

SENATE COMMITTEE ON PUBLIC SAFETY
2021 Legislative Bill Summary

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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. Readers may wish to skim the Contents section to identify any new laws of particular interest. In addition, those who focus on specific code areas may skim the Table of Sections Affected information, described below.
- ***Previous Votes not Relevant.*** The legislative history for some measures contained in this summary note where the committee/floor votes of a prior version of a measure are not included. The votes that are shown in each bill summary refer to the committee/floor votes of the signed or vetoed measure. Where measures well into the legislative process have been substantially amended (gutted) and replaced with new language, earlier votes do not provide relevant information in determining the action of the Legislature on the enacted or vetoed version of the measure.
- ***Effective Date of Bills – Effect of Urgency Clause.*** Article IV, Section 8(c) of the California Constitution provides, “. . . a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute,” and “urgency statutes shall go into effect immediately upon their enactment.” Regardless of the date a bill takes effect, some measures may contain a delayed “operative” date for all or part of the measure; that is most common when a start-up period may be useful to prepare for the measure’s impact.
- ***Contingent Measures.*** A bill may have language added which makes it operative, if enacted, only if another measure (or measures) also is enacted.
- ***Sunset Dates.*** Some measures have “sunset” dates that make them inoperative unless a later enacted statute becomes effective on or before the sunset date.
- ***Conflicts and “Double-Jointing” Language.*** If two or more measures both amend the same statutory section in the same year, then whichever measure is chaptered/enacted last will “chapter out” any changes made by the earlier measure(s) unless the last enacted bill contains double-jointing language that provides both the changes to the section made by the earlier measure(s) and the last enacted bill are to take effect. It generally may be assumed that measures in this summary which amend the same statutory section have the requisite double-jointing language so that all of the changes made by all of the measures will take effect.
- ***Jurisdiction of the Committee.*** The Senate Committee on Public Safety jurisdiction does not always include measures that involve misdemeanor and infraction criminal penalties. There are some bills, however, included in this summary which were not heard by this Committee but are included because they concern related subjects that may be of interest.

- ***Table of Sections Affected.*** This summary does not contain a Table of Sections Affected (TOSA). However, the TOSA prepared by the Legislative Counsel is available online at the Legislative Counsel’s “Official California Legislative Information” site at: <http://www.leginfo.legislature.ca.gov/>.
- ***Only “Final” Votes Included in this Summary.*** There may be more than one vote on a bill in a given legislative location. For example, hostile amendments (not offered by the author) may be proposed on the Senate Floor and those amendments may be defeated or “tabled”; a bill may first fail in a committee or on the Senate or Assembly Floor, reconsideration may be granted, and the bill may be amended and subsequently approved; or a bill may pass the Legislature and be returned at the Governor’s request with amendments then adopted before the bill is sent again to the Governor. This summary reflects only the final votes on a bill in each legislative location.
- ***Full Legislative History.*** The text of measures included in this summary, as well as analyses and vote records, are available online through the Office of Legislative Counsel, at; <http://leginfo.legislature.ca.gov/>.
- ***Online availability.*** The text of this summary is also available online at the Committee’s list of publications at www.sen.ca.gov.

Background Checks

AB-506 (Lorena Gonzalez) - Youth service organizations: mandated reporters.

(Adds Chapter 2.9 (commencing with Section 18975) to Division 8 of the Business and Professions Code.)

Existing law generally provides requirements for the licensing of business establishments. Existing law requires a business that provides services to minors, as defined, to provide written notice to the parent or guardian of a youth participating in the service offered by the business regarding the business's policies relating to criminal background checks for employees who provide services to minors, as specified. Existing law generally regulates classes of insurance, including liability insurance.

This bill requires an administrator, employee, or regular volunteer, as defined, of a youth service organization, as defined, to complete child abuse and neglect reporting training, as specified. The bill requires an administrator, employee, or regular volunteer of a youth service organization to undergo a background check, as specified. The bill requires a youth service organization to develop and implement child abuse prevention policies and procedures that, among other things, ensure the reporting of suspected incidents of child abuse to persons or entities outside of the organization.

This bill authorizes an insurer to request information demonstrating compliance with these provisions from a youth service organization before writing liability insurance for a youth service organization

Status: Chapter 169, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)

Senate Floor - (37 - 0)

Assembly Floor - (74 - 0)

Senate Public Safety - (5 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Controlled Substances

SB-73 (Wiener) - Probation: eligibility: crimes relating to controlled substances.

(Amends Section 11370 of the Health and Safety Code, amends Section 29820 of the Penal Code, repeals Section 1203.073 of the Penal Code, and repeals and adds Section 1203.07 of the Penal Code.)

Existing law prohibits granting probation or suspending a sentence for persons convicted of specified crimes relating to controlled substances, including possessing or agreeing to sell or transport opiates or opium derivatives, possessing or transporting cannabis, planting or cultivating peyote, and various crimes relating to forging or altering prescriptions, among other crimes, if the person has previously been convicted of any one of specified felony offenses relating to controlled substances. Existing law also prohibits granting probation or suspending a sentence for persons convicted of specified crimes relating to controlled substances, including possessing for sale or selling 14.25 grams or more of a substance containing heroin and possessing for sale 14.25 grams or more of any salt or solution of phencyclidine or its analogs, among other crimes.

This bill deletes various crimes relating to controlled substances, including, but not limited to, the crimes described above, from those prohibitions against granting probation or a suspended sentence. The bill authorizes the remaining prohibitions on probation to be waived by a court in the interests of justice.

Status: Chapter 537, Statutes of 2021

Legislative History:

Assembly Floor - (42 - 26)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 1)

Senate Floor - (23 - 12)

Senate Floor - (25 - 10)

Senate Public Safety - (3 - 1)

AB-527 (Wood) - Controlled substances.

(Amends Sections 11056, 11057, 11150.2, and 11165 of the Health and Safety Code, and adds Section 11059 to the Health and Safety Code.)

Existing law, the California Uniform Controlled Substances Act (the act), classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V.

This bill exempts from Schedule III specific compounds, mixtures, or preparations that contain a nonnarcotic controlled substance in combination with a derivative of barbituric acid or any salt thereof that are listed in the federal Table of Exempted Prescription Products and have been exempted pursuant to federal law or regulation. The bill exempts from Schedule IV specific compounds, mixtures, or preparations that contain a nonnarcotic controlled substance in combination with a chlordiazepoxide or phenobarbital that are listed in the federal Table of Exempted Prescription Products and have been exempted from scheduling under federal law or regulation.

Under the act, cannabis is placed in Schedule I. Cannabidiol and other cannabinoids are compounds contained in cannabis. The act restricts the prescription, furnishing, possession, sale, and use of controlled substances, including cannabis and synthetic cannabinoid compounds, and makes a violation of those laws a crime, except as specified. Existing law, if one of specified changes in federal law regarding the controlled substance cannabidiol occurs, deems a physician, pharmacist, or other healing arts licensee who prescribes, furnishes, or dispenses a product composed of cannabidiol, in accordance with federal law, to be in compliance with state law governing those acts and provides that, upon the effective date of one of those changes in federal law, the prescription, furnishing, dispensing, transfer, transportation, possession, or use of that product in accordance with federal law is for a legitimate medical purpose and is authorized pursuant to state law.

This bill expands the provisions authorizing the prescription, furnishing, dispensing, transfer, transportation, possession, or use of cannabidiol products in accordance with federal law, upon the specified changes being made to federal law, to include all products with cannabinoids.

Existing law requires the Department of Justice to maintain the Controlled Substances Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by a health care practitioner authorized to prescribe, order, administer, furnish, or dispense a Schedule II, Schedule III, or Schedule IV controlled substance. Existing law

limits the entities to which data may be provided from CURES, as well as the type of data that may be released and the uses to which it may be put.

This bill requires the Department of Justice to provide the University of California with access to identifiable data for research purposes.

Status: Chapter 618, Statutes of 2021

Legislative History:

Assembly Floor - (74 - 0)

Senate Floor - (36 - 0)

Assembly Privacy and Consumer Protection -
(10 - 0)

Senate Public Safety - (5 - 0)

Assembly Floor - (77 - 0)

Senate Business, Professions and
Economic Development - (9 - 0)

Assembly Business and Professions - (17 - 0)

AB-1542 (McCarty) - County of Yolo: Secured Residential Treatment Program.
(Amends Section 4019 of, and adds and repeals Section 1203.44 of, the Penal Code.)

Existing law authorizes a court to grant pretrial diversion to a defendant in specified cases, including when the defendant is suffering from a mental disorder, specified controlled substances crimes, and when the defendant was, or currently is, a member of the United States military. Existing law imposes various fines, fees, penalties, and assessments on a defendant in a criminal proceeding, including the fine set by statute, restitution fines and fees, and assessments to support the state court system.

This bill would have, until January 1, 2025, authorized the County of Yolo to offer a pilot program, known as the Secured Residential Treatment Program, for individuals suffering from substance use disorders (SUDs) who have been convicted of qualifying drug-motivated felony crimes, as specified. The bill would have required the program to meet certain conditions relating to, among other things, a risk, needs, and psychological assessment, a comprehensive curriculum, a determination by a judge of the length of treatment, data collection, licensing and monitoring of the facility by the State Department of Health Care Services, and reporting to the department and the Legislature.

The bill would have required the judge to offer the defendant voluntary participation in the pilot program, as an alternative to a jail or prison sentence otherwise imposed, if the defendant's crime was caused in whole or in part by the defendant's SUD, the crime was not a sex crime, serious or violent felony, or nonviolent drug possession, and the judge makes their determination based on the recommendations of the treatment providers, on a finding by the health and human services agency of the county that the defendant's participation would be appropriate, and on a specified report prepared with input from interested parties. Under the bill, the defendant would be eligible to receive credits for participation in the program, as specified.

The bill would have set forth a procedure for the transfer of a participant out of the secured residential treatment program based on the recommendations of the treatment providers or program administrators or based on the participant's request, as specified. If the participant successfully completes the court-ordered drug treatment pursuant to the pilot program, the bill would have required the court to expunge the conviction from the participant's record and would authorize the court to expunge the conviction of any previous drug possession or drug use crimes on the participant's record.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including mental health and substance use disorder services, pursuant to a schedule of benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law, with certain exceptions based in part on the type and location of the service, provides for the suspension of Medi-Cal benefits to an inmate of a public institution.

This bill would have, to the extent permitted under federal and state law, made treatment provided to a participant during the program reimbursable under the Medi-Cal program, if the participant is a Medi-Cal beneficiary and the treatment is a covered benefit under the Medi-Cal program. If treatment services are not reimbursable under the Medi-Cal program or through the participant's personal health care coverage, the bill would have authorized funds allocated to the state from the 2021 Multistate Opioid Settlement Agreement, subject to an appropriation by the Legislature, to be used to reimburse those treatment services to the extent consistent with the terms of the settlement agreement and the court's final judgment, as specified.

This bill would have made legislative findings and declarations as to the necessity of a special statute for the County of Yolo.

Status: VETOED

Legislative History:

Assembly Floor - (58 - 0)	Senate Floor - (39 - 0)
Assembly Floor - (65 - 1)	Senate Appropriations - (6 - 0)
Assembly Appropriations - (11 - 4)	Senate Health - (9 - 0)
Assembly Health - (11 - 2)	Senate Public Safety - (3 - 0)
Assembly Public Safety - (7 - 0)	

Governor's Veto Message:

I am returning Assembly Bill 1542 without my signature.

AB 1542 would authorize the County of Yolo to offer a pilot program that would allow individuals struggling with substance use disorders, who have been convicted of qualifying drug-motivated crimes, to be placed in a Secured Residential Treatment Program. I understand the importance of developing programs that can divert individuals away from the criminal justice system, but coerced treatment for substance use disorder is not the answer. While this pilot would give a person the choice between incarceration and treatment, I am concerned that this is a false choice that effectively leads to forced treatment. I am especially concerned about the effects of such treatment, given that evidence has shown coerced treatment hinders participants' long-term recovery from their substance use disorder. For these reasons, I am not able to sign this legislation.

Corrections

SB-416 (Hueso) - Corrections: educational programs.

(Amends Section 2053.1 of the Penal Code.)

Existing law requires the Secretary of the Department of Corrections and Rehabilitation to implement literacy programs in the state prison. Existing law requires the department to offer college programs through voluntary education programs or their equivalent.

This bill instead requires the department to make college programs available for the benefit of inmates with a general education development certificate or equivalent or a high school diploma and requires those college programs to only be provided by the California Community Colleges, the California State University, the University of California, or other regionally accredited, nonprofit colleges or universities. The bill provides a set of criteria to prioritize various college programs, including face-to-face instruction, comprehensive in-person support, and coordination with nonprofit postsecondary programs serving formerly incarcerated students. The bill requires the education providers to be responsible for determining and developing their curricula and degree pathways, determining certificate pathways, providing instructional staff, and determining what services will be offered to ensure incarcerated students can successfully complete the course of study.

Existing law allows the department to create regulations for the administration of the state prison. Existing regulations authorize an inmate enrolled in a full-time college program, as defined, to combine that program with a half-time work or career program to equate to a full-time work assignment.

This bill requires an inmate enrolled in a full-time college program, as specified, to be deemed by the department to be assigned to a full-time work or training assignment.

Status: Chapter 766, Statutes of 2021

Legislative History:

Assembly Floor - (74 - 0)

Assembly Appropriations - (12 - 0)

Assembly Higher Education - (12 - 0)

Assembly Public Safety - (7 - 0)

Senate Floor - (37 - 0)

Senate Floor - (38 - 0)

Senate Appropriations - (7 - 0)

Senate Education - (7 - 0)

Senate Public Safety - (5 - 0)

SB-629 (Roth) - Identification cards.

(Amends Section 3007.05 of the Penal Code and amends Section 14902 of the Vehicle Code.)

Existing law defines "eligible inmate," in part, as a person who has previously held a California driver's license or identification card, who has a usable photo on file with the Department of Motor Vehicles that is not more than 10 years old, who has no outstanding fees due for a prior identification card, and who meets certain requirements, including that they have provided, and the Department of Motor Vehicles has verified, specified information, such as the inmate's true full name.

This bill deletes the requirements that the usable photo on file be no more than 10 years old and that the person have no outstanding fees due for a prior identification card, would require a new photo to be taken if the photo on file is deemed unusable, and would require the inmate to provide, and the Department of Motor Vehicles to verify, their California residency for purposes of obtaining an identification card. The bill expands the definition of "eligible inmate" to include a person who has not previously held a California driver's license or identification card, and who meets specified requirements, including that they have signed and verified their application for an identification card. The bill also authorizes the Department of Corrections and Rehabilitation and the Department of Motor Vehicles to provide a renewed driver's license in lieu of an identification card if the inmate meets specified criteria. The bill requires the Department of Corrections and Rehabilitation to provide an inmate with a photo prison identification card if a valid identification card is not obtained prior to release. The bill requires the Department of Corrections and Rehabilitation, to the extent administratively feasible and within available resources, to facilitate the process between an eligible inmate and the agencies holding documentation required for the issuance of an identification card, as specified.

Existing law requires, upon an application for an identification card, a fee of \$26 to be paid to the Department of Motor Vehicles, except as specified, including that a fee not be charged for an original or replacement identification card for certain individuals, such as senior citizens or a person who can verify their status as a homeless person or homeless child or youth. Existing law provides for a reduced fee of \$8 for a replacement identification card issued to an eligible inmate, as defined, upon release from a state or federal correctional facility or a county jail facility. Existing law requires, as part of eligibility for the reduced fee, among other things, that the person previously held a California driver's license or identification card, and that the person has provided the Department of Motor Vehicles, upon application, a specified verification. In the case of an inmate, existing law requires that verification to be on state or federal correctional facility letterhead or county sheriff letterhead, and to contain the original signature of an official from those respective entities.

Upon release from a state correctional facility, this bill instead establishes a fee of \$8 for an original or replacement identification card issued to an eligible inmate, as defined, who meets certain requirements, including that the inmate has provided the department, upon application, a specified verification on state correctional facility letterhead that contains a signature of an official from the facility.

Status: Chapter 645, Statutes of 2021

Legislative History:

Assembly Floor - (76 - 0)

Assembly Appropriations - (15 - 1)

Assembly Transportation - (14 - 1)

Assembly Public Safety - (7 - 0)

Senate Floor - (38 - 0)

Senate Floor - (38 - 0)

Senate Transportation - (15 - 0)

Senate Public Safety - (5 - 0)

SB-804 (Glazer) - California Conservation Corps: forestry training center: formerly incarcerated individuals: reporting.

(Amends Section 14424 of, and adds Section 14415.7 to, the Public Resources Code)

Existing law establishes the California Conservation Corps in the Natural Resources Agency and requires the corps to implement and administer the conservation corps program.

Existing law authorizes the Director of the California Conservation Corps to establish the Education and Employment Reentry Program within the corps to develop, partner with, and create opportunities for certain forestry corps program objectives, collaborate with the Employment Development Department to provide access to workforce services, collaborate with nongovernmental organizations dedicated to providing access to counseling, mentorship, supportive housing, health care, and educational opportunities, and employ collaborations and partnerships available to the corps, as specified.

This bill would have required the director, upon appropriation and on or before December 31, 2023, upon appropriation and on or before December 31, 2023, in partnership with the Department of Forestry and Fire Protection and the Department of Corrections and Rehabilitation, to establish a forestry training center in northern California to provide enhanced training, education, work experience, and job readiness for entry-level forestry and vegetation management jobs. The bill would have required the training center to include counseling, mentorship, supportive housing, health care, and educational services and authorize the training center to provide training modules on specified activities. The bill would also have required the director to enroll at the training center formerly incarcerated individuals and to prioritize enrollment for those formerly incarcerated individuals who have either successfully served on a California Conservation Camp program crew and were recommended by the Director of Forestry and Fire Protection and the Secretary of the Department of Corrections and Rehabilitation, as provided, or successfully served on a hand crew at the county level and were recommended for participation by county probation and county fire departments. The bill would have provided that successful completion of a training program at the training center constitutes qualifying experience for an entry-level forestry or vegetation management position at a state agency.

Existing law requires the corps to report by December 31 of each year the total number of corps members in the cohort who permanently separated from the corps, as provided. Existing law requires the report to include specified information.

This bill would have required the report, commencing December 31, 2023, and annually thereafter, to contain specified information regarding formerly incarcerated individuals enrolled in corps programs or centers, as provided.

Status: VETOED

Legislative History:

Assembly Floor - (75 - 0)	Senate Floor - (38 - 0)
Assembly Appropriations - (16 - 0)	Senate Appropriations - (7 - 0)
Assembly Public Safety - (8 - 0)	Senate Public Safety - (5 - 0)
Assembly Natural Resources - (11 - 0)	Senate Natural Resources and Water - (8 - 0)

Governor's Veto Message:

I am returning Senate Bill 804 without my signature.

This bill would direct the California Conservation Corps (CCC) to establish a forestry training center providing training in Northern California for entry-level forestry and vegetation management jobs and prioritizing the enrollment of former conservation camp crew members, in consultation with the Department of Forestry and Fire Protection (CAL FIRE) and the Department of Corrections and Rehabilitation (CDCR).

As California continues to face unprecedented fire seasons, California has worked to expand our firefighting force. In 2020, I was proud to sign AB 2147 (Chapter 60, Statutes of 2020), which allowed for incarcerated individuals to serve as firefighters following their release. Additionally, in October 2018, CDCR, in partnership with CAL FIRE and the CCC, began a Firefighter Training and Certification Camp in Ventura County. The pilot program was established to expand employment opportunities for incarcerated individuals with the intention of preparing them for entry-level firefighting jobs following release.

I applaud the efforts laid out in this bill and encourage the author to work through the budget process to advance efforts related to the expansion of a Northern California center.

AB-110 (Petrie-Norris) - Fraudulent claims for unemployment compensation benefits: inmates.

(Amends Section 11105.9 of the Penal Code and adds Section 321.5 to the Unemployment Insurance Code.)

Existing law provides for the payment of unemployment compensation benefits to eligible persons who are unemployed through no fault of their own through a federal-state unemployment insurance program administered by the Employment Development Department (EDD), subject to oversight by the Director of EDD.

Existing law requires the Department of Justice to maintain state summary criminal history information, including the identification and criminal history of a person, including name, date of birth, social security number, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, sentencing information, and similar data about the person. Existing law requires the Attorney General to furnish this information to specified persons, agencies, or organizations, including the California Department of Corrections and Rehabilitation (CDCR), if needed in the course of their duties. Existing law makes it a crime for any person authorized by law to receive state summary criminal history information to knowingly furnish the information to a person who is not authorized by law to receive it.

This bill requires CDCR to provide the name, known aliases, birth date, social security number, and booking date and expected release date, if known, of a current inmate to the EDD for the purposes of preventing payments on fraudulent claims for unemployment compensation benefits. The bill requires this information to be provided to the EDD on the first of every month and upon the EDD's request. This bill requires, for purposes of preventing payments on fraudulent claims for unemployment compensation benefits, the Director of EDD to verify with the information provided by the CDCR that the claimant is not an inmate currently incarcerated in the state prisons. The bill requires the EDD to complete necessary system programming or automation upgrades to allow electronic monitoring of CDCR inmate data to prevent payment on fraudulent claims for unemployment compensation benefits at the earliest possible date, but not later than September 1, 2023.

Status: Chapter 511, Statutes of 2021

Legislative History:

Assembly Floor - (75 - 0)	Senate Floor - (39 - 0)
Assembly Floor - (77 - 0)	Senate Appropriations - (7 - 0)
Assembly Appropriations - (16 - 0)	Senate Labor, Public Employment and Retirement - (5 - 0)
Assembly Insurance - (13 - 0)	Senate Public Safety - (4 - 0)
Assembly Privacy and Consumer Protection - (10 - 0)	

AB-263 (Arambula) - Private detention facilities.

