



# **Senate Committee on Public Safety**

## **2002 Bill Summary**

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### ***Measures Signed and Vetoed***

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**Senator John Vasconcellos, Vice Chair**

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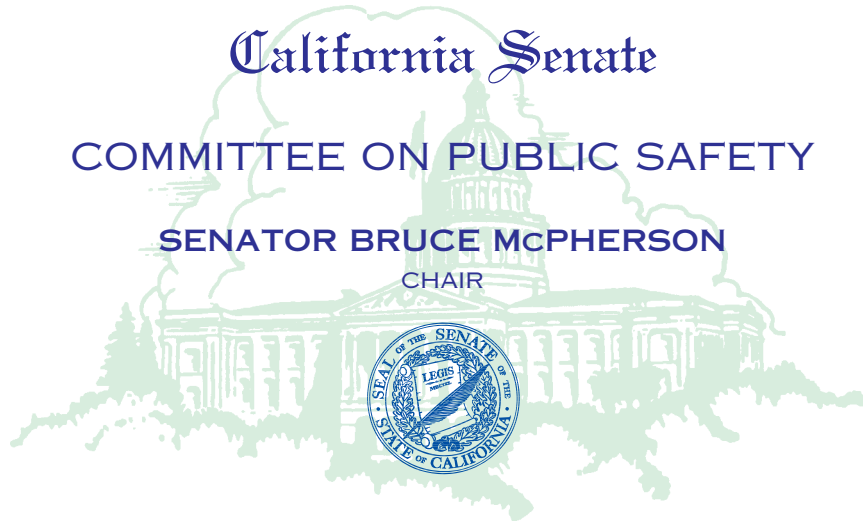
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For your information, the staff of our Senate Committee on Public Safety has prepared this summary of bills sent to the Governor in 2002 pertaining to our Committee's subject-matter jurisdiction. I hope this compilation of public safety legislation will facilitate access to the new laws enacted this year. Most will take effect January 1, 2003.

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.

The Senate Committee on Public Safety again considered one of the largest number of bills of any Senate policy committee. Our workload reflects continuing interest and concern about issues pertaining to our public safety and the systems which are intended to secure and enhance it.

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 2003.
- The Legislative Data Center maintains a website where these bills and analyses are available:  
<http://www.leginfo.ca.gov/bilinfo.html>

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

I hope this legislative summary is useful to you, and to your constituents, as you – and they – prepare for 2003. I enjoyed the challenges of chairing the Committee this past year and look forward to continuing to work with all interested parties on public safety issues.

Cordially,

A handwritten signature in black ink that reads 'Bruce McPherson'. The signature is written in a cursive, flowing style.

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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.

- **SR 28.8** – Senate Rule 28.8 allows the chair to move bills out of the Senate Appropriations Committee without a formal committee hearing or vote if the bill has no significant effect on state revenues. Thus, SR 28.8 is reflected, where appropriate, instead of a vote.
- **Not all bills that create a new crime are included in this summary** – The Senate Committee on Public Safety jurisdiction does not always include measures that involve misdemeanor criminal penalties. For example, SB 17 (Figueroa) – Chapter 819, Statutes of 2002 – increases misdemeanor penalties for violations of law by cemeteries disposing of human remains. That measure is not in this summary since it did not fall within the committee’s jurisdiction. (There are a few bills, however, in this summary which were not heard in this committee, but which are included as FYI’s since they are on related subjects that may be of interest.)
- **Table of Sections Affected** – This summary does not contain a Table of Sections Affected (TOSA). However, the TOSA prepared by the Legislative Counsel is available online at the Legislative Counsel’s “Official California Legislative Information” site at: [www.leginfo.ca.gov/](http://www.leginfo.ca.gov/).

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

- **Only “final” votes included in this summary** – There may be more than one vote on a bill in a given legislative location. For example, hostile amendments (not offered by the author) may be proposed on the Senate Floor and those amendments may be defeated or “tabled”; a bill may first fail in a committee or on the Senate or Assembly Floor, reconsideration may be granted, and the bill may be amended and subsequently approved; or a bill may pass the Legislature and be returned at the Governor’s request with amendments then adopted before the bill is sent again to the Governor. This summary only reflects the final votes on a bill in each legislative location.
- **Legislative Counsel’s Maintenance of the Codes bill** – AB 3034 (Committee on Judiciary) – Chapter 664. This annual clean-up bill makes technical and nonsubstantive changes to hundreds of code provisions; it is not included in this summary notwithstanding that it changes language in 10 sections - plus one heading - of the Penal Code plus other code sections relevant to the criminal justice system. AB 3034 contains the following proviso:

Any section of any act enacted by the Legislature during the 2002 calendar year that takes effect on or before January 1, 2003, 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 2002 calendar year and takes effect on or before January 1, 2003, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

# ANIMALS

## **AB 670 (Strom-Martin): Chapter 134: Animal cruelty, abuse, and neglect.**

(Adds Article 5 (commencing with Section 11199) to Chapter 2 of Title 1 of Part 4 of the Penal Code.)

**Existing law** provides that it is unlawful to maliciously and intentionally maim, mutilate, torture, wound, deprive of necessary sustenance, drink or shelter, subject to needless suffering, or kill an animal.

**This bill** permits the employees of county child and adult protective services agencies to receive instruction from those agencies on identifying and

reporting animal cruelty, abuse, and neglect that they may report known or suspected animal cruelty, abuse, or neglect to the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county.

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

*Assembly Public Safety (5-0)*  
*Assembly Appropriations (16-2)*  
*Assembly Floor (63-14)*  
*Assembly Concurrence (56-13)*

*Senate Public Safety (4-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (28-4)*

# BACKGROUND CHECKS

## **SB 900 (Ortiz): Chapter 627: Criminal history information.**

(Amends Sections 11105, 11105.02, 11105.3, and 11105.4 of the Penal Code, and amends Section 15660 of the Welfare and Institutions Code.)

**Existing law** requires the Department of Justice to furnish various agencies and entities with a person's state summary criminal history information when that information is used for employment, licensing, or certification purposes.

**This bill** consolidates the Department of Justice (DOJ) background check criteria used by the DOJ to provide criminal offender record information (CORI) to specified agencies for employment, licensing or certification purposes.

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

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (37-0)*  
*Senate Concurrence (39-0)*

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (76-0)*

**SB 1804 (Escutia): VETOED: Skilled nursing and intermediate care facilities: criminal record checks.**

(Amends Section 1265.5 of the Health and Safety Code.)

**Existing law** provides for the licensure and regulation of various health facilities by the State Department of Health Services, including skilled nursing facilities and various types of intermediate care facilities. Existing law requires the department to secure a criminal record check prior to the initial licensure or renewal of a license of any person to operate or manage an intermediate care facility/developmentally disabled habilitative, an intermediate care facility/developmentally disabled-nursing, or an intermediate care facility/developmentally disabled, other than an intermediate care facility/developmentally disabled operated by the state that secures criminal record clearances for its employees through another method, or upon hiring any direct care staff, to determine whether

the applicant, facility administrator, or manager, any direct care staff, or any other adult living in the same location, has ever been convicted of a crime other than a minor traffic violation. With specified exceptions, application for licensure or renewal of the license of any facility enumerated above shall be denied if the criminal record indicates that the person seeking licensure or renewal of a license has been convicted of specified felonies, unless certain exceptions apply.

**This bill** would have, in addition, applied this criminal record check requirement to any skilled nursing facility, and any other intermediate care facility, other than a facility operated by the state that secures criminal record clearances for its employees

***Legislative History:***

*Senate Public Safety (6-0)*  
*Senate Appropriations (12-0)*  
*Senate Floor (39-0)*  
*Senate Concurrence (39-0)*

*Assembly Health (14-1)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (73-4)*

through another method or upon hiring any direct care staff, and would have expanded the list of those subject to the criminal record check to include any facility worker, as defined, newly employed at a facility, either directly or through a vendor, contractor, or 3<sup>rd</sup> party.

**AB 1454 (Thompson): Chapter 642: Mental health: facilities: criminal record checks: managed care.**

(Amends Section 5777 of, and adds Section 5405 to, the Welfare and Institutions Code.)

**Existing law** requires the State Department of Mental Health to perform various functions and duties with respect to the provision of mental health services, including the licensure of facilities that provide these services.

**This bill** requires the Department of Mental Health, prior to the initial licensure or first renewal of a license of any person to operate or manage certain facilities, upon the employment of any direct care staff, as defined, and prior to the provision of services by a direct care contractor, to submit

fingerprint images and related information pertaining to these persons to the Department of Justice for purposes of a criminal record check. Except under specified circumstances, the Department of Mental Health shall deny any application for any license, suspend or revoke any existing license, and disapprove or revoke any employment or contract for direct services, if the applicant, licensee, direct care staff person, or direct services contractor has been convicted of or incarcerated for specified crimes within the preceding 10 years.

***Legislative History:***

*Assembly Public Safety (15-0)*  
*Assembly Appropriations (14-6)*  
*Assembly Floor (71-0)*  
*Assembly Concurrence (76-1)*

*Senate Health and Human Services (9-0)*  
*Senate Public Safety (4-0)*  
*Senate Appropriations (12-0)*  
*Senate Floor (29-1)*

**AB 1855 (Steinberg): Chapter 990: Criminal history information.**  
(Amends Section 11105.3 of the Penal Code.)

**Existing law** provides that agencies responsible for determining the character and fitness of a person applying for employment or a license, or as a volunteer, within a human services field in which he or she would be involved in the care and security of, or would have supervisory or disciplinary power over, members of vulnerable populations, including children, the elderly, or the mentally impaired, may request, and the Department of Justice shall provide, the criminal history

information of those applicants or volunteers, as specified, with respect to certain enumerated offenses.

**This bill** provides that this information may also be provided in the case of individuals applying to become volunteers who would transport persons who are impaired by drugs or alcohol.

***Legislative History:***

*Assembly Public Safety (5-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (73-0)*

*Assembly Concurrence (75-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (39-0)*

**AB 1934 (Corbett): Chapter 183: Telephone corporations: background security checks.**  
(Adds Section 7910 to the Public Utilities Code.)

**Existing law** permits telephone corporations to construct, own, control, operate and manage telephone lines and to provide telephone service for compensation in the state, subject to regulation by the Public Utilities Commission.

contractors and vendors to certify that they have obtained the background checks, and to make those checks available to the telephone corporation upon request.

**This bill** requires telephone corporations to perform an investigation into the background of certain applicants for employment. The bill also requires that a background check be performed on certain persons hired by a telephone corporation under a personal services contract, as independent contractors and as vendors, and would require independent

***Legislative History:***

*Assembly Utilities and Commerce (14-1)*

*Assembly Labor and Employment (7-0)*

*Assembly Floor (74-0)*

*Assembly Concurrence (75-1)*

*Senate Energy Utilities and Communications (8-0)*

*Senate Floor (38-0)*

**AB 1957 (Robert Pacheco): Chapter 644: Public guardians: criminal history information.**

(Adds and repeals Section 2920.5 of the Probate Code.)

**Existing law** provides that a public guardian is a county officer and permits a public guardian to be appointed as a conservator for a person when no one else is available who is qualified and willing to act and when the appointment of a guardian or conservator would be in the best interest of the person. Existing law requires the court to have a criminal background check conducted on a person acting as a professional conservator.

**This bill** permits, until January 1, 2007, a public guardian or a county conservatorship investigator upon a referral from a court or an adult protective services agency, to submit fingerprints and related information to the Department of Justice on a person being considered as a potential conservator, except as specified. The bill would also permit a potential conservatee to request that the information described above be submitted to the Department of Justice under specified circumstances.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (22-0)*  
*Assembly Floor (72-0)*  
*Assembly Concurrence (73-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations (11-1)*  
*Senate Floor (35-0)*

**AB 2555 (Leach): Chapter 142: Child care and development services: local contracts.**  
(Adds Section 8406.9 to the Education Code.)

**Existing law** authorizes the Superintendent of Public Instruction to enter into and execute local contractual agreements with any public or private entity or agency for the delivery of child care and development services or the furnishing of property, facilities, personnel, supplies, equipment, and administrative services related to the delivery of child care development services.

**This bill** provides that if an agency places a person who has been convicted of specified theft-related crimes in a position of fiscal responsibility or control, the agency may have its contract suspended or terminated immediately, upon review and recommendation of the general counsel of the State Department of Education.

***Legislative History:***

*Assembly Human Services (6-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (72-0)*

*Senate Education (9-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (38-0)*

**AB 2659 (Runner): Chapter 623: Fingerprinting.**  
(Adds Section 11102.1 to the Penal Code.)

**Existing law** requires the Attorney General to procure from any available source, and file for record and report in the office of the bureau, all descriptions, information, photographs, and measurements of all persons convicted of a felony, imprisoned, and of all well-known habitual criminals. Existing law permits the Department of Justice to use, among other things, the fingerprint system of identification.

**This bill** requires the department to establish, implement, and maintain a certification program to process fingerprint-based criminal background clearances on individuals who roll applicant fingerprint impressions for licensure, certification, or employment purposes, and requires those persons to be certified, commencing January 1, 2004.

***Legislative History:***

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (19-1)*  
*Assembly Floor (66-2)*  
*Assembly Concurrence (74-1)*

*Senate Public Safety (5-0)*  
*Senate Appropriations (8-0)*  
*Senate Floor (28-1)*

## ***CHILD ABUSE***

**SB 1779 (Burton): Chapter 149: Childhood sexual abuse: statute of limitations.**  
(Amends Section 340.1 of the Code of Civil Procedure.)

**Existing law** requires that an action for recovery of damages suffered as a result of childhood sexual abuse, as defined, be commenced within 8 years of the date the plaintiff attains the age of majority or within 3 years of the date the plaintiff discovers or reasonably should have discovered that the psychological injury or illness occurring after the age of majority was caused by sexual abuse, whichever occurs later, and provides that certain of those actions may not be commenced on or after the plaintiff's 26th birthday.

**This bill** provides that those actions may be commenced on or after the plaintiff's 26th birthday if the person or entity against whom the action is commenced knew, had reason to know, or was otherwise on notice, of any unlawful sexual conduct by an employee, volunteer, representative, or agent, and failed to take reasonable steps, and implement reasonable safeguards, to avoid future acts of unlawful sexual conduct. The bill revives a cause of action solely for those claims for a period of one year, except as specified.

***Legislative History:***

*Senate Judiciary (6-0)*  
*Senate Floor (33-0)*  
*Senate Concurrence (34-0)*

*Assembly Judiciary (12-0)*  
*Assembly Floor (75-0)*

**AB 299 (Rod Pacheco): Chapter 936: Mandatory child abuse and neglect reporting: clergy. Urgency.**

(Amends Sections 11165.7 and 11166 of the Penal Code.)

**Existing law** establishes the Child Abuse and Neglect Reporting Act, which requires certain mandated reporters, including clergy members and family support officers, to report, as specified, incidents of child abuse or neglect of a person under the age of 18 years at least within 36 hours of receiving information on an incident. A failure to report as required is a misdemeanor.

**This bill** allows a mandated reporter to include with this report any nonprivileged documentary evidence relating to the incident. This bill also

makes any custodian of records of a clergy member a mandated reporter and permits any clergy member or custodian of records for the clergy member to report with immunity, as specified, on or before January 1, 2004, a previously unreported incident of child sexual abuse that occurred prior to January 1, 1997, even if at the time of the report, the alleged victim is 18 years of age or older. The bill provides that law enforcement agencies shall have jurisdiction to investigate these reports of child abuse. This bill makes an additional technical change.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(78-0)*

*Senate Public Safety (4-0)*  
*Senate Floor (39-0)*

**AB 415 (Runner): Chapter 517: Emergency Services: Emergency Alert System: child abduction: "Amber Plan". Urgency.**

(Adds Section 8594 to the Government Code and Uncodified Law.)

**Existing law** provides that all local police and sheriffs' departments shall accept any report of a missing person, including runaways, without delay and shall give priority to the handling of these reports, as specified. If the missing person is under 16 years of age, or there is evidence that the person is at risk, the department is required to broadcast a "Be On the Look-Out" bulletin, without delay, within its jurisdiction, as specified.

**This bill** enacts legislative findings and declarations regarding the "Amber Plan," a statewide plan to use the Emergency Alert System when a

child has been abducted and is believed to be in danger. This bill requires law enforcement agencies to request activation of the Emergency Alert System, as specified, including: when a child 17 years of age or younger, or an individual with a proven mental or physical disability, has been abducted, is in imminent danger of serious bodily injury or death, and there is information available that, if disseminated to the general public, could assist in the safe recovery of the victim. The California Highway Patrol, if requested by a law enforcement agency, is required to activate the system. The California Highway Patrol is also required, along with other identified

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(78-0)*

*Senate Public Safety*  
*(4-0)*  
*Senate Appropriations*  
*(11-0)*  
*Senate Floor (32-0)*

agencies, to develop policies and procedures for the "Amber Plan" as well a comprehensive child abduction education system, as specified.



**AB 1867 (Vargas): Chapter 527: Smoking near a playground or sandbox.**  
(Amends Section 104495 of the Health and Safety Code.)

**Existing law** prohibits any person from smoking a cigarette, cigar, or other tobacco-related product, or from disposing of cigarette butts, cigar butts, or any other tobacco-related waste, within a playground or a tot lot sandbox area. Violation of these provisions is an infraction punishable by a \$100 fine.

**This bill** increases the fine from \$100 to \$250, and expands the prohibited smoking and disposal area to within 25 feet of a playground or a tot lot sandbox area.

***Legislative History:***

*Assembly Government Organization (14-5)*  
*Assembly Appropriations (14-7)*  
*Assembly Floor (43-24)*  
*Assembly Concurrence (52-24)*

*Senate Health and Human Services (7-2)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (22-14)*

**AB 2672 (Leonard): Chapter 858: Mandatory child abuse and neglect reporting: supervisors.**  
(Adds Section 11166.01 to the Penal Code.)

**Existing law** establishes the Child Abuse and Neglect Reporting Act, which requires that specified persons who have knowledge of or observe a child in their professional capacity or within the scope of their employment, who the person knows or reasonably suspects has been the victim of child abuse or neglect to report that information to a child protective agency, as defined. Existing law prohibits any supervisor or administrator from impeding or

inhibiting these reporting duties, and prohibits any person from being sanctioned for making the report.

**This bill** makes a knowing violation of the above prohibition by a supervisor or administrator an infraction punishable by a fine not to exceed \$5,000.

***Legislative History:***

*Assembly Public Safety (6-1)*  
*Assembly Appropriations (22-0)*  
*Assembly Floor (77-0)*  
*Assembly Concurrence (78-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

# ***CONTROLLED SUBSTANCES***

**SB 1447 (Chesbro): Chapter 543: Treatment of addicts: drug treatment programs.** (Amends Sections 11218, 11219, 11758.42, and 11758.46 of the Health and Safety Code.)

**Existing law** sets statutory limits on the amount of specified controlled substances that a physician treating an addict may administer during both the first 15 days of treatment and subsequent treatment. The designated drugs are opium, morphine, Pantopon, Dilaudid, Demerol, methadone, and LAAM. The limit on the amount of methadone is 180 milligrams. The limit on the amount of LAAM is 200 milligrams. The same limits apply for both the first 15 days of treatment and thereafter.

Existing law creates the Department of Alcohol and Drug Programs (DADP) within the Health and Welfare Agency and requires DADP to perform a number of tasks, including reviewing and licensing methadone treatment programs. Existing law – Proposition 36 – provides for alternative treatment programs for persons convicted of drug law violations, as specified.

**This bill** does the following:

- Repeals the limits on the amount of methadone and LAAM that a physician treating a patient for addiction may lawfully prescribe during each day of treatment.

- Provides that the uniform statewide monthly reimbursement rate for narcotic replacement therapy dosing and ancillary services shall be based upon: the outpatient rates for the same or similar services under the fee-for-service Medi-Cal program; cost report data; and, other data deemed reliable and relevant by the Department of Health Services.

- Provides that the uniform statewide monthly reimbursement rate for ancillary services shall not exceed the outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.

- Provides that reimbursement paid by a county to a narcotic treatment program provider for Proposition 36 services, and for which the individual client is not liable to pay, does not constitute a usual and customary charge to the general public for the purposes of this section.

- Requires certified narcotic treatment program providers to submit performance reports, as specified.

## ***Legislative History:***

*Senate Public Safety (6-0)*  
*Senate Health and Human Services (7-1)*  
*Senate Appropriations (8-2)*  
*Senate Floor (24-10)*  
*Senate Concurrence (25-10)*

*Assembly Public Safety (4-2)*  
*Assembly Health (13-0)*  
*Assembly Appropriations (15-7)*  
*Assembly Floor (54-25)*

**SB 1695 (Escutia): Chapter 678: Drug overdose deaths.**

(Adds Section 1797.8 to, and adds Chapter 2.5 (commencing with Section 11758) to Division 10.5 of, the Health and Safety Code, and Uncodified Law.)

**Existing law** (the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act) requires the Emergency Medical Services Authority to establish minimum standards and regulations for the training and scope of practice of an emergency medical technician-I.

**This bill** authorizes counties to establish training and certification programs to permit an emergency medical technician-I, as specified, to

administer naloxone hydrochloride, the antidote to heroin overdose, by means other than intravenous injection if he or she has completed training and passed a test, as specified.

**This bill** requires the State Department of Alcohol and Drug Programs to place on its Internet Web site, for a period of not less than 6 months, information, as specified, regarding drug overdose trends and death rates.

***Legislative History:***

*Senate Health and Human Services (10-0)*  
*Senate Appropriations (10-0)*  
*Senate Floor (34-0)*  
*Senate Concurrence (39-0)*

*Assembly Health (17-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (77-0)*

**AB 154 (La Suer): Chapter 13: Permits from the Department of Justice for use or transfer of restricted chemicals. Urgency.**

(Amends Section 11106 of the Health and Safety Code.)

**Existing law** provides that any person or business entity in California that sells, transfers, or furnishes any substance contained on a list of specified substances to another person or entity in this state or any other state, or who obtains such substance from a source outside of the state, shall submit an application to, and obtain a permit for the conduct of that business from, the Department

of Justice. Failure to comply with these requirements is an alternate felony-misdemeanor.

**This bill** provides that for any substance added to the list on or after January 1, 2002, the Department of Justice may postpone the effective date of the requirement for a permit for a period not to exceed six months from the listing date of the substance.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence (68-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (38-0)*

**AB 444 (Committee on Budget): Chapter 1022: Human services: budget trailer bill. Urgency.**

(Amends, adds and repeals a number of statutory provisions, amends Sections 11970, 11970.2 of, adds Article 5 (commencing with Section 11970.45) to Chapter 2 of Part 3 of Division 10.5 of, the Health and Safety Code, and amends Section 10980 of the Welfare and Institutions Code.)

**Existing law** (the Comprehensive Drug Court Implementation Act of 1999) requires the county alcohol and drug administrator and the presiding judge in a county to develop and submit a comprehensive multiagency drug court plan for implementing cost-effective local drug court systems.

**This bill** states the intent of the Legislature that the State Department of Social Services, within its available resources, conduct an independent evaluation of a model program in San Diego County that provides substance abuse treatment to parents who are involved in dependency court cases.

**Existing law** (the Drug Court Partnership Act of 1998) establishes a competitive grant program to which county alcohol and drug program administrators may submit grant requests to the State Department of Alcohol and Drug Programs as part of multiagency plans that identify the resources and strategies needed for effective drug court programs, as specified.

**This bill** repeals the Drug Court Partnership Act of 1998 on January 1, 2004, and establishes the Drug Court Partnership Act of 2002, to be administered by the department for the purpose of providing grants to assist drug courts that accept only

defendants who have been convicted of felonies and placed on probation on the condition that they participate in the drug court program.

**This bill** requires the program to be designed and implemented by the department and the Judicial Council and specifies the use of grant funds under the program, and requires the department to submit annual reports to the Legislature regarding the cost savings of the program, as specified, and states legislative intent that the program be funded by an appropriation in the annual Budget Act, and limits the department's program administrative costs to 5% of funds appropriated for purposes of the Act.

**Existing law** provides that whenever any person has by means of false statement or representation or, by impersonation or other fraudulent device, obtained or retained aid under public social service program provisions for himself or herself or for a child not in fact entitled thereto, the person obtaining this aid shall be punished according to a schedule related to the amount of benefits received.

**This bill** instead requires that these crimes be committed willfully and knowingly, with the

**Legislative History:**

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(54-26)*

*Senate Floor (27-13)*

intent to deceive, and also includes the failure to disclose a material fact within the crimes subject to these criminal penalties. (Note: This bill also changes reporting periods for food stamps and the information that must be supplied by the recipient.)

**AB 1868 (Koretz): Chapter 1057: Nuisance abatement: buildings used for controlled substances and “red-light” practices.**

(Amends Sections 11571, 11573, 11573.5, and 11581 of the Health and Safety Code, and amends Sections 11226, 11227, and 11230 of the Penal Code.)

**Existing law** provides that:

- Every building or place used for the purpose of specified controlled substance transactions is a nuisance. If the existence of the nuisance is shown to the satisfaction of a court, the court shall allow a temporary writ of injunction to abate and prevent the continuance of the nuisance.
- Various remedies are available to a court in a controlled substances nuisance abatement action, including ordering the owner to make improvements to the property.
- A court may assess a civil penalty not to exceed \$25,000 against a controlled substances nuisance defendant, as specified.
- Every building or place used for the purpose of illegal gambling, lewdness, assignation, or prostitution is a nuisance with respect to which the county district attorney is required, and a city attorney of an incorporated city is authorized, to maintain an action to abate the nuisance.
- If the existence of a gambling or prostitution nuisance is shown to the satisfaction of a court, the court shall allow a temporary writ of injunction to abate and prevent the continuance of the nuisance.
- If the existence of a gambling or prostitution nuisance is

established in a nuisance abatement action, the court, in lieu of ordering the building or place where the gambling or prostitution nuisance exists closed, may order the person who is responsible for the existence of the nuisance to pay damages, as specified, to be deposited in the Restitution Fund, as specified.

**This bill** provides that:

- A court may issue a temporary restraining order or injunction to enjoin subsequent owners, commercial lessees, or agents who acquire the building or place where the controlled substances nuisance exists with notice of the order or injunction, specifying that the owner of the property subject to the temporary restraining order or injunction shall notify any prospective purchaser, commercial lessee, or other successor in interest of the existence of the order or injunction, and of its application to successors in interest, prior to entering into any agreement to sell or lease the property.
- The nuisance abatement order or injunction shall not constitute a title defect, lien, or encumbrance on the real property.
- The county district attorney, the city attorney of any city, or the city attorney of any city and county are authorized to maintain an action to abate a

***Legislative History:***

*Assembly Judiciary (10-0)*  
*Assembly Appropriations (19-4)*  
*Assembly Floor (53-26)*  
*Assembly Concurrence (53-25)*

*Senate Public Safety (5-0)*  
*Senate Judiciary (5-1)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (24-9)*

gambling or prostitution nuisance. (The bill eliminates the provision that a district attorney must pursue nuisance abatement actions. It would, however, appear that pursuant to the separation of powers doctrine, the district attorney had discretion in such actions under existing law.)

- A court in a controlled substances nuisance abatement action, in addition to existing remedies, is allowed to order the nuisance defendant to reside in the property until the nuisance is abated. Any such order shall specify the specific number of hours per day or week the defendant must actually remain on the premises.
- One-half of the civil penalties collected shall be deposited in the Restitution Fund, the proceeds of which shall be

***Controlled Substances***

*AB 1868 (Koretz), continued*

available only upon appropriation by the Legislature to indemnify crime victims who file claims for pecuniary losses they suffer as a direct result of criminal acts, and the other half shall be paid to the city in which the judgment was entered or to the treasurer of the county in which the judgment was entered.

penalties collected shall be deposited in the Restitution Fund, and the other half shall be paid to the city in which the judgment was entered or to the treasurer of the county in which the judgment was entered.

- A temporary restraining order or injunction may enjoin subsequent owners, commercial lessees, or agents who acquire the building or place where the gambling or prostitution nuisance exists with notice of the order or injunction, specifying that the owner of the property subject to the temporary restraining order or injunction shall notify any prospective purchaser, commercial lessee, or other successor in interest of the existence of the order or injunction, and of its application to successors in interest, prior to entering into any agreement to sell or lease the property. The bill would provide that the order or injunction shall not constitute a title defect, lien, or encumbrance on the real property.
- Damages shall be paid to the city or county in whose jurisdiction the nuisance is located.
- The court may assess a civil penalty not to exceed \$25,000 against any and all defendants, based upon the severity of the nuisance and its duration. Further, one-half of the civil

**AB 2589 (Cardoza): Chapter 443: Destruction of containers holding hazardous chemicals used in controlled substances manufacturing.**

(Amends Sections 11479.5 and 25354.5 of the Health and Safety Code.)

**Existing law** provides the following as to the destruction of hazardous chemicals used in the manufacture of controlled substances:

- After seizure by a law enforcement agency of a suspected hazardous chemical believed to have been used in the unlawful manufacture of controlled substances, that amount in excess specified amounts of the substance may be disposed of without a court order by the seizing agency. The amount that may be destroyed depend on the nature of the substance.
- The destruction of suspected hazardous chemicals shall not take place until specified requirements are met. These include preserving samples of the material and photographing the entire amount.
- After disposal of a suspected hazardous chemical, the law enforcement agency involved shall maintain records, as specified, and shall specify the date and time of the disposal.
- Subsequent to any destruction of a suspected controlled substance in combination with a hazardous chemical, an affidavit shall be filed within 30 days in the court that has jurisdiction over any pending criminal proceedings pertaining to that suspected controlled substance, reciting specified information.
- Requires that photographs must be taken of the containers and items contaminated with a hazardous substance to reasonably demonstrate the size of these items.
- Provides that if a search warrant was issued in connection with the seizure of controlled substances, an affidavit containing specified information shall be filed in the court that issued the search warrant.

**This bill** does the following:

- Makes the above provision expressly applicable to chemical containers and items contaminated with a hazardous substance, as specified.

***Legislative History:***

*Assembly Environmental Safety and Toxic Materials (9-0)*

*Assembly Public Safety (5-0)*

*Assembly Appropriations (24-0)*

*Assembly Floor (79-0)*

*Assembly Concurrence (78-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (39-0)*

**AB 2655 (Matthews): Chapter 345: Controlled Substance Utilization Review and Evaluation System (CURES).**

(Amends Section 11165 of, and adds and repeals Section 11165.1 of, the Health and Safety Code.)

**Existing law** provides for the electronic monitoring of the prescribing and dispensing of Schedule II controlled substances pursuant to the Controlled Substance Utilization Review and Evaluation System (CURES) program, as specified, contingent upon the availability of adequate funds, and is scheduled to become inoperative on July 1, 2003, and to be repealed on January 1, 2004.

**This bill** deletes a provision providing for an appropriation from the Pharmacy Board Contingent Fund to the Board of Pharmacy to fund CURES and instead provides that the

program shall be established, contingent upon the availability of adequate funds from the State Dentistry Fund and specified contingent funds of the Medical Board, Pharmacy Board, and Osteopathic Medical Board; provides that the program instead shall become inoperative on July 1, 2008, and shall be repealed on January 1, 2009; makes a technical change; provides, in addition, that a licensed health care practitioner or pharmacist may make a written request for, and the Department of Justice may release to that practitioner or pharmacist, the history of controlled substances dispensed

***Legislative History:***

*Assembly Health (18-0)*  
*Assembly Appropriations (24-0)*

*Assembly Floor (75-0)*  
*Assembly Concurrence (78-0)*

*Senate Health and Human Services (9-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

to an individual under his or her care based on data contained in CURES, as specified; and makes related changes in law.

## ***CORPORATE MISCONDUCT***

**SB 783 (Escutia): VETOED: Whistleblowers. Mandatory reporting of corporate misconduct.**

(Amends Sections 1102.5 and 1106 of, and adds Sections 1102.6, 1102.7, and 1102.8 to, the Labor Code.)

(Note: The contents of this bill (SB 783) on whistleblowers and required reporting of corporate misconduct were originally in SB 1452. These provisions were placed into SB 783 on August 15, 2002. The votes on SB 1452 were as follows: Senate Public Safety (4-2), Senate Appropriations (10-0), Senate Judiciary (4-1) Senate Floor (21-15).)

**Existing law** prohibits employers from making, adopting, or enforcing a policy that prevents an employee from disclosing violations of state or federal statute, or a violation or noncompliance with a state or federal regulation to a government or law enforcement agency, or from retaliating against an employee who makes a disclosure. Violation is punishable as a misdemeanor.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence (21-11)*

*Assembly Judiciary (9-0)*  
*Assembly Appropriations (16-5)*  
*Assembly Floor (47-27)*



**This bill** would have done the following:

- Extended these protections to employees who report a violation of a state or federal rule, who refuse to participate in an activity that would result in a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation, or who exercised these rights in former employment.
- Prohibited an employer from retaliating against an employee for exercising any of these rights, including those provided under existing law, and would add an additional civil penalty for violations.
- Established a “whistleblower hotline” within the office of the

Attorney General (AG) to receive telephone reports of violations of state or federal statutes, rules, or regulations, or fiduciary responsibilities, by an employer.

