

San Diego District Attorney

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Remember 9/11/01—Support our Troops

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THIS EDITION’S WORDS OF WISDOM:

“Not all chemicals are bad. Without hydrogen or oxygen, for example, there would be no way to make water, a vital ingredient in beer.” (Dave Berry)

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ADMINISTRATIVE NOTES:

New and Amended Statutes; Disclaimer: The statutes listed here are not intended to cover the entire body of the Legislature's work for 2008. Only those statutes believed to be of interest to most law enforcement officers, with the concerns of prosecutors in mind, are included. Sentencing rules, typically covered better in other publications, have been avoided except when important to a new or amended offense. The statutes that are covered have been severely paraphrased, the degree of detail being dependent upon the newness, importance, and/or complexity of the statute. Although I have made a sincere effort to avoid taking any part of a statute out of context, it is *strongly* recommended that the unedited statute be consulted before attempting to use it either in the field or the courtroom. The effective date of each new or amended statute is January 1, 2008, unless otherwise indicated.

NEW AND AMENDED STATUTES:

Animals:

Civil Code § 54.25 (New); *Charging for Police or Fire Canine:*

Hotels, lodging or eating establishments, and public transportation entities are prohibited from charging an extra fee or security deposit for a police or fire agency's dog when the officer or his or her dog are assigned to duty away from their home jurisdiction because of a declared federal, state, or local emergency. The agency, however, is liable for any damages to the premises caused by the dog.

Civil fine of \$1,000

Civil Code §§ 1815 (Amended), **1816** (Amended) & **1981** (Amended);
Involuntary Depositing of Animals:

The statutory prohibition on “*involuntarily depositing*” of an animal is amended to add a definition for the term “*involuntary deposit*,” i.e., the abandonment or leaving of a live animal as prohibited in **P.C. § 597.1**, in real property that has been vacated because of the termination of a lease or the foreclosure of the property.

Note: **P.C. § 597.1** is the misdemeanor crime of owning or keeping an animal without proper care and attention. It also sets forth detailed procedures about the seizure and disposition of animals.

The sections further require that any person or entity with whom a live animal is deposited in vacated real property (e.g., the lender that owns the foreclosed home) to notify animal control officers to retrieve the animal. The animal control officers who respond are entitled to secure a lien for the purpose of recovering the costs of the animal rescue.

P.C. § 599f (Amended); *Treatment and Euthanizing of Nonambulatory Animals:*

Subd. (a): No slaughterhouse, stockyard, auction, market agency or dealer shall buy, sell, or receive a nonambulatory animal.

Subd. (b): No slaughterhouse shall process, butcher, or sell meat or products of nonambulatory animals for human consumption.

Subd. (c): No slaughterhouse shall hold a nonambulatory animal without taking immediate action to humanely euthanize the animal.

Subd. (d): No stockyard, auction, market agency, or dealer shall hold a nonambulatory animal without taking immediate action to humanely euthanize the animal or to provide immediate veterinary treatment.

Subd. (e): While in transit or on the premises of a stockyard, auction, market agency, dealer, or slaughterhouse, a nonambulatory animal may not be dragged at any time, or pushed with equipment at any time, but shall be moved with a sling or on a stoneboat or other sled-like or wheeled conveyance.

Subd. (f): No person shall sell, consign, or ship any nonambulatory animal for the purpose of delivering a nonambulatory animal to a slaughterhouse, stockyard, auction, market agency, or dealer.

Subd. (g): No person shall accept a nonambulatory animal for transport or delivery to a slaughterhouse, stockyard, auction, market agency, or dealer.

Misdemeanor: One year in county jail and/or a fine of up to \$20,000. (**Subd. (h)**)

Subd. (i): “*Nonambulatory*,” means unable to stand and walk without assistance.

Subd. (j): “*Animal*,” means live cattle, swine, sheep, or goats.

Subd. (k): “*Humanely euthanized*,” means to kill by a mechanical, chemical, or electrical method that rapidly and effectively renders the animal insensitive to pain.

Note: According to the legislative history of this bill, public health officials warn that “*downed*” (i.e., “*nonambulatory*”) cattle have increased susceptibility of passing on the E. coli virus, mad cow disease, and salmonella, all of which can lead to severe human health complications and even death.

Assault & Battery:

P.C. § 241.5 (New); *Assault on a Highway Worker:*

Subd. (a): It is illegal to assault a highway worker engaged in the performance of his or her duties when the person committing the offense knew or reasonably should have known that the victim was a highway worker engaged in the performance of his or her duties.

Misdemeanor: One year in county jail and/or a fine of up to \$2,000.

“*Highway Worker:*” An employee or contractor of the Department of Transportation who maintains, repairs, or builds state highway infrastructures and rights-of-way in highway work zones; or operates equipment on state highway infrastructures and rights-of-way in highway work zones; or performs related maintenance work on highway infrastructures in highway work zones. (**Subd. (b)**)

P.C. § 243.65 (New); *Battery on a Highway Worker:*

Subd. (a): It is illegal to batter a highway worker engaged in the performance of his or her duties when the person committing the offense

knew or reasonably should have known that the victim was a highway worker engaged in the performance of his or her duties.

Misdemeanor; one year in county jail and/or a fine of up to \$2,000.

“Highway Worker:” An employee or contractor of the Department of Transportation who maintains, repairs, or builds state highway infrastructures and rights-of-way in highway work zones; or operates equipment on state highway infrastructures and rights-of-way in highway work zones; or performs related maintenance work on highway infrastructures in highway work zones. (**Subd. (b)**)

Burglary:

P.C. § 466 (Amended); *Burglar Tools:*

A *“bump key”* is added to the list of tools and other items the possession or alteration of which constitutes the misdemeanor crime of possessing or altering burglar tools.

Misdemeanor: Six months in county jail and/or \$1,000 fine (**P.C. § 19**)

Note: A *“bump key,”* according to the legislative history, is a universal key that is filed down to allow the key to pass by the spring-loaded pin stacks in a lock. The filed-down key is fully inserted into a lock. The key holder then pulls the key back one setting or ridge, and applies some pressure and then bumps or lightly hits the back of the key. This action trips the pin stacks, opening the lock. After the lock and the door open, the key holder can pull the key out of the lock. The pins return to their set position. It cannot be determined that the lock was opened with a bump key and the lock mechanism is not broken or damaged.

Children:

P.C. § 273i (New); *Publishing Information About Children with Criminal Intent:*

Subd. (a): It is a crime to publish information describing or depicting a child or the location where a child may be found, with the intent that another person imminently use the information to commit a crime against a child and the information is likely to aid in the imminent commission of a crime against a child.

Misdemeanor: One year in county jail and/or a fine of up to \$1,000.

Definitions:

“*Publishes:*” Making the information available through any medium, including the Internet or e-mail. **(Subd. (b))**

“*Child:*” A person age 14 or younger. **(Subd. (c))**

“*Information:*” Including an image, film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, or any other computer-generated image. **(Subd. (d))**

The section permits the parent or legal guardian of a child about whom information is published to seek a preliminary injunction enjoining any further publication of the information. **(Subd. (e))**

P.C. § 11165.7 (Amended); *Mandated Child Abuse Reporters:*

“*Alcohol and drug counselors*” are added to the list of mandated child abuse reporters. **(Subd. (a)(38))**

“*Alcohol and drug counselor:*” A person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program.

The section specifies that alcohol or drug abuse, or both, is not by itself a sufficient basis for reporting child abuse or neglect.

Controlled Substances:

H&S § 11055(d) (Amended); *Schedule II Controlled Substances:*

“*Khat*” and “*Cathinone*” are added to **paragraphs (7) and (8)**, respectively, as controlled substances.