(Adds Section 7321 to the Government Code.)

Existing law requires the operator of a private detention facility, as defined, to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility's contract for operations, as specified.

This bill requires a private detention facility operator to comply with, and adhere to, all local and state public health orders and occupational safety and health regulations. The bill states that its provisions are declaratory of existing law.

Status: Chapter 294, Statutes of 2021

Legislative History:

Assembly Floor - (74 - 0)	Senate Floor - (39 - 0)
Assembly Floor - (71 - 0)	Senate Judiciary - (11 - 0)
Assembly Public Safety - (8 - 0)	Senate Public Safety - (4 - 0)

AB-292 (Stone) - Corrections: prison credits.

(Adds Section 2933.7 to the Penal Code.)

The California Constitution grants the Department of Corrections and Rehabilitation the authority to award credits earned for good behavior and approved rehabilitative or educational achievements and requires the department to adopt regulations in furtherance of this grant of authority.

The bill requires the department to conduct rehabilitative programming in a manner that meets specified requirements, such as prioritizing a person who has transferred between

facilities to resume rehabilitative programming, if the transfer was for nonadverse reasons, minimizing program wait times, and offering a variety of program opportunities to inmates regardless of security level or sentence length.

Status: Chapter 579, Statutes of 2021

Legislative History:

Assembly Floor - (48 - 18)

Senate Floor - (31 - 6)

Assembly Floor - (43 - 27)

Senate Appropriations - (5 - 2)

Assembly Appropriations - (12 - 4)

Senate Public Safety - (4 - 1)

Assembly Public Safety - (6 - 2)

AB-990 (Santiago) - Prisons: inmate visitation.

(Amends Sections 2600, 2601, and 6400 of the Penal Code, and adds Section 6401 to, the Penal Code.)

Under existing law, a person sentenced to imprisonment in a state prison or in a county jail for a felony offense, as specified, may during that period of confinement be deprived of only those rights as is reasonably related to legitimate penological interests. Existing law enumerates certain civil rights of these prisoners, including the right to purchase, receive, and read newspapers, periodicals, and books accepted for distribution by the United States Post Office.

This bill would have included the right to personal visits as a civil right, as specified. The bill would have provided that these civil rights may not be infringed upon, except as necessary and only if narrowly tailored to further the legitimate security interests of the government, and would have provide that any governmental action related to these civil rights may be reviewed in court for legal error under a substantial evidence standard of review.

Existing law authorizes the Secretary of the Department of Corrections and Rehabilitation to prescribe and amend rules and regulations for the administration of prisons, and requires regulations, which are adopted by the Department of Corrections and Rehabilitation, that may impact the visitation of inmates to recognize and consider the value of inmate visitation as a means of increasing safety in prisons, maintaining family and community connections, and preparing inmates for successful release and rehabilitation. Existing regulations establish the framework for establishing a visiting process in prisons that is conducted in as accommodating a manner as possible, subject to the need to

maintain order, the safety of persons, the security of institutions and facilities, and required prison activities and operations. Existing law requires the department to contract with a private nonprofit agency or agencies to establish and operate a visitor center outside of each state adult prison in California that has a population of more than 300 inmates, and prescribes the minimum level of services to be available to prison visitors, including emergency clothing and information on visiting regulations and processes. Existing law requires the department to cooperate with the Department of Transportation in the development of public transportation services to prisons, requires these departments to evaluate the addition of stations or stops on existing bus or rail routes, or the addition of new services, that improve transportation access for visitors to prisons, and requires the department to publicize the availability of transportation services provided by the Department of Transportation.

This bill would have additionally required those regulations pertaining to inmate visits to recognize and consider the right to personal visits as a civil right. The bill would have prohibited the Department of Corrections and Rehabilitation from denying in-person contact visits, as specified, including as a disciplinary sanction against the incarcerated person. The bill would have required the department to inform an applicant of the specific reason for any denial of a visit.

Status: VETOED

Legislative History:

Assembly Floor - (50 - 16)

Senate Floor - (29 - 10)

Assembly Floor - (47 - 18)

Senate Appropriations - (6 - 1)

Assembly Appropriations - (12 - 1)

Senate Public Safety - (4 - 0)

Assembly Public Safety - (6 - 1)

Governor's Veto Message:

I am returning Assembly Bill 990 without my signature.

This bill would establish the right of visitation as a protected civil right for people that are incarcerated, change the standard of review for when a custodial authority seeks to limit the civil rights of incarcerated individuals, and restrict the California Department of Corrections and Rehabilitation's (CDCR's) power to deny a person visitation rights.

My Administration has made it a priority to reform our state's rehabilitation processes, including visitation rights. In fact, this year's budget added a third day of weekly in-person visitation at all CDCR institutions and included funding to provide visitors with free

transportation on select days throughout the year to all prisons. While I am in strong support of expanding and increasing visitation opportunities, the heightened standard in this legislation is likely to result in extensive and costly litigation from individuals denied visitation for what may be valid and serious safety and security concerns. I urge the author to work with CDCR to find a solution that expands access to visitation in a manner that protects all parties.

Criminal Procedure

SB-23 (Rubio) - Disorderly conduct: distribution of intimate images: statute of limitations.

(Amends Section 803 of the Penal Code.)

Under existing law, a person is guilty of disorderly conduct, a misdemeanor, if they intentionally distribute an image that was intended to remain private of the intimate body parts of another or of the person depicted engaged in a sex act, as specified. Existing law requires prosecution for this offense to be commenced within one year after commission of the offense.

This bill instead allows prosecution for this offense to commence within one year of the discovery of the commission of the offense, but no more than 4 years after the image was distributed.

Status: Chapter 483, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (38 - 0)

Senate Floor - (39 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

SB-317 (Stern) - Competence to stand trial.

(Amends Section 4019 of, and repeals and adds Section 1370.01 of, the Penal Code.)

Existing law prohibits a person from being tried or adjudged to punishment while that person is mentally incompetent. Existing law establishes a process by which a defendant's mental competency is evaluated and by which the defendant receives treatment, including, if applicable, antipsychotic medication, with the goal of returning the defendant to competency. Existing law suspends a criminal action pending restoration to competency.

This bill repeals provisions regarding the restoration of competency for a person charged with a misdemeanor, or a violation of probation for a misdemeanor, including provisions regarding administration for antipsychotic medication. The bill instead authorizes the court to conduct an inquiry into a defendant's competency, as specified. The bill authorizes a court, upon finding the defendant incompetent to stand trial, to suspend the proceedings and take certain actions, including granting diversion not to exceed one year or dismissing the charges, as specified.

Existing law provides that a prisoner, who, for specified reasons, is confined in or committed to a county jail, industrial farm, or road camp, or a city jail, industrial farm, or road camp, shall, for each 4-day period of custody, have 2 days deducted from the prisoner's period of confinement, except as specified.

This bill extends the application of conduct credits to persons confined in a state hospital or other mental health treatment facility pending their return of mental competency.

Status: Chapter 599, Statutes of 2021

Legislative History:

Assembly Floor - (65 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (7 - 0)

Senate Floor - (32 - 5)

Senate Floor - (32 - 5)

Senate Public Safety - (5 - 0)

AB-124 (Kamlager) - Criminal procedure.

(Amends Sections 236.23 and 1170 of, and adds Sections 236.15, 236.24, and 1016.7 to, the Penal Code.)

Existing law allows a person who was arrested or convicted of a nonviolent offense while they were a victim of human trafficking to petition the court, under penalty of perjury, for vacatur relief. Existing law requires, to receive that relief, that the person establish, by clear and convincing evidence, that the arrest or conviction was the direct result of being a victim of human trafficking.

This bill creates similar relief for a person who was arrested or convicted of an offense that was the direct result of being a victim of intimate partner violence or sexual violence.

Existing law creates an affirmative defense against a charge of a crime that the person was coerced to commit the offense as a direct result of being a human trafficking victim at the time of the offense and when the person had reasonable fear of harm. Existing law prohibits this defense from being used with respect to a serious or violent felony, as defined, or a charge of human trafficking.

This bill allows that defense to be used with respect to a serious felony or a charge of human trafficking. The bill additionally creates a defense against a charge of a crime that the person was coerced to commit the offense as a direct result of being a victim of intimate partner violence or sexual violence at the time of the offense and had a reasonable fear of harm.

Existing law defines “plea bargaining” as any bargaining, negotiation, or discussion between a criminal defendant, or their counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

This bill requires the prosecutor, during plea negotiations, to consider in support of a mitigated sentence whether the person has experienced psychological, physical, or childhood trauma, was a youth, as defined, at the time of the commission of the offense, or was a victim of intimate partner violence or human trafficking.

Existing law, after January 1, 2022, requires the court, when a judgment of imprisonment is imposed and specifies three possible terms, to impose the middle term unless there are circumstances in aggravation or mitigation of the crime.

This bill requires the court to impose the lower term if the person has experienced psychological, physical, or childhood trauma, was a youth, as defined, at the time of the commission of the offense, or was a victim of intimate partner violence or human trafficking, unless the aggravating circumstances outweigh the mitigating circumstances that the imposition of the lower term would be contrary to the interests of justice.

Existing law authorizes a court, within 120 days after sentencing the defendant or at any time upon a recommendation from specified correctional entities, to recall an inmate's sentence and resentence that inmate to a lesser sentence.

This bill requires the court, when resentencing, to consider if the defendant has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence, if the defendant was a victim of intimate partner violence or human trafficking prior to or at the time of the commission of the offense, or if the defendant is a youth or was a youth at the time of the commission of the offense, and whether those circumstances were a contributing factor in the commission of the offense.

Status: Chapter 695, Statutes of 2021

Legislative History:

Assembly Floor - (55 - 16)	Senate Floor - (23 - 9)
Assembly Floor - (54 - 12)	Senate Floor - (28 - 8)
Assembly Appropriations - (12 - 4)	Senate Floor - (39 - 0)
Assembly Public Safety - (6 - 2)	Senate Appropriations - (5 - 2)
	Senate Public Safety - (4 - 0)

AB-262 (Patterson) - Human trafficking: vacatur relief for victims.

(Amends Section 236.14 of the Penal Code.)

Existing law allows a person who was arrested or convicted of a nonviolent offense while they were a victim of human trafficking to petition the court for vacatur relief. Existing law requires the petitioner to establish by clear and convincing evidence that the arrest and conviction were the direct result of being a victim of human trafficking. Existing law requires that a petition be made and heard within a reasonable time after the person has ceased to be a victim of human trafficking, or within a reasonable time after the petitioner has sought services, whichever is later. Existing law allows a petitioner, or the petitioner's attorney, to be excused from appearing in person at a hearing on the petition only if the

court finds a compelling reason why the petitioner cannot attend, in which case existing law allows the petitioner to appear by electronic means.

This bill prohibits a court from refusing to hear the petition on the basis of the petitioner's outstanding fines and fees or the petitioner's failure to meet the conditions of probation. With the exception of restitution, the bill requires that the collection of fines imposed as a result of a nonviolent offense that is the subject of the petition be stayed while the petition is pending. This bill also allows the petitioner to appear at all hearings on the petition by counsel if the petition is unopposed. The bill allows a petition to be made and heard at any time after the person has ceased to be a victim of human trafficking, or at any time after the petitioner has sought services for being a victim of human trafficking. The bill specifies that the right to petition for relief pursuant to these provisions does not expire with the passage of time.

Existing law requires the court, for petitioners who qualify for vacatur relief, to order designated law enforcement agencies to seal their records of the petitioner's arrest and the court order to seal and destroy the records within 3 years from the date of arrest, or within one year after the court order for vacatur relief is granted, whichever is later, and thereafter destroy those records. Existing law requires the court to provide the petitioner with a copy of any court order concerning the destruction of the arrest records.

This bill designates additional agencies required to seal and destroy arrest records and require all designated agencies to seal and destroy the arrest records within one year of the date of arrest, or 90 days from the date the court order for vacatur relief is granted, whichever is later. The bill also requires the court to provide the petitioner and their counsel with a copy of any form the court submits to any agency related to the sealing and destruction of arrest records. The bill requires the department to notify the petitioner and their counsel that the department has complied with the order to seal the arrest records.

Status: Chapter 193, Statutes of 2021

Legislative History:

Assembly Floor - (79 - 0)

Assembly Floor - (78 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (38 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

AB-333 (Kamlager) - Participation in a criminal street gang: enhanced sentence.

(Amends Section 186.22 of, and adds Section 1109 to, the Penal Code.)

Existing law makes it a crime, punishable as either a misdemeanor or a felony, to actively participate in a criminal street gang with knowledge that its members engage in, or have engaged in, a pattern of criminal gang activity and to actively promote, further, or assist in felonious criminal conduct by members of that gang. Existing law provides for an enhanced sentence, as specified, for a person who is convicted of a crime committed for the benefit of, at the direction of, or in association with, a criminal street gang with the specific intent to promote, further, or assist in criminal conduct by the gang members. Existing law defines “pattern of criminal gang activity” for this purpose as the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of 2 or more of a list of specified offenses, provided at least one of these offenses occurred after the effective date of these provisions and the last of those offenses occurred within 3 years after a prior offense, and the offenses were committed on separate occasions, or by 2 or more persons. Under existing law, the specified offenses to form a pattern of criminal gang activity include, among others, burglary, looting, felony vandalism, and various personal identity fraud crimes.

This bill additionally requires that the crimes committed to form a pattern of criminal gang activity have commonly benefited a criminal street gang and that the common benefit from the offenses be more than reputational, as specified. The bill removes looting, felony vandalism, and specified personal identity fraud violations from the crimes that define a pattern of criminal gang activity. The bill prohibits the use of the currently charged crime to prove the pattern of criminal gang activity.

This bill requires, if requested by the defense in a case where a sentencing enhancement for participation in a criminal street gang is charged, that the defendant’s guilt of the underlying offense first be proved and that a further proceeding on the sentencing enhancement occur after a finding of guilt. The bill requires that a charge for active participation in a criminal street gang be tried separately from all other counts that do not otherwise require gang evidence as an element of the crime.

For purposes of the enhancement, existing law defines “criminal street gang” as an ongoing organization, association, or group of 3 or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the enumerated criminal acts, having a common name or common identifying sign or symbol, and whose members individually or collectively engage in, or have engaged in, a pattern of criminal gang activity.

This bill, instead, defines “criminal street gang” as an ongoing, organized organization or group of 3 or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the enumerated criminal acts, having a common name or common identifying sign or symbol, and whose members collectively engage in, or have engaged in, a pattern of criminal gang activity.

Existing law, until January 1, 2022, requires the court, when applying the enhancement, to select the sentence that best serves the interests of justice. Existing law, on and after January 1, 2022, requires the court to instead order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation.

This bill extends to January 1, 2023, the requirement that the court select the sentence that best serves the interest of justice.

Status: Chapter 699, Statutes of 2021

Legislative History:

Assembly Floor - (41 - 30)

Assembly Floor - (43 - 27)

Assembly Floor - (38 - 27)

Assembly Public Safety - (6 - 2)

Senate Floor - (25 - 10)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

AB-419 (Davies) - Criminal procedure: victim and witness privacy.

(Amends Section 1054.2 of the Penal Code.)

Existing law prohibits an attorney from disclosing to a defendant, members of the defendant’s family, or anyone else, the address or telephone number of a victim or witness whose name is disclosed to the attorney through discovery, unless specifically permitted to do so by the court after a hearing and a showing of good cause. Existing law makes a willful violation of these provisions a misdemeanor.

This bill further prohibits the disclosure of any personal identifying information, as defined in Penal Code Section 530.55, except that it does not include name, place of employment, or an equivalent form of identification, of the victim or witness. The bill would also remove the provision making a willful violation of these provisions a misdemeanor.

Status: Chapter 91, Statutes of 2021

Legislative History:

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

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

AB-603 (McCarty) - Law enforcement settlements and judgments: reporting.

(Adds section 12525.4 to the Government Code.)

Under existing law, law enforcement agencies are required to provide the Department of Justice (DOJ) with specific information relating to the use of force by an officer. Existing law allows citizens to file civil suits against the police in cases of misconduct. The lawsuits are filed against local government and paid for by the city.

This bill would have required law enforcement agencies, including the California Highway Patrol, to annually post how much money was spent on law enforcement settlements and judgements on their respective websites.

Status: VETOED

Legislative History:

Assembly Floor - (73 - 0)
Assembly Floor - (77 - 0)
Assembly Appropriations - (16 - 0)
Assembly Public Safety - (8 - 0)

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

Governor's Veto Message:

I am returning Assembly Bill 603 without my signature.

This bill would require municipalities to annually post on their internet websites specified information relating to settlements and judgments resulting from allegations of improper police conduct. The information will include amounts paid, broken down by individual settlement and judgment, and information on bonds used to finance use of force settlement and judgment payments.

The vast majority of the information that this legislation would require to be posted on department websites is already available through a Public Records Act request or in court

records. Given this, I am concerned that this legislation is not only unnecessary, but that it will also have potentially significant General Fund costs associated with the imposition of a state-reimbursable mandate on local law enforcement agencies.

AB-700 (Cunningham) - Criminal procedure: arraignment and trial.

(Amends Sections 977, 1043, and 1043.5 of the Penal Code.)

Existing provisions of the California Constitution provide a criminal defendant the right to be personally present with counsel at trial. Existing law requires a defendant to be present at a felony trial or preliminary hearing. Existing law, however, also authorizes a court to proceed, in the defendant’s absence, with a trial or preliminary hearing that has commenced in the presence of the defendant, but from which the defendant is voluntarily absent or has been removed from the courtroom for disruptive behavior, as specified.

This bill specifies that a trial or preliminary hearing shall be deemed to have “commenced in the presence” of a defendant who is in custody and refuses to appear in court, if the court makes certain specified findings on the record, by clear and convincing evidence.

Existing law authorizes a court, in a misdemeanor case, to proceed in the defendant’s absence, as specified, if a defendant has provided a waiver and is represented by counsel.

This bill allows the court to proceed, with or without a waiver, in any misdemeanor case in which the defendant is in custody and refuses to appear in court, if the court makes certain specified findings on the record, by clear and convincing evidence.

Status: Chapter 196, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (36 - 0)

Senate Public Safety - (5 - 0)

AB-750 (Jones-Sawyer) - Crimes: perjury.

(Repeals and adds section 118.1 of the Penal Code.)

Existing law establishes any person, who has taken an oath, testifying information that they know to be false is guilty of perjury. Similarly, any peace officer filing a report with false information, is also guilty of perjury. Current law does not cover the event of a separate officer filing a report with false information on behalf of his colleague.

This bill expands existing law by closing a loophole, in which any officer filing a report with false information will be held accountable.

Status: Chapter 267, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)

Senate Floor - (37 - 0)

Assembly Appropriations - (16 - 0)

Senate Appropriations - (7 - 0)

Assembly Public Safety - (8 - 0)

Senate Public Safety - (5 - 0)

AB-764 (Cervantes) - Contempt of court: victim intimidation.

(Amend Section 166 of the Penal Code.)

Existing law makes it a misdemeanor to willfully disobey the terms of a court order or out-of-state court order, lawfully issued by a court. Under existing law, if a person violates this provision by willfully contacting a victim by telephone or mail or directly and has a prior conviction for stalking, as defined, the person may be punished by not more than one year in county jail, a fine of \$5,000, or both that fine and imprisonment.

The bill expands the above punishment to a person with a prior conviction for stalking who has violated a court order by willfully contacting the victim by social media, electronic communication, or electronic communication device. This bill clarifies that the applicable fine is to be no more than \$5,000.

Status: Chapter 704, Statutes of 2021

Legislative History:

Assembly Floor - (73 - 0)

Senate Floor - (37 - 0)

Assembly Floor - (76 - 0)

Senate Appropriations - (7 - 0)

Assembly Appropriations - (16 - 0)

Senate Public Safety - (5 - 0)

Assembly Public Safety - (8 - 0)

AB-898 (Lee) - Criminal records: automatic conviction record relief.

(Amends Sections 1203.425, 1203.9, and 13151 of the Penal Code.)

Existing law, commencing July 1, 2022, requires the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and identify persons who are eligible for specified automatic conviction record relief. Existing law, commencing July 1, 2022, requires the department to inform the superior court having jurisdiction over criminal matters of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Existing law permits a prosecuting attorney or probation department to file a petition to prohibit the department from granting automatic relief upon showing that the relief would pose a substantial threat to public safety. Existing law requires a court, upon noticed motion, whenever a person is released on probation or mandatory superior court, to transfer the case to the court in the county where the person permanently resides, except as specified.

This bill requires the department, in cases where probation has been transferred, to electronically submit notice of conviction record relief to both the transferring court and any subsequent receiving court. The bill requires a receiving court that reduces a felony to a misdemeanor or dismisses a conviction under specified provisions to provide a disposition report to the department with the original case number from the transferring court. If probation was transferred multiple times, the bill requires the department to electronically submit notice to all involved courts in a mutually agreed upon format. The bill further requires any court receiving notice of a reduction or dismissal to update its records to reflect the same. The bill requires the receiving court to provide a receipt of records from the transferring court, including the new case number. The bill requires the transferring court to report to the department that probation was transferred and identify the receiving court and new case number, if applicable. The bill requires a prosecuting attorney or probation department, in either the receiving county or transferring county, seeking to file a petition to prohibit the department from granting automatic relief to file the petition in the county of current jurisdiction.

Status: Chapter 202, Statutes of 2021

Legislative History:

Assembly Floor - (49 - 6)

Assembly Floor - (76 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (38 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

AB-1228 (Lee) - Supervised persons: release.

(Amends Section 1203.2 of, and adds Section 1203.25 to, the Penal Code.)