- Required the AG to refer calls received on this hotline to the appropriate government authority, as specified.
- Required an employer to display a list of an employee’s rights under whistleblower laws, including the telephone number of the hotline created by the bill.
- Required reporting of improper activity to the AG when companies and their management have actual knowledge of wrongdoing.

Applies to companies that must register with the SEC.

- Subjected companies and company officials (and members of limited liability companies) to substantial civil penalties for failing to report such wrongdoing. (Penalties are up to \$50,000 for managers, \$100,000 for officers/members and \$1 million for companies.)
- Imposed civil penalties on officers or directors of corporations, members of limited liability companies, corporations, and limited liability companies for false reporting, as specified, of various categories of financial information.

## ***CORRECTIONS***

### **Local Corrections**

**SB 1481 (Polanco): Chapter 146: Local corrections: inmate welfare funds.**  
(Amends Section 4025 of the Penal Code.)

**Existing law** provides that the sheriff of each county may maintain an inmate welfare fund to be kept in the treasury of the county into which profit from a store operated in connection with the county jail, 10% of all gross sales of inmate hobbycraft, and any rebates or commissions received from a telephone company, as specified, is required to be deposited; the money and property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit, education, and

welfare of the inmates confined within the jail; any funds that are not needed for the welfare of the inmates may be expended for the maintenance of county jail facilities.

**This bill** “clarifies” that the inmate welfare fund is not to be used to pay required county expenses of confining inmates in a local detention system, such as meals, clothing, housing, or medical services or expenses, except that they may be used to augment those expenses as

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

*Senate Public Safety  
(4-1)  
Senate Floor (24-3)*

*Assembly Public Safety  
(5-0)  
Assembly Floor (67-2)*

determined by the sheriff to be in the best interests of inmates.

**AB 2200 (Ashburn): VETOED: Criminal law: imprisonment: work release programs.**  
(Amends Sections 4019 and 4024.2 of the Penal Code.)

**Existing law** provides that prisoners confined in or committed to a city or county jail, as specified, are eligible for "conduct and work" credit. Existing law also permits the board of supervisors of any county in which the average daily inmate population is 90 percent of the county's correctional system's mandated capacity to operate a mandatory work release program, as specified, and provides that

participants in a mandatory work release program shall receive any sentence reduction credits that they would have received had they served their sentences in a county correctional facility.

**This bill** would have allowed prisoners who participate in a voluntary work release program to be eligible for the same credits they would be eligible for if they were in actual custody at a city or county jail.

***Legislative History:***

*Assembly Public Safety (5-0)*  
*Assembly Floor (70-7)*

*Senate Public Safety (6-0)*  
*Senate Floor (30-2)*

**AB 2750 (Wesson): Chapter 1067: Adult education: classes in correctional facilities.**  
(Amends Section 41841.6 of the Education Code.)

**Existing law** limits increases in funding for schools or classes for adults in correctional facilities offered by school districts and county boards of education to 2.5% per fiscal year unless the Legislature approves a greater increase for a fiscal year in the annual Budget Act.

**This bill** permits increases in the maximum average daily attendance calculations for schools and classes for adults in correctional facilities, as prescribed.

**This bill** contains the following uncodified statement:

The Legislature finds and declares that jail education contributes to

the public safety by providing inmates with the skills and knowledge needed to succeed upon release. The Legislature also finds and declares that the existing method of funding jail education has contributed to the decline in enrollments in jail education programs. The intent of this measure is to establish a funding mechanism that does not result in reduced enrollments due to the attendance fluctuations that are inherent in operating education programs within the jail system.

***Legislative History:***

*Assembly Education (15-0)*  
*Assembly Appropriations (17-7)*  
*Assembly Floor (68-6)*  
*Assembly Concurrence (68-8)*

*Senate Education (10-0)*  
*Senate Appropriations (8-1)*  
*Senate Floor (28-6)*

## Parole/Probation

### **SB 330 (Morrow): Chapter 1078: Interstate Compact for the Supervision of Adult Offenders.**

(Amends Sections 11180 and 11181 of the Penal Code.)

**Existing law** adopts the Interstate Compact for the Supervision of Adult Offenders, which, among other things, requires the creation of a state Council for Interstate Adult Offender Supervision.

**This bill** revises the selection of the commissioner representing California on the Interstate Commission for Adult Offender Supervision, revises the

appointment of members of the council, and requires the council to make a report, not later than July 1, 2005, as specified, in regard to the implementation of the Interstate Compact, and the organization of certain supervisory entities pursuant to the Interstate Compact. This bill makes additional technical changes.

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

*Senate Public Safety (5-0)*  
*Senate Appropriations (9-0)*  
*Senate Floor (40-0)*  
*Senate Concurrence (39-0)*

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (78-0)*

### **AB 310 (Goldberg): Chapter 619: Female parolees: reintegration program in lieu of parole revocation.**

(Amends Section 3054 of the Penal Code.)

**Existing law** provides that the Department of Corrections shall establish three pilot programs that provide intensive training and counseling programs for female parolees to assist in the successful reintegration of those parolees into the community upon release or discharge from prison and after completion of in-prison therapeutic community substance abuse treatment programs.

**This bill** does the following:

- Allows the Board of Prison Terms to order initial or continued participation in one of the three pilot programs

authorized in Penal Code Section 3054, in lieu of revocation of parole, provided that the Department of Corrections approves the program participation, the parolee meets all eligibility criteria for the program, and the parole violation was nonviolent.

- Requires that the Department of Corrections prepare an informational handout explaining the three pilot programs and that a copy of the informational handout shall be given to each female inmate eligible for any of the pilot programs and to each female parolee eligible for any of the pilot programs, as specified.

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

*Assembly Public Safety (5-1)*  
*Assembly Appropriations (13-6)*  
*Assembly Floor (43-28)*  
*Assembly Concurrence (44-31)*

*Senate Public Safety (4-1)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (21-14)*

**AB 2075 (Chavez): Chapter 919: Payment of the costs of pretrial monitoring and reports and postsentence reports.**

(Adds and repeals Section 1203.1bc of the Penal Code.)

**Existing law** authorizes the court to make a determination of the ability of a convicted defendant to pay all or a portion of certain costs that accrue to the county probation department. Those include the cost of probation, conducting any presentence investigation, preparing a specified presentence report, preplea investigation, and preparing a specified preplea report. (2) The county probation department must to make a recommendation to the court on the defendant's ability to pay these amounts. The defendant can accept that finding or request a hearing. (3) A court must order a defendant to pay that portion of those costs which is reasonable and compatible with

the defendant's financial ability. Under existing law, the defendant's ability to pay is determined in part based on the probation costs chargeable to the defendant.

**This bill** extends these provisions to apply to the reasonable costs of other probation department activities, including pretrial monitoring, pretrial reports, and postsentence reports for defendants convicted of white-collar crime, drug trafficking, or gang crimes for profit, and, requires the court to also consider the new probation costs described above when determining the defendant's ability to pay.

***Legislative History:***

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (75-0)*  
*Assembly Concurrence (79-0)*  
  
*Senate Public Safety (4-0)*  
*Senate Appropriations (9-0)*  
*Senate Floor (32-1)*

**AB 2539 (Rod Pacheco): Chapter 829: Increased parole period for sex offenders.**  
(Amends Sections 3000 and 3001 of the Penal Code.)

**Existing law** specifies the period of parole for various crimes for which an inmate has been imprisoned in the state prison, and provides for the discharge of certain persons from parole prior to the end of that period, unless the Department of Corrections recommends to the Board of Prison Terms that the person be retained on parole and the board, for good cause, determines that the person will be retained on parole.

released on parole for a period of 5 years, rather than 3 years, those inmates convicted of sexual penetration accomplished against the victim's will, and inmates who have received a life sentence as an habitual sex offender. The bill also revises the provisions for discharge from parole after 2 years since release from confinement to apply only to inmates released on parole for a period not exceeding 3 years, and adds similar provisions for the discharge from parole after 3 years of inmates released on parole for a period not exceeding 5 years. The bill also extends

**This bill** adds to the list of crimes for which an inmate shall be

***Legislative History:***

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (73-0)*  
  
*Senate Public Safety (5-0)*  
*Senate Appropriations (11-1)*  
*Senate Floor (35-0)*

provisions for release from parole after 3 years since release from confinement that are applicable to inmates released after certain terms of imprisonment, to specified inmates released on parole for a period not exceeding 3 years or 5 years under other provisions of law, and specifies that the 3-year period for release shall follow release from confinement or the extension of parole.

## **Prisons and Prisoners**

**SB 1315 (Sher): Chapter 483: Contracts with manufacturers and suppliers of drugs.** (Adds Chapter 12 (commencing with Section 14977) to Division 3 of Title 2 of the Government Code.)

**Existing law** authorizes certain state entities to purchase drugs for health purposes.

**This bill** authorizes the Department of General Services to enter into contracts on a bid or negotiated basis with manufacturers and suppliers of single source or multisource drugs, and authorizes the department to obtain from them discounts, rebates, or refunds as permissible under federal law; requires the State Department of Mental Health, the Department of Corrections, the Department of the Youth Authority, and the State Department of Developmental Services to participate in the program authorized by this bill; authorizes other state, local, and public

agency governmental entities to elect to participate in the program; authorizes the Department of General Services to explore additional strategies for managing drug costs; and requires the department, on or before February 1, 2005, to submit a report containing specified information to certain committees of the Legislature regarding the program.

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

*Senate Health and Human Services (8-1)*

*Senate Appropriations (9-1)*

*Senate Floor (25-8)*

*Senate Concurrence (30-7)*

*Assembly Health (12-0)*

*Assembly Appropriations (23-0)*

*Assembly Floor (73-3)*

**SB 1362 (Karnette): VETOED: Female inmates: family visitation.**

(Adds and repeals Section 3047 of the Penal Code and Uncodified Law.)

**Existing law** generally governs the conditions of incarceration for inmates in state prison. The Department of Corrections has through regulations adopted a program of family overnight visits for eligible inmates.

**This bill** would have required the Department of Corrections to establish a pilot project at the Central California Women's Facility, the California Institution for Women, Valley State Prison for Women, and the Northern California Women's Facility for any prisoner serving a term of imprisonment who has not had a release date set be subject to the

same visiting restrictions applicable to a prisoner who has a release date set for purposes of visits by the prisoner's children under 21 years of age, including the same visitation rights with a female relative who accompanies the prisoner's children under 21 years of age during the visit. The department was to report back to the Governor and the Legislature on the pilot project by January 1, 2007, and these provisions were to be repealed on January 1, 2008, unless otherwise extended by subsequent statute. This bill also would have made legislative findings about female inmates and contacts with their families.

**Legislative History:**

*Senate Public Safety (4-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (21-13)*  
*Senate Concurrence (23-11)*

*Assembly Public Safety (4-2)*  
*Assembly Appropriations (15-7)*  
*Assembly Floor (42-33)*

**SB 1544 (Karnette): VETOED: Foreign prisoners.**

(Adds Section 2912.5 to the Penal Code.)

**Existing law** provides that whenever a treaty is in force providing for the transfer of offenders between the United States and a foreign country, the Governor or his designee is authorized to give the approval of the state to a transfer as provided in the treaty, upon the application of a person under the jurisdiction of the Department of Corrections, the Department of the Youth Authority, and the State Department of Health Services. (Government Code § 12012.1.)

**Existing law** (Penal Code § 2912) provides that the Board of Prison Terms shall do the following:

- Under its Foreign Prisoner Transfer Program, devise a

method of notifying each undocumented felon in a prison or reception center operated by the Department of Corrections that he or she may be eligible to serve his or her term of imprisonment in his or her country of origin as provided in federal treaties.

- Actively encourage each eligible undocumented felon to apply for return to his or her country of origin as provided in federal treaties and shall provide quarterly reports outlining its efforts under this section to the Chairperson of the Joint Legislative Budget Committee and the chairperson of each fiscal committee of the Legislature.

**Legislative History:**

*Senate Public Safety (4-0)*  
*Senate Appropriations (8-0)*  
*Senate Floor (30-2)*  
*Senate Concurrence (22-4)*

*Assembly Public Safety (5-1)*  
*Assembly Appropriations (15-7)*  
*Assembly Floor (52-16)*

- Adopt the model program developed by the State of Texas for encouraging participation in the federal repatriation program where appropriate.

**This bill** would have (1) enacted findings and declarations of the Legislature about the transfer to their home countries – pursuant to various international treaties – of foreign prisoners incarcerated in California prisons, including “.

. . . the intent of the Legislature in enacting this measure is to expedite future transfers” and (2) enacted conditions for the transfer of foreign prisoners by the Board of Prison Terms and circumstances requiring the board to transfer foreign prisoners, as specified.

**SB 1791 (Karnette): VETOED: Youth and Adult Correctional Agency: Office of the Inspector General.**

(Amends Sections 6051 and 6126.4 and repeals and adds Section 6126.6 of the Penal Code.)

**Existing law** provides for an independent Office of the Inspector General and makes certain provisions regarding the release of audits and investigations conducted by this office.

**This bill** would have required the Office of the Inspector General to provide a copy of any management review audit or special audit report, upon request, to any member of the Legislature or the public, with certain specified exceptions. This bill also would have required the Office of the Inspector General to provide a confidential written report of any completed investigation to specified individuals and to provide a summary of the

report’s findings and conclusions, upon request, to the person who requested the investigation, the person(s) that was subject of the investigation, and any member of the Legislature.

***Legislative History:***

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

*Senate Appropriations,*  
*SR 28.8*

*Senate Floor (38-0)*

*Senate Concurrence*  
*(38-0)*

*Assembly Public Safety*  
*(6-0)*

*Assembly Appropriations*  
*(23-0)*

*Assembly Floor (79-0)*

**AB 2133 (Goldberg): Chapter 238: Inmate visitation.**

(Adds Chapter 10.7 (commencing with Section 6400) to the Penal Code.)

**Existing law** includes legislative findings and declarations indicating the importance of visitation to prisoners as an effective correctional technique that reduces recidivism, and provides for specified services for visitors to prisons; the Department of Corrections has adopted regulations governing the policy and practice of prison visitation.

**This bill** provides that any amendments to existing regulations and any future regulations adopted by the Department of Corrections which may impact the visitation of

inmates shall do all of the following:

- Recognize and consider the value of visiting as a means to improve the safety of prisons for both staff and inmates.
- Recognize and consider the important role of inmate visitation in establishing and maintaining a meaningful connection with family and community.
- Recognize and consider the important role of inmate visitation in preparing an inmate for successful release and rehabilitation.

***Legislative History:***

*Legislative History:*  
*Assembly Public Safety (4-1)*  
*Assembly Appropriations (16-6)*  
*Assembly Floor (44-28)*

*Senate Public Safety (5-1)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (22-12)*

**AB 2203 (Florez): Chapter 240: Penal institutions: confidentiality of personnel information.**

(Adds Section 5029 to the Penal Code.)

**Existing law** provides for penal institutions and for the personnel employed by those penal institutions.

**This bill:**

- Requires that the Director of Corrections shall ensure that documents, computers, or computer accessible media containing personal information relating to an employee of the Department of Corrections is not removed from the state prison without proper authorization from the warden or his or her designee.

- Provides that any employee of the Department of Corrections who, without proper authorization, knowingly removes personal information relating to an employee of the Department of Corrections from the state prison is subject to disciplinary action.
- Requires that an employee who removes personal information shall, once the employee is aware that the information either is lost or stolen or cannot be accounted for, make a reasonable effort to immediately notify the warden, or his or her designee, of that

***Legislative History:***

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (66-0)*

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (35-0)*



fact. Failure to provide this notice makes the employee subject to disciplinary action.

- Requires that the warden, or his or her designee, shall attempt to notify the employee whose personal information either is lost or stolen or cannot be accounted for within 24 hours of receiving the notice, as specified.
- Defines "personal information" to have the meaning set forth in the Information Practices Act

which is: ". . . any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual."

- Provides that it is not the intent of the Legislature, in enacting

this section, to inhibit or prevent a person from making a disclosure of improper governmental activity that is protected by the California Whistleblower Protection Act or by the Whistleblower Protection Act, as specified.

- Provides that nothing in this section shall be construed to interfere with the authority of the Office of the Inspector General nor the authority of the State Auditor, as specified.

**AB 2336 (Negrete McLeod): Chapter 65: Prisoners parental or marital rights: hearing notice.**

(Amends Section 2625 of the Penal Code.)

**Existing law** requires that an order for the temporary removal of a prisoner from a prison to attend a proceeding affecting the adjudication of parental or marital rights be transmitted to the warden not less than 48 hours before the order is executed.

**This bill** extends the time from 48 hours to 15 days for the order to appear to be transmitted to the warden.

***Legislative History:***

*Assembly Public Safety*  
*(6-0)*

*Assembly Floor (72-0)*

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

*Senate Floor (38-0)*

**AB 2456 (Jackson): Chapter 196: Employment of offenders during incarceration or community service.**

(Amends Sections 4017.1 and 5071 of the Penal Code, and amends Section 219.5 of the Welfare and Institutions Code.)

**Existing law** does the following:

- Prohibits prison inmates, county jail inmates and wards of the California Youth Authority from having access to personal information including, but not limited to, social security numbers, addresses, driver's license numbers, credit card numbers, or telephone numbers of private individuals if the offender has been convicted of an offense involving: (a) forgery or fraud; (b) misuse of a computer; (c) sex offenses requiring registration; and (d) any misuse of the personal or financial information of another person. Those restrictions shall not apply to inmates in employment programs or public service facilities where incidental contact with personal information may occur.
- Requires county jail and prison inmates who have access to any personal information to disclose that he or she is confined before taking any personal information from any person.
- Requires wards of the CYA who have access to any personal information, if asked, to disclose that he or she is a ward before taking any personal information from any person.
- Provides persons confined in a county jail, city jail, industrial farm or road camp can be

required by order of the board of supervisors or city council to perform certain kinds of employment, including prevention of fires, roadwork, and clerical and menial labor in the facility.

**This bill** does the following:

- Expands the list of "including but not limited to" personal information in the three existing sections to add "health insurance, taxpayer, school, or employee identification numbers; mothers' maiden names; demand deposit account, debit card, savings, or checking account numbers, PINs, or passwords; places of employment; dates of birth; state or government issued identification numbers; alien registration numbers; government passport numbers; unique biometric data, such as fingerprints, facial scan identifiers, voice prints, retina or iris images, or other similar identifiers; unique electronic identification numbers; address or routing codes; and telecommunication identifying information or access devices."
- Adds to the category of persons prohibited from having access to personal information any person at the county level while performing community service.

***Legislative History:***

*Assembly Public Safety (6-0)*

*Assembly Floor (72-0)*

*Assembly Concurrence (76-0)*

*Senate Public Safety (5-0)*

*Senate Floor (38-0)*

**AB 2529 (Negrete McLeod): VETOED: Hepatitis C.**  
(Amends Section 122415 of the Health and Safety Code.)

**Existing law** (the Hepatitis C Education, Screening, and Treatment Act) requires (1) 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; (2) the director to provide the budget subcommittees of the Legislature, on or before March 1, 2002, with an annual statistical report on the prevalence of the hepatitis C virus in correctional facilities and trends in the incidence and prevalence of the hepatitis C virus in the correctional system; (3) and implements these provisions only to the extent funds for this purpose have been appropriated in the annual Budget Act. (Note: The Legislature granted the CDC a \$1 million appropriation to develop and implement a

strategy for the prevention, education, screening, related tests, and treatment of inmates with hepatitis C, although that strategy and appropriations was apparently considered a “pilot project”.)

**This bill** would have added to the Section 122415 requirements that the Director shall implement only if funds are appropriated in the annual Budget Act that:

- The hepatitis C program shall be established in a manner that is “free and confidential.”
- The treatment and follow-up testing shall be at no charge to the inmate.
- Free and confidential voluntary testing for all prisoners shall be provided in conjunction with

**Legislative History:**

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (62-12)*

*Senate Public Safety (6-0)*  
*Senate Appropriations (10-0)*  
*Senate Floor (39-0)*

prevention education and treatment counseling.

- The Director shall make available comprehensive hepatitis C education for all prisoners including information on hepatitis C transmission through the sharing of injection equipment or tattoo equipment.

**AB 2673 (Cogdill): VETOED: Conservation camps. Urgency.**  
(Adds Section 6203.5 to the Penal Code.)

**Existing law** establishes conservation camps under the jurisdiction of the Department of Corrections.

**This bill** would have required the Department of Corrections to house, at the Central California Women’s Facility, or the Valley State Prison for Women, up to 120 inmates trained as conservation camp inmates; the Department of Corrections and the Department of Forestry would have been authorized to use these inmates in the same manner as inmate crews housed

at conservation camps; operation of the bill would have been contingent upon a future appropriation, and a determination that there are enough female inmates who are trained and eligible, as specified. This bill would have taken effect immediately as an urgency statute.

**Legislative History:**

*Assembly Public Safety (5-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (78-0)*  
*Assembly Concurrence (77-0)*

*Senate Public Safety (6-0)*  
*Senate Appropriations (9-1)*  
*Senate Floor (37-0)*

**AB 2773 (Salinas): Chapter 113: Prison Industry Authority.**  
(Amends Section 2816 of the Penal Code.)

**Existing law** provides that the chairman of the Prison Industry Board (the Director of Department of Corrections), in consultation with the board, may order any authorized inmate labor public works project when the total expenditure does not exceed \$200,000. Projects entailing expenditure of greater than \$200,000 shall be reviewed and approved by the Prison Industry Board.

**This bill** authorizes the chairman of the Prison Industry Board to order, without board approval, any inmate labor project, as specified, as long as the project's expenditures do not exceed the minor capital outlay limit established in the Public Contract Code (currently set at \$400,000).

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (67-0)*

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (36-0)*

**AB 2905 (Wright): VETOED: Correctional institutions: human immunodeficiency virus.**

(Adds Sections 7506 and 7507 to the Penal Code.)

**Existing law** sets forth certain circumstances under which testing an inmate for human immunodeficiency virus (HIV) may be required, including upon request by certain peace officers or other inmates in specified circumstances and requires the Director of Corrections to implement certain HIV procedures, as specified. Some of the requirements on the Director are contingent upon funding appropriated for that purpose.

**This bill** would have required HIV testing to be offered by the Department of Corrections without charge to all inmates in state prison, as specified; would have provided that every inmate shall initially be informed regarding an inmate's ability to request testing for HIV infection upon commitment to the state prison system; and would have provided that every inmate shall be informed of the right to refuse that testing; and would have made related changes in statute. The requirements of this bill were to be contingent upon an appropriation by the Legislature.

***Legislative History:***

*Legislative History:*  
*Assembly Public Safety (5-2)*  
*Assembly Appropriations (17-7)*  
*Assembly Floor (58-20)*  
*Assembly Concurrence (52-28)*

*Senate Public Safety (4-0)*  
*Senate Appropriations (9-1)*  
*Senate Floor (26-9)*

# CRIMINAL PROCEDURE

## **SB 1391 (Burton): Chapter 1105: Discovery.**

(Amends Section 1417.9 of, and adds Sections 1054.9 and 1473.6 to, the Penal Code).

**Existing law** provides pretrial discovery in criminal cases is governed by a detailed statutory scheme, but discovery issues in post conviction habeas corpus proceedings are decided largely on a case-by-case basis.

**This bill** provides that discovery materials to which a defendant would have been entitled at the time of trial be made reasonably accessible to the defendant if he or she has been sentenced to death or life in prison without the possibility of parole and files a specified motion or writ of habeas corpus when the defendant shows that the original file has been lost or destroyed.

**Existing law** provides that every person unlawfully imprisoned or restrained of his liberty, under any pretense whatever, may

prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint. However, existing law does not allow a person no longer imprisoned or restrained to bring a writ of habeas corpus or any other motion or writ to challenge the conviction.

**This bill** provides that a person no longer unlawfully imprisoned or restrained may make a motion to vacate a judgment for any of the following reasons: newly discovered evidence of fraud by a government official that completely undermines the prosecution's case, is conclusive, and points unerringly to innocence; newly discovered evidence that a government official testified falsely at the trial that resulted in the conviction and that the testimony of the official was substantially

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

*Senate Public Safety (4-2)*  
*Senate Appropriations (8-3)*  
*Senate Floor (21-14)*  
*Senate Concurrence (21-10)*

*Assembly Public Safety (4-1)*  
*Assembly Appropriations (15-7)*  
*Assembly Floor (42-31)*

probative on the issue of guilt or punishment; or, newly discovered evidence of misconduct by a government official that resulted in fabrication of evidence that was substantially material and probative on the issue of guilt or punishment.

## **SB 1559 (Figueroa): Chapter 96: Child witnesses: closed circuit television.**

(Amends and repeals Section 1347 of the Penal Code.)

**Existing law** allows victims of specified sex offenses and violent offenses who are 13 years or under to testify in court by closed-circuit television, if approved by the court and when specified circumstances are met. That statute sunsets on January 1, 2003, and after that date only the portion of the law allowing such testimony in sex offense cases will be authorized.

**This bill** removes the sunset in the statute authorizing testimony by closed circuit television in these circumstances.

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

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

*Assembly Public Safety (6-0)*  
*Assembly Floor (77-0)*

**SB 1739 (Morrow): Chapter 210: Witnesses: protection.**

(Amends Sections 132.5, 14021, 14022, 14025, 14025.5, and 14026.5 of the Penal Code.)

**Existing law** establishes a Witness Protection Program administered by the Attorney General to provide for the relocation or other protection of a witness in a criminal proceeding where there is credible evidence, as defined, of substantial danger that the witness may suffer intimidation or retaliatory violence. The Attorney General may enter into an agreement with a witness under specified terms so that a witness selected by the Attorney General may receive services under the program from “victim of crime” funds. The Attorney General may also determine whether family, friends, or associates of the witness are endangered, and therefore are also subject to protection under these provisions and reimburse state and local agencies for the costs of providing witness

protection services when an action is brought by local prosecutors. Existing law provides immunity to the Attorney General for any condition in the witness protection agreement that cannot reasonably be met due to a witness committing a crime while in the program.

**This bill** allows local prosecutors to select a witness for participation in the above program.

**Existing law** prohibits the payment of a witness for providing testimony in a criminal case.

**This bill** exempts payments under the witness protection program from the above provision.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (22-0)*  
*Assembly Floor (74-0)*

**SB 1754 (McPherson): Chapter 148: Bench warrants: assessments.**

(Amends Section 853.7a of the Penal Code, and amends Section 40508.5 of the Vehicle Code.)

**Existing law** allows a county, by resolution of the board of supervisors, to require the courts of that county to impose an assessment of \$7 upon every person who fails to appear in court when required to do so, or who fails to comply with any valid court order and requires that the money collected under this system to be used for the development of an automated county warrant system.

**This bill** raises the above amount to \$15 and authorizes a county to use any money remaining after developing and maintaining the automated warrant system to fund a warrant service task force for the purpose of serving all bench warrants issued within the county.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Floor (39-0)*

*Assembly Public Safety (4-0)*  
*Assembly Floor (74-0)*

**SB 1980 (McPherson): Chapter 864: Search warrants.**  
(Amends Section 1524 of, and adds Section 1524.3 to, the Penal Code.)

**Existing law** provides that a search warrant to seize items may be obtained only in the following limited circumstances: the property was stolen or embezzled; the property was used in the commission of a felony; the property is in the possession of a person with the intent to use it to commit a public offense; the property constitutes evidence to show a felony has been committed or that a person has committed a

felony; and, the property tends to show that sexual exploitation of a child has occurred or is occurring; when there is a warrant to arrest a person.

**This bill** allows a governmental entity to use a search warrant to obtain the records of a subscriber of an electronic communication service or remote computing service.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Floor (38-0)*  
*Senate Concurrence (39-0)*

*Assembly Public Safety (4-0)*  
*Assembly Floor (76-0)*

**AB 74 (Washington): Chapter 605: Interception of communication.**  
(Amends Sections 629.50, 629.51, 629.52, 629.54, 629.56, 629.58, 629.60, 629.62, 629.64, 629.68, 629.70, 629.72, 629.74, 629.76, 629.78, 629.80, 629.82, 629.86, 629.88, 629.89, 629.90, 629.94, and 629.98 of, and adds Sections 629.53 and 629.61 to, the Penal Code.)

**Existing law** authorizes the Attorney General, chief deputy attorney general, chief assistant attorney general, or district attorney to apply to the presiding judge of the superior court for an order authorizing the interception of wire, electronic digital pager, or electronic cellular telephone communications under specified circumstances.

**This bill** also authorizes the person designated to act as district attorney in the district attorney's absence to apply for the order.

**This bill** expands the definition of the communications that can be intercepted to include any electronic pager.

**This bill** provides that an order can be modified when there is probable cause to believe that the person identified in the original order has changed the facility or device that is subject to the order.

**This bill** defines "wire communication," "oral communication," "electronic communication," and "aural transfer."

**Existing law** specifies the crimes for which an interception order may be sought: murder, kidnapping, bombing, criminal gangs, and possession for sale, sale, transportation, or manufacturing of more than three pounds of cocaine, heroin, PCP, or methamphetamine.

***Legislative History:***

*Assembly Public Safety (5-0)*  
*Assembly Appropriations (11-5)*  
*Assembly Floor (45-0)*  
*Assembly Concurrence (71-0)*

*Senate Public Safety (4-0)*  
*Senate Appropriations (8-0)*  
*Senate Floor (26-1)*

**This bill** expands the list of offenses eligible for intercept orders to include offenses involving weapons of mass destruction or restricted biological agents.

**This bill** provides that the Judicial Council may establish guidelines for judges to follow in granting an order authorizing the interception of any wire, electronic pager, or electronic cellular telephone communications.

**Existing law** provides that the court may grant oral approval for an emergency interception without an order as specified. Approval for an oral interception shall be conditioned upon filing with the court, within 48 hours of the oral approval, a written application for an order.

**Existing law** requires that written reports showing what progress has been made toward the achievement of the authorized objective be submitted at least every 72 hours to the judge who issued the order allowing the interception.

**This bill** provides that the reports shall also contain the number of communications intercepted pursuant to the original order.

**This bill** provides that the reports need to be filed every six days instead of every 72 hours.

**This bill** provides that whenever an order authorizing an interception is entered the order shall require a report be made to the Attorney General showing what persons, facilities, or places

are to be intercepted pursuant to the application, and the action taken by the judge on each of these applications.

**Existing law** requires the Attorney General to prepare and submit an annual report to the Legislature, the Judicial Council and the Director of the Administrative Office of the United States Court on interceptions conducted under the authority of the wiretap provisions and specifies what the report shall include.

**This bill** provides that it shall also include, the number of wire, electronic pager, and electronic cellular telephone devices that are subject to each order granted, the numbers of orders issued under Penal Code Section 629.68 and when they were complied with, whether the subject of the intercept order was notified and the number of other individuals notified.

**Existing law** provides that before evidence derived from an intercepted communication may be received in evidence, each party must be given a copy of the transcript of the contents of the interception and a copy of the court order 10 days before any court proceeding, except as otherwise specified.

**This bill** provides that notice of an interception obtained pursuant to the wiretap provisions shall be provided to all defendants identified as the result of the interception not less than ten days after the arraignment.

**This bill** provides that the contents of any intercepted wire, electronic pager, or electronic cellular telephone communication and evidence derived from it shall be provided to all defendants identified as the result of an interception that was obtained pursuant to this chapter. The contents and evidence shall be disclosed not less than 10 days before any hearing except a grand jury proceeding. Each defendant shall be furnished with a transcript and a copy of the recording of the contents of the interception and a copy of the memo logs or contemporaneous notes made by the officers conducting the surveillance with a copy of the court order and accompanying application under which the interception was authorized.

**Existing law** provides that any person may move to suppress intercepted communications on the basis that the contents or evidence were obtained in violation of the Fourth Amendment to the United States Constitution or of California electronic surveillance provisions.

**Existing law** provides that if a law enforcement officer overhears a communication relating to a crime that is not specified in the wiretap order, but is a crime for which a wiretap order could have been issued, the officer may only disclose the information and thereafter use the evidence, if, as soon as practical, he or she applies to the court for permission to use the information. If an officer



overhears a communication relating to a crime that is not specified in the order, and not one for which a wiretap order could have been issued, the information may not be disclosed or used except to prevent the commission of a crime. No evidence derived from the wiretap can be used unless the officers can establish that the evidence was obtained through an independent source or inevitably would have been discovered. In all instances, the court may only authorize use of

the information if it reviews the procedures used and determines that the interception was in accordance with state wiretap laws.

**This bill** states officers may use information on any violent felony which is overheard.

**Existing law** provides for a sunset date of January 1, 2003.

**This bill** extends the sunset to January 1, 2008.

**AB 1590 (Simitian): Chapter 401: Criminal procedure: search or seizure hearing.**  
(Amends Section 1538.5 of the Penal Code.)

**Existing law** provides with respect to a preliminary examination in a criminal case that the magistrate shall, upon motion of either party, exclude all potential and actual witnesses who have not been examined. Existing law also authorizes either party to challenge the exclusion of any person under this provision and requires the magistrate, upon motion of either party, to hold a hearing, on the record, to determine if the person sought to be excluded is, in fact, a person excludable under this provision.