The amendment also provides that the addition of Khat includes all parts of the plant classified botanically as “*Catha Edulis*,” whether growing or not, the seeds and extract, and every compound, manufacture, salt, derivative, mixture, or preparation of the plants, its seeds, or extracts, and that Cathinone is also known as alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone.

Unlawful possession is a misdemeanor, per **H&S § 11377** (Amended). Possession for sale is a straight felony pursuant to **H&S § 11378**. Transportation or sale is a straight felony pursuant to **H&S § 11379**.

Note: With the addition of these two substances to **subdivision (d)**, prosecutors no longer have to prove that these substances (i.e., Khat and Cathinone) are analogs of amphetamine or another controlled stimulant in order to obtain a conviction for their possession.

H&S § 11057(f) (Amended); *Schedule IV Controlled Substances:*

“*Cathine*” ((+)-norpseudoephedrine) is added in **paragraph (8)** as a controlled substance.

Unlawful possession is a misdemeanor, per **H&S § 11377** (Amended). Possession for sale is a straight felony pursuant to **H&S § 11378**. Transportation or sale is a straight felony pursuant to **H&S § 11379**.

Note: With its specific addition to this section, prosecutors no longer have to prove that it is an analog of another controlled stimulant in order to obtain a conviction.

P.C. § 379 (New); *Providing Salvia Divinorum or Salvinorin A to a Minor:*

It is illegal to sell, dispense, distribute, furnish, administer, give, or offer to sell, dispense, distribute, furnish, administer, or give Salvia divinorum or Salvinorin A, or any substance or material containing Salvia divinorum or Salvinorin A, to a minor.

Misdemeanor: Six months in county jail and/or a fine of up to \$1,000.

Note: Salvia divinorum or Salvinorin A is an hallucinogenic herb. It is a plant native to Mexico. It has been described as a form of sage or mint. The indigenous Mazatec people use Salvia divinorum at low doses as a diuretic or to treat minor ailments including diarrhea, anemia, headaches, and rheumatism. In larger doses, it is used to enhance visions of the Mazatec shaman during healing sessions. The plant’s active constituent is Salvinorin A, a potent opioid receptor agonist. When chewed or smoked, Salvia divinorum leaves result in a range of effects including uncontrollable laughter to a change in consciousness for a short time. The effects peak within one minute and only last for one to

five minutes more before subsiding. After 15 to 20 minutes, baseline reality returns.

Domestic Violence:

Code of Civil Proc. § 1161 (Amended); *Domestic Violence Victims Refusing to Testify*:

Amended section eliminates the discretion of the court to imprison or confine a victim of domestic violence who has been found in contempt for refusing to testify.

Note: Sexual assault victims already enjoy this protection.

Fam. Code § 6320.5 (New); *Denial of Ex Parte Petition to Enjoin Harassment, Threats or Violence*:

Upon denial of a petition for an ex parte order pursuant to **Family Code § 6320** (i.e., to enjoin harassment, threats, or violence), the court must “include the reasons for denying the petition.”

An order denying a jurisdictionally adequate petition must provide the petitioner with the right to a noticed hearing on the earliest date that the business of the court will permit, but no later than 20 days or, if good cause appears to the court, 25 days from the date of the order denying the petition.

The petitioner may waive his or her right to a noticed hearing but may refile a new petition at a later time without prejudice.

Govt. Code § 6103.3 (New); *Notification to Victim of Service of a Restraining Order*:

A sheriff or marshal serving a harassment, workplace violence, domestic violence, or elder abuse restraining order may notify the protected person by electronic or telephonic means within 24 hours after serving the restraining order, if the protected person has requested notification and has registered a telephone number or email address.

This notification may be made via an automated statewide victim information and notification system if the sheriff has access to that system, or if his or her county participates in that system.

P.C. § 136.2 (Amended); *Protective Orders for Victim or Witness in Domestic Violence Case:*

In a domestic violence case, the court may consider the underlying nature of the offense charged and the information provided to the court pursuant to **P.C. § 273.75** (Amended) in deciding whether to issue a protective order in favor of a victim or witness.

Note: **P.C. § 273.75** (Amended) requires the district attorney or prosecuting city attorney to provide to the court in a domestic violence case the defendant's criminal history and information about any current protective or restraining order issued by a criminal or civil court.

Dumping, Illegal:

P.C. § 830.7 (Amended); *Illegal Dumping Enforcement Officers:*

Subd. (j): The definition of “*illegal dumping enforcement officer*” is expanded to include full-time and part-time officers, or volunteers, who meet the specified training requirements and who are supervised by a regularly employed dumping control officer.

The section restricts the receipt of state summary criminal history information to regularly employed illegal dumping enforcement officers.

Also, officers who are supervised by a regularly employed officer do not have the power of arrest or access to summary criminal history information.

P.C. § 12002 (Amended); *Illegal Dumping Enforcement Officers and Batons:*

Subd. (g): Illegal dumping enforcement officers (per **P.C. § 830.7(j)**, see above) are added to those officers (e.g., animal control officers and uniformed security guards) who may carry a wooden club or baton after having satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of a club or baton.

Elder or Dependent Adult Abuse:

P.C. § 868.5 (Amended); *Witness Support Persons:*

Subd. (a): Adds prosecuting witnesses in elder fraud cases (**P.C. § 368(b), (d), or (e)**) where the witness is the elder or dependent adult, to the

list of prosecuting witnesses who are entitled to have two support persons in attendance when the witness testifies.

Note: P.C. § 368(b), (d), or (e) are felony (wobbler) elder abuse crimes involving physical or mental abuse, or theft, embezzlement, or fraud.

W&I § 15610.30 (Amended); *Elder or Dependent Adult Financial Abuse:*

The following is added to the definition of the financial abuse of an elder or dependent adult:

Subd. (a)(1): The obtaining of real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud; *or*

Subd. (a)(2): Assisting in the obtaining of real or personal property of an elder or dependent adult for a wrongful use, or with intent to defraud; *or*

Subd. (a)(3): Taking, secreting, appropriating, obtaining, retaining, or assisting in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence.

W&I § 15630 (Amended); *Reporting Requirements:*

Local law enforcement agencies and local ombudspersons, in addition to existing reporting requirements, are required to report all cases of known or suspected elder or dependent adult physical abuse or financial abuse to the local district attorney's office in the county where the abuse occurred.

Foreclosure Consultants:

Civ. Code § 2945.45 (New); *Unregistered Foreclosure Consultants:*

Subd. (a): It is illegal to offer to perform or performing services as a foreclosure consultant without being issued a registration certificate by the State Department of Justice or without maintaining a \$100,000 surety bond.

A foreclosure consultant must register with, and pay fees to, the Department of Justice.

Requires that the registration form include a statement that the person has not been convicted of, or pled nolo contendere to, any

crime involving fraud, misrepresentation, dishonesty, or a violation of CC §§ 2945–2945.11.

The section also requires a statement that the person has not been liable under any civil judgment for fraud, misrepresentation, or violations of CC §§ 2945–2945.11 or B&P §§ 17200 or 17500.

It is also required that a foreclosure consultant maintain a surety bond of \$100,000 for the benefit of a homeowner damaged by the foreclosure consultant’s violations of law.

Misdemeanor: One year in jail and/or a fine of between \$1,000 and \$25,000. (Subd. (d))

Forgery:

P.C. § 350 (Amended); *Counterfeit Marks*:

Subd. (e)(2): “*Corporation*” is changed to “*business entity*,” which is defined as including a corporation, limited liability company, or partnership, but not a sole proprietorship.

Subd. (e)(3): A “*counterfeit mark*” is expanded to, “a spurious mark that is identical with, or confusingly similar to, a registered mark and is used, or intended to be used, on or in connection with the same type of goods or services for which the genuine mark is registered.”

Subd. (d): The section specifies that the forfeiture of the proceeds of counterfeit mark crimes is subject to the Criminal Profiteering statutes in **P.C. §§ 186–186.8**.

