



**Senate Committee on  
Public Safety**

**2005 Bill Summary**

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*Measures Signed and Vetoed*

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**Senator Charles Poochigian, Vice Chair**

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For your information, the staff of the Senate Committee on Public Safety has prepared this summary of bills sent to the Governor in 2005 pertaining to the Committee's subject-matter jurisdiction. I hope this compilation of public safety legislation will facilitate access to the new laws enacted this year. Most will take effect January 1, 2006.

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

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

- Copies of chaptered bills may be requested at no cost from the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814 or by calling (916) 445-2323. Copies of vetoed bills are available until February 2006.
- The Legislative Data Center maintains a Web site where these bills and analyses are available: <http://www.leginfo.ca.gov/bilinfo.html>

The text of this summary is also available at the Committee's list of publications at: <http://www.sen.ca.gov/htbin/testbin/seninfo?SEN.COMMITTEE.STANDING.PUBLICSAFETY>

I hope this legislative summary is useful to you, and to your constituents, as you – and they – prepare for 2006. As the new Chair this Session, I have enjoyed the challenges of chairing the Committee this year and greatly appreciate the assistance of all of those interested in the Committee's work as they have sought to help me and the members of the Committee write laws which are responsive to the needs of our State.

Sincerely,



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## EDITOR'S NOTES

- **Categorization of bills** – Many of the bills in this summary could fall under several different subject headings, but have been limited to one category in the interest of brevity. It is therefore hoped that anyone wishing to find all of the bills of interest to them may simply skim the entire document to identify any new laws. In addition, those who focus on specific code areas may skim the Table of Sections Affected information mentioned below.
- **Previous votes not relevant** – Refers to the committee/floor votes of a prior version of the measure which are not included in this summary. The votes that are shown in each bill summary refer to the committee/floor votes of the signed or vetoed measure. Simply put, the prior version of the measure was substantially amended (gutted) and replaced with new language. The measure number remains the same, but generally, the replacement language differs greatly from the measure's prior language. Thus a vote on a prior version of the bill does not provide useful information in determining the action of the Legislature on the enacted or vetoed version of the measure.
- **Effective date of bills – effect of urgency clause** – Article IV, Section 8(c) of the California Constitution provides that ". . . a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute" and "urgency statutes shall go into effect immediately upon their enactment." Regardless of the date a bill takes effect, some measures do have a **delayed "operative" date** for all or part of the measure; that is most common when a start-up period may be useful in order to prepare for the measure's impact.
- **Contingent measures** – Some bills have language added which makes them operative, if enacted, only if another measure (or measures) are also enacted.
- **Sunset dates** – Some measures have sunset dates that make them inoperative unless a later enacted statute becomes effective on or before the sunset date, which deletes or extends the date on which it becomes inoperative.
- **Conflicts and "double-jointing" language** – If two or more measures both amend the same statutory section in the same year, then whichever measure is chaptered/enacted last will "chapter out" any changes made by the earlier measure(s) unless the last enacted bill contains double-jointing language which provides that both the changes to the section made by the earlier measure(s) and the last enacted bill are to take effect. It may generally be assumed that measures in this summary which amend the same statutory section have the requisite double-jointing language so that all of the changes made by all of the measures will take effect.
- **Two votes in Appropriations Committee** – Some bills have two separate votes in the Senate and Assembly Appropriations Committees; the first generally reflects that the measure met the dollar threshold limit to be considered on the "suspense" file before final action. The second vote is the vote to pass the bill out of committee off of "suspense." This summary only lists the second vote if a bill was referred to suspense.

- **S.R. 28.8** – Senate Rule 28.8 allows the chair to move bills out of the Senate Appropriations Committee without a formal committee hearing or vote if the bill has no significant effect on state revenues. Thus, S.R. 28.8 is reflected, where appropriate, instead of a vote.
- **Not all bills that create a new crime are included in this summary** – The Senate Committee on Public Safety jurisdiction does not always include measures that involve misdemeanor and infraction criminal penalties. There are some bills, however, in this summary which were not heard in this committee, but which are included as FYI's since they are on related subjects that may be of interest.
- **Table of Sections Affected** – This summary does not contain a Table of Sections Affected (TOSA). However, the TOSA prepared by the Legislative Counsel is available online at the Legislative Counsel's "Official California Legislative Information" site at: [www.leginfo.ca.gov/](http://www.leginfo.ca.gov/).

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

- **Only "final" votes included in this summary** – There may be more than one vote on a bill in a given legislative location. For example, hostile amendments (not offered by the author) may be proposed on the Senate Floor and those amendments may be defeated or "tabled"; a bill may first fail in a committee or on the Senate or Assembly Floor, reconsideration may be granted, and the bill may be amended and subsequently approved; or a bill may pass the Legislature and be returned at the Governor's request with amendments then adopted before the bill is sent again to the Governor. This summary only reflects the final votes on a bill in each legislative location.
- **Legislative Counsel's maintenance of the codes bill** – SB 1108 (Committee on Judiciary) – Chapter 22. This annual clean-up bill makes technical and nonsubstantive changes to numerous code provisions; it is not included in this summary notwithstanding that it changes language in 6 sections of the Penal Code plus other code sections relevant to the criminal justice system. SB 1108 contains the following proviso:

Any section of any act enacted by the Legislature during the 2005 calendar year that takes effect on or before January 1, 2006, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2005 calendar year and takes effect on or before January 1, 2006, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.



# ANIMALS

## **SB 914 (Kehoe): Chapter 669: Animal cruelty.**

(Adds Section 597z to the Penal Code.)

### **Legislative History:**

*Senate Business, Professions &  
Economic Development (4-1)*  
*Senate Appropriations, S.R. 28.8*  
*Senate Floor (24-13)*  
*Senate Concurrence (25-13)*

*Assembly Business & Professions (7-0)*  
*Assembly Appropriations (13-5)*  
*Assembly Floor (48-30)*

Existing law makes it a crime to engage in animal cruelty, as specified.

This bill provides that, except as otherwise authorized under any other provision of law, it shall be an infraction, punishable by a fine not to exceed \$250, or a misdemeanor, for any person, other than an organization that provides services as a public animal sheltering agency or specified pet dealers or rescue groups, to sell one or more dogs under 8 weeks of age, unless, prior to any physical transfer of the dog or dogs from the seller to the purchaser, the dog or dogs are approved for sale, as evidenced by written documentation from a licensed veterinarian.

This bill provides that the sale of a dog or dogs shall not be considered complete, and thereby subject to the requirements and penalties of the bill, unless and until the seller physically transfers the dog or dogs to the purchaser; and that, with respect to the sale of 2 or more dogs in violation of this provision, each dog unlawfully sold shall represent a separate offense.

## **SB 1028 (Bowen): Chapter 672: Hunting: Internet hunting.**

(Adds Section 3003 to the Fish and Game Code.)

### **Legislative History:**

*Senate Natural Resources & Water (7-4)*  
*Senate Appropriations, S.R. 28.8*  
*Senate Floor (25-7)*  
*Senate Concurrence (27-5)*

*Assembly Water, Parks & Wildlife (13-0)*  
*Assembly Appropriations (18-0)*  
*Assembly Floor (72-0)*

Existing law sets forth the methods and conditions of taking any bird or mammal and specifies that it is unlawful to take birds or mammals with firearms or with bow and arrow when intoxicated. Existing law also requires each person that takes birds or mammals in California to apply for, and be granted, a hunting license.

This bill makes it a misdemeanor to do the following:

- shoot, shoot at, or kill any bird or mammal with any gun or other device accessed via an Internet connection in this state;
- own or operate a shooting range, site, or gallery located in the state for purposes of the online shooting or spearing of any bird or mammal;
- maintain, or utilize an Internet Web site, or a service or business via any other means, from any location within the state for purposes of the online shooting or spearing of any bird or mammal;
- possess or confine any bird or mammal in furtherance of any activity prohibited by the bill;
- import or export any bird or mammal, or any part thereof, that is killed by any device accessed via an Internet connection, as provided.

This bill further provides that any bird or mammal possessed in violation of this bill would be subject to seizure by the Department of Fish and Game.

**AB 1426 (Liu): Chapter 352: Animal euthanasia.**

(Amends Section 597u of, and repeals Section 597w of, the Penal Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (13-5)*

*Assembly Floor (56-12)*

*Assembly Concurrence (58-17)*

*Senate Business, Professions &*

*Economic Development (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (31-5)*

Existing law makes it a crime to engage in acts of animal abuse, as specified. Existing law makes it a misdemeanor to kill any animal by the use of carbon monoxide gas.

This bill provides that it is also a misdemeanor to kill any animal by means of an intracardiac injection of a euthanasia agent on a conscious animal, unless the animal is heavily sedated or anesthetized in a humane manner, or comatose, or unless, in light of all the relevant circumstances, the procedure is justifiable.

# BACKGROUND CHECKS

**AB 502 (Cogdill): Chapter 425: Finance lenders: criminal history record checks.**  
(Amends Sections 22101 and 22103 of, and adds Section 22101.5 to, the Financial Code.)

**Legislative History:**

*Assembly Banking & Finance (7-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (59-13)*

*Senate Banking, Finance & Insurance (10-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (33-4)*

Existing law (California Finance Lenders Law) provides for the licensure and regulation of finance lenders by the Commissioner of Corporations. Under that law, a licensure applicant is required to provide information specified by the commissioner and to pay a fee for the investigation of the application.

This bill requires a licensure applicant who is not currently licensed under the California Finance Lenders Law to submit a full set of fingerprints and related information to the commissioner for a criminal history record check. The bill requires the applicant to pay an additional amount to cover the costs of a criminal history record check by the Department of Justice.

**AB 1517 (Sharon Runner): Chapter 339: Department of Managed Health Care: employee information.**

(Adds Section 1041 to the Government Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (42-27)*

*Assembly Concurrence (76-0)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (37-0)*

Existing law authorizes criminal background checks of people employed in or volunteering in specified positions including DMV employees who have access to confidential information.

This bill requires the Department of Managed Health Care to require fingerprint images and associated information from any prospective employee whose duties would include access to medical information, for the purposes of a state and FBI criminal background check.

**AB 1738 (Committee on Local Government): Chapter 520: Electronic recordings: computer security auditors.**

(Amends Section 27395 of the Government Code.)

**Legislative History:**

*Assembly Local Government (7-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (78-0)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

Existing law (Electronic Recording Delivery Act of 2004) authorizes, among other things, a county recorder, upon approval by a resolution of the board of supervisors and system certification by the Attorney General, to establish an electronic recording delivery system for the delivery and recording of specified digitized and digital electronic records, subject to specified conditions, including system certification, regulation, and oversight by the Attorney General. The act also requires that a computer security auditor who is hired to perform an independent audit of the electronic recording delivery system shall have access to any aspect of the system. The act also requires that no person may be a computer security auditor or be granted secure access to an electronic recording delivery system if he or she has been convicted of a felony, has been convicted of a misdemeanor related to theft, fraud, or a crime of moral turpitude, or if he or she has pending criminal charges for any of these crimes and requires all persons entrusted with secure access to the system to submit their fingerprints to the Attorney General for a criminal records check pursuant to specified procedures to determine whether they are eligible to have access to an electronic recording delivery system.

This bill specifies that for these purposes a person's criminal history information also includes federal convictions and arrests and would require the Department of Justice to forward requests from the Attorney General to the Federal Bureau of Investigation for this information.

# CHILD ABUSE

## **AB 114 (Cohn): Chapter 464: Child abuse: evidence.**

(Amends Section 1109 of the Evidence Code.)

### **Legislative History:**

*Assembly Public Safety (4-2)*

*Assembly Floor (61-6)*

*Assembly Concurrence (71-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (39-0)*

Existing law provides that evidence of a person's character, including evidence of specific instances of his or her prior conduct, generally is inadmissible when offered to prove his or her conduct on a particular occasion.

This bill provides that when a defendant is accused of child abuse in a criminal action, evidence of the defendant's prior acts of child abuse may be admitted to prove the defendant's conduct, except as specified and subject to an evidentiary hearing. The bill also defines "child abuse" for purposes of that provision and makes other nonsubstantive changes.

## **AB 299 (Maze): Chapter 42: Mandatory child abuse and neglect reporting.**

(Amends Section 11166 of the Penal Code.)

### **Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Floor (74-0)*

*Assembly Concurrence (72-0)*

*Senate Public Safety (6-0)*

*Senate Floor (35-0)*

Existing law generally requires mandated reporters who have knowledge of or observe a child in their professional capacity or within the scope of their employment and whom they know or reasonably suspect has been the victim of child abuse or neglect, to immediately make a report to a child protection agency, as specified. Current law requires that the "mandated reporter shall make a report to the agency immediately or as soon as is practicably possible by telephone, and the mandated reporter shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident." (emphasis added)

This bill permits the written report to be made by fax or electronic transmission.

**AB 776 (Chu): Chapter 713: Child abuse and neglect reporting.**  
(Amends Sections 11165.9 and 11166 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Floor (73-0)*

*Assembly Concurrence (78-0)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

Existing law requires certain persons to report incidents of suspected child abuse to specified agencies by telephone and also by written report thereof within 36 hours.

This bill requires those agencies to keep a record of all reports received. This bill permits those written reports to be made via fax or electronic transmission. This bill also specifies that if after reasonable efforts, a mandated reporter is unable to submit a report by telephone, he or she shall immediately or as soon as is practicably possible make a one-time automated written report and be available to respond to telephone followup by the agency with which he or she filed the report, as specified. This bill provides that these reports would be captured in the Child Welfare Services/Case Management System and provides that these provisions would not become operative until that system is updated as necessary and would become inoperative 3 years thereafter or on January 1, 2009, whichever occurs first. This bill also requires the Department of Social Services to submit a report reflecting the reasons stated by mandated reporters for filing a one-time automated written report in lieu of the initial telephone report, as specified.

# **CONTROLLED SUBSTANCES**

## **(including needles)**

**SB 734 (Torlakson): Chapter 487: Controlled substances: prescriptions.**

(Amends Sections 11159.2, 11161, 11161.5, 11162.1, 11164, and 11190 of, and adds and repeals Section 11165.5 of, the Health and Safety Code.)

**Legislative History:**

*Senate Health (6-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (25-9)*

*Senate Concurrence (27-12)*

*Assembly Public Safety (5-1)*

*Assembly Health (12-1)*

*Assembly Appropriations (14-3)*

*Assembly Floor (62-14)*

Existing law establishes the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring by the Department of Justice (DOJ) of the prescribing and dispensing of Schedule II and Schedule III controlled substances by all practitioners authorized to prescribe or dispense these substances.

This bill makes changes to CURES, including the following:

- Removes the reference to Schedule II controlled substances in Health and Safety Code Section 11159.2 to ensure that terminally ill patients can receive a prescription for illnesses, such as cancer or HIV, that contain not only Schedule II drugs but also compounds or combinations from all schedules, which can be written on the same prescription to ensure that pharmacists will fill such prescriptions without disruption.
- Authorizes the superior court to order a prescriber not to order or obtain or use any additional prescription forms during a pending criminal action and requires the law enforcement agency obtaining such an order to notify the DOJ.
- Specifies that DOJ, and not the Board of Pharmacy, will control the manner in which fingerprints are provided.
- Allows DOJ to collect a fee for processing criminal background checks when a vendor applies to become an approved security printer of prescription forms. Each applicant shall pay, at the time of filing an application for a permit, a fee determined by DOJ that will not exceed the application processing costs of DOJ.

- Specifies and defines the security printer applicant class that must submit criminal background checks as any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor for the applicant, who has direct access, management, or control of controlled substance prescription forms.
- Authorizes DOJ to examine the books and records of any applicant or visit and inspect a certified security printer.
- Directs security prescription form printers to submit a sample of their secure prescription forms to DOJ.
- Requires an approved security printer to print their security prescription forms with a vendor identification code issued by DOJ.
- Requires a check box by the name of each prescriber on a security prescription form to be checked to identify the prescriber issuing the prescription when there are multiple prescribers on one security prescription form.
- Allows a prescriber designated by a licensed health care facility, licensed clinic or other clinic exempt from licensure to order controlled substance prescription forms for use by prescribers when treating patients in that facility, thus allowing the licensed clinic or clinic exempt from licensure to avoid specified printing requirements that appear on the security prescription form.
- Requires a designated prescriber to meet the requirements adding licensed clinics or clinics exempt from licensure pursuant to Health and Safety Code Section 1206 preprinted on the form.
- Clarifies, by striking out text and allowing for a simple pre-printed statement on the bottom of prescription blanks that "prescription is void if the number of drugs is not noted."
- Provides that the Board of Pharmacy shall, contingent on the availability of adequate funds, evaluate the viability of implementing real time reporting and access to data on prescriptions for controlled substances in the operation of CURES. The Board of Pharmacy shall prepare a feasibility study and submit that report to the Legislature on or before July 1, 2007, or within 18 months of the receipt of sufficient funding, whichever is later.
- Requires a prescriber who directly dispenses controlled substances to submit the information to DOJ in a format set by DOJ pursuant to regulation.



**AB 465 (Cogdill): Chapter 468: Restricted and controlled chemicals: chemicals from which controlled substances can be manufactured.**

(Amends Sections 11100, 11100.05, 11100.1, 11104, 11104.5, 11106, and 11107.1 of the Health and Safety Code.)

**Legislative History:**

*Assembly Public Safety (7-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (71-0)*

*Assembly Concurrence (77-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (33-0)*

Existing law requires any manufacturer, wholesaler, retailer, or entity in California that sells, transfers, or otherwise furnishes specified substances to any person or entity in California or any other state to submit a report to the Department of Justice (DOJ), generally within 21 days, of all of those transactions. DOJ may adopt rules and regulations that delete or add substances if the substance is a precursor to a controlled substance. (Health & Safety Code § 11100, subs. (a) and (b).)

This bill adds iodine and tincture of iodine to the list of controlled chemicals (Health & Safety Code § 11100, subd. (a)) for which permits and reports are required for transactions involving such chemicals. The bill exempts from these requirements transactions involving betadine or povidone solution with an iodine content not exceeding 1% in containers of eight ounces or less, or any tincture of iodine not exceeding 2% in containers of one ounce or less, that is sold over-the-counter from reporting requirements.

This bill, with specified exemptions, adds phosphorous acid and its salts to the definition of red phosphorous in the list of controlled chemicals in Health and Safety Code Section 11100, subdivision (a), specifically, paragraph (36) of that subdivision.

This bill includes additional provisions necessary to implement the changes in the controlled chemicals law made by the bill. The provisions, in part, include exemptions applicable to pharmacists, physicians and other specified professionals.

This bill adds red phosphorous and iodine to Health and Safety Code Section 11104.5, which makes it a misdemeanor to possess laboratory equipment or chemicals listed in Sections 11107 and 11107.1 with the intent to manufacture controlled substances.

**AB 547 (Berg): Chapter 692: Clean needle exchange program.**

(Amends Section 11364.7 of, adds Chapter 18 (commencing with Section 121349) to Part 4 of Division 105 of, the Health and Safety Code.)

***Legislative History:***

*Assembly Health (8-3)*

*Assembly Appropriations (13-5)*

*Assembly Floor (45-30)*

*Assembly Concurrence (47-13)*

*Senate Health (7-4)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (24-15)*

Existing law authorizes pharmacists and physicians to furnish hypodermic needles and syringes without a prescription or permit for human use in the administration of insulin or adrenaline. A public entity, its agents, or employees is not subject to criminal prosecution for distribution of hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis. Local emergencies, by law, are limited in time and expire unless reviewed within 21 days after issuance. A governmental entity that meets weekly must review the declaration within 14 days.

This bill instead authorizes cities, counties, or cities and counties to have a clean needle and syringe exchange project that, in consultation with the State Department of Health Services, authorizes this exchange, as recommended by the United States Secretary of Health and Human Services and as part of a network of comprehensive services.

**AB 1597 (Laird): VETOED: Clean needle exchange programs.**

(Adds Chapter 1.5 (commencing with Section 120780) to Part 4 of Division 105 of the Health and Safety Code.)

**Legislative History:**

*Assembly Health (10-3)*

*Assembly Appropriations (13-5)*

*Assembly Floor (45-33)*

*Senate Health (6-3)*

*Senate Appropriations (8-5)*

*Senate Floor (22-15)*

Existing law, with certain exceptions, makes it a misdemeanor for a person to deliver, furnish, transfer, possess with intent to deliver, furnish, transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. An exception to this general rule authorizes a public entity, its agents, or employees to distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

This bill would have authorized a public entity that receives General Fund money from the State Department of Health Services for HIV prevention and education to use that money to support clean needle and syringe exchange projects authorized by the public entity. The bill would also have authorized the money to be used for the purchase of sterile hypodermic needles and syringes. The bill would have required funds allocated for that purpose to be based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS.