**This bill** applies these provisions to a hearing held pursuant to a motion to return property or suppress evidence obtained as the result of a search or seizure.

***Legislative History:***

*Assembly Public Safety*  
(7-0)  
*Assembly Floor (75-0)*  
*Assembly Concurrence*  
(78-0)

*Senate Public Safety*  
(6-0)  
*Senate Floor (35-0)*

**AB 1819 (Robert Pacheco): Chapter 62: Delinquent fines: collection.**  
(Amends Section 1463.007 of the Penal Code.)

**Existing law** authorizes any county or court to implement a comprehensive program to identify and collect delinquent fines and forfeitures, with or without a warrant having been issued against the alleged violator, if the base fine, excluding state and county penalties, is at least \$100.

**Existing law** authorizes the county or court to deduct and deposit in the county treasury the cost of operating that program, excluding capital expenditures, from any revenues collected prior to making any distribution of revenues to other

governmental entities required by any other provision of law.

**This bill** authorizes any county or court that implements a comprehensive program to identify and collect delinquent fines and forfeitures, with or without a warrant having been issued against the alleged violator, if the base fines and forfeitures are delinquent. The bill allows the cost of operating the program, excluding capital expenditures, to be deposited in the county treasury or the trial court operations fund prior to disbursement pursuant to existing law. The bill expressly

***Legislative History:***

*Assembly Judiciary (11-0)*  
*Assembly Floor (75-0)*

*Senate Public Safety (6-0)*  
*Senate Floor (38-0)*

provides that any county or court may establish a minimum base fine or forfeiture amount for inclusion in the program.

**AB 2048 (Salinas): VETOED: Local government records: recordings: public transit systems.**

(Amends Sections 26202.6, 34090.6, and 34090.7 of, adds Sections 26206.7, 26206.8, and 34090.8 to, adds Article 9 (commencing with Section 53160) to Chapter 1 of Part 1 of Division 2 of Title 5 of, and repeals Section 26202.3 of, the Government Code, and adds Section 99163 to the Public Utilities Code.)

**Existing law** contains various record retention provisions applicable to counties, applicable to cities, and applicable to districts and other entities of local government. Existing law generally allows cities and counties to authorize the destruction of recordings of routine video monitoring after one year and of recordings of telephone and radio communications after 100 days.

**This bill** would have revised and recast these provisions. The bill would have placed the county

provisions in the part of the Government Code relating to counties and the city provisions in the part of the Government Code relating to cities. The bill would have deleted erroneous references in the various provisions that refer to entities of local government not covered by the respective part of the Government Code. This bill also would have provided that the above provisions relating to retention of videotapes and recordings do not apply to videotapes or recordings made

***Legislative History:***

*Assembly Local Government (11-0)*  
*Assembly Floor (71-0)*  
*Assembly Concurrence (78-0)*

*Senate Judiciary (4-0)*  
*Senate Floor (25-2)*

by security cameras operated as part of a public transit system, except for videotapes or recordings that are evidence in a claim filed or pending litigation or are the subject of an incident report and except as provided with respect to transit systems operated by a city or a city and county.

**AB 2055 (Robert Pacheco): Chapter 1059: Attorney work product. Urgency.** (Amends Section 2018 of the Code of Civil Procedure, and amends Sections 803 and 1524 of the Penal Code.)

**Existing law** provides that no attorney-client privilege exists if the services of the lawyer were sought or obtained to enable or aid any person to commit or plan to commit a crime or a fraud. Existing law provides that writings that reflect an attorney's impressions, conclusions, opinions or legal research or theories are not discoverable under any circumstances. It further provides that other attorney work product is not discoverable unless the court determines that denial of discovery will unfairly prejudice the party who is seeking discovery of the work product or will result in an injustice.

**This bill** provides that when a lawyer is suspected of a crime or fraud, there is no protection of work product under this section in any official investigation by a law enforcement agency or proceeding or action brought by

a public prosecutor in the name of the people, if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or fraud. This bill also provides that no claim of attorney work product shall be sustained where there is probable cause to believe the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or fraud.

***Legislative History:***

*Assembly Public Safety (5-0)*

*Assembly Floor (75-0)*

*Assembly Concurrence (75-0)*

*Senate Public Safety (5-0)*

*Senate Floor (39-0)*

**AB 2106 (Bogh): Chapter 64: Jurisdiction. Urgency.**  
(Adds Section 787 to the Penal Code.)

**Existing law** states that except as otherwise provided by law, the jurisdiction for any public offense is in any competent court within the jurisdictional territory of which it is committed.

**This bill** provides that when a person is charged with multiple offenses of possession, manufacture of a weapon of

mass destruction or threat to use a weapon of mass destruction or possession of restricted biological agents, that occur in more than one jurisdiction but are part of a single scheme or terrorist attack, the jurisdiction of any of those offenses is in any jurisdiction where at least one of those offenses occurred.

***Legislative History:***

*Assembly Public Safety (5-0)*  
*Assembly Floor (71-0)*

*Senate Public Safety (4-0)*  
*Senate Floor (38-0)*

**AB 2339 (Steinberg): Chapter 529: Rewards.**  
(Amends Section 1547 of the Penal Code.)

**Existing law** allows the Governor to offer a reward for the arrest or conviction of an individual under specified circumstances.

**This bill** provides that an individual who provides information that would lead to the arrest and conviction of a person may receive a Governor's reward even if the arrest or conviction becomes impossible due to an intervening event.

***Legislative History:***

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (74-0)*

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

# ***DNA AND FORENSIC TESTING***

**SB 1242 (Brulte): Chapter 632: Criminal identification: specimen or sample collection: use of reasonable force. Urgency.**  
(Amends Section 298.1 of the Penal Code.)

**Existing law** makes it a misdemeanor for persons convicted of specified offenses to refuse or fail to provide 2 specimens of blood, a saliva sample, and a thumb and palm print impression for law enforcement identification analysis after receiving written notice of the requirement to do so.

**This bill** provides that authorized law enforcement, custodial, or

corrections personnel, including specified peace officers, may employ reasonable force to collect required specimens, samples, or print impressions from individuals who, after request, refuse to provide those specimens, samples, or print impressions.

## ***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations (10-0)*  
*Senate Floor (33-0)*  
*Senate Concurrence (39-0)*

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (25-0)*  
*Assembly Floor (72-0)*

**AB 2105 (La Suer): Chapter 160: DNA collection. Urgency**  
(Amends Section 296 of the Penal Code.)

**Existing law** requires various criminal offenders, persons found guilty by reason of insanity, and registered sex offenders to provide DNA samples to the Department of Justice for inclusion in the DNA and Forensic Identification Data Base.

**This bill** adds persons convicted of terrorist activity in violation of the weapons of mass destruction

provisions to those offenders who are required to provide DNA samples for inclusion in the state database.

## ***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (22-0)*  
*Assembly Floor (72-0)*  
*Assembly Concurrence (77-0)*

*Senate Public Safety (4-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (38-0)*

# ***DOMESTIC VIOLENCE***

## **SB 564 (Speier): Chapter 481: Training in spousal or partner abuse treatment.**

(Amends Sections 2914, 4980.41, 4980.80, 4980.90, 4996.2, and 4996.17 of, and amends, repeals, and adds Sections 2915 and 4996.22 of, and adds Section 4980.57 to, the Business and Professions Code.)

**Existing law** provides for the licensing and regulation of psychologists; marriage, family, and child counselors; and social workers. Under existing law, an applicant for licensure in these professions is required to complete certain coursework or training in order to be eligible to sit for the licensing examination, including coursework in spousal or partner abuse assessment, detection, and intervention. Existing law also requires these professionals to participate in continuing education as a prerequisite for renewing their license.

**This bill** requires an applicant for licensure as a psychologist; marriage, family, and child counselor; or social worker who began graduate study on or after January 1, 2004, to complete a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies. The bill also requires a person licensed in these professions who began graduate study prior to January 1, 2004, to take a continuing education course in spousal or partner abuse assessment, detection, and intervention strategies. The bill specifies that this continuing education provision becomes operative on January 1, 2004.

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

*Senate Public Safety (4-0)*

*Senate Business and Professions (5-1)*

*Senate Floor (26-10)*

*Senate Concurrence (24-9)*

*Assembly Business and Professions (7-0)*

*Assembly Health (12-4)*

*Assembly Appropriations (14-3)*

*Assembly Floor (45-29)*

## **SB 1265 (Alpert): Chapter 377: Domestic violence incident reports.**

(Amends Section 6228 of the Family Code.)

**Existing law** requires state and local law enforcement agencies to provide one copy of all domestic violence incident reports, one copy of all domestic violence incident report face sheets, or both, to a victim of domestic violence, upon request. Existing law requires persons requesting these copies to present state or local law enforcement with identification at the time a request is made.

**This bill** requires state and local law enforcement agencies to also provide those documents to a representative of the victim, as defined, if the victim is deceased. The bill requires any person requesting those documents to present his or her identification, as specified, and, if that person is a representative of the victim, a certified copy of the death certificate or other satisfactory evidence of the death of the victim.

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

*Senate Public Safety (5-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (35-0)*

*Senate Concurrence (24-2)*

*Assembly Judiciary (12-0)*

*Assembly Appropriations (23-0)*

*Assembly Floor (78-0)*

**SB 1505 (Kuehl): Chapter 354: Teen dating violence.**  
(Amends Section 16206 of the Welfare and Institutions Code.)

**Existing law** generally regulates services for the care of children, including vesting the State Department of Social Services with various responsibilities relating to the placement and care of children in the state foster care system. Existing law requires the department to select and award a grant to a private nonprofit or public entity to establish and implement statewide coordinated training programs for county child

protective service social workers that address critical issues affecting the well-being of children. Existing law specifies the subjects to be included in that training.

**This bill** requires the department to include indicators and dynamics of teen dating among the subjects covered by the training programs.

***Legislative History:***

*Senate Health and Human Services (9-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

*Assembly Human Services (6-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (78-0)*

**SB 1627 (Kuehl): Chapter 265: Protective orders.**  
(Amends Sections 6380 and 6385 of the Family Code and Section 1203.097 of the Penal Code.)

**Existing law** requires the clerk of a court to notify the Department of Justice, by electronic transmission, of the service of a protective order immediately upon receipt of proof of service. Existing law requires the Department of Justice to maintain a Domestic Violence Restraining Order System and to make available to court clerks and law enforcement personnel all information regarding the protective and restraining orders and injunctions.

**This bill** revises these provisions to require a law enforcement officer who serves a protective order to submit the proof of service directly into the Domestic Violence Restraining Order System within one business day,

as specified. If the person who served the protective order is not a law enforcement officer, and the court is unable to submit the proof of service directly into the Domestic Violence Restraining Order System, the bill further requires the court to transmit a copy of the proof of service to a local law enforcement agency within one business day of receipt, as specified. The bill requires the local law enforcement agency to submit the proof of service directly into the Domestic Violence Restraining Order System and makes related changes. This bill also requires the Judicial Council to include in those packets information on how to return proofs of service, including mailing addresses and fax numbers.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*  
*Senate Concurrence (35-0)*

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (22-0)*  
*Assembly Floor (74-0)*

**SB 1712 (Scott): VETOED: Domestic violence shelters.**

(Amends Sections 13820 and 13821 of the Penal Code and Uncodified Law.)

**Existing law** establishes the Office of Criminal Justice Planning (OCJP), and charges it with various duties and authority. Existing law requires that OCJP be administered by an executive director who shall be appointed by the Governor.

administration of grants to domestic violence programs, as specified. This bill also would have required that the Executive Director of the OCJP be confirmed by the Senate.

**This bill** would have expressed the intent of the Legislature relative to the funding of and

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (35-0)*

*Assembly Public Safety (4-2)*  
*Assembly Appropriations (18-5)*  
*Assembly Floor (51-25)*

**SB 1745 (Polanco): Chapter 187: Child abuse and neglect.**

(Amends Section 11167.5 of, and adds Section 13732 to, the Penal Code and Uncodified Law.)

**Existing law** generally provides that mandated written and telephoned reports of known or suspected child abuse by health practitioners and other specified professionals are confidential. Existing law also provides that authorized persons within county health departments are permitted to receive copies of reports made by specified health practitioners pursuant to provisions of law requiring reports of maternal substance abuse and copies of needs assessments prepared by health practitioners related to pregnant and postpartum substance abusing women.

**Existing law** requires law enforcement agencies to prepare reports regarding calls for assistance that are related to domestic violence.

**This bill** states legislative findings and declarations with respect to the relationship between domestic violence and the abuse and neglect of children. This bill requires child protective services, law enforcement agencies, and others to develop protocols in collaboration with one another, as specified, as to how law enforcement and child welfare agencies will cooperate in their response to a domestic violence related incident in a home in which a child resides.

**This bill** makes technical changes to this provision.

***Legislative History:***

*Senate Public Safety (6-0)*  
*Senate Appropriations (11-0)*  
*Senate Floor (34-0)*

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



**SB 1894 (Escutia): Chapter 834: Domestic violence program funding. Urgency.**  
(Uncodified Law.)

**Existing law** provides that the Maternal and Child Health Branch of the State Department of Health Services shall administer a comprehensive shelter-based services grant program to battered women's shelters, as specified.

**This bill** requires the Maternal and Child Health Branch of the State Department of Health Services to fund domestic

violence programs that have previously received funding, but were not selected for funding in 2000, using funds appropriated in the Budget Act of 2002, as specified.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (10-0)*  
*Senate Floor (32-0)*  
*Senate Concurrence (30-2)*

*Assembly Health (17-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (78-0)*

**SB 1895 (Escutia): Chapter 510: Office of Criminal Justice Planning.**  
(Adds and repeals Section 13823.16 to the Penal Code.)

**Existing law** provides that there is in the Office of Criminal Justice Planning a Comprehensive Statewide Domestic Violence Program which provides financial and technical assistance to local domestic violence centers.

**This bill** provides that in implementing this program, the Office of Criminal Justice

Planning shall, until January 1, 2010, collaborate closely with an expert advisory council the membership of which shall consist of domestic violence victims' advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence, as specified.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (38-0)*  
*Senate Concurrence (39-0)*

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (78-0)*

**AB 217 (Pavley): Chapter 2: Mandatory programs for batterers. Urgency.**  
(Amends Section 1203.097 of the Penal Code.)

**Existing law** prescribes terms of probation, including successful completion of a batterer's treatment program for a person convicted of a crime in which the victim is, among other persons, a spouse or former spouse, a cohabitant or former cohabitant, a person with whom the defendant is having or has had a dating or engagement relationship, or a person with whom the defendant has had a child. If a batterer's treatment program, as specified, is unavailable, the court may direct the defendant to participate in another appropriate counseling program.

**This bill** requires the defendant to attend consecutive weekly sessions, unless granted an excused absence for good cause by the program for no more than 3 individual sessions during the entire program, and to complete the program within a period of 18 months unless, after a hearing, the court finds good cause to modify these requirements. (Note: This bill is identical to the language in AB 1570 (Pavley), which passed the Senate on August 30, 2001 (40-0) and was signed into law. Those provisions were inadvertently chaptered out by SB 205 (McPherson).)

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(64-0)*

*Senate Floor (31-0)*

**AB 1909 (Cohn): Chapter 192: Best court practices.**  
(Adds Section 6219 to the Family Code.)

**Existing law** provides that any person who perpetrates domestic violence, as defined, is subject to both criminal penalties and civil remedies, as specified.

**This bill** authorizes, subject to adequate discretionary funding from a city or county, the superior courts in San Diego County and in Santa Clara County, and in any other county able and willing to participate, to develop a demonstration project

to identify the best practices in civil, juvenile, and criminal court cases involving domestic violence. The bill requires superior courts participating in this demonstration project to report their findings and recommendations to the Judicial Council and the Legislature by May 1, 2004. The bill permits the Judicial Council to make those recommendations available to any court or county.

***Legislative History:***

*Assembly Judiciary (13-0)*  
*Assembly Floor (72-0)*  
*Assembly Concurrence*  
*(75-0)*

*Senate Judiciary (4-2)*  
*Senate Floor (29-2)*

**AB 1915 (Lowenthal): Chapter 80: Vehicle license plates.**  
(Adds Section 4467 to the Vehicle Code.)

**Existing law** provides for the assignment of a specific license number to a motor vehicle, which may be changed only upon application to the Department of Motor Vehicles (DMV), and under certain circumstances. Existing law provides for controls on the replacement of lost, stolen, or mutilated license plates when the applicant provides an address different from that in DMV records.

**This bill** requires the DMV to provide a new set of license plates to a registered owner of a vehicle who appears in person and submits a completed application and also presents to the DMV the previously issued plates, proof of identity and vehicle ownership, and either evidence of victimization by a domestic abuser or evidence of efforts to get assistance in regard to the domestic abuse, as specified. This bill exempts special interest license plates from this requirement.

***Legislative History:***

*Assembly Transportation (15-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (74-0)*

*Senate Transportation (11-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (36-0)*

**AB 1933 (Reyes): Chapter 193: Civil tort of domestic violence.**  
(Adds Section 1708.6 to the Civil Code.)

**Existing law** requires every person to abstain from injuring the person or property of another or from infringing upon the rights of another. Existing law also provides that a person who commits a sexual battery, as specified, is liable for damages, including, but not limited to general, special, and punitive damages.

**This bill** provides that a person who commits the tort of domestic violence, as specified, is liable for damages, including, but not limited to, general, special, and punitive damages. The bill also sets forth findings and declarations regarding domestic violence as a civil tort, as specified.

***Legislative History:***

*Assembly Judiciary (10-0)*

*Assembly Floor (65-4)*

*Assembly Concurrence (70-1)*

*Senate Judiciary (4-2)*

*Senate Floor (22-5)*

**AB 2030 (Goldberg): Chapter 1009: Protective order fees.**

(Amends, repeals, and adds Section 527.6 of the Code of Civil Procedure, amends, repeals, and adds Section 6222 of the Family Code, and amends, repeals, and adds Section 6103.2 of the Government Code.)

**Existing law** prohibits the imposition of a fee for filing a domestic violence or stalking petition that seeks a protective or restraining order or injunction restraining stalking or future violence or threats of violence, in any action seeking a temporary restraining order and injunction prohibiting harassment.

**This bill** provides, until January 1, 2007, that no fee shall be charged for the service of process of a protective order, restraining order, or injunction if that order or injunction is based upon specified acts or threats. The bill requires the Judicial Council to prepare and develop application forms to assist petitioners in obtaining and serving these orders.

**Existing law** provides that no fee may be charged for filing an application, a responsive pleading, or an order to show cause to obtain, modify, or enforce a protective order issued in connection with a proceeding involving domestic violence, marital dissolution, or a child custody matter, among other things.

**This bill** prohibits, until January 1, 2007, a fee from being charged for filing a subpoena in connection with those applications, pleadings, or orders.

**Existing law** permits the sheriff or marshal, in connection with the service of process of notices, to require that all fees that a public agency or other person or entity is required to pay be prepaid prior to the performance of the official act, with certain exceptions.

**This bill** exempts from this prepayment requirement, until January 1, 2007, a fee for the service of process of a protective order, restraining order, or injunction involving stalking, credible threats of violence resulting from a threat of sexual assault, domestic violence, marital dissolution, or a child custody matter. The bill permits the sheriff, marshal, or constable to submit a billing to the superior court for the payment of fees in a manner prescribed by the Judicial Council.

***Legislative History:***

*Assembly Judiciary  
(11-0)*

*Assembly Appropriations  
(24-0)*

*Assembly Floor (74-0)*

*Assembly Concurrence  
(78-0)*

*Senate Judiciary (5-0)*

*Senate Appropriations  
(10-0)*

*Senate Floor (39-0)*

**AB 2462 (Bates): Chapter 479: Victims of crime: children and domestic violence.**  
(Amends Section 13960 of the Government Code.)

**Existing law** provides for the indemnification by the California Victim Compensation and Government Claims Board of victims of specified types of crimes, for certain expenses for which the victim has not been and will not be reimbursed from any other source. "Victim" is defined for these purposes to mean a person who sustains injury or death as a direct result of a crime. "Injury" is defined for these purposes to include physical and emotional injury, or both, subject to certain conditions, and until January 1,

2004, a child who has been the witness of a crime or crimes of domestic violence may be presumed by the board to have sustained physical injury for these purposes.

**This bill** additionally provides, on a permanent basis, that a child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed by the board to have sustained physical injury, regardless of whether the child has witnessed the crime.

***Legislative History:***

*Assembly Public Safety (4-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (74-0)*

*Senate Public Safety (4-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (36-0)*

**AB 2563 (Vargas): Chapter 66: Domestic violence protective orders issued as condition of probation.**

(Amends Section 1203.3 of the Penal Code.)

**Existing law** gives the court authority, as specified, to revoke or terminate probation, or to modify conditions of probation. Under existing law, a court cannot modify, revoke, or change court orders of probation without written notice to the proper probation officer, and cannot modify a probation order without providing a 2-day written notice to the prosecutor, and an opportunity to be heard on the matter.

issued as a condition of a defendant's probation to 1) increase from two to five days the notice given to district attorneys for modification or termination of protective orders; and 2) require courts to consider if there has been any material change in circumstances since the crime for which the order was issued, and any issue that relates to whether there exists good cause for the change, including specified factors.

**This bill** changes the procedures required for a court to modify or terminate a domestic violence protective order that has been

***Legislative History:***

*Assembly Public Safety (5-0)*

*Assembly Floor (74-0)*

*Senate Public Safety (6-0)*

*Senate Floor (38-0)*

**AB 2652 (Chu): VETOED: Domestic violence courts.**  
(Adds Section 69520 to the Government Code.)

**Existing law** establishes the jurisdiction of superior and municipal courts, as specified. Existing law also prohibits acts of domestic violence, as defined, and provides both civil and criminal sanctions for acts of domestic violence.

**This bill** would have established the California Domestic Violence Court Task Force, to be composed of 11 members, as specified, and to be staffed and coordinated by the Judicial Council. The bill would have set forth the goals and duties of the task force, as specified, which would have as its primary mission the creation of a set of

model guidelines for establishing and operating domestic violence courts throughout the state. The bill would have required the task force, by March 1, 2004, to submit its report and recommendations for model guidelines to the Judicial Council, and, at the same time, submit the report and recommendations to the Legislature. These provisions would have been repealed on January 1, 2005, unless a later statute had been enacted before that date to extend or delete that date. The bill would have appropriated \$100,000 from the General Fund to the Judicial Council for those purposes.

***Legislative History:***

*Assembly Judiciary (12-0)*  
*Assembly Appropriations (20-2)*  
*Assembly Floor (71-1)*  
*Assembly Concurrence (72-6)*  
  
*Senate Public Safety (5-0)*  
*Senate Judiciary (4-1)*  
*Senate Appropriations (13-0)*  
*Senate Floor (29-4)*

**AB 3028 (Committee on Judiciary): Chapter 1008: Omnibus: court procedures: domestic violence.**

(Amends Sections 228, 527.6, 527.8, 638, 1281.95, and 1987 of the Code of Civil Procedure, amends Sections 307, 5211, 7211, and 9211 of the Corporations Code, amends Sections 2106 and 3111 of the Family Code, amends Sections 7.6, 68085, and 68203.1 of, and adds Sections 20902.5, 68087.1, and 69645 to, and repeals Sections 69510, 69510.5, and 69510.6 of, the Government Code, amends Section 1328 of the Penal Code, amends Sections 1513.1, 1851, and 1851.5 of the Probate Code, and amends Section 213.5 of the Welfare and Institutions Code.)

**Existing law** contains numerous provisions in multiple codes.

**This bill** makes numerous largely technical changes to many code sections, including changes concerning the re-issuance of restraining orders that could not be served in a timely manner, and access to juvenile dependency and delinquency records by attorneys.

***Legislative History:***

*Assembly Judiciary (12-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (79-0)*  
*Assembly Concurrence (69-8)*  
  
*Senate Judiciary (5-1)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (29-7)*

# ***ELDER AND DEPENDENT ADULT ABUSE***

## **AB 255 (Zettel): Chapter 54: Elder abuse.**

(Amends Sections 15601, 15610.17, 15610.23, 15610.37, 15610.50, 15610.55, 15610.57, 15630, 15633.5, 15634, 15659, 15701, 15760, 15763, and 15765 of, amends and rennumbers Section 15751 of, amends, rennumbers, and adds Section 15750 of, amends and repeals Section 15653.5 of, adds Sections 15610.19, 15610.39, and 15655.5 to, repeals Sections 15701.1, 15701.15, 15701.2, 15701.35, 15752, 15753, 15753.5, and 15761 of, and repeals the heading of Chapter 13.5 (commencing with Section 15760) of Part 3 of Division 9 of, the Welfare and Institutions Code.)

**Existing law** (the Elder Abuse and Dependent Adult Civil Protection Act) establishes various procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse.

**This bill** makes a number of changes to that act, including the following:

- Adds abduction to the conduct that is required to be reported; redefines "multidisciplinary personnel team," and "neglect," and defines "imminent danger."
  - Excludes from the definition of "health practitioner" religious practitioners who diagnose, examine, or treat elders or dependent adults.
  - Extends to any district attorney's office the authority to receive incident report information and applies the related confidentiality and liability limitation provisions to the office.
  - Makes related changes in law.
- Revises the provisions setting forth the purposes of the act; revises the definition of mandated reporter by including a "clergy member," as defined, and redefines "care custodian" to include certain employees of humane societies, animal control agencies, fire departments, and offices of environmental health and code enforcement.

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

*Assembly Judiciary (9-0)*  
*Assembly Aging and Long Term Care (6-0)*

*Assembly Appropriations (21-0)*

*Assembly Floor (78-0)*  
*Assembly Concurrence (71-4)*

*Senate Judiciary (7-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (35-0)*

**AB 2140 (Simitian): Chapter 369: (1) Battery and (2) negligent care.**  
(Amends Section 368 of, and adds Section 243.25 to, the Penal Code.)

**Existing law** provides that any willful and unlawful use of force or violence on the person of another is battery, a misdemeanor punishable by a fine of up to \$2,000, imprisonment in a county jail of up to 6 months, or by both that fine and imprisonment. Under existing law, battery on specified classifications of victims, or under specified circumstances, are subject to specified, increased penalties.

**This bill** adds a new battery misdemeanor crime: When a battery is committed against the person of an elder or a dependent adult as defined in Section 368, with knowledge that he or she is an elder or a dependent adult, the offense shall be punishable by a fine not to exceed \$2,000, or by imprisonment in a county jail not

to exceed one year, or by both that fine and imprisonment.

**Existing law** provides that a person is guilty of a misdemeanor when, under circumstances or conditions other than those likely to produce great bodily harm or death, he or she willfully causes or permits any elder or a dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer unjustifiable physical pain or mental suffering. (Penal Code § 368(c).)

**This bill** increases the misdemeanor penalty for 2d or subsequent violations of Section 368(c) – circumstances or conditions not likely to produce great bodily harm or death to an elder or dependent adult – by

***Legislative History:***

*Assembly Public Safety (5-0)*  
*Assembly Aging and Long Term Care (6-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (76-0)*  
*Assembly Concurrence (78-0)*  
  
*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

increasing the punishment in a county jail from up to six months to up to one year and increasing the fine from up to \$1,000 to up to \$2,000.

**AB 2735 (Chan): Chapter 552: Elder and dependent adult abuse.**  
(Amends Sections 5328, 15633.5, and 15763 of the Welfare and Institutions Code.)

**Existing law** provides that all information and records obtained in the course of providing services, as specified, to persons with developmental disabilities and to either voluntary or involuntary recipients of certain mental health services, are confidential, except as specified.

**This bill** adds to the exceptions to the provisions restricting disclosure a disclosure between persons who are trained and qualified to serve on defined

multidisciplinary personnel teams that are involved in the prevention, identification, and treatment of abuse of elderly or dependent persons, as specified.

**Existing law** provides for the reporting of known or suspected physical or other abuse, as defined, of an elder or dependent adult by specified persons and entities. Existing law requires that the identity of any person who reports known or suspected abuse and information relevant to the actual or suspected abuse

***Legislative History:***

*Assembly Aging and Long Term Care (6-0)*  
*Assembly Floor (73-0)*  
*Assembly Concurrence (76-0)*  
  
*Senate Public Safety (5-0)*  
*Senate Floor (39-0)*



shall be kept confidential and disclosed only to specified persons or entities.

**This bill** expands the category of persons and entities who may receive and disclose information relevant to the known or suspected abuse of an elder or dependent adult and the identity of any person reporting it to include the office of the district attorney, the office of the public guardian, and the probate court.

**Existing law**, implemented only to the extent funds are provided in the annual Budget Act, requires a county to establish an emergency response adult protective services program to respond in person immediately to reports of imminent danger to an elder or dependent adult or within 10 calendar days or as soon as practicably possible to all other reports of danger, except under specified circumstances.

**This bill** exempts from these response and reporting requirements reports to the county that involve danger to an elder or dependent adult residing in correctional facilities, as specified. This bill also makes various other changes to these emergency response and reporting provisions.

**AB 2826 (Daucher): Chapter 534: Domestic violence and familial elder adult abuse.**  
(Amends Sections 836 and 13700 of the Penal Code.)

**Existing law** provides that domestic violence is defined as abuse committed against an adult or a *fully emancipated* minor who is involved in a specified relationship or who previously had a specified relationship with the suspect.

**This bill** expands that definition of domestic violence to include abuse against *any* minor who is involved in one of those relationships or who previously had one of those relationships with the suspect.

**Existing law** provides that a peace officer may arrest a person without a warrant if he or she has probable cause to believe that the suspect has committed an assault or battery against a person with whom he or she has or has had a specified relationship and the arrest is made as soon as that probable cause arises.

**This bill** expands these provisions to include an assault or battery against a person who is 65 years of age or older and who is related to the suspect by blood or legal guardianship.

***Legislative History:***

*Assembly Public Safety (5-1)*

*Assembly Appropriations (24-0)*

*Assembly Floor (70-0)*

*Assembly Concurrence (78-0)*

*Senate Public Safety (4-0)*

*Senate Appropriations (8-1)*

*Senate Floor (32-1)*

# EVIDENCE AND PROCEDURE

## **SB 2061 (Morrow): Chapter 72: Evidentiary privileges.** (Amends Sections 912, 917, and 952 of the Evidence Code.)

**Existing law** specifies that the right of a person to claim an evidentiary privilege is waived if the holder of the privilege discloses a significant part of the privileged communication or has consented to that disclosure, as specified.

**This bill** adds the domestic violence victim-counselor privilege to the list of evidentiary privileges to which this provision applies. The bill also adds a communication made in the course of a sexual assault victim-counselor or domestic violence victim-counselor relationship to the list of communications presumed to have been made in confidence and therefore privileged.

**Existing law** provides that a communication between a client and his or her lawyer is not deemed lacking in confidentiality solely because the communication is transmitted by facsimile, cellular telephone, or other electronic means between the client and his or her lawyer.

**This bill** provides instead that a communication between persons in a privileged relationship does not lose its privileged character for the sole reason that it is communicated by electronic means or because persons involved in the delivery, facilitation, or storage of electronic communication may have access to the content of the communication.

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

*Senate Judiciary (7-0)*  
*Senate Floor (38-0)*

*Assembly Judiciary (12-0)*  
*Assembly Floor (77-0)*

## **AB 2033 (Robert Pacheco): Chapter 124: Admissibility of evidence.** (Amends Section 1550 of the Evidence Code.)

**Existing law** sets forth the rules governing the proof of the content of a writing in a civil or criminal action or proceeding. Under existing law, if made in the regular course of business, as specified, a nonerasable optical image reproduction of a writing may be introduced in court as proof of a writing, provided that additions, deletions, or changes to the original document are not permitted by that technology.

**This bill** expands that category of evidence to include any other reproduction of a public record by a trusted system, as specified. The bill also makes technical, nonsubstantive changes to that provision. The bill become operative on the date the Secretary of State adopts specified standards regarding the storage of documents in electronic media.

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

*Assembly Judiciary (12-0)*  
*Assembly Floor (78-0)*  
*Assembly Concurrence (78-0)*

*Senate Judiciary (6-0)*  
*Senate Floor (36-0)*

**AB 2114 (La Suer): Chapter 125: Department of Justice: evidence. Urgency.**  
(Adds Section 11010 to the Penal Code.)

**Existing law** provides state and local agencies contract with various laboratories to assist in the apprehension or prosecution of criminals.

**This bill** requires the Department of Justice to adopt standards and guidelines regarding the handling of potential evidence arising out of the testing of substances that are suspected to be related to activities of terrorists, to be used by laboratories operated by or contracting with the Department of Justice, any state agency, or any local agency, and by any other laboratory in the state the

department determines may test any material that may become evidence in a criminal prosecution for any crime committed in the commission of terrorist activities. This bill declares that its provisions shall be accomplished to the extent that funds are available.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (73-0)*  
*Assembly Concurrence (78-0)*  
  
*Senate Public Safety (4-0)*  
*Senate Appropriations (11-0)*  
*Senate Floor (36-0)*

## ***FIREARMS AND DANGEROUS WEAPONS***

**SB 510 (Scott): Chapter 608: Airports: (1) prohibited items and (2) trespass. Urgency.**  
(Amends Section 602 of, and adds Section 171.5 to, the Penal Code.)

