

The California Legal Update

New and Amended Statutes Edition

Remember 9/11/2001: Support Our Troops, Cops, and Country

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THIS EDITION'S WORDS OF WISDOM:

"I made a huge to-do list today. I just can't figure out who's going to do it."

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New and Amended Statutes:

ADMINISTRATIVE NOTES:

New and Amended Statutes; Disclaimer: The statutes listed here are not intended to cover the entire body of the Legislature's work for 2022, nor the multiple Initiatives approved at the voters' booth. Only those statutes believed to be of interest to most law enforcement officers, with the concerns of prosecutors in mind, are included. Sentencing, procedural, and/or administrative rules, typically covered better in other publications, and other technical, non-substantive changes, have been avoided except when important to the substance of a new or amended offense. Statutes that affect post-conviction (i.e., appellate)

proceedings are also not included. Many of the statutes that *are* included have been severely paraphrased, the degree of detail being dependent upon the newness, importance, and/or complexity of the statute. Other statutes, due to their importance, novelty, and/or complexity, as evaluated by the author/editor (i.e., “*me*”), have been included, word-for-word, in their entirety. Although I have made a sincere effort to avoid taking any part of a statute out of context, it is *strongly* recommended that the unedited statute be consulted before attempting to use it either in the field or the courtroom. The effective date of each new or amended statute is *January 1, 2023*, unless otherwise indicated. Bolding and italics have been added for emphasis.

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NEW AND AMENDED STATUTES:

Abortions:

P.C. 13778.2 (New; Effective 9/27/2022; **AB 1242**): *Prohibition of Arrest for Lawful Abortions; Cooperation with Other States; Subpoenas for Out-of-State Proceedings:*

(a) A state or local law enforcement agency or officer *shall not* knowingly arrest or knowingly participate in the arrest of any person for performing, supporting, or aiding in the performance of an abortion in this state, or obtaining an abortion in this state, if the abortion is lawful under the laws of this state.

(b) A state or local public agency, or any employee thereof acting in their official capacity, *shall not* cooperate with or provide information to any individual or agency or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency regarding an abortion that is lawful under the laws of this state and that is performed in this state.

(c)

(1) A law of another state that authorizes the imposition of civil or criminal penalties related to an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state, is against the public policy of this state.

(2) No state court, judicial officer, or court employee or clerk, or authorized attorney shall issue a subpoena pursuant to any state law in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state.

(d) This section does *not* prohibit the investigation of any criminal activity in this state that may involve the performance of an abortion, provided that information relating to any medical procedure performed on a specific individual is not shared with an agency or individual from another state for the purpose of enforcing another state's abortion law.

Alerts:

Gov't. Code § 8594.13 (New; **AB 1314**): *Feather Alerts:*

(a) For purposes of this section, “*Feather Alert*” means a notification system, activated pursuant to **subdivision (b)**, designed to issue and coordinate alerts with respect to *endangered indigenous people*, specifically indigenous women or

indigenous people, who are reported missing under unexplained or suspicious circumstances.

(b)

(1) If a person is reported missing to a law enforcement agency and that agency determines that the requirements of **subdivision (c)** are met, the law enforcement agency may request the Department of the California Highway Patrol to activate a Feather Alert. If the Department of the California Highway Patrol concurs that the requirements of **subdivision (c)** have been met, it shall activate a Feather Alert within the appropriate geographical area requested by the investigating law enforcement agency.

(2) Radio, television, cable, satellite, and social media systems are encouraged to, but not required to, cooperate with disseminating the information contained in a Feather Alert.

(3) Upon activation of a Feather Alert, the Department of the California Highway Patrol shall assist the investigating law enforcement agency by issuing a be-on-the-lookout alert, an electronic flyer, or changeable message signs in compliance with **paragraph (4)**.

(4) Upon activation of a Feather Alert, the Department of the California Highway Patrol may use a changeable message sign if both of the following conditions are met:

(A) A law enforcement agency determines that a vehicle may be involved in the missing person incident.

(B) Specific identifying information about the vehicle is available for public dissemination.

(c) A law enforcement agency may request that a Feather Alert be activated if that agency determines that all of the following conditions are met regarding the investigation of a missing person:

(1) The missing person is an indigenous woman or an indigenous person.

(2) The investigating law enforcement agency has utilized available local and tribal resources.

(3) The law enforcement agency determines that the person has gone missing under unexplained or suspicious circumstances.

(4) The law enforcement agency believes that the person is in danger because of age, health, mental or physical disability, or environment or

weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

(5) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

(d) The Department of the California Highway Patrol shall create and submit a report to the Governor's Office and the Legislature that includes an evaluation of the Feather Alert, including the efficacy, the advantages, and the impact to other alert programs. The Department shall submit the report to the Legislature in compliance with **Section 9795** no later than *January 1, 2027*.

Gov't. Code § 8594.15 (New; **AB 1732**): *Yellow Alerts*:

(a) For the purposes of this section, "*Yellow Alert*" means a notification system, activated pursuant to **subdivision (b)**, designed to issue and coordinate alerts with respect to a *hit-and-run incident* resulting in the death of a person as described in **Section 20001** of the **Vehicle Code**.

(b)

(1) If a hit-and-run incident is reported to a law enforcement agency, and that agency determines that the requirements of **subdivision (c)** are met, the agency may request the Department of the California Highway Patrol to activate a Yellow Alert. If the Department of the California Highway Patrol concurs that the requirements of **subdivision (c)** are met, it may activate a Yellow Alert within the geographic area requested by the investigating law enforcement agency.

(2) Radio, television, and cable and satellite systems are encouraged, but are not required, to cooperate with disseminating the information contained in a Yellow Alert.

(3) Upon activation of a Yellow Alert, the Department of the California Highway Patrol shall assist the investigating law enforcement agency by issuing the Yellow Alert via a changeable message sign.

(4) If there are multiple Yellow Alerts requested, the Department of the California Highway Patrol may prioritize the activation of alerts based on any factor, including, but not limited to, the time elapsed between a hit-and-run incident and the request or the likelihood that an activation would reasonably lead to the apprehension of a suspect.

(c) A law enforcement agency may request that a Yellow Alert be activated if that agency determines that all of the following conditions are met in regard to the investigation of the hit-and-run incident:

(1) A person has been killed due to a hit-and-run incident.

(2) There is an indication that a suspect has fled the scene utilizing the state highway system or is likely to be observed by the public on the state highway system.

(3) The investigating law enforcement agency has additional information concerning the suspect or the suspect's vehicle, including, but not limited to, any of the following:

(A) The complete license plate number of the suspect's vehicle.