# CORRECTIONS

## **Governor's Reorganization: Youth & Adult Corrections**

### **GRP 1 (Governor): Corrections.**

(Amends Section 11552 of, and adds Article 14 (commencing with Section 12838) to Chapter 1 of Part 2.5 of Division 3 of Title 2 of, and repeals Sections 11560, 11563.1, 12811, and 12811.1 of, the Government Code, and amends Sections 2800, 2802, 2803, 2804, 2806, 2807, 2808, 2809, 2810, 2810.5, 2811, 2815, 2816, 3041, 3041.1, 5000, 5001, 5003.5, 5050, 5052, 5054, 5055, 5057, 5067, 5075, 5076.1, 6024, 6025, 6026, 6030, 6050, 7518, 13600, 13601, 13602, 13603, 13810, and 14204 of, and amends the headings of Chapter 1 (commencing with Section 5000), Chapter 2 (commencing with Section 5050), Chapter 3 (commencing with Section 5075), Chapter 4 (commencing with Section 6001), and Chapter 5 (commencing with Section 6024) of Title 7 of Part 3 of, and amends the heading of Title 4.5 (commencing with Section 13600) of Part 4, of, and adds Sections 5075.1, 5075.6, and 5075.7 to, and repeals Sections 2036, 2038, 2043.3, 2045.3, 2046.3, 2048.3, 2048.7, 5051, 5051.5, 5053, 5082, 6001, 6003, and 6004 of, and repeals Article 3 (commencing with Section 2400) of Chapter 2 of Title 1 of Part 3 of, the Penal Code, and amends Sections 1000, 1703, 1710, 1711, 1712, 1713, 1714, 1716, 1719, 1720, 1723, 1725, 1766, 1798, 3150, 3151, 3158, 3300, and 3309 of, and repeals Sections 1717, 1718, 1721, 1722, 1798.5, and 3157 of, the Welfare and Institutions Code.)

### **Legislative History:**

*Senate Budget (14-1)*

*May 4:* Statutory period expires pursuant to Government Code Section 12080.5.

*May 5:* Plan takes effect.

*(See also SB 737 (Romero), infra.)*

Existing law provides for the Youth and Adult Correctional Agency (YACA), as specified.

This reorganization plan abolishes YACA, the California Department of Corrections, the Department of Youth Authority, the Board of Prison Terms, the Board of Corrections, the Youth Authority Board and the Narcotic Addict Evaluation Authority and, instead, creates the Department of Corrections and Rehabilitation, which would consist of the Division of Adult Operations, the Division of Youth Operations, the Corrections Standards Authority, and the Board of Parole Hearings, as specified. This plan makes additional changes.

**SB 737 (Romero): Chapter 10: Corrections. Urgency.**

(Amends Section 11552, adds Article 14 (commencing with Section 12838) to Chapter 1 of Part 2.5 of Division 3 of Title 2 of, and repeals Sections 11560, 11563.1, 12811, and 12811.1 of, the Government Code, and amends Sections 2800, 2802, 2803, 2804, 2806, 2807, 2808, 2809, 2810, 2810.5, 2811, 2815, 2816, 3041, 3041.1, 5000, 5001, 5003.5, 5050, 5052, 5054, 5055, 5057, 5075, 5076.1, 6024, 6025, 6026, 6030, 6050, 7518, 13600, 13601, 13602, 13603, 13810, and 14204 of, amends the headings of Chapter 1 (commencing with Section 5000), Chapter 2 (commencing with Section 5050), Chapter 3 (commencing with Section 5075), Chapter 4 (commencing with Section 6001), and Chapter 5 (commencing with Section 6024) of Title 7 of Part 3 of, and amends the heading of Title 4.5 (commencing with Section 13600) of Part 4, of, and adds Sections 5075.1, 5075.6, and 6126.6 to, and repeals Sections 2036, 2038, 2043.3, 2045.3, 2046.3, 2048.3, 2048.7, 2079, 5051, 5051.5, 5053, 5067, 5082, 6001, 6003, and 6004 of, and repeals Article 3 (commencing with Section 2400) of Chapter 2 of Title 1 of Part 3 of, the Penal Code, and amends Sections 1000, 1703, 1710, 1711, 1712, 1713, 1714, 1716, 1719, 1720, 1723, 1725, 1766, 1798, 3150, 3151, 3158, 3300, and 3309 of, and repeals Sections 1717, 1718, 1721, 1722, and 3157 of, and repeals and adds Section 1798.5 to the Welfare and Institutions Code.)

**Legislative History:**

*Senate Public Safety (5-0)*

*Senate Appropriations (7-1)*

*Senate Floor (31-7)*

*Senate Concurrence (28-7)*

*Assembly Public Safety (5-1)*

*Assembly Appropriations (18-0)*

*Assembly Floor (60-11)*

Existing law provides for the Youth and Adult Correctional Agency (YACA), as specified.

This bill, a companion measure to GRP 1, *supra*, abolishes YACA, the California Department of Corrections, the Department of Youth Authority, the Board of Prison Terms, the Board of Corrections, the Youth Authority Board and the Narcotic Addict Evaluation Authority and, instead, creates the Department of Corrections and Rehabilitation, which consists of the Division of Adult Operations, the Division of Youth Operations, the Corrections Standards Authority, and the Board of Parole Hearings, as specified. This bill makes additional changes. This bill also provides for Senate confirmation of administration positions not provided for in GRP 1, *supra*.

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

## **Local Corrections**

**SB 159 (George Runner): Chapter 481: Local inmates: health care services.**  
(Adds and repeals Section 4011.10 of the Penal Code.)

### **Legislative History:**

*Senate Public Safety (5-1)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (37-0)*

*Senate Concurrence (32-0)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (16-0)*

*Assembly Floor (79-0)*

Existing law authorizes the Department of Corrections and Rehabilitation to contract with providers of emergency health care services. Existing law specifies that hospitals and ambulance or other nonemergency response services that do not contract with the department shall provide those services at the Medicare rate.

This bill does the following:

- Makes the provisions applicable to the Department of Corrections and Rehabilitation regarding such contracting to county sheriffs, chiefs of police, and directors or administrators of local departments of correction, except that it would specify that hospitals that do not contract with those local law enforcement agencies shall provide their services at a rate equal to 110% of the hospital's actual costs, as specified.
- Prohibits a county sheriff or police chief from releasing inmates from custody for the purpose of seeking medical care, with the intent to rearrest, unless the hospital determines the action would enable it to collect from a third-party source.
- Directs specified stakeholders to convene a working group to assist in resolving issues affecting cost and emergency health care for inmates.
- Is repealed as of January 1, 2009, unless otherwise extended by statute.

**SB 460 (Margett): Chapter 259: Inmate access to personal information.**

(Amends Sections 4017.1 and 5071 of the Penal Code.)

**Legislative History:**

*Senate Public Safety (4-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

*Senate Concurrence (38-0)*

*Assembly Public Safety (5-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (79-0)*

Existing law prohibits convicted adults and delinquent minors from being employed to "perform any function that provides access to personal information of private individuals," as specified, if they have been convicted of an offense involving forgery or fraud, misuse of a computer, misuse of someone else's personal or financial information, or a registerable sex offense.

This bill precludes any offender confined in a county facility, or the Department of Corrections and Rehabilitation, regardless of conviction offense, from gaining access to personal information, as specified.

**AB 760 (Nava): Chapter 635: Arrested custodial parents.**

(Amends Section 851.5 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (7-0)*

*Assembly Appropriations (13-5)*

*Assembly Floor (72-6)*

*Assembly Concurrence (75-4)*

*Senate Public Safety (5-0)*

*Senate Appropriations (8-5)*

*Senate Floor (23-13)*

Existing law provides an arrested person with certain rights regarding the opportunity to make telephone calls incident to the person being booked or detained, as specified. The willful deprivation of these rights by a public officer or employee is a misdemeanor.

This bill provides that when, during booking, an arrested person is determined to be a custodial parent of a minor child or children, the person would be entitled to make two (2) telephone calls at no expense, as specified, for the purpose of arranging for the care of the minor child or children.

## Parole/Probation

**SB 619 (Speier): Chapter 484: Electronic monitoring of offenders: GPS. Urgency.** (Adds Chapter 1.4 (commencing with Section 1210.7) to Title 8 of Part 2 of, and adds Article 2 (commencing with Section 3010) to Title 1 of Part 3 of, the Penal Code.)

### **Legislative History:**

*Senate Public Safety (4-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (39-0)*

*Senate Concurrence (39-0)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (79-0)*

Existing law authorizes probation as an alternative to incarceration for various offenses.

This bill specifically authorizes county probation departments to use global positioning system technology to supervise persons on probation, as specified.

Existing law authorizes the release of prisoners to parole and authorizes electronic monitoring of certain parolees.

This bill adds new provisions authorizing the Department of Corrections and Rehabilitation to use global positioning system technology to supervise persons on parole, as specified.

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



**SB 647 (Margett): Chapter 99: Parole revocation or extension: discovery.**

**Urgency.**

(Amends Sections 3063.5 and 11105 of the Penal Code.)

***Legislative History:***

*Senate Public Safety (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (27-3)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (16-0)*

*Assembly Floor (78-0)*

Existing law governing parole revocation proceedings provides that a parolee or his or her attorney may receive copies of any police, arrest, crime report, or child abuse report that pertains to the proceeding. Confidential portions need not be disclosed if the parolee or his or her attorney has been notified of the omission.

This bill extends these disclosure provisions to parole revocation extension proceedings.

Existing law requires the Department of Justice to furnish various agencies and entities with a person's State criminal history information for certain purposes, as specified.

This bill expands the list of persons entitled to receive criminal history reports to include the attorney of record in a parole revocation or revocation extension proceeding and took effect immediately upon enactment as an urgency measure.

**SB 963 (Ashburn): Chapter 488: Counties: home detention: electronic monitoring. Urgency.**

(Amends Section 1203.016 of the Penal Code.)

**Legislative History:**

*Senate Public Safety (6-0)*

*Senate Floor (34-1)*

*Senate Concurrence (32-1)*

*Assembly Public Safety (6-0)*

*Assembly Floor (73-0)*

Existing law authorizes courts to impose reasonable conditions upon persons granted probation ("local" release in lieu of incarceration after a person pleads or is found guilty of a crime); authorizes boards of supervisors to allow county administrators (sheriffs, probation officers, the director of a county department of corrections) to condition county probation or work furlough on voluntary participation in an electronic home detention program; and prescribes for "fees" for electronic monitoring, including determining ability to pay.

This bill explicitly adds "global positioning system devices" to the existing local, voluntary home detention program which may be authorized by a county board of supervisors and took effect immediately as an urgency measure.

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

**AB 313 (Ruskin): VETOED: Parole office locations.**

(Amends Section 14681.5 of the Government Code.)

**Legislative History:**

*Assembly Business & Professions (9-1)*

*Assembly Appropriations (13-5)*

*Assembly Floor (68-11)*

*Assembly Concurrence (78-1)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (34-4)*

Existing law requires the Director of Corrections, Director of the Youth Authority, or Director of General Services to notify, in writing, certain state and local officials of any proposed contract to construct, expand, or enter into a lease for, a building in that official's jurisdiction.

This bill would have required that written notice to be accompanied by a response form, to be returned by each local official, if the proposed building is a parole office. The local official would have been required to return the form with his or her acceptance or objection to the proposed building, within 45 days. The bill would have prohibited the applicable department from entering into a contract for constructing, expanding, or leasing a parole office before all response forms are returned, except as specified, and before holding a public hearing on any objections raised.

The Governor's veto message stated in part: "This bill is unnecessary as local officials and the public already receive notices regarding proposed parole office locations and has opportunities to express any concerns or objections to the State. Parole office locations must already be consistent with and approved by local government land use authorities. Providing an additional layer of bureaucracy does not facilitate local and state planning needs. . . ."

## Prisons & Prisoners

**SB 239 (Romero): VETOED: Corrections: media access.**  
(Adds Section 6357 to the Penal Code and Uncodified Law.)

### Legislative History:

*Senate Public Safety (4-1)*

*Senate Appropriations (8-4)*

*Senate Floor (26-12)*

*Senate Concurrence (22-8)*

*Assembly Public Safety (4-2)*

*Assembly Appropriations (13-2)*

*Assembly Floor (59-20)*

Existing regulations of the Department of Corrections (CDC) do the following:

- Prohibit a prisoner from participating in a specific face-to-face interview with a media representative.
- Prohibit a media representative from using a camera or recording equipment during an interview without the prior approval of the institution head or designee.
- Permit media representatives to engage in interviews with random prisoners.
- Permit media representatives to engage in interviews with random prisoners encountered during tour of detention facility.

This bill would have done the following:

- Enacted legislative intent in enacting this act to facilitate the public's ability to obtain information, through the news media, about the operation of the state's prisons and the effectiveness of its laws and to hold inmates publicly accountable for their words and actions; to provide that representatives of the news media may visit a prison for the purpose of preparing such reports about the institution; and the intent to ensure a better-informed public, not to provide publicity for an inmate.
- Added Section 6357 to the Penal Code to provide that the Department of Corrections and Rehabilitation, upon reasonable notice, shall permit representatives of the news media to interview prisoners in person, including prearranged interviews with specified prisoners and individuals encountered by a representative of the news media while covering a facility tour, activity, event or program.
- Provided that during any interview with a prisoner, a representative of the news media may use materials necessary to conduct the interview, including, but not limited to, pens, pencils, papers, and audio and video recording devices; these items are subject to search, as specified.

- Required a news media representative who desires to conduct a personal interview at an institution to make the request within a reasonable time period prior to the requested interview in writing to the warden or through contact with the institution's public relations office.
- Staff would have been required to notify an inmate of each interview request, and no interview shall be permitted without the inmate's consent. An inmate would not have been allowed to receive compensation or anything of value for interviews with the news media.
- Required the warden or the warden's designated public-relations or custodial official to, within 48 hours of receiving an interview request, notify the news media representative making the request whether the interview has been granted.
- Required that after the warden or the warden's designated public-relations or custodial official grants a request for an interview, staff shall, at least two business days prior to the interview, notify any victims of an inmate who have previously notified the warden or the Department of Corrections and Rehabilitation that they wish to be contacted in the event of an interview request that an interview has been granted.
- Defined for purposes of this statute that "representative of the news media" includes a journalist who works for, or under contract to, a newspaper, magazine, wire service, book publisher, or radio or television program, or station or who, through press passes issued by a governmental or police agency, or through similar convincing means, can demonstrate that he/she is a bona fide journalist engaged in the gathering of information for distribution to the public.

NOTE: This bill is virtually identical to AB 698 (Haynes), below.

**SB 616 (Speier): VETOED: Inmate health care.**

(Amends Section 6254.14 of the Government Code, and amends Section 6126 of, and adds Sections 5024.3 and 5024.4 to, the Penal Code and Uncodified Law.)

**Legislative History:**

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (37-0)*

*Senate Concurrence (35-0)*

*Assembly Public Safety (7-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (79-0)*

Existing law generally regulates the conditions of incarceration of prisoners, including that the Secretary of the Department of Corrections and Rehabilitation is charged with the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline and employment of persons confined therein.

This bill would have enacted uncodified legislative findings and declarations about adult inmate health care including that "While the Department of Corrections and Rehabilitation acknowledges that it must reduce its costs and improve the delivery of health care, its plans for reorganizing the delivery of health care services, by its own admission, will not be fully realized until 2010" and that "it is critical that the department take further immediate steps beyond its initial reorganization plans of 2005 to improve the delivery of health care."

Existing law requires hospitals that do not contract with the Department of Corrections and Rehabilitation for emergency health care services to provide those services at a Medicare rate and prohibits the department from reimbursing a hospital that provides those services at a rate that exceeds the hospital's reasonable and allowable costs.

This bill would have required the department to make a reasonable effort to lower health care expenditures, as specified; would have required the department to strive to renegotiate each health care contract that is not competitively bid as it expires, to obtain services at the most advantageous price, with a goal of 115% of the Medicare rate; and would have required the department, to the extent possible, to provide health care services to inmates at the prison site if it would be more cost-effective than transporting inmates to outside hospitals.

This bill would have required the department, to work with the San Francisco Veterans Administration Medical Center, or its designee, for the treatment of parolees who are military veterans, as specified.

Existing law specifies the duties of the Office of Inspector General.

This bill would have included in those duties the requirement to establish a process, in consultation with the California Medical Board, to facilitate the receipt, review, and investigation of complaints from employees of the Department of Corrections and Rehabilitation who provide health care services.

Existing law protects from disclosure records of the Department of Corrections and Rehabilitation that relate to health care service contract negotiations.

This bill would have required the department to disclose to the State Auditor certain information related to health care service contracts that are not competitively bid and authorizes the State Auditor to disclose that information to the Joint Legislative Audit Committee, upon request.

**SB 618 (Speier): Chapter 603: Nonviolent felony offenders: reentry into the community.**

(Adds Section 1203.8 to the Penal Code and Uncodified Law.)

**Legislative History:**

*Senate Public Safety (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (35-0)*

*Senate Concurrence (34-0)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (13-4)*

*Assembly Floor (66-8)*

Existing law states the Legislature finds and declares that programs should be available for inmates, including educational programs that are designed to prepare nonviolent felony offenders for successful reintegration into the community and that the Legislature encourages the development of policies and programs designed to educate and rehabilitate nonviolent felony offenders.

This bill enacts the following uncodified legislative findings and declarations:

- (a) The Legislature finds and declares that the successful reintegration of parolees into society depends upon the proper assessment of the offenders' risks and needs prior to entry into the prison system and appropriate direction of offenders into facilities and programs that are available to address risks or needs.
- (b) The Legislature recognizes that the transfer of the assessment function from the Department of Corrections and Rehabilitation to the community in which an offender committed his or her crime and to which the offender will likely be paroled may represent an effective and efficient means to perform an assessment.
- (c) The Legislature encourages the participation of the Department of Corrections and Rehabilitation and interested counties to develop and implement plans to transfer assessment functions to local probation departments and courts, with the goal of improving public safety in the community and to better enable parolees to become contributing members of society.

This bill authorizes a county to develop a multiagency plan to prepare and enhance nonviolent felony offenders' successful reentry into the community, and requires that plan be developed by, and have the concurrence of, the presiding judge, the chief probation officer, the district attorney, the local custodial agency, and the public defender, or their designees, for submission to the board of supervisors for its approval and further authorizes the Department of Corrections and Rehabilitation to enter into an agreement with up to 3 counties to implement the above provisions and to provide funding for the purpose of the probation department carrying out its assessments.



**SB 621 (Speier): Chapter 499: State employment relations: memoranda of understanding: addenda and posting.**

(Adds Sections 3517.63, 19829 and 19829.6 to the Government Code.)

***Legislative History:***

*Senate Public Employment & Retirement (4-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

*Senate Concurrence (36-0)*

*Assembly Public Employees,*

*Retirement & Social Security (6-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (77-0)*

Existing law provides that the Governor and the representatives of recognized employee organizations "endeavor to reach agreement on matters with the scope of representation prior to the adoption by the state of its final budget for the ensuing year," and while the parties have missed this preferred deadline in the past, bargaining must be concluded prior to the Legislature's recess because a written MOU (memoranda of understating) must be submitted to the Legislature for approval.

This bill does the following:

- Requires the Department of Personnel Administration (DPA) to post, in a clear and conspicuous manner on DPA's Web site, each MOU that has been submitted to the Legislature for determination pursuant to the Ralph C. Dills Act and has been ratified by the affected union membership, in its entirety.
- Requires the DPA's Web site posting to include a declaration that the MOU has been submitted to the Office of the Legislative Analyst and the Legislature, including the date of that submission and a summary of the MOU that is the same summary provided to the Legislature by the department.
- Requires each MOU submitted by DPA to the Legislative Analyst to include a DPA analysis of costs and savings.
- Allows the Legislative Analyst 10 calendar days from the date the tentative agreement is received to issue a fiscal analysis to the Legislature.
- Provides that the MOU would not be subject to legislative determination until either the Legislative Analyst has presented a fiscal analysis of the MOU to the Legislature or until 14 working days have elapsed since the MOU was received by the Legislative Analyst.

**SB 672 (Cox): VETOED: Community colleges: inmate education programs: computation of apportionments.**

(Amends Section 84810.5 of the Education Code.)

***Legislative History:***

*Senate Education (10-0)*

*Senate Appropriations (13-0)*

*Senate Floor (35-1)*

*Senate Concurrence (35-2)*

*Assembly Higher Education (7-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (76-2)*

Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges and provides that, notwithstanding open course provisions in statute or regulations of the board of governors, the governing board of a community college district that provides classes for inmates of certain facilities, including a federal correctional facility, may include the units of full-time equivalent students generated in those classes for purposes of state apportionments.

This bill would have required the open course provisions in statute or regulations of the board of governors to be waived for any governing board of a community college district that provides those classes for inmates, including inmates of state correctional facilities, and authorized the board of governors to include the units of full-time equivalent students generated in those classes for purposes of state apportionments.

Existing law provides for the method of computing apportionments for purposes of these inmate education programs.

This bill would have made revisions to that method of computation and prohibited a community college district from claiming, under the bill, for purposes of apportionments, any class for which a district receives full compensation for its direct education costs for the conduct of the class from any public or private agency, individual, or group of individuals, and any class offered pursuant to a contract or instructional agreement entered into between the district and a public or private agency, individual, or group of individuals that has received from another source full compensation for the costs the district incurs under that contract or instructional agreement, as prescribed.

**AB 47 (Cohn): VETOED: Public contracts: Department of Corrections and Rehabilitation: medical care services.**

(Adds and repeals Section 19135 to the Government Code.)

**Legislative History:**

*Assembly Business & Professions (7-3)*

*Assembly Appropriations (13-5)*

*Assembly Floor (67-11)*

*Assembly Concurrence (51-28)*

*Senate Government Modernization,*

*Efficiency & Accountability (7-2)*

*Senate Appropriations (8-5)*

*Senate Floor (24-9)*

Existing law authorizes state agencies to enter into personal services contracts if certain conditions are met.

This bill (until January 1, 2009) would have authorized state agencies to enter into specified contracts for medical services without seeking competitive bids and would have otherwise generally prohibited, except under specified circumstances, the Department of General Services from authorizing the Department of Corrections and Rehabilitation to enter into contracts for medical care services without seeking competitive bids for those contracts.