**Existing law** makes it a crime to bring or possess specified weapons within certain public buildings, unless exempted.

**This bill** makes it a misdemeanor to possess specified weapons, replica weapons, parts of weapons, and ammunition within a sterile area of an airport, as defined, to which access is controlled by screening of persons and property, as specified.

**Existing law** makes it unlawful for persons to engage in certain

acts of trespass, including at airports.

**This bill** provides that a refusal to leave a posted airport area after a request to leave from authorized personnel, as specified, would make the offense a misdemeanor (current law requires that request to be from a peace officer and this bill adds authorized personnel as well).

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Public Safety pursuant to Senate Rule 29.10 (4-0)*  
*Senate Concurrence (28-5)*  
  
*Assembly Public Safety (6-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (79-0)*

**SB 682 (Perata): Chapter 913: Firearms: civil liability.**  
(Amends Section 1714 of, and repeals Section 1714.4 of, the Civil Code.)

**Existing law** provides that everyone is responsible for the result of willful acts and for injury to another occasioned by his or her want of ordinary care or skill in the management of his or her person or property, as specified.

**This bill** specifies that the design, distribution, or marketing of firearms and ammunition is not exempt from existing law described above and also makes technical changes to existing statute.

**Existing law** provides in statute that no firearm or ammunition may be deemed defective in design for purposes of a products liability action, on the basis that the benefits of the

product do not outweigh the risk of injury posed by the potential to cause serious injury, damage, or death when discharged, as specified. [See AB 496 (Koretz) that is identical to this bill.]

(Note: The authors of both SB 682 and AB 496 submitted letters to the Assembly Journal (pages 8232 and 8233) about the legislative intent pertaining to the bills; both letters are identical and include the statement that the repeal of Civil Code Section 1714.4 “does not intend to create a cause of action against manufacturers of firearms and ammunition based solely on the fact that the firearm or ammunition is capable of causing serious injury or death” and “it is the intent to preserve

***Legislative History:***

*Legislative History:  
(Prior votes not relevant)  
Senate Concurrence  
(22-11)*

*Assembly Judiciary  
Committee (9-4)  
Assembly Floor (41-35)*

those causes of action . . . which would exist had Section 1714.4 not been enacted in 1983.” The author of SB 682 did submit the same letter to the Senate Journal.)

**SB 1490 (Perata): Chapter 916: Department of Justice: (1) firearms and (2) DNA lab name.**  
(Amends Sections 295 and 11106 of the Penal Code.)

**Existing law** requires the Attorney General to maintain a registry of specified information concerning pistols, revolvers, and other firearms capable of being concealed upon the person, and to include in the registry specified data provided to the Department of Justice on the Dealer’s Record of Sale, with specified state and local officers and officials authorized to obtain information contained in the registry.

**This bill** adds city attorneys who are prosecuting a civil action,

solely for use in prosecuting that action, to the list of officials who may obtain the registry information.

**Existing law** requires, among other duties, that the Department of Justice, through its DNA Laboratory, administer and manage the state’s DNA database and databank identification program.

**This bill** names the Department of Justice’s DNA Laboratory as the Jan Bashinski DNA Laboratory.

***Legislative History:***

*Senate Public Safety (4-1)  
Senate Appropriations,  
SR 28.8  
Senate Floor (24-13)  
Senate Concurrence  
(25-11)*

*Assembly Public Safety  
(4-2)  
Assembly Appropriations  
(15-7)  
Assembly Floor (46-32)*

**SB 1670 (Scott): Chapter 917: Firearm safety devices.**

(Amends Section 12088 of, amends and repeals Section 12088.1 of, and adds Sections 12087.6 and 12088.15 to, the Penal Code.)

**Existing law** (the Aroner-Scott-Hayden Firearms Safety Act of 1999) provides that effective January 1, 2002, all firearms sold or transferred in California, by a licensed firearms dealer, including private transfers through a dealer, and all firearms manufactured in this state include or be accompanied by a firearms safety device on the roster of approved devices maintained by the Attorney General (DOJ), as specified.

**This bill:**

- Prohibits a person from selling any firearms safety device not listed on DOJ's roster of approved safety devices, or that does not comply with specified standards.
- Prohibits a person from distributing a firearms safety device as part of an organized firearm safety program not listed on DOJ's roster of approved safety devices, or does not comply with specified standards.
- Requires that all long-gun safes manufactured or sold in California that do not comply with DOJ's published standards for gun safes conspicuously display a warning that the safe does not meet minimum specified safety standards.
- Makes the sale or distribution of any firearms safety device not listed on DOJ's roster of approved safety devices, or the sale of a long-gun safe that

does not meet the required safety standards, punishable by a civil fine of up to \$500. A second violation within five years of a previous conviction is punishable by a fine of up to \$1,000; if the violation is committed by a licensed firearms dealer, the dealer shall be ineligible to sell firearms in California for 30 days. A violation within five years of two or more violations is punishable by a civil fine of up to \$5,000; if the violation is committed by a licensed dealer, the firearms dealer shall be permanently ineligible to sell firearms in California.

- Allows DOJ to randomly retest approved firearms safety devices from a source other than the manufacturer to ensure compliance with specified standards, and requires that such firearms safety devices be in new, unused condition, and still in the manufacturer's original and unopened package.
- Clarifies that a firearms safety device accompanying the sale of a firearm must be appropriate for that firearm by reference to either the manufacturer and model of the firearm, or to the physical characteristics of the firearm that match those listed on DOJ's roster for use with the device.
- Defines "firearms safety device" as a device that locks and is designed to prevent

***Legislative History:***

*Senate Public Safety (6-0)  
Senate Appropriations,  
SR 28.8  
Senate Floor (22-10)  
Senate Concurrence  
(25-12)*

*Assembly Public Safety  
(4-1)  
Assembly Appropriations  
(17-5)  
Assembly Floor (52-26)*

children and unauthorized users from firing a firearm. The device may be installed on the firearm, incorporated in the design of the firearm, or prevent access to the firearm.

- Defines "gun safe" as a locking container that fully contains and secures one or more firearms and meets specified standards.
- Defines "long-gun safes" as a locking container designed to fully contain and secure a rifle or shotgun.
- Makes related changes in law.

**SB 1689 (Margett): Chapter 208: Prohibited weapons: hard plastic knuckles.**  
(Adds Section 12020.1 to the Penal Code.)

**Existing law** prohibits the manufacture, importation, sale, giving, lending, and possession of specified weapons and related items, including metal knuckles.

**This bill** provides that any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, keeps for commercial sale, or offers or exposes for commercial sale, any hard plastic knuckles is guilty of a misdemeanor and defines the prohibited item.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (38-0)*

*Assembly Public Safety*  
*(5-0)*  
*Assembly Appropriations*  
*(22-0)*  
*Assembly Floor (74-0)*

**SB 1807 (Chesbro): Chapter 833: Firearms: seizure and return: scenes of domestic violence.**  
(Amends Section 12028.5 of the Penal Code.)

**Existing law** provides that specified peace officers who are at the scene of a domestic violence incident involving a threat to human life or physical assault shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search, as necessary for the protection of the peace officer or other persons present. Existing law includes specific procedures for the return or the retention of the firearm or weapon including (1) retention by the seizing authority if there is "reasonable cause" to believe that returning the firearm or weapon poses specified dangers, and, (2) a requirement in court actions to retain the firearm or

weapon that the state must prove "by clear and convincing evidence" that the return would present specified dangers.

**This bill** does the following:

- Adds any "lawful" search to the existing "consensual" search required in domestic violence circumstances for the mandated seizure of firearms and weapons.
- Lowers the standard of proof required for a law enforcement agency to retain firearms or other deadly weapons in court actions brought by owners for the return of those items from "clear and convincing" to a "preponderance" of the

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (22-7)*  
*Senate Concurrence*  
*(24-10)*

*Assembly Public Safety*  
*(4-1)*  
*Assembly Appropriations*  
*(20-2)*  
*Assembly Floor (60-12)*

evidence for an initial decision about the return of those items.

- Specifies that if the owner petitions for a second hearing within 12 months of the initial hearing, the court shall order the return of the weapon and award reasonable attorney's fees to the prevailing party

unless it is shown by clear and convincing evidence that the return of the weapon would endanger the victim or the person reporting the assault or threat.

**AB 352 (Runner): Chapter 58: Undetectable knives.**  
(Amends Section 12001.1 of the Penal Code.)

**Existing law** defines an "undetectable knife" to mean any knife or other instrument that, among other criteria, is not detectable by a metal detector set at standard calibration. Commercial transactions involving undetectable knives is a crime.

**This bill** revises the definition of "undetectable knife" to include any knife or other instrument that, among other criteria, is not detectable by a metal detector or magnetometer, as specified.

***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Floor (73-0)*

*Senate Public Safety (6-0)*  
*Senate Floor (38-0)*

**AB 496 (Koretz): Chapter 906: Firearms: civil liability.**  
(Amends Section 1714 of, and repeals Section 1714.4 of, the Civil Code.)

(Note: See the entry for SB 682 (Perata), that is identical to AB 496; the SB 682 entry also mentions letters to the Journals about the intent of these two bills.)

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence (41-38)*

*Senate Judiciary Committee (4-1)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (22-13)*

**AB 2080 (Steinberg): Chapter 909: Firearms: illegal trafficking.**

(Amends Sections 12001, 12071, 12072, 12073, 12076, and 12078 of, and adds Section 12083 to, the Penal Code.)

**Existing law** defines various terms for the purpose of regulating firearms and other dangerous weapons.

**This bill** defines “gunsmith” for purposes of firearms regulation and firearms dealer licensure, as specified.

**Existing law** requires a licensed firearms dealer to comply with various requirements, including holding a federal firearms license.

**This bill** requires the Department of Justice to maintain certain records pertaining to licensed firearms dealers containing specified information.

**Existing law** charges the Department of Justice with various regulatory obligations relating to licensed firearms dealers.

**This bill** requires the department to determine whether a person who holds a federal firearms license and is the intended recipient for firearms delivered from another holder of a federal firearms license, as specified, is properly licensed pursuant to state licensure provisions, and to provide to the inquiring party, a unique verification number to demonstrate verification of the intended recipient’s state firearms licensure status has been confirmed. In the event the intended recipient is not properly licensed, the department would be required to notify the inquiring party, and specified law

enforcement authorities, as prescribed.

**Existing law** provides that no person who is a federally licensed firearms dealer, as specified, shall deliver, sell, or transfer a firearm to a person who is also federally licensed and whose licensed premises are located in this state unless the intended recipient presents proof of state licensure as a firearms dealer, or presents proof of exemption from that licensure requirement. Violation of these provisions is punishable as a misdemeanor or may be enhanced to a felony, as prescribed.

**This bill** requires, commencing January 1, 2005 [see below for contingency on the Department of Justice’s operative date], that the licensed person intending to deliver, sell, or transfer the firearms obtain from the department, prior to delivery, a unique verification number demonstrating that the person has verified with the department that the intended recipient is properly licensed pursuant to existing state requirements, as prescribed, and requires the person intending to deliver, sell, or transfer firearms to provide the unique verification number to the recipient along with the firearms upon delivery, as prescribed. Violation of these provisions are punishable as a misdemeanor or could be enhanced to a felony, pursuant to existing provisions of law.

***Legislative History:***

*Assembly Public Safety (5-1)*  
*Assembly Appropriations (17-7)*  
*Assembly Floor (51-25)*  
*Assembly Concurrence (48-29)*

*Senate Public Safety (5-1)*  
*Senate Appropriations (8-4)*  
*Senate Floor (25-12)*

**Existing law** specifies the purposes for which funds from the Dealers’ Record of Sale Special Account of the General Fund, upon appropriation by the Legislature for expenditure by the Department of Justice, may be used.

**This bill** provides that these funds may also be used, upon appropriation by the Legislature, to offset the costs incurred for the verification of licensure provisions enacted in this bill.

**Existing law** specifies the purposes for which funds from the Dealers’ Record of Sale Special Account of the General Fund, upon appropriation by the Legislature for expenditure by the Department of Justice, may be used.

**This bill** provides that these funds may also be used, upon



appropriation by the Legislature, to offset the costs incurred for the verification of licensure provisions enacted in this bill.

**This bill** further provides that: "Notwithstanding subdivision (c) of Section 12083, Section 12083 of the Penal Code, and the amendments made to Section 12071 of the Penal Code by this act shall become operative on January 1, 2004, if the actual reserve balance in the Dealers' Record of Sale Special Account is

one million dollars or more on January 1, 2004, as determined by the department. If the reserve balance is not equal to one million dollars or more on January 1, 2004, as determined by the department, those provisions shall become operative when the department determines that the actual reserve balance in the Dealers' Record of Sale Special Account equals one million dollars or more."

**This bill** requires additional information regarding the licensure of firearms dealers to be submitted to the Department of Justice, as specified, with violations of these provisions punishable as an infraction.

**This bill** makes additional conforming changes relative to information submitted to the department regarding firearms transactions.

**AB 2580 (Simitian): Chapter 910: Dangerous weapons permits.**

(Amends Sections 12076, 12082, and 12305 of, and adds Sections 12099, 12234, and 12289.5 to, the Penal Code.)

**Existing law** provides for the issuance of special permits from the Department of Justice (DOJ) for persons to possess, sell, and use otherwise restricted weapons and devices: short-barreled shotguns and short-barreled rifles (Penal Code §§ 12095-12098); machine guns (§§ 12200-12251); assault weapons (§§ 12275-12290); and destructive devices (§§ 12301-12312).

**This bill** does the following:

- Generally requires the DOJ, for every person, firm, or corporation to whom a permit is issued to possess or manufacture short-barreled rifles or shotguns, assault weapons, machine guns, and destructive devices, to annually inspect for security, safe storage purposes, and to reconcile inventory.
- Provides that the DOJ shall establish a schedule of fees to cover the costs of the

inspection duties imposed on the department pertaining to persons holding permits for destructive devices. The fees shall be equitable and shall not exceed the costs of providing the required inspections.

- Provides that a person, firm, or corporation with an inventory of fewer than five devices that require a DOJ permit shall be subject to an inspection for security, safe storage purposes, and to reconcile inventory once every five years, or more frequently as determined by the DOJ.
- Provides that the duties imposed on the DOJ by this act are to be funded through inspection fees imposed pursuant to Section 12305 of the Penal Code and, as may be necessary, from the Dealers' Record of Sale Special Account.
- Makes related changes in law.

***Legislative History:***

*Assembly Public Safety (4-1)*  
*Assembly Appropriations (17-7)*  
*Assembly Floor (52-25)*  
*Assembly Concurrence (54-25)*

*Senate Public Safety (6-0)*  
*Senate Appropriations (7-3)*  
*Senate Floor (21-11)*

(Note: See SB 1312 (Peace) in the PEACE OFFICERS section, below, for additional changes in law related to the inspections to be conducted pursuant to AB 2580.)

Existing law requires that all sales, loans, or transfers of firearms, including those between private parties, be

transacted through a law enforcement agency, or a licensed dealer. Those transactions involving a dealer require the delivery of the firearm to the dealer, who is then required to make specified inquiries and to deliver the weapon only upon satisfaction of specified requirements.

**This bill** provides that a dealer who does not otherwise sell, transfer, or keep an inventory of handguns is not required to process private party transfers of handguns.

**AB 2695 (Oropeza): Chapter 830: Firearms: seizures at scenes of domestic violence and other various changes to firearms laws.**

(Amends Sections 166, 12021, 12028.5, and 12028.7 of the Penal Code.)

**Existing law** creates a misdemeanor penalty for contempt of court including violations of any protective order or stay away order. (Penal Code § 166.)

**This bill** makes a substantive change to correct a drafting error apparent in context in Penal Code Section 166(c)(1) and makes related textual revisions.

**Existing law** prohibits specified persons from possessing firearms (Penal Code § 12021) and contains other provisions in law pursuant to which firearms may be seized and possibly returned (for example, Penal Code §§ 12028.5 and 12028.7).

**This bill** requires that the Department of Justice (subject to available funding) develop a protocol designed to facilitate the enforcement of restrictions on firearm ownership, as specified, with the protocol required to be completed on or before January 1, 2005.

**Existing law** mandates that specified peace officers at the

scene of a domestic violence incident involving a threat to human life or a physical assault, shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. No firearm or other deadly weapon shall be held less than 48 hours and that except as otherwise provided and if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed – the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In those cases where a law enforcement agency has reasonable cause to

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (19-3)*  
*Assembly Floor (71-2)*  
*Assembly Concurrence (66-6)*

*Senate Public Safety (4-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (24-4)*

believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 30 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned. The law enforcement agency may make an ex parte application stating good cause for an order extending the time

to file a petition. Including any extension of time granted in response to an ex parte request, a petition must be filed within 60 days of the date of seizure of the firearm.

**This bill** revises the existing law pertaining to the return – or not – of firearms and dangerous weapons seized at a scene of domestic violence to initiate a court proceeding to consider reasonable cause to believe that a return presents a danger, as

specified, within 60 days of the seizure (or within 90 days if the court allows) rather than the existing requirement that the petition be filed by the seizing agency within 30 days of seizure (or 60 days if the court allows) and also changes that “minimum hold” timeframe to not less than 48 hours and not more than “5 business days.”

**This bill** makes related changes to law.

**AB 2793 (Pescetti): Chapter 911: Olympic-style firearms.**  
(Amends Sections 12071, 12132, and 12276.1 of the Penal Code.)

**Existing law** generally prohibits a firearms dealer, as defined, from delivering a handgun on or after January 1, 2003, unless the recipient performs a safe handling demonstration, as specified, with the handgun (part of the Handgun Safety Certificate process operative on that date). The required demonstration includes a loading demonstration using a dummy round, the application of a firearm safety device, and for a semiautomatic pistol, a specified demonstration with the slide.

**Existing law** requires any person who lawfully possesses an assault weapon, as defined, prior to specified periods, to register that weapon with the Department of Justice, within a specified period of time. Existing law defines the term “assault weapon” by, among other things, designating a list of specified semiautomatic firearms

and providing descriptive definitions concerning the capacity and function of the weapon and specifically exempts certain pistols that are used in official Olympic-style international shooting competitions from the definition of “assault weapon.”

**This bill** expands the type of “dummy round” that may be used in the loading and slide demonstrations for a Handgun Safety Certificate.

**This bill** exempts recipients from having to apply the firearm safety device as part of the safe handling demonstration if the gun being delivered is an Olympic competition pistol for which no firearms safety device, other than a cable lock that the Department of Justice has determined would damage the barrel of the pistol, has been approved, and the pistol is

***Legislative History:***

*Assembly Public Safety*  
(5-0)

*Assembly Appropriations*  
(24-0)

*Assembly Floor* (79-0)

*Assembly Concurrence*  
(80-0)

*Senate Public Safety*  
(4-0)

*Senate Appropriations,*  
*SR 28.8*

*Senate Floor* (40-0)

exempted from certain other requirements as a pistol that is used in official Olympic-style international shooting competitions.

**This bill** requires the department to create a program to exempt new models of competitive

pistols that would otherwise be considered an "assault weapon" pursuant to existing law from being classified as an "assault weapon" and specifically provides that the exempt competitive pistols may be based on recommendations by USA Shooting consistent with the

regulations contained in the USA Shooting Official Rules or may be based on the recommendation or rules of any other organization that the department deems relevant.

**AB 2902 (Koretz): Chapter 912: "Unsafe" handguns.**  
(Amends Sections 12076, 12125, 12127, and 12131 of the Penal Code.)

**Existing law** does the following:

- Commencing January 1, 2001, 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. 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. (Penal Code §§ 12125 *et seq.* and Penal Code § 12082.)

that therefore may be sold by firearms dealers in this state, and authorizes the imposition of an initial and annual fee to, among other things, maintain that roster. The department is allowed to remove handguns from the roster if the annual fee is not paid. (Penal Code § 12131.)

- Specifies and restricts the amount of the Dealers' Record of Sale (DROS) fee and other specified fees and the use by the DOJ of the DROS account. (Penal Code § 12076.)

**This bill** does the following:

- Defines "unsafe handgun" to mean any pistol, revolver or firearm capable of being concealed upon a person that does not have a specified safety device, does not meet specified firing requirements, or does not meet specified drop safety requirements and sets forth "firing requirements for handguns" for the required tests. (Penal Code §§ 12126 and 12127.)
- Requires the Department of Justice to maintain a roster of handguns that are not unsafe,
- Authorizes the DOJ to annually retest up to 5 percent of the handgun models that are listed on the roster of handguns not found "unsafe" and that therefore may be sold both new and used by dealers in California.
- Allows the Department of Justice to use DROS fund account funds for retesting handgun models pursuant to this bill.
- Makes operation of the

***Legislative History:***

*Legislative History:*  
*Assembly Public Safety (5-2)*  
*Assembly Appropriations (16-8)*  
*Assembly Floor (42-35)*  
*Assembly Concurrence (45-33)*  
  
*Senate Public Safety (4-1)*  
*Senate Appropriations (7-4)*  
*Senate Floor (25-12)*

retesting of handgun model authorized by this bill contingent upon an appropriation for that purpose from the Dealers' Record of Sale Special Account.

- Specifies that, in addition to existing requirements in the law, the ammunition used in the "unsafe handgun" firing tests shall be commercially available.
- Deletes the exemption for retired peace officers from the prohibition relating to unsafe handguns.

- Adds additional specific requirements regarding retesting handguns (new Section 12131(d)-(f)); specifically allows the retesting of previously retested handguns (new Section 12131(d)(g)(7)); allows reinstatement of handguns previously removed from the roster, as specified (new Section 12131(g)); deletes the “faulty magazine” exemption – so that magazine malfunctions count

for the safety test limit of six – in Section 12127(a)(1) and (2) and (b) and (c); provides handguns submitted for testing “may not be refined or modified in any way” replacing similar language and that magazines used in handgun testing shall be identical to those that would be provided to the retail customer (added to Section 12127(a)); and makes other related changes.

## ***GANGS/ASSET FORFEITURE***

**AB 1990 (Liu): Chapter 991: Criminal asset forfeiture: gang crimes for financial gain.**  
(Amends Section 186.2 of the Penal Code.)

**Existing law** provides for the forfeiture of assets of any person convicted of engaging in a pattern of criminal profiteering activity, as defined, and includes within that definition, any person convicted of engaging in a pattern of criminal gang activity, as specified. (Note: This appears to be an anomalous reference, as a pattern of gang activity is not a crime, but is rather an element of a the crime of active participation in gang activity or the enhancement of committing a felony for the benefit of a gang. The other references in the statute are to actual crimes, not a description of conduct or elements of crimes.)

**This bill** corrects the reference to gang activity in the crimes subject to criminal profiteering

forfeiture. In particular, the bill provides that forfeiture may be applied against defendants who have been convicted of active participation in a criminal street gang, or convicted of any felony subject to enhanced sentences under the criminal gang provisions. As with any other crime which may support a criminal asset forfeiture action under existing law, the underlying crime must have been done for financial gain and the prosecution must establish a pattern of criminal profiteering activity.

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

*Assembly Public Safety*  
*(4-0)*  
*Assembly Floor (68-1)*  
*Assembly Concurrence*  
*(73-1)*

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

# ***GRAFFITI/VANDALISM***

**AB 1344 (Cox): Chapter 523: Vandalism: etching cream.**  
(Amends Section 594.1 of the Penal Code.)

**Existing law** provides, with limited exceptions, that it is unlawful for anyone to sell or furnish a minor with spray paint capable of defacing property. Retailers selling spray paint must post a sign stating that defacement of property with paint is unlawful. It is also unlawful for a minor to possess an aerosol container of paint for the purpose of defacing property in any public place.

**This bill** extends these laws to include “etching cream” and defines etching crime.

## ***Legislative History:***

*Assembly Public Safety (5-2)*

*Assembly Appropriations (15-4)*

*Assembly Floor (58-5)*

*Assembly Concurrence (61-5)*

*Senate Public Safety (4-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (33-0)*

# ***HATE CRIMES***

**AB 1928 (Jackson): Chapter 842: Civil actions: gender-related violence.**  
(Adds Section 52.4 to the Civil Code.)

**Existing law** sets forth various personal rights and provides that all persons within California have the right to be free from violence, or intimidation by the threat of violence because of, among other characteristics, their race, color, religion, ancestry, national origin, political affiliation, or sex. Existing law further permits an individual whose exercise or enjoyment of specified personal rights has been interfered with to bring a civil action for damages, including actual damages, exemplary damages, attorney’s fees, injunctive relief, and other appropriate relief.

**This bill** permits a person injured by a crime of violence motivated by gender to bring a civil action for damages against the responsible person or persons. The bill provides that damages may include actual damages, compensatory damages, punitive damages, injunctive relief, or a combination of those damages, including any other appropriate relief, in addition to attorney’s fees and costs. The bill specifies that it does not establish any civil liability of a person because of his or her status as an employer, unless the employer personally committed an act of gender

## ***Legislative History:***

*Assembly Judiciary (8-1)*

*Assembly Floor (45-6)*

*Assembly Concurrence (50-20)*

*Senate Judiciary (4-2)*

*Senate Floor (24-12)*

violence. The bill includes legislative findings and declarations regarding gender-related violence.

**AB 2653 (Chu): Chapter 788: Criminal procedure: continuances.**  
(Amends Section 1050 of the Penal Code.)

**Existing law** provides that in certain stalking, murder, sexual assault, domestic violence or child abuse cases, the court may find “good cause” to continue the trial or hearing for up to ten days where the prosecutor has another trial, preliminary hearing or motion to suppress in progress.

**This bill** provides that the court may find “good cause” to continue a hate crimes trial or hearing for up to ten court days, when the prosecutor has another trial, preliminary hearing, or motion to suppress in progress.

***Legislative History:***

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (75-0)*  
*Assembly Concurrence (78-0)*

*Senate Public Safety (4-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (33-0)*

## ***HOAXES AND FALSE EMERGENCY REPORTS***

**SB 1267 (Battin): Chapter 281: False threats: restitution for response.**  
(Adds Section 422.1 to the Penal Code.)

**Existing law** provides that it is a crime to maliciously send or place a facsimile bomb, or to make a false report about a bomb. AB 1838 would make it a crime to send or place a false or facsimile of a weapon of mass destruction with the intent to cause another person to fear for his or her own safety.

**This bill** provides that a person receiving a felony conviction for maliciously sending or placing a facsimile bomb, making a false report of a bomb, or of sending or placing a false or facsimile of a weapon of mass destruction with the intent to cause another

person to fear for his or her own safety, under circumstances in which the person knows the underlying report was false, is liable to specified entities for property damage and for the reasonable costs in personnel, equipment, and materials incurred to respond to and clean up after the threat.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Floor (38-0)*  
*Senate Concurrence (29-0)*

*Assembly Public Safety (4-0)*  
*Assembly Floor (65-2)*

**SB 2057 (O’Connell): Chapter 521: False reports of emergencies: expands existing crime to specifically include vessels and aircraft.**

(Amends Section 148.3 of the Penal Code.)

**Existing law** provides that any person who reports to specified agencies that an emergency exists knowing that the report is false is punishable by imprisonment in a county jail for a period not exceeding one year, a fine not exceeding \$1,000, or by both that imprisonment and fine. An emergency includes any condition that results in, or could result in, the response of a public official in an authorized emergency vehicle. Further, any individual who reports to specified agencies that an emergency exists knowing that

the report is false, where great bodily injury or death is sustained by any person as a result of the report, is guilty of a felony.

**This bill** expands this provision to include any condition that results in, or could result in, the response of a public official in an authorized emergency vehicle, aircraft, or vessel. The bill requires that the individual knew or should have known that the response to the report is likely to cause death or great bodily injury.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (8-0)*  
*Senate Floor (39-0)*

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (78-0)*

## ***IDENTITY THEFT***

**SB 1254 (Alpert): Chapter 254: Acquiring identifying information with intent to defraud.**

(Amends Penal Code Sections 530.5 and 530.8.)

**Existing law** provides the following:

- Every person who willfully obtains another’s “personal identifying information” and uses that information for any unlawful purpose (specifically including fraud and obtaining confidential medical information) is guilty of a crime punishable by imprisonment in a county jail not to exceed one year, or a fine not to exceed \$1,000, or both, or by imprisonment in the state prison, or a fine not to exceed \$10,000, or both.

- If a person discovers that an unauthorized person has applied for certain services or opened certain accounts, the person is entitled to receive the identifying information that was used by the unauthorized person to apply for or open the account or service upon presentation of a copy of a police report and identifying information.

**This bill:**

- Expands the definition of “personal identifying information” to include other identification numbers and other specified information;

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*  
*Senate Concurrence (35-0)*

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (22-0)*  
*Assembly Floor (74-0)*



- Provides that every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information, as defined, of another person, is guilty of a crime punishable by imprisonment in the county jail

not exceeding a year, a fine not exceeding \$1,000, or by both that imprisonment and fine; and

- Adds applications and accounts for commercial mobile radio services to the applications and accounts covered by these

provisions. A request for identifying information must be made in writing when made to a telephone or telegraph corporation.

**SB 1259 (Ackerman): Chapter 861: Payment card information theft: new misdemeanor.**

(Adds Section 502.6 to the Penal Code.)

**Existing law** defines various theft crimes, including “identity theft” in which the perpetrator uses the personal identifying information of the victim for any unlawful purpose, including theft and accessing confidential medical information. Existing law also includes specific crimes concerning financial access cards.

**This bill** provides that the possession or use, knowingly, willfully, and with the intent to defraud, as specified, of a device

designed to scan or re-encode information from or to the magnetic strip of a payment card, as defined, would be punishable by a term of imprisonment in a county jail not to exceed one year, or a \$1,000 fine, or both the imprisonment and fine. The bill also provides for destruction of those devices owned by the defendant and possessed or used in violation of these provisions, and seizure of various other computer equipment used to store illegally obtained data, as specified.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (38-0)*  
*Senate Concurrence*  
*(39-0)*

*Assembly Public Safety*  
*(6-0)*  
*Assembly Appropriations*  
*(23-0)*  
*Assembly Floor (78-0)*

**SB 1386 (Peace): Chapter 915: Personal information: inadvertent release.**

(Amends, renumbers, and adds Section 1798.82, and adds Section 1798.29 to, the Civil Code, and Uncodified Law.)

**Existing law** regulates the maintenance and dissemination of personal information by state agencies, as defined, and requires each agency to keep an accurate account of disclosures made pursuant to specified provisions and also requires a business, as defined, to take all reasonable steps to destroy a customer’s records that contain personal information when the business will no longer retain those records.

**This bill** (effective July 1, 2003) requires a state agency, or a person or business that conducts business in California, that owns or licenses computerized data that includes personal information, as defined, to disclose in specified ways, any breach of the security of the data, as defined, to any resident of California whose unencrypted personal information was, or is reasonably believed to have

***Legislative History:***

*Senate Judiciary (6-1)*  
*Senate Floor (32-0)*  
*Senate Concurrence*  
*(39-0)*

*Assembly Judiciary (9-3)*  
*Assembly Business and*  
*Professions (7-1)*  
*Assembly Appropriations*  
*(16-7)*  
*Assembly Floor (78-0)*

been, acquired by an unauthorized person.

**This bill** permits the notifications required by its provisions to be delayed if a law enforcement agency determines that it would impede a criminal investigation and makes related changes to law.

**AB 700 (Simitian): Chapter 1054: Personal information: inadvertent release.** (Amends, renumbers, and adds Section 1798.82, and adds Section 1798.29 to, the Civil Code, and Uncodified Law.)

(Note: See the entry for SB 1386 (Peace), which is identical to AB 700.)

**Legislative History:**

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(80-0)*

*Senate Appropriations*  
*(12-0)*  
*Senate Floor (40-0)*

**AB 1155 (Dutra): Chapter 907: Illegally obtaining, or assisting in obtaining, driver's licenses and other documents.**

(Amends Section 182 of, and adds Section 529.7 to, the Penal Code.)

**Existing law** makes it a crime to manufacture, offer for sale, sell, or transfer a document that falsely appears to be a government-issued identification card or driver's license. It is a crime to conspire to commit any crime, including identity theft.

**This bill** specifically provides that it is a misdemeanor for a person to obtain, or assist another person in obtaining, a driver's license, identification card, vehicle registration certificate, or

other official document issued by the Department of Motor Vehicles (DMV) if the person has knowledge that the person obtaining the document is not entitled to it. (Note: This bill was introduced because DMV determined that no law directly covered situations where DMV employees assisted persons in obtaining drivers' licenses who were not entitled to them.) The bill also authorizes a court to impose a fine of up to \$25,000 on a person who receives a felony conviction for conspiring to commit identity theft.