Existing law authorizes a probation officer, parole officer, or peace officer to rearrest a person without warrant or other process during the period that a person is released on probation, conditional sentence or summary probation, or mandatory supervision, or when the person is subject to revocation of postrelease community supervision or parole supervision, if the officer has probable cause to believe that the supervised person is violating the terms of their supervision. Existing law allows a court to order the release of a supervised person from custody under terms and conditions the court deems appropriate, unless the person is serving a period of flash incarceration.

This bill requires a court that elects to order the release of persons on probation pursuant to the above provision to release persons on probation on their own recognizance pending a formal revocation hearing absent a finding by clear and convincing evidence that conditions of release are required by the individual circumstances of the case in order to reasonably protect the public and provide reasonable assurance of the person's future appearance in court. The bill prohibits a court from imposing cash bail as a condition of release absent a showing by clear and convincing evidence that other reasonable conditions of release would be inadequate to encourage the person to attend court in compliance with the court's orders. The bill requires the court to consider the person's ability to pay cash bail and would require any bail order to be set at a level the person could reasonably afford. The bill also prohibits the court from imposing the costs of any imposed conditions on the supervised person.

The bill prohibits the court from denying release for a person on probation for felony conduct before the court holds a formal probation revocation hearing unless the court finds by clear and convincing evidence that there are no means reasonably available that would encourage the person to attend court as ordered. The bill specifies that these provisions do not limit the court's authority to hold, release, limit release, or impose conditions of release for new charges.

Status: Chapter 533, Statutes of 2021

Legislative History:

Assembly Floor - (48 - 22)

Assembly Floor - (50 - 20)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (25 - 11)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

AB-1247 (Chau) - Criminal procedure: limitations of actions.

(Adds Section 801.7 to the Penal Code.)

Existing law establishes various crimes relating to computer services and systems, including, among others, knowingly and without permission accessing or causing to be accessed any computer, computer system, or computer network. Existing law requires that prosecution for a felony violation of these crimes be commenced within 3 years after the commission of the offense.

This bill instead requires the prosecution for a felony violation of those computer-related crimes to be commenced within 3 years after discovery of the commission of the offense, or within 3 years after the offense could have reasonably been discovered, and requires the filing of a criminal complaint within 6 years of the commission of the offense. The bill applies that 3-year statute of limitations to crimes that are committed on or after January 1, 2022, and to crimes for which the statute of limitations that was in effect prior to January 1, 2022, has not run as of January 1, 2022.

Status: Chapter 206, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (37 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

AB-1259 (Chiu) - Criminal procedure: motion to vacate.

(Amends Section 1473.7 of the Penal Code.)

Existing law allows a person who is no longer in criminal custody to file a motion to vacate a conviction or sentence based on a prejudicial error damaging to the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a plea of guilty or nolo contendere.

This bill instead authorizes a person to make that motion based on a prejudicial error damaging to the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence.

Status: Chapter 420, Statutes of 2021

Legislative History:

Assembly Floor - (53 - 19)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (27 - 10)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

AB-1540 (Ting) - Criminal procedure: resentencing.

(Amends Sections 1170 and 5076.1 of, and adds Section 1170.03 to, the Penal Code.)

Existing law authorizes a court, within 120 days after sentencing the defendant or at any time upon a recommendation from the Secretary of the Department of Corrections and Rehabilitation, the Board of Parole Hearings, the district attorney, to recall an inmate's sentence and resentence that inmate to a lesser sentence. Existing law requires the court, when resentencing, to apply the rules of the Judicial Council to eliminate disparity of sentences and promote uniformity of sentencing. Existing law authorizes a court to reduce a defendant's term of imprisonment and modify the judgment if it is in the interest of justice.

This bill requires the court to state its reasons for a resentencing decision on the record, as specified. This bill requires the court to provide notice to the defendant, set a status conference within 30 days of the receipt of the request, and appoint counsel for the defendant. This bill authorizes the court to grant a resentencing without a hearing, if the parties are in agreement. The bill additionally creates a presumption favoring recall and resentencing the defendant in those hearings, as specified.

Status: Chapter 719, Statutes of 2021

Legislative History:

Assembly Floor - (47 - 24)

Assembly Floor - (53 - 20)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (23 - 9)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

Domestic Violence

SB-538 (Rubio) - Domestic violence and gun violence restraining orders.

(Amends Section 6222 of the Family Code, adds Sections 6307 and 6308 to the Family Code, amends Section 18121 of and adds Section 18123 to the Penal Code, and repeals and adds Section 18122 of the Penal Code.)

Existing law permits a petitioner to seek a restraining order to protect against domestic violence or gun violence. Existing law requires the court to hold a hearing before issuing the restraining order, but the court may, in specified circumstances, issue an ex parte restraining order that is effective until the hearing. Existing law prescribes additional procedures for granting or denying a domestic violence restraining order or gun violence restraining order. Existing law prohibits a filing fee for an application, a responsive pleading, or an order to show cause that seeks to obtain, modify, or enforce a domestic violence protective order or a gun violence restraining order, as specified.

This bill requires, by July 1, 2023, a court or court facility that receives petitions for domestic violence restraining orders or gun violence restraining orders to permit those petitions to be filed electronically. The bill permits parties and witnesses to appear remotely at a hearing on a petition for a gun violence restraining order or domestic violence restraining order. The bill also requires the superior court of each county to provide telephone numbers for the public to call to obtain information regarding electronic filing and remote appearances, respectively. The bill requires the superior court of each county to develop, and to post on its internet website, local rules and instructions for electronic filing and remote appearances, respectively. The bill prohibits fees for any filings related to a domestic violence restraining order or a gun violence restraining order.

Status: Chapter 686, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Assembly Judiciary - (9 - 0)

Senate Floor - (38 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

Senate Judiciary - (11 - 0)

AB-673 (Salas) - Domestic violence.

(Amends Section 13823.15 of the Penal Code.)

Existing law establishes the Comprehensive Statewide Domestic Violence Program in the Office of Emergency Services to, among other things, provide local assistance to existing service providers and to establish a targeted or directed program for the development and establishment of domestic violence services in currently unserved and underserved areas. Existing law requires the Office of Emergency Services to provide financial and technical assistance to local domestic violence centers in implementing specified services.

This bill requires that the portion of any grant funding awarded pursuant to this provision that is funded by the state be distributed to the recipient in a single disbursement at the beginning of the grant period.

Status: Chapter 680, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)

Senate Floor - (39 - 0)

Assembly Floor - (77 - 0)

Senate Public Safety - (5 - 0)

Assembly Appropriations - (14 - 0)

Assembly Public Safety - (8 - 0)

AB-689 (Petrie-Norris) - Comprehensive Statewide Domestic Violence Program.

(Amends section 13823.15 of the Penal Code.)

Existing law identifies and establishes the role and goals of the Comprehensive Statewide Domestic Violence Program (CSDVP) within the Governor's Office of Emergency Services (Cal OES). Current law defines and explains the administrative duties of Cal OES in relation to the CSDVP, including the allocation of funds and providing assistance to domestic violence centers. These centers implement services such as: 24 hour hotlines, counseling, emergency transportation and emergency food.

This bill modernizes crisis communication by requiring Cal OES to provide technical and financial assistance to centers implementing 24 hour hotlines, that in addition to telephone service, also include texting and computer chat.

Status: Chapter 152, Statutes of 2021

Legislative History:

Assembly Floor - (71 - 0)

Senate Floor - (39 - 0)

Assembly Floor - (75 - 0)

Senate Public Safety - (4 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Elder and Dependent Adult Abuse

AB-636 (Maienschein) - Financial abuse of elder or dependent adults.

(Amends Section 15633.5 of the Welfare and Institutions Code.)

Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes procedures and requirements for the reporting, investigation, and prosecution of elder and dependent adult abuse. Existing law makes specified reports, including reports of known or suspected financial abuse of an elder or dependent adult, confidential. Existing law requires information relevant to the incident of elder or dependent adult abuse to be given to specified investigators, including investigators from an adult protective services agency, a local law enforcement agency, and the probate court.

This bill also authorizes information relevant to the incident of elder or dependent adult abuse to be given to a federal law enforcement agency, under certain circumstances, for the sole purpose of investigating a financial crime committed against the elder or dependent adult and would authorize the information to be given to a local code enforcement agency for the sole purpose of investigating an unlicensed care facility where the health and safety of an elder or dependent adult resident is at risk.

Status: Chapter 621, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)

Senate Floor - (39 - 0)

Assembly Floor - (73 - 0)

Senate Judiciary - (11 - 0)

Assembly Aging and Long Term Care - (7 - 0) Senate Public Safety - (4 - 0)

Evidence

SB-215 (Leyva) - DNA evidence.

(Amends sections 680.1 and 680.3 of the Penal Code.)

Existing law requires law enforcement agencies to report specific rape kit evidence within 120 days of receiving it and allows survivors to inquire about the information and location of their kits.

This bill will instead allow the survivors of sexual assault to privately and securely track updates on their evidence kit through an electronic database.

Status: Chapter 634, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (40 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (4 - 0)

AB-341 (Boerner Horvath) - Credibility of witnesses: sexual conduct: social media content.

(Amends Section 782 of the Evidence Code.)

Existing law sets forth the procedure required in any prosecution for rape or other specified offenses, with certain exceptions, if evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness. This procedure involves, among other things, the filing of a written motion by the defendant, accompanied by an affidavit filed under seal stating an offer of proof, and, if the court determines that the offer is sufficient, a hearing out of the presence of the jury regarding the offer of proof. At the conclusion of the hearing, the court may make an order stating what evidence may be introduced by the defendant.

This bill defines “evidence of sexual conduct” for these purposes to include the portions of a social media account about the complaining witness that depict sexual content, as specified, unless the content is related to the alleged offense.

Status: Chapter 24, Statutes of 2021

Legislative History:

Assembly Floor - (74 - 0)

Senate Floor - (37 - 0)

Assembly Public Safety - (8 - 0)

Senate Public Safety - (4 - 0)

AB-939 (Cervantes) - Sex offenses: evidence.

(Amends Section 1103 of the Evidence Code.)

Existing law prohibits, during the prosecution of specified sex crimes, the admission of evidence of the manner in which the victim was dressed, when offered by either the prosecution or the defendant on the issue of consent, unless the court finds the evidence relevant and admissible in the interests of justice.

This bill prohibits the court from admitting evidence of the manner in which the victim was dressed in the above circumstances, regardless of whether there is a finding that the evidence is relevant and admissible in the interests of justice.

Status: Chapter 529, Statutes of 2021

Legislative History:

Assembly Floor - (80 - 0)

Senate Floor - (38 - 0)

Assembly Floor - (75 - 0)

Senate Public Safety - (5 - 0)

Assembly Public Safety - (8 - 0)

Fines and Penalty Assessments

AB-1104 (Grayson) - Air ambulance services.

(Amends Section 76000.10 of the Government Code, and adds Section 14124.15 to the Welfare and Institutions Code.)

Existing law imposes a penalty of \$4 until July 1, 2021, upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, other than a parking offense. The act requires the county or court that imposed the fine to transfer the revenues collected to the Treasurer for deposit into the Emergency Medical Air Transportation and Children’s Coverage Fund. Existing law requires the assessed penalty

to continue to be collected, administered, and distributed until exhausted or until December 31, 2022, whichever occurs first. These provisions remain in effect until January 1, 2024, and are repealed effective January 1, 2025.

This bill extends the assessment of penalties pursuant to the above-described provisions until December 31, 2022, and would extend the collection and transfer of penalties until December 31, 2023.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law authorizes an eligible provider to receive increased reimbursement, by application of an add-on increase to the associated Medi-Cal fee-for-service payment schedule, for emergency medical transports provided to applicable Medi-Cal beneficiaries, and excludes air ambulances from that increased reimbursement.

Effective January 1, 2023, subject to appropriation by the Legislature, this bill requires the department to design and implement a supplemental payment program for emergency medical air transportation services to increase the Medi-Cal reimbursement in an amount not to exceed normal and customary charges charged by qualified emergency medical air transportation providers. The bill requires the department to seek any necessary federal approvals to implement these provisions and would make these provisions inoperative if the federal Centers for Medicare or Medicaid Services denies approval for the implementation of these provisions, if the Legislature fails to appropriate funds, as specified, or if a lawsuit related to this implementation is filed against the state and a preliminary injunction or other order is issued that results in a financial disadvantage to the state, including, but not limited to, a loss of federal financial participation. The bill authorizes the department to implement, interpret, or make specific these provisions, in whole or in part, and any applicable federal waivers and state plan amendments by means of plan letters, plan or provider bulletins, or similar instructions without taking any further regulatory action.

Status: Chapter 476, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)	Senate Floor - (39 - 0)
Assembly Floor - (79 - 0)	Senate Appropriations - (7 - 0)
Assembly Appropriations - (16 - 0)	Senate Public Safety - (5 - 0)
Assembly Health - (15 - 0)	Senate Health - (10 - 0)

Firearms and Dangerous Weapons

SB-264 (Min) - Firearms: state and county property.

(Adds Section 27575 to the Penal Code.)

Existing law divides the state in agricultural districts. Existing law additionally allows for the establishment of District Agricultural Associations within each agricultural district, for the purposes of holding fairs, expositions and exhibitions, and constructing, maintaining, and operating recreational and cultural facilities of general public interest. Bringing or possessing a firearm within any state or local public building is punishable by imprisonment in a county jail for not more than one year, or in the state prison, unless a person brings any weapon that may be lawfully transferred into a gun show for the purpose of sale or trade.

Existing law prohibits the sale, lease, or transfer of firearms without a license, unless the sale, lease, or transfer is pursuant to operation of law or a court order, made by a person who obtains the firearm by intestate succession or bequest, or is an infrequent sale, transfer, or transfer, as defined. Licensed dealers may sell firearms only from their licensed premises and at gun shows. A dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all local ordinances, regulations, and fees. No person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from the Department of Justice. The requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the Department of Justice, as specified. Unless a different penalty is expressly provided, a violation of any provision of the Food and Agricultural Code is a misdemeanor.

Existing law prohibits the sale of firearms and ammunitions at the Del Mar Fairgrounds. By default, a violation of any provision of the Food and Agricultural code is a misdemeanor, unless otherwise specified.

This bill prohibits the sale of firearms, firearm precursor parts, or ammunition on the property of the 32nd District Agricultural Association (Orange County Fair and Event Center).

Status: Chapter 684, Statutes of 2021

Legislative History:

Assembly Floor - (51 - 21)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (5 - 2)

Senate Floor - (28 - 8)

Senate Floor - (29 - 9)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

SB-715 (Portantino) - Criminal law.

(Amends Section 12525.3 of the Government Code, and to amend Sections 11106, 11108.2, 26406, 27505, 27570, 28050, 28055, 28100, 28210, 28215, 28220, 28230, 29610, 29615, 29700, 29750, 31700, and 32000 of, amends the heading of Article 1 (commencing with Section 29610) of Chapter 1 of Division 9 of Title 4 of Part 6 of, to add Sections 16685, 26537, 27963, 31833, and 31834 to, and repeals and adds Section 27945 of, the Penal Code.)

Existing law restricts the sale of firearms to any person under the age of 21-years, unless they hold a valid hunting license from the Department of Fish and Wildlife. Additionally, existing law requires persons who purchase a firearm to undergo a 10-day waiting period and undergo a background check through the California Department of Justice (DOJ). The sale, transfer, or loan of a firearm must go through a licensed firearms dealer and the recipient must possess a valid firearm safety certificate.

This bill prohibits minors from possessing a semiautomatic centerfire rifle with specified exemptions. This bill prohibits, as of July 1, 2023, minors from possessing any firearm with specified exemptions. The provisions of this bill provide until July 1, 2024, that when a dealer is unable to process a transfer of a firearm, and the dealer cannot legally return the firearm to the transferor or the seller or the person loaning the firearm, then the dealer must deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in a specified manner. This new law authorizes a dealer who cannot legally return a firearm to the transferor or seller or the person loaning the firearm to charge a fee of up to \$10 for any firearm stored by the dealer. This bill exempts any federally licensed manufacturer of ammunition, as specified, from state licensing requirements pertaining to firearms and ammunition, as specified. This bill defines a valid and unexpired hunting license as one that has been issued but has not yet expired. This bill clarifies that a state prosecutor must investigate and gather facts in an incident involving a shooting by a peace

officer that results in the death of a civilian if the civilian was unarmed, or if there is a reasonable dispute as to whether the civilian was unarmed.

Status: Chapter 250, Statutes of 2021

Legislative History:

Assembly Floor - (54 - 22)

Senate Floor - (26 - 9)

Assembly Floor - (52 - 12)

Senate Floor - (30 - 7)

Assembly Appropriations - (12 - 4)

Senate Appropriations - (5 - 2)

Assembly Public Safety - (6 - 1)

Senate Public Safety - (4 - 1)

AB-1057 (Petrie-Norris) - Firearms.

(Adds Section 6216 to the Family Code, and amends, repeals, and adds Section 16520 of the Penal Code.)

Existing law generally regulates the transfer and possession of firearms. Existing law defines a firearm as a device, designed to be used as a weapon, from which a projectile is expelled through a barrel by force of an explosion or other form of combustion. Existing law also defines a firearm precursor part as a component of a firearm that is necessary to build or assemble a firearm and is either an unfinished handgun frame or an unfinished receiver, as specified.

Existing law authorizes an immediate family member of a person or a law enforcement officer to request that a court, after notice and a hearing, issue a gun violence restraining order against that person, prohibiting the subject of the petition from having in their custody or control, or owning, purchasing, possessing, or receiving, a firearm or ammunition, as specified. Under existing law, a violation of a gun violence restraining order is a crime. Existing law permits a person to seek a restraining order to protect against domestic violence, as specified. Existing law prohibits a person subject to that restraining order from owning, possessing, purchasing, or receiving a firearm, and makes a violation of that prohibition a crime.

The bill, starting on and after July 1, 2022, defines a firearm, for the purpose of the specified gun violence and domestic violence restraining order provisions, to include a frame or receiver of the weapon or a firearm precursor part.

Status: Chapter 682, Statutes of 2021

Legislative History:

Assembly Floor - (75 - 0)

Assembly Floor - (75 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (36 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

AB-1191 (McCarty) - Firearms: tracing.

(Amends section 11108.3 of the Penal Code.)

Under current law, law enforcement agencies are required to enter firearms that have been reported stolen, lost, or found into the Department of Justice Automated Firearm System. Existing law states the firearm must remain in the system until it is recovered and the corresponding information shall be maintained by DOJ for a minimum of 10 years.

This bill requires DOJ to analyze existing data collected by law enforcement agencies, including the number of firearms recovered by county and the number of unserialized firearms, and report their findings to the legislature. This report is due no later than July 1, 2023.

Status: Chapter 683, Statutes of 2021

Legislative History:

Assembly Floor - (65 - 0)

Assembly Floor - (69 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (37 - 1)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

Hate Crimes

AB-600 (Arambula) - Hate crimes: immigration status.

(Amends Section 422.56 of the Penal Code.)

Existing law makes an act punishable as a hate crime if it is a criminal act committed, in whole or in part, because of an actual or perceived characteristic of the victim relating to the victim’s disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived

characteristics. Existing law defines “nationality” for this purpose to include citizenship, country of origin, and national origin. Under existing law, a person who commits a crime that is a hate crime is required to receive an enhanced sentence.

This bill expands the definition of nationality to include immigration status, thereby making it a hate crime to commit a criminal act, in whole or in part, because of the victim’s actual or perceived immigration status. This bill also makes technical, conforming changes.

Status: Chapter 295, Statutes of 2021

Legislative History:

Assembly Floor - (70 - 0)

Senate Floor - (35 - 0)

Assembly Floor - (71 - 0)

Senate Appropriations - (6 - 0)

Assembly Appropriations - (14 - 0)

Senate Public Safety - (5 - 0)

Assembly Public Safety - (7 - 0)

Human Trafficking and Commercial Sexual Exploitation

AB-124 (Kamlager) - Criminal procedure.

(Amends Sections 236.23 and 1170 of, and adds Sections 236.15, 236.24, and 1016.7 to, the Penal Code.)

Existing law allows a person who was arrested or convicted of a nonviolent offense while they were a victim of human trafficking to petition the court, under penalty of perjury, for vacatur relief. Existing law requires, to receive that relief, that the person establish, by clear and convincing evidence, that the arrest or conviction was the direct result of being a victim of human trafficking.

This bill creates similar relief for a person who was arrested or convicted of an offense that was the direct result of being a victim of intimate partner violence or sexual violence.

Existing law creates an affirmative defense against a charge of a crime that the person was coerced to commit the offense as a direct result of being a human trafficking victim at the time of the offense and when the person had reasonable fear of harm. Existing law prohibits this defense from being used with respect to a serious or violent felony, as defined, or a charge of human trafficking.

This bill allows that defense to be used with respect to a serious felony or a charge of human trafficking. The bill additionally creates a defense against a charge of a crime that the person was coerced to commit the offense as a direct result of being a victim of intimate partner violence or sexual violence at the time of the offense and had a reasonable fear of harm.

Existing law defines “plea-bargaining” as any bargaining, negotiation, or discussion between a criminal defendant, or their counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

This bill requires the prosecutor, during plea negotiations, to consider in support of a mitigated sentence whether the person has experienced psychological, physical, or childhood trauma, was a youth, as defined, at the time of the commission of the offense, or was a victim of intimate partner violence or human trafficking.

Existing law, after January 1, 2022, requires the court, when a judgment of imprisonment is imposed and specifies three possible terms, to impose the middle term unless there are circumstances in aggravation or mitigation of the crime.

This bill requires the court to impose the lower term if the person has experienced psychological, physical, or childhood trauma, was a youth, as defined, at the time of the commission of the offense, or was a victim of intimate partner violence or human trafficking, unless the aggravating circumstances outweigh the mitigating circumstances that the imposition of the lower term would be contrary to the interests of justice.