**AB 296 (Gloria Negrete McLeod): Chapter 524: Prison inmates: Hepatitis C.**

(Adds Section 5008.2 to the Penal Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (15-3)*

*Assembly Floor (74-5)*

*Assembly Concurrence (76-1)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (36-0)*

Existing law (Hepatitis C Education, Screening, and Treatment Act) requires the Director of Corrections to perform various functions and duties with respect to testing and treatment of individuals in the correctional system for hepatitis C, as specified, subject to the extent that funds are appropriated in the annual Budget Act.

This bill requires the Department of Corrections and Rehabilitation to make hepatitis C screening available without co-payment to an inmate, make testing confidential, and make available hepatitis C information for all inmates upon intake examination or while providing general information.

**AB 324 (Mountjoy): Chapter 292: Correctional facilities: faith- and morals-based programs.**

(Enacts uncodified statutory findings and declarations.)

**Legislative History:**

*Assembly Public Safety (7-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (78-0)*

*Senate Public Safety (5-1)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (32-2)*

Existing law includes the following:

- Declares that all prisoners, including prisoners confined in county facilities and in California Youth Authority facilities, shall be afforded reasonable opportunities to exercise religious freedom. (Penal Code §§ 4027 and 5009; Welfare and Institutions Code § 1705.)
- Provides legislative intent that all prisoners shall be afforded reasonable opportunities to exercise religious freedom. (Penal Code § 5009.)

This bill makes specified findings and declarations regarding the benefits of faith- and morals-based programs in jails and state prisons, and encourages local entities and the Department of Corrections and Rehabilitation to allow certain faith- or morals-based programs, educational and rehabilitation programs, and other secular volunteer programs in their correctional facilities, as specified.

**AB 478 (Lieber): Chapter 608: Female inmates and wards.**

(Amends Sections 3419, 3423, and 6030 of, and adds Sections 3424 and 5007.7 to, the Penal Code, and amends Sections 222 and 1774 of the Welfare and Institutions Code.)

***Legislative History:***

*Assembly Public Safety (5-0)*

*Assembly Appropriations (14-4)*

*Assembly Floor (49-26)*

*Assembly Concurrence (56-22)*

*Senate Public Safety (6-1)*

*Senate Appropriations (7-5)*

*Senate Floor (25-11)*

Existing law establishes that a pregnant prisoner is entitled to a determination of the extent of her necessary medical services and to the receipt of these services from the physician and surgeon of her choice; provides that the prisoner shall pay for any expenses occasioned by the services of a physician and surgeon whose services are not provided by the institution; directs the California Department of Corrections (CDC) to establish community treatment programs for women in state prisons with children under the age of six years that provide for the release of the mother and child to a public or private facility in the community suitable to their needs, as specified; requires the CDC to provide pregnant inmates who meet the eligibility requirements access to community treatment programs; permits a pregnant inmate to be temporarily taken to a hospital outside the prison for the purposes of childbirth and provides for the care of any children so born until suitably placed; requires the Board of Corrections (BOC) to establish minimum standards for local detention facilities and to review such standards biennially and make any appropriate revisions; and contains related provisions in statutes and regulations.

This bill does the following:

- Requires any community treatment program for eligible prisoner mothers to include prenatal care, access to prenatal vitamins, childbirth education, and infant care and requires the department to establish minimum standards for pregnant inmates who are not eligible for the program including necessary nutrition and vitamins, information and education, and a dental cleaning.
- Provides that pregnant inmates taken to a hospital outside the prison shall be transported in the least restrictive way possible and that the inmate shall not be shackled by the wrists, ankles, or both during labor, including during transport to the hospital, during delivery, and while in recovery after giving birth, except as specified.
- Provides that standards for local inmates shall require that inmates who are received by the facility while they are pregnant are provided, at a minimum, necessary nutrition and vitamins, information and education, and a dental cleaning and requires that these standards provide that at no time shall a woman who is in labor be shackled by the wrists, ankles, or both, including during transport to the hospital, during delivery, and while in recovery after giving birth, except as specified.

- Provides that a ward who gives birth while under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or a community treatment program, has the right to prenatal care, prenatal vitamins, and childbirth education and applies the requirements pertaining to transport and delivery to pregnant wards under the jurisdiction of local or state correctional facilities.

**AB 550 (Goldberg): Chapter 303: Correctional institutions: Sexual Abuse in Detention Elimination Act.**

(Adds Article 3 (commencing with Section 2635) to Chapter 3 of Title 1 of Part 3 of the Penal Code and Uncodified Law.)

**Legislative History:**

*Assembly Public Safety (5-1)*

*Senate Public Safety (5-2)*

*Assembly Appropriations (13-5)*

*Senate Appropriations (8-5)*

*Assembly Floor (51-27)*

*Senate Floor (23-10)*

*Assembly Concurrence (75-3)*

Existing law provides that an employee with a department, board, or authority under the Youth and Adult Correctional Agency (YACA) or facility in contract with a department, who, during the course of his or her employment directly provides treatment, care, control, or supervision of inmates, wards, or parolees, and who engages in sexual activity with a consenting adult who is an inmate, ward, or parolee is guilty of a public offense, as specified.

Existing federal law establishes the Prison Rape Elimination Act of 2003.

This bill (Sexual Abuse in Detention Elimination Act) makes legislative findings and declarations to the effect that its purpose would be to protect all inmates and wards from sexual abuse while held in institutions operated by the Department of Corrections and Rehabilitation; requires that inmates and wards be provided with informational handbooks regarding sexual abuse in detention published by outside organizations, as specified; requires the Department of Corrections and Rehabilitation to adopt specified policies, practices, and protocols related to the placement of inmates, physical and mental health care of inmate victims, and investigation of sexual abuse; creates the Office of the Sexual Abuse in Detention Elimination Ombudsperson to ensure impartial resolution of inmate and ward sexual abuse complaints; and requires the Department of Corrections and Rehabilitation to develop guidelines for allowing outside organizations and service agencies to provide resources and counseling to inmates and wards.

**AB 561 (Montañez): VETOED: Prison education.**

(Amends Sections 2053, 2053.1, and 2053.4 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (4-2)*

*Assembly Appropriations (13-5)*

*Assembly Floor (45-33)*

*Assembly Concurrence (46-33)*

*Senate Public Safety (5-2)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (25-13)*

Existing law includes the following:

- Provides that in order to encourage greater involvement of educational institutions in planning and developing prison-based educational programs, the CDC Director, Chancellor of CSU, the Chancellor of the California Community Colleges, and the Superintendent of Public Instruction, with the advice of the California Postsecondary Education Commission, shall enter into interagency agreements which shall provide for, but not be limited to: a) a determination of the roles of various departments and institutions in developing policy for prison-based educational programs; and, b) joint policy and program planning. (Education Code § 32500.)
- Provides that the Legislature finds and declares that there is a correlation between prisoners who are functionally literate and those prisoners who successfully reintegrate into society upon release, states legislative intent in enacting "The Prisoner Literacy Act" is to raise the percentage of prisoners who are functionally literate in order to provide for a corresponding reduction in the recidivism rate, and provides that CDC shall determine the reading level of each prisoner upon commitment. (Penal Code § 2053.)

This bill would have:

1. Required the Department of Corrections and Rehabilitation to perform an initial educational assessment and annual reviews on an inmate's educational needs until they are released on parole;
2. Required educational programs to be offered at each institution, as specified; and
3. Authorized the Superintendent of Correctional Education to oversee the education budget and the hiring of correctional education personnel.

**AB 627 (Leslie): Chapter 306: Parole: religious advisers.**

(Amends Section 5009 of the Penal Code.)

***Legislative History:***

*Assembly Public Safety (7-0)*

*Senate Public Safety (6-0)*

*Assembly Floor (71-0)*

*Senate Floor (40-0)*

*Assembly Concurrence (79-0)*

Existing law includes the following:

- States legislative intent that all prisoners shall be afforded reasonable opportunities to exercise religious freedom. (Penal Code § 5009(a).)
- Provides that except in extraordinary circumstances, upon the transfer of an inmate to another state prison institution, any member of the clergy or spiritual adviser who has been previously authorized by the California Department of Corrections (CDC) to visit that inmate shall be granted visitation privileges at the institution to which the inmate is transferred within 72 hours of the transfer. (Penal Code § 5009(b).)
- Provides that visitations by members of the clergy or spiritual advisers shall be subject to the same rules, regulations, and policies relating to general visitations applicable at the institution to which the inmate is transferred. (Penal Code § 5009(c).)

This bill provides that a departmental or volunteer chaplain who has ministered to or advised an inmate while incarcerated to continue to minister to or advise the inmate while he or she is on parole, as long as the chaplain so notifies the warden and the parolee's parole agent in writing, as specified.



**AB 663 (La Suer): Chapter 54: Local training costs: offenses relating to prisons and prisoners.**

(Amends Section 4751 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (75-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (33-0)*

Existing law provides that a city, county or superior court is entitled to reimbursement for reasonable and necessary costs connected with state prisons or prisoners in connection with the following (Penal Code § 4750): (a) Any crime committed at a state prison, whether by a prisoner, employee, or other person, including any crime committed by the prisoner while detained in local facilities pursuant to an agreement with the city or county. This includes crimes committed in conjunction with any hearing, proceeding or other activity, as specified; (b) Any crime committed by a prisoner in furtherance of an escape. Any crime committed within 10 days after the escape and within 100 miles of the facility is presumed to be in furtherance of the escape; (c) Any hearing on any return of a writ of habeas corpus prosecuted by or on behalf of a prisoner; (d) Any trial or hearing on the question of sanity of a prisoner; (e) Any costs not otherwise reimbursable, as specified, for any extradition proceeding for a prisoner; (f) Any costs incurred by a coroner in connection with the death of a prisoner; (g) Any costs incurred in transporting a prisoner within the host county or as requested by the prison facility or incurred for increased security while a prisoner is outside a state prison.

Existing law states that costs incurred by a city or county in Section 4750 include the following: (a) Costs of law enforcement agencies in connection with any matter set forth in Section 4750, including the investigation or evaluation of any of those matters regardless of whether a crime has in fact occurred, a hearing held, or an offense prosecuted; (b) Costs of participation in any trial or hearing of any matter set forth in Section 4750, including costs for the preparation for the trial, pretrial hearing, actual trial or hearing, expert witness fees, the costs of guarding or keeping the prisoner, the transportation of the prisoner, the costs of appeal, and the execution of the sentence; (c) The costs of the prosecuting attorney in investigating, evaluating, or prosecuting cases related to any matter set forth in Section 4750, whether or not the prosecuting attorney decides to commence legal action; (d) Costs incurred by the public defender or court appointed attorney with respect to any matter set forth in Section 4750; (e) Any other costs reasonably incurred by a county in connection with any matter set forth in Section 4750.

This bill authorizes cities and counties to receive state reimbursement for any costs incurred for providing training in the investigation (or prosecution associated with) crimes committed by a state prisoner, as specified.

**AB 698 (Haynes): VETOED: Corrections: media access.**

(Adds Section 6357 to the Penal Code and Uncodified Law.)

**Legislative History:**

*Assembly Public Safety (5-2)*

*Assembly Appropriations (18-0)*

*Assembly Floor (63-13)*

*Assembly Concurrence (58-19)*

*Senate Public Safety (6-0)*

*Senate Appropriations (7-3)*

*Senate Floor (24-7)*

Existing regulations of the Department of Corrections (CDC) do the following:

- Prohibit a prisoner from participating in a specific face-to-face interview with a media representative.
- Prohibit a media representative from using a camera or recording equipment during an interview without the prior approval of the institution head or designee.
- Permit media representatives to engage in interviews with random prisoners.
- Permit media representatives to engage in interviews with random prisoners encountered during tour of detention facility.

This bill would have done the following:

- Enacted legislative intent in enacting this act to facilitate the public's ability to obtain information, through the news media, about the operation of the state's prisons and the effectiveness of its laws and to hold inmates publicly accountable for their words and actions; to provide that representatives of the news media may visit a prison for the purpose of preparing such reports about the institution; and the intent to ensure a better-informed public, not to provide publicity for an inmate.
- Added Section 6357 to the Penal Code to provide that the Department of Corrections and Rehabilitation, upon reasonable notice, shall permit representatives of the news media to interview prisoners in person, including prearranged interviews with specified prisoners and individuals encountered by a representative of the news media while covering a facility tour, activity, event or program.
- Provided that during any interview with a prisoner, a representative of the news media may use materials necessary to conduct the interview, including, but not limited to, pens, pencils, papers, and audio and video recording devices; these items are subject to search, as specified.

- Required a news media representative who desires to conduct a personal interview at an institution to make the request within a reasonable time period prior to the requested interview in writing to the warden or through contact with the institution's public relations office.
- Staff would have been required to notify an inmate of each interview request, and no interview shall be permitted without the inmate's consent. An inmate would not have been allowed to receive compensation or anything of value for interviews with the news media.
- Required the warden or the warden's designated public-relations or custodial official to, within 48 hours of receiving an interview request, notify the news media representative making the request whether the interview has been granted.
- Required that after the warden or the warden's designated public-relations or custodial official grants a request for an interview, staff shall, at least two business days prior to the interview, notify any victims of an inmate who have previously notified the warden or the Department of Corrections and Rehabilitation that they wish to be contacted in the event of an interview request that an interview has been granted.
- Defined for purposes of this statute that "representative of the news media" includes a journalist who works for, or under contract to, a newspaper, magazine, wire service, book publisher, or radio or television program, or station or who, through press passes issued by a governmental or police agency, or through similar convincing means, can demonstrate that he/she is a bona fide journalist engaged in the gathering of information for distribution to the public.

NOTE: This bill is virtually identical to SB 239 (Romero), above.

**AB 862 (Bass): VETOED: Inmates: parental rights and responsibilities.**  
(Adds Section 5031 to the Penal Code.)

**Legislative History:**

*Assembly Public Safety (4-2)*

*Assembly Appropriations (12-5)*

*Assembly Floor (42-32)*

*Assembly Concurrence (41-34)*

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (25-14)*

Existing law provides that the Department of Corrections and Rehabilitation has responsibility for the care and custody of inmates under its jurisdiction.

This bill would have required every inmate who is remanded to the custody of the Department of Corrections and Rehabilitation who is a parent of a minor child to receive, upon reception, information about child support, how to modify child support orders, and other materials developed by the Department of Child Support Services.

The Governor's veto message stated in part: "This bill is unnecessary as current law provides for local and state agencies to distribute information to incarcerated parents regarding their child support obligations. In fact, there are current pilot programs operating with federal funds to accomplish what this bill would mandate state resources be spent on.

"At the state level we should be looking for ways to improve child support collection so more funds get to the children, not investing in ways to alleviate the future financial burdens due to incarceration. . . ."

# CRIMINAL PROCEDURE

**SB 138 (Maldonado): Chapter 480: Criminal procedure: closed-circuit testimony.**  
(Amends Section 1347 of the Penal Code.)

**Legislative History:**

*Senate Public Safety (4-0)*

*Assembly Public Safety (6-0)*

*Senate Floor (36-0)*

*Assembly Floor (79-0)*

*Senate Concurrence (35-1)*

Under existing law when the victim of a violent felony or sex offense is 13 years of age or younger, the court may allow for testimony by closed-circuit television when specified factors are met.

This bill expands these provisions to apply to cases involving specified child abuse and endangerment charges. It also permits a court, when a defendant has been charged with a child abuse or sex offense specified in these provisions, to order that the testimony of a child victim 13 years of age or younger be taken by means of a closed-circuit television as specified in this law if the court determines that (1) testimony by the minor in the presence of the defendant would result in the child suffering serious emotional distress so that the child would be unavailable as a witness, or (2) the child would be unavailable as a witness for specified reasons. The bill adds any technicians necessary to operate the equipment to the persons who may be physically present for the closed-circuit testimony.

**SB 330 (Cedillo): Chapter 36: Criminal proceedings: mental competency.**  
(Amends Section 1382 of the Penal Code.)

**Legislative History:**

*Senate Public Safety (5-0)*

*Assembly Public Safety (6-0)*

*Senate Floor (36-2)*

*Assembly Floor (71-0)*

Existing law requires a court, unless good cause to the contrary is shown, to order a criminal action to be dismissed in certain circumstances, including when a defendant in a misdemeanor or infraction case is not brought to trial within a specified period.

This bill requires an action to be dismissed if a defendant in a misdemeanor or infraction case is not brought to trial within 30 days after the date of the reinstatement of criminal proceedings pursuant to the provisions of law governing the mental competency of defendants.

**AB 182 (Benoit): Chapter 181: Search warrants: individuals authorized to serve.**  
(Amends Section 1529 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (7-0)*

*Senate Public Safety (6-0)*

*Assembly Floor (74-0)*

*Senate Floor (29-1)*

Existing law provides that investigators or inspectors employed in that capacity by the office of a district attorney are peace officers. Existing law provides that a search warrant is an order, in writing, directed to a peace officer. Existing law also provides the form which a search warrant is required to follow, and provides that the warrant is to any sheriff, marshal, or police officer, but does not specifically mention peace officer.

This bill conforms the provisions specifying the form of a search warrant to the provisions specifying that a search warrant is directed to a peace officer.

**AB 496 (Aghazarian): Chapter 300: Service of process.**

(Amends Section 22350 of the Business and Professions Code, amends Sections 412.10, 417.30, 583.210, 1010.6, 1985.3, and 1985.6 of the Code of Civil Procedure, and amends Section 4013 of the Penal Code.)

**Legislative History:**

*Assembly Judiciary (9-0)*

*Senate Judiciary (6-0)*

*Assembly Floor (77-0)*

*Senate Floor (35-0)*

*Assembly Concurrence (78-0)*

Existing law requires a sheriff or jailer upon whom a paper in a judicial proceeding is served, to forthwith deliver it to the prisoner with a note thereon of the time of its service. Existing law provides that if he or she neglects to do so, he or she is liable to the prisoner for all resulting damages.

This bill, among other things related to service, provides that service directed to a person who is incarcerated may be served by any person who may lawfully serve process.

**AB 557 (Karnette): Chapter 18: Criminal procedure: testimony of retired peace officers.**  
(Amends Section 872 of the Penal Code.)

**Legislative History:**

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

*Senate Public Safety (6-0)*  
*Senate Floor (37-0)*

Existing law enacted by initiative measure, authorizes a finding of probable cause to be based in whole or in part upon the sworn testimony of a law enforcement officer relating to the statements of declarants made out of court offered for the truth of the matter asserted. Existing law provides for amendment of these provisions by a 2/3 vote of each house of the Legislature.

This bill extends that authorization to include testimony by an honorably retired law enforcement officer.

**AB 620 (Gloria Negrete McLeod): Chapter 305: Criminal proceedings: examination of witnesses.**  
(Amends Sections 1335, 1336, 1337, and 1341 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (7-0)*  
*Assembly Floor (74-0)*  
*Assembly Concurrence (78-1)*

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

Existing law provides for the conditional examination of a witness by the defendant in all cases and by the people in cases where the punishment may be other than death. Existing law further provides that when the defendant has been charged with a serious felony, as defined, the people may have a witness examined conditionally if the people have evidence the life of the witness is in jeopardy.

This bill permits the people or the defendant, when the defendant is charged with a serious felony, to have a witness examined conditionally if there is evidence that the life of the witness is in jeopardy.

Existing law provides that the defendant or the people may apply for an order that the witness be examined conditionally when the material witness is about to leave the state, or is so sick as to afford reasonable grounds he or she will be unable to attend the trial, or is a person 70 years of age or older, or a dependent adult. Further, existing law provides the people may apply for the conditional examination of a prosecution witness when the people have evidence that the witness' life is in jeopardy.

This bill lowers the age at which a conditional examination application for a material witness may be made to 65 years of age or older. This bill also permits a conditional examination to be sought by either the people or the defendant when there is evidence a witness, not just a prosecution witness, is in jeopardy.

**AB 1305 (Sharon Runner): Chapter 17: Wiretaps.**

(Amends Section 629.51 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*

*Senate Public Safety (6-0)*

*Assembly Floor (75-0)*

*Senate Floor (37-0)*

Existing law defines "wire communication" as any transfer of the human voice made with the aid of specified connections between the point of origin and point of reception, furnished by specified persons or facilities. The definition also includes the electronic storage of these communications.

This bill deletes storage of these communications from the definition. This bill is a clean-up to AB 74 (Washington), Ch. 605, Stats. 2002.



# DNA

**SB 22 (Migden): Chapter 3: DNA Identification Fund. Urgency.**  
(Adds Item 0820-001-3086 to Section 2.00 of the Budget Act of 2004.)

**Legislative History:**

*Senate Appropriations (10-0)*  
*Senate Floor (29-0)*

*Assembly Appropriations (15-0)*  
*Assembly Floor (70-0)*

Existing law requires the Legislature to loan the Department of Justice \$7,000,000 for purposes of implementing the DNA, Fingerprint, Unsolved Crime and Innocence Protection Act, enacted by voters at the November 2, 2004, general election, to be repaid from revenue generated by the act. Existing law also establishes a state DNA Identification Fund to support DNA testing and related purposes.

This bill loans \$7,000,000 from the General Fund to the Department of Justice, and appropriates that amount to the Department of Justice for purposes of implementing the act. This bill also appropriates \$4,000,000 from the state DNA Identification Fund to the Department of Justice for purposes of implementing the act.

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

**AB 940 (Chu): Chapter 471: Missing persons DNA database.**  
(Amends Section 14251 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*  
*Assembly Floor (68-9)*  
*Assembly Concurrence (58-17)*

*Senate Public Safety (6-0)*  
*Senate Floor (27-139)*

Existing law requires the Department of Justice to develop a DNA database for all cases involving the report of an unidentified deceased person or a high-risk missing person, as defined. Existing law requires that, until January 1, 2006, the database be funded by a \$2 increase on death certificates issued by a local government agency or by the State of California. Existing law specifies the manner in which these funds shall be used.