**Legislative History:**

*Assembly Public Safety*  
*(7-0)*  
*Assembly Appropriations*  
*(21-0)*  
*Assembly Floor (74-0)*  
*Assembly Concurrence*  
*(76-0)*

*Senate Public Safety (4-0)*  
*Senate Appropriations*  
*(10-0)*  
*Senate Floor (39-0)*

**AB 1219 (Simitian): Chapter 851: Criminal procedure: identity theft.**  
(Amends Section 530.6 of the Penal Code.)

**Existing law** authorizes a person who reasonably believes that he or she is a victim of identity theft to petition a court for an expedited judicial determination of his or her factual innocence, where the perpetrator of the identity theft was arrested for or convicted of a crime under the victim's identity or where the victim's identity has been mistakenly associated with a record of criminal conviction. Existing law provides that a judicial determination of factual innocence may be heard and determined upon material, relevant, and reliable information submitted by the parties. Existing law requires a court that determines the petitioner is factually innocent to issue an order certifying the determination of factual innocence.

**This bill** authorizes the alleged victim of identity theft to petition for, or the court, on its own motion or upon application of the prosecuting attorney, to move for, an expedited judicial determination of the factual innocence of an alleged victim of identity theft, where the perpetrator of the identity theft was arrested for, cited for, or convicted of a crime under the victim's identity, or where a criminal complaint has been filed against the perpetrator in the victim's name, or where the victim's identity has been mistakenly associated with a record of criminal conviction. This bill also increases the sources upon which a determination of factual innocence may be made to include material, relevant, and reliable information ordered to

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(78-0)*

*Senate Public Safety (4-0)*  
*Senate Floor (34-0)*

be part of the record by the court. This bill authorizes the court that has issued a finding of factual innocence to order the name and associated personal identifying information contained in court records, files, and indexes accessible by the public deleted, sealed, or labeled to show that the data is impersonated and does not reflect the defendant's identity.

**AB 1773 (Wayne): Chapter 908: Venue for prosecution of related, multiple counts of identity theft: judicial hearing to determine joinder issues.**  
(Amends Section 786 of the Penal Code.)

**Existing law** provides, with limited exceptions and nuances, that the proper territorial jurisdiction or venue for trial in a criminal matter is the county in which the crime occurred. As to certain property crimes, where property stolen in one county is taken to another, prosecution of the offenses is proper in any court within either of county, or any contiguous territory.

**This bill** provides that the jurisdiction of a criminal action

for identity theft is the county where the theft occurred or where the information was illegally used. Further, if offenses of unauthorized use of personal identifying information occur in multiple jurisdictions, any of those jurisdictions is a proper jurisdiction for prosecution of all of the offenses.

**This bill** provides that a court in which a complaint alleging multiple offenses of unauthorized use of personal

***Legislative History:***

*Assembly Public Safety*  
*(6-0)*  
*Assembly Floor (70-0)*  
*Assembly Concurrence*  
*(78-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations*  
*(7-0)*  
*Senate Floor (39-0)*

identifying information occurring in multiple counties has been filed shall hold a hearing to consider whether the matter should proceed in the county of filing or whether one or more counts should be severed. The district attorney filing the complaint must 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. In ruling on whether all charges shall be prosecuted in the county of filing, the court must consider numerous factors related to the complexity and location of evidence, convenience of the witnesses and the fairness to the parties.

## ***JUVENILE JUSTICE***

### **SB 1478 (McPherson): Chapter 1036: Community learning centers.**

(Adds Article 22.6 (commencing with Section 8484.7) to Chapter 2 of Part 6 of the Education Code.)

**Existing law** establishes the Before and After School Learning and Safe Neighborhoods Partnerships Program to create incentives to establish locally driven before and after school enrichment programs for pupils in kindergarten and grades 1 to 9, inclusive.

**This bill** makes certain legislative findings and declarations concerning the value of after school programs. This bill further states legislative intent that federally-funded 21st Century Community Learning

Centers complement the existing Before and After School Learning and Safe Neighborhoods Partnerships Program by utilizing the existing funding provided under that existing program, and providing the local flexibility needed to implement the federal 21st Century Community Learning Centers. The bill also specifies certain funding priorities for the 21st Century Community Learning Centers Program contained in the federal No Child Left Behind Act of 2001 Program.

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

*Senate Education (9-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (39-0)*  
*Senate Concurrence (39-0)*  
  
*Assembly Education (14-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (77-0)*

**SB 1650 (Alpert): Chapter 355: Youth mentoring and development programs.**  
(Adds Chapter 3 (commencing with Section 2100) to Division 2.5 of the Welfare and Institutions Code.)

**Existing law** provides various services for youth in the state.

**This bill** makes legislative findings relative to various factors affecting youth in California, and the benefits of mentoring and other positive developmental relationships between youth and adults, to address these concerns. The bill declares that it is a goal of the Legislature to give every young person in California access to a quality mentoring relationship,

and also declares legislative intent with respect to the conduct of youth mentoring programs in the state.

***Legislative History:***

*Senate Health and Human Services (7-1)*  
*Senate Floor (24-12)*  
*Senate Concurrence (25-12)*

*Assembly Human Services (4-2)*  
*Assembly Floor (50-23)*

**SB 1793 (Burton): VETOED: Youthful Offender Parole Board.**

(Amends Sections 779 and 1719 of, and adds Section 730.1 to, the Welfare and Institutions Code.)

**Existing law** sets forth the powers and duties of the Youthful Offender Parole Board ("YOPB"), including the power to consider and make decisions regarding eligibility for parole for wards who have been committed to the Department of the Youth Authority.

**This bill** would have required the juvenile court to set an initial parole consideration date for a ward and to set a maximum term of physical confinement based upon the facts and circumstances of the matter or matters which brought or continued the minor under the jurisdiction of the juvenile court, as specified. The bill would have authorized the Judicial Council to promulgate rules of court that establish guidelines for setting initial

parole consideration dates. The bill also would have authorized the juvenile court to recommend a treatment program for a ward. The bill also would have required the Youth Authority to provide the court and the probation department with a treatment plan for the ward, an estimated timeframe within which the treatment recommended by the court would be provided, as specified, and specified annual reports regarding the ward. The bill also would have required YOPB to collect and report specified information to the Legislature commencing on June 30, 2003, and annually thereafter. Further, the bill would have appropriated the sum of \$1.6 million from the General Fund to YOPB to supplement funding provided in the Budget Act of 2002-03.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations (9-1)*  
*Senate Floor (24-11)*  
*Senate Concurrence (29-5)*

*Assembly Public Safety (4-2)*  
*Assembly Appropriations (15-0)*  
*Assembly Floor (72-1)*

**AB 323 (Pavley): VETOED: Juvenile courts: special education.**  
(Uncodified Law.)

**Existing federal law**, the Individuals with Disabilities Education Act, requires that all individuals with disabilities residing in the state, regardless of the severity of their disabilities, and who are in need of special education and related services, are to be identified, located, and assessed as required by federal law. Existing law requires special education programs to be provided for individuals with exceptional needs who have been adjudicated by the juvenile court for placement in a juvenile hall or juvenile home, day center, ranch or camp, or for individuals with exceptional needs placed in a county community school.

**This bill** would have required the State Department of Education, in conjunction with the Department of Finance and the Legislative Analyst, to conduct a specified study regarding the special education needs of special needs juveniles who are in the jurisdiction of the juvenile court. The Department of Education would have been required to report its findings and recommendations to the Legislature and the Governor on or before July 1, 2004. The bill would have authorized the Department of Education to use an amount not to exceed \$200,000 from funds made available for purposes of special education in the Budget Act of 2002.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Floor (53-20)*  
*Assembly Concurrence*  
*(53-26)*

*Senate Education (11-0)*  
*Senate Appropriations*  
*(8-0)*  
*Senate Floor (26-8)*

**AB 1877 (Maldonado): VETOED: Turning Point Academy facilities.**  
(Adds Section 531.5 to the Military and Veterans Code.)

**Existing law**, no longer operative as of July 1, 2002, created the Turning Point Academy, operated by the Military Department for delinquent wards of the juvenile court, as specified.

**This bill** would have provided that the "Grizzly Youth Academy at Camp San Luis Obispo in San Luis Obispo County may use the Turning Point Academy facilities."

***Legislative History:***

*Assembly Public Safety*  
*(5-0)*  
*Assembly Floor (62-4)*  
*Assembly Concurrence*  
*(64-3)*

*Senate Public Safety (5-0)*  
*Senate Floor (32-1)*

**AB 1942 (Chu): VETOED: Youth Anti-Bias Pilot Program.**

(Adds Chapter 3 (commencing with Section 2025) to Division 2.5 of the Welfare and Institutions Code.)

**Existing law** makes it a crime for a person to willfully injure, intimidate, interfere with, oppress, or threaten another person in the free exercise or enjoyment of any right or privilege, as specified, because of that person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics.

**This bill** would have required the Board of Corrections to establish and administer the Youth Anti-Bias Pilot Program for one year to be funded by a grant, as specified.

***Legislative History:***

*Assembly Public Safety (5-1)*  
*Assembly Appropriations (17-7)*  
*Assembly Floor (50-28)*  
*Assembly Concurrence (50-28)*  
  
*Senate Public Safety (4-1)*  
*Senate Appropriations (8-4)*  
*Senate Floor (26-11)*

**AB 2154 (Robert Pacheco): Chapter 110: Expedited Youth Accountability Program.**

(Amends Section 660.5 of the Welfare and Institutions Code.)

**Existing law** establishes, until 2003, the Expedited Youth Accountability Program, operative in Los Angeles County, and in other counties upon approval of the board of supervisors, as specified.

**This bill** deletes the 2003 termination date, thereby making those provisions operative indefinitely.

***Legislative History:***

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (74-0)*  
  
*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (36-0)*

**AB 2258 (Cardenas): VETOED: Youth Authority.**  
(Uncodified Law.)

**Existing law** creates the Department of the Youth Authority for the commitment of a person believed to materially benefit by its reformatory and educational discipline, if there are adequate facilities to provide that care and if the person is under 21 years of age.

**This bill** would have required the Department of the Youth Authority to conduct an evaluation of the number of persons who have been released to parole or discharged by the department within the 10-year

period prior to January 1, 2003, and who have been recommitted to the jurisdiction of the department or sentenced to a county jail or to the Department of Corrections. The bill also would have required the evaluation to include the average time period that those individuals remained outside of confinement, among other things. The bill also would have required the evaluation to be submitted to the Legislature on or before January 2, 2004.

***Legislative History:***

*Assembly Public Safety (5-2)*

*Assembly Appropriations (18-4)*

*Assembly Floor (54-19)*

*Assembly Concurrence (58-22)*

*Senate Public Safety (6-0)*

*Senate Appropriations (9-0)*

*Senate Floor (28-8)*

**AB 2279 (La Suer): Chapter 920: Police custody.**  
(Adds Section 305.5 to the Welfare and Institutions Code.)

**Existing law** authorizes a peace officer to take into temporary custody, without a warrant, a minor who is in a hospital when the release of the minor to a parent poses an immediate danger to the child's health or safety.

**This bill** enacts a similar provision authorizing a peace officer to take into temporary custody a minor who is in a hospital if the release of the minor to a prospective adoptive parent poses an immediate danger to the minor's health or safety. The bill creates a limited exception to this provision and to

the provision described above if the minor is a newborn who tests positive for illegal drugs or whose birth mother tests positive for illegal drugs, the minor is the subject of a petition for adoption and an adoption placement agreement, and the release of the minor to a prospective adoptive parent or parents does not pose an immediate danger to the minor. The bill states specified legislative findings and declarations regarding drug-exposed infants.

***Legislative History:***

*Assembly Judiciary (12-0)*

*Assembly Floor (74-0)*

*Assembly Concurrence (78-0)*

*Senate Judiciary (6-0)*

*Senate Floor (39-0)*



**AB 2496 (Steinberg): VETOED: Juvenile detention.**

(Amends Sections 210.1 and 737 of the Welfare and Institutions Code.)

**Existing law** requires the Board of Corrections to develop guidelines for the operation and maintenance of nonsecure placement facilities for persons alleged or adjudged as wards of the juvenile court, as specified. Existing law also requires that the court periodically review, as specified, any case in which a minor has been detained for more than 15 days, pending the execution of an order of commitment or other disposition, and inquire into the delay.

**This bill** generally would have changed court and probation procedures so that minors who

are wards of the juvenile court can be moved more quickly from juvenile hall confinement to nonsecure placements ordered by the court. This bill also would have required the board to collect and maintain information from specified counties regarding the placement of minors awaiting transfer to a nonsecure out-of-home placement, as specified. The bill also would have required those counties to provide specified information to the board in relation to those placements. This bill contained legislative findings and declarations regarding this issue.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (76-1)*  
*Assembly Concurrence (74-2)*  
  
*Senate Public Safety (5-1)*  
*Senate Appropriations (9-0)*  
*Senate Floor (25-11)*

## ***NATIVE AMERICAN ISSUES***

**SB 1816 (Chesbro): Chapter 1155: Sacred Native American sites: new misdemeanor.**

(Adds Chapter 1.76 (commencing with Section 5097.995) to Division 5 of the Public Resources Code.)

**Existing law** prohibits a public agency, or a private party using, occupying or operating on public property, under a public license, permit, grant, lease, or contract made on or after July 1, 1977, from in any manner interfering with the free expression or exercise of Native American religion as provided in the United States Constitution and the California Constitution. This law also prohibits such an entity from causing severe or irreparable damage to any Native

American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require.

The Native American Heritage Commission, consisting of nine members appointed by the Governor, five of whom shall be elders, traditional people, or spiritual leaders of California Native American tribes, has

***Legislative History:***

*Senate Public Safety (6-0)*  
*Senate Appropriations (10-0)*  
*Senate Floor (25-6)*  
*Senate Concurrence (32-0)*  
  
*Assembly Public Safety (6-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (78-0)*

substantial responsibility for identifying sacred and cultural sites and for preserving and protecting such sites as specified. (Pub. Res. Code § 5097.91.)

**This bill** establishes the Native American Historic Resource Protection Act, which provides that any person who unlawfully and maliciously excavates upon, removes, destroys, injures, or defaces a Native American historic, cultural, or sacred site that is listed or may be listed in the California Register of Historic Resources, including any historic or prehistoric ruins, burial ground, any archaeological or historical site, any inscriptions

made by Native Americans at the site, any archaeological or historic Native American rock art, or any archaeological or historic feature is guilty of a misdemeanor if the act was committed with the specific intent to vandalize, deface, destroy, steal, convert, possess, collect, or sell a Native American art object, inscription, or feature, or site and the act occurs on public land or, if on private land, is committed by a person other than the landowner, as described. A person found guilty is subject to imprisonment in the county jail for up to one year, a fine up to \$10,000, or by both that fine and imprisonment.

A person found guilty of a violation of those provisions is liable for a civil penalty in an amount not to exceed \$50,000 per violation. All civil penalties collected through an action filed by a city or county shall be distributed to the city or county treasurer. Proceeds of such penalties shall be first spent to repair or restore the damaged site. Remaining money shall offset enforcement costs. All civil penalties collected as a result of an action by the Attorney General are to be first distributed to, and used by, the Native American Heritage Commission to repair or restore the damaged site. Remaining money shall offset enforcement costs.

## ***PEACE OFFICERS***

### **SB 183 (Burton): Chapter 56: Peace officer status: Attorney General.**

(Amends Sections 20300, 20405.1, and 20687 of, and adds Sections 19816.21, 21020.5, and 21363.8 to, the Government Code, and amends Section 830.1 of the Penal Code.)

**Existing law** provides that specified employees of the Department of Justice, among others, are defined as "peace officers" and, as such, may exercise certain powers, including the power of search, seizure, and arrest, and are state peace officer/firefighter members of the Public Employees' Retirement System.

**This bill** includes the Attorney General in the definition of a "peace officer." (Note: This bill also makes a number of other changes to state employee retirement law.)

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

*(Prior votes not relevant)*  
*Senate Concurrence*  
*(22-11)*

*Assembly Public*  
*Employees, Retirement*  
*and Social Security (6-0)*  
*Assembly Appropriations*  
*(21-2)*  
*Assembly Floor (52-17)*

**SB 823 (Poochigian): Chapter 21: Local law enforcement funding. Urgency.**  
(Amends Sections 30061 and 30063 of the Government Code.)

**Existing law** establishes in each county treasury a Supplemental Law Enforcement Services Fund that receives from the Controller an annual allocation of state funds. Existing law requires each county or city and county to report annually on those programs to the county board of supervisors and the Board of Corrections beginning August 15, 2001. Existing law requires the Board of Corrections to compile the local reports and make a report to the Governor and Legislature by January 15, 2003, and annually thereafter, as provided. Existing law also requires a county, city, or city and county Supplemental Law Enforcement Oversight Committee to submit data detailing and summarizing

allocations to the Controller and provides that the county, city, or city and county shall forfeit its allocation if that data is not provided.

**This bill** clarifies that local governments will not lose future state Schiff-Cardenas juvenile justice grants if they fail to spend current allocations within the two-year grant period. This bill also requires the annual report on those programs to be made beginning October 15, 2002, and prohibits the expenditure of allocated funds and interest thereon if that report and the data detailing and summarizing allocations are not submitted. This bill requires the Board of Corrections to compile the local reports and make a report to the

***Legislative History:***

*Senate Public Safety (6-0)*  
*Senate Floor (37-0)*  
*Senate Concurrence (35-0)*

*Assembly Local Government (11-0)*  
*Assembly Appropriations (19-0)*  
*Assembly Floor (73-0)*

Governor and Legislature by March 15, 2003, and annually thereafter.

**SB 1312 (Peace): Chapter 1106: (1) Public safety communications equipment and (2) amendments to AB 2580.**

(Adds Article 6.3 (commencing with Section 8592.9) to Chapter 7 of Division 1 of Title 2 of the Government Code, amends Section 12305 of the Penal Code, and amends Section 7 of Assembly Bill 2580 and Uncodified Law.)

**Existing law** provides for the coordination of state and local public safety agencies and emergency response teams to respond to emergencies. Existing law administered by the Federal Communications Commission authorizes public safety agencies or entities to operate radio communication systems on specified frequencies of the radio spectrum and directs states to oversee interoperability of public safety spectrum.

**This bill** provides that, of the amounts received from the federal government for homeland security and appropriated in the Budget Act of 2002, not more than \$15,000,000 may be allocated to the security advisor to the Governor for disbursement to state and local government public safety agencies to procure and operate specified radio equipment and requires each state and local government public safety agency

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence (26-7)*

*Assembly Appropriations (15-0)*  
*Assembly Floor (49-18)*

*Peace Officers*

that receives these funds to provide an annual report to the Legislature, as specified. (Note: This same language is also in AB 1768 (Oropeza) Chapter 1127, Statutes of 2002 – a budget trailer bill on state and local government.)

**Existing law** requires every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, to obtain a permit for the conduct of that business from the Department of Justice; each applicant for a permit is required to pay an

application fee not to exceed the application processing costs of the Department of Justice; existing law limits the rate at which this fee may increase.

**This bill** contains amendments to AB 2580 (see “Firearms and Dangerous Weapons” section, above) contingent on the enactment of that bill; these amendments require the department to annually conduct an inspection, for security and safe storage purposes, and with specified exceptions, of every person, firm, or corporation to whom a permit is issued for destructive devices and allows the department to set a permit

fee sufficient in amount to cover processing costs and the costs of required departmental inspections. This bill specifies that the cost of these inspections are to be funded through the inspection fees and, if necessary, and only until January 1, 2006, through the Dealers’ Record of Sale Special Account. (Note: The change from the language in AB 2580 is to place the authorization for the new DOJ fees in uncodified law along with the use of those fees and the DROS Special Account as well as to sunset that uncodified language on January 1, 2006, unless extended or changed by a subsequently enacted statute.)

**SB 1313 (Margett): Chapter 224: Counties and cities: law enforcement contracts.**  
(Amends Section 53069.8 of the Government Code.)

**Existing law** provides that the board of supervisors of any county may contract on behalf of the sheriff of that county, and the legislative body of any city may contract on behalf of the chief of police of that city to provide supplemental law enforcement services to private individuals or private entities to preserve the peace at special events or occurrences that happen on an occasional basis. Contracts entered into under that authority shall provide for full reimbursement to the county or city of the actual costs of providing those services, as determined by the county auditor, auditor-controller, or by the city, as the case may be, as specified.

**This bill** adds the following two additional circumstances in which contracts may be

authorized to provide supplemental law enforcement services, as follows:

- Private nonprofit corporations that are recipients of federal, state, county, or local government low income housing funds or grants to preserve the peace on an ongoing basis.
- Private entities at critical facilities on an occasional or ongoing basis. A “critical facility” means any building, structure, or complex that in the event of a disaster, whether natural or manmade, poses a threat to public safety, including, but not limited to, airports, oil refineries, and nuclear and conventional fuel power plants.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Floor (38-0)*  
*Senate Concurrence (35-0)*

*Assembly Local Government (11-0)*  
*Assembly Floor (66-0)*

- Prior to contracting for ongoing services under the new authority granted in this bill, the board of supervisors or legislative body, as applicable, shall discuss the contract and the requirements of this section at a duly noticed public hearing.

**This bill** makes related changes in law.

**SB 1350 (McPherson): Chapter 612: Emergency services: terrorism: training. Urgency.**

(Adds Sections 8588.10 and 8588.11 to the Government Code, adds Sections 1797.116 and 13159.1 to the Health and Safety Code, adds Section 13519.12 to the Penal Code, and Uncodified Law.)

**Existing law** creates the Office of Emergency Services in the Office of the Governor, with specified powers and duties relative to coordinating emergency services; the Emergency Medical Services Authority to assess emergency medical services areas and to perform other activities relating to planning, implementing, and assisting local and regional emergency medical services; the State Fire Marshal who is authorized to develop firefighter training and education standards; the Commission on Peace Officer Standards and Training; and the California Fire Fighter Joint Apprenticeship Program.

**This bill** creates the Responders Emergency Act to Combat Terrorism (REACT); establishes the Emergency Response Training Advisory Committee, as specified (including in the membership the Governor's security advisor, the

Commissioner of the California Highway Patrol, the Executive Director of the Commission on Peace Officer Standards and Training, and specified appointees of the Governor including a police chief and a sheriff from the statewide organizations and two specified law enforcement officers; and requires the Commission on Peace Officer Standards and Training to establish training standards and develop a course of instruction that includes the criteria for the curriculum content recommended by the Emergency Response Training Advisory Committee regarding terrorism. This bill makes other related changes in law and provides that the operative provisions of this bill are to be implemented only when federal funds are received for those purposes. This bill took effect upon enactment as an urgency measure.

***Legislative History:***

*Senate Governmental Organization (12-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (39-0)*  
*Senate Concurrence (38-0)*

*Assembly Governmental Organization (22-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (80-0)*

**SB 1457 (Johannessen): Chapter 720: Law enforcement funding: sheriffs. Urgency.**

(Amends Section 30070 of the Government Code.)

**Existing law** allocates annually prescribed amounts from the General Fund to the Controller for allocation to specified county sheriffs' departments to enhance law enforcement efforts, and until July 1, 2002, requires those funds to supplement rather than supplant existing law enforcement resources.

**This bill** extends that requirement indefinitely. This bill took effect immediately upon enactment.

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence*  
*(39-0)*

*Assembly Appropriations*  
*(18-0)*  
*Assembly Floor (74-3)*

**SB 1516 (Romero): Chapter 1156: Procedural Bill of Rights: sanctions for bad faith or frivolous actions.**

(Amends Section 3309.5 of the Government Code.)

**Existing law** establishes the Public Safety Officers Procedural Bill of Rights Act (POBOR), specifying the procedures to be followed whenever any public safety officer is subject to investigation and interrogation for alleged misconduct which may result in punitive action.

**This bill** adds the following to that Act:

- Provides that, in addition to existing extraordinary relief, upon a finding by a superior court that a public safety department, its employees, agents, or assigns, with respect to acts taken within the scope of employment, willfully and maliciously violated any provision of the Act with the intent to injure a public safety officer, the public safety

department, for each and every offense, shall be liable for a civil penalty of up to \$25,000, and for reasonable attorney's fees, as specified.

- Provides that if there is sufficient evidence to establish actual damages suffered by the officer, the public safety department shall also be liable for the amount of the actual damages.
- Provides that a public safety department may not be required to indemnify a contractor for the contractor's liability pursuant to this subdivision if there is, within the contract between the public safety department and the contractor, a "hold harmless" or similar provision that protects the public safety department

***Legislative History:***

*Senate Judiciary (5-2)*  
*Senate Public Safety*  
*(4-1)*  
*Senate Floor (21-10)*  
*Senate Concurrence*  
*(21-10)*

*Assembly Public Safety*  
*(6-0)*  
*Assembly Judiciary (8-2)*  
*Assembly Floor (76-2)*

from liability for the actions of the contractor.

- Provides that an individual shall not be liable for any act for which a public safety department is liable under this bill.
- Provides that if the court finds that a bad faith or frivolous action or a filing for an improper purpose has been brought, the court may order sanctions, as specified, against the party filing the action, the parties attorney, or both. Those sanctions may include, but are

not limited to, reasonable expenses, including attorney's fees, incurred by a public safety department. Specifically states that: "Nothing in this [new] paragraph is intended to subject actions or filings under this section to rules or standards that are different from those applicable to other civil actions or filings subject to Section 128.6 or Section 128.7 of the Code of Civil Procedure."

**SB 1556 (Chesbro): Chapter 284: Vehicles: ordinances: mobilehome parks: CHP.**  
(Adds Section 21107.9 to the Vehicle Code.)

**Existing law** applies the provisions of the Vehicle Code to streets and highways that are publicly maintained and open to the use of the public for purposes of vehicular travel, and to privately owned and maintained roads when requested by the owners and when authorized by an ordinance or resolution of a city or county, or city and county.

**This bill** allows the provisions of the code to be applied to

mobilehome parks and manufactured housing communities when requested by the owners and when authorized by an ordinance or resolution of a city or county, or city and county after a public hearing, as specified. The Department of the California Highway Patrol would not be required to provide patrol or enforce any provision of the code within a mobilehome park or manufactured housing community.

***Legislative History:***

*Senate Transportation  
(14-0)*

*Senate Floor (38-0)*

*Senate Concurrence  
(39-0)*

*Assembly Transportation  
(17-0)*

*Assembly Floor (74-0)*

**SB 1800 (Johannessen): Chapter 226: Public Safety Officer Medal of Valor Act.**  
(Adds Chapter 9.8 (commencing with Section 3400) to Division 4 of Title 1 of the Government Code.)

**Existing law** authorizes the Governor to make awards each year to employees or groups of employees who distinguish themselves by outstanding service to the state during the preceding year and to present a Medal of Valor to each member of the National Guard, State Military Reserve, and the Naval Militia who, while an officer or enlisted member of these services, distinguishes himself or herself by courageous conduct at the risk of life, above and beyond the call of duty, while in the service of the state or the United States.

**This bill** enacts the Public Safety Officer Medal of Valor Act; creates the Medal of Valor Review Board with a specified membership, and authorizes the Governor to award a Medal of Valor to one, or more, in extraordinary cases, public safety officer each year cited by the Attorney General, from among candidates recommended by the board, for extraordinary valor above and beyond the call of duty, as specified.

***Legislative History:***

*Senate Governmental Organization (12-0)*  
*Senate Appropriations (9-0)*

*Senate Floor (39-0)*  
*Senate Concurrence (35-0)*

*Assembly Public Safety (5-0)*  
*Assembly Appropriations (22-0)*  
*Assembly Floor (74-0)*

**AB 355 (Havice): Chapter 120: Funding for school resource officer positions.**  
(Amends Section 32296.8 of the Education Code.)

**Existing law** establishes the School Community Policing Partnership Act under which grants are awarded on a competitive basis to county offices of education, school districts and consortia of school districts and county offices of education that develop and implement plans that demonstrate a collaborative and integrated approach for implementing a system of providing safe and secure environments through

community policing. Existing law prohibits the use of grant funds to fund school resource officers.

**This bill** instead prohibits use of grant funds to fund school resource officer positions created on or before January 1, 2003.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence (77-0)*

*Senate Education (12-0)*  
*Senate Appropriations (13-0)*  
*Senate Floor (36-0)*



**AB 879 (Keeley): Chapter 986: Vehicle registration fees: law enforcement: crime prevention programs.**

(Amends and repeals Section 9250.19 of the Vehicle Code.)

**Existing law** allows the imposition of a \$1 fee, upon adoption of a resolution by a county board of supervisors, as specified, in addition to other specified vehicle registration fees, on certain vehicles, as specified, and 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. The money generated by these may only be used for programs that enhance the capacity of local law enforcement to provide automated mobile and fixed

location fingerprint identification of individuals who may be involved in driving under the influence of alcohol or drugs, vehicular manslaughter, or any combination of those and other vehicle-related crimes, and other crimes committed while operating a motor vehicle. Existing law also provides that the fees imposed by these provisions shall remain in effect only for a period of 5 years from the date that the actual collection of the fee commences.

**This bill** instead repeals these provisions as of January 1, 2006.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(68-6)*

*Senate Transportation*  
*(12-1)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (28-5)*

**AB 1759 (Wesson): Chapter 38: Antiterrorism activities: funding. Urgency.**

(Adds Article 21.5 (commencing with Section 70010) to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, and adds Section 5066 to the Vehicle Code.)

**Existing law** requires the Department of Motor Vehicles to issue specific special interest license plates.

**This bill** provides for the issuance of California memorial license plates and provides that additional revenue derived from the issuance, renewal, transfer, and substitution of California memorial license plates would be deposited, as specified, in the Antiterrorism Fund and the California Memorial Scholarship Fund. The Antiterrorism Fund shall, upon appropriation by the Legislature, be allocated one-half to the Office of Criminal Justice

Planning to be used solely for antiterrorism activities – OCJP shall not use more than 5 percent of any funds appropriated to it for administrative purposes – and one-half to be used solely for antiterrorism activities, all as specified.

**This bill** defines “antiterrorism activities” to mean activities related to the prevention, detection, and emergency response to terrorism that are undertaken by state and local law enforcement, fire protection, and public health agencies. The funds provided for these activities, to the extent that funds are available, shall be used

***Legislative History:***

*Assembly Transportation*  
*(15-0)*  
*Assembly Higher*  
*Education (11-0)*  
*Assembly Appropriations*  
*(20-0)*  
*Assembly Floor (76-1)*  
*Assembly Concurrence*  
*(71-0)*

*Senate Education (8-0)*  
*Senate Transportation*  
*(9-0)*  
*Senate Appropriations*  
*(9-1)*  
*Senate Floor (30-0)*

exclusively for purposes directly related to fighting terrorism. Eligible activities include, but are not limited to, hiring support staff to perform administrative tasks, hiring and training additional law enforcement, fire protection, and public health personnel, response training for existing and additional law enforcement, fire protection, and

public health personnel, and hazardous materials and other equipment expenditures.

**This bill** took effect immediately upon enactment.

**AB 1835 (Bates): Chapter 526: Peace officers: elimination of felony where officer declines to accept citizens arrest.**

(Amends Sections 142 and 847 of the Penal Code.)

**Existing law** (1) makes it a felony for any peace officer who has the authority to receive or arrest a person charged with a criminal offense to willfully refuse to receive or arrest that person, including a person arrested by a private person under a citizen's arrest, and, (2) provides that there shall be no civil liability on the part of, and no cause of action shall arise against, any peace officer acting within the scope of his or her authority, for false arrest or false

imprisonment arising out of any arrest under specified circumstances, including that the arrest was made pursuant to the requirements of specified provisions.

**This bill** provides that the crime for failure to accept an arrested person shall not apply to a citizen's arrest. It further provides that the above provisions limiting the civil liability shall apply to a citizen's arrest.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (74-0)*

*Senate Public Safety (6-0)*  
*Senate Judiciary (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

**AB 1873 (Koretz): Chapter 63: Peace officers: confidential records.**

(Amends Section 832.7 of the Penal Code.)

**Existing law** provides that peace officer personnel records of citizen complaints maintained by any state or local agency, or information obtained from these records, are confidential and shall not be disclosed "by the department or agency that employs the peace officer" in any criminal or civil proceeding, except pursuant to specified

provisions of the Evidence Code. The confidentiality provisions do not apply to investigations or proceedings concerning the conduct of police officers or a police agency conducted by a grand jury, a district attorney's office, or the Attorney General.

**This bill** returns Penal Code Section 832.7 to the language in

***Legislative History:***

*Assembly Public Safety (5-0)*  
*Assembly Floor (74-0)*

*Senate Public Safety (6-0)*  
*Senate Floor (38-0)*

that section prior to January 1, 2001, by deleting the confidentiality limitation of “by the department or agency that employs the peace officer” thus leaving that confidentiality provision as it previously read when it was first enacted in 1978.

(Note: The author submitted a letter to the Assembly Journal (page 6832, June 17, 2002) that states, in part: “. . . the enactment of Assembly Bill 1873

is not intended to have any substantive impact on the way Penal Code Section 832.7 is interpreted or executed and that no limitation or expansion of the right to gain access to police personnel should be inferred by the passage of this measure.” It does appear from context that the word “files” is missing but inferred after “personnel.”)

**AB 2040 (Diaz): Chapter 391: Custodial officers: personnel records.**

(Amends Sections 1043, 1045, 1046, and 1047 of the Evidence Code, and amends Sections 832.5 and 832.7 of the Penal Code.)