Existing law authorizes a court, within 120 days after sentencing the defendant or at any time upon a recommendation from specified correctional entities, to recall an inmate’s sentence and resentence that inmate to a lesser sentence.

This bill requires the court, when resentencing, to consider if the defendant has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence, if the defendant was a victim of intimate partner violence or human trafficking prior to or at the time of the commission of the offense, or if the defendant is a youth or was a youth at the time of the commission of the offense, and whether those circumstances were a contributing factor in the commission of the offense.

Status: Chapter 695, Statutes of 2021

Legislative History:

Assembly Floor - (55 - 16)

Assembly Floor - (54 - 12)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (23 - 9)

Senate Floor - (28 - 8)

Senate Floor - (39 - 0)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 0)

Jurors

AB-1452 (Ting) - Pilot program: increased fee for low-income jurors: criminal trials.

(Adds and repeals section 240 of the Code of Civil Procedure.)

Under current law a juror can be paid \$15 a day for their attendance in superior court if they meet specific qualifications. Existing law states any juror employed by federal, state or local government who is compensated during their jury service is not eligible to receive those payments.

This bill authorizes San Francisco Superior Court to launch a pilot program to increase the pay of low income jurors. The pilot program shall pay jurors \$100 per day, for each day of attendance. The jurors are eligible to receive this payment if their household income for the past 12 months is less than 80% of San Francisco's median income and they meet one of the following:

- Juror's employer does not compensate for any jury service;
- Juror's employer does not compensate for jury service for the estimated duration of the trial;
- Juror is self-employed; or
- Juror is unemployed.

This bill requires a third party entity to prepare an analysis of the data collected from this pilot program and submit their findings to the legislature no later than December 31, 2023. This section will be repealed on January 1, 2025.

Status: Chapter 717, Statutes of 2021

Legislative History:

Assembly Floor - (73 - 0)

Assembly Floor - (76 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (36 - 3)

Senate Public Safety - (5 - 0)

Juvenile Justice

SB-383 (Cortese) - Juveniles: informal supervision: deferred entry of judgment.

(Amends Sections 654.3, 790, and 791 of the Welfare and Institutions Code.)

Existing law subjects a person between 12 and 17 years of age, inclusive, who commits a crime, and a person under 12 years of age who commits specified crimes, to the jurisdiction of the juvenile court, which may adjudge that person to be a ward of the court. Existing law authorizes a probation officer, in certain circumstances, to delineate a specific program of supervision for a minor who is alleged to have committed a crime. Existing law makes a minor ineligible for that program of supervision for specified reasons, including if the minor is alleged to have sold or possessed for sale a controlled substance or is alleged to have committed an offense in which the restitution owed to the victim exceeds \$1,000, except in those unusual cases in where the interest of justice would best be served. The Gang Violence and Juvenile Crime Prevention Act of 1998, approved as Proposition 21 at the March 7, 2000, statewide primary election, also makes a minor ineligible for this program of supervision if the minor is alleged to have committed a felony offense when the minor was at least 14 years of age, except in unusual cases in which the court determines that the interest of justice would best be served by placement of the minor in the program of supervision.

This bill deletes the prohibitions on including in that program of supervision minors alleged to have sold or possessed for sale a controlled substance, minors alleged to have committed certain offenses related to controlled substances while on school grounds, and minors alleged to have committed a felony offense when the minor was at least 14 years of age. The bill also prohibits a minor's inability to pay restitution due to the minor's indigence from being grounds for finding a minor ineligible for that program of supervision or a finding that the minor has failed to comply with the terms of the program of supervision.

Under existing law, as added by Proposition 21, a minor may be eligible for deferred entry of judgment if certain conditions apply. If a minor is eligible for deferred entry of judgment, existing law requires the prosecutor to file a declaration with the court explaining the minor's eligibility. Existing law requires the prosecutor to make the information contained in the declaration available to the minor and their attorney and requires the written notification to the minor to include, among other things, a statement relating to the effect if the minor fails to comply with the terms of the program and judgment is entered. Existing law authorizes the court to order the probation department to investigate the minor, determine which programs would accept the minor, and report its findings and recommendations to the court. Existing law authorizes the court to grant deferred entry of judgment if the court finds that the minor is suitable for deferred entry of judgment and would benefit from education, treatment, and rehabilitation efforts.

This bill deletes the requirement that the prosecutor's written notification to the minor include that statement. The bill also authorizes a court, if a minor is eligible for deferred entry of judgment, but the minor resides in a different county and the case will be transferred to the minor's county of residence, to adjudicate the case without determining the minor's suitability for deferred entry of judgment. The bill authorizes the receiving court to order the probation department to make the investigation and file the report and recommendations described above; determine the minor's suitability for deferred entry of judgment; and modify the transferring court's finding accordingly.

Status: Chapter 603, Statutes of 2021

Legislative History:

Assembly Floor - (58 - 16)

Assembly Appropriations - (10 - 3)

Assembly Public Safety - (6 - 1)

Senate Floor - (29 - 7)

Senate Floor - (32 - 6)

Senate Public Safety - (5 - 0)

AB-624 (Bauer-Kahan) - Juveniles: transfer to court of criminal jurisdiction: appeals.

(Adds Section 801 to the Welfare and Institutions Code.)

Existing law subjects a minor between 12 and 17 years of age, inclusive, who violates any federal, state, or local law or ordinance to, and a minor under 12 years of age who is alleged to have committed specified serious offenses to the jurisdiction of the juvenile court, which

may adjudge the minor to be a ward of the court. Existing law authorizes the district attorney to make a motion to transfer a minor from juvenile court to a court of criminal jurisdiction in a case in which a minor is alleged to have committed a felony when the minor was 16 years of age or older, or in a case in which a specified serious offense is alleged to have been committed by a minor when the minor was 14 or 15 years of age, but the minor was not apprehended prior to the end of juvenile court jurisdiction.

This bill makes an order transferring a minor from a juvenile court to a court of criminal jurisdiction subject to appeal. This bill requires an order transferring a minor from the juvenile court to a court of criminal jurisdiction to be subject to immediate appellate review if a notice of appeal is filed within 30 days of the order transferring the minor. The bill, upon request of the minor, requires the superior court to issue a stay of the criminal court proceedings until a final determination of the appeal. The bill requires the appeal to have precedence in the court to which the appeal is taken and to be determined as soon as practicable after the notice of appeal is filed. The bill also requires the Judicial Council to adopt rules of court, as specified.

Status: Chapter 195, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)

Senate Floor - (39 - 0)

Assembly Appropriations - (16 - 0)

Senate Public Safety - (5 - 0)

Assembly Public Safety - (8 - 0)

Mental Health

SB-317 (Stern) - Competence to stand trial.

(Amends Section 4019 of, and repeals and adds Section 1370.01 of, the Penal Code.)

Existing law prohibits a person from being tried or adjudged to punishment while that person is mentally incompetent. Existing law establishes a process by which a defendant's mental competency is evaluated and by which the defendant receives treatment, including, if applicable, antipsychotic medication, with the goal of returning the defendant to competency. Existing law suspends a criminal action pending restoration to competency.

This bill repeals provisions regarding the restoration of competency for a person charged with a misdemeanor, or a violation of probation for a misdemeanor, including provisions regarding administration for antipsychotic medication. The bill instead authorizes the court to conduct an inquiry into a defendant's competency, as specified. The bill authorizes a court, upon finding the defendant incompetent to stand trial, to suspend the proceedings and take certain actions, including granting diversion not to exceed one year or dismissing the charges, as specified.

Existing law provides that a prisoner, who, for specified reasons, is confined in or committed to a county jail, industrial farm, or road camp, or a city jail, industrial farm, or road camp, shall, for each 4-day period of custody, have 2 days deducted from the prisoner's period of confinement, except as specified.

This bill extends the application of conduct credits to persons confined in a state hospital or other mental health treatment facility pending their return of mental competency.

Status: Chapter 599, Statutes of 2021

Legislative History:

Assembly Floor - (65 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (7 - 0)

Senate Floor - (32 - 5)

Senate Floor - (32 - 5)

Senate Public Safety - (5 - 0)

Miscellaneous

SB-35 (Umberg) - Elections: prohibited activities.

(Amends Sections 319.5, 8902, 8903, 18370, 18541, and 18568 of, and adds Sections 18372 and 18504 to, the Elections Code.)

Existing law prohibits the name of a candidate for Governor from being printed on the ballot of the direct primary election unless the candidate, at least 98 days before the direct primary election, files with the Secretary of State copies of every income tax return the candidate filed with the Internal Revenue Service in the 5 most recent taxable years.

Existing law requires the candidate to redact specified information from each submitted return. Existing law requires the Secretary of State to review the redacted copy of each tax return, and, if the Secretary of State determines that the candidate has redacted information other than that which is specified, to prepare a new version of the tax return with only the permitted redactions.

This bill extends the deadline for a candidate to submit tax returns to 88 days before the direct primary election. The bill would instead require the Secretary of State to notify the candidate of deficiencies in redactions, as specified, and require the candidate to submit hard copies of returns with corrected redactions no later than 5:00 p.m. on the 78th day before the direct primary election. A candidate who does not timely submit corrected hard copies would not be qualified to have their name placed on the ballot of the direct primary election. The bill would make conforming changes.

Existing law makes it a crime to conduct certain political activities, including electioneering, within 100 feet of a polling place, an election official's office, or a satellite voting location, as defined. Existing law defines electioneering as displaying visible or disseminating audible information that advocates for or against any candidate or measure on the ballot in specified locations. Existing law makes it a crime to conduct certain activities that constitute corruption of the voting process, including certain activities within 100 feet of a polling place with the intent of dissuading another person from voting.

This bill expands the prohibited activities to include obstructing ingress, egress, and parking, and specify that such activities are prohibited within 100 feet of (1) the entrance to a building that contains a polling place, an elections official's office, or satellite voting location, as defined, and (2) an outdoor site at which a voter may cast or drop off a ballot. The bill would also prohibit a person from soliciting a vote, speaking to a voter about marking the voter's ballot, or disseminating visible or audible electioneering information in the immediate vicinity of a voter in line to cast a ballot or drop off a ballot, as further specified. The bill would require notice regarding prohibitions on electioneering and activity related to corruption of the voting process to be provided to the public. The bill would require the Secretary of State to promulgate regulations specifying the manner in which such notice would be given.

Existing law imposes, for specified acts of interference with the placement, collection, or counting of ballots, a fine not exceeding \$1,000, or imprisonment for 16 months or 2 or 3 years, or both.

This bill also imposes this penalty on: (1) a person who displays a container for the purpose of collecting ballots, with the intent to deceive a voter into casting a ballot in an unofficial ballot box, and (2) a person who directs or solicits a voter to place a ballot in such a container.

Status: Chapter 318, Statutes of 2021

Legislative History:

Assembly Floor - (61 - 13)
Assembly Elections - (6 - 0)

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

Assembly Elections - (6 - 1)

Senate Floor - (29 - 5)
Senate Elections and Constitutional
Amendments - (4 - 0)
Senate Floor - (29 - 2)
Senate Public Safety - (4 - 0)
Senate Elections and Constitutional
Amendments - (4 - 0)

SB-742 (Pan) - Vaccination sites: unlawful physical obstruction, intimidation, or picketing.

(Adds Section 594.39 to the Penal Code.)

Existing law makes it a crime to, by force, threat of force, or physical obstruction that is a crime of violence, intentionally injure, intimidate, interfere with, or attempt to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

This bill makes it unlawful for a person to knowingly approach a person or an occupied vehicle at a vaccination site, as specified, for the purpose of obstructing, injuring, harassing, intimidating, or interfering with, as defined, that person or vehicle occupant. The bill defines “vaccination site” as the physical location where vaccination services are provided, including, but not limited to, a hospital, physician’s office, clinic, or any retail space or pop-up location made available for large-scale vaccination services. The bill imposes a fine not exceeding \$1,000, imprisonment in a county jail not exceeding 6 months, or by both that fine and imprisonment for a violation.

Status: Chapter 737, Statutes of 2021

Legislative History:

Assembly Floor - (59 - 6)
Assembly Floor - (56 - 14)
Assembly Appropriations - (12 - 4)
Assembly Public Safety - (6 - 2)

Senate Floor - (28 - 8)
Senate Floor - (33 - 4)
Senate Appropriations - (6 - 1)
Senate Public Safety - (5 - 0)

SB-827 (Committee on Public Safety) - Public Safety Omnibus.

(Amend Section 1031 of the Government Code, amends Section 11361.8 of the Health and Safety Code, and amends Sections 422.77, 1203.01, 1203.099, 1203.4b, 1485.55, 2603, 2905, 3453, 5076.1, 5076.2, 5076.3, 11105, 13600, 14201, 14202, 16590, and 18010 of, adds Section 22296 to, and repeals Sections 597f, 1170.17, 1170.19, 22010, 22015, and 22090 of, the Penal Code.)

Existing law:

- 1) Bans the possession of nunchaku. (Penal Code Sections 22010; 22015; and 22090)
- 2) Sets forth rules and regulations governing the Board of Parole Hearings (Penal Code Sections 5706.2; 5706.2; and 5705.)
- 3) Allows, which is now obsolete, a juvenile offender who was direct filed upon in adult court and then ultimately convicted of something not eligible for direct file to request that his sentencing/disposition be sent back to juvenile court. (Penal Code Section 1170.17)
- 4) Provides for, which has been found invalid by a court, the seizure of an animal being mistreated in a public place. (Penal Code Section 597f)

This bill:

- 1) Deletes the prohibition on possession of a nunchaku and adds a definition of billy, blackjack or slugshot as not including a nunchaku.
- 2) Makes a number of technical amendments to update the rules and regulations governing the Board of Parole Hearings to adequately reflect current practice and to address legal conflicts.
- 3) Deletes Penal Code Section 1170.17.
- 4) Deletes Penal Code Section 597f.
- 5) Makes a number of technical changes in other provisions.

Status: Chapter 434, Statutes of 2021

Legislative History:

Assembly Floor - (73 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (39 - 0)

Senate Floor - (38 - 0)

Senate Public Safety - (5 - 0)

AB-223 (Ward) - Wildlife: dudleya: taking and possession.

(Adds Section 2024 to the Fish and Game Code.)

The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species and to add or remove species from either list if it finds, upon the receipt of sufficient scientific information, as specified, and based solely upon the best available scientific information, that the action is warranted. The commission has listed certain species of dudleya as threatened or endangered under the act. Existing law prohibits a person or public agency from importing into the state, exporting out of the state, or taking, possessing, purchasing, or selling within the state any endangered or threatened species, except as provided, and imposes specified penalties for a violation of this provision.

This bill makes it unlawful to uproot, remove, harvest, or cut dudleya, as defined, from land owned by the state or a local government or from property not their own without written permission from the landowner in their immediate possession, except as provided, and would make it unlawful to sell, offer for sale, possess with intent to sell, transport for sale, export for sale, or purchase dudleya uprooted, removed, harvested, or cut in violation of that provision. The bill requires a violation of those provisions, or any rule, regulation, or order adopted pursuant to those provisions, to be a misdemeanor punishable by a specified fine, imprisonment in a county jail for not more than 6 months, or both the fine and imprisonment. Upon conviction or other entry of judgment for a violation of these provisions, the bill requires any seized dudleya to be forfeited to the Department of Fish and Wildlife, and would authorize the court to impose, in addition to, and separate from, any criminal penalty, the cost of replanting any dudleya forfeited to the department. The bill requires the prosecution of an offense punishable under these provisions to be commenced within 3 years after commission of the offense.

The bill sets forth legislative findings and declarations relating to dudleya poaching.

Status: Chapter 370, Statutes of 2021

Legislative History:

Assembly Floor - (73 - 0)

Assembly Floor - (78 - 0)

Assembly Appropriations - (16 - 0)

Assembly Water, Parks and Wildlife - (12 - 0)

Senate Floor - (37 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (4 - 0)

Senate Natural Resources and Water - (9 - 0)

AB-331 (Jones-Sawyer) - Organized theft.

(Adds and repeals Section 490.4 of, and adds and repeals Chapter 13 (commencing with Section 13899) of Title 6 of Part 4 of, the Penal Code.)

Prior law, until July 1, 2021, made a person guilty of organized retail theft, punishable as a misdemeanor or a felony, as specified, if the person acted in concert with one or more persons to steal merchandise from one or more merchant’s premises or online marketplaces with the intent to sell or return the merchandise for value, acted in concert with 2 or more persons to receive, purchase, or possess merchandise knowing or believing it to have been stolen, acted as an agent of another to steal merchandise from one or more merchant’s premises or online marketplaces as part of an organized plan to commit theft, or recruited, coordinated, organized, supervised, directed, managed, or financed another to undertake acts of theft.

Prior law, until July 1, 2021, required the Department of the California Highway Patrol to coordinate with the Department of Justice to convene a regional property crimes task force to identify geographic areas experiencing increased levels of property crimes and assist local law enforcement with resources, such as personnel and equipment.

This bill would reenacts the crime of organized retail theft and reenacts the regional property crimes task force until January 1, 2026.

Status: Chapter 113, Statutes of 2021

Legislative History:

Assembly Floor - (68 - 0)

Senate Floor - (39 - 0)

Assembly Floor - (78 - 0)

Senate Appropriations - (6 - 0)

Assembly Appropriations - (16 - 0)

Senate Public Safety - (5 - 0)

Assembly Public Safety - (8 - 0)

AB-579 (Flora) - Fire prevention: purchases of personal protective equipment: Department of Forestry and Fire Protection.

(Amends Section 2807 of the Penal Code.)

Existing law establishes the Prison Industry Authority and authorizes it to operate industrial, agricultural, and service enterprises, which will provide products and services needed by the state, or any political subdivision of the state, or by the federal government, or any department, agency, or corporation of the federal government, or for any other

public use. Existing law requires state agencies to purchase these products and services at the prices fixed by the authority. Existing law also requires state agencies to make maximum utilization of these products and consult with the staff of the authority to develop new products and adapt existing products to meet their needs.

Under existing law, the Department of Forestry and Fire Protection is required to carry out specified duties with respect to the prevention and control of forest fires.

This bill provides that, notwithstanding requirements imposed on state agencies to purchase Prison Industry Authority products, the Department of Forestry and Fire Protection may purchase personal protective equipment from the authority or private entities, based on the department's needs and assessment of quality and value.

Status: Chapter 520, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)

Assembly Appropriations - (16 - 0)

Assembly Natural Resources - (11 - 0)

Senate Floor - (37 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

Senate Natural Resources and Water - (9 - 0)

AB-625 (Arambula) - State Public Defender: indigent defense: study.

(Adds and repeals section 15403 to the Government Code.)

Existing law identifies and establishes the roles and responsibilities of a state public defender. Current law allows state public defenders to hire deputies, private attorneys, and other employees as they see fit to properly perform their duties.

This bill requires the state public defender, along with the California Public Defenders Association and others to launch a study to assess appropriate workloads for public defenders and report their findings to the legislature no later than January 1, 2024. This section will be repealed on January 1, 2028.

Status: Chapter 583, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (37 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

AB-1003 (Lorena Gonzalez) - Wage theft: grand theft.

(Adds Section 487m to the Penal Code.)

Existing law regulates the payment of wages and benefits in the state. Existing law makes violation of specified wage and gratuity provisions a misdemeanor and provides for civil penalties and remedies for the recovery of wages. Existing law defines the crime of grand theft as theft committed when the money, labor, or real or personal property taken is of a value exceeding \$950 and makes the crime punishable either as a misdemeanor by imprisonment in a county jail for up to 1 year or as a felony by imprisonment in county jail for 16 months or 2 or 3 years.

This bill makes the intentional theft of wages, including gratuities, in an amount greater than \$950 from any one employee, or \$2,350 in the aggregate from 2 or more employees, by an employer in any consecutive 12-month period punishable as grand theft. The bill specifically authorizes wages, gratuities, benefits, or other compensation that are the subject of a prosecution under these provisions to be recovered as restitution in accordance with existing provisions of law. This bill specifies that, for the purposes of these provisions, independent contractors are included within the meaning of employee and hiring entities of independent contractors are included within the meaning of employer.

Status: Chapter 325, Statutes of 2021

Legislative History:

- | | |
|------------------------------------|--|
| Assembly Floor - (78 - 0) | Senate Floor - (38 - 0) |
| Assembly Floor - (78 - 0) | Senate Appropriations - (7 - 0) |
| Assembly Appropriations - (16 - 0) | Senate Labor, Public Employment and Retirement - (5 - 0) |
| Assembly Public Safety - (8 - 0) | Senate Public Safety - (5 - 0) |

AB-1347 (Jones-Sawyer) - Bail: premiums.

(Adds Section 1276.1 to the Penal Code.)

Existing law provides for the procedure of approving and accepting bail, and issuing an order for the appearance and release of an arrested person. Existing law generally regulates the undertaking of bail and the licensing of bail agents and bail solicitors by the Insurance Commissioner.

This bill, starting on and after January 1, 2022, prohibits an insurer, bail agent, or other bail licensee from entering into a contract, agreement, or undertaking of bail that requires the payment of more than one premium for the duration of the agreement, and requires the duration of the agreement to be until bail is exonerated. The bill additionally prohibits an insurer, bail agent, or other bail licensee from charging, collecting, or receiving a renewal premium in connection with a contract, agreement, or undertaking of bail after that date. The bill also makes these prohibitions apply to an insurer or insurance licensee with regard to immigration bonds on and after July 1, 2022. The bill makes an insurer, insurance licensee, bail agent, or other bail licensee liable to the person affected by a violation of these provisions for all damages that person sustains plus \$3,000 in statutory damages, and court costs and reasonable attorney's fees, as specified.