This bill deletes the January 1, 2006, expiration date for these provisions, and instead extends the collection of the \$2 increase on death certificates until January 1, 2010, and provides for more flexibility in the distribution of funds to the counties for the purposes of the database.

# DOMESTIC VIOLENCE

## **SB 720 (Kuehl): Chapter 631: Court orders.**

(Amends Section 1218 of the Code of Civil Procedure, Section 6380 of the Family Code, and Section 136.2 of the Penal Code.)

### ***Legislative History:***

*Senate Judiciary (5-1)*

*Senate Public Safety (4-0)*

*Senate Floor (32-2)*

*Senate Concurrence (38-2)*

*Assembly Judiciary (8-1)*

*Assembly Public Safety (6-0)*

*Assembly Floor (78-0)*

Existing law provides specified procedures to initiate and pursue contempt orders.

This bill (1) authorizes the district attorney or city attorney to initiate and pursue a court action for contempt against a person for failing to comply with a domestic violence protective order issued by a court; (2) requires, with respect to domestic violence protective orders, the court or the court's designee to transmit all data filed with the court to law enforcement personnel, in the same manner that criminal court protective orders are transmitted; and (3) clarifies that an order protecting victims of violent crime applies to all contact by the defendant, thereby ensuring the court's authority to issue stay-away orders in addition to criminal protective orders.

## **AB 99 (Cohn): Chapter 125: Duration of Family Code protection orders.**

(Amends Sections 6345 and 6361 of the Family Code.)

### ***Legislative History:***

*Assembly Judiciary (7-1)*

*Assembly Floor (70-5)*

*Senate Judiciary (5-1)*

*Senate Floor (28-9)*

Existing law provides that in the discretion of the court, the personal conduct, stay-away, and residence exclusion orders contained in a court order issued after notice and a hearing may have a duration of not more than 3 years, subject to termination or modification by further order of the court, as specified. These orders may be renewed either for 3 years or permanently.

This bill provides that these protective orders may have a duration of not more than 5 years, in the discretion of the court, and may be renewed either for 5 years or permanently.

**AB 100 (Cohn): Chapter 462: Shelters.**  
(Amends Section 124250 of the Health and Safety Code.)

**Legislative History:**

*(Prior votes not relevant)*  
*Assembly Concurrence (77-1)*

*Senate Public Safety (7-0)*  
*Senate Appropriations, S.R. 28.8*  
*Senate Floor (40-0)*

Existing law requires the Maternal and Child Health Branch of the State Department of Health Services to administer a comprehensive shelter-based services grant program to battered women's shelters, and requires the department to consult with an advisory council that remains in existence until January 1, 2006, in the administration of the grant program.

This bill extends the period during which the advisory council remains in existence to January 1, 2010.

**AB 112 (Cohn): Chapter 132: Protective orders.**  
(Amends Section 136.2 of the Penal Code.)

**Legislative History:**

*Assembly Judiciary (9-0)*  
*Assembly Floor (76-0)*  
*Assembly Concurrence (77-0)*

*Senate Public Safety (7-0)*  
*Senate Floor (33-0)*

Existing law authorizes the court to issue certain protective orders after notice and a hearing.

This bill adjusts and clarifies existing law to provide that the provisions of an emergency protective order issued under specified provisions and meeting specified requirements shall have precedence in enforcement over the provisions of any other restraining or protective order, only with respect to those provisions of the emergency protective order that are more restrictive in relation to the restrained party.

**AB 118 (Cohn): Chapter 465: Protective orders.**

(Amends Section 3100 of the Family Code and amends Section 136.2 of the Penal Code.)

**Legislative History:**

*Assembly Judiciary (9-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (71-0)*

*Assembly Concurrence (77-0)*

*Senate Judiciary (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

Existing law authorizes the court to grant reasonable visitation rights to a parent unless it is shown that the visitation would be detrimental to the best interest of the child. Existing law also authorizes any court with jurisdiction over a criminal matter to issue protective orders.

This bill requires that if a criminal protective order has been issued, as specified, a visitation order or a specified custody and visitation order shall make reference to, and acknowledge the precedence of enforcement of, any appropriate criminal protective order. The bill also requires the Judicial Council to modify criminal and civil court forms consistent with this provision, on or before July 1, 2006.

**AB 220 (Committee on Public Safety): Chapter 215: Battered women's syndrome.**

(Amends Sections 4801, 5075.5, and 13823.9 of the Penal Code, Section 3030 of the Family Code, and Section 340.3 of the Code of Civil Procedure.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Judiciary (7-1)*

*Assembly Floor (58-12)*

*Assembly Concurrence (69-6)*

*Senate Judiciary (4-2)*

*Senate Floor (22-10)*

Existing law contains multiple provisions pertaining to or referencing "battered women's syndrome."

This bill changes this phrase to "intimate partner battering."

**AB 429 (Chu): Chapter 467: Protective orders.**

(Amends Section 527.8 of the Code of Civil Procedure, Section 6383 of the Family Code, and Section 15657.03 of the Welfare and Institutions Code.)

**Legislative History:**

*Assembly Judiciary (9-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (71-0)*

*Assembly Concurrence (78-0)*

*Senate Judiciary (7-0)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (38-0)*

Existing law requires a court to order the plaintiff or his or her attorney to deliver a copy of each temporary restraining order or injunction with respect to workplace violence to the law enforcement agencies within the court's discretion as are requested by the plaintiff.

This bill establishes procedures, as specified, by which a law enforcement officer called to the scene of violence or credible threat of violence in the workplace would be authorized to verbally serve a protective order on the defendant who had not been served with the order previously. As noted above, these provisions currently exist in other sections of law pertaining to other types of protective orders.

**AB 1288 (Chu): Chapter 702: Protective orders: firearms.**

(Amends Sections 136.2 and 11106 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (78-1)*

*Senate Public Safety (7-0)*

*Senate Appropriations (12-0)*

*Senate Floor (36-2)*

Existing law authorizes courts to issue protective orders, as specified.

This bill requires courts in domestic violence prosecutions to consider issuing a protective order prohibiting a defendant from having a firearm upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur where the court has not issued a stay-away order, and authorizes specified officers to inform persons who are protected by a domestic violence protective order, or the victim of alleged domestic violence when Department of Justice records indicate the other person has a firearm, as specified.

**AB 1712 (Hancock): Chapter 545: Local fees: domestic violence programs.**  
(Amends Section 103627 of, and adds and repeals Section 103627.5 of, the Health and Safety Code, and amends Section 18309 of the Welfare and Institutions Code.)

***Legislative History:***

*Assembly Judiciary (5-3)*

*Senate Local Government (6-3)*

*Assembly Floor (45-31)*

*Senate Floor (22-14)*

*Assembly Concurrence (46-32)*

Existing law authorizes counties to charge fees when they issue marriage licenses or provide certified copies of birth certificates and death records. Counties are required to add on to their marriage license fees to fund domestic violence centers. The additional amount has increased over time and was last raised to \$23. The Legislature has authorized a pilot program in specified counties, including Alameda, allowing the counties to provide governmental oversight and coordination of domestic violence prevention, intervention, and prosecution efforts within the county, as specified.

This bill includes the City of Berkeley in the Alameda County provisions, as specified.

# ELDER & DEPENDENT ADULT ABUSE

**SB 1018 (Simitian): Chapter 140: Elder and dependent adult abuse: financial abuse.** (Amends, repeals, and adds Section 7480 of the Government Code, and amends, repeals, and adds Sections 15634, 15640, and 15655.5 of, and adds and repeals Section 15630.1 of, the Welfare and Institutions Code.)

## **Legislative History:**

*Senate Public Safety (4-0)*

*Senate Judiciary (4-2)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (24-14)*

*Senate Concurrence (24-11)*

*Assembly Aging & Long-Term Care (3-1)*

*Assembly Judiciary (6-1)*

*Assembly Floor (59-12)*

Existing law requires any mandated reporter under the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) who, within the scope of his or her employment, observes, has knowledge of physical abuse, financial abuse or neglect, or is told by an elder or dependent adult that he or she has experienced abuse, or reasonably suspects abuse, to immediately report the known or suspected abuse, as specified.

This bill enacts the Financial Elder Abuse Reporting Act of 2005 which extends mandated reporting requirements for financial abuse of an elder or dependent adult to all officers and employees of certain financial institutions and includes the following:

- Defines "mandated reporter of suspected financial abuse of an elder or dependent adult" as all officers and employees of financial institutions defines "financial institution" as a depository institution, an institution-affiliated party, or a federal, state, or institution-affiliated party credit union.
- Incorporates the existing definition of "financial abuse" in Welfare and Institutions Code Section 15610.30.
- Specifies that any mandated reporter of suspected financial abuse of an elder or dependent adult who has direct contact with the elder or dependent adult or who reviews or approves the elder's or dependent adult's financial documents, records, or transactions in connection with providing financial services with respect to an elder or dependent adult, and who within the scope of his or her employment and professional practice, has observed or has knowledge of an incident, that is directly related to the transaction or matter that is within that scope of practice, that reasonably appears to be financial abuse, or who reasonably suspects that abuse based solely on the information before him or her at the time of reviewing or approving the document, record, or transaction in the case of mandated reporters who do not have direct contact with the elder or dependent adult, shall report the known or suspected instance of financial abuse, as specified.

- Specifies that an allegation by the elder or dependent adult, or any other person, that financial abuse has occurred is not sufficient to trigger the reporting requirement if both of the following conditions are met:
  1. The mandated reporter is aware of no other corroborating or independent evidence of the alleged abuse; and,
  2. In the exercise of his or her professional judgment, the mandated reporter reasonably believes that the abuse did not occur.
- Provides that a mandated reporter of suspected financial abuse of an elder or dependent adult who fails to report financial abuse shall be subject to a civil penalty not exceeding \$1,000. If the failure to report is willful, the civil penalty may be up to \$5,000.
- Specifies that the civil penalty shall be paid by the financial institution who is the employer of the mandated reporter to the party bringing the action.
- Provides that the foregoing civil penalty shall be recovered only in a civil action brought against the financial institution by the Attorney General (AG), district attorney or county counsel, and that no action may be brought under this section by any person other than the AG, district attorney, or county counsel. Further provides that multiple actions for the civil penalty may not be brought for the same violation.
- Provides that the act shall not be construed to limit, expand, or otherwise modify any civil liability or remedy which may exist under this or any other law.
- Provides that reports under the act are privileged against defamation liability but are subject to disclosure as required by law or court order.
- Specifies that a county Adult Protective Services agency shall provide mandated reporters of suspected financial abuse of an elder or dependent adult with instructional materials regarding elder and dependent adult abuse and neglect, and their obligation to report such abuse.
- Delays implementation of this bill for one year, until January of 2007, and sunsets this bill after six years (January 1, 2013).
- Makes additional technical and conforming changes to related provisions of law.



## FINES & FORFEITURES

**SB 57 (Alarcón): VETOED: Fines and forfeitures.**

(Adds and repeals Section 76000.5 of the Government Code, and amends Section 1797.98a of the Health and Safety Code.)

**Legislative History:**

*Senate Public Safety (4-1)*

*Senate Appropriations (8-5)*

*Senate Floor (24-13)*

*Senate Concurrence (23-15)*

*Assembly Health (8-4)*

*Assembly Public Safety (5-2)*

*Assembly Appropriations (15-0)*

*Assembly Floor (42-35)*

Existing law establishes an additional penalty to be assessed by each county on fines, penalties, and forfeitures imposed for criminal offenses and parking penalties, to be used for local courthouse construction, criminal justice facilities construction, automatic fingerprint identification funding, forensic laboratory funding, emergency medical services funding, and DNA identification funding, as specified for each county.

This bill would have provided that until January 1, 2009, a county board of supervisors may elect to levy an additional penalty in the amount of \$2 for every \$10, upon fines, penalties, and forfeitures collected for criminal offenses, as specified. This bill would have required 15% of the funds collected pursuant to these provisions to be expended for pediatric trauma centers and required use of these funds, not to exceed 10%, for administrative costs.

# FIREARMS & DANGEROUS WEAPONS

## **SB 48 (Scott): Chapter 681: Ammunition: sales.**

(Amends Section 12316 of the Penal Code.)

### **Legislative History:**

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (21-15)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (11-5)*

*Assembly Floor (50-24)*

Existing law makes it a misdemeanor for any person, corporation, or licensed firearms dealer to (1) sell ammunition to a person "knowing" that the person is under 18 years of age and (2) sell handgun ammunition to a person "knowing" that the person is under 21 years of age; proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this law; "bona fide evidence of majority and identity" is defined. (Penal Code § 12316(a).)

This bill deletes the element of "knowing the person to be under the age" of 18 or 21 years of age, as applicable, from the definition of the offense; requires reasonable reliance upon bona fide evidence of majority and identity, as defined, in order for the affirmative defense to apply; and allows ammunition vendors to sell ammunition or reloaded ammunition that can be used in both a rifle and a handgun to persons at least 18 years of age but less than 21 years of age if the vendor reasonably believes the ammunition is being acquired for use in a rifle and not a handgun.

**SB 269 (Dutton): Chapter 683: Unsafe handguns: exemption.**

(Amends Section 12133 of the Penal Code.)

**Legislative History:**

*Senate Public Safety (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (39-0)*

*Senate Concurrence (30-0)*

*Assembly Public Safety (4-3)*

*Assembly Appropriations (12-4)*

*Assembly Floor (61-12)*

Existing law makes it a misdemeanor to manufacture or cause to be manufactured, import into the state for sale, keep for sale, offer or expose for sale, give, or lend any "unsafe" handgun, except as specified, effective January 1, 2001; private party transactions are exempt from the unsafe handgun limitations but of course must still be made through a licensed firearms dealer or sheriff in smaller counties; both of the following are exempted from the "unsafe handgun" testing: (1) single-action revolvers that have at least a five-cartridge capacity with a barrel length of not less than three inches, and meets listed specifications, and, (2) specified pistols that are designed expressly for use in Olympic target shooting events.

This bill additionally exempts from the "unsafe" handgun testing requirements a single-shot pistol with a barrel length of not less than six inches and that has an overall length of at least 10 and 1/2 inches when the handle, frame or receiver, and barrel are assembled.

**AB 86 (Levine): Chapter 167: Firearms: reports to the Department of Justice.**  
(Amends Section 11108 of the Penal Code.)

***Legislative History:***

*Assembly Public Safety (5-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (54-14)*

*Assembly Concurrence (74-1)*

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (35-0)*

Existing law requires that local law enforcement submit the description of serialized property which has been reported stolen, lost, found, recovered, or under observation, directly to an automated Department of Justice (DOJ) system and requires reports of stolen nonserialized property which has unique characteristics or inscriptions permitting accurate identification to be sent by each sheriff or police chief executive directly to the Special Services Section of the department.

This bill does the following:

- Requires the DOJ to maintain automated records of a lost or stolen firearm until the firearm has been found, recovered, is no longer under observation, or the record is determined to have been entered in error.
- Requires entry of lost or stolen non-serialized property "uniquely inscribed" directly into the appropriate DOJ automated system.
- Deletes the obsolete reference in existing law to the DOJ "Special Services Section" which no longer exists.
- Requires that the costs resulting from this requirement be reimbursed from funds other than those collected from specified fees relating to firearms.

**AB 88 (Koretz): Chapter 690: Assault weapons: separate convictions for each weapon possessed.**

(Amends Section 12280 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-2)*

*Assembly Appropriations (13-5)*

*Assembly Floor (43-33)*

*Senate Public Safety (5-1)*

*Senate Appropriations (8-4)*

*Senate Floor (21-18)*

Existing law provides penalties for violations of specified provisions involving assault weapons and .50 BMG rifles, as specified.

This bill provides that, subject to exceptions, that each illegal firearm possessed by the defendant can be the basis of a separate offense.

**AB 754 (Jones): VETOED: Firearms dealers: verification of licensure.**

(Amends Sections 12071, 12072, 12076, 12078, and 12082 of, and repeals and adds Section 12083 of, the Penal Code.)

**Legislative History:**

*Assembly Public Safety (4-1)*

*Assembly Appropriations (13-5)*

*Assembly Floor (42-35)*

*Assembly Concurrence (48-30)*

*Senate Public Safety (6-1)*

*Senate Appropriations (7-4)*

*Senate Floor (26-11)*

Existing law requires federal firearms licensees to either obtain a verification number from the Department of Justice when delivering, transferring, or selling a firearm to another federal firearms licensee, or show proof of exemption from local licensing requirements.

This bill would have revised those provisions by removing the option of showing proof of exemption from local licensing and requiring the transferors to obtain a verification number; required the department to then determine if an exemption applies, as specified; and expanded the use of the verification number by the department for certain purposes.

Existing law requires a person who as a dealer, importer, manufacturer, or collector of firearms holds a federal firearms license, and whose licensed premises are within the state, to provide a copy of the license to the Department of Justice, as specified.

This bill would have repealed those provisions and instead provided, commencing January 1, 2007, for a centralized list of federal firearms licensees who are exempt from obtaining a firearms dealer license pursuant to state law. Among other things required of the licensees to be on the centralized exempted federal firearms licensee list, the licensees would have had to provide the basis for their exemption to the department.

This bill would also have authorized, commencing January 1, 2007, the department to assess an annual fee upon those licensees for purposes of maintaining the list and for other enforcement and compliance costs; provided that those licensees may not import or receive firearms unless they were listed on the centralized list of exempted federal firearms licensees or exempted firearms manufacturers; and made related changes in law.

**AB 996 (Ridley-Thomas): VETOED: Ammunition: storage and sale.**

(Adds Section 12317 to the Penal Code.)

**Legislative History:**

*Assembly Public Safety (4-2)*

*Assembly Appropriations (12-5)*

*Assembly Floor (42-37)*

*Assembly Concurrence (44-35)*

*Senate Public Safety (5-1)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (22-15)*

Existing law relating to firearms ammunition includes the following: (a) makes it a crime for persons who are prohibited from possessing firearms to possess ammunition, punished as an alternate misdemeanor/felony; and, (b) makes it a misdemeanor for any person, corporation, or licensed firearms dealer to (1) sell ammunition to a person "knowing" that the person is under 18 years of age and (2) sell handgun ammunition to a person "knowing" that the person is under 21 years of age; proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this law; "bona fide evidence of majority and identity" is defined.

This bill would have done the following:

- Provided that no retail seller of ammunition shall sell, offer for sale, or display for sale, any handgun ammunition in a manner that allows the ammunition to be accessible to a purchaser without the assistance of the retailer or employee thereof.
- Made a violation of this section punishable as an infraction with a fine of \$500, or as a misdemeanor.
- Stated that the Attorney General is authorized to adopt regulations to enforce and further the provisions of this bill.
- Enacted a "negative preemption" clause which states that no provision of this, nor the regulations adopted by the Department of Justice to implement this bill, shall be construed to prevent a local government from imposing ammunition sales and storage requirements that are more strict or of a higher standard than those imposed by this section or regulations adopted to implement this section.
- Provided that as used in this bill, the term "handgun ammunition" means assembled live ammunition, other than .22 caliber ammunition, that is primarily for use in handguns.

**AB 1060 (Liu): Chapter 715: Firearms: law enforcement reports: related changes in law.**

(Amends Sections 11106, 11108, 11108.3, 12001, 12021.3, 12026.2, 12028.5, 12036, 12070, 12071, 12072, 12076, 12078, 12082, 12132, and 12305 of, repeals Section 12084 and amends Section 26 of Chapter 23 of the Statutes of 1994 of, the Penal Code, and Uncodified Law.)

**Legislative History:**

*Assembly Public Safety (4-2)*

*Assembly Appropriations (12-5)*

*Assembly Floor (43-35)*

*Assembly Concurrence (45-34)*

*Senate Public Safety (5-2)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (22-12)*

Existing law includes the following:

- Each sheriff or police chief executive shall submit descriptions of serialized property which has been reported stolen, lost, found, recovered or under observation, directly into the appropriate DOJ automated property system for firearms, stolen bicycles, stolen vehicles, or other property, as the case may be. Reports of stolen non-serialized property which has unique characteristics or inscriptions permitting accurate identification shall be sent by each sheriff or police chief executive directly to the Special Services Section of the department by letter or teletype. (Penal Code § 11108(a) and (b).)
- In addition to requirements that apply to a local law enforcement agency's duty to report to the DOJ the recovery of a firearm, a police or sheriff's department shall, and any other law enforcement agency or agent may, report to DOJ in a manner determined by the Attorney General (AG) in consultation with the Bureau of Alcohol, Tobacco, Firearms and Explosives all available information necessary to identify and trace the history of all recovered firearms illegally possessed, have been used in a crime, or are suspected of having been used in a crime. In addition, any law enforcement agency or agent may report to the AG pursuant to this section all information pertaining to any firearm taken into custody, except where the firearm has been voluntarily placed with the law enforcement agency for storage. (Penal Code § 11108.3(a).)
- Provides that when DOJ receives information from a local law enforcement agency pursuant to law, it shall promptly forward this information to the National Tracing Center of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives to the extent practicable. The DOJ shall implement an electronic system by January 1, 2002, to receive comprehensive tracing information from each local law enforcement agency, and to forward this information to the National Tracing Center. (Penal Code § 11108.3(b) through (d).)