**Existing law** requires agencies that employ peace officers to establish a procedure for the investigation of complaints by the public against peace officers, provides for confidentiality of peace officer personnel records, as specified, and provides discovery procedures for peace officer personnel records, and other records pertaining to peace officers, as specified.

**This bill** (1) adds custodial officers (public officers as defined in Section 831.5) to the

four Evidence Code sections that currently provide special protections pertaining to access to peace officer records, and, (2) authorizes each department or agency that employs custodial officers (as defined in Section 831.5) to establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, provided however, that any procedure established shall comply with the provisions of Penal Code §§ 832.5 and 832.7 pertaining to such procedure for peace officers.

***Legislative History:***

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

*Assembly Appropriations*  
*(23-0)*

*Assembly Floor (75-0)*

*Assembly Concurrence*  
*(77-0)*

*Senate Public Safety (5-0)*

*Senate Floor (35-0)*

**AB 2346 (Dickerson): Chapter 185: Peace officers: custodial deputy sheriffs.**  
(Amends Section 830.1 of the Penal Code.)

**Existing law** provides that any deputy sheriff of a county of the first class (Los Angeles County), Riverside County, and San Diego County who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment

and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state-of-emergency. (Penal Code § 830.1(c).)

**This bill** adds deputy sheriffs employed by the Counties of Kern, Humboldt, Imperial, Mendocino, Plumas, Santa Barbara, Siskiyou, Sonoma, Sutter, and Tehama to Section 830.1(c) and makes technical changes to Section 830.1.

***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Floor (75-0)*  
*Assembly Concurrence (76-0)*

*Senate Public Safety (4-0)*  
*Senate Floor (38-0)*

**AB 2846 (Frommer): Chapter 170: Public safety officers: American flag.**  
(Adds Section 3312 to the Government Code.)

**Existing law** establishes the Public Safety Officers Procedural Bill of Rights Act, specifying the procedures to be followed whenever any public safety officer is subject to investigation and interrogation for alleged misconduct which may result in punitive action.

**This bill** specifies in the Public Safety Officers Procedural Bill of Rights Act that, notwithstanding any other provision of law, the employer of a public safety officer may not take any punitive action against an officer for wearing a pin or displaying any other item containing the American flag unless enumerated procedures are followed, as specified.

(See also SB 1359 (Haynes) Chapter 73, Statutes of 2002 that prohibits any local government agency, as defined, from adopting any policy or regulation that prohibits or restricts an employee of that agency from displaying a flag of the United States, or a pin of that flag, on his or her person, in his or her workplace, or on a local government agency vehicle, except as specified. SB 1359 was not heard in the Senate Committee on Public Safety and is not otherwise mentioned in this summary.)

***Legislative History:***

*Assembly Public Employment, Retirement, and Social Security (6-0)*  
*Assembly Appropriations (21-0)*  
*Assembly Floor (70-0)*  
*Assembly Concurrence (72-0)*

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

# ***PRIVATE SECURITY SERVICES***

## **SB 1241 (Figueroa): Chapter 609: Private security services.**

(Amends Sections 7583.2, 7583.3, 7583.8, 7583.9, and 7583.17 of, and repeals Sections 7583.11 and 7583.43 of, the Business and Professions Code.)

**Existing law** (the Private Security Services Act) provides for the licensure and regulation of private patrol operators by the Bureau of Security and Investigative Services within the Department of Consumer Affairs. An employee of a licensee may be assigned to work with a temporary registration card if specified requirements are met.

**This bill** deletes the provisions relating to temporary registration cards and requires that a background check be completed and a determination made by the bureau prior to the issuance of a registration card and authorizes a person to work as a security guard or security patrolperson pending receipt of a registration card if he or she has been approved by the bureau and carries on his or her person a hardcopy printout of the bureau's approval from the bureau's web site and a valid picture identification.

**Existing law** requires a person, upon accepting employment by a private patrol operator

performing the function of a security guard or security patrolperson, to, among other things, submit fingerprint cards to the Department of Justice if he or she is not currently registered with the bureau but exempts law enforcement officers meeting specified criteria from the fingerprinting requirement.

**This bill** removes the exemption for law enforcement officers, and instead authorizes an officer who meets the criteria to immediately perform the functions of a security guard or security patrolperson prior to the completion of a background check, provided that he or she has submitted an application, the applicable fees, and his or her fingerprints to the bureau for a security guard registration.

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

*Senate Business and Professions (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (28-8)*  
*Senate Concurrence (25-9)*

*Assembly Business and Professions (6-2)*  
*Assembly Appropriations (18-5)*  
*Assembly Floor (53-23)*

**AB 248 (Correa): VETOED: Private security services.**

(Amends Sections 7581, 7582.2, 7583.2, 7583.6, 7583.7, 7583.8, 7583.9, 7583.11, 7583.34, 7583.36, and 7587.7 of the Business and Professions Code.)

**Existing law** (the Private Security Services Act) provides for the licensing and regulation of private patrol operators and the registration and regulation of security guards by the Bureau of Security and Investigative Services within the Department of Consumer Affairs but exempts from the act guards employed exclusively and regularly by any employer who does not provide contract security services (known as proprietary guards), provided they do not carry or use any deadly weapon in the performance of their duties.

**This bill** would have eliminated the exemption for proprietary guards, thereby subjecting them to registration and regulation by the bureau; extended various provisions governing private patrol operators to any lawful

business or public agency that employs security guards; required any lawful business or public agency to supply a guidebook regarding the power to arrest to its registered security guards or any person it intends to hire as a registered security guard, and would have prohibited any lawful business or public agency that employs registered security guards from allowing a registered security guard to carry a baton, tear gas, or any other nonlethal chemical agent unless the registered security guard is proficient in the use of a baton, tear gas, or nonlethal chemical agent; authorized the director to issue a citation to a lawful business or public agency if the director determines the lawful business or public agency has violated specified provisions regarding

***Legislative History:***

*Assembly Business and Professions (12-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (59-10)*  
*Assembly Concurrence (67-12)*

*Senate Business and Professions (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (26-10)*

private security services; would have provided a review and appeal process to any lawful business or public agency that received a citation from the director; and would have made related changes in law.

**AB 1840 (Diaz): Chapter 689: Private security services: peace officers.**

(Amends Sections 7583.9 and 7583.12 of, and adds Section 7588.2 to, the Business and Professions Code.)

**Existing law** (the Private Security Services Act) provides for the licensure of private patrol operators and the registration of security guards by the Director of Consumer Affairs and requires that they comply with certain terms in the conduct of their operations, including submitting a set of fingerprints to the Department of Justice and paying specified fees for licensure, registration, and various other purposes. Existing

law exempts certain peace officers and reserve officers from the provisions requiring the submission of fingerprints.

**This bill** requires a peace officer who is engaged as a security guard to pay registration fees and exempts the peace officer from any other fees imposed on security guards under certain conditions; requires a peace officer exempt from the provisions requiring the

***Legislative History:***

*Assembly Business and Professions (11-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (79-0)*  
*Assembly Concurrence (78-0)*

*Senate Business and Professions (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

submission of fingerprints to submit verification of their active duty status to the Bureau of Security and Investigative Services, subject to certain conditions; and permits a peace

officer who has complied with specified conditions to carry a firearm while working as a security guard or security officer.

**AB 2780 (Corbett): Chapter 884: Private security services.**

(Amends Section 7581 of, and adds Section 7583.46 to, the Business and Professions Code.)

**Existing law** provides for the regulation of private patrol operators by the Bureau of Security and Investigative Services in the Department of Consumer Affairs.

**This bill** (1) allows any person in the state to file a complaint with the director alleging a registered person or a person who applied for registration with the bureau fails to meet registration or licensure standards; (2) requires the bureau to issue a response to the charging or complaining

party in accordance with established procedures; and (3) makes it a violation of Section 1102.5 of the Labor Code for a private patrol operator to discharge, demote, threaten, or otherwise discriminate against an employee in the terms and conditions of his or her employment, because that employee has disclosed information to a government or law enforcement agency relating to conduct proscribed by this law, as specified.

***Legislative History:***

*Assembly Business and Professions (12-0)  
Assembly Appropriations (23-0)  
Assembly Floor (67-1)  
Assembly Concurrence (79-0)*

*Senate Business and Professions (6-0)  
Senate Appropriations, SR 28.8  
Senate Floor (25-8)*

## ***SCHOOL RELATED CRIME AND DISCIPLINE***

**SB 1667 (Vasconcellos): Chapter 506: School safety.**

(Amends Section 35294.8 of, and adds and repeals Article 10.41 (commencing with Section 35294.20) of Chapter 2 of Part 21 of, the Education Code.)

**Existing law** establishes the School Safety and Violence Prevention Strategy Program, administered by the Superintendent of Public Instruction for the purpose of promoting school safety and violence prevention programs in the public schools. Existing law requires a schoolsite council or school safety planning

committee to hold a public meeting before adopting its comprehensive school safety plan and requires each school to forward its comprehensive school safety plan to the school district or county office of education for approval.

**This bill** makes several changes concerning schoolsite councils

***Legislative History:***

*Senate Education (9-0)  
Senate Appropriations (7-3)  
Senate Floor (23-11)  
Senate Concurrence (25-10)*

*Assembly Education (12-2)  
Assembly Appropriations (21-1)  
Assembly Floor (57-19)*

and school safety planning committees regarding written notification of public meetings, and encouraging and recognizing the importance of assuring each pupil a safe physical environment and a safe, respectful, accepting and emotionally nurturing

environment and that providing each child resiliency skills, as specified. The bill states specified legislative intent regarding funds for school safety laws and requires state and federal funds appropriated in support of school safety and violence prevention programs to

be considered additional revenues, as specified, and to be used to offset any state-mandated costs incurred by school districts when complying with the bill. The bill makes these provisions inoperative on June 1, 2007, and repeals them as of January 1, 2008.

**AB 662 (Vargas): Chapter 151: Pupil suspension and expulsion.**  
(Amends Section 48900 of the Education Code.)

**Existing law** prohibits a pupil from being suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed specified acts.

the school in which a pupil is enrolled to suspend or recommend for expulsion a pupil who unlawfully offers, arranges to sell, negotiates to sell, or sells the prescription drug Soma.

**This bill** additionally authorizes a superintendent or the principal of

***Legislative History:***

*Assembly Education (14-0)*  
*Assembly Floor (74-0)*

*Senate Education (10-1)*  
*Senate Floor (29-1)*

**AB 1317 (Liu): Chapter 136: Pupil expulsion proceedings.**  
(Adds Section 48918.6 to the Education Code.)

**Existing law** provides a pupil may be expelled from school for specified reasons. Existing law entitles a pupil under consideration of expulsion to a hearing to determine whether the pupil should be expelled.

expulsion hearing conducted pursuant to those provisions to be a privileged publication or broadcast for purpose of those provisions of law relating to libel and slander.

**This bill** expressly deems that, in addition to any other immunity that may exist, any testimony provided by a pupil witness in an

***Legislative History:***

*Assembly Education (14-0)*  
*Assembly Judiciary (9-0)*  
*Assembly Floor (71-0)*

*Senate Education (9-0)*  
*Senate Judiciary (5-1)*  
*Senate Floor (27-0)*



**AB 1901 (Cohn): Chapter 643: Pupil suspension and expulsion.**  
(Amends Sections 48900 and 48900.4 of the Education Code.)

**Existing law** specifies those acts for which a pupil may be suspended from school or recommended for expulsion, including the damage, theft, or receipt of stolen school property.

**This bill** specifically includes electronic files and databases within the meaning of "school property."

**Existing law** provides a pupil in any of grades 4 to 12, inclusive,

may be suspended or expelled for intentionally engaging in harassment, threats, or intimidation directed against a group of pupils.

**This bill** also authorizes a pupil to be suspended or expelled for harassing, threatening, or intimidating school district personnel.

***Legislative History:***

*Assembly Education (14-1)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (70-0)*  
*Assembly Concurrence (78-0)*

*Senate Education (8-1)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (34-0)*

**AB 2198 (Lowenthal): Chapter 735: Violence in schools.**  
(Amends Section 35294.1 of the Education Code.)

**Existing law** makes each school district and county office of education responsible for the overall development of comprehensive school safety plans for its schools.

**This bill** authorizes a principal, or his or her designee, to notify each pupil's parent or legal guardian and each school employee in writing of the general nature of a violent crime, as defined, that occurs on the schoolsite of an elementary or secondary school of which he or she is the principal. The bill provides that, if a local law enforcement agency determines that disclosure of the crime would hinder an ongoing

investigation, the notification would occur within a reasonable time, to be determined by the local law enforcement agency and the school district. This bill declares that it does not create any liability in a school district or its employees for providing notice of the occurrence of a violent crime.

***Legislative History:***

*Assembly Education (14-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (77-1)*  
*Assembly Concurrence (78-0)*

*Senate Education (10-0)*  
*Senate Appropriations (12-0)*  
*Senate Floor (39-0)*

**AB 2324 (Diaz): Chapter 495: Before and After School Learning and Safe Neighborhoods Partnerships Program.**  
(Amends Section 8483 of the Education Code.)

**Existing law** (the Before and After School Learning and Safe Neighborhoods Partnerships Program) requires every after school component of a program to operate a minimum of 3 hours a day and at least until 6 p.m. on every regular schoolday. Under the program, every after school component of the program is required to establish a policy regarding reasonable early daily release of pupils.

**This bill** authorizes an exception to the early daily release policy, as provided.

***Legislative History:***

*Assembly Education (15-0)*  
*Assembly*  
*Appropriations (21-1)*  
*Assembly Floor (76-0)*  
*Assembly Concurrence (73-5)*  
  
*Senate Education (9-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

**AB 2484 (Jackson): Chapter 165: School violence prevention.**  
(Amends Section 32228.1 of the Education Code.)

**Existing law** requires the Superintendent of Public Instruction to provide funds to school districts serving pupils in any of grades 8 to 12, inclusive, for the purpose of promoting school safety and reducing schoolsite violence. Existing law requires the funds allocated pursuant to this act to be expended by the school districts for any one or more of specified purposes.

**This bill** adds as another eligible purpose, providing and implementing instructional curricula and materials on the prevention of school violence and school terrorism through recognition and reporting.

***Legislative History:***

*Assembly Education (15-0)*  
*Assembly Floor (72-0)*  
  
*Senate Education (8-1)*  
*Senate Floor (33-0)*

**AB 2533 (Jackson): Chapter 804: Postsecondary education: Campus crime reporting.**  
(Adds Section 67382 to the Education Code.)

**Existing federal law** generally requires eligible institutions of higher education participating in federal programs annually prepare, publish, and distribute to current students and employees, and to applicants for enrollment or employment upon request, an annual security report containing information with respect to the campus security policies and campus crime statistics of that institution. The act further requires that the institutions annually file statistics concerning the occurrence of crimes on campus or on noncampus buildings or property, with the federal Secretary of Education.

**This bill** requires the State Auditor, by January 1, 2004, and

every 3 years thereafter, to report the results of an audit of a sample of not less than 6 institutions of postsecondary education that receive federal student aid, to evaluate the accuracy of their statistics and the procedures used by the institutions to identify, gather, and track data for publishing, disseminating, and reporting accurate crime statistics in compliance with federal law and to report the results of those audits to the Legislature, as specified. The bill further requires the commission to provide on its Internet Web site a link to each California institution of higher education's Web site that includes that institution's criminal statistics information.

***Legislative History:***

*Legislative History:*  
*Assembly Higher Education (9-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (75-0)*  
*Assembly Concurrence (76-0)*

*Senate Education (11-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

**AB 2593 (Rod Pacheco): Chapter 343: School safety.**  
(Amends Section 626.7 of the Penal Code.)

**Existing law** provides that if a person who is not a student, officer, or employee of a public school enters a campus or school facility and appears to commit an act likely to interfere with the peaceful conduct of the campus or facility, he or she may be directed to leave by the chief administrative officer or his or her designee. Failure to leave, or reentry within either 7 or 30 days, as specified, is unlawful.

**This bill** provides that it is unlawful for a person who is not a student, officer, or employee to return to the campus, after being directed to leave, without following the posted requirements to contact the administrative offices of the campus. This bill specifies that these provisions apply to areas of the campus or facility outside of the common areas where public business is conducted.

***Legislative History:***

*Assembly Public Safety (5-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (74-0)*

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

# SENTENCING

## **SB 1798 (Ackerman): Chapter 787: Technical and grammatical corrections and changes.**

(Amends Section 17400.5 of the Family Code, Sections 11372, 11479, 11479.1, and 11479.5 of the Health and Safety Code, Section 1698 of the Labor Code, Sections 88, 182, 289, 374a, 471, 487, 504, 599b, 653t, 667.6, 803, 1042, 1203.1bb, 1203.72, 1203.73, 1524.1, 2933.1, 5058, 11051, 11460, 12280, 13823.11, 13861, 13897.2 and 14202 of the Penal Code, amends Sections 13377 and 15302 of the Vehicle Code, and amends Section 1732.6 of the Welfare and Institutions Code. Repeals Sections 969c and 969d of the Penal Code.)

**Existing law** contains numerous provisions pertaining to crime and the implementation of the criminal laws of this state.

**This bill** makes numerous, nonsubstantive changes to these provisions.

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

*Senate Public Safety (5-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (38-0)*  
*Senate Concurrence*  
*(39-0)*

*Assembly Public Safety*  
*(6-0)*  
*Assembly Floor (77-0)*

## **AB 2173 (Wayne): Chapter 126: Organizes and simplifies sentence enhancements.**

(Amends Sections 1170.1, 12022, 12022.5, 12022.53, 12022.55, 12022.7, and 12022.9 of the Penal Code and Uncodified Law.)

**Existing law** provides procedures for imposing consecutive sentences under specified circumstances, and for various sentence enhancements involving firearms.

**This bill** recasts these major enhancement provisions. The bill sets forth a general requirement that enhancements be in addition and consecutive to the offense, and that, where applicable, the middle term be imposed unless there are aggravating or mitigating circumstances. It specifically makes these general provisions

applicable to indeterminate, as well as to determinate, sentences. It eliminates various duplicative provisions. The bill also eliminates certain enhancements where other provisions of law provide for duplicate or more severe enhancements. The bill makes various clarifying changes and makes additional technical changes.

**This bill** includes the following statement of legislative intent: "With respect to the enhancements repealed by this

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

*Assembly Public Safety*  
*(5-0)*  
*Assembly Floor (75-0)*  
*Assembly Concurrence*  
*(77-0)*

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

act, the Legislature recognizes that the criminal conduct punished by those enhancements may be punished under other provisions of law. It is not the intent of the Legislature to limit the discretion of prosecuting authorities in charging that criminal conduct under any of the remaining enhancement provisions.”

## ***SEX OFFENSES***

### **Sex Crimes/Offenders**

**SB 1421 (Romero): Chapter 302: Fraudulent inducement.**  
(Amends Sections 243.4, 261, 286, 288a, and 289 of the Penal Code.)

**Existing law** provides that every person who induces any other person to engage in specified sexual acts when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the person’s free will, and does cause the victim to so act, is an alternate misdemeanor/felony, as specified. Under current law, any person who touches an intimate part of another person against the will of the person touched and under specified circumstances for the purpose of sexual arousal, sexual

gratification, or sexual abuse, is guilty of sexual battery, as specified.

**This bill** amends these specified sex offenses to include circumstances where the victim is deemed to be unconscious of the nature of the offensive act because the victim is “not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.”

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

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR*  
*28.8*

*Senate Floor (38-0)*  
*Senate Concurrence*  
*(39-0)*

*Assembly Public Safety*  
*(6-0)*  
*Assembly Appropriations*  
*(22-0)*  
*Assembly Floor (72-0)*

**AB 1858 (Hollingsworth): Chapter 1090: County Sexual Assault Felony Enforcement Team Program.**

(Adds Chapter 9.7 (commencing with Section 13887) to Title 6 of Part 4 of the Penal Code.)

**Existing law** provides for the development of a course of training for district attorneys in the investigation and prosecution of sexual assault cases in order to encourage the establishment of sex crime prosecution units in district attorneys' offices throughout the state. Existing law further provides for a statewide sexual habitual offender program in order to identify, locate, apprehend, and prosecute sexual habitual offenders.

**This bill** provides, in addition, that any county may establish and implement a sexual assault felony enforcement (SAFE) team

program. The members of the team are specified federal, state, and local law enforcement officers and agents. The objectives of the program are to: (1) identify, monitor, arrest, and assist in the prosecution of habitual sexual offenders who violate the terms and conditions of their probation or parole, who fail to comply with registration requirements, or who commit new sexual assault offenses; (2) collect data to determine if the proactive law enforcement procedures adopted by the program are effective in reducing violent sexual assault offenses; and (3) develop procedures for operating a multijurisdictional regional task force.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(78-0)*

*Senate Public Safety*  
*(4-0)*  
*Senate Appropriations*  
*(10-1)*  
*Senate Floor (38-0)*

**AB 1860 (Migden): Chapter 382: Sexual assault victim: pregnancy counseling: emergency contraception.**

(Amends Section 13823.11 of the Penal Code.)

**Existing law** sets forth minimum standards for the examination and treatment of victims of sexual assault, including the taking of a baseline gonorrhea culture, a syphilis serology, and specimens for a pregnancy test, if indicated by the history of contact.

**This bill** provides, in addition, that where indicated by the history of contact, a female victim of sexual assault shall be provided with the option of postcoital contraception by a physician or other health care

provider, and postcoital contraception shall be dispensed by a physician or other health care provider upon the request of the victim.

***Legislative History:***

*Assembly Public Safety*  
*(5-1)*  
*Assembly Appropriations*  
*(18-1)*  
*Assembly Floor (50-3)*  
*Assembly Concurrence*  
*(56-9)*

*Senate Public Safety*  
*(4-1)*  
*Senate Floor (24-0)*

**AB 2195 (Corbett): Chapter 275: Workplace protections.**  
(Amends Sections 230 and 230.1 of the Labor Code.)

**Existing law** provides protections to victims of domestic violence and prohibits employers from taking adverse employment action against victims of domestic violence who take time off from work to attend to issues arising as result of the domestic violence, as long as the employee complies with certain conditions. Existing law provides that employers who violate these provisions are guilty of a misdemeanor.

**This bill** extends these provisions to victims of sexual assault, as specified.

***Legislative History:***

*Assembly Labor and Employment (6-1)*  
*Assembly Appropriations (16-3)*  
*Assembly Floor (60-3)*

*Senate Labor and Industrial Relations (5-3)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (24-12)*

**AB 2252 (Cohn): Chapter 194: Sex crimes: evidence.**  
(Amends Section 1108 of the Evidence Code and Section 784.7 of the Penal Code.)

**Existing law** provides that, except as specified, evidence of a person’s character is inadmissible when offered to prove his or her conduct on a specified occasion. Existing law creates exceptions to that rule, including that in a criminal action in which the defendant is accused of a sexual offense, evidence of the defendant’s commission of another sexual offense or offenses is not inadmissible under that rule, except as specified. Existing law defines the term “sexual offense” as conduct proscribed by various sections of the Penal Code as well as other types of conduct.

law proscribing assault with the intent to commit a specified felony that requires sexual intent.

**Existing law** vests territorial jurisdiction for specified sexual, domestic, and stalking offenses that involve the same defendant and victim but occur in more than one territorial jurisdiction, in any jurisdiction where at least one of the offenses occurred.

**This bill** adds the charges of specified sex crimes and aggravated sexual assault of a child to those offenses for which territorial jurisdiction over multiple violations lies in any jurisdiction where one of those offenses happened, as specified.

**This bill** expands the definition of “sexual offense” for the purposes of the aforementioned exception to the rule against the admission of character evidence to include those violations of the

This bill also eliminates, as to the sexual offenses, the requirement that these offenses involve a single victim for territorial jurisdiction to lie in any jurisdiction where one of these

***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Floor (67-0)*  
*Assembly Concurrence (75-0)*

*Senate Public Safety (4-0)*  
*Senate Floor (34-0)*

offenses happened. This bill permits, as to all of the specified sexual, domestic, and stalking offenses, similar jurisdictional rules to apply to any charge which could properly be joined to one of those offenses.

**AB 2499 (Frommer): Chapter 828: Criminal procedure: character evidence.**  
(Amends Section 1108 of the Evidence Code and Section 802 of the Penal Code.)

**Existing law** provides that, except as specified, evidence of a person's character is inadmissible when offered to prove his or her conduct on a specified occasion. Existing law creates exceptions to that rule, including that in a criminal action in which the defendant is accused of a sexual offense, as defined, evidence of the defendant's commission of another sexual offense or offenses is not inadmissible under that rule, except as specified. Existing law provides that the prosecution shall disclose this evidence of other sexual conduct to the defendant at least 30 days before the scheduled date of trial or at such later time as the court may allow for good cause.

**This bill** instead requires the prosecutor to supply the evidence in compliance with the provisions of law in the Penal Code governing discovery generally, as specified.

**Under existing law**, annoying or molesting a child under 18 years of age is a misdemeanor, in the absence of specified additional factors. Under existing law, prosecution for a misdemeanor violation of this offense must be brought within a year after the commission of the offense, unless it is committed with or upon a minor under 14 years of age, in which case prosecution must be commenced within 2 years.

***Legislative History:***

*Assembly Public Safety (6-0)*

*Assembly Appropriations (24-0)*

*Assembly Floor (75-1)*

*Assembly Concurrence (80-0)*

*Senate Public Safety (5-0)*

*Senate Floor (38-0)*

**This bill** requires prosecution for a misdemeanor violation of the offense committed with or upon a minor under 14 years of age to instead be commenced within 3 years of the commission of the offense.

**AB 2583 (Chu): Chapter 1066: Campus sexual assaults.**  
(Adds and repeals Section 67385.3 of the Education Code.)

**Existing law** generally requires the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of independent postsecondary institutions, as defined, to adopt rules requiring each of their respective campuses to enter into written agreements with local law enforcement agencies that clarify operational responsibilities for investigations of violent crimes occurring on campus. Existing law generally requires these educational institutions to adopt

and implement a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are victims of sexual assault on campus receive treatment and information.

**This bill** establishes a 15-member California Campus Sexual Assault Task Force as specified, with specified tasks. The bill requires the Office of Criminal Justice Planning to administer the task force and to administer the competitive bidding process used to select a data gathering entity, as specified.

***Legislative History:***

*Assembly Higher Education (9-0)*

*Assembly Appropriations (23-0)*

*Assembly Floor (74-0)*

*Assembly Concurrence (76-4)*

*Senate Education (8-1)*

*Senate Appropriations (12-0)*

*Senate Floor (32-1)*



**AB 2794 (Reyes): Chapter 831: HIV and AIDS tests.  
(Amends Sections 1202.1 and 1524.1 of the Penal Code.)**

**Existing law** requires the court to order every person who is convicted of, or adjudged to be a ward of the court by reason of, a violation of a sexual offense, as specified, to submit to a blood test for evidence of antibodies to the probable causative agent of AIDS.

**This bill** revises this provision to require the person to submit to a blood or saliva test. The bill also revises the list of enumerated sexual offenses for which blood or saliva testing of the person would be required.

**Existing law** provides that when a defendant has been charged with any of a list of sexual offenses, as specified, the court may under certain circumstances issue a search warrant for the purpose of testing the accused's blood with any HIV test.

**This bill** authorizes the court to also issue a search warrant for the purpose of testing the accused's saliva with any HIV test. The bill adds to the list of sexual offenses for which a court may issue a search warrant for the purpose of testing an accused's blood or saliva with any HIV test.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (79-0)*  
*Assembly Concurrence (77-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

**Sex Offender Registration**

**SB 836 (Scott): Chapter 17: Sex offenders. Urgency.  
(Amends Section 290 of the Penal Code.)**

**Existing law** requires certain persons convicted of any specified sexual offenses to register with local law enforcement officials, as specified. Existing law also requires that if the person who is registering has no residence address, he or she shall update his or her registration no less than once every 60 days in addition to other registration requirements, as specified. In regard to those persons without a residence address who are subject to registration, existing law declares that it is the intent of the Legislature that efforts be

made with respect to those persons who are on probation or parole to engage them in treatment.

**This bill** enacted technical corrections to correct a chaptering problem. The bill deletes this legislative intent language, which now is set forth in Penal Code sections addressing parole and probation (Penal Code §§ 1202.7 and 3000).

***Legislative History:***

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

*Assembly Public Safety (7-0)*  
*Assembly Floor (74-0)*

**SB 1965 (Alpert): Chapter 118: Megan’s Law.**  
(Amends Section 290.4 of the Penal Code.)

**Existing law** generally makes available certain registered sex offender information to the public. Existing law requires any applicant for viewing, among other things, to provide identification in the form of a California driver’s license or California identification card, showing the applicant to be at least 18 years of age.

**This bill** includes a military identification card and orders with proof of permanent assignment or attachment to a military command or vessel in California showing the applicant to be at least 18 years of age as identification sufficient to authorize access to this information.

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Floor (38-0)*

*Assembly Public Safety (6-0)*  
*Assembly Floor (76-0)*

## **Sexually Violent Predators**

**AB 1967 (Zettel): Chapter 139: Sexually violent pedators: notification of change in status.**  
(Amends Section 6609.1 of the Welfare and Institutions Code.)

**Existing law** provides for the civil commitment of an inmate determined to be a “sexually violent predator” (SVP). An SVP is defined as a person who has been convicted of a sexually violent offense against two or more victims, and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior if discharged. A person committed as an SVP may petition the court for conditional release from commitment to receive supervision and treatment in the community pursuant to a conditional release program for one year, or to petition the court for subsequent unconditional discharge. The State Department

of Mental Health shall notify certain law enforcement entities when the department makes a recommendation to the court for community outpatient treatment for any person committed as an SVP.

**This bill** requires the department to notify these law enforcement entities when a person committed as an SVP has petitioned a court for outpatient care in a conditional release program or has petitioned a court for subsequent unconditional discharge, if the department has been notified or is aware of the filing of the petition.

***Legislative History:***

*Assembly Public Safety (7-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (67-0)*

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

# STALKING

**SB 1320 (Kuehl): Chapter 832: Elements of the crime.**  
(Amends Section 646.9 of the Penal Code.)

**Existing law** provides that any person who willfully, maliciously, and repeatedly follows or harasses another person when a credible threat, intended to place that person in fear for his or her safety or the safety of his or her immediate family, is guilty of the crime of stalking. Under existing law, as interpreted by the courts, a violation of this law may be committed by following maliciously and repeatedly or by harassing only once without malice. Under existing law, "harasses" refers to a course of conduct that would cause a reasonable person to suffer substantial emotional distress, and that actually causes such distress, as specified. Existing law provides that, for these purposes, a "course of conduct" is a pattern of conduct composed of a series of acts, as specified.

**This bill** revises the definition of stalking to require willful, malicious, and repeated following or willful and malicious harassment. The bill redefines

course of conduct to mean 2 or more acts, as specified, eliminates the requirement that the conduct be such as would cause a reasonable person substantial emotional distress to be considered harassment, and eliminates the requirement that the conduct in fact cause substantial emotional distress to be deemed harassment under these provisions. This bill also clarifies the definition of "credible threat" by specifying that constitutionally protected activity is not included within its meaning.

## ***Legislative History:***

*Senate Public Safety*  
(5-0)

*Senate Appropriations*  
(10-0)

*Senate Floor* (31-0)

*Senate Concurrence*  
(38-0)

*Assembly Public Safety*  
(5-0)

*Assembly Appropriations*  
(23-0)

*Assembly Floor* (77-0)

# VEHICLE OFFENSES/DMV

## Driving under the Influence (DUI)

**AB 2471 (Robert Pacheco): Chapter 622: Gross vehicular manslaughter while intoxicated: pleading and proof of prior convictions.**  
(Amends Sections 191.5 and 3075 of the Penal Code.)

**Existing law** defines “gross vehicular manslaughter while intoxicated” as the killing of a human being, without malice aforethought, if the killing was the proximate result of the commission of an act of gross negligence while driving under the influence (DUI). This crime is generally punishable by imprisonment in state prison for 4, 6 or 10 years. (Penal Code § 191.5.) However, a person who was convicted of GVM while intoxicated who has a prior conviction or convictions for certain vehicular manslaughter offenses or for specified Vehicle Code violations relative to DUI shall be punished by imprisonment for a term of 15-years-to-life. (Penal Code § 191.5, subd. (d).)

**This bill** clarifies that where a defendant is found guilty of gross vehicular manslaughter while intoxicated and has one or more prior convictions for vehicular manslaughter, vehicular manslaughter involving a vessel, driving under the influence with specified prior convictions or driving under the

influence causing injury, he or she shall be punished by imprisonment for 15-years-to-life. The bill further clarifies that the basis for a 15-years-to-life sentence for gross vehicular manslaughter while intoxicated (specified prior convictions) shall be alleged in the charging documents and either admitted by the defendant or found to be true by the jury, or by the court in a court trial. The pleading and proof requirements will help avoid remands for limited retrials as to prior conviction allegations.

**Existing law** establishes in each county a board of parole commissioners, consisting of, among others, the sheriff, or, in a county with a department of corrections, the director of that department, and the probation officer.

**This bill** authorizes as members of the board, the designee of the sheriff, as applicable, or the designee of the probation officer.