(B) A partial license plate number and additional unique identifying characteristics, such as the make, model, and color of the suspect's vehicle, which could reasonably lead to the apprehension of a suspect.

(C) The identity of a suspect.

(4) Public dissemination of available information could either help avert further harm or accelerate apprehension of a suspect based on any factor, including, but not limited to, the time elapsed between a hit-and-run incident and the request or the likelihood that an activation would reasonably lead to the apprehension of a suspect.

(d) The Department of the California Highway Patrol shall track the number of Yellow Alert requests it receives from law enforcement agencies.

(e) The Department of the California Highway Patrol shall create a report that includes an evaluation of the efficacy, the advantages, and the disadvantages of the Yellow Alert System. The department shall submit the report to the Legislature in compliance with **Section 9795** no later than *January 1, 2026*.

(f) This section shall remain in effect only until *January 1, 2026*, and as of that date is repealed.

Animals:

B&P Code § 21000 (Amended; **AB 1885**): *Animals and the Medicinal and Adult-Use Cannabis Regulation and Safety Act*:

See under "**Marijuana**," below.

Civil Code § 1834.9.3 (New; **SB 879**): *The Protection of Dogs and Cats from Unnecessary Testing Act*:

This new provision under the “**Protection of Dogs and Cats from Unnecessary Testing Act**” prohibits a testing facility from conducting toxicological experiments on dogs and cats to test the external or internal effect of a pesticide or chemical substance, unless the experiment satisfies an express requirement imposed by the U.S. Environmental Protection Agency or the Food and Drug Administration.

This prohibition does *not* apply to medical research or to testing for the purpose of developing a product intended for beneficial use in dogs or cats.

A district attorney, city attorney, or the Attorney General to bring a civil action for injunctive relief, and if they prevail, they may recover costs, attorney fees, and a civil penalty of \$5,000 per day for each dog and cat used in an experiment that violates this section.

See *Theft of Companion Animals* (per **Pen. Code §§ 487e, 487f, & 491** (Amended; **AB 1290**), under **Theft**, below.

Bounty Hunters:

Pen. Code §§ 1299.01, 1299.02, & 1299.04 (Amended; Effective 7/1/2023; **AB 2043**): *The Bail Fugitive Recovery Persons Act*:

Effective *July 1, 2023*, amendments to the **Bail Fugitive Recovery Persons Act**, regulating “*bounty hunters*,” is to conform to amendments made to a number of **Insurance Code** sections that, beginning *July 1, 2023*, require bounty hunters to be licensed.

A new subdivision added to **P.C. § 1299.02** provides that individuals who hold a bail license, bail fugitive recovery license, bail enforcer license, bail runner license, or private investigator license from another state shall not apprehend, detain, or arrest bail fugitives in California, unless that individual obtains a bail fugitive recovery agent license in California and complies with California law.

Note: This bill also amends **Ins. Code §§ 1800, 1801, 1802, 1802.1, 1810.7, 1810.8, 1811, 1815**, and adds new **Ins. Code § 1802.3**, requiring bail fugitive recovery agents (i.e., “bounty hunters”) to be licensed, by adding them to the existing statutory scheme regulating other bail licensees, such as bail agents, bail permittees, and bail solicitors. Starting *July 1, 2023*, bounty hunters are required

to take a licensing exam, to post a surety bond, to obtain liability insurance, and to complete at least *12 hours* of continuing education every two years.

Child Abuse and Neglect:

Pen. Code § 11165.2 (Amended; **AB 2085**): *Child Neglect Reporting Requirements:*

For purposes of the **Child Abuse and Neglect Reporting Act**, the definition of “*general neglect*” has been redefined by adding to the definition the situation when a child is at substantial risk of suffering serious physical harm or illness. Also added is that general neglect does *not* include a parent’s economic disadvantage. In other words, the family’s financial status does not qualify a child as being neglected.

“*General neglect*” is now defined as follows: “(T)he negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred but the child is at substantial risk of suffering serious physical harm or illness. ‘*General neglect*’ does *not* include a parent’s economic disadvantage.”

Cyberbullying Protection Act:

B&P Code § 22589 (New; **AB 2879**): *Definitions:*

For purposes of this chapter, the following definitions apply:

(a)

(1) “*Content*” means statements or comments made by users and media that are created, posted, shared, or otherwise interacted with by users on an internet-based service or application.

(2) “*Content*” does *not* include media put on a service or application exclusively for the purpose of cloud storage, transmitting files, or file collaboration.

(b) “*Cyberbullying*” means any severe or pervasive conduct made by an electronic act or acts, as defined in **paragraph (2)** of **subdivision (r)** of **Section 48900** of the **Education Code**, committed by a pupil or group of pupils directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(1) Placing a reasonable pupil or pupils in fear of harm to that pupil’s or those pupils’ person or property.

(2) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil's physical or mental health.

(3) Causing a reasonable pupil to experience substantial interference with the pupil's academic performance.

(4) Causing a reasonable pupil to experience substantial interference with the pupil's ability to participate in or benefit from the services, activities, or privileges provided by a school.

Note: **Edu. Code § 48900(r)(2)** provides the following definitions:

(A) "*Electronic act*" means the creation or transmission originated on or off the school site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, video, or image.

(ii) A post on a social network internet website, including, but not limited to:

(I) Posting to or creating a burn page. "*Burn page*" means an internet website created for the purpose of having one or more of the effects listed in **paragraph (1)**.

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in **paragraph (1)**. "*Credible impersonation*" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in **paragraph (1)**. "*False profile*" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil

other than the pupil who created the false profile.

(iii)

(I) An act of cyber sexual bullying.

(II) For purposes of this clause, “*cyber sexual bullying*” means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in **subparagraphs (A) to (D)**, inclusive, of **paragraph (1)**. A photograph or other visual recording, as described in this subclause, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.

(III) For purposes of this clause, “*cyber sexual bullying*” does *not* include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

(B) Notwithstanding **paragraph (1)** and **subparagraph (A)**, an electronic act *shall not* constitute pervasive conduct solely on the basis that it has been transmitted on the internet or is currently posted on the internet.

(c) “*Social media platform*” means a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:

(1)

(A) A substantial function of the service or application is to connect users in order to allow users to interact socially with each other within the service or application.

(B) A service or application that provides email or direct messaging services shall not be considered to meet this criterion on the basis of that function alone.

(2) The service or application allows users to do all of the following:

(A) Construct a public or semipublic profile for purposes of signing into and using the service or application.

(B) Populate a list of other users with whom an individual shares a social connection within the system.