Subd. (e)(3): When counterfeited but unassembled components are recovered (e.g., labels, patches, fabric, stickers, wrappers, badges, emblems, medallions, boxes, containers, documentation, packaging), the number of articles is equivalent to the number of completed articles that could have been made from those components.

Misdemeanor: When there are less than 1,000 articles with a fair market value of less than \$400: An individual; one year in county jail and/or a fine of up to \$5,000. A business entity; a fine of up to \$100,000. (Subd. (a)(1))

Felony (wobbler): When there are more than 1,000 or more articles, or a fair market value of \$400 or more, or that involves death or great bodily injury, or where the defendant has a prior conviction for **P.C. § 350**: An individual; one year in county jail,

or 16 months, 2 or 3 years in prison, and/or a \$250,000 fine. A business entity; a fine of up to \$500,000. (**Subd. (a)(2)**)

Gambling:

P.C. § 326.3 (New); *The California Remote Caller Bingo Act:*

“*Remote caller bingo*” games may be conducted by nonprofit and charitable organizations in a city, county, or city and county that has enacted an ordinance permitting remote caller bingo.

Note: In remote caller bingo, audio and video technology is used to transmit a live bingo game from a single location to multiple locations in California owned, leased, or rented by the organization conducting the bingo game.

The receipts of the game must be used only for charitable purposes; no minor is permitted to participate; all games must be open to the public; and nor more than 750 players may participate in a single location.

Misdemeanor: Six month in county jail and/or fine of up to \$1,000. (**Subd. (d)**; **P.C. § 19**)

Receiving or paying an unauthorized profit, wage, or salary from any remote caller bingo game (per **Subd. (c)**) is a fine-only misdemeanor; a fine of up to \$10,000. (**Subd. (d)**)

Any fines go to the city or county that enacted the ordinance authorizing the remote caller bingo game.

The city, county, or city or county that enacted the ordinance authorizing remote caller bingo, or the Attorney General, may bring an action to enjoin a violation.

P.C. § 326.5 (Amended); *The California Remote Caller Bingo Act:*

Adds school districts to those specified nonprofit and charitable organizations that are permitted to conduct bingo games.

Increases from \$250 to \$500 the total value of prizes that may be awarded for each separate bingo game.

Permits hand-held, portable “card-minding” devices to be used by players who are physically present at a bingo game, to assist in monitoring the numbers or symbols announced by a live caller.

“*Bingo*” is defined as a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by a player on a tangible card in the player’s possession.

Provides that only a covered or marked tangible card possessed by a player and presented to an attendant may be used to claim a prize.

Prohibits electronics or video displays except the card-minding devices described above, and except in connection with the caller’s drawing of numbers or symbols and the public display of that drawing.

P.C. § 337f (Amended); *Stimulating or Depressing a Race Horse:*

Subd. (a)(1): Adds horse trainers to the list of persons (owners, jockeys, grooms) it is unlawful to influence, induce, or conspire with to affect the result of a horse race by stimulating or depressing a horse.

Felony (wobbler): One year in county jail, or 16 months, 2, or 3 years in prison, and/or \$5,000 fine.

Gangs:

P.C. § 186.22a (Amended, Effective 6/25/08); *Money Damages in Abatement Action:*

Subd. (c): The ability of district attorneys, prosecuting city attorneys, and the Attorney General to collect money damages in an action to abate a criminal street gang nuisance is expanded by deleting the provision that had limited the recovery of money damages to the gang’s assets that were derived from the particular criminal activity being abated, thus making *any* of the gang’s assets of the criminal street gang available for such purpose. Also, the people who are personally liable for the payment of money damages in a gang nuisance action is now limited to members of the criminal street gang who created, maintained, or contributed to the creation or maintenance of the nuisance.

Human Trafficking:

Civ. Code § 1670.7 (New); *Emigration Contracts:*

“Any provision of a contract that purports to allow a deduction from a person’s wages for the cost of emigrating and transporting that person to the United States is void as against public policy.”

Gov’t. Code § 6254 (Amended); *Confidentiality of Name and Address of Victim of Human Trafficking:*

Victims of the crime of human trafficking (**P.C. § 236.1**) are added to the list of crimes for which the name and address of the victim may be withheld from public disclosure at the victim's request.

P.C. § 784.8 (New); *Prosecutions for Human Trafficking:*

Permits multiple violations of human trafficking (per **P.C. § 236.1**) occurring in different jurisdictions to be filed and tried in one county, whether they involve the same or different victims. Requires the district attorney filing the complaint to present evidence to the court that the district attorney in each county where any of the charges could have been filed has agreed that the matter should proceed in the county of filing.

The court must hold a hearing to consider whether the charges should be tried together or whether one or more counts should be severed based upon a consideration of the location and complexity of the likely evidence, where the majority of the offenses occurred, the rights of the defendant and the people, and the convenience of, or hardship to, the victims and witnesses.

Junk Dealers and Recyclers:

B&P § 21606 (Amended); *Required Reporting:*

Amended section requires junk dealers and recyclers to report sale and purchase information about junk to the chief of police or sheriff in the same manner as described in **B&P § 21628**; i.e., daily or on the first working day after the receipt or purchase of property, on forms approved by the Department of Justice. The information that must be reported is also as specified in **B&P § 21628**.

“*Junk*” is defined as “any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any and all secondhand and used furniture, pallets, or other personal property, other than livestock, or parts or portions thereof.” (**B&P § 21600**)

Misdemeanor: 6 month in county jail and/or \$1,000 fine. (**B&P § 21608** (Amended))

See also **B&P §§ 21608.3** (New), **21608.5** (New) and **21608(6)** (New) for other mandatory procedures junk dealers and recyclers must follow when purchasing junk.

B&P § 21609 (Amended; Effective 12/01/08); *Restitution for Property Stolen from Junk Dealer or Recycler:*

A peace officer who has probable cause to believe that property in the possession of a junk dealer or recycler is stolen may place a 90-day hold on the property in lieu of seizing it. A person convicted of the theft of property in the possession of a junk dealer or recycler and for which a hold has been placed by law enforcement must pay the victim for both the value of the property stolen and reasonable collateral damage caused in the commission of the theft.

Juvenile Offenders:

W&I § 1764.2 (Amended); *Victims' Right to Information:*

Amendment expands to *all* crime victims (as opposed to only those of specified crimes) the right to receive specified information about a juvenile offender committed to the California Department of Corrections and Rehabilitation, Division of Juvenile Facilities, unless the court has ordered confidentiality pursuant to **W&I § 676(c)**. Such information included the juvenile offender's name, age, commitment offense, institution of confinement, and release, parole, and discharge dates.

Parole:

P.C. § 3041.5 (Amended; Proposition 9, Effective 11/5/08); *Parole Hearings:*

Neither a prisoner nor the prisoner's attorney is entitled to ask questions of a victim, a victim's next of kin, a victim's family member, or a victim's representative at a parole hearing.

A victim, victim's next of kin, victim's family member, or victim's representative may request and receive a stenographic recording of a parole proceeding.

The Board of Parole Hearings is required to set a date to reconsider whether an inmate should be released on parole that "ensures a meaningful consideration of whether the inmate is suitable for release on parole.

The Board of Parole Hearings is required to consider the views and interests of the victim in setting the date for a future parole hearing.

The maximum length of time between parole hearings is increased from up to two years in a non-murder case and up to five years in a murder case to 15, 10, seven, five, or three years, at the discretion of the Board of Parole Hearings.

The Board of Parole Hearings, after considering the views and interests of the victim, may advance a parole hearing date when a change in circumstances or new information establishes a reasonable likelihood that public safety and the victim's safety do not require the additional period of incarceration. Permits an inmate to make one request every three years to advance a parole hearing date.

