill provides that a premium shall not be excessive or unfairly discriminatory on that basis. This bill provides that these provisions would also apply to a reproductive health services facility or its administrative offices, and would add a claim due to an anti-reproductive-rights crime, as defined, to the claims that may not serve as the basis for a cancellation or nonrenewal. It requires an insurer to report a cancellation or nonrenewal to the commissioner if the insured has submitted a claim that is the result of an anti-reproductive-rights crime.

AB 1055 (Spitzer): Chapter 38: District attorney: special appropriation.
(Amends Section 29404 of the Government Code.)

Legislative History:

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

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

Existing law requires at the beginning of each fiscal year in counties having a population of 90,000 or more that the board of supervisors make available to the district attorney's special appropriation the sum of \$5,000, and in all other counties, the sum of \$2,500.

Existing law authorizes the district attorney to use this special appropriation to pay for, among other things, expenses incurred in criminal cases arising in the county, expenses in civil actions, proceedings, or other matters in which the county is interested, and expenses necessarily incurred in the detection of crime, except as specified.

This bill revises these provisions to require that the district attorney shall only use the special appropriation for expenses that are lawfully incurred.

AB 1301 (Simitian): Chapter 625: Alcoholic beverages and controlled substances: minors.

(Adds Section 25658.2 to the Business and Professions Code.)

Legislative History:

Assembly Public Safety (7-0)

Senate Public Safety (5-0)

Assembly Appropriations (25-0)

Senate Appropriations, SR 28.8

Assembly Floor (78-0)

Senate Floor (30-0)

Assembly Concurrence (77-0)

Existing law in the Alcoholic Beverage Control Act prohibits the sale of alcoholic beverages to, or the purchase of alcoholic beverages by, persons under the age of 21 years. A violation of these requirements is a misdemeanor.

This bill provides that a parent or legal guardian who knowingly permits his or her child, or a person in the company of the child, or both, who are under the age of 18 years, to consume an alcoholic beverage or use a controlled substance at the home of the parent or legal guardian is guilty of a misdemeanor, if the parent knowingly permits that child or other underage person, after leaving the home of the parent or legal guardian, to drive a vehicle while he or she has a blood-alcohol concentration of 0.05% or greater, as measured by a chemical test, or is under the influence of a controlled substance, and that child or underage person is found to have caused a traffic collision.

AB 1302 (Simitian): Chapter 475: Claim against the state: Ricardo Walker.

Urgency.

(Uncodified Law.)

Legislative History:

(Prior votes not relevant)

Assembly Concurrence (73-0)

Senate Floor (27-5)

Existing law requires the California Victim Compensation and Government Claims Board to report to the Legislature the facts of a case involving a claimant who has sustained pecuniary injury as a result of having been convicted of a crime for which the claimant was found to be innocent if, in addition, the claimant did not contribute to his or her arrest or conviction. The board is also required to include in its report to the Legislature, its recommendation that an appropriation be made to indemnify the claimant for the pecuniary injury; any such appropriation not be treated as gross income to the recipient under California law.

This bill appropriates \$428,000 from the General Fund to the Executive Officer of the California Victim Compensation and Government Claims Board to pay the claim of Ricardo Walker who served 12 years in prison following a conviction for murder but was ultimately found to be innocent.

This bill took effect immediately upon enactment as an urgency measure.

AB 1757 (Committee on Budget): Chapter 229: Office of Criminal Justice Planning: elimination.

(Amends Sections 273.82, 999c, 999j, 999k, 999n, 999p, 999r, 999s, 999v, 999x, 999y, 1174.2, 1191.21, 6241, 11160, 11161.2, 11166.9, 11171, 11501, 11502, 11504, 13100.1, 13800, 13812, 13823, 13823.12, 13823.13, 13823.15, 13823.16, 13823.2, 13823.4, 13823.5, 13823.9, 13823.93, 13825, 13825.10, 13826.1, 13826.15, 13826.62, 13826.7, 13830, 13832, 13833, 13835.2, 13835.6, 13835.7, 13836, 13836.1, 13837, 13843, 13844, 13846, 13847, 13847.2, 13848.2, 13848.4, 13848.6, 13851, 13854, 13861, 13864, 13876, 13879, 13879.5, 13881, 13897.2, 13897.3, 13901, 14111, 14112, 14117, 14118, 14119, 14120, 14121, 14140, and 14172 of, amends and renumbers Section 13825.10 of, repeals Sections 13821 and 13822 of, and repeals and adds Section 13820 of, the Penal Code.)

NOTE: This budget trailer bill amends numerous other sections of law that are not related to the jurisdiction of the Senate Committee on Public Safety and thus are not included in this summary.

In addition, the Governor's signing message for AB 1757 includes the following: "This bill also will require a shift in oversight responsibility for the former OCJP domestic violence program. I intend to submit a plan for administering this important program in consultation with the Legislature and persons working against domestic violence."

Legislative History:

Assembly Budget (19-10)

Senate Floor (33-2)

Assembly Floor (47-0)

Assembly Concurrence (55-17)

Existing law establishes the Office of Criminal Justice Planning, vests the office with specified powers and authority, and imposes upon the office various obligations and duties.