(C) Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users.

(d) “*Public or semipublic internet-based service or application*” excludes a service or application used to facilitate communication within a business or enterprise among employees or affiliates of the business or enterprise, provided that access to the service or application is restricted to employees or affiliates of the business or enterprise using the service or application.

(e) “*Terms of service*” means a public-facing policy or set of policies adopted by a social media platform that specifies, at least, the user behavior and activities that are permitted on the social media platform and the user behavior and activities that may result in the social media platform taking action against the user or content.

B&P Code § 22589.1 (New; AB 2879): *Social Media Platform Disclosure Requirement; Establishment of Reporting Mechanism for Cyberbullying or Content Violation:*

(a) A social media platform *shall* disclose all cyberbullying reporting procedures in the social media platform’s terms of service.

(b) A social media platform shall establish a mechanism within its internet-based service that allows any individual, whether or not that individual has a profile on the internet-based service, to report cyberbullying or any content that violates the existing terms of service. The reporting mechanism shall allow, but not require,

an individual to upload a screenshot of the content that contains cyberbullying or violates the terms of service.

B&P Code § 22589.2 (New; **AB 2879**): *Jurisdiction for Relief Under Chapter; No Private Right of Action:*

Actions for relief pursuant to this chapter *may* be prosecuted exclusively in a court of competent jurisdiction in a civil action brought in the name of the people of the State of California by the Attorney General. This chapter shall not be deemed to create a private right of action or limit any existing private right of action.

B&P Code § 22589.3 (New; Operative 9/1/2023; **AB 2879**): *Penalties; Injunctive Relief:*

(a)

(1) Any social media platform that violates a requirement of this chapter shall be liable for a *civil penalty* of not more than *seven thousand five hundred dollars* (\$7,500) for each intentional violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General.

(2) In a successful action brought by the Attorney General to enforce this chapter, the court may order injunctive relief to obtain compliance with this chapter.

(b) For purposes of this section, each day a social media platform is in violation of a requirement of this chapter constitutes a separate violation.

(c) This section shall become operative *September 1, 2023*.

B&P Code § 22589.4 (New; **AB 2879**): *Applicability of Chapter:*

This chapter *shall not* apply to either of the following:

(a) A social media platform that is controlled by a business entity that generated less than *one hundred million dollars* (\$100,000,000) in gross revenue during the preceding calendar year.

(b) A social media platform whose primary function is to allow users to play video games.

Cyber Flashing:

Civil Code § 1708.88 (New; SB 53): *Sending Obscene Material via Electronic Means:*

(a) A private cause of action lies against a person *18 years of age or older* who knowingly sends an image, that the person knows or reasonably should know is unsolicited, by electronic means, depicting obscene material.

(b) For purposes of this section, the following terms have the following meanings:

(1) An “*image*” includes, but is not limited to, a moving visual image.

(2) “*Obscene material*” means material, including, but not limited to, images depicting a person engaging in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or masturbation, or depicting the exposed genitals or anus of any person, taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest, that, taken as a whole, depicts or describes sexual conduct in a patently offensive way, and that, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(3) An image is “*unsolicited*” if the recipient has not consented to or has expressly forbidden the receipt of the image.

(c)

(1) A prevailing plaintiff who suffers harm as a result of receiving an image in violation of **subdivision (a)** may recover economic and noneconomic damages proximately caused by the receipt of the image, including damages for emotional distress.

(2) A prevailing plaintiff who suffers harm as a result of receiving an image, the receipt of which had been expressly forbidden by the plaintiff, in violation of **subdivision (a)**, may recover the following:

(A) Economic and noneconomic damages proximately caused by the receipt of the image, including damages for emotional distress.

(B) Upon request of the plaintiff at any time before the final judgment is rendered, the plaintiff may, in lieu of those damages specified in **subparagraph (A)**, recover an award of statutory damages of a sum of not less than *one thousand five hundred dollars* (\$1,500) but not more than *thirty thousand dollars* (\$30,000).

(C) Punitive damages.

(3) A prevailing plaintiff described in **paragraph (1) or (2)** may recover the following:

(A) Reasonable attorney’s fees and costs.

(B) Any other available relief, including injunctive relief.

(4) The remedies provided by this section are cumulative and *shall not* be construed as restricting a remedy that is available under any other law.

(d) This section does *not* apply to any of the following:

(1) An internet service provider, mobile data provider, or operator of an online or mobile application, to the extent that the entity is transmitting, routing, or providing connections for electronic communications initiated by or at the direction of another person.

(2) Any service that transmits images or audiovisual works, including, without limitation, an on-demand, subscription, or advertising-supported service.

(3) A health care provider transmitting an image for a legitimate medical purpose.

(4) An individual who has not expressly opted-out of receiving sexually explicit images on the service in which the image is transmitted, where such an option is available.

Disorderly Conduct:

Pen. Code § 647 (Amended; **SB 1081**): *Distributing Intimate Images*:

The misdemeanor “*disorderly conduct*” statute, dealing with the intentional distribution of an intimate image of an identifiable person (i.e., “*revenge porn*”), as contained in **subd. (j)(4)**, has been expanded by defining “*distribute*” as including “*exhibiting in public or giving possession.*”

Also, “*identifiable*” is now defined by cross-referencing the definition already in **P.C. § 647((j)(2) and (j)(3)**, as being capable of identification, or capable of being recognized, meaning that someone, including the victim, could identify or recognize the victim. It does *not* require that the victim’s identity actually be established. (See *People v. Johnson* (2015) 234 Cal.App.4th 1432.)

And exception is added by amendment, referring to when the distribution is related to a matter of public concern or public interest, noting that distribution is

not a matter of public concern or public interest solely because the depicted individual is a public figure.

“*Causes to be distributed*” is added to the beginning of **subd. (j)(4)** of **P.C. § 647** so that it now reads: “A person who intentionally distributes *or causes to be distributed* the image of the intimate body part ... of another identifiable person . . .”).

The definition of “*intentional distribution*” is now separate from the definition of “*intentionally causing distribution*.”

“*Intentional distribution*” is personal distribution.

“*Intentionally causing distribution*” is arranging, specifically requesting, or intentionally causing another person to distribute the image.

DNA:

Pen. Code § 679.12 (New; **SB 1228**): *Procedures Applicable to Known DNA Reference Samples; Exceptions:*

(a) The following procedures apply to known reference samples of DNA from a victim of a crime or alleged crime, and to known reference samples of DNA from any individual that were voluntarily provided for the purpose of exclusion, as well as to any profiles developed from those samples:

(1) Law enforcement agencies and their agents *shall* use these DNA samples or profiles *only* for purposes directly related to the incident being investigated.