The victim's previously recorded testimony at a prior parole hearing may be admitted at a subsequent hearing upon the request of a victim, or if the victim is dead or unavailable.

The Board of Parole Hearings is required to conduct a parole hearing as a de novo hearing. Findings and conclusions reached in a prior parole hearing shall be considered but shall not be binding in a subsequent parole hearing.

P.C. § 3043 (Amended; Proposition 9, Effective 11/5/08); *Parole Hearings*:

The number of days of advance notice the Board of Parole Hearings is required to give a victim when a parole hearing date is set is increased from 30 to 90.

Upon request, notice of a parole hearing must be given to any of an inmate's current or past crime victims for which the inmate has been convicted. These victims are allowed to express their views at the parole hearing.

Anyone, other than a victim, who is entitled to attend a parole hearing, is required to inform the Board of Parole Hearings 30 days in advance of the hearing of his or her intention to attend and provide the name and identifying information of any other person entitled to attend the hearing who will accompany him or her.

Board of Parole Hearings is required to reconfirm with every person entitled to attend a parole hearing the date, time, and place of the hearing no later than 14 days before the date set for hearing.

The class of persons who may attend the parole hearing as a representative of the victim is expanded by eliminating the requirement that a victim representative be a family or household member of the victim, and instead requiring that the representative be any adult person selected by the victim or the victim's family.

A victim's representative may attend a parole hearing and provide testimony or submit a statement, even though the victim also attends and testifies or provides a statement.

The Board of Parole Hearings is required to consider the "entire and uninterrupted statements" of the victim, next of kin, family member, or representative.

The Board of Parole Hearings is required to permit more than two immediate family members of the victim to attend a parole hearing.

P.C. § 3044 (New; Proposition 9, Effective 11/5/08); *Parole Revocation Procedures:*

The following new parole revocation procedures were established for persons paroled following incarceration for an offense committed on or after 11/5/08. Parolees are not entitled to procedural rights other than those as set forth in this new section.

The time period for holding a probable cause hearing following an arrest for violation of parole is extended from 10 business days to 15 days.

The time period for holding an evidentiary revocation hearing after an arrest for violation of parole is extended from the 35 days to 45 days.

A parolee shall be entitled to counsel at state expense on a case-by-case basis, if the Board of Parole Hearings determines that the parolee is indigent and considering the complexity of the charges, the defense, the parolee's mental or educational capacity, whether he or she appears incapable of speaking effectively in his or her own defense. The grounds for the denial of counsel be stated in the record.

A parole revocation determination is to be based on a preponderance of the evidence, considering on documentary evidence, direct testimony, or hearsay evidence offered by parole agents, peace officers, or a victim. The admission of a recorded or hearsay statement of a victim or percipient witness does not create a right to confrontation of the victim or witness at the parole hearing.

Peace Officers' and/or Fire Fighters' Rights and Duties:

B&P § 21609 (Amended; Effective 12/01/08); *Restitution for Property Stolen from Junk Dealer or Recycler:*

A peace officer who has probable cause to believe that property in the possession of a junk dealer or recycler is stolen may place a 90-day hold

on the property in lieu of seizing it. A person convicted of the theft of property in the possession of a junk dealer or recycler and for which a hold has been placed by law enforcement must pay the victim for both the value of the property stolen and reasonable collateral damage caused in the commission of the theft.

Civil Code § 54.25 (New); *Charging for Police or Fire Canine:*

Hotels, lodging or eating establishments, and public transportation entities are prohibited from charging an extra fee or security deposit for a police or fire agency's dog when the officer or his or her dog are assigned to duty away from their home jurisdiction because of a declared federal, state, or local emergency. The agency, however, is liable for any damages to the premises caused by the dog.

Civil fine of \$1,000

Fish & Game Code § 10514 (Amended); *Law Enforcement Officers Entering Game Refuges:*

Law enforcement officers are added to the list of those (i.e., officers and employees of the Dept. of Fish & Game and game wardens) who may enter a state game refuge in the performance of their duties, eliminating the need to give advance notice per **F&G § 10506**.

Govt. Code § 6103.3 (New); *Notification to Victim of Service of a Restraining Order:*

A sheriff or marshal serving a harassment, workplace violence, domestic violence, or elder abuse restraining order may notify the protected person by electronic or telephonic means within 24 hours after serving the restraining order, if the protected person has requested notification and has registered a telephone number or email address.

This notification may be made via an automated statewide victim information and notification system if the sheriff has access to that system, or if his or her county participates in that system.

Mil. & Vet. Code § 648 (Amended); *Wearing of Military Decorations:*

Public safety personnel are permitted to wear the military decorations or medals they have earned, during the business week prior to both Veteran's Day and Memorial Day and the business day immediately following these two holidays, unless the employer of the uniformed public safety personnel prohibits it.

P.C. § 12002 (Amended); *Illegal Dumping Enforcement Officers and Batons*:

Illegal dumping enforcement officers (**P.C. § 830.7**) is added to those officers (e.g., animal control officers and uniformed security guards) who may carry a wooden club or baton if they have satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of a club or baton.

W&I § 15630 (Amended); *Reporting Requirements*:

Local law enforcement agencies and local ombudspersons, in addition to existing reporting requirements, are required to report all cases of known or suspected elder or dependent adult physical abuse or financial abuse to the local district attorney's office in the county where the abuse occurred.

Prisoners:

P.C. § 4575 (Amended); *Handcuff Keys in Jail*:

Subd. (d): A person who is housed in a local correctional facility may not possess a handcuff key without authorization.

Misdemeanor: Six months in county jail and/or a fine of up to \$1,000.

“*Handcuff key*” is defined as any device designed or intended to open or unlatch a handcuff.

Privacy Rights:

Civ. Code § 1798.79 (New); *Remote Reading and/or Disclosure of Information using RFID*:

Subd. (a): Intentionally remotely reading or attempting to read a person's information from an identification document using “*RFID*” (*Radio Frequency Identification Document*), without the person's knowledge and consent.

Note: Unlike bar code or magnetic strip scanning, which require contact or direct line of sight between the scanner and the bar code or magnetic strip, RFID readers can read information remotely.

Misdemeanor: One year in county jail and/or \$1,500 fine.

Exceptions: This crime does not apply to:

The reading of a person's identification documents for medical care during a disaster;

The reading by a health care professional;

The reading of an identification document pursuant to court order of a person incarcerated in state prison, a county jail, a state juvenile facility, or a mental health facility, or of a person on electronic monitoring;

Law enforcement personnel needing to read a lost identification document when the owner is not available for notice, knowledge or consent;

Law enforcement personnel needing to read an identification document after an accident in which the person is not available for notice, knowledge, or consent;

Law enforcement personnel needing to read an identification document pursuant to search warrant.

Subd. (b): Knowingly disclosing or causing to be disclosed the operational system keys used in a contactless identification document system.

Misdemeanor: One year in county jail and/or \$1,500 fine.

The section provides that it is not intended to affect the existing rights of law enforcement to access data stored electronically on driver's licenses.

Civ. Code § 1798.795 (New); Remote Reading and/or Disclosure of Information using RFID; Definitions:

Definitions:

Subd. (a): "*Contactless Identification Document System:*" A group of identification documents issued and operated under a single authority that use RFID to transmit data remotely to readers intended to read that data. In a contactless identification document system, every reader must be able to read every identification document in the system.

Subd (b): "*Data:*" Any information stored or transmitted on an identification document in machine-readable form.

Subd. (c): An “*identification document*.” Any document containing data that is issued to a person and which that person uses alone or in conjunction with any other information for the primary purpose of establishing his or her identity including, but is not limited to:

A driver’s license, an identification card issued by the Department of Motor Vehicles, an identification card issued for employees or contractors;

An identification card issued by educational institutions;

A health insurance or benefit card;

A benefit card issued in conjunction with any government-supported aid program;

A license or certificate to engage in a business or profession;

A library card.