Status: Chapter 444, Statutes of 2021

Legislative History:

Assembly Floor - (72 - 0)
Assembly Floor - (77 - 0)
Assembly Public Safety - (8 - 0)

Senate Floor - (37 - 0)
Senate Appropriations - (7 - 0)
Senate Judiciary - (11 - 0)
Senate Public Safety - (4 - 0)

AB-1391 (Chau) - Unlawfully obtained data.

(Adds Section 1724 to the Civil Code.)

Existing law, the California Consumer Privacy Act of 2018, authorizes a consumer whose nonencrypted and nonredacted personal information, as defined, is subject to an unauthorized access and exfiltration, theft, or disclosure as a result of a business' violation of the duty to implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect the personal information may institute a civil action, as specified.

This bill makes it unlawful for a person to sell data, or sell access to data, that the person has obtained or accessed pursuant to the commission of a crime and also makes it unlawful for a person, who is not an authorized person, as defined, to purchase or use data from a source that the person knows or reasonably should know has obtained or accessed that data through the commission of a crime.

This bill does not limit providing or obtaining data in an otherwise lawful manner for the purpose of protecting a computer system or data stored in a computer system or protecting an individual from risk of identity theft or fraud.

Status: Chapter 594, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)	Senate Floor - (39 - 0)
Assembly Floor - (78 - 0)	Senate Public Safety - (5 - 0)
Assembly Privacy and Consumer Protection - (11 - 0)	Senate Judiciary - (11 - 0)

Parole

AB-644 (Waldron) - California MAT Re-Entry Incentive Program.

(Amends Section 3000.02 of the Penal Code.)

Existing law makes specified persons subject to parole supervision by the Department of Corrections and Rehabilitation, including a person who has been released from a state prison after conviction for a serious or violent felony or a crime for which the person is classified as a high-risk sex offender, and specifies the length of time the person is required to be supervised on parole. Existing law, contingent upon the appropriation of specified federal grant funds to the State Department of Health Care Services, establishes the California MAT Re-Entry Incentive Program, which makes a person released from prison on parole, with specified exceptions, eligible for a 30-day reduction in the period of parole for every six months of treatment, up to a maximum 90-day reduction. To receive the reduction to the period of parole, existing law requires that the parolee successfully participate in a substance abuse treatment program that employs a multifaceted approach to treatment, including medically assisted therapy (MAT), as specified, and to have been enrolled in, or successfully participated in, an institutional substance abuse program.

This bill, instead of requiring the person to have participated in an institutional substance abuse program, requires the person to have been enrolled in, or successfully participated in, a post-release substance abuse program.

Status: Chapter 59, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)

Assembly Appropriations - (14 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (39 - 0)

Senate Public Safety - (4 - 0)

Peace Officers

SB-2 (Bradford) - Peace officers: certification: civil rights.

(Amends Section 52.1 of the Civil Code, to amend Section 1029 of the Government Code, and amends Sections 832.7, 13503, 13506, 13510, 13510.1, and 13512 of, amends the heading of Article 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part 4 of, and adds Sections 13509.5, 13509.6, 13510.8, 13510.85, and 13510.9 to, the Penal Code.)

Under existing law, California is one of only 4 states in the United States that does not have a process for the decertification of peace officers when they engage in acts of misconduct that could disqualify them from being employed as a peace officer. Other professions that involve a large degree of public trust have robust organizations that may decertify persons from practicing in a field (e.g. the State Bar of California for attorneys, or the Medical Board of California for doctors). In California we already have the Commission on Peace Officer Standards and Training (POST), but in 2003 POST lost the ability to deny or revoke an officers' certification by statute.

The Commission on Peace Officer Standards and Training, or POST, was established by legislative action in 1959. POST is responsible for setting minimum training standards for law enforcement in California. Currently, POST has a staff of over 130 and functions under an executive director that is appointed by the commission themselves. POST is funded through the general fund, and through the state penalty fund, which receives money from penalty assessments on criminal and traffic fines. This bill would create new duties for POST in requiring them to create a certification program, monitor those certifications, recertify, and create procedures for decertification of peace officers. Additionally, this bill will create a funding mechanism for this oversight in a similar way to the other oversight agencies (such as the State Bar of California) operate. POST will fund the certification and decertification process by passing a fee on to officers seeking certification and recertification.

Also under existing law, California's Bane Act protects persons from threats, intimidation, or coercion and for attempts to interfere with someone's state or federal statutory

constitutional rights. The Bane Act authorizes a cause of action against a person who, whether or not acting under “color of law,” uses threats, intimidation, or coercion to interfere with the ability of another person in the exercise and enjoyment of any rights guaranteed under the U.S. or California constitutions, or any right guaranteed under federal or state statute. Some courts have more restrictively interpreted the Bane Act to require that threats, intimidation, or coercion must be committed with the specific intent to interfere with the person’s rights. Other courts have found that only general intent is required. This bill would resolve these conflicting views in favor of not requiring the intent element.

This bill grants new powers to the Commission on Peace Officer Standards and Training (POST) to investigate and determine peace officer fitness and to decertify officers who engage in “serious misconduct”; and makes changes to the Bane Civil Rights Act to limit immunity as specified. Specifically this bill, requires POST to adopt by regulation a definition of “serious misconduct” that shall serve as the criteria to be considered for ineligibility for, or revocation of, certification. The bill sets out a number of criteria that shall be included as serious misconduct. Additionally the bill grants POST the power to investigate and determine the fitness of any person to serve as a peace officer in the state of California and to audit any law enforcement agency that employs peace officers without cause at any time by creating and empowering a new division. This bill creates the "Division" within POST to investigate and prosecute proceedings to take action against a peace officer’s certification. The new provisions of law require the Division to review and investigate grounds for decertification or suspension and make findings as to whether the grounds for action against an officer’s certification exist and requires the Division to notify the officer subject to decertification of their findings and allow the officer to request review.

The bill additionally creates an "Advisory Board" and sets forth the membership qualifications and a three-year term of service. The bill requires that the Advisory Board hold public meetings to review the findings after an investigation made by the Division and to make a recommendation to POST. The new law requires that POST adopt the recommendation of the Advisory Board if supported by clear and convincing evidence and if action is to be taken against an officer’s certification, return the determination to the Division to commence formal proceedings before an administrative law judge consistent with the Administrative Procedures Act. And provides that the determination of the administrative law judge shall be subject to judicial review. This bill also requires that POST notify the employing agency of the officer as well as the district attorney of the county in which the officer is employed of their decision. This bill declares that certificates or proof of eligibility awarded by POST to be the property of POST and would authorize

POST to revoke a proof of eligibility or certificate on grounds including the use of excessive force, sexual assault, making a false arrest, or participating in a law enforcement gang.

This bill requires law enforcement agencies only employ peace officers with current, valid certification or pending certification and directs POST to issue or deny certification, including a basic certificate or proof of eligibility to a peace officer. The bill's provisions require POST to issue a proof of eligibility or basic certificate to persons employed as a peace officers on January 1, 2022, who not otherwise possess a certificate. Additionally the bill makes all records related to the revocation of a peace officer's certification public and would require that records of an investigation be retained for 30 years.

Lastly, the bill eliminates specified immunity provisions for peace and custodial officers, or public entities employing peace or custodial officers sued under the Tom Bane Civil Rights Act.

Status: Chapter 409, Statutes of 2021

Legislative History:

Assembly Floor - (49 - 21)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Assembly Judiciary - (8 - 2)

Senate Floor - (28 - 9)

Senate Floor - (26 - 9)

Senate Appropriations - (5 - 2)

Senate Judiciary - (7 - 2)

Senate Public Safety - (4 - 0)

SB-16 (Skinner) - Peace officers: release of records.

(Amends Section 1045 of the Evidence Code, and amends Sections 832.5, 832.7, and 832.12 of, and adds Section 832.13 to, the Penal Code.)

Existing law in California has long kept secret records held by law enforcement agencies after making police personnel records completely confidential in 1978 — a benefit provided only to this class of public employee. In 2018, the Legislature passed SB 1421 (Skinner, Chapter 988), which mandated that local and state police agencies must disclose information when police use of force, or are subject to sustained findings of misconduct related to sexual assault and dishonesty.

This bill makes personnel records related to the following categories of incidents subject to disclosure under the California Public Records Act: records of sustained incidents involving unreasonable uses of force, or excessive uses of force, records related to sustained findings

that an officer failed to intervene against another officer using unreasonable or excessive force, records related to sustained findings of unlawful arrests and unlawful searches, records related to sustained findings of officers engaged in conduct involving prejudice or discrimination on the basis of specified protected classes.

Additionally this bill permits the disclosure of records that would be otherwise subject to disclosure when they relate to an incident in which an officer resigned before an investigation is completed. The bill also requires that agencies retain all complaints and related report or findings currently in the possession of a department or agency. The bill codifies existing California Supreme Court case-law requiring law enforcement agencies to cover the costs of editing records. The bill prohibits assertion of the attorney-client privilege to limit the disclosure of factual information provided by the public entity to its attorney, factual information discovered by any investigation done by the public entity's attorney, or billing records related to the work done by the attorney. The new law requires records subject to disclosure be provided at the earliest possible time and no later than 45-days from the date of a request for their disclosure.

The bill eliminates the limitation on judges to only consider misconduct complaints against officers from the previous five years when determining relevancy for admissibility in criminal proceedings. Additionally new provisions of law require that each law enforcement agency request and review the prior personnel files of any officer they hire. The bill requires that every officer employed as a peace officer immediately report all uses of force by the officer to the officer's employing agency.

Lastly, this bill phases-in implementation of this bill so that records relating to incidents that relate to the new categories of offenses added by this bill that occurred before January 1, 2022, shall not be required to be disclosed until January 1, 2023. However, records of incidents that occur after January 1, 2022, shall be subject to disclosure pursuant to the provisions of this bill.

Status: Chapter 402, Statutes of 2021

Legislative History:

Assembly Floor - (57 - 13)	Senate Floor - (29 - 9)
Assembly Appropriations - (12 - 4)	Senate Floor - (31 - 3)
Assembly Judiciary - (8 - 2)	Senate Appropriations - (5 - 2)
Assembly Public Safety - (6 - 1)	Senate Judiciary - (8 - 1)
	Senate Public Safety - (4 - 0)

SB-98 (McGuire) - Public peace: media access.

(Adds Section 409.7 to the Penal Code.)

Existing law makes every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined, in the discharge or attempt to discharge any duty of the office or employment, when no other punishment is prescribed, guilty of a misdemeanor. Existing law also authorizes specified peace officers to close an area where a menace to the public health or safety is created by a calamity and to close the immediate area surrounding any emergency field command post or other command post activated for the purpose of abating a calamity, riot, or other civil disturbance, as specified. Existing law makes any unauthorized person who willfully and knowingly enters those areas and who remains in the area after receiving notice to evacuate or leave guilty of a misdemeanor. Existing law exempts a duly authorized representative of any news service, newspaper, or radio or television station or network from the provisions prohibiting entry into the closed areas, as specified.

This bill provides that if peace officers close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged primarily in constitutionally protected activity, as described, require that a duly authorized representative of any news service, online news service, newspaper, or radio or television station or network, as described, be allowed to enter those closed areas and would prohibit a peace officer or other law enforcement officer from intentionally assaulting, interfering with, or obstructing a duly authorized representative who is gathering, receiving, or processing information for communication to the public. The bill also prohibits a duly authorized representative who is in a closed area and gathering, receiving, or processing information from being cited for the failure to disperse, a violation of a curfew, or a violation of other, specified law. The bill requires that if a representative is detained by a peace officer or other law enforcement officer, the representative be permitted to contact a supervisory officer immediately for the purpose of challenging the detention. The bill does not impose criminal liability. The bill states that the Legislature's intention to achieve parity in the access and protections in these circumstances as those established pursuant to a specified law.

Status: Chapter 759, Statutes of 2021

Legislative History:

Assembly Floor - (50 - 18)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (29 - 5)

Senate Floor - (34 - 2)

Senate Appropriations - (6 - 0)

Senate Public Safety - (3 - 0)

SB-296 (Limón) - Code enforcement officers: safety standards.

(Adds section 829.7 to the Penal Code.)

Existing law identifies code enforcement officers as a group separate from peace officers, but still have the authority to enforce health and safety requirements. Existing law does not currently have specific safety guidelines in place protecting code enforcement officers from the respective risks of the job.

This bill requires all employers of code enforcement officers to create and apply specific safety standards for the officers employed in their jurisdiction.

Status: Chapter 637, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (40 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

SB-494 (Dodd) - Law enforcement: training.

(Adds Section 13519.11 to the Penal Code.)

Existing law requires POST to establish the Robert Presley Institute of Criminal Investigation (ICI) which makes available to criminal investigators of California's law enforcement agencies an advanced training program to meet the needs of working investigators in specialty assignments, such as arson, auto theft, homicide, and narcotics. Existing law also requires ICI to provide an array of investigation training, including core instruction in matters common to all investigative activities, advanced instruction through foundation specialty courses in the various investigative specialties, and completion of a variety of elective courses pertaining to investigation.

This bill would have required that the Commission on Peace Officer Standards and Training (POST) develop and implement a course of instruction for law enforcement officers in the use of advanced interpersonal communication skills, and the use of science-based interviewing.

Status: VETOED

Legislative History:

Assembly Floor - (77 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (7 - 0)

Senate Floor - (38 - 0)

Senate Public Safety - (5 - 0)

Senate Floor - (37 - 0)

Senate Governmental Organization - (14 - 0)

Governor's Veto Message:

I am returning Senate Bill 494 without my signature.

This bill would require the Commission on Peace Officer Standards and Training (POST), by January 1, 2023, to develop trainings on advanced interpersonal communication skills and ethical science-based interviewing for specified peace officers in consultation with subject matter experts. Additionally, this bill requires local law enforcement agencies to adopt related policies and requires regular and periodic trainings on advanced interpersonal communication skills and ethical science-based interviewing.

My Administration has helped California lead the nation in police reform policies that have resulted in better training for officers and better relationships with the community. While I support making this training available to law enforcement agencies, I am concerned that mandatory training will have potentially significant General Fund costs not contemplated in the Budget. I am directing POST to develop training on interpersonal communication skills and ethical science-based interviewing. Giving law enforcement access to this training will expand access to training at a lower cost to taxpayers.

SB-586 (Bradford) - Criminal fees.

(Amends Section 13510.8 of the Penal Code.)

This bill makes technical amendments to address a drafting error that occurred in SB 2 (Bradford) of the same legislative session. The bill was contingently enacted upon the passage of SB 2. The technical amendment addressed language related to a collateral estoppel provision that was applied to the wrong provision in the bill.

Status: Chapter 429, Statutes of 2021

Legislative History:

Assembly Floor - (52 - 20)

Assembly Floor - (53 - 15)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 1)

Senate Floor - (28 - 9)

Senate Floor - (30 - 7)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

AB-26 (Holden) - Peace officers: use of force.

(Amends Section 7286 of the Government Code.)

Existing law specifies that every law enforcement agency have a policy that requires an officer intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject. That requirement was established by SB 230 (Caballero, Chapter 285, Statutes of 2019).

This bill specifies that officers must immediately report potential excessive force to a superior officers in a manner articulated by the provisions of the bill. Additionally, this bill requires that law enforcement agency policies must include a prohibition on retaliation against an officer that reports a suspected violation of a law or regulation of another officer to a supervisor or other person of the law enforcement agency who has the authority to investigate the violation. This bill also provides that law enforcement agency policies must include procedures to prohibit an officer from training other officers for a period of at least three year from the date that an abuse of force complaint against the officer is substantiated. This bill additionally requires that law enforcement agency policies must include a requirement that an officer that has received all required training on the requirement to intercede and fails to act as specified be disciplined up to and including the same manner as the officer that committed the excessive force.

Status: Chapter 403, Statutes of 2021

Legislative History:

Assembly Floor - (51 - 16)

Assembly Floor - (49 - 18)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (26 - 9)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

AB-48 (Lorena Gonzalez) - Law enforcement: kinetic energy projectiles and chemical agents.

(Amends Section 12525.2 of the Government Code, and adds Sections 13652 and 13652.1 to the Penal Code.)

Existing law provides that as a general rule for how much force a law enforcement officer can use in response to a given situation is determined by a reasonableness test. It requires the careful balancing the nature and quality of the force against the countervailing government interest at stake. (See *Graham v. Connor* (1989) 490 U.S. 386, 396.) In other words, was the amount and type of force reasonably necessary in light of the police need to prevent the person from doing whatever it was that they were doing at the time the use of force happened. Three important factors to that test are 1) the severity of the crime at issue; 2) whether the suspect poses an immediate threat to the safety of the officers or others; and, 3) whether the person is actively resisting arrest or attempting to evade arrest by flight. (Ibid.)

Recently California refined its use of force statutes in order to apply clearer guidance to law enforcement and the public regarding the when the use of deadly force is appropriate. Specifically, AB 392 (Weber, Chapter 170, Statutes of 2019) provided that an officer may use deadly force in order to prevent an imminent threat of death or serious bodily injury to the officer or to another person, or to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. AB 392 further specified situations in which deadly force would not be appropriate. In addition, the Legislature also passed SB 230 (Caballero, Chapter 285, Statutes of 2019), which required law enforcement agencies to update their training and policies relating to the use of force.

This bill places a general ban on the use of kinetic energy projectiles and specified chemical agents by law enforcement upon public assemblies, subject to specified exemptions. This bill also increases the requirements that law enforcement agencies report specified uses of force to the Department of Justice.

Status: Chapter 404, Statutes of 2021

Legislative History:

Assembly Floor - (49 - 19)

Assembly Floor - (46 - 19)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (26 - 10)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

AB-57 (Gabriel) - Law enforcement: hate crimes.

(Amends Sections 422.87 and 13519.6 of the Penal Code.)

Existing law requires that the Commission on Peace Officers Standards and Training (POST) develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers, addressing hate crimes. According to the Department of Justice's (DOJ) 2016 report, Hate Crimes in California, the total number of hate crime events (an occurrence when a hate crime is involved) decreased 34.7 percent from 2007 to 2016. Filed hate crime complaints decreased 30.5 percent from 2006 to 2015. That being said, hate crime events in California have been on the rise; there was a 10.4 percent rise from 2014 to 2015, and then another 11.2 percent rise from 2015 to 2016. The total number of hate crime events, offenses, victims, and suspects had all increased in 2016.

In 2018, the State Auditor released a report on hate crimes in California. Notably, the report found that law enforcement agencies failed to identify and report a significant percentage of hate crimes to the DOJ, and recommended that the DOJ provide better guidance to assist local law enforcement agencies with the identification and investigation of hate crimes and outreach to vulnerable communities. Ultimately, the audit concluded that "law enforcement agencies' inadequate policies and the DOJ's lack of oversight have resulted in the underreporting of hate crimes in the DOJ's Hate Crime Database."

According to the State Auditor, these findings show a need for greater guidance and oversight by the DOJ, including with regards to hate crimes reporting and data collection, hate crime policies, outreach to historically vulnerable communities, coordination between law enforcement agencies, and education for the general public. This bill builds on specific recommendations from the audit ensures law enforcement agencies adequately identify, report, or respond to hate crimes.

This bill specifies that the definition of "bias motivation" in the hate crimes policy requirements for local law enforcement agencies shall include the "discriminatory selection of victims." Additionally, this bill provides that in local law enforcement agency hate crimes policies will make clear that in recognizing suspected religion-bias hate crimes, the policy shall instruct officers to consider whether there were targeted attacks on, or biased references to, symbols of importance to a particular religion or articles considered of spiritual significance to a particular religion. This bill asks that POST consult with subject-matter experts, including law enforcement agencies, civil rights groups, academic experts, and the Department of Justice in developing hate crimes training for law enforcement officers. The new law requires that POST shall incorporate the video course developed by

the commission entitled “Hate Crimes: Identification and Investigation,” or any successor video into the basic course curriculum and make the video course available to stream via the learning portal.

This new law requires that each peace officers shall be required to complete the “Hate Crimes: Identification and Investigation” course, or any other POST-certified hate crimes course via the learning portal or in-person instruction. Additionally the provisions of the bill specify that POST shall develop and periodically update an interactive course of instruction and training for in-service peace officers on the topic of hate crimes and make the course available via the learning portal. The course shall cover the fundamentals of hate crime law and preliminary investigation of hate crime incident, and shall include updates on recent changes in the law, hate crime trends, and the best enforcement practices. Finally, the new law specifies that POST shall require the hate crimes course be taken by in-service peace officers every six years.

Status: Chapter 691, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)

Assembly Floor - (79 - 0)

Assembly Appropriations - (12 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (38 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

AB-89 (Jones-Sawyer) - Peace officers: minimum qualifications.

(Adds Section 1031.4 to the Government Code, and adds Section 13511.1 to the Penal Code.)

Existing law sets forth the minimum standards for becoming a peace officer in the state of California. These minimum qualifications include: a minimum age of 18-years, citizenship or permanent residency who has applied for citizenship, specified educational requirements, passage of a reading and writing assessment, oral communication skills, a criminal background check including no felonies, a personal history background check, and a medical and psychological evaluation. According to a 2016 study by the Center on Juvenile and Criminal Justice, found that increased employment screening tests, high education requirements and augmented training hours lowers departmental use of force complaints.

This bill increases the minimum qualifying age from 18 to 21 years for specified peace officers. The new law additionally requires the office of the Chancellor of California Community Colleges to develop a modern policing degree program with POST and other stakeholders and submit a report on the recommendations to the Legislature outlining a plan to implement the program on or before June 1, 2023. The bill also requires the report to include recommendations to adopt financial assistance for students of historically underserved and disadvantaged communities with barriers to higher education access.

Finally, the bill requires POST to adopt the recommended criteria within 2 years of when the office of the Chancellor of the California Community Colleges submits its report to the Legislature.