This bill abolishes the Office of Criminal Justice Planning, and instead provides that the powers, authority, duties and obligations of that office would be transferred to and assumed by an agency or agencies designated by the Director of Finance, as specified, and makes other conforming changes.

AB 1758 (Committee on Budget): Chapter 158: Budget trailer bill. Urgency.
(Amends Sections 30061 and 30070 of, adds Section 19851.1 to, and repeals Section 14669.20 of, the Government Code; amends Sections 6035, 6036, 6040, 6051, and 6129 of, and repeals Sections 6037, 6041, 6042, and 6043 of, the Penal Code; and amends Sections 912 and 912.1 of the Welfare and Institutions Code.)

Legislative History:

Assembly Budget (19-10)

Senate Floor (27-10)

Assembly Floor (47-0)

Assembly Concurrence (62-15)

This bill is a budget trailer bill that makes several changes to existing law, including but not limited to the following:

- Requires the Department of Corrections to establish a standardized overtime cap for correctional officers not to exceed 80 hours per month, as specified;
- Authorizes the use of up to \$275,000 of moneys made available to the Board of Corrections relating to the Supplemental Law Enforcement Services Fund, as determined by the Department of Finance, by the Board of Corrections for administrative purposes;
- Eliminates the authority of the Board of Corrections to make grants of aid to local law enforcement for purposes of training, with other conforming changes;
- Provides that local law enforcement entities *may* adhere to the standards for selection and training established by the Board of Corrections;
- Revises the duties of the Inspector General to authorize the Inspector General to conduct a management review audit of any warden in the Department of Corrections or superintendent in the Department of the Youth Authority;
- Authorizes the public to request a copy of an Inspector General report, as specified, and makes additional changes regarding investigations by the Inspector General and releases of reports;
- Requires counties that commit persons to the Department of the Youth Authority to pay either \$176 per month or a specified percentage of the per capita institutional cost, and redefines "per capita institutional cost" as \$36,504, adjusted annually according to increases in a specified consumer price index;
- Requires the Department of the Youth Authority to close a facility with a specified design capacity no later than March 1, 2005; and
- Provides that up to 50% of an amount equal to the initial full year of savings accrued in the 2005-06 fiscal year, as calculated by the Department of Finance, resulting from the closure may be available to the department annually, subject to legislative approval and appropriation to implement a specified plan regarding priorities for the department, as specified.
- Took effect immediately upon enactment as an urgency measure.

AB 1762 (Committee on Budget): Chapter 230: Budget trailer bill: restitution fund: NGI. Urgency.

(Repeals Section 13967 of the Government Code and amends Section 1026.2 of the Penal Code.)

NOTE: This budget trailer bill amends numerous other sections of law that are not related to the jurisdiction of the Senate Committee on Public Safety and thus are not included in this summary.

Legislative History:

Assembly Budget (19-10)

Senate Floor (27-10)

Assembly Floor (47-0)

Assembly Concurrence (54-22)

Existing law establishes a Restitution Fund to assist residents of the state in obtaining compensation for certain injuries suffered by victims of crime and derivative victims, as defined and requires that the Governor's Budget specify the estimated amount in the Restitution Fund that is in excess of the amount needed to pay claims against the Restitution Fund and administer the program. It authorizes use of moneys appropriated in the annual Budget Act in accordance with this provision to be used to fund programs and activities operated by the State Department of Mental Health that address the problem of unequal protection for, and unequal services to, crime victims with disabilities, as specified.

This bill repeals this authorization and the related Governor's Budget requirements.

Existing law establishes procedures for making an application for the release of a person who has been committed to a state hospital or other treatment facility upon the ground that sanity has been restored.

This bill specifies that any person to whom those procedures apply and who petitions or is recommended for restoration of sanity may not be placed in a forensic conditional release program for one year, and a finding of restoration of sanity may be made without the person being in a forensic conditional release program for one year. The bill also provides that if a finding of restoration of sanity is made, the person shall be transferred to the custody of the California Department of Corrections to serve the term of imprisonment remaining or shall be transferred to the appropriate court for imposition of the sentence that is pending, whichever is applicable.

This bill took effect immediately upon enactment as an urgency measure.

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(1) SECTIONS AFFECTED

This summary does not contain a Table of Sections Affected (TOSA). However, the TOSA prepared by the Legislative Counsel is available by computer at the Legislative Counsel's "Official California Legislative Information" site at: www.leginfo.ca.gov/.

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

(2) BUDGET RELATED ITEMS

This summary does not contain overall details about the 2003-04 State Budget, although some budget-related trailer bills (and budget provisions involving corrections) are included under the appropriate index heading. Detailed information about revisions to the 2002-03 budget and the final 2003-04 budget package, including the budget bill – AB 1765 (Chapter 157, Statutes of 2003) – and budget trailer bills, may be obtained from the "Final Action Report 2003" on the 2003-04 State Budget which is accessible at the following website by selecting committees, standing committees, Budget and Fiscal Review, Budget Committee Reports, and then Publications: <http://www.sen.ca.gov>.