- Provides that as an alternative to completing the sale, transfer, or loan of a firearm through a licensed dealer pursuant to law, the parties to the purchase of a firearm in smaller counties may complete the transaction through a sheriff's department, as specified in accordance with the law. (Penal Code § 12084(b).)
- States that Law Enforcement Firearms Transfer (LEFT) forms shall be prepared by the State Printer and shall be furnished to agencies on application at a cost to be determined by the Department of General Services for each 100 leaves in quintuplicate, one original and four duplicates for the making of carbon copies. The original and duplicate copies shall differ in color, and shall be in the form provided by this section. The State Printer, upon issuing the LEFT, shall forward to DOJ the name and address of the agency together with the series and sheet numbers on the LEFT. The LEFT shall not be transferable. (Penal Code § 12084(c)(1).)

This bill does the following:

- Requires local law enforcement to submit descriptions of serialized property which has been, among other things, held for safekeeping directly into the Department of Justice (DOJ) automated property system for firearms.
- Requires a licensed firearms dealer to notify the DOJ when a firearm has been stolen.
- Repeals and makes conforming technical amendments to language that allows a local sheriff's office in smaller counties the right to process purchases, sales or loans, and transfers of firearms when neither the buyer nor seller is a licensed firearms dealer (repealing existing Penal Code § 12084).
- Requires firearms dealers to keep all inventory firearms in secured storage at the firearms dealer's licensed premises, as specified.
- States that any law enforcement agency, including state agencies such as the DOJ and the California Highway Patrol, may sell a firearm for a person who is unable to pass a background check after the person is taken into custody; and specifies that regardless of the five-day return rule in domestic violence cases, the firearm owner must still pass a background check.
- Authorizes attorney's fees to the prevailing party in a civil suit brought over the return of firearms by law enforcement.
- Makes a number of related changes in law.

# HUMAN TRAFFICKING

**SB 180 (Kuehl): Chapter 239: Human trafficking: task force and training.**

(Adds Section 13519.14 to, and adds and repeals Title 6.7 (commencing with Section 13990) of Part 4 of, the Penal Code.)

**Legislative History:**

*Senate Public Safety (6-0)*

*Senate Appropriations (12-1)*

*Senate Floor (31-4)*

*Senate Concurrence (36-4)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (14-3)*

*Assembly Floor (68-5)*

Existing law establishes various task forces for purposes of crime prevention and law enforcement.

This bill establishes the California Alliance to Combat Trafficking and Slavery (California ACTS) Task Force and requires it to evaluate various programs available to victims of trafficking and various criminal statutes addressing human trafficking, and report to the Legislature, Governor, and Attorney General on or before July 1, 2007.

Existing law also establishes the Commission on Peace Officer Standards and Training (POST). One of the most important functions of POST is to develop and distribute training programs for peace officers, particularly on emerging issues in law enforcement and society.

This bill requires POST to develop a course or courses for peace officers relating to human trafficking, as specified. The bill provides that participation in the course would be voluntary.

**AB 22 (Lieber): Chapter 240: Human trafficking.**

(Adds Section 52.5 to the Civil Code, adds Article 8.8 (commencing with Section 1038) to Chapter 4 of Division 8 of the Evidence Code, amends Section 13956 of the Government Code, and amends Sections 186.2, 273.7, 1202.4, and 14023 of, adds Sections 236.1 and 236.2 to, and adds and repeals Title 6.7 (commencing with Section 13990) to Part 4 of, the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-1)*

*Assembly Judiciary (6-2)*

*Assembly Appropriations (14-4)*

*Assembly Floor (57-11)*

*Assembly Concurrence (74-3)*

*Senate Public Safety (7-0)*

*Senate Judiciary (5-2)*

*Senate Appropriations (12-1)*

*Senate Floor (28-7)*

Existing law establishes the offenses of slavery and involuntary servitude. Existing law also makes it an offense to entice an unmarried female minor into prostitution, or to procure by fraudulent means, any female to have illicit carnal connection with any man.

Existing law also makes it a crime to take away any minor as specified, for purposes of prostitution.

This bill establishes the crime of trafficking of a person for forced labor or services or for effecting or maintaining other specified felonies, and the crime of trafficking of a minor for those purposes, punishable by terms of imprisonment in the state prison for 3, 4, or 5 years, or 4, 6, or 8 years, respectively. Special restitution provisions apply where the defendant has been convicted of human trafficking. In particular, a victim of forced labor shall receive restitution based on the market value of the labor, the value of the labor under California law or the actual income derived from the victim's labor by the defendant.

This bill permits a victim of trafficking to bring a civil action for actual damages, provides for restitution and punitive damages, and establishes a victim-caseworker privilege.

This bill requires state and local law enforcement agencies to issue a Law Enforcement Agency Endorsement for all trafficking victims within 15 business days of initial contact with the victim. By imposing new duties on local law enforcement agencies, this bill imposes a state-mandated local program.

Existing law establishes various advisory bodies.

This bill establishes a task force to study various issues in connection with human trafficking and to advise the Legislature, as specified. The provisions relating to the task force will be repealed January 1, 2008.

Existing law requires the Attorney General to give priority to matters involving organized crime, gang activities, drug trafficking, and cases involving a high degree of risk to the witness.

This bill includes human trafficking in that list of priorities. This bill incorporates additional changes in Section 186.2 of the Penal Code proposed by AB 988 to become operative only if this bill and AB 988 are enacted and become effective on or before January 1, 2006, and this bill is enacted last.

This bill incorporates additional changes in Section 1202.4 of the Penal Code proposed by SB 972 to become operative only if this bill and SB 972 are enacted and become effective on or before January 1, 2006, and this bill is enacted last. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the State. Statutory provisions establish procedures for making that reimbursement. This bill provides that with regard to certain mandates no reimbursement is required by this act for a specified reason.

# IDENTITY THEFT

**SB 97 (Murray): Chapter 247: Unsolicited electronic mail.**  
(Amends Section 17529.5 of the Business and Professions Code.)

**Legislative History:**

*Senate Public Safety (4-2)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (23-13)*

*Senate Concurrence (28-10)*

*Assembly Business & Professions (10-0)*

*Assembly Judiciary (7-2)*

*Assembly Appropriations (13-5)*

*Assembly Floor (63-15)*

Existing law prohibits a person or entity from using commercial e-mail advertisements containing certain falsified, misrepresented, obscured, or misleading information. The Attorney General, an e-mail service provider, or the recipient of an unsolicited commercial e-mail advertisement transmitted in violation of these provisions may bring a civil action to recover actual damages and liquidated (preset) damages of \$1,000 per unsolicited commercial e-mail advertisement transmitted in violation of the provisions, up to \$1,000,000 per incident, subject to reduction by the court.

This bill makes a violation of these provisions a misdemeanor punishable by a fine of up to \$1,000, imprisonment of up to 6 months in a county jail, or both.

**SB 444 (Ackerman): Chapter 482: Gang crimes and penalties: identity theft.**  
(Amends Section 186.22 of the Penal Code.)

**Legislative History:**

*Senate Public Safety (6-0)*

*Senate Appropriations (13-0)*

*Senate Floor (40-0)*

*Senate Concurrence (40-0)*

*Assembly Public Safety (4-1)*

*Assembly Appropriations (17-0)*

*Assembly Floor (75-1)*

Existing law defines a criminal street gang as an association of persons who commit specified crimes as one of its primary activities. Further, gang members must have engaged in a "pattern of criminal gang activity" within a specified period of time. The crimes that establish a pattern of gang activity need not have been specifically committed for the benefit of the gang. Any person who actively participates in a street gang with knowledge that its members have engaged in a pattern of gang activity is guilty of a crime. Any person who commits a crime for the benefit of a criminal street gang shall receive enhanced punishment for the underlying offense.

This bill adds various crimes relating to identity theft, and the manufacture and sale of false identification and access cards to those offenses which if committed by members of the criminal street gang establish a pattern of criminal gang activity. However, such a pattern would not be established by commission of one or more of these offenses alone.

**AB 988 (Bogh): Chapter 53: Criminal profiteering: identity theft.**

(Amends Section 186.2 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (7-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (71-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (33-0)*

Existing law specifies various offenses for the purpose of defining criminal profiteering. Under the criminal profiteering statutes, the illicit profits of organized crime may be forfeit to the State. The forfeiture proceeding is held in conjunction with the criminal trial and commences upon conviction of the underlying offense.

This bill includes theft of personal identifying information (Pen. Code § 530.5 – identity theft) as a qualifying offense under the criminal profiteering laws.

**AB 1069 (Montañez): Chapter 326: Deceptive identification documents.**

(Amends Section 483.5 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (72-1)*

*Assembly Concurrence (77-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

Existing law prohibits a deceptive identification document, as defined, from being manufactured, sold, offered for sale, furnished, offered to be furnished, transported, offered to be transported, or imported or offered to be imported into this state, except as specified. Existing law defines "deceptive identification document" with reference to a document not issued by a governmental agency of this state, another state, or the federal government. A violation of this provision is a crime.

This bill, in addition, makes it a misdemeanor to possess a document-making device, as defined, with the intent that the device will be used to manufacture, alter, or authenticate a deceptive identification document. The bill also revises the definition of "deceptive identification document" to include a document not issued by a governmental agency of a foreign government, a political subdivision of a foreign government, an international government, or an international quasi-governmental organization.

**AB 1595 (Evans): Chapter 343: Public official: personal information.**  
(Amends Section 6254.21 of the Government Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Floor (75-3)*

*Assembly Concurrence (78-0)*

*Senate Judiciary (6-0)*

*Senate Public Safety (7-0)*

*Senate Floor (36-1)*

Existing law prohibits a state or local agency from posting the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual. Existing law also prohibits a person from knowingly posting on the Internet the home address or telephone number of an elected or appointed official or of the official's residing spouse or child with intent to cause imminent great bodily harm to that individual.

This bill prohibits a person, business, or association from publicly posting or publicly displaying on the Internet the home address or telephone number of any elected or appointed official if that official has made a written demand of that person, business, or association to not disclose his or her home address or telephone number, or from soliciting, selling, or trading on the Internet the home address or telephone number of an elected or appointed official with the intent to cause bodily harm to the official or to any person residing at the official's home address. It provides various remedies for violation of these provisions. It limits the liability of an interactive computer service or access software provider under these provisions. This bill also adds to the list of elected or appointed officials covered by all of the foregoing provisions state administrative law judges, federal judges, and federal defenders, Members of the United States Congress, and appointees of the President.

# JUVENILE JUSTICE

## **SB 447 (Poochigian): Chapter 110: Civil commitments for CYA/DJJ wards.**

### **Urgency.**

(Amends Sections 1800, 1800.5, 1801, and 1801.5 of the Welfare and Institutions Code.)

### **Legislative History:**

*Senate Public Safety (6-0)*

*Assembly Public Safety (6-0)*

*Senate Appropriations, S.R. 28.8*

*Assembly Appropriations (16-0)*

*Senate Floor (38-0)*

*Assembly Floor (78-0)*

Existing law provides for the continued civil confinement of wards in the Division of Juvenile Justice (formerly the California Youth Authority).

This bill codifies the requirement of current law that in order to civilly commit a ward based on a finding that the person's release would be physically dangerous to the public because of their mental or physical deficiency, disorder or abnormality, there also must be a finding that the condition causes "the person to have serious difficulty controlling his or her dangerous behavior."

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

## **SB 570 (Migden): Chapter 265: Mentally incompetent minors.**

(Adds Section 68553.5 to the Government Code, and adds Sections 710, 711, 712, 713, and 714 to the Welfare and Institutions Code.)

### **Legislative History:**

*Senate Public Safety (6-0)*

*Assembly Public Safety (6-0)*

*Senate Appropriations (13-0)*

*Assembly Appropriations (17-0)*

*Senate Floor (35-3)*

*Assembly Floor (75-3)*

*Senate Concurrence (34-3)*

Existing law provides, with specified exceptions, that minors who violate the law are within the jurisdiction of the juvenile court.

This bill establishes codified procedures, applicable to counties that adopt them, for evaluating the mental competency of juvenile offenders, and for providing for dispositional reviews and recommendations for minors who are determined by the court to be seriously emotionally disturbed, have a serious mental disorder, or have a developmental disability, as specified.



**AB 1448 (Saldaña): VETOED: Juvenile justice coordinating committee contracts: conflicts of interest.**

(Adds Section 1091.35 to the Government Code.)

**Legislative History:**

*Assembly Local Government (7-0)*

*Senate Local Government (6-3)*

*Assembly Floor (76-1)*

*Senate Floor (22-16)*

Existing law prohibits certain state and local officers and employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members, and prohibits any state, county, district, judicial district, and city officers or employees from being purchasers at any sale or vendors at any purchase made by them in their official capacity.

This bill would have provided that this section shall not apply to any contract or grant made or approved by a county multiagency juvenile justice coordinating council created pursuant to Article 18.7 (commencing with Section 749.2) of Chapter 2 of Division 2 of the Welfare and Institutions Code, except where both of the following conditions are met: (a) the contract or grant relates directly to services to be provided by any member of a county multiagency juvenile justice coordinating council or the entity the member represents or to financial benefits to the member or the entity that he or she represents; and (b) the member fails to recuse himself or herself from making or participating in making a contract or grant, or in any way attempts to use his or her official position to influence a decision on the grant or contract.

The Governor's veto message states in part: "Section 1090 of the Government Code is extremely important to California and is one of the strongest anti-corruption laws in the nation. Its purpose is critical in order to ensure that public officials perform their duties in an impartial manner, free from bias caused by their own financial interests. This bill would erode the public's protection in Section 1090 by allowing an exception."

# PEACE OFFICERS

## **SB 104 (Ortiz): Chapter 478: Public health orders: enforcement by local law enforcement.**

(Amends Sections 26602 and 41601 of the Government Code, and adds Sections 100106, 101029, and 101317.2 to, the Health and Safety Code.)

### **Legislative History:**

*Senate Public Safety (6-0)*

*Assembly Public Safety (7-0)*

*Senate Appropriations (13-0)*

*Assembly Floor (77-0)*

*Senate Floor (40-0)*

*Senate Concurrence (40-0)*

Existing law authorizes the Director of Health Services and local health officers to issue orders to enforce various health and safety requirements, as specified.

This bill permits a peace officer to enforce a Department of Health Services (DHS) and local health officer order to prevent the spread of contagious disease, as follows:

- Provides that the sheriff may execute all orders of the local health officer issued to prevent the spread of any contagious or communicable disease.
- Provides that the chief of police has the same powers as the sheriff to execute all orders of the local health officer issued to prevent the spread of any contagious, infectious, or communicable disease.
- Provides that a peace officer may enforce an order of the DHS or local health officer within his or her jurisdiction and that in issuing these orders, the health officer may consider whether it is necessary to advise the enforcement agency of the measures to prevent infection to an enforcement officer.
- Requires that monies made available in the 2004-05 Budget Act for bioterrorism preparedness be available for expenditure and encumbrance until August 30, 2006.

**SB 453 (Poochigian): Chapter 497: Local law enforcement: Central Valley Rural Crime Prevention Program. Urgency.**

(Amends Section 30063 of the Government Code, and amends Sections 14171, 14173, and 14175 of, amends and renumbers Section 14174.3 of, and repeals Sections 14172 and 14174 of, the Penal Code.)

**Legislative History:**

*Senate Public Safety (4-0)*

*Senate Appropriations (13-0)*

*Senate Floor (40-0)*

*Senate Concurrence (38-0)*

*Assembly Public Safety (4-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (74-0)*

Existing law establishes the Supplemental Law Enforcement Services Fund, specifies the purposes for which money in the fund may be expended, and requires by March 1 of each year, that the Legislative Analyst's Office report to the Legislature on the type of expenditures made by local law enforcement agencies in the previous fiscal year, and the effects of those expenditures on law enforcement and public safety, as specified.

This bill eliminates the reporting requirement.

Existing law establishes the Central Valley Rural Crime Prevention Program regarding agricultural and rural based crime in specified counties; the program will become inoperative as of July 1, 2005, and is repealed as of January 1, 2006.

This bill does the following:

- Extends the existing July 1, 2005, sunset date for the Central Valley Rural Crime Prevention Program to July 1, 2009, and the existing repeal date to January 1, 2010.
- Specifies the intent of the Legislature with regard to the apportionment of any funds appropriated for the program.
- Makes related "technical" changes in the program and took effect immediately as an urgency measure.
- Took effect immediately upon enactment as an urgency measure.

NOTE: SB 77, the 2005 Budget Act (Chapter 38, Statutes of 2005) "restored \$1.9 million to fund the Rural Crime Prevention Program at \$3.3 million and augmented by \$300,000 for rural crime prevention in Monterey County."

**SB 719 (Romero): Chapter 485: Police pursuits.**

(Amends Section 13955 of the Government Code, amends Section 13519.8 of the Penal Code, and amends Sections 2800.1, 2800.3, and 14602.1 of, adds Sections 1666.1 and 2911 to, and amends, repeals, and adds Section 17004.7 of the Vehicle Code.)

**Legislative History:**

*Senate Public Safety (6-0)*

*Senate Judiciary (7-0)*

*Senate Appropriations (13-0)*

*Senate Floor (40-0)*

*Senate Concurrence (40-0)*

*Assembly Public Safety (4-0)*

*Assembly Appropriations (13-4)*

*Assembly Floor (76-0)*

Existing law sets forth the penalties for fleeing a peace officer.

Existing law provides that if a public agency adopts a written policy for police vehicular pursuits that meets specified standards, the public agency is immune from liability for injuries or damages caused to third parties when a suspect fleeing a police pursuit causes an accident which results in that third-party injury or damage. Case law has interpreted Section 17004.7 to apply the immunity even when the public agency has not implemented the adopted policy or when the public entity's peace officer was not complying with the adopted policy in conducting the vehicular pursuit that led to the third-party injury.

This bill increases penalties for fleeing in a motor vehicle from police, conditions immunity for law enforcement agencies from liability for injuries from police vehicle pursuits on adoption and promulgation of pursuit policy and regular and periodic training.

**AB 795 (Ridley-Thomas): VETOED: Peace officers: California Science Center: public employment: state museum employees.**

(Amends Section 18000.5 of the Government Code and Uncodified Law.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (14-3)*

*Assembly Floor (71-5)*

*Assembly Concurrence (45-32)*

*Senate Public Safety (6-0)*

*Senate Appropriations (7-3)*

*Senate Public Employment & Retirement (3-1)*

*Senate Floor (28-12)*

Existing law does the following:

- Provides that the California Science Center (CSC) shall establish the position of "exposition park manager" to be filled by a person appointed by the Governor for the purpose of managing, scheduling, and administering all park-related events, including oversight for the police and security services of the park. The exposition park manager may appoint the chief and assistant chief of museum security and safety, who shall have the powers of peace officers as specified in Penal Code Section 830.3, as well as other safety officers who shall have the powers of arrest as specified in Penal Code Section 830.7. (Food and Agricultural Code § 4108(a).)
- Requires that any person or persons desiring peace officer status under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who, on January 1, 1990, were not entitled to be designated as peace officers under that chapter shall request the Commission on Peace Officer Standards and Training (POST) to undertake a feasibility study regarding designating that person or persons as peace officers, as specified. The request and study shall be undertaken in accordance with regulations adopted by POST. POST may charge any person, with specified exceptions, requesting a study, a fee, not to exceed the actual cost of undertaking the study.

This bill would have "specifically" authorized the California Science Center to contract with the Commission on Peace Officer Standards and Training for a study, pursuant to Article 4 (commencing with Section 13540) of Chapter 1 of Title 4, to address the advisability of a change in designation or status of some or all of the museum security and safety officers of the California Science Center.

Existing law authorizes an officer or employee of the state to receive compensation from a nonprofit corporation formed exclusively to aid and assist a state museum for services rendered to the nonprofit corporation and for expenses of performing those services if the nonprofit corporation obtains prior written approval of the Department of Personnel Administration and files a specified statement with the Controller.

This bill would have provided an alternative to the requirement that the nonprofit corporation obtain prior written approval of the Department of Personnel Administration and, for certain officers or employees, alternatively require that the nonprofit corporation obtain the prior written approval of the board of directors of the state museum and that the state museum complete a survey of compensation at comparable institutions, be located on state property, and be governed by a state-appointed board of directors.

**AB 900 (Benoit): Chapter 190: Investigators: Department of Food and Agriculture.**

(Amends Section 830.11 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (73-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (31-1)*

Existing law provides that specified persons are not peace officers but may exercise the powers of arrest of a peace officer, as specified in Section 836, and the power to serve warrants as specified in Sections 1523 and 1530 during the course and within the scope of their employment, if they receive a course in the exercise of those powers pursuant to Section 832. The authority and powers of the persons designated under this section shall extend to any place in the state; they shall not carry firearms; and they shall be included as "peace officers of the state" in the Penal Code for the purpose of receiving state summary criminal history information and shall be furnished that information on the same basis as peace officers of the state designated in paragraph (2) of subdivision (c) of Section 11105.

Existing law provides that any person in whom the enforcement of any provision of the Food and Agriculture Code is vested shall have the authority, as a public officer, to arrest, without a warrant, another person whenever such officer has reasonable cause to believe that the person to be arrested has, in his presence, violated any provision of this code, the violation of which is declared to be a public offense. If such violation is a felony, or if the arresting officer has reasonable cause to believe that the person to be arrested has violated a provision of this code which is declared to be a felony, although no felony has in fact been committed, he may make an arrest although the violation or suspected violation did not occur in his presence. (Food and Agriculture Code § 7.)