Status: Chapter 405, Statutes of 2021

Legislative History:

Assembly Floor - (54 - 17)

Assembly Floor - (49 - 13)

Assembly Public Safety - (6 - 2)

Senate Floor - (32 - 3)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

AB-229 (Holden) - Private investigators, proprietary security services, private security services, and alarm companies: training: use of force.

(Amends Sections 7583.2, 7583.3, 7587.8, and 7587.9 of, and amends, repeals, and adds Sections 7542, 7574.18, 7583.5, 7583.6, 7583.7, 7583.10, 7585, 7585.6, 7587.1, 7596, 7596.3, 7598.1, 7598.2, 7598.3, 7599.37, and 7599.38 of, the Business and Professions Code.)

Under existing California law the California Bureau of Security and Investigative Services (BSIS) regulates the firearm, baton, and use of force standards for California Security Officers. The Bureau issues licenses, registrations, certificates, and permits; (or licenses). There are currently over 433,000 BSIS licenses held by about 350,000 business and individuals serving in the areas of alarm companies, locks, private investigations, private security, repossession, and firearm and baton training.

The training course to obtain an initial BSIS firearms permit is comprised of two parts: classroom training/exam and range training. The classroom training consists of eight hours of BSIS specified course materials designed to ensure the individual has a general understanding of the laws governing the possession and use of firearms; use of force/de-escalation of force issues; the parts of a handgun and general handgun safety activities and includes a written exam that must be passed with score of 85% or greater. The range portion consist of six hours of practical training encompassing safety practices in handling and firing firearms and includes firing two 50-rounds (once for practice and the second for scoring) on an actual firearm with live ammunition for the individual to demonstrate proficiency in shooting at a targeted area with an 80% passing score required. The bureau-certified instructor who administered the training is required to sign the permit holder's initial application attesting that the individual completed the required training, passed the exam with a minimum score of 85%, and qualified on the range with a minimum score of 80%.

This bill adds, beginning January 1, 2023, a course of training in the exercise of the appropriate use of force to current requirements for various categories regulated by the Bureau of Security and Investigative Services (BSIS or Bureau) in order to be issued a firearms permit. Specifies that licensees must deliver the report on the discharge of a firearm, or physical altercation with a member of the public within seven business days and adds incidents involving any physical use of force or violence while on duty to be included. Prohibits a person required to be registered as a security guard from carrying or using a firearm or baton unless the security guard is an employee of a private patrol operator (PPO), the state, or a political subdivision of the state. Increases fine amounts for failing to provide required reports.

Status: Chapter 697, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)

Assembly Floor - (73 - 0)

Assembly Appropriations - (16 - 0)

Assembly Business and Professions - (19 - 0)

Senate Floor - (36 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

Senate Business, Professions and
Economic Development - (12 - 0)

AB-331 (Jones-Sawyer) - Organized theft.

(Adds and repeals Section 490.4 of, and adds and repeals Chapter 13 (commencing with Section 13899) of Title 6 of Part 4 of, the Penal Code.)

Prior law, until July 1, 2021, made a person guilty of organized retail theft, punishable as a misdemeanor or a felony, as specified, if the person acted in concert with one or more persons to steal merchandise from one or more merchant’s premises or online marketplaces with the intent to sell or return the merchandise for value, acted in concert with 2 or more persons to receive, purchase, or possess merchandise knowing or believing it to have been stolen, acted as an agent of another to steal merchandise from one or more merchant’s premises or online marketplaces as part of an organized plan to commit theft, or recruited, coordinated, organized, supervised, directed, managed, or financed another to undertake acts of theft.

Prior law, until July 1, 2021, required the Department of the California Highway Patrol to coordinate with the Department of Justice to convene a regional property crimes task force to identify geographic areas experiencing increased levels of property crimes and assist local law enforcement with resources, such as personnel and equipment.

This bill would reenacts the crime of organized retail theft and reenacts the regional property crimes task force until January 1, 2026.

Status: Chapter 113, Statutes of 2021

Legislative History:

Assembly Floor - (68 - 0)

Assembly Floor - (78 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (39 - 0)

Senate Appropriations - (6 - 0)

Senate Public Safety - (5 - 0)

AB-481 (Chiu) - Law enforcement agencies: military equipment: funding, acquisition, and use.

(Adds Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code.)

Existing law allows a local agency to acquire surplus property from the federal government without regard to any law which requires posting of notices or advertising for bids, inviting or receiving of bids, or delivery of purchases before payment, or which prevents the local agency from entering a bid in its behalf at any sale of federal surplus property. Existing law also authorizes the United States Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill requires specified law enforcement agencies to obtain approval of applicable governing bodies prior to taking actions related to funding, acquisition, or use of military equipment. The approval requires the adoption of a military equipment use policy by ordinance or at a regular meeting held pursuant to open meeting laws. The new law requires similar approval for the continued use of military equipment acquired prior to January 1, 2022.

The new provisions of this law also allow the applicable governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines the military equipment meets specified standards. The governing body is required to annually review the ordinance under specified guidelines. The provisions of the bill specify that these provisions do not preclude counties or local municipalities from implementing additional requirements or standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies. The new law requires state agencies, as defined, to create military equipment use policies before engaging in certain activities, publish the policy on the internet, and provide a copy of the policy on to the Governor as specified. Finally, this bill requires state agencies to create military equipment use policies that purchased equipment prior to the effective date of the legislation.

Status: Chapter 406, Statutes of 2021

Legislative History:

Assembly Floor - (48 - 25)

Assembly Floor - (50 - 22)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Assembly Local Government - (5 - 2)

Senate Floor - (24 - 11)

Senate Appropriations - (5 - 2)

Senate Governance and Finance - (4 - 1)

Senate Public Safety - (4 - 1)

AB-483 (Jones-Sawyer) - Peace officers: California Science Center and Exposition Park.

(Amends Section 4108 of the Food and Agricultural Code, amends Section 117560 of the Health and Safety Code, and amends Sections 830.3, 830.7, and 11105 of the Penal Code.)

Existing law provides that the Exposition Park Manager administer oversight for the police and security services of the park. The Exposition Park Manager may appoint the following persons: the chief, assistant chief, and the security and public safety leadership of Exposition Park, who shall have the powers of peace officers as specified in Section 830.3 of the Penal Code, and who shall work in consultation and under contract with the Exposition Park Manager. Further existing law provides that the park manager may appoint other safety officers who shall have the powers of arrest.

This bill grants peace officer status to security and safety officers at the California Science Center at Exposition Park, and requires that these officers complete the Commission on Peace Officer Standards and Training (POST) certified regular basic training course.

Status: Chapter 411, Statutes of 2021

Legislative History:

Assembly Floor - (72 - 0)

Senate Floor - (38 - 0)

Assembly Floor - (77 - 1)

Senate Appropriations - (6 - 0)

Assembly Appropriations - (16 - 0)

Senate Public Safety - (5 - 0)

Assembly Public Safety - (8 - 0)

AB-490 (Gipson) - Law enforcement agency policies: arrests: positional asphyxia.

(Amends Section 7286.5 of the Government Code.)

Existing California law bans choke holds and carotid restraint in the State of California. Choke holds had been effectively banned in California, but not expressly banned. The practice fell out of favor over many years due to serious injury and death caused by the usage of the technique. Over the years both federal and State of California courts found the practice subjects municipalities, government entities, and law enforcement agencies that permit the usage liable for wrongful death and serious injury to persons who have been subjected to the use of a choke hold by law enforcement agencies. As a result of these findings of liability, the usage of choke holds fell out of favor and cities and agencies

routinely banned their usage. Additionally, the Commission on Peace Officer Standards and Training (POST) ceased instruction on the technique.

Carotid restraint is very similar to a choke hold. The practice involves the cutting-off of blood circulation to the head of the person upon which the hold is placed. This process can cause the person to lose consciousness. This technique has conventionally been taught to be less deadly than a traditional choke hold which can more easily collapse the wind pipe because it's focused on the front of the neck. However, a slight deviation in the placement of the arm of the person implementing the hold can convert a carotid restraint into a choke hold. Additionally, cutting off blood flow to a person's brain has its own dangers.

This bill prohibits law enforcement agencies from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia. This bill defines positional asphyxia as situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing. This includes the use of any physical restraint that causes the person's respiratory airway to be compressed or impairs the persons breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person's neck, torso, or back, or positioning a restrained person without reasonably monitoring for signs of asphyxia.

Status: Chapter 407, Statutes of 2021

Legislative History:

Assembly Floor - (55 - 18)

Senate Floor - (28 - 8)

Assembly Floor - (55 - 15)

Senate Appropriations - (5 - 2)

Assembly Appropriations - (12 - 4)

Senate Public Safety - (4 - 1)

Assembly Public Safety - (6 - 2)

AB-779 (Bigelow) - Peace officers: deputy sheriffs.

(Amends Section 830.1 of the Penal Code.)

Existing law provides that any deputy sheriff of the Counties of Los Angeles, Butte, Calaveras, Colusa, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Mariposa, Mendocino, Plumas, Riverside, San Benito, San Diego, San Luis Obispo, Santa Barbara, Santa Clara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, and Yuba 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 California 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 custodial assignments or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

This bill adds the Counties of Del Norte, Madera, Mono, and San Mateo to the list of specified counties that employ deputy sheriffs to perform duties exclusively or initially related to custodial assignments, including the custody, care, supervision, security, movement, and transportation of inmates, and are peace officers whose authority extends to any place in the state only while engaged in the performance of duties related to his or her employment.

Status: Chapter 588, Statutes of 2021

Legislative History:

Assembly Floor - (70 - 3)

Assembly Public Safety - (6 - 1)

Senate Floor - (36 - 0)

Senate Appropriations - (6 - 0)

Senate Public Safety - (4 - 0)

AB-958 (Gipson) - Peace officers: law enforcement cliques.

(Adds Section 13670 to the Penal Code.)

Existing law requires each class of public officers or employees declared by law to be peace officers shall meet minimum standards, including that they be free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation that might adversely affect the exercise of the powers of a peace officer. Existing law also states that no public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure. Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him or her with insubordination.

This bill defines a “law enforcement gang” as a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.

This bill additionally requires that law enforcement agencies maintain a policy that prohibit participation in a law enforcement gang and that makes violation of that policy grounds for termination. A law enforcement agency shall cooperate in any investigation into these gangs by an inspector general, the Attorney General, or any other authorized agency. Notwithstanding any other law, local agencies may impose greater restrictions on membership and participation in law enforcement gangs, including for discipline and termination purposes. Finally, this bill provides that except as specifically prohibited by law, a law enforcement agency shall disclose the termination of a peace officer for participation in a law enforcement gang to another law enforcement agency conducting a pre-employment background investigation of that former peace officer.

Status: Chapter 408, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)

Assembly Floor - (73 - 1)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (37 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

AB-1337 (Lee) - Transportation: transit district policing responsibilities.

(Amends Section 369i of the Penal Code, and amends Sections 99170 and 99171 of, and adds Section 99580.5 to, the Public Utilities Code.)

Existing law authorizes the Sacramento Regional Transit District (SacRT), the Fresno Area Express, the Los Angeles County Metropolitan Transportation Authority, or the San Francisco Bay Area Rapid Transit District (BART) to issue a prohibition order to any person who, on at least three separate occasions within a period of 90 consecutive days, is cited for an infraction committed in or on a vehicle, bus stop, or light rail station of the transit district for specified acts.

This bill extends the authority of transit district entities to issue prohibition orders to include property, facilities, and vehicles upon which it owes policing responsibilities to, and expands the law to make entering or remaining on those properties without permission a misdemeanor.

Status: Chapter 534, Statutes of 2021

Legislative History:

- | | |
|------------------------------------|----------------------------------|
| Assembly Floor - (77 - 0) | Senate Floor - (38 - 0) |
| Assembly Floor - (62 - 0) | Senate Appropriations - (7 - 0) |
| Assembly Appropriations - (16 - 0) | Senate Transportation - (15 - 0) |
| Assembly Transportation - (15 - 0) | Senate Public Safety - (4 - 0) |
| Assembly Public Safety - (8 - 0) | |

AB-1475 (Low) - Law enforcement: social media.

(Adds Section 13665 to the Penal Code.)

Existing law in California prohibits a person from publishing or otherwise disseminating a booking photograph to solicit payment of a fee or other consideration from a subject to remove, correct, modify, or to refrain from publishing or otherwise disseminating the photo. Existing California law also bans an employer from inquiring about an applicant’s conviction history, and from considering, distributing, or disseminating information about arrests not followed by conviction, referral to or participation in pre- or post-trial diversion programs, or convictions that have been sealed, dismissed, expunged, or statutorily eradicated.

This bill prohibits law enforcement agencies from sharing booking photographs on social media of persons arrested on suspicion of committing a non-violent offense, except as specified.

Status: Chapter 126, Statutes of 2021

Legislative History:

Assembly Floor - (74 - 0)

Senate Floor - (39 - 0)

Assembly Floor - (74 - 0)

Senate Judiciary - (11 - 0)

Assembly Privacy and Consumer
Protection - (10 - 0)

Senate Public Safety - (4 - 0)

Assembly Public Safety - (7 - 0)

**AB-1480 (Rodriguez) - Employers: prohibited disclosure of information:
arrest or detention.**

(Amends Section 432.7 of the Labor Code, and amends Section 13203 of the Penal Code.)

Generally, state law precludes employers from looking too closely at arrest information which resulted in something less than a conviction. Although arrests frequently show up in criminal history searches, if a specific arrest did not result in a conviction, an employer is prohibited from asking questions about that arrest, or seeking documentation about the arrest, such as police reports and court records. They are also prohibited from using arrest information in hiring or promotion decisions. One reason for this policy may be that an arrest, in and of itself, does not mean that a person is guilty of a crime. The fact that a person was arrested only means that the arresting officer had “probable cause” to make the arrest.

Despite the general restriction on the use of arrest information that did not result in a conviction, there is an exemption in the law for peace officers. Because peace officers are charged with upholding the law they are subjected to a higher level of scrutiny than the average person.

This bill allows a law enforcement agency to inquire about, seek, and utilize information about certain nonsworn employees concerning an arrest or detention for specified offenses that did not result in a conviction, information concerning a referral or participation in a diversion program, and information that has been judicially dismissed or ordered sealed.

Status: Chapter 158, Statutes of 2021

Legislative History:

Assembly Floor - (71 - 0)

Assembly Floor - (76 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (37 - 0)

Senate Public Safety - (5 - 0)

Privacy

AB-419 (Davies) - Criminal procedure: victim and witness privacy.

(Amends Section 1054.2 of the Penal Code.)

Existing law prohibits an attorney from disclosing to a defendant, members of the defendant's family, or anyone else, the address or telephone number of a victim or witness whose name is disclosed to the attorney through discovery, unless specifically permitted to do so by the court after a hearing and a showing of good cause. Existing law makes a willful violation of these provisions a misdemeanor.

This bill further prohibits the disclosure of any personal identifying information, as defined in Penal Code Section 530.55, except that it does not include name, place of employment, or an equivalent form of identification, of the victim or witness. The bill would also remove the provision making a willful violation of these provisions a misdemeanor.

Status: Chapter 91, Statutes of 2021

Legislative History:

Assembly Floor - (74 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (38 - 0)

Senate Public Safety - (5 - 0)

AB-515 (Chen) - Trespass.

(Amends section 602 of the Penal Code.)

Existing law provides that it is a misdemeanor for entering property of any kind without consent of the owner. Process servers, such as repossession agents, are exempt from establishes trespass laws under current law.

This bill would have allowed a repossession agency and its employees to enter private property, without consent of the owner, when they are searching for and collecting collateral. This bill would have required the agency and its employees to leave the property immediately after completing the search and/or repossession.

Status: VETOED

Legislative History:

Assembly Floor - (79 - 0)

Senate Floor - (37 - 0)

Assembly Floor - (78 - 0)

Senate Public Safety - (4 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Governor's Veto Message:

I am returning Assembly Bill 515 without my signature.

This bill would provide that the crime of trespass does not apply to a repossession agency and its employees when they are on private property searching for or repossessing collateral. An earlier version of this bill included a cross-reference to reposessor licensing requirements that makes it clear that repossessors are not allowed to go into secured or locked areas. Unfortunately, that language was removed from the bill. I am concerned that allowing a reposessor virtually unfettered access to a person's private property could result in confusion and possibly violent confrontations between property owners and repossessors. For these reasons, I am returning this bill without my signature.

Probation and Local Corrections

AB-653 (Waldron) - Medication-Assisted Treatment Grant Program.

(Adds and repeals Article 6 (commencing with Section 6047) of Chapter 5 of Title 7 of Part 3 of the Penal Code.)

Existing law requires the Department of Corrections and Rehabilitation, under the oversight of the Undersecretary of Health Care Services, to establish a 3-year pilot program at one or more institutions that will provide a medically assisted substance use disorder treatment model for treatment of inmates with a history of substance use problems. Existing law requires the department, in establishing the program, to consider specified treatment components, including, among others, access to medication-assisted treatment throughout the period of incarceration up to and including immediately prior to release.

This bill establishes, until January 1, 2026, the Medication-Assisted Treatment Grant Program, to be administered by the Board of State and Community Corrections. The bill requires the board to award grants, on a competitive basis, to counties and would authorize counties that receive grants to use grant funds for various purposes relating to the treatment of substance use disorders and the provision of medication-assisted treatment. The bill prohibits counties from using the grant funds to supplant existing resources for medication-assisted treatment services delivered in county jails or in the community. The bill also requires counties that receive grants pursuant to these provisions to collect and maintain data relating to the effectiveness of the program and would require the board, by July 1, 2025, to submit a report to the Legislature describing the activities funded by the grant program and the success of those activities in reducing drug overdoses and recidivism by jail inmates and persons under criminal justice supervision.

Status: Chapter 745, Statutes of 2021

Legislative History:

Assembly Floor - (79 - 0)

Assembly Floor - (78 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (38 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

AB-1228 (Lee) - Supervised persons: release.

(Amends Section 1203.2 of, and adds Section 1203.25 to, the Penal Code.)

Existing law authorizes a probation officer, parole officer, or peace officer to rearrest a person without warrant or other process during the period that a person is released on probation, conditional sentence or summary probation, or mandatory supervision, or when the person is subject to revocation of postrelease community supervision or parole supervision, if the officer has probable cause to believe that the supervised person is violating the terms of their supervision. Existing law allows a court to order the release of a supervised person from custody under terms and conditions the court deems appropriate, unless the person is serving a period of flash incarceration.

This bill requires a court that elects to order the release of persons on probation pursuant to the above provision to release persons on probation on their own recognizance pending a formal revocation hearing absent a finding by clear and convincing evidence that conditions of release are required by the individual circumstances of the case in order to reasonably protect the public and provide reasonable assurance of the person's future appearance in court. The bill prohibits a court from imposing cash bail as a condition of release absent a showing by clear and convincing evidence that other reasonable conditions of release would be inadequate to encourage the person to attend court in compliance with the court's orders. The bill requires the court to consider the person's ability to pay cash bail and would require any bail order to be set at a level the person could reasonably afford. The bill also prohibits the court from imposing the costs of any imposed conditions on the supervised person.

The bill prohibits the court from denying release for a person on probation for felony conduct before the court holds a formal probation revocation hearing unless the court finds by clear and convincing evidence that there are no means reasonably available that would encourage the person to attend court as ordered. The bill specifies that these provisions do not limit the court's authority to hold, release, limit release, or impose conditions of release for new charges.

Status: Chapter 533, Statutes of 2021

Legislative History:

Assembly Floor - (48 - 22)

Assembly Floor - (50 - 20)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (25 - 11)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

AB-1542 (McCarty) - County of Yolo: Secured Residential Treatment Program.
(Amends Section 4019 of, and adds and repeals Section 1203.44 of, the Penal Code.)

Existing law authorizes a court to grant pretrial diversion to a defendant in specified cases, including when the defendant is suffering from a mental disorder, specified controlled substances crimes, and when the defendant was, or currently is, a member of the United States military. Existing law imposes various fines, fees, penalties, and assessments on a defendant in a criminal proceeding, including the fine set by statute, restitution fines and fees, and assessments to support the state court system.

This bill would have, until January 1, 2025, authorized the County of Yolo to offer a pilot program, known as the Secured Residential Treatment Program, for individuals suffering from substance use disorders (SUDs) who have been convicted of qualifying drug-motivated felony crimes, as specified. The bill would have required the program to meet certain conditions relating to, among other things, a risk, needs, and psychological assessment, a comprehensive curriculum, a determination by a judge of the length of treatment, data collection, licensing and monitoring of the facility by the State Department of Health Care Services, and reporting to the department and the Legislature.

The bill would have required the judge to offer the defendant voluntary participation in the pilot program, as an alternative to a jail or prison sentence otherwise imposed, if the defendant's crime was caused in whole or in part by the defendant's SUD, the crime was not a sex crime, serious or violent felony, or nonviolent drug possession, and the judge makes their determination based on the recommendations of the treatment providers, on a finding by the health and human services agency of the county that the defendant's participation would be appropriate, and on a specified report prepared with input from interested parties. Under the bill, the defendant would be eligible to receive credits for participation in the program, as specified.

The bill would have set forth a procedure for the transfer of a participant out of the secured residential treatment program based on the recommendations of the treatment providers or program administrators or based on the participant's request, as specified. If the participant successfully completes the court-ordered drug treatment pursuant to the pilot program, the bill would have required the court to expunge the conviction from the participant's record and would authorize the court to expunge the conviction of any previous drug possession or drug use crimes on the participant's record.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including mental health and substance use disorder services, pursuant to a schedule of benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law, with certain exceptions based in part on the type and location of the service, provides for the suspension of Medi-Cal benefits to an inmate of a public institution.