Subd. (d): “*Key*.” A string of bits of information used as a part of a cryptographic algorithm used in encryption.

Subd. (e): “*Radio Frequency Identification (RFID)*.” The use of electromagnetic radiating waves or reactive field coupling in the radio frequency portion of the spectrum to communicate to or from an identification document through a variety of modulation and encoding schemes.

Subd. (f): “*Reader*.” A scanning device that is capable of using RFID to communicate with an identification document and read the data transmitted by that identification document.

Subd. (g): “*Remotely*.” Means that no physical contact between the identification document and a reader is necessary in order to transmit data using RFID.

Gov’t. Code § 6254 (Amended); *Confidentiality of Name and Address of Victim of Human Trafficking*:

Victims of the crime of human trafficking (**P.C. § 236.1**) are added to the list of crimes for which the name and address of the victim may be withheld from public disclosure at the victim’s request.

P.C. § 293 (Amended); *Human Trafficking Victims*:

Adds victims of human trafficking (**P.C. § 236.1**) who were forced to commit an act of prostitution to those victims (sexual assault victims) who may request that their names and addresses be kept confidential.

W&I § 6603.7 (New); *Sexual Assault Victims' as Jane or John Doe*:

A court, upon the request of a sexual assault victim, may order the identity of the victim in all records and proceedings to be listed as either Jane Doe or John Doe if the court finds that this is reasonably necessary to protect the privacy of the victim and will not be unduly prejudicial to either party.

Note: This section is modeled after **P.C. § 293.5**.

Prosecutions:

P.C. § 784.8 (New); *Prosecutions for Human Trafficking*:

Permits multiple violations of human trafficking (per **P.C. § 236.1**) occurring in different jurisdictions to be filed and tried in one county, whether they involve the same or different victims. Requires the district attorney filing the complaint to present evidence to the court that the district attorney in each county where any of the charges could have been filed has agreed that the matter should proceed in the county of filing.

The court must hold a hearing to consider whether the charges should be tried together or whether one or more counts should be severed based upon a consideration of the location and complexity of the likely evidence, where the majority of the offenses occurred, the rights of the defendant and the people, and the convenience of, or hardship to, the victims and witnesses.

P.C. § 786 (Amended); *Jurisdiction of Identity Theft Cases*:

An identity theft crime may be tried (1) in the county where the victim resided at the time the offense was committed, as well as (as already provided) (2) the county where the theft of the personal identifying information occurred and (3) the county where the information was used for an illegal purpose.

If an identity theft crime is filed in the victim's county of residence, and no other basis for jurisdiction applies, the court, on its own motion or on the motion of the defendant, must hold a hearing to determine whether the victim's county of residence is the proper venue for trial of the case by considering the rights of the parties, the access of the parties to evidence, the convenience to witnesses, and the interests of justice.

P.C. § 804 (Amended): *Commencement of a Prosecution:*

Addition of new **Subd. (c)** adds the arraignment of a defendant on a “*complaint*” (as opposed to requiring an “*information*”) charging a felony as an additional way to “commence a prosecution.”

Note: This provision helps to minimize potential statute of limitation problems caused by the previous requirement that the filing of an information in Superior Court was necessary in order to commence the prosecution.

Receiving Stolen Property:

P.C. § 496e (New; Effective 9/30/08); *Stolen Fire Hydrant Parts:*

A criminal fine of up to \$3,000 is added to any other penalty provided by law for a person who buys or receives for purposes of salvage, any part of a fire hydrant or fire department connection, including a bronze or brass part or fitting, that has been stolen or obtained in any manner constituting theft or extortion, knowing the property to be stolen or so obtained.

Note: According to the legislative history of this bill, thieves steal the metal fittings on fire hydrants and sell them as scrap metal. The fire department is then not able to connect to the fire hydrant to put out a fire.

Schools:

P.C. § 626 (Amended); *Safe School Zone:*

Subd. (c)(2)(B): Definition of “*Safe School Zone*” is redefined to be: “Within 1,500 (instead of 1,000) feet of a school, as designated by the school district.”

P.C. §§ 626 (Amended), **626.2** (Amended), **626.8** (Amended), & **626.85** (Amended); *School Regulations:*

Sections were amended to clarify that they apply to “*public and private*” schools.

P.C. § 626.10 (Amended); *Weapons on School Grounds:*

Subd. (i): Bringing or possessing a “*less lethal weapon*” (**P.C. § 12601**) or a stun gun (**P.C. § 12650**) upon the grounds of a public or private college or university, without permission.

Misdemeanor: Six months in county jail and/or \$1,000 fine.

Sex Offenses:

P.C. § 290.46 (Amended); *Megan's Law*:

Adds “murder committed in the perpetration of **P.C. § 286** (sodomy), **P.C. § 288** (child molest), **P.C. § 288a** (oral copulation), or **P.C. § 289** (sexual penetration)” to the list of crimes that require the State Department of Justice (DOJ) to disclose information on an Internet Web Site (www.meganslaw.ca.gov) about the people required to register as sex offenders for these crimes.

W&I § 6603.7 (New); *Sexual Assault Victims' as Jane or John Doe*:

A court, upon the request of a sexual assault victim, may order the identity of the victim in all records and proceedings to be listed as either Jane Doe or John Doe if the court finds that this is reasonably necessary to protect the privacy of the victim and will not be unduly prejudicial to either party.

Note: This section is modeled after **P.C. § 293.5**.

Tenants' Rights:

Civil Code § 1946.7 (New): *Victims' Right to Terminate a Lease*:

A tenant in a residential lease agreement who is the victim of domestic violence, sexual assault, or stalking, or a tenant who is the household member of such a victim, may terminate a residential lease with only 30 days notice so that the tenant can more easily move away from an abuser without fear of incurring full charges for early termination of a lease. The notice to terminate must be in writing and include a copy of a temporary restraining order or emergency protective order, or the written police report concerning the accusation.

Theft:

P.C. § 786 (Amended); *Jurisdiction of Identity Theft Cases*:

An identity theft crime may be tried (1) in the county where the victim resided at the time the offense was committed, as well as (as already provided) (2) the county where the theft of the personal identifying information occurred and (3) the county where the information was used for an illegal purpose.

If an identity theft crime is filed in the victim's county of residence, and no other basis for jurisdiction applies, the court, on its own motion or on the motion of the defendant, must hold a hearing to determine whether the victim's county of residence is the proper venue for trial of the case by considering the rights of the parties, the access of the parties to evidence, the convenience to witnesses, and the interests of justice.

P.C. § 487i (New); *Grand Theft; Defrauding a Housing Program*:

It is grand theft to defraud a housing program of a public housing authority of more than \$400.

Felony (Wobbler): One year in county jail, or 16 months, 2 or 3 years in state prison. (**P.C. § 489(b)**)

Threats:

P.C. § 422.4 (New; Effective 9/28/08); *The Researcher Protection Act of 2008*:

Subd. (a): Publishing information describing or depicting an academic researcher or his or her immediate family member, or the location where the researcher or his or her immediate family may be found, with the intent that another person imminently use the information to commit a crime involving violence or a threat of violence against the academic researcher or his or her family, and the information is likely to produce the imminent commission of such a crime.

Misdemeanor: One year in county jail and/or a fine of up to \$1,000. (**Subd. (a)**)

Subd. (b): Definitions:

Subd. (b)(1): “*Publishes:*” Making the information available to another person through any medium, including, but not limited to, the Internet, the World Wide Web, or e-mail.

Subd. (b)(2): “*Academic Researcher:*” Any person lawfully engaged in academic research who is a student, trainee, employee, or affiliated physician of an accredited California community college, a campus of the California State University or the University of California, or a Western Association of Schools and Colleges accredited, degree granting, nonprofit institution.