(2) No law enforcement agency or agent thereof *may* compare any of these samples or profiles with DNA samples or profiles that do not relate to the incident being investigated.

(3) No law enforcement agency or agent thereof *may* include any of these DNA profiles in any database that allows these samples to be compared to or matched with profiles derived from DNA evidence obtained from crime scenes.

(4) No law enforcement agency or agent thereof *may* provide any other person or entity with access to any of these DNA samples or profiles, unless that person or entity agrees to abide by the statutory restrictions on the use and disclosure of that sample or profile.

(5) Any part of a DNA sample that remains after the requested testing or analysis has been performed *shall* be securely stored and may only be used

in accordance with the restrictions on use and disclosure of the sample provided in this section.

(6) No agent of a law enforcement agency *may* provide any part of these DNA samples or profiles to any person or entity other than the law enforcement agency that provided them, except portions of these remaining DNA samples may be provided to the defendant when authorized by court order.

(7) A person whose DNA profile has been voluntarily provided for purposes of exclusion *shall* have their searchable database profile expunged from all public and private databases if the person has no past or present offense or pending charge which qualifies that person for inclusion within the state's DNA and Forensic Identification Database and Databank Program.

(8) This section does *not* prohibit crime laboratories from collecting, retaining, and using for comparison purposes in multiple cases the following DNA profiles:

(i) The DNA profiles from persons whose proximity or access to DNA case evidence during the collection, handling, or processing of that evidence might result in DNA contamination, including first responders, crime scene investigators, laboratory staff, or others at the laboratory, if these kinds of elimination samples are voluntarily provided with written consent for their use as quality assurance or control samples, or if the elimination samples are obtained as a condition of employment with written consent, so that the crime laboratory can assure reliable results.

(ii) The DNA profiles from persons associated with the manufacturing or production of consumable supplies or reagents or positive control samples used in laboratory testing, if these kinds of elimination samples are voluntarily provided with written consent.

(iii) The DNA profiles that may be incidentally encountered on consumable supplies or reagents such as plastic tubes, plastic plates, swabs, and buffers.

(9) The requirement for written consent for voluntary elimination samples does *not* preclude a DNA testing laboratory from retaining, for use consistent with this section, the voluntary quality assurance or control samples described in **paragraph (8)** that were provided without written consent by persons prior to the enactment of this section, or if the

laboratory is otherwise required to retain such case samples by another provision of law.

(10) This section does *not* preclude a DNA testing laboratory from conducting a limited comparison of samples that were analyzed concurrently in order to evaluate the DNA typing results for potential contamination, determine the source of contamination when detected, and to ensure that the contaminating profiles were not misidentified as DNA profiles from putative perpetrators.

(11) This section does *not* affect the inclusion of samples in state DNA databases as described in **Section 295** of the **Penal Code**, the use of state DNA databases for identifying missing persons, the compliance with other provisions of law that allow the release of samples for post-conviction testing, or the use of reference samples from a suspect lawfully collected in a manner that does not violate this section.

(b) For the purposes of this section, the following definitions apply:

(1) The “*incident being investigated*” means the crime or alleged crime that caused a law enforcement agency or agent to analyze or request a DNA sample from a victim of or witness to that crime or alleged crime.

(2) An “*agent*” of a law enforcement agency includes any person or entity that the agency provides with access to a DNA sample collected directly from the person of a victim of or witness to a crime or alleged crime, or to any profile developed from those samples. This includes, but is not limited to, public or private DNA testing facilities.

(3) A “*victim*” or “*witness*” does not include any person who is a target of the investigation of the incident being investigated, if law enforcement agents have probable cause to believe that person has committed a public offense relating to the incident under investigation.

(4) A sample is “*voluntarily provided for the purpose of exclusion*” if law enforcement agents do not consider the individual to be a suspect and have requested a voluntary DNA sample in order to exclude that person’s DNA profile from consideration in the current investigation.

(c) This section does *not* apply to evidence arising from the victim that is biological material that is not the victim’s own and is not from an individual who voluntarily provided a reference sample for exclusion, such as DNA transferred from an assailant.

Domestic Violence:

Civil Code § 1798.97.1 (New; **SB 975**): *Coerced Debt; Definitions:*

For purposes of this title, the following definitions apply:

(a) “*Adequate documentation*” means documentation that identifies a particular debt, or portion thereof, as coerced debt, describes the circumstances under which the coerced debt was incurred, and takes the form of any of the following:

(1) A police report.

(2) A Federal Trade Commission identity theft report identifying a particular debt, or portion thereof, as coerced, but not as identity theft.

(3) A court order issued pursuant to **Section 6340 of the Family Code** relating to domestic violence, **Section 213.5 of the Welfare and Institutions Code** relating to a dependent or ward of the juvenile court, or **Section 15657.03 of the Welfare and Institutions Code** relating to elder or dependent adult abuse.

(4)

(A) A sworn written certification from a qualified third-party professional based on information they received while acting in a professional capacity.

(B) The documentation described by **subparagraph (A)** shall be signed by a qualified third-party professional and display the letterhead, address, and telephone number of the office, institution, center, or organization, as appropriate, that engages or employs, whether financially compensated or not, the qualified third-party professional, or, if the qualified third-party professional is self-employed, the documentation shall display the letterhead, address, and telephone number of the qualified third-party professional.

(b) “*Claim*” means a right to payment, whether or not that right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, or equitable.

(c)

(1) “*Claimant*” means a person or an entity who has or purports to have a claim against a debtor arising from coerced debt, or that person’s or entity’s successor or assignee. “*Claimant*” includes, but is not limited to, a debt collector or a debt buyer.

(2) Notwithstanding **paragraph (1)**, “*claimant*” shall *not* include a person who caused the claim described in **paragraph (1)** to arise through duress, intimidation, threat of force, force, fraud, or undue influence perpetrated against the debtor.

(d) “*Coerced debt*” means a particular debt, or portion thereof, for personal, family, or household use in the name of a debtor who is a victim of domestic violence, or a victim of elder or dependent adult abuse, or a person who is a foster youth, incurred as a result of duress, intimidation, threat of force, force, fraud, or undue influence.

(1) For purposes of this subdivision, “*domestic violence*” has the same meaning as in **Section 6211** of the **Family Code**.

(2) For the purposes of this subdivision, “*foster youth*” has the same meaning as in **Section 42238.01** of the **Education Code**.

(3) For the purposes of this subdivision, “*dependent adult*” has the same meaning as in **Section 15610.23** of the **Welfare and Institutions Code**.