This bill would have, to the extent permitted under federal and state law, made treatment provided to a participant during the program reimbursable under the Medi-Cal program, if the participant is a Medi-Cal beneficiary and the treatment is a covered benefit under the Medi-Cal program. If treatment services are not reimbursable under the Medi-Cal program or through the participant's personal health care coverage, the bill would have authorized funds allocated to the state from the 2021 Multistate Opioid Settlement Agreement, subject to an appropriation by the Legislature, to be used to reimburse those treatment services to the extent consistent with the terms of the settlement agreement and the court's final judgment, as specified.

This bill would have made legislative findings and declarations as to the necessity of a special statute for the County of Yolo.

Status: VETOED

Legislative History:

Assembly Floor - (58 - 0)	Senate Floor - (39 - 0)
Assembly Floor - (65 - 1)	Senate Appropriations - (6 - 0)
Assembly Appropriations - (11 - 4)	Senate Health - (9 - 0)
Assembly Health - (11 - 2)	Senate Public Safety - (3 - 0)
Assembly Public Safety - (7 - 0)	

Governor's Veto Message:

I am returning Assembly Bill 1542 without my signature.

AB 1542 would authorize the County of Yolo to offer a pilot program that would allow individuals struggling with substance use disorders, who have been convicted of qualifying drug-motivated crimes, to be placed in a Secured Residential Treatment Program.

I understand the importance of developing programs that can divert individuals away from the criminal justice system, but coerced treatment for substance use disorder is not the answer. While this pilot would give a person the choice between incarceration and treatment, I am concerned that this is a false choice that effectively leads to forced treatment. I am especially concerned about the effects of such treatment, given that evidence has shown coerced treatment hinders participants' long-term recovery from their substance use disorder. For these reasons, I am not able to sign this legislation.

Sentencing

SB-71 (McGuire) - Infractions: community service: education programs.

(Amends Section 1209.5 of the Penal Code.)

Existing law authorizes a court to sentence a person convicted of an infraction to perform community service in lieu of the total fine, as defined, that would otherwise be imposed, upon a showing that payment of the total fine would pose a hardship on the defendant or the person's family.

This bill will authorize the court to allow a person to participate in educational programs, as defined, to satisfy community service hours.

This bill provides that an educational program includes, but is not limited to, high school or General Education Development classes, college courses, adult literacy or English as a second language programs, and vocational education programs.

Status: Chapter 598, Statutes of 2021

Legislative History:

Assembly Floor - (65 - 0)

Assembly Public Safety - (7 - 0)

Senate Floor - (39 - 0)

Senate Floor - (37 - 0)

Senate Public Safety - (4 - 0)

SB-81 (Skinner) - Sentencing: dismissal of enhancements.

(Amends Section 1385 of the Penal Code.)

Existing law generally authorizes a court to dismiss an action or to strike or dismiss an enhancement in the furtherance of justice.

This bill requires a court, except as specified, when determining whether to dismiss an enhancement in the furtherance of justice, to consider and afford great weight to evidence offered by the defendant to prove that specified mitigating circumstances are present. The bill provides that proof of the presence of one or more specified mitigating circumstances weighs greatly in favor of dismissing an enhancement, unless the court finds that dismissal would endanger public safety, as defined.

Status: Chapter 721, Statutes of 2021

Legislative History:

Assembly Floor - (46 - 24)

Assembly Appropriations - (11 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (23 - 11)

Senate Floor - (27 - 9)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 0)

SB-483 (Allen) - Sentencing: resentencing to remove sentencing enhancements.

(Adds Sections 1171 and 1171.1 to the Penal Code.)

Prior law, in effect until January 1, 2020, required a sentencing court to impose an additional one-year term for each prior separate prison term or county jail felony term served by the defendant for a nonviolent felony, as specified. Prior law, in effect until January 1, 2018, required a sentencing court to impose on a defendant convicted of specified crimes relating to controlled substances, an additional 3-year term for each prior conviction of specified controlled substances crimes, as specified.

This bill declares that an enhancement imposed pursuant to one of these prior provisions is legally invalid. The bill states the intent of the Legislature to prohibit a prosecutor or court from rescinding a plea agreement based on a change in sentence as a result of this bill. The bill requires the Secretary of the Department of Corrections and Rehabilitation and the county correctional administrator of each county to identify those persons in their custody

who are serving a sentence that includes one of these repealed enhancements and provide this information to the sentencing court pursuant to the timelines specified in this bill. The bill prescribes specific considerations for the court in resentencing, such as requiring that the resentencing result in a lesser sentence, unless the court finds that a lesser sentence would endanger public safety. The bill requires the court to appoint counsel for an individual subject to resentencing.

Status: Chapter 728, Statutes of 2021

Legislative History:

Assembly Floor - (43 - 25)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (26 - 10)

Senate Floor - (26 - 9)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

SB-567 (Bradford) - Criminal procedure: sentencing.

(Amends Sections 1170 and 1170.1 of the Penal Code.)

Existing law generally defines various actions and omissions as criminal offenses and makes those offenses punishable as either an infraction, misdemeanor, or felony, and provides for the imposition of various enhancements. Existing law provides the punishment for many felonies as imprisonment for one of 3 prescribed terms in the state prison or in a county jail, as specified, and provides for the imposition of an additional term of imprisonment of one of 3 prescribed terms for many enhancements. Under existing law, until January 1, 2022, when the statute specifies 3 possible terms, the choice of the appropriate term rests within the sound discretion of the court.

Under previous law, when a judgment of imprisonment was to be imposed and the statute specified three possible terms, the court was required to impose the middle term unless there were circumstances in aggravation or mitigation of the crime.

Existing case law held that, as it relates to this previous law, when the middle term was set as the statutory default, imposing an elevated upper-term sentence violated a defendant's right to trial by jury, and any fact that increases the penalty for a crime beyond that prescribed statutory default must be submitted to a jury and proved beyond a reasonable doubt.

This bill requires the court to impose a term of imprisonment not exceeding the middle term unless there are circumstances in aggravation that have been stipulated to by the defendant, or have been found true beyond a reasonable doubt at trial by the jury or by the judge in a court trial. The bill requires the court, except in specified circumstances, to, upon the request of the defendant, bifurcate the trial on the circumstances in aggravation from the trial of charges and enhancements. This bill, notwithstanding that requirement, allows the court to consider prior convictions based on a certified record of conviction without a finding by the jury. The bill requires the court to set forth on the record the reasons for imposing the term selected.

Status: Chapter 731, Statutes of 2021

Legislative History:

Assembly Floor - (41 - 23)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (28 - 10)

Senate Floor - (30 - 7)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

SB-775 (Becker) - Felony murder: resentencing.

(Amends Section 1170.95 of the Penal Code.)

Existing California law as of 2018 significantly reformed the felony-murder doctrine in the state. Historically, the felony murder rule applied to murder in the first degree as well as murder in the second degree. The rule created liability for murder for actors (and their accomplices) who kill another person during the commission of a felony. The death needed not to be in furtherance of the felony, in fact the death could be accidental. The stated purpose for the rule has always been to deter those who commit felonies from killing by holding them strictly responsible for any killing committed by a co-felon, whether intentional, negligent, or accidental during the perpetration or attempted perpetration of the felony.

As of 2018, California law clarified that malice cannot be imputed to a person based solely on his or her participation in a specified crime. This eliminated second degree felony murder as a basis for murder liability. The participant in those specified felonies can only be liable for murder if one of the following factors is proved: 1) the person was the actual killer; 2) the person was not the actual killer, but had the intent to kill and they aided, abetted, counseled, commanded, induced, solicited, requested, or assisted the actual killer in the commission of the murder; or, 3) the person was a major participant in the

underlying felony and acted with reckless indifference to human life. Additionally, the changes of 2018 provided a procedure for incarcerated persons to petition to have their sentences recalled and to be resentenced pursuant to the provisions and standards of the bill.

This bill clarifies that persons who were convicted of attempted murder or manslaughter under a theory of felony murder, a theory under which malice is imputed to a person, and the natural probable consequences doctrine are permitted the same relief as those persons convicted of murder under the same theories. Additionally this bill permits for the appointment of counsel in petitions for resentencing under these provisions as specified. And lastly, this bill authorizes a person convicted of murder, attempted murder or manslaughter whose conviction is not final to challenge the validity of that conviction upon direct appeal.

Status: Chapter 551, Statutes of 2021

Legislative History:

Assembly Floor - (41 - 32)

Assembly Appropriations - (11 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (27 - 10)

Senate Floor - (30 - 8)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

AB-124 (Kamlager) - Criminal procedure.

(Amends Sections 236.23 and 1170 of, and adds Sections 236.15, 236.24, and 1016.7 to, the Penal Code.)

Existing law allows a person who was arrested or convicted of a nonviolent offense while they were a victim of human trafficking to petition the court, under penalty of perjury, for vacatur relief. Existing law requires, to receive that relief, that the person establish, by clear and convincing evidence, that the arrest or conviction was the direct result of being a victim of human trafficking.

This bill creates similar relief for a person who was arrested or convicted of an offense that was the direct result of being a victim of intimate partner violence or sexual violence.

Existing law creates an affirmative defense against a charge of a crime that the person was coerced to commit the offense as a direct result of being a human trafficking victim at the time of the offense and when the person had reasonable fear of harm. Existing law

prohibits this defense from being used with respect to a serious or violent felony, as defined, or a charge of human trafficking.

This bill allows that defense to be used with respect to a serious felony or a charge of human trafficking. The bill additionally creates a defense against a charge of a crime that the person was coerced to commit the offense as a direct result of being a victim of intimate partner violence or sexual violence at the time of the offense and had a reasonable fear of harm.

Existing law defines “pleabargaining” as any bargaining, negotiation, or discussion between a criminal defendant, or their counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

This bill requires the prosecutor, during plea negotiations, to consider in support of a mitigated sentence whether the person has experienced psychological, physical, or childhood trauma, was a youth, as defined, at the time of the commission of the offense, or was a victim of intimate partner violence or human trafficking.

Existing law, after January 1, 2022, requires the court, when a judgment of imprisonment is imposed and specifies three possible terms, to impose the middle term unless there are circumstances in aggravation or mitigation of the crime.

This bill requires the court to impose the lower term if the person has experienced psychological, physical, or childhood trauma, was a youth, as defined, at the time of the commission of the offense, or was a victim of intimate partner violence or human trafficking, unless the aggravating circumstances outweigh the mitigating circumstances that the imposition of the lower term would be contrary to the interests of justice.

Existing law authorizes a court, within 120 days after sentencing the defendant or at any time upon a recommendation from specified correctional entities, to recall an inmate’s sentence and resentence that inmate to a lesser sentence.

This bill requires the court, when resentencing, to consider if the defendant has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence, if the defendant was a victim of intimate

partner violence or human trafficking prior to or at the time of the commission of the offense, or if the defendant is a youth or was a youth at the time of the commission of the offense, and whether those circumstances were a contributing factor in the commission of the offense.

Status: Chapter 695, Statutes of 2021

Legislative History:

Assembly Floor - (55 - 16)

Assembly Floor - (54 - 12)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (23 - 9)

Senate Floor - (28 - 8)

Senate Floor - (39 - 0)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 0)

AB-518 (Wicks) - Criminal law: violations punishable in multiple ways.

(Amends Section 654 of the Penal Code.)

Existing law requires a crime that is punishable in different ways by different laws to be punished under the law that provides for the longest possible term of imprisonment.

This bill, instead, authorizes a crime that is punishable in different ways by different laws to be punished under either of the applicable provisions.

Status: Chapter 441, Statutes of 2021

Legislative History:

Assembly Floor - (41 - 23)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (29 - 10)

Senate Public Safety - (3 - 1)

AB-1281 (Blanca Rubio) - Criminal procedure: protective orders.

(Amends Sections 1203.4, 1203.4a, 1203.4b, and 1203.425 of the Penal Code.)

Under existing law, if a person is convicted of specified domestic violence, elder abuse, or stalking offenses, the court is required to consider the issuance of an order restraining the defendant from contacting the victim, as specified. Existing law provides various processes by which a person may have their previous convictions and charges dismissed thus releasing the person of any penalties and disabilities of the conviction, except as otherwise provided.

This bill specifies that dismissal of a pleading under any of these processes does not invalidate a restraining order that was issued to the defendant in that case and would clarify that such an order remains in effect until the order expires or is modified by the issuing court, despite the dismissal of the underlying pleading.

Status: Chapter 209, Statutes of 2021

Legislative History:

Assembly Floor - (78 - 0)

Senate Floor - (37 - 0)

Assembly Floor - (75 - 0)

Senate Public Safety - (4 - 0)

Assembly Public Safety - (8 - 0)

AB-1318 (Stone) - Deferred entry of judgment pilot program.

(Amends Section 1000.7 of the Penal Code.)

Existing law authorizes, until January 1, 2022, the Counties of Alameda, Butte, Napa, Nevada, Santa Clara, and Ventura to establish a pilot program to operate a deferred entry of judgment pilot program for eligible defendants. The pilot program authorizes a defendant to participate in the program within the county’s juvenile hall if that person is charged with committing a felony offense, except as specified, pleads guilty to the charge or charges, and the probation department determines that the person meets specified requirements, including that the defendant is 18 years of age or older, but under 25 years of age on the date the offense was committed, is suitable for the program, and shows the ability to benefit from services generally reserved for delinquents. Existing law requires a county participating in this pilot program to establish a multidisciplinary team to meet periodically to review and discuss the implementation, practices, and impact of the program, as specified and to submit data on the pilot program to the Board of State and

Community Corrections (BSCC). Existing law requires BSCC to conduct an evaluation of the pilot program's impact and effectiveness, as specified, and would require, no later than December 31, 2020, the evaluation to be combined into a comprehensive report and submitted to the Assembly and Senate Committees on Public Safety.

This bill extends the pilot program to January 1, 2024, and would require the BSCC to submit a comprehensive report to the Assembly and Senate Committees on Public Safety no later than December 31, 2022.

Status: Chapter 210, Statutes of 2021

Legislative History:

Assembly Floor - (60 - 13)

Assembly Floor - (57 - 7)

Assembly Judiciary - (8 - 0)

Senate Floor - (30 - 7)

Senate Public Safety - (5 - 0)

AB-1356 (Bauer-Kahan) - Reproductive health care services.

(Amends Sections 6218, 6218.01, and 6218.05 of the Government Code, and amends Sections 423.1, 423.2, 423.3, 13776, 13777, 13777.2, and 13778 of, and adds Section 13778.1 to, the Penal Code.)

Existing law:

- 1) Prohibits a person, business, or association from knowingly publicly posting or displaying on the internet the home address or home telephone number of a provider, employee, volunteer, or patient of a reproductive health care services facility, or of persons residing at the same home address as a provider, employee, volunteer, or patient of a reproductive health care services facility, with the intent to do either of the following:
 - a) Incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, if the third person is likely to commit this harm; or,
 - b) Threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for the person's or coresident's personal safety. Establishes a cause of action for damages and declaratory relief for violations.

The penalty is injunctive relief or monetary damages in the amount of three times the actual damages but no less than \$5,000.(Government Code § 6218 (a).)

2) Provides that any reproductive health service provider, employee, volunteer, or patient who is placed in reasonable fear by the posting of their home address and phone number on an Internet website may make a written demand that such information be removed from the website, so long as the demand includes a sworn statement describing the reasonable fear and attesting that the person is a member of the group protected by the statute. Provides injunctive relief. (Government Code § 6281 (b).)

3) Makes it a misdemeanor, punishable by up to six months in a county jail, a fine of not more than \$2,500, or both that fine and imprisonment, to post the home address, telephone number, or personally identifying information about a provider, employee, volunteer, or patient of a reproductive health service facility or other individuals residing at the same home address with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against that person or entity. If the violation leads to bodily injury of the person, it is a misdemeanor punishable by up to one year in a county jail, a fine of up to \$5,000, or both that fine and imprisonment. (Government Code § 6218.01.)

4) Defines “reproductive health care services” to mean health care services relating to the termination of a pregnancy in a reproductive health care services facility. (Government Code § 6218.05 (a).)

5) Defines “reproductive health care services provider, employee, volunteer, or patient” means a person who obtains, provides, or assists, at the request of another person, in obtaining or providing reproductive health care services, or a person who owns or operates a reproductive health care services facility. (Government Code, § 6218.05(b).)

6) Defines “reproductive health care services facility” includes a hospital, an office operated by a licensed physician and surgeon, a licensed clinic or a clinic exempt from licensure, or other licensed health care facility that provides reproductive health care services and includes only the building or structure in which the reproductive health care services are actually provided. (Government Code § 6218.05(c).)

7) Defines “public post” or “publicly display” as meaning to intentionally communicate or otherwise make available to the general public. (Government Code § 6218.05 (d).)

- 8) Defines “image” as including, but not limited to, any photograph, video footage, sketch, or computer-generated image that provides a means to visually identify the person depicted. (Government Code § 6218.05(e).)
- 9) Defines “crime of violence” as an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another. (Penal Code § 423.1 (a).)
- 10) Defines “interfere with” as meaning to restrict a person’s freedom of movement. (Penal Code § 423.1 (b).)
- 11) Defines “intimidate” as meaning to place a person in reasonable apprehension of bodily harm to herself or himself or to another. (Penal Code § 423.1(c).)
- 12) Defines “nonviolent” as meaning to conduct that would not constitute a crime of violence. (Penal Code § 423.1(d).)
- 13) Defines “physical obstruction” as rendering ingress to or egress from a reproductive health services facility or to or from a place of religious worship impassable to another person, or rendering passage to or from a reproductive health services facility or a place of religious worship unreasonably difficult or hazardous to another person. (Penal Code § 423.1 (e).)
- 14) Defines “reproductive health services” as meaning reproductive health services provided in a hospital, clinic, physician’s office, or other facility and includes medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy. (Penal Code § 423.1 (f).)
- 15) Defines “reproductive health services client, provider, or assistant” as a person or entity that is or was involved in obtaining, seeking to obtain, providing, seeking to provide, or assisting or seeking to assist another person, at that other person’s request, to obtain or provide any services in a reproductive health services facility, or a person or entity that is or was involved in owning or operating or seeking to own or operate, a reproductive health services facility. (Penal Code § 423.1(g).)
- 16) States “reproductive health services facility” includes a hospital, clinic, physician’s office, or other facility that provides or seeks to provide reproductive health services and includes the building or structure in which the facility is located. (Penal Code § 423.1 (h).)

17) Provides that every person who, except a parent or guardian acting towards his or her minor child or ward, commits any of the following acts shall be subject to the punishment, as specified (Penal Code § 423.2 (a)-(f)):

- a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant; or
- b) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or
- c) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant; or
- d) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or
- e) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility; or
- f) Intentionally damages or destroys the property of a place of religious worship.
(Penal Code § 423.2.)

18) Makes a first violation involving nonviolent physical obstruction a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed \$2,000. (Penal Code § 423.3 (a).)

19) Makes a second or subsequent violation involving violation involving nonviolent physical obstruction a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed \$5,000. (Penal Code, § 423.3 (b).)

20) Makes a first violation involving force, threat of force, or physical obstruction that is a crime of violence or intentional property damage a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed \$25,000. (Penal Code § 423.3 (c).)

21) Makes a second or subsequent violation involving force, threat of force, or physical obstruction that is a crime of violence or intentional property damage a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed \$50,000. (Penal Code § 423.3 (d).)

22) Provides that in imposing fines pursuant to this section, the court shall consider applicable factors in aggravation and mitigation set out in Rules of the California Rules of Court, and shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), or a prior violation of a statute of another jurisdiction that would constitute a violation of Section 423.2 or of the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 423.2. (Penal Code § 423.3 (e).)

23) States that this title establishes concurrent state jurisdiction over conduct that is also prohibited by the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), which provides for more severe misdemeanor penalties for first violations and felony-misdemeanor penalties for second and subsequent violations. State law enforcement agencies and prosecutors shall cooperate with federal authorities in the prevention, apprehension, and prosecution of these crimes, and shall seek federal prosecutions when appropriate. (Penal Code § 423.3 (f).)

24) Provides that no person shall be convicted under this article for conduct in violation of Section 423.2 that was done on a particular occasion where the identical conduct on that occasion was the basis for a conviction of that person under the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248). (Penal Code § 423.3 (g).)

25) Requires the Attorney General (AG), under the Reproductive Rights Law Enforcement Act to carry out certain functions relating to anti-reproductive-rights crimes in consultation with, among others, subject matter experts. The AG must:

- a) Collect information relating to anti-reproductive-rights crimes, including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats;

- b) Direct local law enforcement agencies to provide to the Department of Justice (DOJ), in a manner that the AG prescribes, any information that may be required relative to anti-reproductive-rights crimes, as specified; and,
- c) Develop a plan to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes, and to carry out the legislative intent. (Penal Code, § 13777 (a) & (b).)

26) Requires the AG to implement this section to the extent the Legislature appropriates funds in the Budget Act or another statute for this purpose. (Penal Code § 13777, (c).)

27) Requires the Commission on the Status of Women and Girls to convene an advisory committee that consists of members of the organizations identified as subject matter experts. Requires the advisory committee to make two reports to specified legislative entities, the Commission on Peace Officer Standards and Training (POST), and the Commission on the Status of Women and Girls, the first by December 31, 2007, and the second by December 31, 2011, to evaluate the implementation of the act and making recommendations. (Penal Code § 13777.2 (a)-(c).)

28) Requires POST to develop a two-hour telecourse on anti-reproductive-rights crimes and make the telecourse available to all California law enforcement agencies and to the advisory committee. (Penal Code §§ 13777.2 (d); 13778 (a).)

This bill:

1) Extends the prohibition in posting a home address to the knowing distribution of personal information about or the image of in any forum with the intent to incite a third person to cause great bodily harm to the reproductive health care services patient, provider, or assistant or to threaten the patient, provider or assistant in a manner that places that person or their co-resident in objectively reasonable fear for their personal safety.