Subd. (b)(3): “*Immediate Family:*” A spouse, domestic partner, parent, child, any person related by consanguinity or affinity within the second degree, any person who regularly resides in the household, or any person who regularly resided in the household within the last six months.

Subd. (b)(4): “*Information:*” Includes, but not limited to, an image, film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, or any other computer-generated image.

Subd. (c): The section permits an academic researcher about whom information is published to seek a preliminary injunction to enjoin further publication.

Subd. (d): The section does not apply to any person who is lawfully engaged in labor union activities that are protected under state or federal law.

P.C. § 602.12 (New; Effective 9/28/08); *The Researcher Protection Act of 2008*:

Subd. (a): Entering the residential real property of an academic researcher for the purpose of chilling, preventing the exercise of, or interfering with the researcher’s academic freedom.

Misdemeanor: Six months in county jail and/or \$1,000 fine. (**P.C. § 19**)

Subd. (b): Definitions:

Subd. (b)(1): “*Academic Researcher:*” Any person lawfully engaged in academic research who is a student, trainee, employee, or affiliated physician of an accredited California community college, a campus of the California State University or the University of California, or a Western Association of Schools and Colleges accredited, degree granting, nonprofit institution.

Subd. (b)(2): “*Academic freedom:*” The lawful performance, dissemination, or publication of academic research or instruction.

Subd. (c): The section does not apply to any person who is lawfully engaged in labor union activities that are protected under state or federal law.

Uncodified Legislature's Declaration for P.C. §§ 422.4 & 602.12: "While individuals are entitled to express their views on animal use in research and to mount protests that are protected under the First Amendment to the United States Constitution, the use of physical threats, violence, or destruction of property is unacceptable and should not be tolerated."

P.C. § 653m (Amended); *Annoying Telephone Calls:*

Subd. (b): Prohibitions on making repeated, annoying telephone calls or electronic contacts is expanded by eliminating the requirement that the calls or contacts be made to a residence. Repeated, annoying calls or text messages to a person's cellular telephone are now illegal under this subdivision regardless of where the recipient of the call or contact is located when the call or contact is received. Addition to the section exempts telephone calls and electronic contacts made during the ordinary course and scope of business.

Subd (c): Deleted, as written, with **Subd (d)** being moved to (c) and (e) moved to (d).

Subd. (e) (New): Provides that **P.C. § 653m(a)** [obscene or threatening calls or electronic contacts] and **P.C. § 653m(b)** [repeated calls or electronic contacts with the intent to annoy or harass] are violated when a person knowingly permits any telephone or electronic communication under the person's control to be used for the purposes prohibited by those subdivisions.

Subd (g): The definition of "*electronic communication device*" is amended to include, in addition to telephones, cellular phones, computers, video recorders, facsimile machines and pagers, the following; personal digital assistants; smartphones; any other device that transfers signs, signals, writing, images, sounds, or data; videophones; TTY/TDD devices and all other devices used to aid or assist communication with deaf or disabled persons.

Misdemeanor: Six months in county jail and/or \$1,000 fine. (**P.C. § 19**)

P.C. § 653.2 (New); *Electronic Threats:*

Subd. (a): Electronically distributing, publishing, e-mailing or making available for download, personal identifying information or an electronic message of a harassing nature about another person, with the intent to place the person in reasonable fear for his or her safety or the safety of his or her immediate family and for the purpose of imminently causing the

person unwanted physical contact, injury, or harassment by a third party, if these actions would be likely to incite or produce unlawful action.

Misdemeanor: One year in county jail and/or \$1,000 fine.

Subd. (b): “*Electronic Communication Device:*” Includes, but not limited to, telephones, cell phones, computers, Internet Web pages or sites, Internet phones, hybrid cellular/Internet/wireless devices, personal digital assistants (PDAs), video recorders, fax machines or pagers. “Electronic communication” has the same meaning as the term is defined in 18 U.S.C. § 2510(12).

Subd. (c): Definitions:

Subd. (c)(1): “*Harassment:*” A knowing and willful course of conduct directed at a specific person that a reasonable person would consider as seriously alarming, seriously annoying, seriously tormenting, or seriously terrorizing the person and that serves no legitimate purpose.

Subd. (c)(2): “*Of a harassing nature:*” Information a reasonable person would consider as seriously alarming, seriously annoying, seriously tormenting, or seriously terrorizing the person and that serves no legitimate purpose.

Vehicle Code Violations:

V.C. § 400 (Amended); *Motorcycles:*

The definition of “*motorcycle*” is expanded by eliminating the requirement that it weigh less than 1,500 pounds.

V.C. § 2818 (Amended); *Electronic Beacons:*

Electronic beacons are added to those devices (flares and cones) used for traffic control or emergency scene management that are unlawful to drive over.

Note: An electronic beacon is a light-emitting device about the size of a hockey puck that uses light-emitting diode (LED) technology. It is equipped with intelligent electronic circuitry and is air- and watertight.

V.C. § 4463(c) (Amended); *Misuse of Clean Air Stickers*:

Subd. (c): It is an infraction, with the intent to prejudice, damage, or defraud, to:

(1) Forge, counterfeit, or falsify a Clean Air Sticker relating to high occupancy vehicle lane privileges; *or*

(2) Pass or attempt to pass as true and genuine, a false, forged, or counterfeit Clean Air Sticker, knowing it to be false, forged, or counterfeit; *or*

(3) Acquire, possess, sell, or offer for sale a counterfeit Clean Air Sticker; *or*

(4) Acquire, possess, sell, or offer for sale a genuine Clean Air Sticker separate from the vehicle for which the Department of Motor Vehicles issued that sticker.

Infraction: A first offense is punishable by a fine of between \$100 and \$250. A second offense is punishable by a fine of between \$250 and \$500. A third or subsequent offense is punishable by a fine of between \$500 and \$1,000.

Subd. (f): “*Clean Air Sticker*.” A label or decal issued pursuant to V.C. §§ 5205.5 & 21655.9.

Note: “*Clean Air Stickers*” are the decals issued to hybrid, alternative fuel, or low-emission vehicles that permit vehicles to use carpool lanes even when only one person is present in the vehicle.

V.C. § 12517.45 (New); *Transporting School Pupils; Documentation*:

It is illegal for a person to operate a motor vehicle that is designed to carry no more than 25 persons and is not a school bus, while transporting school pupils at or below the 12th-grade level to or from a public or private school or to or from a public or private school activity, without the appropriate driver’s license, special driver’s certificate, parental authorization, and annual inspection.

Misdemeanor: Six months in county jail and/or \$1,000 fine. (V.C. 40000.11)

Note: The purpose of this section is to permit parents to contract with a charter-party carrier to transport students to school events such as proms. To this end, **V.C. § 545** is amended to take such a motor vehicle out of the definition of a school bus, **Public Utilities Code § 5384.2** is added to provide that a school is not liable for such transportation services, and new **V.C. § 12517.45** establishes safety parameters.

V.C. § 21714 (Amended); *Three Wheeled Motorcycles:*

The prohibition on fully enclosed, three-wheeled motor vehicles traveling in carpool lanes, even with a single occupant, is deleted from the section.

V.C. § 22651 (Amended); *Impounding Vehicles:*

Amendment adds additional circumstances under which a peace officer may remove a vehicle:

Subd. (h)(2): When serving a driver's license suspension notice pursuant to **V.C. § 13389**.

Note: **V.C. § 13389**, enacted in 2007 and effective on 1/1/09, authorizes a peace officer who lawfully detains a driver who is on probation for **V.C. § 23152** (DUI) or **V.C. § 23153** (DUI with injury) and there is reasonable cause to believe the person is in violation of **V.C. § 23154** (see below), to serve a notice of driver's license suspension and take possession of the person's driver's license if the person refuses to take a chemical test or a preliminary alcohol screening test, or takes a test that reveals a blood alcohol concentration of 0.01 percent or greater.