(4) For the purposes of this subdivision, “*elder*” has the same meaning as in **Section 15610.27** of the **Welfare and Institutions Code**.

(e) “*Debtor*” means a person who owes or is otherwise liable for coerced debt.

(f) “*Fraud*” means an initial fraudulent act that is perpetrated against the debtor.

(g) “*Immediate family member*” has the same meaning as defined in **paragraph (3)** of **subdivision (h)** of **Section 1946.7**.

(h) “*Person*” means a natural person.

(i) “*Qualified third-party professional*” means any of the following:

(1) A domestic violence counselor, as defined in **Section 1037.1** of the **Evidence Code**.

(2) A sexual assault counselor, as defined in **Section 1035.2** of the **Evidence Code**.

(3) A Court-Appointed Special Advocate, as defined in **Section 101** of the **Welfare and Institutions Code**.

(4) A court-appointed attorney, as defined in **subdivision (e)** of **Section 317** of the **Welfare and Institutions Code**.

(5) A board certified psychiatrist or psychologist.

(6) A licensed marriage and family therapist.

(7) A licensed professional clinical counselor.

(8) A licensed clinical social worker.

(9) A social worker or caseworker employed by an adult protective service agency for the purposes described in **Chapter 13** (commencing with **Section 15750**) of **Part 3** of **Division 9** of the **Welfare and Institutions Code**.

(10) A social worker who has completed the child welfare training program described in **Article 2** (commencing with **Section 16205**) of **Chapter 3** of **Part 4** of **Division 9** of the **Welfare and Institutions Code**.

(j)

(1) “*Sworn written certification*” means a document in which the author declares under penalty of perjury as true any material fact, and which is accompanied by the following, to the extent that an item listed below is relevant to the debtor’s allegation that the debt is coerced debt:

(A) A copy of the debtor’s driver’s license or identification card, as issued by the state.

(B) Any other identification document that supports the statement that the particular debt, or portion thereof, is coerced debt.

(C) An express statement that the debtor did not willingly authorize the use of the debtor’s name or personal information for incurring the coerced debt, and specific facts supporting the claim of coerced debt, if available, and, if not all of the debt was coerced, a statement identifying the portion thereof that was coerced.

(D) Any available correspondence disputing the coerced debt after transaction information has been provided to the debtor.

(E) Information, if known by the debtor, including, but not limited to, a credit card number or loan number, that can be used by the claimant to identify the account associated with the coerced debt and the person or persons in whose name the debt was incurred.

(F) The identity of the person or persons who coerced the debtor into incurring the debt and contact information for that person or persons, if known by the debtor, unless the debtor signs a sworn statement that disclosing this information is likely to result in abuse, as defined in **Section 6203** of the **Family Code**, to the debtor or an immediate family member of the debtor.

(G) A telephone number for contacting the person signing the certification concerning any additional information or questions, or direction that further communications to the debtor be in writing only, with the mailing address specified in the statement.

(2) The certification required by this subdivision shall be sufficient if it is in substantially the following form:

“I declare under penalty of perjury that the representations made herein are true, correct, and contain no material omissions of fact.

(Date and Place)

(Signature)”

Civil Code § 1798.97.2 (New; **SB 975**): *Causing Another Person to Incur Coerced Debt; Civil Liability; Collection Activities:*

(a) A person shall not cause another person to incur a coerced debt. A person who causes another person to incur a coerced debt in violation of this subdivision shall

be civilly liable to the claimant for the amount of the debt, or portion thereof, determined by a court to be coerced debt, plus the claimant's attorney's fees and costs.

(b) Upon receipt of both of the following, a claimant shall cease collection activities until completion of the review provided in **subdivision (d)**:

(1) Adequate documentation.

(2) The debtor's sworn written certification that a particular debt, or portion thereof, being collected is coerced debt.

(c) If a debtor notifies a claimant orally that a particular debt, or portion thereof, being collected is coerced debt, the claimant shall notify the debtor, orally or in writing, that the debtor's notification must be in writing. If a debtor notifies a claimant in writing that a particular debt, or portion thereof, being collected is coerced debt, but omits information required by **subdivision (b)**, and if the claimant does not cease collection activities, the claimant shall provide written notice to the debtor of the additional information that is required.

(d)

(1) Within *10 business days* of receiving the complete statement and information described in **subdivision (b)**, the claimant shall, if the claimant furnished adverse information about the debtor to a consumer credit reporting agency, notify the consumer credit reporting agency that the account is disputed.

(2) The claimant shall initiate a review considering all of the information provided by the debtor and other information available to the claimant in its file.

(3) Within *10 business days* of completing the review, the claimant shall notify the debtor in writing of the claimant's determination and the good faith basis for that determination.

(4) The claimant shall not recommence collection activities until the debtor has been notified in writing of the good faith determination that the information does not establish that the particular debt, or portion thereof, is coerced debt.

(e) No inference or presumption that the debt is valid or invalid, or that the debtor is liable or not liable for the particular debt, or portion thereof, shall arise if the claimant decides after the review described in **subdivision (d)** to cease or recommence collection activities. The exercise or nonexercise of rights under this section is not a waiver of any other right or defense of the debtor or claimant.

(f)

(1) At least *30 days* before filing an action pursuant to **paragraph (2)** of **subdivision (a)** of **Section 1798.97.3** or other action against a claimant in connection with an allegedly coerced debt, a debtor shall submit notice of the debtor's intent to file an action against the claimant and documents that comply with **subdivision (b)** in writing to the claimant.

(2) The written notice described in **paragraph (1)** shall be sent by certified mail, overnight delivery, or other method that allows for confirmation of the delivery date.

(3) The written notice described in **paragraph (1)** shall be sent to an address made available to the debtor by the claimant for receipt of the notice, or, if an address has not been identified by the claimant, to the claimant's principal place of business as identified by the Secretary of State. If an address is unavailable through the Secretary of State's website, the debtor may use the correspondence address of the claimant, or in the case of a debt collector, the address on file with the Department of Financial Protection and Innovation for licensing purposes.

(4)

(A) The debtor shall not commence an action described in **subdivision (a)** of **Section 1798.97.3** or other action against a claimant in connection with an allegedly coerced debt if the claimant informs the debtor that it has ceased all efforts to collect on the particular debt, or portion thereof, identified in the written notice pursuant to **paragraph (1)** and the debtor receives written notice of this cessation before the expiration of the *30-day* period.