2) Expands the prohibition on publishing, when a demand has been made not to, to the publication in any forum, of person information or image if the person has made a demand that the person, business or association not disclose the information or image.

3) Makes a violation of the prohibition on posting a residential address with the intent the information be used to cause harm punishable as a one year misdemeanor and/or a fine of up to \$10,000 per violation and if bodily injury occurs a misdemeanor with a penalty of up to one year in county jail and/or a fine of up to \$50,000.

4) Defines “reproductive health care services patient, provider or assistant” as a person or entity, including, but not limited to, employees, staff, volunteers, and third-party vendors, that is or was involved in obtaining, seeking to obtain, providing, seeking to provide, or assisting or seeking to assist another person, at that person’s request to obtain or provide any services in a reproductive health care services facility, or a person or entity that is or was involved in owning or operating or seeking to own or operate a reproductive health care services facility.

5) Provides that a “reproductive health care services facility” includes a hospital, clinic, physician’ office, or other facility that provides or seeks to provide reproductive health care services and includes the building or structure in which the facility is located.

6) Defines “personal information” as information that identifies, relates to, describes, or is capable of being associated with a reproductive health care services patient, provider, or assistant, including, but not limited to their name, signature, social security number, physical characteristics or description, address, telephone number, passport number, driver’s license or state identification card number, license plate number, employment, employment history, and financial information.

7) Defines “social media” means an electronic service or account, or electronic content, including, but not limited to, videos or still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or internet website profiles or locations.

8) Provides, further, that the penalty in Penal Code Section 423.3 shall apply to every person who within 100 feet of the entrance to, or within, a reproductive health services facility intentionally videotapes, films, photographs, or records by electronic means, a reproductive health services patient, provider, or assistant without that person’s consent with the specific intent to intimidate the person from becoming or remaining a reproductive health services patient, provider, or assistant, and thereby cause the person to be intimidated.

9) Provides that the penalty in Penal Code Section 423.3 shall apply to every person who in any manner or forum, including by not limited to, internet websites and social media, intentionally discloses or distributes a videotape, film photograph or recording knowing it was obtained in violation of the above with the specific intent to intimidate the person, because that person is a reproductive health services patient, provider, or assistant, or with the specific intent to intimidate the person from becoming or remaining a reproductive health services patient, provider or assistant, and thereby cause the person to be

intimidated. Social media means an electronic service or account, or electronic content including, but not limited to videos or still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or internet website profiles or locations.

10) Makes the penalty for a first violation for the nonviolent obstruction of a center, a misdemeanor punishable by up to one year in county jail and or a fine not to exceed \$10,000.

11) Makes second and subsequent violation for the nonviolent obstruction of a center a misdemeanor punishable by up to one year in county jail and/or or a fine of up to \$25,000.

12) Provides that the first violation for intimidating a person or entity that is offering reproductive health services or interference with a first amendment right, intentionally destroying property because it is a reproductive health facility or place of worship under Penal Code Section 423.2 (a) or (b) the penalty is a misdemeanor punishable by imprisonment in the county jail for one year and/or a fine of up to \$25,000.

13) Provides that a second or subsequent violation for intimidating a person or entity that is offering reproductive health services or interference with a first amendment right under Penal Code Section 423.2 (a)(b)(e), or (f) the penalty is a misdemeanor punishable by imprisonment in the county jail for one year and/or a fine of up to \$50,000.

14) Requires the AG to direct local law enforcement agencies to provide the Department of justice all of the following on an annual basis:

- a) The total number of anti-reproductive rights crime related calls for assistance made to the department.
- b) The total number of arrests for anti-reproductive rights crimes by which Penal Code Section 423.2 is the basis for the arrest and the report for each crime that violates any other law.
- c) The total number of cases in which the district attorney charged an individual with a crime that violates section 423.3 including the subdivision that prohibits the crime.

15) Provides that beginning on January 1, 2023, the DOJ shall report on an annual basis the information re anti-reproductive crime.

16) Provides that every law enforcement agency in this state shall develop, adopt, and implement written policies and standards for officers' responses to anti-reproductive rights calls by January 1, 2023.

17) Provides that subject to an appropriation in the budget, the POST shall develop and update every seven years, or on a more frequent basis if deemed necessary by either the Commission on the Status of Women and Girls or the AG, an interactive training course on anti-reproductive rights crimes.

18) Contains a number of uncodified legislative declarations.

Status: Chapter 191, Statutes of 2021

Legislative History:

Assembly Floor - (60 - 18)

Assembly Floor - (59 - 17)

Assembly Appropriations - (12 - 4)

Assembly Privacy and Consumer
Protection - (8 - 2)

Assembly Public Safety - (6 - 2)

Senate Floor - (29 - 10)

Senate Appropriations - (5 - 2)

Senate Judiciary - (8 - 3)

Senate Public Safety - (4 - 1)

AB-1540 (Ting) - Criminal procedure: resentencing.

(Amends Sections 1170 and 5076.1 of, and adds Section 1170.03 to, the Penal Code.)

Existing law authorizes a court, within 120 days after sentencing the defendant or at any time upon a recommendation from the Secretary of the Department of Corrections and Rehabilitation, the Board of Parole Hearings, the district attorney, to recall an inmate's sentence and resentence that inmate to a lesser sentence. Existing law requires the court, when resentencing, to apply the rules of the Judicial Council to eliminate disparity of sentences and promote uniformity of sentencing. Existing law authorizes a court to reduce a defendant's term of imprisonment and modify the judgment if it is in the interest of justice.

This bill requires the court to state its reasons for a resentencing decision on the record, as specified. This bill requires the court to provide notice to the defendant, set a status conference within 30 days of the receipt of the request, and appoint counsel for the defendant. This bill authorizes the court to grant a resentencing without a hearing, if the parties are in agreement. The bill additionally creates a presumption favoring recall and resentencing the defendant in those hearings, as specified.

Status: Chapter 719, Statutes of 2021

Legislative History:

Assembly Floor - (47 - 24)

Assembly Floor - (53 - 20)

Assembly Appropriations - (12 - 4)

Assembly Public Safety - (6 - 2)

Senate Floor - (23 - 9)

Senate Appropriations - (5 - 2)

Senate Public Safety - (4 - 1)

AB-1542 (McCarty) - County of Yolo: Secured Residential Treatment Program.

(Amends Section 4019 of, and adds and repeals Section 1203.44 of, the Penal Code.)

Existing law authorizes a court to grant pretrial diversion to a defendant in specified cases, including when the defendant is suffering from a mental disorder, specified controlled substances crimes, and when the defendant was, or currently is, a member of the United States military. Existing law imposes various fines, fees, penalties, and assessments on a defendant in a criminal proceeding, including the fine set by statute, restitution fines and fees, and assessments to support the state court system.

This bill would have, until January 1, 2025, authorized the County of Yolo to offer a pilot program, known as the Secured Residential Treatment Program, for individuals suffering from substance use disorders (SUDs) who have been convicted of qualifying drug-motivated felony crimes, as specified. The bill would have required the program to meet certain conditions relating to, among other things, a risk, needs, and psychological assessment, a comprehensive curriculum, a determination by a judge of the length of treatment, data collection, licensing and monitoring of the facility by the State Department of Health Care Services, and reporting to the department and the Legislature.

The bill would have required the judge to offer the defendant voluntary participation in the pilot program, as an alternative to a jail or prison sentence otherwise imposed, if the defendant's crime was caused in whole or in part by the defendant's SUD, the crime was not a sex crime, serious or violent felony, or nonviolent drug possession, and the judge makes their determination based on the recommendations of the treatment providers, on a finding by the health and human services agency of the county that the defendant's participation would be appropriate, and on a specified report prepared with input from interested parties. Under the bill, the defendant would be eligible to receive credits for participation in the program, as specified.

The bill would have set forth a procedure for the transfer of a participant out of the secured residential treatment program based on the recommendations of the treatment providers or program administrators or based on the participant's request, as specified. If the participant successfully completes the court-ordered drug treatment pursuant to the pilot program, the bill would have required the court to expunge the conviction from the participant's record and would authorize the court to expunge the conviction of any previous drug possession or drug use crimes on the participant's record.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including mental health and substance use disorder services, pursuant to a schedule of benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law, with certain exceptions based in part on the type and location of the service, provides for the suspension of Medi-Cal benefits to an inmate of a public institution.

This bill would have, to the extent permitted under federal and state law, made treatment provided to a participant during the program reimbursable under the Medi-Cal program, if the participant is a Medi-Cal beneficiary and the treatment is a covered benefit under the Medi-Cal program. If treatment services are not reimbursable under the Medi-Cal program or through the participant's personal health care coverage, the bill would have authorized funds allocated to the state from the 2021 Multistate Opioid Settlement Agreement, subject to an appropriation by the Legislature, to be used to reimburse those treatment services to the extent consistent with the terms of the settlement agreement and the court's final judgment, as specified.

This bill would have made legislative findings and declarations as to the necessity of a special statute for the County of Yolo.

Status: VETOED

Legislative History:

Assembly Floor - (58 - 0)

Assembly Floor - (65 - 1)

Assembly Appropriations - (11 - 4)

Assembly Health - (11 - 2)

Assembly Public Safety - (7 - 0)

Senate Floor - (39 - 0)

Senate Appropriations - (6 - 0)

Senate Health - (9 - 0)

Senate Public Safety - (3 - 0)

Governor's Veto Message:

I am returning Assembly Bill 1542 without my signature.

AB 1542 would authorize the County of Yolo to offer a pilot program that would allow individuals struggling with substance use disorders, who have been convicted of qualifying drug-motivated crimes, to be placed in a Secured Residential Treatment Program.

I understand the importance of developing programs that can divert individuals away from the criminal justice system, but coerced treatment for substance use disorder is not the answer. While this pilot would give a person the choice between incarceration and treatment, I am concerned that this is a false choice that effectively leads to forced treatment. I am especially concerned about the effects of such treatment, given that evidence has shown coerced treatment hinders participants' long-term recovery from their substance use disorder. For these reasons, I am not able to sign this legislation.

Sexual Offenses and Sexual Offenders

SB-215 (Leyva) - DNA evidence.

(Amends sections 680.1 and 680.3 of the Penal Code.)

Existing law requires law enforcement agencies to report specific rape kit evidence within 120 days of receiving it and allows survivors to inquire about the information and location of their kits.

This bill will instead allow the survivors of sexual assault to privately and securely track updates on their evidence kit through an electronic database.

Status: Chapter 634, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (40 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (4 - 0)

SB-248 (Bates) - Sexually violent predators: open court proceedings.

(Amends Section 6601 of the Welfare and Institutions Code.)

Under existing law, The Sexually Violent Predator Act (SVPA) establishes an extended civil commitment scheme for sex offenders who are about to be released from prison, but are referred to the Department of State Hospitals (DSH) for treatment in a state hospital, because they have suffered from a mental illness which causes them to be a danger to the safety of others. The DSH uses specified criteria to determine whether an individual qualifies for treatment as a SVP. Under existing law, a person may be deemed a SVP if: 1) the defendant has committed specified sex offenses against two or more victims; 2) the defendant has a diagnosable mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually-violent criminal behavior; and, 3) two licensed psychiatrists or psychologists concur in the diagnosis. If both clinical evaluators find that the person meets the criteria, the case is referred to the county district attorney who may file a petition for civil commitment.

Once a petition has been filed, a judge holds a probable cause hearing; and if probable cause is found, the case proceeds to a trial at which the prosecutor must prove to a jury beyond a reasonable doubt that the offender meets the statutory criteria. The state must prove "[1] a person who has been convicted of a sexually violent offense against [at least one] victim and [2] who has a diagnosed mental disorder that [3] makes the person a danger to the health and safety of others in that it is likely that he or she will engage in [predatory] sexually violent criminal behavior." (Cooley v. Superior Court (Martinez) (2002) 29 Cal.4th 228, 246.) If the prosecutor meets this burden, the person then can be civilly committed to a DSH facility for treatment.

This bill modifies the procedures for the SVP evaluations of individuals in the custody of the California Department of Corrections and Rehabilitation (CDCR) for a new offense committed while they were serving an indeterminate term in a state hospital as an SVP as follows:

For persons in the custody of CDCR for the commission of a new offense committed while serving in a state hospital as an SVP, CDCR shall at least six months prior to the individual's scheduled release date, refer the person directly to the DSH for a full SVP evaluation.

If the inmate was received by the department with less than nine months of their sentence to serve, or if the inmate's release date is modified by a judicial or administrative action, CDCR may refer the person for evaluation in accordance with this section at a date that is less than 6-months prior to the inmate's scheduled release.

If both evaluators concur that the person has a diagnosed mental disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of DSH shall forward a request for a court order no less than 20 calendar days prior to the scheduled release date of the person to the county designated authorizing a transfer of the individual from the CDCR to the DSH to continue serving the remainder of the individual's original indeterminate commitment as a sexually violent predator if the original petition has not been dismissed.

If the petition has previously been dismissed, the Director of DSH shall forward a request for a new petition to be filed for commitment to the county designated no less than 20 calendar days prior to the scheduled release date of the person.

Status: Chapter 383, Statutes of 2021

Legislative History:

Assembly Floor - (72 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (39 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

AB-1171 (Cristina Garcia) - Rape of a spouse.

(Amends Sections 2236.1, 2966, 10186.1, and 11319.2 of the Business and Professions Code, to amend Sections 1946.7 and 1946.8 of the Civil Code, to amend Sections 1036.2, 1103, and 1107 of the Evidence Code, to amend Sections 3044 and 6930 of the Family Code, amends Sections 13956 and 53165 of the Government Code, to amend Sections 136.2, 136.7, 209, 261, 261.6, 261.7, 264, 264.1, 264.2, 273.7, 290, 292, 667, 667.5, 667.51, 667.6, 667.61, 667.71, 667.8, 667.9, 679.02, 680, 784.7, 799, 868.5, 1048, 1127e, 1170.12, 1192.5, 1202.1, 1203.055, 1203.06, 1203.066, 1203.067, 1203.075, 1203.08, 1203.09, 1270.1, 1346.1, 1387, 1524.1, 1601, 2933.5, 2962, 3000, 3053.8, 3057, 11105.3, 11160, 12022.3, 12022.53, 12022.8, 12022.85, 13701, 13750, 13837, and 14205 of, and repeals Section 262 of, the Penal Code, amends Section 5164 of the Public Resources Code, to amend Section 4467 of the Vehicle Code, and amends Sections 6500 and 15610.63 of the Welfare and Institutions Code.)

Under California law, the crime of spousal rape is a separate crime from the crime of rape. While both crimes hold the same punishment in terms of the number of years an offender may spend in state prison, the crime of spousal rape differs from the crime of rape in terms of collateral consequences. Both crimes are punishable by imprisonment in state prison for

three, six, or eight years. However, persons who are convicted of spousal rape are eligible to plea bargain their sentence and may be sentenced to probation while a person convicted of rape is not probation eligible. Likewise, when a defendant is convicted rape they face mandatory sex registration but a defendant convicted of spousal rape faces discretionary registration unless the rape was forcible and results in a prison sentence. In addition, the crime of spousal rape does not include instances where the victim is unable to consent to sexual intercourse due to a mental disorder or a developmental or physical disability; rape by false pretenses; or rape by fraudulent representation that the intercourse served a professional purpose.

This bill eliminates all distinctions between spousal rape and rape by eliminating the crime of spousal rape. Once eliminated, by operation of law, all acts considered rape under California law committed by a perpetrator upon a spouse would be treated as any rape under the Penal Code.

Status: Chapter 626, Statutes of 2021

Legislative History:

Assembly Floor - (79 - 0)	Senate Floor - (37 - 0)
Assembly Floor - (74 - 0)	Senate Appropriations - (7 - 0)
Assembly Appropriations - (10 - 0)	Senate Public Safety - (5 - 0)
Assembly Public Safety - (8 - 0)	
Assembly Jobs, Economic Development, and the Economy - (6 - 0)	

Undocumented Persons

AB-263 (Arambula) - Private detention facilities.

(Adds Section 7321 to the Government Code.)

Existing law requires the operator of a private detention facility, as defined, to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility's contract for operations, as specified.

This bill requires a private detention facility operator to comply with, and adhere to, all local and state public health orders and occupational safety and health regulations. The bill states that its provisions are declaratory of existing law.

Status: Chapter 294, Statutes of 2021

Legislative History:

Assembly Floor - (74 - 0)

Assembly Floor - (71 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (39 - 0)

Senate Judiciary - (11 - 0)

Senate Public Safety - (4 - 0)

Vehicles and Driving Under the Influence (DUI)

AB-3 (Fong) - Exhibition of speed on a highway: punishment.

(Amends Sections 13352 and 23109 of the Vehicle Code.)

Existing law prohibits a person from engaging in a motor vehicle exhibition of speed on a highway or aiding or abetting in a motor vehicle exhibition of speed on any highway. Upon conviction, existing law punishes a person by imprisonment in a county jail for not more than 90 days, by a fine of not more than \$500, or by both that fine and imprisonment.

This bill, commencing July 1, 2025, additionally authorizes the court to order the privilege to operate a motor vehicle suspended for 90 days to 6 months and restrict the person's operation of a motor vehicle for the purposes of their employment, as specified. The bill requires the court to consider a person's hardships, as specified, when deciding to either suspend or restrict a driver's license. The bill requires the Department of Motor Vehicles to suspend or restrict a driver's license as ordered by the court.

Status: Chapter 611, Statutes of 2021

Legislative History:

Assembly Floor - (77 - 0)

Assembly Floor - (68 - 6)

Assembly Appropriations - (15 - 0)

Assembly Transportation - (13 - 1)

Senate Floor - (37 - 0)

Senate Appropriations - (7 - 0)

Senate Public Safety - (5 - 0)

Senate Transportation - (17 - 0)

AB-398 (Fong) - Department of Motor Vehicles: records.

(Amends Section 1810 of the Vehicle Code.)

Existing law authorizes the Department of Motor Vehicles to permit inspection of, or sell, or both, information from its records concerning the registration of a vehicle or information from the files of drivers' licenses at a charge sufficient to pay at least the actual cost to the department for providing the inspection or sale of that information, except as specified.

This bill eliminates the authority for the department to sell vehicle registration and driver's license information, and would instead provide that the charge for providing the inspection of the information shall not exceed the actual cost to the department.

Status: Chapter 90, Statutes of 2021

Legislative History:

Assembly Floor - (79 - 0)

Senate Floor - (39 - 0)

Assembly Floor - (77 - 0)

Senate Public Safety - (4 - 0)

Assembly Appropriations - (16 - 0)

Assembly Transportation - (15 - 0)

Warrants and Orders

AB-127 (Kamlager) - Arrest warrants: declaration of probable cause.

(Amends Section 817 of the Penal Code.)

Existing law governs the procedure for issuing a warrant of arrest by a magistrate. If a declaration of probable cause is made by a peace officer, existing law requires the magistrate to issue a warrant of probable cause for the arrest of the defendant described in the declaration only if the magistrate is satisfied that there is probable cause that the offense described in the declaration has been committed and that the defendant has committed the offense. Existing law allows the issuing magistrate to examine the person seeking the warrant and any witnesses the person may produce under oath. Existing law provides additional requirements for making and signing the declaration of probable cause, as specified.

This bill requires a magistrate, before issuing an arrest warrant pursuant to these provisions, to examine the declaration of probable cause made by a peace officer, or an employee of a public prosecutor's office when the subject of the arrest warrant is a peace officer.

Status: Chapter 20, Statutes of 2021

Legislative History:

Assembly Floor - (57 - 8)

Senate Floor - (30 - 7)

Assembly Public Safety - (6 - 0)

Senate Public Safety - (4 - 0)

Wrongful Convictions

SB-446 (Glazer) - Factual innocence.

(Amends Sections 1485.5, 1485.55, 4900, 4902, 4903, and 4904 of the Penal Code.)

Existing law authorizes a person who has been convicted and incarcerated for a felony and later pardoned on the basis of innocence or found to be factually innocent of that crime, as specified, to present a claim against the state to the California Victim Compensation Board for the pecuniary injury sustained by the person through the erroneous conviction and incarceration. Existing law requires the board to recommend to the Legislature that an appropriation be made and the claim paid if a court has made a finding that the person is factually innocent or if the person proves to the board that they are factually innocent. Existing law specifies that there is no presumption in any other proceeding for failure to make a motion or obtain a favorable ruling pursuant to these provisions. Existing law establishes the process and timeframes for the Attorney General to respond to a claim and for the board to set a hearing and make a recommendation on the claim. Under existing law, the person is considered factually innocent if the crime with which they were charged was either not committed at all, or if committed, was not committed by that person.

This bill revises and recasts these provisions to instead require the board, upon application by a person whose writ of habeas corpus was granted in state or federal court, or whose motion to vacate the charges was granted by a state court and the charges were dismissed, or if the person was acquitted of the charges on retrial, to recommend to the Legislature that an appropriation be made without a hearing, unless the Attorney General establishes

that the claimant is not entitled to compensation. This bill requires the Attorney General, for claims brought under specified provisions, to establish by clear and convincing evidence that the claimant committed the acts constituting the offense in order to establish that the claimant is not entitled to compensation. This bill prohibits the Attorney General, from relying solely on the trial record of a conviction that has been reversed or dismissed to establish that the claimant is not entitled to compensation. This bill specifies that no res judicata or collateral estoppel finding can be made in any other proceeding for failure to make a motion or obtain a favorable ruling under these provisions.

Status: Chapter 490, Statutes of 2021

Legislative History:

Assembly Floor - (75 - 0)

Assembly Appropriations - (16 - 0)

Assembly Public Safety - (8 - 0)

Senate Floor - (38 - 0)

Senate Floor - (39 - 0)

Senate Appropriations - (7 - 0)

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