Note: **V.C. § 23154**, also enacted in 2007 and effective on 1/1/09, prohibits anyone on probation for **V.C. § 23152** or **V.C. § 23153** from operating a motor vehicle with a blood alcohol concentration of 0.01 percent or greater.

Subd. (s)(2): When a commercial motor vehicle is stopped, parked, or left standing for more than ten hours within a roadside rest area or viewpoint. (**Subd. (s)(2)**)

Note: Federal regulations require truckers to rest for 10 consecutive hours, so this amendment permits truckers to rest for the required time without being towed.

Subd. (u): When a peace officer issues a citation for a violation of **V.C. § 11700** (acting as a motor vehicle dealer without a valid license) and the vehicle is being offered for sale.

Note: The purpose of this provision is to curb unlicensed vehicle dealer activity on public streets, whereby unsuspecting car buyers often purchase used vehicles with unpaid back fees owing, or without a current smog certificate or functioning air bags.

V.C. § 23123.5 (New); *Texting While Driving:*

Subd. (a): It is illegal to write, send, or read a text-based communication while driving.

A “*text-based communication*” includes a text message, instant message or electronic mail. **(Subd. (b))**

A person shall *not* be deemed to be “*writing, reading, or sending a text-based communication*” (see Subd. (b), above) if the person reads, selects, or enters a telephone number or name in an electronic wireless communications device for the purpose of making or receiving a telephone call. **(Subd. (c))**

The section does not apply to an emergency services professional using an electronic wireless communication device while operating an authorized emergency vehicle in the course and scope of his or her duties. **(Subd. (e))**

Infraction; \$20 fine for a first offense and a \$50 fine for each subsequent offense. **(Subd. (d))**

Note: I have a 10-page outline on the elements and my analysis of this section as well as **V.C. §§ 23123** and **23124**, including “*frequently asked questions*” involving these offenses, which I will send you on request.

V.C. § 23573 (New; Effective 7/1/09); *Ignition Interlocking Devices:*

Effective 7/1/09, the regulation and oversight of ignition interlocking devices will be transferred from the courts to the Department of Motor Vehicles.

Persons convicted of a specified suspended driver’s license crime (**V.C. §§ 14601.2, 14601.4, or 14601.5**) within 10 years of being convicted of a suspended license crime (**V.C. §§ 14601.2, 14601.4, or 14601.5**), or a violation of **V.C. §§ 23103.5** (wet reckless), **23152** (DUI), or **23153** (DUI

with injury), must have installed on all his or her vehicles an ignition interlock device for up to three years.

DMV, upon the receipt of a court abstract of conviction for an offense listed above with one or more specified prior convictions, is required to inform the defendant of the new ignition interlock device requirements and the term (one, two, or three years) for which the defendant must install an ignition interlock device.

One year if the defendant has one prior conviction within 10 years of **V.C. §§ 23103.5, 23152, or 23153.**

Two years if the defendant has two prior convictions within 10 years of **V.C. §§ 23103.5, 23152, or 23153,** or one prior conviction within 10 years of **V.C. §§ 14601.2, 14601.4, or 14601.5.**

Three years if the defendant has three or more prior convictions within 10 years of **V.C. §§ 23103.5, 23152,** or 23153, or two or more prior convictions within 10 years of **V.C. §§ 14601.2, 14601.4, or 14601.5.**

Within 30 days of being notified by DMV, the defendant must arrange for each vehicle owned or operated by him or her to be fitted with an ignition interlock device, provide proof of installation to DMV, and pay an administrative fee to DMV. Willfully failing to install an ignition interlock device within the required time period is a misdemeanor.

Misdemeanor: Six months in county jail and/or a fine of up to \$5,000.

DMV is to place a restriction on the defendant's driver's license stating that he or she is restricted to driving only vehicles equipped with a certified ignition interlock device.

The defendant must have each vehicle that is equipped with an ignition interlock device serviced every 60 days so the ignition interlock device can be recalibrated.

A defendant is exempt from installing an ignition interlock device if he or she certifies all of the following to DMV: He or she does not own a vehicle, does not have access to a vehicle at his or her residence, does not have access to the vehicle he or she was driving when arrested, and acknowledges that he or she is only permitted to drive a vehicle fitted with an operating ignition interlock device.

Note: **V.C. § 23575** (Amended) lowers the blood alcohol level from 0.20% to 0.15% that triggers the court giving heightened consideration to requiring a person convicted of driving under the influence for the first time to install an ignition interlock device and to prohibiting that person from operating any motor vehicle unless it is equipped with a functioning ignition interlock device.

V.C. § 26708 (Amended); *Global Position Systems (GPS)*:

Subd. (b)(12): A global positioning system (GPS) may be affixed to a motor vehicle windshield in (1) a seven-inch square in the lower corner of the windshield farthest removed from the driver or (2) in a five-inch square in the lower corner of the windshield nearest to the driver, if the GPS is used only for door-to-door navigation while the motor vehicle is being operated and is outside of an airbag deployment zone.

V.C. § 27454 (Amended); *Studded Tires*:

Subd. (e)(1): Vehicles may be equipped year round with tires that have retractable studs so long as the studs are retracted between May 1st and October 31st each year.

Victims and Witnesses:

Civil Code § 1946.7 (New); *Victims' Right to Terminate a Lease*:

A tenant in a residential lease agreement who is the victim of domestic violence, sexual assault, or stalking, or a tenant who is the household member of such a victim, may terminate a residential lease with only 30 days notice so that the tenant can more easily move away from an abuser without fear of incurring full charges for early termination of a lease. The notice to terminate must be in writing and include a copy of a temporary restraining order or emergency protective order, or the written police report concerning the accusation.

Code of Civil Proc. § 1161 (Amended); *Domestic Violence Victims Refusing to Testify*:

Amended section eliminates the discretion of the court to imprison or confine a victim of domestic violence who has been found in contempt for refusing to testify.

Note: Sexual assault victims already enjoy this protection.

Gov't. Code § 6254 (Amended); *Confidentiality of Name and Address of Victim of Human Trafficking*:

Victims of the crime of human trafficking (**P.C. § 236.1**) are added to the list of crimes for which the name and address of the victim may be withheld from public disclosure at the victim's request.

P.C. § 136.2 (Amended); *Protective Orders for Victim or Witness in Domestic Violence Case*:

In a domestic violence case, the court may consider the underlying nature of the offense charged and the information provided to the court pursuant to **P.C. § 273.75** in deciding whether to issue a protective order in favor of a victim or witness.

Note: **P.C. § 273.75** requires the district attorney or prosecuting city attorney to provide to the court in a domestic violence case the defendant's criminal history and information about any current protective or restraining order issued by a criminal or civil court.

P.C. § 293 (Amended); *Human Trafficking Victims*:

Adds victims of human trafficking (**P.C. § 236.1**) who were forced to commit an act of prostitution to those victims (sexual assault victims) who may request that their names and addresses be kept confidential.

P.C. § 679.026 (New; Effective 11/5/08); *Proposition 9; Marsy's Rights*:

Subd. (a)(1): Law enforcement officers may provide the victim of a crime with a "*Victim's Rights Card*."

Subd. (a)(2): Implementation of this section requires the adoption of a resolution by the city council or board of supervisors of a city or county.

Subd. (a)(3): Provisions not intended to replace or prohibit other services offered to victims.

Subd. (b): Description of a "*Victim's Rights Card*:" To contain a list of potential services that may be available under existing state law to assist the victim, and the following language:

"California law provides crime victims with important rights. If you are a victim of crime, you may be entitled to the assistance of a victim advocate who can answer many of the questions you might have about the criminal justice system."