(B) The debtor may commence an action described in **subdivision (a)** of **Section 1798.97.3** or other action against a claimant in connection with an allegedly coerced debt if either of the following conditions is satisfied:

(i) The *30-day* period described in **paragraph (1)** expires and the collection activities have not ceased or the debtor has not received written notice that collection activities have ceased.

(ii) The debtor receives written notice pursuant to **paragraph (4)** of **subdivision (d)** of the claimant's good faith determination that the information does not establish that the particular debt, or portion thereof, is coerced debt.

(5) For purposes of this subdivision, the *30-day* period shall begin to run when the claimant receives the written notice.

(g) A claimant that ceases collection activities under this section and does not recommence those collection activities *shall* do both of the following:

(1) If the claimant has furnished adverse information to a consumer credit reporting agency regarding the debtor and a particular debt, or portion thereof, notify the agency to delete that information no later than *10 business days* after making its determination.

(2) If the claimant is a debt collector, notify the creditor no later than *10 business days* after making its determination that collection activities have been terminated based upon the debtor's assertion that a particular debt, or portion thereof, being collected is coerced debt.

(h) A claimant that has possession of documents that the debtor is entitled to request from a creditor pursuant to **Section 530.8** of the **Penal Code** *may* provide those documents to the debtor.

Civil Code § 1798.97.3 (New; **SB 975**): *Action to Establish Debt as "Coerced:"*

(a)

(1) A debtor may bring an action against a claimant to establish that a particular debt, or portion thereof, is coerced debt.

(2) In an action brought by a claimant to recover a particular debt against the debtor, the debtor may file a cross-complaint to establish that the particular debt, or portion thereof, is coerced debt. The notice described in **subdivision (f)** of **Section 1798.97.2** shall not be required as a prerequisite to filing a cross-complaint.

(3) A debtor shall plead the allegations of coerced debt with particularity and shall do either of the following:

(A) Attach the documents provided to the claimant pursuant to **subdivision (b)** of **Section 1798.97.2** to any complaint.

(B) Attach the documents identified in **subdivision (b)** of **Section 1798.97.2** to any cross-complaint.

(b) If the debtor establishes by a preponderance of the evidence in an action described in **subdivision (a)** that the particular debt, or portion thereof, is coerced debt, the debtor shall be entitled to the following relief:

(1) A declaratory judgment that the debtor is not obligated to the claimant on the particular debt, or portion thereof, that is coerced debt.

(2) An injunction prohibiting the claimant from holding or attempting to hold the debtor personally liable on the particular debt, or portion thereof, that is coerced debt, and prohibiting the claimant from enforcing a judgment related to the particular debt, or portion thereof, that is coerced debt against the debtor.

(3) An order dismissing any cause of action brought by the claimant to enforce or collect on the particular debt from the debtor or, if only a portion of the debt is established as coerced debt, an order directing that the complaint and judgment, if any, in the action be amended to reflect only the portion of the particular debt that is not coerced debt.

(c)

(1) If the debtor establishes by a preponderance of the evidence in an action described in **subdivision (a)** that the particular debt, or portion thereof, is coerced debt, the court shall issue a judgment in favor of the claimant against the person or persons who coerced the debtor into incurring the debt in the amount of the debt, or portion thereof, that is coerced debt, provided that the person or persons who coerced the debtor into incurring the debt or debts has been brought within the jurisdiction of the court and joined as a party to the action and the evidence supports such a judgment.

(2) The court presiding over the action shall take appropriate steps necessary to prevent abuse, as defined in **Section 6203** of the **Family Code**, of the debtor or an immediate family member of the debtor, including, but not limited to, sealing court records, redacting personally identifiable information about the debtor and any immediate family member of the debtor, and directing that any deposition or evidentiary hearing be conducted remotely.

(d) A debtor who files knowingly false motions, pleadings, or other papers or engages in other tactics that are frivolous or intended to cause unnecessary delay against a claimant shall be liable for the claimant's attorney's fees and costs in defending the lawsuit.

(e) The claimant may move the court to make written findings regarding evidence related to the person who caused the coerced debt to be incurred.

(f) Where some or all of a claim is established as having arisen from coerced debt, a claimant shall have standing, and may use all rights and remedies, to collect by

any lawful means that claim, or portion thereof, from the person or persons determined to have coerced the debt, or against a person who used or possessed money, goods, services, or property obtained through coerced debt.

(g) The statute of limitations for a claimant to bring an action to collect coerced debt from any person determined to have coerced the debt shall run from the date of the court's determination that the person caused the duress, intimidation, threat of force, force, fraud, or undue influence giving rise to the coerced debt at issue and shall be brought within *five years* of that determination.

Civil Code § 1798.97.4 (New; **SB 975**): *Limitations of Title for Coerced Debts:*

(a) This title does *not* apply to secured debts.

(b) This title does *not* require a court to order a claimant to refund any moneys already paid on a debt that is determined to be coerced.

(c) This title does *not* diminish the rights of a claimant to recover payment for a coerced debt from the person or persons who coerced a debtor into incurring that debt.

(d) This title does *not* reduce or eliminate any other rights or defenses available to a debtor or claimant pursuant to any other law.

Civil Code § 1798.97.5 (New; **SB 975**): *Applicability of Title to Debts Incurred On or After July 1, 2023:*

(a) Except as set forth in **subdivision (b)**, this title applies only to debts incurred on or after *July 1, 2023*.

(b) Notwithstanding **subdivision (a)**, a debtor may file a cross-complaint described by **paragraph (2)** of **subdivision (a)** of **Section 1798.97.3** in an action filed by a claimant to collect a debt incurred prior to *July 1, 2023*, in which case, this title applies to that action, unless a final judgment has been entered in that action.

Civil Code § 1798.97.6 (New; **SB 975**): *Severability of Title Provisions:*

If any provision of this title or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this title that can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.

Civil Code § 1798.99.20 (New; **SB 1056**): *Online Violence Prevention Act; Definitions:*

For purposes of this section:

(a)

(1) “*Content*” means statements or comments made by users and media that are created, posted, shared, or otherwise interacted with by users on an internet-based service or application.

(2) “*Content*” does *not* include media put on a service or application exclusively for the purpose of cloud storage, transmitting files, or file collaboration.

(b) “*Social media platform*” means a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:

(1)

(A) A substantial function of the service or application is to connect users in order to allow users to interact socially with each other within the service or application.

(B) A service or application that provides email or direct messaging services *shall not* be considered to meet this criterion on the basis of that function alone.

(2) The service or application allows users to do all of the following:

(A) Construct a public or semipublic profile for purposes of signing into and using the service or application.

(B) Populate a list of other users with whom an individual shares a social connection within the system.