This bill adds persons employed by the Department of Food and Agriculture and designated by the Secretary of Food and Agriculture as investigators, investigator supervisors, and investigator managers, to Penal Code Section 830.11, provided that the primary duty of these persons shall be enforcement of, and investigations relating to, the Food and Agriculture Code or Division 5 (commencing with Section 12001) of the Business and Professions Code.

**AB 994 (Sharon Runner): VETOED: Department of Insurance Investigators.**  
(Amends Section 830.3 of the Penal Code)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (73-0)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (33-0)*

Existing law provides that the Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators appointed by the chief are peace officers, provided that their primary duties are investigation of fraudulent claims.

This bill would have done the following:

- Changed the authority to appoint the Department of Insurance peace officer investigators from the "Chief of the Bureau of Fraudulent Claims" to the Insurance Commissioner.
- Added that those investigators are peace officers provided their primary duty shall be to not only enforce Penal Code Section 550 (insurance fraud) but additionally "and other laws regulating persons and businesses licensed by the Department of Insurance."

NOTE: The Governor's veto message suggests that this bill expands "peace officer status to civil investigators without the appropriate Commission on Peace Officer Standards and Training report that is normally required when changing scope and function of peace officers." Committee staff did not raise that issue in the committee analysis since staff understands that this bill did not – and does not – trigger the provisions of Penal Code Sections 13540-13542.

**AB 1536 (Bass): VETOED: City of Los Angeles security officers: peace officer powers.**

(Amends Section 830.7 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (4-1)*

*Assembly Floor (48-30)*

*Assembly Concurrence (50-29)*

*Senate Public Safety (5-0)*

*Senate Floor (21-15)*

Existing law grants public employees who are not peace officers the authority to exercise the power of arrest of a peace officer, including designated employees of the California Department of Forestry and Fire Protection and non-peace officers regularly employed as county probation officers. Those persons must complete a course in the exercise of those powers, as specified.

This bill would have done the following:

- Granted peace officer powers of arrest, as specified, to security officers employed by the City of Los Angeles acting in the course and scope of their duties, provided that they complete a training course in the exercise of those powers, as specified.
- Granted that authority contingent upon a memorandum of understanding with the City of Los Angeles permitting the exercise of that authority.
- Provided that the security officers in this bill shall not be deemed "peace officers" for purposes of Penal Code Sections 241 and 243.



# SEX CRIMES/OFFENDERS

**SB 33 (Battin): Chapter 477: Probation and deferred entry for lewd conduct with children in intra-family cases: elimination of programs: related and conforming changes in law.**

(Amends Sections 285, 288.1, 1000.12, and 1203.066 of; and repeals Section 1000.13 of, the Penal Code.)

**Legislative History:**

*Senate Public Safety (4-1)*

*Senate Appropriations (13-0)*

*Senate Floor (34-1)*

*Senate Concurrence (40-0)*

*Assembly Public Safety (5-1)*

*Assembly Appropriations (17-0)*

*Assembly Floor (77-0)*

Existing law provides that a person who is convicted of committing lewd and lascivious acts upon a child or engaging in continuous sexual abuse of a child cannot receive probation if the crime involved one of numerous circumstances. These include the use of force or coercion, use of a weapon, multiple victims, injury, prior convictions of the defendant, use of illegal pornography, substantial sexual conduct, and other factors. However, where the defendant is a specified relative of the victim and the violation involved either more than one victim, substantial sexual conduct with the victim, or the use of illegal pornographic material, the court may grant the defendant probation if the court makes several findings. These findings include that a grant of probation is in the best interest of the child, rehabilitation is feasible, and there is no threat of physical harm to the child. The defendant must be removed from the home of the victim and the treatment program must meet specified standards.

This bill eliminates the special program of probation in cases of intra-family lewd conduct and continuous sexual abuse under which a family member could obtain probation while another defendant could not. However, if a defendant in an intra-family lewd conduct or continuous sexual abuse is granted probation under the more restrictive rules created by this bill, the current requirements that the defendant be removed from the home and that the treatment program must meet specified standards must be met.

This bill effectively eliminates a provision of the one-strike (life term) sex crime sentencing law that exempted a defendant in a one-strike case if he or she was eligible for probation in an intra-family matter under Section 1203.066.

This bill changes the procedures for establishing probation ineligibility in several important ways. As in existing law, the bill requires that the existence of any fact that would render the defendant ineligible for probation must be "alleged in the accusatory pleading" and proved to the trier of fact or admitted by the defendant. However, under the bill, where the defendant is charged under Section 288, subdivision (b), with committing lewd conduct by force or coercion, the charge alone is sufficient to establish

that the defendant is ineligible for probation, as conviction of forced or coerced lewd conduct necessarily renders the defendant ineligible for probation. Further, where the defendant is charged with lewd conduct with multiple victims, the charging document must specifically allege that the defendant is ineligible for probation "pursuant to this section [1203.066.]"

The following examples may illustrate the applicable rules: Where the information includes an enhancement allegation under Section 12021 that the defendant used a weapon in the commission of lewd conduct, and that allegation is proved or admitted, probation would be barred regardless of whether or not the information referred to Section 1203.066. However, if the prosecution desires to render the defendant ineligible for probation because the defendant engaged in substantial sexual conduct in committing lewd conduct, the prosecutor would need to allege that fact in the information, although a reference to Section 1203.066 would not be necessary. The prosecution can thus largely control whether the defendant is eligible for probation. Under general rules of law, the court must approve any plea bargain. However, unlike under existing law, the court could not grant probation to a defendant in a case of intra-family lewd conduct if a non-family member would be ineligible for probation.

Existing law provides that it is a felony for persons within the degrees of consanguinity within which marriages are declared by law to be incestuous and void to commit fornication or adultery with one another.

This bill provides that it is a felony for persons within specified degrees of consanguinity who are 14 years of age or older to commit fornication or adultery with one another. It appears that this change was made so as to eliminate a possible plea bargain in which the defendant pleads guilty to a charge of incest instead of the original charge of lewd conduct with a child or continuous sexual abuse of a child.

Existing law provides that any person convicted of committing any lewd or lascivious act upon a child who is less than 14 years of age shall not have his or her sentence suspended until the court obtains a report as to the mental condition of that person from a reputable psychiatrist or psychologist, or from a recognized treatment program.

This bill deletes the option of receiving a report from a recognized treatment program.

Existing law also provides that, in lieu of trial, the prosecuting attorney may make a motion to defer entry of judgment with respect to any crime charged in which a minor is a victim of an act of molestation or sexual abuse, upon written agreement between the prosecuting attorney and the suspect, if he or she is a family member of the victim, the person has no prior violent or sexual felony convictions, and no adverse diversion or counseling history, as specified, provided that rehabilitation is feasible, there is no threat of harm to the minor, the charged offense did involve force or coercion, the defendant pleads guilty and completes an approved treatment program, 5 years after which, the court shall dismiss the charges.

This bill repeals the program of deferred entry of judgment in specified intra-family lewd conduct matters.

Existing law provides that, in lieu of prosecuting a person suspected of committing an act of (non-sexual) abuse or neglect involving a minor victim, the prosecuting attorney may refer that person for counseling and psychological treatment.

This bill specifies that these counseling provisions only apply to a person suspected of committing physical abuse or neglect.

**AB 33 (Sharon Runner): Chapter: 461: Contacting minors without the permission of the minor's parent: criminal penalty and computer forfeiture.**

(Amends Sections 272 and 502.01 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (7-0)*

*Senate Public Safety (5-0)*

*Assembly Appropriations (18-0)*

*Senate Appropriations, S.R. 28.8*

*Assembly Floor (76-0)*

*Senate Floor (40-0)*

*Assembly Concurrence (79-0)*

Existing law provides that it is a crime for an adult stranger to contact or communicate with a minor, 12 years of age or younger, for the purpose of luring the child away from home. It is an element of the crime that the defendant knew, or should have known, the age of the victim. Luring a child is punishable by a fine, by imprisonment in a county jail, or by both.

This bill extends the prohibition on child luring to cases where the child involved in the incident was under the age of 14. This bill provides that this crime is punishable as an infraction or a misdemeanor.

Existing law provides that certain property, such as a computer, may be subject to forfeiture if used by a defendant to commit particular offenses, as specified. Existing law further provides the process by which property is forfeited and by which it may be recovered by the owner.

This bill provides that if the defendant used his or her computer to communicate with the victim in the attempt to lure the victim then that computer is subject to forfeiture.

**AB 102 (Cohn): Chapter 55: Intensive parole supervision.**

(Amends Section 3005 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (77-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (33-0)*

Existing law generally requires the Department of Corrections (CDC) to provide intensive and specialized parole supervision for high-risk sex crime parolees, as specified, subject to legislative appropriation of funding. These statutory provisions 1) require a study, with an initial report back to the Legislature to have been done by January 1, 2004 (no report has been done because, technically, the statute has not been funded, and 2) sunset on July 1, 2006. (The Sex Offender Containment Program that now exists in the CDC was established as part of the 2000-2001 Budget in AB 1740 (Ducheny).)

This bill repeals the sunset and removes the report language described above.

**AB 113 (Cohn): Chapter 463: Parole placement.**

(Amends Section 3003 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*

*Assembly Floor (71-0)*

*Assembly Concurrence (77-0)*

*Senate Public Safety (4-2)*

*Senate Floor (38-0)*

Existing law provides that an inmate who is released on parole for certain sex offenses involving child victims or dependent persons is prohibited from residing within one-quarter mile of any public or private school, for the duration of his or her parole.

This bill prohibits, in addition, an inmate who is released on parole for those sex offenses whom the Department of Corrections and Rehabilitation determines to pose a high risk to the public from residing within *one-half* mile of a public or private school.

**AB 217 (Vargas): Chapter 466: Nursing home facilities.**

(Adds Article 6.5 (commencing with Section 1312) to Chapter 2 of Division 2 of the Health and Safety Code.)

**Legislative History:**

*Assembly Public Safety (4-2)*

*Assembly Appropriations (18-0)*

*Assembly Floor (77-2)*

*Assembly Concurrence (76-2)*

*Senate Public Safety (5-1)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (37-0)*

Existing law regulates the licensure and operation of health facilities, including long-term health care facilities, as defined. Existing law also requires a person who has committed one or more designated sex crimes to register with the law enforcement agency of the city, county, city and county, or campus in which the person resides.

This bill requires the Departments of Corrections and Rehabilitation and Mental Health, or other official in charge of the place of confinement, to notify a long-term health care facility before a sex offender registrant is released to the facility, as specified.

**AB 240 (Bermúdez): VETOED: Parole restrictions: Medi-Cal coverage for erectile dysfunction treatments. Urgency.**

(Amends Section 3003 of, adds Section 290.02 to, the Penal Code, and adds Section 14133.225 to the Welfare and Institutions Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (76-0)*

*Assembly Concurrence (79-0)*

*Senate Public Safety (7-0)*

*Senate Health (9-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

Existing law prohibits the placement of parolees who have been convicted of child molestation, as specified (Penal Code § 288 or 288.5) within one-quarter mile of any public or private school, K-8.

This bill would have expanded this limitation to prohibit, effective July 1, 2006, in addition to the above prohibition, a parolee convicted of one of these offenses involving a victim of 14 or 15 years of age from residing within one-quarter mile of any public or private school containing grades 9 through 12.

Existing law requires persons convicted of specified offenses to register as sex offenders, as specified. Existing law additionally provides for the Medi-Cal program.

This bill would have provided that the State Department of Health Services cannot provide or pay for any prescription drug or therapy to treat erectile dysfunction for any Medi-Cal recipient required to register as a sex offender pursuant to these provisions, except to the extent it is required under federal law. This bill additionally would have authorized the Department of Justice to share information with other state entities for the purpose of identifying sex offender registrants who may be subject to the Medi-Cal restriction enacted by this bill. (See AB 522, *infra*.)

The Governor's veto message states in part: "This bill fails to address the critical components needed to ensure sex offenders do not have access to state funded erectile dysfunction medication. Instead, I am signing AB 522 which contains the statutory language which ensures the Department of Justice must provide the Department of Health Services the information necessary to implement the prohibition. AB 240 also fails to expand the ban to automated drug delivery systems in pharmacies, thereby creating a loophole that could result in prohibited sex offenders receiving the medication. AB 522 contains language to ensure no loopholes exist.

"In addition, AB 240 does not broadly protect California's children to the level that they deserve but instead simply puts a band-aid on a growing problem. I call on the Legislature to quickly send my sponsored bills AB 231 and SB 588 which will do more to protect children than placing limited restrictions on one small segment of the parolee population. We should enact provisions that will allow for residency restrictions for all sex offenders, not just the 254 parolees that this bill potentially affects. My bill would place more stringent restrictions on 9,231 parolees and monitor them on GPS.

"If the Legislature is serious about protecting children from sex offenders, I call on them to send me AB 231 and SB 588, the most comprehensive reform of our sex offender statutes."

This bill would have taken effect immediately upon enactment as an urgency measure.

**AB 522 (Plescia): Chapter 469: Medi-Cal coverage for erectile dysfunction treatments. Urgency.**

(Amends Section 1261.6 of the Health and Safety Code, adds Section 290.02 to the Penal Code, and adds Section 14133.225 to the Welfare and Institutions Code.)

**Legislative History:**

*(Prior votes not relevant)*

*Assembly Public Safety (6-0)*

*Assembly Concurrence (78-0)*

*Senate Health (10-0)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (34-0)*

Existing law requires persons convicted of specified offenses to register as sex offenders, as specified. Existing law additionally provides for the Medi-Cal program.

This bill provides that the State Department of Health Services cannot provide or pay for any prescription drug or therapy to treat erectile dysfunction for any Medi-Cal recipient required to register as a sex offender pursuant to these provisions, except to the extent it is required under federal law. This bill additionally authorizes the Department of Justice to share information with other state entities for the purpose of identifying sex offender registrants who may be subject to the Medi-Cal restriction enacted by this bill. This bill has additional unrelated provisions concerning pharmacies.

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

**AB 605 (Nakanishi): VETOED: False allegations by school children.**

(Amends Section 48900 of the Education Code.)

**Legislative History:**

*Assembly Education (11-0)*

*Assembly Floor (76-1)*

*Assembly Concurrence (78-0)*

*Senate Education (12-0)*

*Senate Floor (34-1)*

Existing law authorizes a superintendent or principal of a school to suspend or expel a pupil who commits one or more of enumerated acts.

This bill would have authorized a superintendent or principal of a school to suspend a pupil who knowingly makes a false accusation to a school employee that another school employee has committed or attempted to commit a sexual assault against that pupil, as defined.

The Governor's veto message states in part: "While I abhor the conduct of any student who would threaten the reputation of a school teacher or other school employee by making false claims of sexual assault, I have a greater responsibility to protect the well being of California's school children. We must do everything possible to ensure that students who have been the victims of actual or attempted sexual assaults may come forward and report these incidents without fear of retribution. This bill could potentially result in a chilling effect on student's willingness to report."



**AB 632 (Chu): VETOED: Sex Offender Management Board.**

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

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (14-0)*

*Assembly Floor (79-0)*

*Assembly Concurrence (77-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations (12-0)*

*Senate Floor (35-0)*

Existing law requires persons convicted of specified offenses to register as sex offenders.

This bill would have created the Sex Offender Management Board, with specified membership, under the jurisdiction of the Department of Corrections and Rehabilitation. The purpose of the board would have been to address any issues, concerns, and problems related to the community management of the State's adult sex offenders, with a goal of safer communities and reduced victimization. The board would have been required to conduct a thorough assessment of current management practices for adult sex offenders, and to submit a report to the Legislature on that assessment. The board also would have been required to develop recommendations to improve management practices for those offenders, as specified. The board also would have been required to serve as a resource for the Legislature and the Governor. The bill only would have become operative if federal funds had been made available for its purposes, and directed the Secretary of the Department of Corrections and Rehabilitation to apply for all applicable federal funds for those purposes. The provisions creating the board would have been repealed as of January 1, 2010.

The Governor's veto message states in part: "This bill fails to protect children and women from sexual predators. Rather than putting the focus on protecting kids and others from sexual offenders, AB 632 simply grows government. Under this bill not one sexual offender will spend one day longer in prison, not one sexual offender will be prohibited from living near schools, not one sexual offender will be monitored by GPS, not one sexual offender will incur more time on parole, not one parent will be given information to keep their children safe, not one more peace officer will be given resources or tools to protect our communities.

". . . The best way to protect our communities is for the Legislature to pass my comprehensive sex offender punishment and control reform contained in bills AB 231 and SB 588. Until we take real action, the creation of just another government board may make some feel better but will not result in protecting our neighborhoods.

"This bill is a recipe to create more red-tape, not public safety."

# SEX OFFENDER REGISTRATION

**AB 437 (Parra): Chapter 721: Megan's Law Web site.**

(Amends Section 290.46 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (76-0)*

*Senate Public Safety (7-0)*

*Senate Appropriations (13-0)*

*Senate Floor (35-0)*

Existing law requires persons convicted of specified offenses to register as sex offenders, as specified. Existing law requires the Department of Justice to make specified information about registered sex offenders available to the public via an Internet Web site.

This bill requires, in addition, that the dates of conviction of the crimes for which the person is required to register and the dates of release from incarceration for those crimes be included on the Web site, unless specified conditions regarding funding and access to that information are not met.

**AB 439 (Parra): Chapter 704: Dismissals of convictions: residence changes.**

(Amends Sections 290 and 1203.4 of, and repeals Section 290.1 of, the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (75-1)*

*Assembly Concurrence (76-1)*

*Senate Public Safety (6-0)*

*Senate Appropriations (13-0)*

*Senate Floor (40-0)*

Existing law requires persons convicted of specified offenses to register as sex offenders, as specified. Existing law provides that certain persons required to register as sex offenders shall be relieved of the duty to register upon obtaining a certificate of rehabilitation, and that certain other persons required to register as sex offenders shall be relieved of the duty to register upon receiving a full pardon. Existing law allows a court to dismiss the accusation or information against certain persons after conviction for a crime, and provides that such a dismissal alone shall not relieve a person from the duty to register as a sex offender.

This bill makes substantive changes to the sex offender registration laws pertaining to how registrants must inform law enforcement about changes in their address or location. In addition, this bill makes technical changes to the law concerning the effect of expungements on the obligation to register as a sex offender.

**AB 1323 (Vargas): Chapter 722: Megan's Law. Urgency.**

(Amends Section 2079.10a of the Civil Code, Section 1522.01 of the Health and Safety Code, and Sections 290, 290.01, 290.4, 290.45, 290.46, 290.5, 290.6, 666.7, and 1170.11 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-1)*

*Assembly Appropriations (18-0)*

*Assembly Floor (72-1)*

*Assembly Concurrence (77-1)*

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (39-0)*

Existing law requires the Department of Justice to make specified information about certain registered sex offenders available to the public, including via an Internet Web site.

This bill makes a number of changes to these provisions, including the following:

- makes technical conforming corrections to provisions concerning notices about sex offender information on real estate contracts;
- clarifies the information available for registrants on campuses, as specified;
- deletes public disclosure provisions now obsolete in light of the Web site;
- expands the authority of law enforcement to release information about a registered sex offender when necessary to protect the public; and
- revises the provisions in existing law concerning which registrants may be excluded from listing on the Internet Web site, as specified.

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

# SEXUAL ASSAULT

**AB 190 (Gloria Negrete McLeod): Chapter 160: California Sexual Violence Victim Services Fund.**

(Adds and repeals Article 13.51 (commencing with Section 18846) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code.)

**Legislative History:**

*Assembly Revenue & Taxation (7-0)*

*Assembly Appropriations (17-1)*

*Assembly Floor (73-2)*

*Senate Revenue & Taxation (6-1)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (27-6)*

Existing law contains provisions relating to the administration of personal income taxes which allow individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds.

This bill authorizes an individual to designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Sexual Violence Victim Services Fund, as specified. That designation is to be used as a voluntary contribution on the tax return. This bill contains additional related provisions.

**AB 998 (Chu): Chapter 133: Medical exams.**

(Adds Section 11160.1 to the Penal Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (76-0)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (33-0)*

Existing law requires health practitioners, as defined, who provide medical services to certain persons to immediately make a report to a local law enforcement agency that contains certain personal and medical information. Those certain persons include persons suffering from an injury inflicted by a firearm, and persons suffering from an injury inflicted as the result of assaultive or abusive conduct.

This bill requires specified health practitioners to make a report to law enforcement upon providing medical services to a person in the custody of law enforcement when sought in the course of a sexual assault investigation, as limited and as specified.

**AB 1088 (Oropeza): Chapter 647: Student orientation.**

(Adds Section 67385.7 to the Education Code and Uncodified Law.)

**Legislative History:**

*Assembly Higher Education (5-2)*

*Assembly Appropriations (13-5)*

*Assembly Floor (48-30)*

*Assembly Concurrence (50-29)*

*Senate Education (9-2)*

*Senate Appropriations (9-4)*

*Senate Floor (21-11)*

Existing law sets forth the missions and functions of higher education in California.

This bill expresses legislative findings concerning the incidence of sexual assaults on California's college and university campuses, and requires that educational and preventive information about sexual violence to students at all campuses of their respective segments be included in campus orientation programs, as specified.

# SEXUALLY VIOLENT PREDATOR PROGRAM

**SB 383 (Maldonado): Chapter 137: Authority of the Department of Mental Health to contract with the Department of Corrections and Rehabilitation for the supervision of persons conditionally released from the sexually violent predators treatment program.**

(Adds Section 6608.7 to the Welfare and Institutions Code.)