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

*Assembly Public Safety (6-0)*  
*Assembly Floor (72-0)*  
*Assembly Concurrence (78-0)*

*Senate Public Safety (5-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (39-0)*

# Vehicles

**SB 804 (Polanco): VETOED: Driver’s licenses.**

(Amends Sections 12800, 12815, and 13000 of, and adds Sections 12801.1, 12801.2, 12801.25, 12801.3, 12801.4, and 12801.9 to, the Vehicle Code.)

**Existing law** requires the Department of Motor Vehicles to require every application for a driver’s license to contain the applicant’s social security number. AB 60 (Cedillo), would have revised the requirement that every application include the applicant’s social security number to specify that if an applicant submits an affidavit, signed under penalty of perjury, that he or she does not possess a social security number, and submits a federal taxpayer identification number, or other identifier that is determined appropriate by the department, the submission of those documents shall be acceptable to the department until the applicant obtains a social security number. AB 60 also would have required the department to require every applicant for an original driver’s license or identification card, at the time of submission of the application, to establish his or her lawful immigration status or that the applicant’s presence in the United States is authorized under federal law or show that an application or petition for lawful immigration status or extension of legal presence. Under AB 60 the driver’s license would have been issued for a period of 3 years.

**This bill** would have required a person applying for a driver’s license under the provisions of AB 60 to undergo a criminal background check and a search of the warrant person system. The bill would have prohibited persons with convictions or arrests pending for specified felonies from being issued a license. The bill also would have required that an applicant affirm that he or she has been living and working in California for 15 months in the last 3 years and provided that at least one of specified documents be submitted, but also allowed for driver’s licenses being issued to non-working spouses and dependent children. This bill further would have required an applicant to affirm under penalty of perjury that he/she had not been notified by the Immigration and Naturalization Service of a final denial of the applicant’s application or petition for legal immigration status which is not subject to any further administrative or judicial review.

**Legislative History:**  


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*(Prior votes not relevant)*  
*Senate Concurrence*  
*(25-8)*  
  
*Assembly Floor (61-17)*

**SB 807 (Dunn): VETOED: Vehicles.**

(Amends Section 22348 of, and adds Sections 23109.8, 23503, and 23583 to, the Vehicle Code.)

**Existing law** provides it is unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle, with specified fines and imprisonment.

**Existing law** provides that whenever reckless driving of a vehicle proximately causes bodily injury to any person other than the driver, the person driving is subject to specified penalties, including a fine of not less than \$220 nor more than \$1,000, as well as specified imprisonment.

**Existing law** provides that no person shall engage in a motor vehicle speed contest or exhibition of speed, as specified, with a fine of not less than \$355 (or \$500 for subsequent violations) nor more than \$1,000, or other specified fines and/or imprisonment.

**Existing law** provides for an additional "state penalty" of \$10 for every \$10 or fraction thereof levied upon every fine, penalty or forfeiture imposed and collected by the courts for criminal offenses including all offenses, except parking offenses, involving the Vehicle Code for distribution to specified funds.

**Existing law** provides that in each county there shall be an additional penalty of \$7 for every \$10 thereof upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code except parking offenses, for distribution to specified funds.

**Existing law** authorizes a county to establish a Maddy Emergency Medical Services Fund (Maddy Fund) to be used to reimburse physicians and hospitals for patients who do not make payment for emergency medical services and for other emergency medical services purposes as determined by each county. Existing law requires each county establishing the fund to report to the Legislature annually on the implementation and status of the fund.

**This bill** would have provided that any person convicted of (1) driving with a suspended license; (2) driving over 100 mph; (3) reckless driving; (4) engaging in a speed contest; (5) being under age 21 and driving with .05 blood alcohol; or (6) driving under the influence of alcohol or drugs to be required to pay an additional assessment of \$200 for deposit into the county Maddy Emergency Services Fund. This

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Public Safety on*  
*29.10 (5-0)*  
*Senate Concurrence*  
*(24-0)*

*Assembly Health (13-0)*  
*Assembly Appropriations*  
*(17-0)*  
*Assembly Floor (71-0)*

bill also would have required that the EMS Fund allocation be 75% to physicians and surgeons for emergency services and 25% to hospitals providing disproportionate trauma and emergency medical care.

**SB 1349 (Torlakson): Chapter 378: Highways: Safety Enhancement-Double Fine Zones.**

(Amends Section 97 of the Streets and Highways Code.)

**Existing law** until January 1, 2004, requires the Department of Transportation, in consultation with the Department of the California Highway Patrol, to develop specified pilot projects to designate and identify certain highway segments as "Safety Enhancement-Double Fine Zones" and impose increased fines for traffic violations occurring within these zones.

**This bill** adds an additional segment of State Highway 4 to the "Safety Enhancement-Double Fine Zones" pilot project.

***Legislative History:***

*Senate Transportation (10-2)*  
*Senate Public Safety (4-0)*  
*Senate Appropriations (8-2)*  
*Senate Floor (25-9)*  
*Senate Concurrence (26-9)*

*Assembly Transportation (14-3)*  
*Assembly Appropriations (19-4)*  
*Assembly Floor (66-10)*

**SB 1420 (Johannessen): Chapter 569: Vehicles: noise citations.**

(Amends Section 44014 of the Health and Safety Code, and amends Sections 27150.1, 27150.2, and 27150.7 of the Vehicle Code.)

**Existing law** generally restricts the noise levels of vehicular exhaust systems on motor vehicles subject to registration and requires the Commissioner of the California Highway Patrol to adopt regulations providing that exhaust systems comply with statutory noise restrictions if they are installed on motor vehicles, other than motorcycles and new motor vehicles, with a gross vehicular weight of less than 6,000 pounds and emit no more than 95 dbA. Existing law also requires the commissioner to adopt regulations providing for the licensing of stations to implement noise level standards.

issued a citation for the violation of specified exhaust system requirements; requires these stations to issue certificates of compliance for vehicles when tests of their exhaust systems demonstrate that the systems emit no more than 95 dbA.

**Existing law** gives a court discretion to dismiss a prosecution for violating vehicular noise level restrictions if it finds that both of the following conditions existed: (1) the vehicle was equipped with an exhaust system meeting regulations adopted by the commissioner and (2) the defendant had reasonable grounds to believe that the exhaust system was in good working order and that the vehicle was not operated in violation of applicable noise restrictions.

**This bill** requires licensed smog check stations that offer referee functions to consumers to provide for the testing of vehicular exhaust systems only for those vehicles that have been

***Legislative History:***

*Senate Transportation (8-2)*  
*Senate Appropriations (8-1)*  
*Senate Floor (31-3)*  
*Senate Concurrence (31-0)*

*Assembly Transportation (15-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (68-8)*

**This bill** allows a court to dismiss a prosecution for violating vehicular noise level restrictions if it finds either that a certificate of compliance has been

issued regarding the exhaust system, as specified, or if the defendant had reasonable grounds to believe that the exhaust system was in good

working order and that the vehicle was not operated in violation of those restrictions.

**SB 1489 (Perata): Chapter 411: Vehicles: speed contests and reckless driving. Urgency.**

(Amends, repeals, and adds Section 23109.2 of the Vehicle Code.)

**Existing law** allows a peace officer to arrest and take into custody any person that a peace officer determines was engaged in a motor vehicle speed contest and permits the peace officer to cause the removal and seizure of the motor vehicle used in the contest.

**This bill** extends these provisions to those persons engaged in reckless driving on a highway, reckless driving in an offstreet parking facility, or an exhibition of speed on a highway.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (38-0)*  
*Senate Concurrence*  
*(38-0)*

*Assembly Transportation*  
*(14-0)*  
*Assembly Appropriations*  
*(20-3)*  
*Assembly Floor (69-3)*

**SB 1555 (Torlakson): VETOED: Pedestrian and bicyclist safety.**

(Adds and repeals Chapter 3 (commencing with Section 104345) of Part 2 of Division 103 of the Health and Safety Code, and adds and repeals Sections 14900.2 and 14900.3 of, the Vehicle Code.)

**Existing law** makes various provisions for the prevention of disease and the promotion of health, including the prevention and control of injury.

**This bill** would have made various findings and declarations concerning pedestrian and bicyclist safety. The bill would have created the Pedestrian and Bicyclist Mobility and Safety Fund which would be administered for 5 years by the

State and Local Injury Control Section of the State Department of Health Services. The bill would have required moneys in the fund to be expended exclusively for the operation or funding of certain programs relating to pedestrian and bicyclist safety and mobility through a competitive grant program. The bill would have provided that no General Fund moneys would be transferred to the fund. The bill would have required any person with 2 or

***Legislative History:***

*Senate Public Safety (4-0)*  
*Senate Appropriations*  
*(8-4)*  
*Senate Floor (22-10)*  
*Senate Concurrence*  
*(41-31)*

*Assembly Transportation*  
*(10-5)*  
*Assembly Appropriations*  
*(16-6)*  
*Assembly Floor (23-11)*



more points on his or her driving record to pay a \$5 penalty assessment as a condition of license renewal. The bill would have required the assessment amounts to be deposited into the Pedestrian and Bicyclist Mobility and Safety Fund which, upon appropriation by the Legislature, would be allocated by the Controller to the State Department of Health Services for the purposes specified in the bill.

**SB 2069 (Burton): Chapter 105: Citations: quotas.**

(Amends Sections 41600, 41602, and 41603 of, and adds Section 41601.5 to, the Vehicle Code.)

**Existing law** prohibits a state or local agency from establishing any policy requiring peace officers to meet a quota for arrests made or citations issued. Existing law also prohibits a state or local agency from using the number of arrests made or citations issued as the sole criterion for specified personnel matters relating to peace officers.

**This bill** prohibits a state or local agency from establishing any policy requiring parking

enforcement employees to meet a quota for arrests made or citations issued, and would prohibit a state or local agency from using the number of arrests made or citations issued as the sole criterion for specified personnel matters relating to parking enforcement employees. This bill also includes the Regents of the University of California within the definition of an "agency" to which these prohibitions are applicable.

***Legislative History:***

*Senate Public Safety (5-0)  
Senate Floor (32-0)*

*Assembly Public Safety (6-0)  
Assembly Floor (76-0)*

**SB 2079 (Burton): Chapter 774: Driving instruction: motor carriers: drug testing. Urgency.**

(Amends, repeals, and adds Section 51852 of the Education Code, and amends Sections 15242, 34520, 34623, and 34624 of, and amends, repeals, and adds Section 11101 of, the Vehicle Code.)

**Existing law** regulates motor carriers.

**This bill** makes a number of "clean-up" changes to provisions amended by SB 871 (Burton) Chapter 298, Statutes 2001 including making timeframes clear and requiring an owner-operator to notify all other motor carriers with whom he or she is under contract when these requirements have been met.

***Legislative History:***

*Senate Public Safety (5-0)  
Senate Appropriations, SR 28.8  
Senate Floor (35-0)  
Senate Concurrence (39-0)*

*Assembly Transportation (11-1)  
Assembly Appropriations (22-0)  
Assembly Floor (57-15)*

**AB 1886 (Jackson): Chapter 590: Vehicles: school zone fines.**

(Adds and repeals Section 45452 of the Education Code, adds and repeals Section 1463.21 of the Penal Code, and adds and repeals Section 42011 of the Vehicle Code.)

**Existing law** (in the case of specified violations relating to rules of the road and driving under the influence) doubles the fine in the case of misdemeanors, and increases the fine, as specified, in the case of infractions, if the violation is committed by the driver of a vehicle within a highway construction or maintenance area during any time when traffic is regulated or restricted by the Department of Transportation or local authorities pursuant to existing law or is committed within a designated Safety Enhancement-Double Fine Zone.

**This bill** adds a specially posted school zone in Alameda County, Santa Barbara County, Ventura County, in any city in any of those counties to the Safety Enhancement-Double Fine Zone pilot project where the program is adopted by a vote of the city council, or the county board of supervisors and is established in collaboration with local school districts within those jurisdictions, if that county or city opts for the application of this law.

***Legislative History:***

*Assembly Transportation (4-1)*

*Assembly Appropriations (24-0)*

*Assembly Floor (67-9)*

*Assembly Concurrence (67-9)*

*Senate Transportation (9-3)*

*Senate Public Safety (4-0)*

*Senate Appropriations (7-3)*

*Senate Floor (27-8)*

**AB 2112 (Cogdill): Chapter 103: Vehicles: hazardous materials. Urgency.**

(Amends Section 12502 of the Vehicle Code.)

**Existing law** states it is a crime to operate a motor vehicle without a driver's license unless an exemption is applicable. Existing law provides that a nonresident over the age of 18 years having in his or her immediate possession a valid driver's license issued by a foreign jurisdiction of which he or she is a resident, may operate a motor vehicle in this state without a driver's license with specified exceptions.

**This bill** further requires such a nonresident, 21 years of age or older, if transporting hazardous materials, as defined, in a commercial vehicle, to have a valid license with the appropriate endorsement issued by another state or other jurisdiction that is recognized by the department, or to have in his or her immediate possession a Canadian driver's license and a copy of his or her current training certificate to transport hazardous material that complies with all federal laws and regulations with respect to hazardous materials.

***Legislative History:***

*Assembly Transportation (15-0)*

*Assembly Environmental Safety (7-0)*

*Assembly Appropriations (23-0)*

*Assembly Floor (72-0)*

*Senate Transportation (11-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (36-0)*

**AB 2887 (Koretz): VETOED: Vehicles.**

(Repeals and adds Section 22348 of, and repeals Sections 23109.8, 23503, and 23583 of, the Vehicle Code.)

**Existing law** provides that it is unlawful to commit various acts related to the operation of a motor vehicle, including, driving a vehicle upon a highway at a speed greater than 100 miles per hour, driving recklessly, engaging in or aiding any motor vehicle speed contest or exhibition of speed, and driving under the influence of alcohol, as specified, and imposes various terms of imprisonment and fines for the commission of these offenses. SB 807, as amended August 29, 2002, provided that any person convicted of a

violation of these provisions, in addition to other applicable fines and assessments imposed, whether or not probation is granted, would pay an additional \$200 assessment that would be deposited into the county Maddy Emergency Medical Services Fund.

**This bill** would have repealed the changes proposed by SB 807 on January 1, 2005.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(76-2)*

*Senate Floor (39-0)*

**AB 2996 (Committee on Budget): Chapter 805: Transportation. Urgency.**

(Amends Section 64000 of the Government Code, amends Section 7236 of the Revenue and Taxation Code, amends Sections 188.10, 2401, and 31071 of, and repeals and adds Article 4.8 (commencing with Section 179) of Chapter 1 of Division 1 of the Streets and Highways Code, and amends Sections 1656, 1661, 1810, 1810.7, 4604.5, 9552, 9553, 9554, 9554.5, 13106, 14900, 14900.1, 14905, 34602, and 34605 of, and adds Section 14907 to, the Vehicle Code.)

**Existing law** provides that persons subject to a hearing for suspension or revocation of their driver's license for a DUI conviction may request a departmental review of the decision taken pursuant to the hearing.

the departmental review for a suspension or revocation of a person's driver's license as the result of a DUI conviction.

**This bill** is the Transportation Budget Trailer bill and, among other changes to DMV related fees, imposes an administrative fee of \$120 to pay for the costs of

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Budget (18-11)*  
*Assembly Floor (44-9)*  
*Assembly Concurrence*  
*(54-26)*

*Senate Floor (27-11)*

# VICTIMS OF CRIME

## **SB 1324 (Ortiz): Chapter 256: Medical training.**

(Amends Section 13823.93 of the Penal Code.)

**Existing law** provides for the establishment of 2 hospital-based training centers to train medical personnel on how to perform medical evidentiary examinations of victims of child abuse and neglect, sexual assault, elder abuse, or domestic violence. Existing law also specifies the characteristics and responsibilities of the centers.

**This bill** instead provides for the establishment of one hospital-based training center to train medical personnel, as defined,

on how to perform medical evidentiary examinations for victims of child abuse or neglect, sexual assault, domestic violence, elder abuse, and abuse or assault perpetrated against persons with disabilities. The bill also specifies that the training provided by the training center shall be made available to medical personnel, law enforcement, and the courts throughout the state. The bill makes additional changes to the provisions specifying the responsibilities of the center.

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

*Senate Public Safety (6-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (32-0)*  
*Senate Concurrence*  
*(35-0)*

*Assembly Public Safety*  
*(6-0)*  
*Assembly Appropriations*  
*(22-0)*  
*Assembly Floor (74-0)*

## **SB 1423 (Chesbro): Chapter 1141: Victims of Crime Program: comprehensive revision of statutory provisions.**

(Amends the heading of Part 4 (commencing with Section 13900) of Division 3 of Title 2 of, adds Section 13974.2 to, adds Chapter 5 (commencing with Section 13950) to, adds a heading as Chapter 5.5 to, repeals Sections 13955.5, 13968, 13969, 13969.2, 13969.5, and 13969.7 of, repeals the heading of Article 2 (commencing with Section 13970) of Chapter 5 of, repeals Article 1 (commencing with Section 13959) of Chapter 5 of, and repeals the heading of Chapter 5 (commencing with Section 13959) of, Part 4 of Division 3 of Title 2 of, the Government Code, and adds Sections 1202.42 and 1202.43 to the Penal Code.)

**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 §§ 13959-13969.4.)

**This bill** is a comprehensive revision of the existing provisions of law pertaining to the Victim's of Crime Program, containing both technical and clarifying revisions and some substantive changes to the law. (Note: See the Board's website for additional information about this comprehensive bill. That information will be maintained for at least some time into the new year, 2003. Click on "statute revision" under What's New at: <http://www.boc.cahwnet.gov/default.htm>)

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

*Senate Public Safety (6-0)*  
*Senate Appropriations*  
*(10-0)*  
*Senate Floor (27-12)*  
*Senate Concurrence (33-1)*

*Assembly Public Safety*  
*(6-0)*  
*Assembly Appropriations*  
*(23-0)*  
*Assembly Floor (79-0)*

**SB 1735 (Karnette): Chapter 629: Victims of crime: domestic violence.**

(Adds Section 1037.8 to the Evidence Code, and amends Section 13964 of the Government Code.)

**Existing law** provides for the indemnification of victims and derivative victims of specified types of crimes, for certain expenses for which the victim or derivative victim has not been and will not be reimbursed from any other source, subject to specified conditions. No victim or derivative victim may receive assistance under these provisions if the California Victim Compensation and Government Claims Board finds that the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime.

**This bill** prohibits an application for a claim based on domestic violence from being denied solely because no police report was made by the victim; requires the board to adopt guidelines that allow the board to consider and approve applications for assistance based on domestic violence relying upon evidence other than a police report to establish that a domestic violence crime has occurred; and requires a domestic violence counselor to inform a domestic violence victim of any applicable limitations on confidentiality of communications between the victim and the domestic violence counselor, all as specified.

***Legislative History:***

*Senate Public Safety  
(6-0)*

*Senate Appropriations  
(13-0)*

*Senate Floor (33-0)*

*Senate Concurrence  
(39-0)*

*Assembly Public Safety  
(6-0)*

*Assembly Appropriations  
(23-0)*

*Assembly Floor (78-0)*

**SB 1867 (Figueroa): Chapter 630: Victims of crime: indemnification.**

(Amends Section 13964 of the Government Code.)

**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. No victim shall be eligible for assistance if the victim knowingly participated in the crime, with specified exceptions, or if the board finds that the victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime, with specified exceptions.

**This bill** adds (1) rape, (2) rape of a spouse, and (3) domestic violence (corporal injury to a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child), to the crimes that are excepted from the "victim knowingly or willingly participated in the commission of a the crime" regarding the basis for finding a victim ineligible for assistance.

**This bill** adds to the "failure to cooperate" restriction the following additional qualification: "In the case of a victim of domestic violence or sexual

***Legislative History:***

*Senate Public Safety  
(6-0)*

*Senate Appropriations  
(11-0)*

*Senate Floor (32-0)*

*Senate Concurrence  
(34-1)*

*Assembly Public Safety  
(6-0)*

*Assembly Appropriations  
(23-0)*

*Assembly Floor (78-0)*

assault, the board shall consider factors such as the victim's age, physical condition, and psychological or emotional condition, compelling health or personal safety factors, reasonable fears of retaliation,

and cultural or linguistic barriers, in determining whether the victim is eligible for assistance pursuant to" that requirement for cooperation.

**SB 1873 (Escutia): Chapter 449: Victims of crime: terrorist attacks. Urgency.**  
(Uncodified Law.)

**Existing law** creates the Victims of Crime Program and, until January 1, 2004, expands the scope of assistance to include victims' California resident family members who incur a pecuniary loss as a direct result of any of the 4 terrorist attacks that occurred at the World Trade Center and the Pentagon, and in Pennsylvania, on September 11, 2001.

**This bill** additionally, until January 1, 2004, permits the California Victim Compensation

and Government Claims Board to authorize payment to specified family members, and other family members as determined by the board, of a victim of the terrorist attacks, equal to the loss of wages up to \$2,000 per eligible recipient who is unable to work due to traveling to or from, or attending, or all of these, memorial services or government-initiated events in honor of those victims, not to exceed a collective total of \$200,000. This bill took effect immediately upon enactment.

***Legislative History:***

*Senate Public Safety (5-0)*  
*Senate Appropriations (9-0)*  
*Senate Floor (33-0)*  
*Senate Concurrence (40-0)*

*Assembly Public Safety (6-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (71-2)*

**SB 1887 (McPherson): Chapter 633: Civil actions against felons: California "Son of Sam Law". Urgency.**

(Amends Section 340.3 of the Code of Civil Procedure.)

**Existing law** provides that, unless a longer period is prescribed for a specific action, in any action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant has been convicted, the time for commencement of the action is within one year after judgment is pronounced, as specified.

**This bill** provides, as an exception to the general rule, that an action for damages against a defendant based upon

the defendant's commission of a felony offense for which the defendant has been convicted may be commenced within 10 years of the date on which the defendant is discharged from parole if the conviction was for any of certain serious felonies, as defined, except as specified. This provision applies to any action commenced before, on, or after the effective date of the provision, as specified.

**This bill** took effect immediately upon enactment.

***Legislative History:***

*Senate Judiciary Committee (6-0)*  
*Senate Floor (35-0)*  
*Senate Concurrence (38-0)*

*Assembly Judiciary Committee (12-0)*  
*Assembly Floor (77-0)*

**AB 55 (Shelley): Chapter 1015: Victims of Corporate Fraud Compensation Fund.**  
(Amends Sections 1502 and 2117 of, and adds Section 1502.5 to, the Corporations Code.)

**Existing law** (the General Corporation Law) requires a domestic corporation and a foreign corporation to file statements with the Secretary of State disclosing specified information concerning its operation biennially.

**This bill** changes disclosure statements to annually and requires a corporation to pay a new \$5 disclosure fee when filing the statement in addition to any other fees required. The new fee

is to be deposited with one-half of the fee revenue in the Victims of Corporate Fraud Compensation Fund, established by the bill. The Secretary of State is to administer the fund and to adopt regulations regarding its administration and the eligibility of victims to receive compensation.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(53-27)*

*Senate Banking,*  
*Commerce, and*  
*International Trade (6-3)*  
*Senate Appropriations*  
*(7-5)*  
*Senate Floor (23-13)*

**AB 2435 (Jackson): Chapter 89: Victims of crime: report on services.**  
(Uncodified Law.)”

**Existing law** creates the Victims of Crime Program (VCP), administered by the California Victim and Compensation and Government Claims Board (formerly known as the State Board of Control) to reimburse victims of crime from the Restitution Fund for the pecuniary losses they suffer as a direct result of criminal acts and further generally provides for a number of other services for victims of crime through programs funded, administered, or the responsibility of such diverse offices as the Office of Criminal Justice Planning, the Attorney General (Department of Justice), state courts, district attorneys, and a variety of other state and local agencies and programs.

**This bill** makes legislative findings and declarations and provides that no later than January 1, 2004, the Secretary of the State and Consumer Services Agency shall submit a report to the Legislature that includes the following:

1. A review of the location, effectiveness, and appropriateness of services for victims of crime in the state in comparison to services in other states, federal standards outlined in publications of the federal Office for Victim Services, and comprehensive programs for services to crime victims.
2. An examination of, and recommendations on revisions to, state law germane to crime

***Legislative History:***

*Assembly Public Safety*  
*(7-0)*  
*Assembly Appropriations*  
*(22-1)*  
*Assembly Floor (73-0)*

*Senate Public Safety*  
*(6-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (36-0)*

- victim services, with the goal of improving and integrating the services.
3. A survey of existing training for providers of services to crime victims to identify gaps or inadequacies.
4. A review of expenditures and revenues, including out-year projections of the cost of current services, and recommendations for increased services and revenues.
5. An exploration of a variety of funding options to ensure seamless, integrated service delivery.
- This bill** specifies that the secretary may convene, a task force comprising representatives of public and private agencies, business, media, criminal justice systems, education, human service providers, medical service providers, insurance providers, communities of faith, funding sources, and victims, to advise him or her on the report described in this section.

**AB 2729 (Wesson): VETOED: Victims of crime: domestic violence counseling.**  
(Amends Sections 13960 and 13965 of the Government Code.)

**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.

**This bill** would have authorized a direct cash payment for domestic violence counseling services provided by a domestic violence peer counselor, as defined; revised the limitation on payment for peer counseling services provided by a rape counseling center to an hourly rate established by the board;

and included payment for domestic violence peer counseling services provided by a domestic violence peer counselor within the limitation.

***Legislative History:***

*Assembly Public Safety*  
(7-0)

*Assembly*

*Appropriations (20-1)*

*Assembly Floor (76-2)*

*Assembly Concurrence*  
(79-0)

*Senate Public Safety*  
(6-0)

*Senate Appropriations*  
(8-0)

*Senate Floor (31-5)*



# ***WEAPONS OF MASS DESTRUCTION/ DESTRUCTIVE DEVICES***

## **SB 1287 (Alarcon): Chapter 611: Weapons of mass destruction (WMD) and simulated WMDs. Urgency.**

(Amends Sections 11417, 11418.5, and 11419 of the Penal Code.)

**Existing law** includes the following provisions concerning “weapon of mass destruction” (WMD):

- Absent lawful authority, the possession, development, manufacture, production, transfer, acquisition, or retention of any WMD is a felony.
- A threat to use a weapon of mass destruction that results in “sustained fear,” as defined, is a crime.
- Possession of a “restricted biological agent” is punishable by imprisonment in the state prison for 4, 8, or 12 years, or a fine not exceeding \$250,000, or by both that imprisonment and fine.

**This bill** expands and changes the laws concerning weapons of mass destruction as follows:

- Expands the definition of a WMD to include restricted biological agents and an

aircraft, vessel, or vehicle that is used as a destructive weapon. “Used as a destructive weapon” is defined as the intent of causing widespread great bodily injury or death by causing a fire or explosion or the release of a chemical, biological, or radioactive agent.

- Expands the definition of evidence showing “sustained fear” to include any isolation, quarantine, or decontamination effort while deleting language specifying that any action taken in direct response to a threat to use a weapon of mass destruction is evidence of sustained fear. The bill thus expands the reach of the crime of making a credible threat to use a WMD – a wobbler with a prison triad of 3, 4 or 6 years.
- Also expands the list of restricted biological agents to include bioengineered products and “any other microorganism, virus, infectious substance, or biological product that has the same characteristics as, or is substantially similar to, the substances specifically prohibited” in the WMD law.

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

*Senate Public Safety (5-0)  
Senate Appropriations  
(9-0)*

*Senate Floor (39-0)  
Senate Concurrence (40-0)*

*Assembly Public Safety  
(6-0)*

*Assembly Appropriations  
(23-0)*

*Assembly Floor (80-0)*

**AB 1838 (Hertzberg): Chapter 606: Weapons of mass destruction (WMD). Urgency.** (Amends Sections 189, 667.5, 1192.7, 11417, and 11418 of, and adds Section 11418.1 to, the Penal Code.)

**Existing law:**

- Defines first degree murder.
- Includes lists of “serious felonies” and “violent felonies.” Specified enhancements are added to the prison terms of offenders with prior violent or serious felony convictions. Separate sentencing schemes may apply for defendants with prior serious or violent felony convictions. Inmates imprisoned for violent crimes may receive a reduction of time served on a sentence for work performance of only 15%, rather than the usual 50% prison custody credits, or 33% for county jail.
- Defines a “weapon of mass destruction” (WMD). Existing law also provides that, absent lawful authority, the possession, development, manufacture, production, transfer, acquisition, or retention of any WMD is a felony.
- Provides that, absent lawful authority, the possession, development, manufacture, production, transfer, acquisition, or retention of any WMD is a felony.
- Provides that a threat to use a WMD is a crime.

**This bill** adds to and amends the provisions noted above, as follows:

- Defines murder perpetrated by means of a WMD as first degree murder.
- Adds specified crimes perpetrated by means of a WMD to the list of violent felonies. The bill also adds to the list of serious felonies specified violations perpetrated by means of a WMD. (Note: Because the lists of serious and violent felonies that constitute qualifying prior convictions under the Three Strikes law were frozen as of March 8, 2000 by Proposition 21 of the March 7, 2000 primary election, this bill does not include these new serious/violent felonies as prior strikes.)
- Expands the definition of a WMD to include restricted biological agents, and an aircraft, vessel, or vehicle that is used as a destructive weapon. The bill also defines “used as a destructive weapon” as “the intent of causing widespread great bodily injury or death by causing a fire or explosion or the release of a chemical, biological, or radioactive agent.”
- Provides that a person who employs, as specified, a WMD in a form that may cause widespread great bodily injury or death and causes the death of any human being would be punishable by imprisonment in the state prison for life without the possibility of parole.

***Legislative History:***

*Assembly Public Safety (5-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (71-0)*  
*Assembly Concurrence (78-0)*  
  
*Senate Public Safety (4-0)*  
*Senate Appropriations (11-0)*  
*Senate Floor (39-0)*

- Increases the prison triads for possession or development of a WMD from 3, 6, or 9 years, to 4, 8 or 12 years. The penalty for this crime with specified prior convictions is increased from 4, 8 or 12 years to 5, 10 or 15 years.
- Expands the crime of using a WMD against stock animals and crops (4, 8, 12-year triad) to use against seeds or seed stock. The bill expands provisions concerning use of a WMD against water supply and raises the penalty slightly.
- Modifies crimes concerning development of new pathogens for various prohibited purposes and makes the penalty for such crimes consistent with the penalties for actual use of such

substances. (For example, the prison triad for use of such pathogens against crops or seed stock is 4, 8 or 12 years, development of pathogens for that purpose carries an equivalent penalty. Use of a WMD against natural resources carries a prison triad of 3, 6 or 9 years. Development of pathogens for such purposes carries that same penalty.)

- Defines giving, mailing, sending, or causing to be sent a false or facsimile WMD as a misdemeanor. However, if such prohibited conduct causes another person to be placed in sustained fear, as defined, the conduct would be punishable by imprisonment in a county jail not exceeding one year, or imprisonment in the state prison for 16 months or 2 or 3 years and a fine not exceeding \$250,000.

**AB 2359 (La Suer): Chapter 996: Destructive devices.**  
(Amends Section 12307 of the Penal Code.)

**Existing law** prohibits the possession of specified destructive devices and requires that any prohibited destructive device be surrendered to the Department of Justice (DOJ). DOJ must destroy the device so as to render it unusable and unrepairable as a destructive device.

**This bill** allows any prohibited destructive device to be surrendered to the sheriff or chief of police, in addition to DOJ, if the sheriff or chief of

police has elected to perform services related to the removal of destructive devices. The bill requires the sheriff or chief of police to destroy the device so as to render it unusable and unrepairable as a destructive device.

***Legislative History:***

*Assembly Public Safety*  
(5-0)  
*Assembly Appropriations*  
(23-0)  
*Assembly Floor* (72-0)  
*Assembly Concurrence*  
(78-0)

*Senate Public Safety*  
(6-0)  
*Senate Appropriations*  
(10-1)  
*Senate Floor* (34-0)

# MISCELLANEOUS

## **SB 580 (Figueroa): Chapter 249: Crime prevention: reporting crimes.**

(Amends Section 11160 of, amends, renumbers, and adds Section 11171 to, and adds and repeals Section 11160.2 of, the Penal Code.)

**Existing law** requires various agencies and individuals to report specified instances of physical abuse to specified supervisors and/or agencies.

**This bill** requires the Office of Criminal Justice Planning to develop and adopt a standard state form to be used in the reporting of crimes by health

practitioners, as specified, and that mandated reporters utilize this form. The provisions sunset on January 1, 2004. The bill further states legislative intent that medical forensic forms and reporting forms be available on the Internet.

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

*Senate Public Safety  
(5-0)*

*Senate Appropriations  
(11-0)*

*Senate Floor (40-0)*

*Senate Concurrence  
(35-0)*

*Assembly Public Safety  
(6-0)*

*Assembly Appropriations  
(22-0)*

*Assembly Floor (74-0)*

## **SB 1399 (Romero): Chapter 410: Spousal support.**

(Adds Section 270.6 to the Penal Code.)

**Existing law** provides that in a judgment of dissolution of marriage the court may order a party to pay for the support of the other party an amount, for a period of time, that the court determines is just and reasonable.