(C) Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users.

(c) “*Public or semipublic internet-based service or application*” does *not* include a service or application used to facilitate communication with a business or enterprise among employees or affiliates of the business or enterprise, provided that access to the service or application is restricted to

employees or affiliates of the business or enterprise using the service or application.

(d) “*User*” means a person with an account on a social media platform.

(e) “*Violent post*” means content on a social media platform that contains a true threat against a specific person that is *not* protected by the **First Amendment** to the **United States Constitution**.

Civil Code § 1798.99.21 (New; **SB 1056**): *Reporting Mechanism for Violent Posts*:

(a) A social media platform shall clearly and conspicuously state whether it has a mechanism for reporting violent posts that is available to users and nonusers of the platform.

(b) If the social media platform has a reporting mechanism, the statement required by this subdivision shall include a link to the reporting mechanism.

Civil Code § 1798.99.22 (New; **SB 1056**): *Action to Remove Violent Posts*:

(a)

(1)

(A) A person who is the target of a violent post, or reasonably believes the person is the target of a violent post, *may* seek an order requiring the social media platform to remove the violent post and any related violent post the court determines shall be removed in the interests of justice.

(B)

(i) A person may bring an action pursuant to this paragraph before *48 hours* have passed since providing notice to a social media platform pursuant to **paragraph (2)**, but the court shall not rule on the request for an order until *48 hours* have passed from the provision of notice.

(ii) The court may dismiss an action described by **clause (i)** if the social media platform deletes the post before *48 hours* have passed from the provision of notice.

(C) Except as provided in **subparagraph (D)**, a person *may* bring an action pursuant to this paragraph at any time, and the court may rule on the request at any time, if the social media platform does not have a reporting mechanism described in **Section 1798.99.21**.

(D) A person *shall not* bring an action pursuant to this paragraph, nor shall a court issue an order requiring a social media platform to remove a violent post or any related violent post, based upon content containing a true threat against a specific person if the date and time when the true threat that was threatened to occur has passed.

(2) If the social media platform has a reporting mechanism described in **Section 1798.99.21**, a person *shall not* bring an action pursuant to **paragraph (1)** until the person has notified the social media platform of the violent post and requested that it be removed through the reporting mechanism.

(b)

(1) A court shall award court costs and reasonable attorney's fees to a prevailing plaintiff in an action brought pursuant to this section.

(2) Reasonable attorney's fees may be awarded to a prevailing defendant upon a finding by the court that the plaintiff's prosecution of the action was not in good faith.

Civil Code § 1798.99.23 (New; **SB 1056**): *Applicability of Online Violence Prevention Act Title:*

This title does *not* apply to a social media platform with fewer than 1,000,000 discrete monthly users.

Code of Civ. Procedure §§ 391 & 391.1 (Amended; **AB 2391**): *A Domestic Violence Abuser as a Vexatious Litigant:*

Under new **subd. (b)(5)** of **CCP § 391**, and new **subd. (b)** of **CCP § 391.1**, a person who is protected by a domestic violence restraining order may file a motion to have the person restrained by the protective order (i.e., the domestic violence abuser) declared a vexatious litigant, as defined in **CCP § 391(b)(1)-(4)**, if the abuser commences, prosecutes, or maintains one or more litigations against the protected person that are determined to be meritless and that caused the protected person to be harassed or intimidated.

Drugs:

H&S Code § 1259.3 (New; **SB 864**): *Tyler's Law: Drug Screening and Fentanyl:*

A general acute care hospital, upon conducting a urine drug screening to diagnose a patient's condition, is required to include testing for *fentanyl* as a means of

reducing fentanyl-related overdose deaths. This new section will sunset on *January 1, 2028*.

H&S Code §§ 11014.5 & 11364.5 (Amended; **AB 1598**): *Drug Paraphernalia and Drug-Testing Equipment for Fentanyl or Date Rape Drugs*:

The definition of “*drug paraphernalia*” is deleted from these sections’ descriptions of any testing equipment designed, marketed, or used to test a substance for the presence of fentanyl or an analog of fentanyl, or ketamine and gamma hydroxybutyric acid (GHB) (date rape drugs).

Note: The purpose of the bill is to legalize the possession and open display of items such as fentanyl test strips in order to reduce fentanyl overdoses and deaths, and smart straws and drink check wristbands that can detect drugs used in sexual assaults.

Evidence:

Evid. Code § 352.2 (New; **AB 2799**): *Admission Into Evidence of Creative Expressions*:

(a) In any criminal proceeding where a party seeks to admit as evidence a form of creative expression, the court, while balancing the probative value of that evidence against the substantial danger of undue prejudice under **Section 352**, shall consider, in addition to the factors listed in **Section 352**, that: (1) the probative value of such expression for its literal truth or as a truthful narrative is minimal unless that expression is created near in time to the charged crime or crimes, bears a sufficient level of similarity to the charged crime or crimes, or includes factual detail not otherwise publicly available; and (2) undue prejudice includes, but is not limited to, the possibility that the trier of fact will, in violation of **Section 1101**, treat the expression as evidence of the defendant’s propensity for violence or general criminal disposition as well as the possibility that the evidence will explicitly or implicitly inject *racial bias* into the proceedings.

(b) If proffered and relevant to the issues in the case, the court shall consider the following as well as any additional relevant evidence offered by either party:

(1) Credible testimony on the genre of creative expression as to the social or cultural context, rules, conventions, and artistic techniques of the expression.

(2) Experimental or social science research demonstrating that the introduction of a particular type of expression explicitly or implicitly introduces racial bias into the proceedings.

(3) Evidence to rebut such research or testimony.

(c) For purposes of this section, “*creative expression*” means the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols, including, but not limited to, music, dance, performance art, visual art, poetry, literature, film, and other such objects or media.

(d) The question of the admissibility of a form of creative expression *shall* be heard in limine and determined by the court, outside the presence and hearing of the jury, pursuant to **Section 402**. The court shall state on the record its ruling and its reasons therefor.

Note: The apparent purpose of this new section is to make it more difficult to have rap lyrics admitted into evidence.

Facial Recognition Technology:

Pen. Code § 832.19 (Repealed by its Own Sunset Provisions):

This section is repealed, effective, *January 1, 2023*, by its own sunset provisions.

Note: **P.C. § 832.19** was enacted by **AB 1215**, effective *January 1, 2020*. As written, the section banned facial recognition technology on police body-worn cameras with a sunset date of *January 1, 2023*. Due to the Legislature’s failure to extend the provisions of this section, it is now repealed.