“Victim advocates can assist you with the following: (1) Explaining what information you are entitled to receive while criminal proceedings are pending. (2) Assisting you in applying for restitution to compensate you for crime-related losses. (3) Communicating with the prosecution. (4) Assisting you in receiving victim support services. (5) Helping you prepare a victim impact statement before an offender is sentenced.”

“To speak with a victim advocate, please call any of the following numbers:” (Victim advocate agencies to be listed)

“PLEASE NOTE THAT THIS INFORMATION IS PROVIDED IN AN ATTEMPT TO ASSIST THE VICTIM, BY NOTIFYING THE VICTIM ABOUT SOME, BUT NOT NECESSARILY ALL SERVICES AVAILABLE TO THE VICTIM; THE PROVISION OF THIS INFORMATION AND THE INFORMATION CONTAINED THEREIN IS NOT LEGAL ADVICE AND IS NOT INTENDED TO CONSTITUTE A GUARANTEE OF ANY VICTIM’S RIGHTS OR OF A VICTIM’S ELIGIBILITY OR ENTITLEMENT TO ANY SPECIFIC BENEFITS OR SERVICES.”

P.C. § 868.5 (Amended); *Witness Support Persons*:

Subd. (a): Adds prosecuting witnesses in elder abuse fraud cases (**P.C. § 368(b), (d), or (e)**) where the witness is the elder or dependent adult, to the list of prosecuting witnesses who are entitled to have two support persons in attendance when the witness testifies.

Note: **P.C. § 368(b), (d), or (e)** are felony-misdemeanor elder abuse crimes involving physical or mental abuse, or theft, embezzlement, or fraud.

W&I § 1764.2 (Amended); *Victims’ Right to Information*:

Amendment expands to *all* crime victims (as opposed to only those of specified crimes) the right to receive specified information about a juvenile offender committed to the California Department of Corrections and Rehabilitation, Division of Juvenile Facilities, unless the court has ordered confidentiality pursuant to **W&I § 676(c)**. Such information included the juvenile offender’s name, age, commitment offense, institution of confinement, and release, parole, and discharge dates.

W&I § 6603.7 (New); *Sexual Assault Victims' as Jane or John Doe*:

A court, upon the request of a sexual assault victim, may order the identity of the victim in all records and proceedings to be listed as either Jane Doe or John Doe if the court finds that this is reasonably necessary to protect the privacy of the victim and will not be unduly prejudicial to either party.

Note: This section is modeled after **P.C. § 293.5**.

Wave Pool Safety Act:

H&S §§ 115950 (New), **115951** (New), & **115952** (New); *Wave Pool Regulations*:

A wave pool operator must make available at no charge life vests for use by non-swimmers, children under 48 inches in height, and any other patron who requests one.

Children under 48 inches in height must wear a life vest, whether or not accompanied by an adult. Children under 42 inches in height must be accompanied by an adult.

Regular periods of time without breaking waves are required, with 15 minutes of maximum time for a continuous breaking wave cycle. An audible signal must be sounded before wave action resumes. Life guards in sufficient numbers must be on duty so that the response to any swimmer in distress takes no longer than 30 seconds from the onset of peril.

Weapons:

P.C. § 244.5 (Amended); *Less Lethal Weapons and Tasers*:

Amendment replaces references to “*taser*” with “*less lethal weapon as defined in Section 12601*” in the definition of “*stun gun*” and in the assault crimes specified in **subdivisions (b) and (c)**.

“*Stun gun*” is now defined as any item, except a less lethal weapon, that is capable of temporarily immobilizing a person by the infliction of an electrical charge.

Subd. (b) is the felony (wobbler) crime of assault with a stun gun or less lethal weapon.

Subd. (c) is the felony (wobbler) crime of assault on a peace officer or firefighter with a stun gun or less lethal weapon.

P.C. § 12601 defines “*less lethal weapon*” as any device that is designed to or that has been converted to expel or propel less lethal ammunition by any action, mechanism, or process for the purpose of incapacitating, immobilizing, or stunning a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort.

Note: According to the legislative history of this bill, references to “*taser*” are removed from this section because it is the name of a company and a trademarked term. It is not a description for a generic class of weapons.

P.C. § 626.10 (Amended); *Weapons on School Grounds:*

Subd. (i): Bringing or possessing a less lethal weapon (**P.C. § 12601**) or a stun gun (**P.C. § 12650**) upon the grounds of a public or private college or university, without permission.

Misdemeanor: Six months in county jail and/or \$1,000 fine.

P.C. § 12001.1 (Amended; Effective 1/10/08); *Undetectable Knives:*

Subd. (a): The crime of manufacturing or commercially selling an undetectable knife is expanded to also prohibit the knowing exportation out of California of an undetectable knife for commercial, dealer, wholesaler, or distributor sale, and to prohibit the offering of an undetectable knife for dealer, wholesaler, or distributor sale.

Subd. (c): Also a valid agency, department, or unit purchase order is required for the sale of an undetectable knife to a law enforcement or military entity to be lawful.

Misdemeanor: Six months in county jail and/or \$1,000 fine. (**P.C. § 19**)

P.C. § 12002 (Amended); *Illegal Dumping Enforcement Officers and Batons:*

Illegal dumping enforcement officers (**P.C. § 830.7**) are added to those officers (e.g., animal control officers and uniformed security guards) who may carry a wooden club or baton if they have satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of a club or baton.

P.C. § 12020.1 (Amended); *Hard Plastic and Hard Wooden Knuckles*:

Manufacturing, importing, keeping for commercial sale, or offering or exposing for commercial sale hard plastic knuckles is expanded to also apply to “*hard wooden knuckles*.”

“*Hard wooden knuckles*” is defined as a device or instrument made out of wood, composite, or paper materials that is not a metal knuckle as defined in **P.C. § 12020**, and that is worn for purposes of offense or defense in or on the hand and that either protects the wearer’s hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow.

Misdemeanor: Six months in county jail and/or \$1,000 fine (**P.C. § 19**)

P.C. § 12021(c) (Amended); *Misdemeanor Convictions Precluding Firearms Possession for Ten Years*:

Misdemeanor sexual battery (**P.C. § 243.4**) is added to the list of misdemeanor convictions that prohibit the owning, purchasing, receiving, or possessing a firearm within 10 years of the conviction.

P.C. § 12091 (Repealed); *Firearms with Markings Removed*:

This section is repealed. The section had provided that the possession of any pistol or revolver upon which the name of the maker, model, manufacturer’s number, or other mark of identification has been changed, altered, removed, or obliterated, is presumptive evidence that the possessor has changed, altered, removed, or obliterated the number or mark.

Note: This brings the statute into conformity with case law; ***In re Christopher K.*** (2001) 91 Cal.App.4th 853.

P.C. § 12556 (Amended); *Displaying Imitation Firearms*:

Subd. (a): The crime of openly displaying or exposing an imitation firearm in a public place is expanded by adding public schools, public colleges or universities, and private colleges or universities to the definition of “*public place*.”

First or second offense, an infraction; \$100 and \$300, respectively.
(Subd. (b))

Third offense; misdemeanor: Six months in county jail and/or \$1,000 fine. (**Subd. (c), P.C. § 19**)

Note: An “*imitation firearm*” is defined in **P.C. § 12550** as any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm.

P.C. § 12655 (New); *Less Lethal Weapons and Minors:*

Selling a less lethal weapon to a person under age 18.

Misdemeanor: Six months in jail and/or a fine of up to \$1,000.

Note: A “*less lethal weapon*” is defined as any device that is designed to or that has been converted to expel or propel less lethal ammunition by any action, mechanism, or process for the purpose of incapacitating, immobilizing, or stunning a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort. (**P.C. § 12601**)