***Legislative History:***

*Senate Health (10-0)*

*Senate Public Safety (6-0)*

*Senate Floor (38-0)*

*Senate Concurrence (34-0)*

*Assembly Public Safety (6-0)*

*Assembly Floor (16-0)*

*Assembly Floor (78-0)*

Existing law provides that a prison inmate who has been previously convicted of a sexually violent offense (as defined) against two or more persons shall, shortly before release, be evaluated by the Department of Mental Health as a possible sexually violent predator (SVP). The evaluated person may be involuntarily civilly committed to DMH for treatment of the person's mental disorder if the person is adjudicated to be likely to engage in sexually violent criminal behavior if discharged.

After treatment, if the Director of Mental Health determines that the SVP patient's mental disorder has so changed that the person is no longer likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the director shall recommend to the superior court that the person be conditionally released. The SVP patient also may self-petition the court for conditional release. If the court determines that the committed person no longer poses a danger, the court shall place the person for one year with an appropriate forensic conditional release program operated by the state. Under current practice, DMH contracts with a private entity for the supervision of conditionally released SVP patients.

This bill allows DMH to contract with the Department of Corrections and Rehabilitation for the supervision of sexually violent predators who have been conditionally released into the community under the forensic conditional release program.

**SB 723 (Denham): Chapter 486: Placement of persons conditionally released from the sexually violent predator program.**

(Amends Section 6608.5 of the Welfare and Institutions Code.)

**Legislative History:**

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (33-0)*

*Senate Concurrence (40-0)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (77-0)*

Existing law provides that a prison inmate who has been previously convicted of a sexually violent offense (as defined) against two or more persons shall, shortly before release, be evaluated by the Department of Mental Health as a possible sexually violent predator (SVP). The evaluated person may be involuntarily civilly committed to DMH for treatment of the person's mental disorder if the person is adjudicated to be likely to engage in sexually violent criminal behavior if discharged.

Existing law permits conditional release for one year of community treatment if, after a hearing, the court determines that the committed person does not pose a danger. Existing law requires that a non-parolee who is conditionally released under these provisions be placed in the county of domicile, as defined, unless the court finds that extraordinary circumstances require otherwise. Existing law establishes provisions regulating the conditions for community release of inmates on parole.

This bill prohibits sexually violent predators released under the conditional release program from being placed within one-quarter mile of any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has been convicted of certain offenses or the court finds that the person has a history of improper sexual conduct with children.

**AB 893 (Shirley Horton): Chapter 162: Placement of persons conditionally released from the sexually violent predator program: consideration of age and profile of prior victims.**

(Amends Section 6608.5 of the Welfare and Institutions Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (73-0)*

*Assembly Concurrence (76-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (34-0)*

Existing law provides that if the Director of Mental Health determines that a sexually violent predator's diagnosed mental disorder has so changed that the person is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the director shall forward a report and recommendation for conditional release. In addition, a patient in the SVP program may petition the court for conditional release on those same grounds.

Existing law requires that when a community placement location is recommended, the department or its designee consider the victim or victim's next of kin's concerns and proximity.

This bill, in addition, requires that when a placement location is proposed for a sexually violent predator in the conditional release program, consideration shall be given to the age and profile, as defined, of the offender's victim.



# STATUTE OF LIMITATIONS

## **SB 16 (Alquist): Chapter 2: Statute of limitations. Urgency.**

(Repeals and adds Section 803 to the Penal Code.)

### **Legislative History:**

*Senate Public Safety (6-0)*

*Assembly Public Safety (7-0)*

*Senate Floor (30-0)*

*Assembly Floor (72-0)*

Existing law provides for specified criminal statutes of limitations.

This bill enacts technical changes to the law to correct chaptering problems from the previous session and took effect immediately upon enactment as an urgency measure.

## **SB 111 (Alquist): Chapter 479: Sex offenses against children.**

(Amends Sections 801.1 and 803 of the Penal Code.)

### **Legislative History:**

*Senate Public Safety (5-0)*

*Assembly Public Safety (6-0)*

*Senate Appropriations (13-0)*

*Assembly Appropriations (17-0)*

*Senate Floor (36-0)*

*Assembly Floor (79-0)*

*Senate Concurrence (33-1)*

Existing law provides four potential statutory "windows" for commencing prosecutions of sex crimes against minors:

- The first window is the general limitations period for prosecuting sex crimes, which is 10 years. (Penal Code § 801.1.)
- The second window opens when the first closes: when the 10-year limitations period has lapsed, a criminal complaint may be filed within 1 year of the date a child under 18 reports the crime, as specified, and at least one of the alleged sex crime violations has occurred within a limitations period that has not yet lapsed. (Penal Code § 803(f).)
- A third window also opens when the first closes: when the 10-year limitations period has lapsed, a criminal complaint may be filed within 1 year of the date a person of any age reports to law enforcement that they were a victim of a child sex crime, if a) the crime involved "substantial sexual conduct", as specified; and b) there is independent evidence that corroborates the victim's allegation, which must be proved by clear and convincing evidence if the victim is 21 years of age or older at the time of the report. (Penal Code § 803(g).)

- A fourth window is available at all times, although as a practical, evidentiary matter it may apply infrequently in old child sex crime cases: a criminal complaint may be filed within 1 year of the date on which the identity of a suspect is conclusively established by DNA testing in sex crime cases if the DNA is analyzed in a timely manner, as specified. (Penal Code § 803(h).)

This bill provides that prosecution for certain felony sex offenses that are alleged to have been committed when the victim was under the age of 18 years may be commenced any time prior to the victim's 28th birthday.

# TRESPASS

## **SB 584 (Soto): Chapter 378: Trespass.**

(Amends Section 602 of the Penal Code.)

### **Legislative History:**

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (39-0)*

*Senate Concurrence (40-0)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (78-0)*

Existing law makes it unlawful for persons to engage in certain acts of trespass and punishes most trespasses by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding 6 months, or by both that fine and imprisonment.

This bill make it a trespass to enter or reenter a courthouse or a city, county, city and county, or state building after intentionally avoiding submission to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access if the building's entrances have been posted so as to give reasonable notice that prosecution may result from that act.

## **SB 735 (Torlakson): VETOED: Trespass: exceptions.**

(Amends Section 1942.6 of the Civil Code and Section 602 of the Penal Code.)

### **Legislative History:**

*Senate Judiciary (4-1)*

*Senate Floor (21-13)*

*Senate Concurrence (25-14)*

*Assembly Public Safety (4-1)*

*Assembly Judiciary (6-3)*

*Assembly Floor (46-32)*

Existing law makes it a misdemeanor to willfully commit a trespass by engaging in specified acts, but excepts from these provisions certain lawful labor activities.

This bill would have additionally excepted from the trespass provisions persons entering property, when invited by the occupant, for purposes of providing tenants' rights information or participating in specified associations.

The Governor's veto message states in part: "This bill is unnecessary. The Civil Code already specifically provides when tenants rights organizers are not subject to civil or criminal liability for trespassing. Current law appropriately balances tenants' rights with owners' rights."

**AB 280 (Oropeza): Chapter 289: Trespass in sterile areas of harbor or port facility passenger vessel terminals.**

(Amends Sections 171.5 and 602 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (78-0)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (36-2)*

Existing law imposes misdemeanor penalties for bringing prohibited weapons into the "sterile" area of an airport, and for entering a posted restricted area of an airport without authority, as specified. Existing law also prohibits an unauthorized person from knowingly entering any airport operations area, as defined, if the area has been posted with certain notices. Existing law further prohibits a person from intentionally avoiding submission to screening and inspection when entering or reentering a sterile area of an airport, except as specified. Existing law provides that a violation of this prohibition that is responsible for the evacuation of an airport terminal is punishable by a specified term of imprisonment under certain circumstances.

This bill extends these prohibitions to the sterile area of a passenger vessel terminal. "Passenger vessel terminal" under these provisions "means only that portion of a harbor or port facility, as described in Section 105.105(a)(2) of Title 33 of the Code of Federal Regulations, with a secured area that regularly serves scheduled commuter or passenger operations."

# VEHICLE OFFENSES/DMV

## Vehicles

### **SB 3 (Torlakson): Returned by Governor at the request of the Senate: Highways: Safety Enhancement-Double Fine Zones.**

(Adds Section 97 to, and adds and repeals Section 97.4 of the Streets and Highways Code, and adds Section 42010 to the Vehicle Code.)

#### **Legislative History:**

*Senate Transportation & Housing (8-3)*

*Senate Public Safety (4-2)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (22-16)*

*Senate Concurrence (22-18)*

*Assembly Transportation (13-0)*

*Assembly Appropriations (14-2)*

*Assembly Floor (59-13)*

From January 1996 to January 2004, the law created a number of Safety Enhancement-Double Fine Zones on designated highways in California. (Former Streets and Highway Code Section 97 repealed by its own terms on January 1, 2004.) From January 1996 to January 2004, the law provided that specified offenses occurring within an area designated as a Safety Enhancement-Double Fine Zone resulted in a doubled fine if the offense was a misdemeanor and one step higher if the offense was an infraction. (Former Vehicle Code Section 42010 repealed by its own terms on January 1, 2004.)

Existing law provides that the five-mile segment of State Highway Route 101, between Eureka Slough Bridge No. 4-22 and the Gannon Slough Bridge No. 4-24 in Arcata is a "Safety Enhancement-Double Fine Zone." It provides that this highway segment is subject to the rules and regulations adopted by the Department of Transportation prescribing uniform standards and warning signs to notify motorists of increased penalties. However, because of Vehicle Code Section 42010, it is not enforceable. (Streets & Highways Code § 97.1.)

This bill, until January 1, 2010, designates, upon approval of 2 county resolutions, as a Safety Enhancement-Double Fine Zone a segment of Vasco Road between the Interstate 580 junction in Alameda County and the Walnut Boulevard intersection in Contra Costa County. The bill also establishes standards for a designation of a highway or road segment as a Safety Enhancement-Double Fine Zone, including a 4-year duration limit, and would require an evaluation by the Department of Transportation of each designated segment. The bill imposes an increased penalty for certain traffic violations committed in a Safety Enhancement-Double Fine Zone.

**SB 60 (Cedillo): VETOED: Vehicles: driver's license.**

(Amends, repeals, and adds Section 12801.5 of, adds Sections 1653.6 and 12801.1, adds and repeals Section 12801.9 of, and repeals Section 14610.7 of, the Vehicle Code.)

**Legislative History:**

*Senate Transportation & Housing (8-5)*

*Senate Appropriations (8-5)*

*Senate Floor (22-16)*

*Senate Concurrence (21-16)*

*Assembly Transportation (7-5)*

*Assembly Appropriations (12-4)*

*Assembly Floor (41-34)*

Existing law requires the Department of Motor Vehicles upon proper application, to issue driver's licenses and identification cards.

This bill would have required the department, in the issuance of driver's licenses and identification cards, to issue licenses and cards that were in compliance with specified requirements of the federal Real ID Act of 2005 (Public Law 109-13).

**SB 238 (Migden): VETOED: Safety Enhancement-Double Fine Zones: Golden Gate Bridge.**

(Adds Section 97 to, and adds and repeals Section 97.3 of, the Streets and Highways Code, and adds Section 42010 to the Vehicle Code.)

**Legislative History:**

*Senate Transportation & Housing (9-2)*

*Senate Public Safety (4-2)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (24-9)*

*Senate Concurrence (21-12)*

*Assembly Transportation (13-0)*

*Assembly Appropriations (14-2)*

*Assembly Floor (56-14)*

From January 1996 to January 2004, the law created a number of Safety Enhancement-Double Fine Zones on designated highways in California. (Former Streets and Highway Code Section 97 repealed by its own terms on January 1, 2004.) From January 1996 to January 2004, the law provided that specified offenses occurring within an area designated as a Safety Enhancement-Double Fine Zone resulted in a doubled fine if the offense was a misdemeanor and one step higher if the offense was an infraction. (Former Vehicle Code Section 42010 repealed by its own terms on January 1, 2004.)

Existing law provides that the five-mile segment of State Highway Route 101, between Eureka Slough Bridge No. 4-22 and the Gannon Slough Bridge No. 4-24 in Arcata is a "Safety Enhancement-Double Fine Zone." It provides that this highway segment is subject to the rules and regulations adopted by the Department of Transportation prescribing uniform standards and warning signs to notify motorists of increased penalties. However, because of Vehicle Code Section 42010, it is not enforceable. (Streets & Highways Code § 97.1.)

This bill would have, until January 1, 2010, designated the Golden Gate Bridge as a Safety Enhancement-Double Fine Zone, upon approval of a resolution in that regard by the Golden Gate Bridge, Highway and Transportation District. The bill would also have established standards for a designation of a highway or road segment as Safety Enhancement-Double Fine Zone and required the Department of Transportation to prepare an evaluation of the effectiveness of each zone. The bill would have imposed an increased penalty for certain traffic violations committed in a Safety Enhancement-Double Fine Zone.

**SB 675 (Cedillo): VETOED: Vehicle forfeiture: safe transportation.**  
(Adds Section 14607.9 to the Vehicle Code.)

***Legislative History:***

*Senate Public Safety (4-2)*

*Senate Appropriations (8-5)*

*Senate Floor (24-15)*

*Senate Concurrence (21-14)*

*Assembly Public Safety (5-2)*

*Assembly Appropriations (13-4)*

*Assembly Floor (42-34)*

Existing law authorizes a peace officer to either immediately arrest a person and cause the removal and seizure of the vehicle he or she was operating or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle, without the necessity of arresting the person, if the peace officer determines that the person was driving the vehicle while his or her driving privilege was suspended or revoked or without having been issued a license. Existing law subjects a vehicle to forfeiture as a nuisance if it is driven on a highway by a driver with a suspended or revoked license, or by an unlicensed driver, as specified. Existing law requires a vehicle to be impounded if its driver is unable to produce a valid driver's license, except as specified.

This bill would have enacted the declared intent of the Legislature that any peace officer who causes the vehicle to be seized and impounded pursuant to those provisions shall provide safe transportation for the persons in the vehicle who are not arrested, to an operating point of public transportation, as defined, the place of residence of the driver, or a safe place that has access to the use of a telephone, whichever is closer to the point of seizure, unless the person waives that transportation.

**AB 452 (Yee): VETOED: Vehicles: fines.**

(Adds Section 97 to, and adds and repeals Section 97.2 of, the Streets and Highways Code, and adds Section 42010 to the Vehicle Code.)

**Legislative History:**

*Assembly Transportation (10-2)*

*Assembly Appropriations (13-5)*

*Assembly Floor (55-21)*

*Senate Transportation & Housing (10-3)*

*Senate Public Safety (4-2)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (24-13)*

From January 1996 to January 2004, the law created a number of Safety Enhancement-Double Fine Zones on designated highways in California. (Former Streets and Highway Code Section 97 repealed by its own terms on January 1, 2004.) From January 1996 to January 2004, the law provided that specified offenses occurring within an area designated as a Safety Enhancement-Double Fine Zone resulted in a doubled fine if the offense was a misdemeanor and one step higher if the offense was an infraction. (Former Vehicle Code Section 42010 repealed by its own terms on January 1, 2004.)

Existing law provides that the five-mile segment of State Highway Route 101, between Eureka Slough Bridge No. 4-22 and the Gannon Slough Bridge No. 4-24 in Arcata is a "Safety Enhancement-Double Fine Zone." It provides that this highway segment is subject to the rules and regulations adopted by the Department of Transportation prescribing uniform standards and warning signs to notify motorists of increased penalties. However, because of Vehicle Code Section 42010, it is not enforceable. (Streets & Highways Code § 97.1.)

This bill until January 1, 2010, would have designated the segment of State Highway Route 1 in the City and County of San Francisco beginning at the intersection of 19th Avenue and Junipero Serra Boulevard and ending at the intersection of State Highway Route 1 and Lake Street as a Safety Enhancement-Double Fine Zone, and would have made it subject to provisions requiring increased fines for certain traffic violations in Safety Enhancement-Double Fine Zones. The bill would have established standards for a designation of a highway or road segment as a Safety Enhancement-Double Fine Zone, including a 4-year duration limit, and would have required a report to the Legislature on the effectiveness of a designation.



**AB 716 (Canciamilla): Chapter 311: Vessels: abandonment: abatement.**  
(Amends Sections 518, 523, 525, and 526 of the Harbors and Navigation Code.)

**Legislative History:**

*Assembly Transportation (11-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (73-0)*

*Assembly Concurrence (78-0)*

*Senate Judiciary (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

Existing law makes it an infraction with a maximum \$1,500 fine for a person to abandon a vessel upon a public waterway or public or private property without the express or implied consent of the owner or person in lawful possession or control of the property, except for urgent and immediate concern for the safety of those aboard the vessel.

This bill, among other things, increases the maximum fine to \$3,000. The bill also authorizes the court to order the violator to pay the enforcing agency the actual costs incurred by the agency for the removal and disposition of the abandoned vessel.

**AB 857 (Bass): Chapter 470: Vehicles: registration fees: crime prevention programs.**

(Amends Section 9250.19 of the Vehicle Code.)

**Legislative History:**

*Assembly Transportation (13-0)*

*Assembly Appropriations (17-1)*

*Assembly Floor (77-2)*

*Assembly Concurrence (73-5)*

*Senate Transportation & Housing (10-1)*

*Senate Appropriations (11-0)*

*Senate Floor (34-3)*

Existing law authorizes, until January 1, 2006, a county to impose a \$1 fee on certain vehicles, upon adoption of a resolution by the county board of supervisors, as specified, in addition to other specified vehicle registration fees. Existing law also imposes in addition to that fee, a \$2 service fee on all commercial vehicles, as specified, upon implementation of the permanent trailer identification plate program, as specified. Existing law continuously appropriates the money generated by these fees to the Controller for disbursement to each county that has adopted a resolution as described above, and limits the expenditure of the money so disbursed to certain purposes related to law enforcement. Existing law, additionally, requires the money, upon appropriation, to be expended to cover the Controller's administrative costs under these provisions.

This bill extends that repeal date to January 1, 2012.

**AB 1067 (Frommer): Chapter 716: Railroads.**

(Amends Sections 369b and 1463.12 of, and adds Section 218.1 to, the Penal Code, amends Section 2454 of the Streets and Highways Code, and amends Sections 22526, 42001.1, and 42001.16 of the Vehicle Code.)

**Legislative History:**

*Assembly Transportation (12-1)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (13-5)*

*Assembly Floor (72-7)*

*Assembly Concurrence (76-3)*

*Senate Public Safety (7-0)*

*Senate Appropriations (13-0)*

*Senate Floor (34-2)*

Existing law provides that it is unlawful for a person to take various actions with the intent to derail or wreck a train. A violation is punishable as a felony by life imprisonment without possibility of parole.

This bill makes a number of changes to the penalties for railroad grade crossing violations, requires more education regarding railroad safety for violators, and increases the money for public education regarding railway safety.

**AB 1132 (Torrico): VETOED: Impounding vehicles.**

(Amends Section 14602.6 of, and adds Section 14602.4 to, the Vehicle Code.)

**Legislative History:**

*Assembly Transportation (10-2)*

*Assembly Floor (61-17)*

*Assembly Concurrence (44-29)*

*Senate Public Safety (5-0)*

*Senate Floor (24-14)*

Existing law provides that whenever a peace officer determines that a person was driving a vehicle without ever having been issued a driver's license, the peace officer is authorized to either immediately arrest that person and cause the removal and seizure of that vehicle or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle, without the necessity of arresting the person. In either case, under existing law that vehicle is required to be impounded for 30 days, subject to an earlier release to the registered owner under specified circumstances and an earlier release to the legal owner under other specified circumstances.

This bill would have required the impounding agency to release the described impounded vehicle upon the request of the registered owner, or the legal owner or his or her agent, without subjecting the vehicle to the 30-day impoundment period and related restrictions.

**AB 1325 (Vargas): Chapter 475: Motor vehicle speed contest.**

(Amends Section 23109 of the Vehicle Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (79-0)*

*Assembly Concurrence (78-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations (13-0)*

*Senate Floor (35-0)*

Existing law makes it a misdemeanor to engage in a motor vehicle speed contest.

This bill increases the penalties for engaging in a speed contest, including increasing the penalties for repeat offenses and making it a wobbler if bodily injury occurs to a person other than the driver.

**AB 1384 (Laird): VETOED: Safety enhancement double-fine zones.**

(Amends Section 97.1 of, adds Section 97 to, and adds and repeals Section 97.5 of, the Streets and Highways Code, and adds Section 42010 to the Vehicle Code.)

***Legislative History:***

*Assembly Transportation (11-1)*

*Assembly Appropriations (13-5)*

*Assembly Floor (61-14)*

*Assembly Concurrence (56-20)*

*Senate Transportation & Housing (8-4)*

*Senate Public Safety (4-2)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (23-14)*

From January 1996 to January 2004, the law created a number of Safety Enhancement-Double Fine Zones on designated highways in California. (Former Streets and Highway Code Section 97 repealed by its own terms on January 1, 2004.) From January 1996 to January 2004, the law provided that specified offenses occurring within an area designated as a Safety Enhancement-Double Fine Zone resulted in a doubled fine if the offense was a misdemeanor and one step higher if the offense was an infraction. (Former Vehicle Code Section 42010 repealed by its own terms on January 1, 2004.)

Existing law provides that the five-mile segment of State Highway Route 101, between Eureka Slough Bridge No. 4-22 and the Gannon Slough Bridge No. 4-24 in Arcata is a "Safety Enhancement-Double Fine Zone." It provides that this highway segment is subject to the rules and regulations adopted by the Department of Transportation prescribing uniform standards and warning signs to notify motorists of increased penalties. However, because Vehicle Code Section 42010, it is not enforceable. (Streets & Highways Code § 97.1.)