**This bill** provides that a person who has notice of a temporary or permanent order awarding spousal support who leaves the state with the intent to willfully

omit, without lawful excuse, to furnish the spousal support is punishable by imprisonment in a county jail for a period not exceeding one year, a fine not exceeding \$2,000, or by both that imprisonment and fine.

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

*Senate Public Safety  
(5-0)*

*Senate Appropriations,  
SR 28.8*

*Senate Floor (36-0)*

*Senate Concurrence  
(36-0)*

*Assembly Public Safety  
(6-0)*

*Assembly Appropriations  
(23-0)*

*Assembly Floor (78-0)*

**SB 1459 (Romero): Chapter 394: Unauthorized practice of law.**  
(Amends Section 6126 of the Business and Professions Code.)

**Existing law** provides that a person who practices law or holds himself or herself out as practicing or entitled to practice law is guilty of a misdemeanor (with a maximum jail term of 6 months and a fine of up to \$1,000) if he or she is not an active member of the State Bar. A person who holds himself or herself out as practicing or entitled to practice law is guilty of an alternate felony-misdemeanor (“wobbler”) if he or she has been (1) involuntarily enrolled as an inactive member of the State Bar, (2) suspended from membership from the State Bar, (3) disbarred, or (4) has resigned from the State Bar with charges pending. Willful failure of a member of the State Bar, or one who has resigned or been disbarred, to comply with an order of the Supreme Court, as

specified, is also a wobbler.

**This bill** provides that the misdemeanor for unauthorized practice of law by a person never licensed as an attorney is a misdemeanor with a maximum jail term of up to one year, a fine of \$1,000, or both. For a subsequent conviction, the bill would require confinement in a county jail for at least 90 days, except under specified circumstances, and would require that the court state on the record the reasons for any lesser sentence. The penalties also apply if the defendant attempted to practice law. All applicable penalties are cumulative to each other and any other remedies or penalties. Finally, the bill exempts from prosecution for unauthorized practice of law a person who was authorized,

***Legislative History:***

*Senate Judiciary (5-1)*  
*Senate Public Safety (5-0)*  
*Senate Appropriations,*  
*SR 28.8*  
*Senate Floor (27-7)*

*Assembly Judiciary (12-0)*  
*Assembly Appropriations*  
*(23-0)*  
*Assembly Floor (77-0)*

pursuant to statute or court rule, to practice law in the state at the time he or she performed the act.

**SB 1690 (Margett): Chapter 677: Department of Mental Health study: persons committed to medical facilities. Urgency.**  
(Uncodified Law.)

**Existing law** establishes procedures for determining a person found not guilty by reason of insanity has been restored to sanity, and procedures for placing persons who have been committed to medical institutions by criminal procedures to obtain outpatient status.

**This bill** directs the State Department of Mental Health to undertake a study regarding the application and impact of those

procedures, and the potential advantages and disadvantages of certain proposed procedures, as specified. This bill requires a report to the Legislature not later than January 1, 2004.

***Legislative History:***

*Senate Public Safety*  
*(4-0)*  
*Senate Appropriations*  
*(10-0)*  
*Senate Floor (39-0)*  
*Senate Concurrence*  
*(38-0)*

*Assembly Public Safety*  
*(5-0)*  
*Assembly*  
*Appropriations (15-0)*  
*Assembly Floor (67-5)*

**SB 1732 (Escutia): Chapter 1082: Court facilities.**

(Amends Sections 76000, 76100, and 76101 of, amends and renumbers Section 68073 of, adds Section 76223 to, adds Chapter 4.2 (commencing with Section 69202) to Title 8 of, and adds Chapter 5.7 (commencing with Section 70301) to Title 8 of, the Government Code.)

**Existing law** provides that no county is responsible for funding court operations, as defined, but that each county is responsible for providing necessary and suitable court facilities. Existing law authorizes counties to impose a specified penalty assessment on fines, penalties, and forfeitures collected by the courts for certain criminal offenses and a specified surcharge on parking penalties, to be used for courthouse construction, criminal justice facilities construction, automatic fingerprint identification funding, forensic laboratory funding,

emergency medical services funding, and DNA identification funding. Certain counties are also authorized to surcharge civil filing fees for courthouse construction.

**This bill** creates the "Trial Court Facilities Act of 2002", which establishes procedures and funding mechanisms for transferring responsibility for trial court facilities from the counties to the state. Among other things it adds a state court construction penalty of \$1.50 to every penalty, fine or forfeiture for a parking

***Legislative History:***

*Senate Judiciary (5-1)*  
*Senate Appropriations (8-2)*  
*Senate Floor (24-10)*  
*Senate Concurrence (25-9)*

*Assembly Judiciary (8-2)*  
*Assembly Appropriations (14-6)*  
*Assembly Floor (59-20)*

offense, to be deposited in the State Court Facilities Construction Fund.

**SB 1796 (Polanco): VETOED: Political expression: limits on punishment for non-violent misdemeanors.**

(Adds Section 19.5 to the Penal Code.)

(Note: The provisions of this bill were previously in SB 1680 (Polanco). See the votes and actions on that bill in the Senate for additional history of the issue.)

**Existing law** provides that, unless otherwise specified, a misdemeanor is punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not exceeding \$1,000, or by both that imprisonment and fine.

**This bill** would have stated findings and declarations of the Legislature with respect to the history of nonviolent political expression in the United States. It would have provided that, except where there are defined extraordinary aggravating circumstances, the punishment for the commission of, or for a conspiracy to commit, certain

misdemeanor offenses that do not threaten to cause physical harm to property or bodily harm to persons or actually cause physical harm to property or bodily harm to persons, shall be a fine not to exceed \$100, imprisonment in a county jail for a period not to exceed 2 days, or both that fine and imprisonment, if the motive for the violation is found to be political expression. Political expression was to be defined as "any oral or written statements or nonviolent symbolic actions made for the purpose of influencing public opinion on matters of general interest to society . . ." However,

***Legislative History:***

*(Prior votes not relevant)*  
*Senate Concurrence (22-12)*

*Assembly Floor (45-31)*

if the court finds that there are extraordinary aggravating circumstances related to the crimes committed, the defendant shall be punishable by the maximum fine and imprisonment specified for a violation of each of those particular misdemeanor offenses.

**SB 1852 (Committee on Public Safety): Chapter 545: Public safety.**

(Amends Section 15155 of the Government Code, amends Sections 11372.7 and 11836 of the Health and Safety Code, amends Sections 23, 830.8, and 1000 of the Penal Code, amends Sections 1808, 13350, 13352, 13352.4, 13352.5, 13353.3, 13353.4, 13353.45, 13353.5, 13386, 23249, 23521, 23536, 23538, 23540, 23542, 23546, 23548, 23550, 23550.5, 23552, 23554, 23556, 23560, 23562, 23566, and 23568 of the Vehicle Code, and amends Section 827.9 of the Welfare and Institutions Code.)

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

***Legislative History:***

*Senate Public Safety*

*(6-0)*

*Senate Appropriations,*

*SR 28.8*

*Senate Floor (38-0)*

*Senate Concurrence*

*(39-0)*

*Assembly Public Safety*

*(6-0)*

*Assembly Appropriations*

*(23-0)*

*Assembly Floor (78-0)*

**AB 374 (Matthews): Chapter 719: Central Valley Rural Crime Prevention Program. Urgency.**

(Amends Sections 14170, 14171, and 14175 of, and adds Section 14174.3 to, the Penal Code.)

**Existing law** provides that certain specified counties may develop a Rural Crime Prevention Program and provides that the parties to each agreement shall form a regional task force known as the "Rural Crime Task Force". Existing law further states that the title authorizing the Rural Crime Prevention Program shall become inoperative on July 1, 2002, and is repealed as of January 1, 2003 unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

**This bill:**

- Renames the program "Central Valley Rural Crime Prevention Programs" and extends the operation of the provisions to July 1, 2005, and provides for their repeal, instead, on January 1, 2006.
- Requires the Central Valley Rural Crime Task Force to develop a uniform procedure for all participating counties to collect (and requires each county to collect) data on

***Legislative History:***

*(Prior votes not relevant)*

*Assembly Concurrence*

*(76-2)*

*Senate Public Safety*

*(4-0)*

*Senate Appropriations*

*(11-1)*

*Senate Floor (29-4)*

**Miscellaneous**

*AB 374 (Matthews), continued*

- agricultural crimes by June 30, 2003.
- Requires the task force to establish a central database for the collection and maintenance of data on agricultural crimes and designates one participating county to maintain the database by June 30, 2003.
- Extends the sunset date for the Central Valley Rural Crime Prevention Program from July 1, 2002 to July 1, 2006.
- Took effect immediately as an urgency statute.

**AB 669 (Hertzberg): Chapter 731: State nonemergency telephone number system: "311."**

(Adds Article 6.6 (commencing with Section 53126) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code and Uncodified Law.)

**Existing law** requires local public safety agencies to maintain, in addition to a "911" emergency telephone number, a separate number for nonemergency calls.

**This bill** authorizes every local public agency, as defined, to establish a nonemergency telephone system; specifies that the digits "311" are the dedicated nonemergency telephone number within the

system; and authorizes the Division of Telecommunications of the Department of General Services to, among other things, aid local public agencies in the formulation of concepts, methods, and procedures that will improve the operation of systems authorized by this bill and that will increase cooperation among public agencies.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence*  
*(70-8)*

*Senate Energy, Utilities,*  
*and Communications*  
*(6-2)*  
*Senate Appropriations*  
*(11-0)*  
*Senate Floor (25-8)*

**AB 1714 (Canciamilla): Chapter 154: Public resources: prohibited uses.**

(Amends Section 8314 of the Government Code, and amends Section 424 of the Penal Code.)

**Existing law** provides that it shall be unlawful for any elected state officer, appointee, employee, or consultant, to use or permit others to use state resources for campaign activity, or personal or other purposes which are not authorized by law.

**This bill** extends the prohibitions against state officers using state resources for campaign activities to cover local officers using local resources and in doing so also

extends the exemptions from civil or criminal liability for incidental or minimal use.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Elections*  
*Reapportionment and*  
*Constitutional*  
*Amendments (6-0)*  
*Assembly Concurrence*  
*(73-0)*

*Senate Elections and*  
*Reapportionment (6-0)*  
*Senate Public Safety (5-0)*  
*Senate Floor (33-0)*



**AB 1828 (Bill Campbell): Chapter 102: Hallal (approved Islamic food): mislabeling and related acts.**

(Adds Section 383c to the Penal Code.)

**Existing law** provides that every person who, with intent to defraud, sells any meat or meat preparations falsely representing them to be kosher or prepared in compliance with Hebrew orthodox religious requirements, or who fails to indicate that both kosher and nonkosher meat is for sale in the same place of business, as specified, is punishable by a fine of not less than \$100 nor more than \$600, or imprisonment in a county jail for not less than 30 days nor more than 90 days, or by both that fine and imprisonment.

**This bill** provides that a person who, with intent to defraud, sells any meat or meat preparations falsely representing them to be halal or prepared in compliance with Islamic religious requirements, or who fails to indicate that both halal and nonhalal meat is for sale in the same place of business, is punishable by the same imprisonment and fine as apply to kosher food.

***Legislative History:***

*Assembly Public Safety (7-0)*

*Assembly Appropriations (20-0)*

*Assembly Floor (74-0)*

*Senate Public Safety (6-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (36-0)*

**AB 2015 (Corbett): Chapter 335: Burglary tools: spark plug pieces.**

(Amends Section 466 of the Penal Code and Uncodified Law.)

**Existing law** makes it a misdemeanor for any person to have in his or her possession any specified instrument or tool with the intent to break or enter into any building, railroad car, aircraft or vessel, trailer coach, or vehicle.

spark plug chips or pieces, not other common objects such as rocks or pieces of metal, to the list of burglary tools.

**This bill** adds ceramic or porcelain spark plug chips or pieces to the list of burglary instruments or tools. The bill states the Legislature's intent to add only ceramic or porcelain

***Legislative History:***

*Assembly Public Safety (5-0)*

*Assembly Appropriations (23-0)*

*Assembly Floor (67-0)*

*Assembly Concurrence (78-0)*

*Senate Public Safety (4-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (39-0)*

**AB 2145 (Chu): Chapter 1134: Inserting unauthorized material in periodicals.**  
(Amends Section 538c of the Penal Code.)

**Existing law** provides that the attachment or insertion of any unauthorized advertisement, as defined, into, and the actual or intended redistribution of, a newspaper that is offered for retail sale or is distributed without charge, except with the consent of the publisher or authorized distributor, is a misdemeanor. Existing law also makes it a misdemeanor to act in concert with another to distribute newspapers with unauthorized advertisements, in violation of this provision.

**This bill** expands these provisions by including in the crime the attachment or insertion of unauthorized advertisements into magazines, periodicals, or other publications. This bill recasts and renumbers these provisions to correct an inaccurate cross-reference, and to specify that these provisions do not apply to a distributor who attaches or inserts an unauthorized advertisement if the distributor has been directed to insert or attach the advertisement by the person or company supplying the newspapers, as specified, and the distributor is not aware that the advertisement is

***Legislative History:***

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (20-0)*  
*Assembly Floor (74-0)*

*Senate Public Safety (6-0)*  
*Senate Appropriations, SR 28.8*  
*Senate Floor (35-0)*

unauthorized. The bill specifies that a conviction for this crime shall not constitute a conviction for petty theft.

**AB 2205 (Koretz): Chapter 687: Black Market Cigarette and Street Corruption Prevention Act.**

(Adds and repeals Section 30474.5 of the Revenue and Taxation Code.)

**Existing law** imposes a specified tax on the distribution of cigarettes. Existing law also imposes a penalty of \$100 for each carton of 200 cigarettes, or portion thereof, upon any person who knowingly possesses, keeps, stores, or retains for the purpose of sale, or sells, or offers to sell, any package of cigarettes to which there is not affixed a stamp or meter impression. Existing law requires, with regard to the \$100 penalty for the distribution of a carton of black-market cigarettes, that the court transmit 50% of the penalty assessed to the local prosecuting jurisdiction and 50% of the penalty assessed to the State Board of Equalization for transmittal to the Treasurer for deposit in the General Fund.

**This bill** (for the period beginning on January 1, 2003, and ending on January 1, 2006) imposes an additional penalty for the distribution of black-market cigarettes in an amount equal to \$100 per carton. This bill provides for the additional \$100 penalty to be deposited in the Unlawful Sales Reduction Fund, which the bill creates. The fund shall be appropriated by the Legislature to the Office of Criminal Justice Planning for a competitive grant program for local jurisdictions to establish a multiagency task force intended to significantly reduce the sales of black-market cigarettes and create a deterrent to those sales through the focused investigation and prosecution of sales of black-market cigarettes and other associated offenses and crimes.

***Legislative History:***

*Assembly Government Organization (18-2)*  
*Assembly Revenue and Taxation (6-0)*  
*Assembly Appropriations (24-0)*  
*Assembly Floor (70-2)*  
*Assembly Concurrence (69-9)*

*Senate Health and Human Services (7-2)*  
*Senate Appropriations (8-3)*  
*Senate Floor (22-12)*

**AB 2211 (Horton): Chapter 1092: Community impact statements.**

(Uncodified Law.)

**Existing law** provides that the victim of any crime, or the parents or guardians, if the victim is a minor, or the next of kin if the victim has died, have the right to reasonably express his, her, or their views concerning the crime, the person responsible, and the need for restitution.

potential effects of, implementation issues surrounding, and alternatives to, a policy requiring courts to consider community impact statements, as specified.

**This bill** requires the Judicial Council to conduct a study of the

***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Floor (70-0)*  
*Assembly Concurrence (74-1)*

*Senate Public Safety (5-0)*  
*Senate Appropriations (12-1)*  
*Senate Floor (32-4)*

**AB 2238 (Dickerson): Chapter 621: Public Safety Officials Home Protection Act.**

(Amends Section 6254.21 of, and adds Section 6254.24 to, the Government Code, and amends Section 146e of the Penal Code.)

**Existing law** provides that no state or local agency shall post the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of the individual. It defines "elected or appointed official" as including but not limited to: state constitutional officers; members of the Legislature; judges and court commissioners; district attorneys; public defenders; members of a city council; members of a board of supervisors; appointees of the Governor; appointees of the Legislature; mayors; city attorneys; police chiefs and sheriffs.

**This bill** (1) makes it a misdemeanor, or a felony under certain circumstances, to post the home address or telephone number of any elected or appointed official or that of specified family members, with the intent to cause great bodily harm, (2) makes it a misdemeanor, or a felony under certain circumstances, for any person with the intent to inflict physical harm in retaliation for due administration of the law, to disclose or publish the home address or telephone number of any public safety official, and (3) requires the Department of Justice (DOJ) to chair an advisory task force to study, and report to the Legislature by September 1, 2003, on how to protect a public safety official's home information.

***Legislative History:***

*Assembly Public Safety (4-0)*  
*Assembly Appropriations (23-0)*  
*Assembly Floor (72-0)*  
*Assembly Concurrence (76-0)*

*Senate Public Safety (4-0)*  
*Senate Appropriations (9-1)*  
*Senate Floor (32-0)*

**AB 2362 (Canciamilla): Chapter 293: Vessels: sanitation devices: peace officer authority to board.**

(Amends Section 782 of the Harbors and Navigation Code.)

**Existing law** requires every peace officer of the state and of any city, county, or other public agency, all state and local public health officers, and all boating law enforcement officers to enforce certain provisions relating to vessel sanitation and any regulations adopted pursuant to those provisions; prohibits any person from disconnecting, bypassing, or operating a marine sanitation device so as to discharge sewage into the waters of the state, unless the particular discharge is expressly authorized or permitted pursuant to state or federal law or regulations; and

authorizes state and local peace officers to enforce state laws relating to marine sanitation devices and to inspect vessels if there is reasonable cause to suspect noncompliance with those laws.

**This bill** authorizes a state or local peace officer who reasonably suspects that a vessel is discharging sewage in an area where the discharge is prohibited to board the vessel for the purpose of inspecting the marine sanitation device for proper operation and placing dye tablets into the holding tank.

***Legislative History:***

*Assembly Transportation (16-0)*

*Assembly Appropriations (20-2)*

*Assembly Floor (73-1)*

*Senate Natural Resources and Wildlife (7-0)*

*Senate Appropriations, SR 28.8*

*Senate Floor (39-0)*

**AB 2486 (Keeley): Chapter 1000: Environmental prosecution.**

(Amends Section 25515.2 of the Health and Safety Code, amends Sections 14300, 14301, 14303, 14304, 14306, 14307, 14314, and 14315 of, amends the heading of Title 13 (commencing with Section 14300) of Part 4 of, amends the headings of Chapter 2 (commencing with Section 4304) and Chapter 3 (commencing with Section 14306) of Title 13 of Part 4 of, amends and renumbers the heading of Chapter 6 (commencing with Section 14314) of Title 13 of Part 4 of, adds Section 14308, adds Chapter 4 (commencing with Section 14309) to Title 13 of Part 4 of, and repeals Chapter 4 (commencing with Section 14308) and Chapter 5 (commencing with Section 14309) of Title 13 of Part 4 of, the Penal Code.)

**Existing law** provides there are various specialized hazardous materials enforcement and training programs. In particular, existing law provides for special local toxics prosecution projects funded by grants from the Director of Toxic Substance Control. In addition, money has been provided in the Budget Act for several years for an environmental circuit prosecutor through the Secretary of the California Environmental Protection Agency.

**This bill** enacts the Local Environmental Enforcement and Training Act of 2002 (LEETA) under the administration of Cal EPA to establish an environmental circuit prosecutor program to assist local district attorneys in the enforcement of environmental laws and regulations. The bill renames, relocates and expands the jurisdiction of the existing Local Toxics Enforcement and Training Act of 1992, currently under the Department of Toxics Substances Control (DTSC).

***Legislative History:***

*Assembly Public Safety (6-0)*

*Assembly Appropriations (23-0)*

*Assembly Floor (65-12)*

*Assembly Concurrence (65-13)*

*Senate Environmental Quality (6-0)*

*Senate Public Safety (5-0)*

*Senate Appropriations (7-3)*

*Senate Floor (25-11)*

**AB 2526 (Dickerson): Chapter 198: Crimes.**  
 (Amends Section 1203.1f of the Penal Code.)

**Existing law** provides that if a defendant is convicted of an offense, the defendant may be required to pay all or a portion of the costs for any legal assistance that was provided by the court, for probation or probation investigation, for incarceration in a local detention facility, or for the provision of parole supervision. Existing law requires an ability to pay determination hearing before these costs may be assessed to the defendant and, if practicable, requires the court to consolidate

these hearings. Existing law authorizes the determination of the ability to pay made at the consolidated hearing to be used for all purposes related to these specified provisions.

**This bill** requires the court to consolidate all ability to pay determination hearings into one proceeding and would authorize the court to use this determination of ability to pay made at the consolidated hearing for all purposes.

***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Floor (62-3)*  
*Assembly Concurrence (77-0)*

*Senate Public Safety (3-1)*  
*Senate Public Safety (4-0)*  
*Senate Floor (33-0)*

**AB 2837 (Koretz): Chapter 885: Safety in employment.**

(Adds Section 102346 to the Health and Safety Code, amends Sections 6309, 6313, 6315, 6409.1, 6409.2, and 6423 of, and adds Sections 176 and 6356 to, the Labor Code.)

**Existing law** provides that every employer, and every officer, management official, or supervisor having direction, management, control, or custody of any employment, place of employment, or employee is guilty of a misdemeanor if that person or entity, among other things, knowingly or negligently violates any standard, order, or special order, or any of certain provisions of law, or part thereof, authorized by the California Occupational Safety and Health Act of 1973, the violation of which is deemed to be a serious violation.

**This bill** (among other provisions) provides that an employer, officer, management official, or supervisor who knowingly fails to report a death to the division or knowingly induces another to do so is guilty of a misdemeanor. This bill would prescribe a penalty of up to one year in jail, a fine of up to \$15,000, or both. If the violator is a corporation or a limited liability company, this bill would impose a fine of up to \$150,000.

***Legislative History:***

*Assembly Labor and Employment (6-1)*  
*Assembly Appropriations (17-7)*  
*Assembly Floor (47-31)*  
*Assembly Concurrence (45-31)*

*Senate Labor and Industrial Relations (5-3)*  
*Senate Appropriations (7-3)*  
*Senate Floor (22-14)*

**AB 2899 (Migden): VETOED: Homeless courts.**

(Adds and repeals Chapter 5.5 (commencing with Section 70250) to Title 8 of the Government Code.)

**Existing law** establishes the procedure for the adjudication of various infractions and misdemeanors, as specified.

**This bill** would have created the Homeless Court Pilot Project to operate in 3 superior courts selected by the Judicial Council, for the adjudication of infractions and misdemeanors. The bill defined the term "homeless" and required the Judicial Council to develop and promulgate procedures and guidelines for homeless courts. The bill would have required the Judicial Council to issue an interim report by January 1, 2005, and a final evaluation by January 1, 2006, for the Legislature and the Governor. The pilot project would have sunseted on January 1, 2007.

The Governor's veto message states in part: "Actions or cases related to homeless people are already within the responsibility of the established court system. It is not clear that further delineation of areas of responsibility within the court is necessary, and such delineation could result in inefficiencies and duplication of efforts. (¶) In addition, establishing the program proposed by this bill would result in General Fund costs of more than \$ 1 million over 3 years and a reimbursable State-mandated local program. Given the State's \$24 billion deficit, I cannot reasonably justify the use of General Fund resources at this time. It is my hope that the State's Trial Courts attempt to fund a pilot project using existing resources."

***Legislative History:***

*Assembly Judiciary (10-0)*  
*Assembly Appropriations (18-5)*

*Assembly Floor (56-20)*  
*Assembly Concurrence (53-25)*

*Senate Public Safety (4-0)*  
*Senate Appropriations (8-4)*  
*Senate Floor (21-13)*

**AB 3000 (Committee on Budget): Chapter 1124: State and local government: budget trailer bill. Urgency.**

(Amends, adds and repeals a number of statutory provisions, adds Section 14669.21 to the Government Code, amends Section 13915 of the Government Code, amends Sections 830.5, 1203.1d, 6045.8, and 13601 of the Penal Code, adds Sections 1465.7 and 2933.3 to the Penal Code, amends Section 3053 of the Welfare and Institutions Code and adds Section 3055 to the Welfare and Institutions Code, and Uncodified Law.)

**Existing law** authorizes the Director of General Services to hire, lease, lease-purchase, or lease with the option to purchase any real or personal property for the use of any state agency, if the director deems the hiring or leasing is in the best interests of the state.

**This bill** authorizes the director to acquire, develop, design, and construct a regional criminal justice laboratory, necessary infrastructure, and related parking on the California State University's Los Angeles campus; authorizes the State Public Works Board to issue lease revenue

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Concurrence (54-25)*

*Senate Floor (27-13)*

bonds, negotiable notes, or negotiable bond anticipation notes, not to exceed \$92,000,000 plus additional specified sums, for the acquisition, development, design, and construction of the project; authorizes the Office of Criminal Justice Planning to borrow funds for the project, provides that if the authorized bonds are not sold, the Office of Criminal Justice Planning shall commit a sufficient amount of its support appropriation to repay any loans made for the project, authorizes the Office of Criminal Justice Planning to execute a contract with the board for the lease of the regional crime laboratory facilities that are financed with the proceeds of the board's bonds, and authorizes the Office of Criminal Justice Planning, with the consent of the board and the Department of General Services, to enter into contracts and subleases with specified parties for the use, maintenance, and operation of the regional crime laboratory facilities. (Government Code § 14669.21.)

**Existing law** establishes the California Victim Compensation and Government Claims Board and requires the board to schedule its meetings for the purposes of receiving and acting upon claims so that meetings are held in southern California at least once in every 2 consecutive calendar months, and to hear a claim at the location designated as a preferred location where the board holds its meetings.

**This bill** instead requires the board to hold regular meetings in Sacramento and authorizes other meetings within the state

as a majority of the board directs. (Government Code § 13915.)

**Existing law** imposes a state penalty, in a specified amount, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses other than parking offenses.

**This bill** imposes a 20% surcharge on the criminal fine used to calculate this state penalty, to be levied in addition to the state penalty; specifies that this provision would remain in effect only until July 1, 2007. (Penal Code § 1465.7.)

**Existing law** allows the board of supervisors of a county to determine the order of priority in which disbursements are made from funds provided by installment payments on criminal fines and fees, or collected by the Franchise Tax Board for criminal fines and fees that are delinquent and allows the board of supervisors to determine the priority of payment between court orders or parts of orders when defendants have been ordered to pay more than one court order.

**This bill** requires the board of supervisors to mandate the following order of priority for disbursement of these funds: (a) restitution to the victim; (b) the 10% state surcharge; (c) fines, penalty assessments, and restitution fines, in an amount for each that is proportional to the total amount levied for all of those items; and (d) other reimbursable costs, and requires

the board of supervisors to apply these priorities to orders or parts of orders when defendants have been ordered to pay more than one court order. (Penal Code § 1203.1d.)

**Existing law** includes as peace officers any medical technical assistant series employee designated by the Director of Corrections or designated by the Director of Corrections and employed by the State Department of Mental Health to work in the California Medical Facility.

**This bill** deletes the requirement that these medical technical assistant series employees work in the California Medical Facility to be peace officers. (Penal Code § 830.5.)

**Existing law** authorizes the Department of Corrections to reduce a prisoner's sentenced term of imprisonment through the accumulation of worktime credits by performance in work, training, and education programs established by the Director of Corrections and specifies that for every 6 months of full-time performance in a credit qualifying program, as designated by the director, a prisoner shall be awarded worktime credit reductions from his or her term of confinement of 6 months, as specified. However, existing law provides that under no circumstances shall any prisoner receive more than 6 months' credit reduction for any 6-month period.

**This bill** provides that for service performed after January 1, 2003,

**Miscellaneous**

*AB 3000 (Committee on Budget), continued*

any inmate assigned to a conservation camp by the Department of Corrections who is eligible to earn one day of worktime credit for every one day of service pursuant to existing law shall instead earn 2 days of worktime credit for every one day of service, as specified. (Penal Code § 2933.3.)

**Existing law** provides that a person convicted of a crime who is addicted, or in imminent danger of becoming addicted, to narcotics may be committed for treatment by the Department of Corrections to the narcotic detention, treatment, and rehabilitation facility, as specified; if at any time the director concludes that a person at the facility, because of excessive criminality or for other relevant reason, is not a fit subject for confinement or treatment in the facility, the director shall return the person to the court in which the case originated for such further proceedings on the criminal charges as that court may deem warranted; the director is not explicitly authorized to limit the number of persons who may be committed to the facility or to refer a person committed to the facility back to court in order to achieve this limit.

**This bill** specifies that eligibility for treatment pursuant to Proposition 36, an initiative statute that provides for narcotics treatment in lieu of incarceration in specified circumstances, would be a proper reason for the return of a person to court by the director and specifies that the director is authorized to limit the number of

persons who may be committed to the facility and that the director may refer a committed person back to the court in which the committed person's case originated, in order to achieve the limit. (Welfare and Institutions Code §§ 3053 and 3055.)

**Existing law** provides that commencing on June 30, 2000, and annually thereafter until December 31, 2004, the Board of Corrections, in consultation with other state agencies, shall submit a report to the Legislature assessing mentally ill offender crime reduction grants, as specified.

**This bill**, in addition, requires that an interim report be submitted on March 1, 2003. (Penal Code § 6045.8.)

**Existing law** establishes within the Youth and Adult Correctional Agency a Commission on Correctional Peace Officer Standards and Training, known as CPOST, that is required to develop, approve, and monitor standards for the selection and training of state correctional peace officers apprentices, as specified. The State Personnel Board is required to ensure that, prior to training, each applicant who has otherwise qualified in all physical and other testing requirements to be a peace officer in a youth or adult correctional facility, is determined to be free from emotional and mental conditions that might adversely affect the exercise of his or her duties and powers as a peace officer.

**This bill** expands that

requirement to additionally require "or the Department of the Youth Authority" to ensure that applicants are determined to be free from those emotional and mental conditions. (Penal Code § 13601.)

**Existing law** establishes the Department of the Youth Authority for the commitment of certain youthful offenders.

**This bill** requires the Department of the Youth Authority to submit to the Department of Finance and the fiscal committees of the Legislature on or before November 1, 2002, a written plan to close at least 3 other facilities by June 30, 2007, and requires the Department of the Youth Authority to close one of those facilities pursuant to the plan by June 30, 2004, as specified. (Uncodified Law, § 60 of AB 3000.)

**This bill** took effect immediately upon enactment.



**ACR 220 (Diaz): Resolution Chapter 113: How to Live in America Program.**  
(Resolution language.)

**Existing law** criminalizes drunk driving, domestic violence, and other types of violations.

**This resolution** commends the Counties of Santa Clara, Contra Costa, and San Mateo for their successful implementation of the How to Live in America Program and urges other counties to implement the program. This resolution states that "In Eagle

County, Colorado, where the program first began, recidivism rates among Latinos have dropped significantly for drunk driving, domestic violence, and for repeat occurrences of any type of violation . . ."

***Legislative History:***

*Assembly Public Safety (5-0)*  
*Assembly Floor (adopted)*

*Senate Floor (35-0)*

**ACR 229 (Diaz): Resolution Chapter 187: Mexican Consular identification cards.**  
(Resolution language.)

**Existing law** provides that whenever a non-resident is arrested for a moving violation of the Vehicle Code and does not have satisfactory identification and an address within California, the arresting officer may take the person immediately before the magistrate and contains other provisions pertaining to acceptable identification in a variety of circumstances.

**This resolution** urges cities and counties throughout California, including their respective agencies, and state agencies to accept the Mexican Consular identification cards, known as the "Matricula Consular," as an official form of identification.

***Legislative History:***

*Assembly Public Safety (6-0)*  
*Assembly Floor (70-6)*  
*Assembly Concurrence (71-7)*

*Senate Public Safety (5-0)*  
*Senate Floor (23-4)*

**AJR 57 (Diaz): Resolution Chapter 183: Peace officers: immigration enforcement.**  
(Resolution language.)

**Existing law** provides that every law enforcement agency in California shall fully cooperate with the INS, as specified, and contains various other provisions in statute relating to that issue.

**This resolution** states concerns of the Legislature about the use of state and local law enforcement agents to enforce

immigration law; states legislative findings that, state and local law enforcement agencies lack authority to stop, arrest, or detain persons based upon suspected or alleged violations of the civil provisions of the federal immigration laws, as specified; and provides for transmittal to the United States Attorney General.

***Legislative History:***

*Assembly Public Safety (4-2)*  
*Assembly Floor (44-23)*

*Senate Public Safety (5-0)*  
*Senate Floor (22-12)*

**AJR 63 (Richman): Resolution Chapter 197: Extradition from Mexico.**  
(Resolution language.)

**This resolution** memorializes the Executive Branch of the Federal Government to ensure that the federal government addresses Mexico's refusal to extradite to the United States criminals facing life sentences.

***Legislative History:***

*(Prior votes not relevant)*  
*Assembly Rules (5-0)*  
*Assembly Floor (70-3)*

*Senate Floor (39-0)*

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