This bill would have, until January 1, 2010, designated specified segments of State Highway Routes 1 and 101 and County Road 16 as Safety Enhancement-Double Fine Zones and would have required Monterey County to administer the county road zone. The bill would also have extended for an additional 4 years the designation of the segment of State Highway Route 101 in Arcata as a Safety Enhancement-Double Fine Zone. The bill would have extended indefinitely the duties and responsibilities of the department and local jurisdictions with respect to those zones. The bill also would have prescribed the fines and penalties to be imposed for traffic violations committed within those zones. The bill would also have established standards for a designation of a highway or road segment as a Safety Enhancement-Double Fine Zone, including a 4-year duration limit.

## **Vehicles – DUI (driving under the influence)**

**SB 207 (Scott): Chapter 656: Vehicles: driving under the influence: impoundment.**

(Adds Section 14602.8 to the Vehicle Code.)

### **Legislative History:**

*Senate Public Safety (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (29-7)*

*Assembly Public Safety (4-2)*

*Assembly Appropriations (11-6)*

*Assembly Floor (60-14)*

Existing law provides that a peace officer or, in certain other cases, a magistrate, may cause the removal and seizure of a vehicle, under certain circumstances, as specified. Existing law provides that a vehicle so seized may be impounded for 30 days.

This bill authorizes a peace officer to immediately cause the removal and seizure of a vehicle from a person who meets certain circumstances relating to driving a motor vehicle while under the influence of alcohol or drugs, or both (DUI), and who has been previously convicted of DUI within the preceding 10 years. The bill provides for a 5-day impoundment of that vehicle if the person has been convicted of DUI once within the preceding 10 years, and a 15-day impoundment if the person has been convicted of DUI two or more times within the preceding 10 years, subject to a hearing and certain exceptions.

**SB 547 (Cox): Chapter 159: Vehicles: driving under the influence: vehicle impoundment.**

(Adds and repeals Section 22651.10 of the Vehicle Code.)

**Legislative History:**

*Senate Public Safety (6-0)*

*Assembly Public Safety (4-3)*

*Senate Appropriations (13-0)*

*Assembly Floor (59-9)*

*Senate Floor (30-8)*

Existing law authorizes a court to order the impoundment of a person's vehicle when the person has been convicted of violating certain provisions prohibiting driving a vehicle while under the influence of alcohol or any drug, or a combination of those.

Existing law authorizes the removal of a vehicle in accordance with a specified procedure when a peace officer undertakes the arrest of a person who was driving or in control of a vehicle, for an alleged public offense and the officer is required or authorized to take the person into custody, and does take the person into custody.

This bill establishes a pilot program in Sacramento County that authorizes, until January 1, 2009, the impoundment of a person's vehicle by a peace officer for a DUI offense that is undertaken in combination with an intervention and a referral of the person to a driving-under-the-influence program, as specified, if the person has one or more prior DUI convictions within the past 10 years. The program will be implemented only to the extent that funds from private or federal sources are available to fund the program and only if the Board of Supervisors of Sacramento County enacts an ordinance or resolution authorizing the implementation of the pilot program in the county. The bill requires the county to report to the Legislature regarding the effectiveness of the pilot program, as specified.

**SB 597 (Torlakson): Chapter 109: Good driver discounts: drunk drivers.**  
(Amends Section 1861.025 of the Insurance Code.)

**Legislative History:**

*Senate Banking, Finance & Insurance (9-0)*

*Assembly Insurance (9-0)*

*Senate Floor (36-0)*

*Assembly Floor (75-0)*

*Senate Concurrence (38-0)*

Existing law provides that a person is qualified to purchase a Good Driver Discount auto insurance policy if he or she meets specified criteria, including not having been convicted of specified offenses relating to driving while intoxicated during the previous 7 years.

Existing law provides that a DUI acts as a prior for purposes of an enhanced sentence for 10 years.

This bill changes the period during which a person must not have been convicted of one of these offenses to the period commencing on January 1, 1999, or the date 10 years prior to the date of application for the issuance or renewal of the Good Driver Discount policy, whichever is later, and ending on the date of the application for the issuance or renewal of the Good Driver Discount policy.

**AB 571 (Levine): Chapter 89: Vehicles: DUI: blood-alcohol concentration: sanctions.**

(Amends Section 23578 of the Vehicle Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*

*Senate Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Senate Appropriations, S.R. 28.8*

*Assembly Floor (78-1)*

*Senate Floor (33-0)*

*Assembly Concurrence (76-1)*

Existing law provides that when a person is convicted of violating specified driving-under-the-influence (DUI) provisions, existing law requires a court to consider a concentration of alcohol in a person's blood of 0.20% or more, by weight, or the refusal of the person to take a chemical test, as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

This bill, for the purposes of the above determination, decreases the required blood-alcohol concentration (BAC) from 0.20% to 0.15%.

**AB 979 (Sharon Runner): Chapter 646: Driving under the influence: restricted driver's license.**

(Amends Sections 13352 and 14602.6 of the Vehicle Code.)

***Legislative History:***

*Assembly Transportation (12-0)*

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (74-0)*

*Assembly Concurrence (79-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations (12-0)*

*Senate Floor (37-1)*

Existing law provides that a repeat DUI offender who will have a revoked license for three or more years depending on the offense, can seek a restricted license after he or she completes 18 months of an 18-month or 30-month licensed drinking driver treatment program provided he or she also installs and maintains an IID on any car he or she drives.

This bill permits a person to seek a restricted license after completion of 12 months of the 18-month or 30-month program provided he or she installs and maintains the IID.

Existing law authorizes a peace officer to either immediately arrest a person and cause the removal and seizure of the vehicle he or she was operating or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle, without the necessity of arresting the person, if the peace officer determines that the person was driving the vehicle while his or her driving privilege was suspended or revoked or without having been issued a license. Existing law requires the vehicle to be impounded for 30 days, but allows for the vehicle to be released prior to the end of that 30 days under specified circumstances.

This bill additionally, applies the above impoundment procedure to a person who is driving in violation of a driver's license restriction requiring that person to operate a vehicle that is equipped with a functioning, certified ignition interlock device.



**AB 1353 (Liu): Chapter 164: Driving-under-the-influence offenders: education and counseling programs.**

(Amends Section 11837 of the Health and Safety Code, and amends Sections 23538 and 23556 of the Vehicle Code.)

**Legislative History:**

*Assembly Transportation (13-0)*

*Assembly Public Safety (5-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (77-0)*

*Senate Public Safety (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (32-0)*

Existing law requires the court to refer a first offender whose blood alcohol concentration was 0.20% or more, by weight, or who refused to take a chemical test, to participate for at least 6 months or longer in a licensed program that consists of at least 45 hours of program activities.

This bill instead requires a first offender whose blood alcohol concentration was 0.20% or more, by weight, or who refused to take a chemical test, to participate for at least 9 months or longer in a licensed program that consists of at least 60 hours of program activities.

# VETERANS

**AB 787 (DeVore): Chapter 457: False claims, with the intent to defraud, of being a veteran.**

(Amends Section 532b of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (7-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (77-0)*

*Assembly Concurrence (78-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

Existing law provides that any person who represents himself or herself as a veteran or ex-serviceperson of any war in which the United States was engaged in connection with the soliciting of aid or the sale or attempted sale of any property, is guilty of a misdemeanor.

This bill makes it a misdemeanor for a person to falsely claim to be, or present himself or herself to be a veteran member of the Armed Forces of the United States, with the intent to defraud.

NOTE: The bill, however, does not apply to face-to-face solicitations involving less than \$10.

**AB 1542 (Parra): VETOED: Sentencing of combat veterans.**

(Amends Section 1170.9 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (17-1)*

*Assembly Floor (78-1)*

*Assembly Concurrence (78-1)*

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (27-3)*

Existing law establishes certain treatment programs as alternatives to incarceration to which certain offenders may be referred, as specified.

This bill would have set out special probation considerations where the defendant who is a combat veteran states that he or she committed the crime or offense as a result of post traumatic stress disorder, substance abuse, or psychological problems stemming from military service in a combat theater. The bill would have provided that where the defendant makes such a claim, the court shall, prior to any sentencing, hold a hearing to determine whether the defendant was a member of the military forces of the United States who served in combat and assess whether the defendant suffers from post traumatic stress disorder, substance abuse, or psychological problems as a result of that service. The bill would have provided that a court may order a defendant who meets the above description to be committed to any appropriate local, state, federal, or private nonprofit treatment program for which the defendant is eligible for a term not to exceed that which the defendant would have served in county jail or state prison, provided the defendant agrees to the commitment. Any defendant granted probation under these provisions and committed to a residential treatment program would have earned sentence credits for the actual time the defendant served in residential treatment.

**AB 1566 (Calderon): Chapter 432: Possession of identifying information with intent to defraud: increased fines where victim is an active duty member of the military.**

(Amends Section 530.5 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (71-0)*

*Assembly Concurrence (79-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (38-0)*

Existing law provides that every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information of another person is punishable by imprisonment in a county jail for a period not to exceed one year, or a fine not to exceed \$1,000, or by both that imprisonment and fine.

This bill provides that a violation of these provisions with respect to the personal identifying information of a person who is an active duty member of the military, deployed out of state, is punishable by imprisonment in a county jail for one year, a fine not to exceed \$1,500, or by both that imprisonment and fine.

# VICTIMS OF CRIME

**SB 972 (Poochigian): Chapter 238: Crime victims: restitution.**

(Amends Sections 1202.4 and 1202.41 of the Penal Code, amends Section 9202 of, and adds Section 216 to, the Probate Code, and amends Section 730.6 of the Welfare and Institutions Code.)

**Legislative History:**

*Senate Public Safety (4-0)*

*Senate Judiciary (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (38-0)*

*Senate Concurrence (40-0)*

*Assembly Public Safety (7-0)*

*Assembly Appropriations (17-0)*

*Assembly Floor (77-0)*

Existing law creates the Victims of Crime Program, administered by the California Victim Compensation and Government Claims Board, to reimburse victims of crime for the pecuniary losses they suffer as a direct result of criminal acts. Indemnification is made from the Restitution Fund, which is continuously appropriated to the California Victim Compensation and Government Claims Board for these purposes. (Govt. Code §§ 13950-13968; note that §§ 13969 and .2, .5, and .7 related to a one-time 9/11/01 payment and are repealed effective 1/1/04.)

Existing statutes require a minimum **restitution fine** of \$200 in all felony cases and \$100 in all misdemeanor cases. Courts may set a maximum of \$10,000 for felonies and \$1,000 for misdemeanors. Restitution fines shall be imposed regardless of the defendant's present ability to pay. Restitution fines are used to pay for the Victims of Crime Program. (Penal Code § 1202.4.)

Existing law provides for **restitution orders** (enforceable as a civil judgment) to ensure that a victim of a crime who incurs any economic loss shall receive restitution directly from any defendant convicted of that crime. If a restitution order is made, the defendant has the right to a hearing before the court to dispute the determination of the amount of the order. A restitution order may be modified upon motion of the district attorney, the victim or victims, or the defendant. (Penal Code § 1202.4(f) and (i).)

NOTE: Penal Code Section 1202.4(f)(2) further specifies that a restitution order may also be paid directly to the Restitution Fund to the extent that the victim has received assistance from the Victims of Crime Program.

This bill does the following:

- Authorizes a court to specify that funds confiscated at the time of arrest may be applied to pay a restitution fine or order, as specified.
- Repeals a four-year pilot program limitation whereby the "State Board of Control" collaborated with judges to amend restitution orders, as specified, and thus makes that program statewide and allows the California Department of Corrections (CDC) – now the Department of Corrections and Rehabilitation – to continue to collaborate with local courts to use two-way, audiovideo communication capability to amend restitution orders if the victim is receiving assistance from the Victims of Crime Program, as specified.
- Requires that a personal representative or estate attorney notify the California Victim Compensation and Government Claims Board when a deceased person leaves money to an heir incarcerated in a state or local correctional facility; the notice of the decedent's death and the name and location of the decedent's heir shall be reported not later than 90 days after the date of death, as specified.

**AB 1768 (Committee on Public Safety): VETOED: Victim trauma services.**

**Urgency.**

(Enacts uncodified statutory findings and declarations; adds Chapter 6 (commencing with Section 13974.5) to Part 4 of Division 3 of Title 2 of the Government Code.)

**Legislative History:**

*Assembly Public Safety (5-0)*

*Assembly Appropriations (13-5)*

*Assembly Floor (56-20)*

*Senate Public Safety (5-0)*

*Senate Appropriations (10-1)*

*Senate Floor (28-5)*

Previous law that was repealed as of January 1, 2005, authorized the California Victim Compensation and Government Claims Board to enter into an interagency agreement with the University of California, San Francisco, to establish a victims of crime recovery center at the San Francisco General Hospital to demonstrate the effectiveness of providing comprehensive and integrated services to victims of crime, as specified.

This bill would have enacted legislative findings about the effectiveness of the services provided by the Trauma Recovery Center established as a pilot project under the previous statutory provisions; reauthorized the interagency agreement for the purpose of actually providing these services not just in a demonstration capacity; appropriated \$1.3 million from the Restitution Fund to the board for the 2005-06 fiscal year for that purpose; and would have taken effect immediately upon enactment as an urgency measure.

## MISCELLANEOUS

### **SB 116 (Dutton): Chapter 625: Safely surrendered baby law.**

(Amends Section 1255.7 of the Health and Safety Code, amends Section 271.5 of the Penal Code, and amends Section 14005.24 of, and amends and repeals Sections 300 and 361.5 of, the Welfare and Institutions Code.)

#### **Legislative History:**

*Senate Judiciary (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (34-0)*

*Senate Concurrence (38-0)*

*Assembly Public Safety (6-0)*

*Assembly Judiciary (9-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (79-0)*

Existing law, until 2006, provides that no parent or other person having lawful custody of a minor child 72 hours old or younger may be prosecuted for a violation of specified crimes if he or she voluntarily surrenders physical custody of the child to an employee on duty at a public or private hospital emergency room, or any additional location designated by the board of supervisors. Existing law provides that within 48 hours of accepting the physical custody of a child who is surrendered pursuant to these provisions, the personnel that have custody of the child must notify child protective services or a county agency providing child welfare services. Existing law requires that agency to immediately notify the State Department of Social Services of each child to whom this provision applies upon taking temporary custody of the child.

This bill deletes the sunset clause on these provisions.

### **SB 1107 (Committee on Public Safety): Chapter 279: Public safety: omnibus bill.**

(Amends Section 48906 of the Education Code, amends Sections 241.4, 271.5, 290.4, 601, 679.05, 861.5, 1170.11, 1170.76, 1170.86, 1524, 3602, 3700.5, 11105, 11167, 11170, 12555, and 13851 of, and repeals Section 3085.1 of, the Penal Code, and amends Sections 13353, 14601.2, 22358.4, and 23593 of the Vehicle Code.)

#### **Legislative History:**

*Senate Public Safety (6-0)*

*Senate Appropriations (7-0)*

*Senate Floor (34-0)*

*Senate Concurrence (36-0)*

*Assembly Public Safety (7-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (72-0)*

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



**SCR 29 (Kehoe): Resolution Chapter 106: Joint Legislative Committee on Emergency Services and Homeland Security.**  
(Resolution language.)

**Legislative History:**

*Senate Rules (5-0)*

*Senate Floor (36-0)*

*Senate Concurrence (36-1)*

*Assembly Rules (8-0)*

*Assembly Floor (72-0)*

Existing law provides that the Blue Ribbon Fire Commission is established in state government by action of the Governor to investigate the circumstances surrounding the October 2003 fires in southern California and that commission recommended the establishment of a permanent Joint Legislative Committee on Emergency Services and Homeland Security.

This resolution creates the 14-member Joint Legislative Committee on Emergency Services and Homeland Security, with specified membership of each house of the Legislature. The joint committee is constituted as an investigating committee of the houses, and its powers include making recommendations as to legislation and forming technical advisory committees to assist it in carrying out its duties, as specified. The joint committee will continue in existence until November 30, 2006.

**AB 27 (Mullin): Chapter 282: Trial court costs: reimbursement.**

(Amends Section 1037 of, and adds Sections 1037.1 and 1037.2 to, the Penal Code.)

**Legislative History:**

*Assembly Judiciary (9-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (74-0)*

*Assembly Concurrence (78-0)*

*Senate Judiciary (6-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

Existing law provides that when a court orders a change of venue to a court in another county, all costs incurred by that court or county, which are not payable by the state, as specified, shall be a charge against the court or the county in which the action originated; requires that claims for these costs be forwarded to the treasurer and auditor of the county in which the action originated; and requires the treasurer of the county of origin to pay the amount of county costs out of the general funds of the county of origin.

This bill revises these provisions to instead provide that when a court orders a change of venue to a court in another county, all costs, as defined, incurred by the receiving county that are not payable by the state shall be paid by the transferring court or county; provides that if the change of venue costs are court operations, those costs would be considered court costs to be charged against and paid by the transferring court to the receiving court, as specified; requires the Judicial Council to adopt specified financial policies and procedures to ensure the timely payment of these court costs; and provides that if the change of venue costs incurred by the receiving county are not court operations, those costs would be considered county costs to be paid by the transferring county to the receiving county, as specified.

**AB 646 (Sharon Runner): Chapter 307: Body piercing.**  
(Amends Section 19.8 of, and adds Section 652 to, the Penal Code.)

**Legislative History:**

*Assembly Public Safety (5-1)*

*Assembly Appropriations (18-0)*

*Assembly Floor (75-1)*

*Assembly Concurrence (75-1)*

*Senate Public Safety (6-1)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (35-0)*

Existing law makes it a misdemeanor to tattoo or offer to tattoo a person under the age of 18 years.

This bill makes it an infraction, punishable by a fine not exceeding \$250, for any person to perform or offer to perform body piercing, as defined, upon a person under the age of 18 years, unless performed in the presence of, or as directed by a notarized writing by, that person's parent or guardian.

**AB 978 (Sharon Runner): Chapter 472: Protective orders.**

(Adds Section 527.10 to the Code of Civil Procedure, Sections 6252.5 and 6322.7 to the Family Code, Sections 136.3 and 646.91A to the Penal Code, and Sections 213.7 and 15657.04 to the Welfare and Institutions Code.)

**Legislative History:**

*Assembly Judiciary (9-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (73-0)*

*Assembly Concurrence (77-0)*

*Senate Public Safety (7-0)*

*Senate Judiciary (7-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (40-0)*

Existing law authorizes courts to issue protective orders and emergency protective orders under various circumstances, including cases of domestic violence, stalking, abuse against elder or dependent adults, victim or witness intimidation, and workplace violence.

This bill amends several protective order statutes to require courts to order any party enjoined pursuant to one of these protective orders from taking any action to obtain the address or location of a protected party or a protected party's family members, caretakers, or guardian, unless there is good cause not to make that order. The Judicial Council is required to promulgate forms necessary to effectuate this bill.

**AB 999 (La Malfa): Chapter 52: Attempted murder: custodial officers.**  
(Amends Section 664 of the Penal Code.)

**Legislative History:**

*Assembly Public Safety (6-0)*

*Assembly Appropriations (18-0)*

*Assembly Floor (75-0)*

*Senate Public Safety (4-0)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (33-0)*

Existing law provides that an attempt to commit willful, deliberate, and premeditated murder, as defined, is punishable by imprisonment in the state prison for life with the possibility of parole. Existing law further provides that an attempted murder of a peace officer or firefighter, as defined, committed under specified circumstances, is punishable by imprisonment in the state prison for life with the possibility of parole, or by 15 years to life if it is also proven that the attempt was willful, deliberate, and premeditated.

This bill provides that the elements defining the crime of attempted murder of a police officer or firefighter, and the penalties therefor, also apply to the attempted murder of a custodial officer, as defined.

**AB 1625 (Klehs): VETOED: State government reports: declarations of accuracy.**  
(Adds Section 7550.7 to the Government Code.)

**Legislative History:**

*Assembly Business & Professions (10-0)*

*Assembly Appropriations (13-5)*

*Assembly Floor (46-28)*

*Assembly Concurrence (49-30)*

*Senate Government Modernization,  
Efficiency & Accountability (8-0)*

*Senate Public Safety (4-2)*

*Senate Appropriations, S.R. 28.8*

*Senate Floor (29-7)*

Existing law generally sets out the requirements for the submission of written reports by public agencies to the Legislature, the Governor, and state legislative and executive entities.

This bill would have required that any written reports required to be submitted by any state agency, board, or commission include a signed statement by the head of the agency or chair of the board or commission, with specified exceptions, or specified officers of certain boards or commissions, declaring that the contents of the report are true, accurate, and complete to the best of his or her knowledge, as specified.



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### **(1) SECTIONS AFFECTED**

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Go to that Web site, click on "Legislative Publications" and then on "Table of Sections Affected" and search by code section. That same site also offers a "Bill Information" option which allows a word search and can be searched by statutory section number and is an alternative to TOSA for finding bills by a statute number. However, the TOSA for past sessions does not remain available on that Web site indefinitely.

### **(2) BUDGET-RELATED ITEMS**

This summary does not contain overall details about the 2005-06 State Budget, although some budget-related trailer bills (and budget provisions involving corrections) are included under the appropriate index heading. Detailed information about revisions to the 2004-05 budget and the final 2005-06 budget package, including the budget bills – SB 77 (Chapter 38, Statutes of 2005) – and budget trailer bills, may be obtained from the "FAR (Final Action Report) 2005" on the 2005-06 State Budget which is accessible at the following Web site by selecting committees, standing committees, Budget and Fiscal Review, Budget Committee Reports, and then Publications: <http://www.sen.ca.gov>.



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