False Impersonation:

Pen. Code §§ 538d, 538e, 538f, 538g, and 538h (Amended; **AB 1899**): *False Impersonation of Specific Individuals Through or On an Internet Website or by Other Electronic Means:*

These fraudulent impersonation misdemeanor crimes (*one year and/or \$2,000 fine*) have been expanded to prohibit willfully and credibly impersonating a specified type of person through or on an Internet website, or by other electronic means, for purposes of defrauding another, as follows:

P.C. § 538d: A peace officer.

P.C. § 538e: A firefighter.

P.C. § 538f: An employee of a public utility.

P.C. § 538g: A state, county, or city officer or employee.

P.C. § 538h: An officer or member of a government affiliated search and rescue team.

Note: The person impersonated does not have to be a real or actual person.

Firearms:

B&P Code § 22949.60 (New; **SB 1327**): *Legislative Findings and Declarations; Legislative Intent as to Assault Weapons, .50 BMG Rifles, and Unserialized Firearms:*

(a) *The Legislature hereby finds and declares* that the proliferation of *assault weapons, .50 BMG rifles, and unserialized firearms* poses a threat to the health, safety, and security of all residents of, and visitors to, this state. All Californians are directly harmed by the proliferation of these weapons and this state has a compelling state interest in protecting its citizens from gun violence and from intimidation by persons brandishing these weapons. Further, this state has a compelling interest in enabling law enforcement authorities to trace firearms used, manufactured, distributed, or transported unlawfully.

(b) *The Legislature further finds and declares* that the proliferation of firearms to and among young people poses a threat to the health, safety, and security of all residents of, and visitors to, this state. Firearms are especially dangerous in the hands of young people because current research and scientific evidence show that young people are more impulsive, more likely to engage in risky and reckless behavior, unduly influenced by peer pressure, motivated more by rewards than costs or negative consequences, less likely to consider the future consequences of their actions and decisions, and less able to control themselves in emotionally arousing situations. In recognition of these facts, the Legislature has previously prohibited licensed firearm dealers from selling a firearm to a person *under 21 years of age*, subject to certain exemptions. This state has a compelling interest in further restricting the proliferation of firearms among those *under 21 years of age*.

(c) *The Legislature has previously restricted* assault weapons based upon finding that each such firearm has such a high rate of fire and capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. The Legislature has also previously restricted .50 BMG rifles based upon finding that they pose a clear and present threat to the health, safety, and security of all residents of, and visitors to, this state, because those firearms have such a high capacity for long-distance and highly destructive firepower that they pose an unacceptable risk of death and serious injury of human beings, destruction or serious damage of vital public and private buildings, civilian, police and military vehicles, power generation and transmission facilities, petrochemical production and storage facilities, and transportation infrastructure. Each of these previous findings is readopted. The Legislature further finds and declares that the manufacture, distribution, transport, importation, and sale of unserialized firearms poses a threat to the health, safety, and security of all residents of, and visitors to, this state, and impedes law enforcement activities, and that the manufacture, distribution, transport, importation, and sale of firearm precursor parts and kits is contributing to the proliferation of unserialized firearms in the state.

(d) *It is the intent of the Legislature* in enacting this chapter to further restrict in this state the manufacture, distribution, transportation, importation, sale, lending, and transfer of assault weapons, .50 BMG rifles, and unserialized firearms, and further restrict the proliferation of firearms to and among those under 21 years of age, by creating new civil law prohibitions and a civil enforcement mechanism, independent of existing law. Nothing in this chapter shall be construed to limit in any way the enforceability of existing laws concerning firearms, including, but not limited to, **Part 6** (commencing with **Section 16000**) of the **Penal Code**.

B&P Code § 22949.61 (New; **SB 1327**): *Definitions*:

For purposes of this chapter, the following definitions shall apply:

(a) *“.50 BMG rifle”* means a center fire rifle that can fire a .50 BMG cartridge and is not already an assault weapon or a machinegun. *“.50 BMG rifle”* does *not* include any antique firearm, nor any curio or relic, as defined in **Section 478.11** of **Title 27** of the **Code of Federal Regulations**.

(b)

(1) *“Assault weapon”* means the following designated semiautomatic firearms:

(A) All of the following specified rifles:

(i) All AK series, including, but not limited to, the models identified as follows:

- (I) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.
- (II) Norinco 56, 56S, 84S, and 86S.
- (III) Poly Technologies AKS and AK47.
- (IV) MAADI AK47 and ARM.

(ii) UZI and Galil.

(iii) Beretta AR-70.

(iv) CETME Sporter.

(v) Colt AR-15 series.

(vi) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110C.

(vii) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.

(viii) MAS 223.

(ix) HK-91, HK-93, HK-94, and HK-PSG-1.

(x) The following MAC types:

- (I) RPB Industries Inc. sM10 and sM11.
- (II) SWD Incorporated M11.

- (xi) SKS with detachable magazine.
- (xii) SIG AMT, PE-57, SG 550, and SG 551.
- (xiii) Springfield Armory BM59 and SAR-48.
- (xiv) Sterling MK-6.
- (xv) Steyer AUG.
- (xvi) Valmet M62S, M71S, and M78S.
- (xvii) Armalite AR-180.
- (xviii) Bushmaster Assault Rifle.
- (xix) Calico M-900.
- (xx) J&R ENG M-68.
- (xxi) Weaver Arms Nighthawk.

(B) All of the following specified pistols:

- (i) Uzi.
- (ii) Encom MP-9 and MP-45.
- (iii) The following MAC types:

- (I) RPB Industries Inc. sM10 and sM11.
- (II) SWD Incorporated M-11.
- (III) Advance Armament Inc. M-11.
- (IV) Military Armament Corp. Ingram M-11.
- (V) Intratec TEC-9.
- (VI) Sites Spectre.
- (VII) Sterling MK-7.
- (VIII) Calico M-950.
- (IX) Bushmaster Pistol.

(C) All of the following specified shotguns:

- (i) Franchi SPAS 12 and LAW 12.
- (ii) Striker 12.
- (iii) The Streetsweeper type S/S Inc. SS/12.

(D) Any firearm declared to be an *assault weapon* by the court pursuant to former **Section 12276.5** of the **Penal Code**, as it read in **Section 3** of **Chapter 19** of the Statutes of 1989, **Section 1** of **Chapter 874** of the Statutes of 1990, or **Section 3** of **Chapter 954** of the Statutes of 1991, which is specified as an assault weapon in a list promulgated

pursuant to former **Section 12276.5** of the **Penal Code**, as it read in **Section 3** of **Chapter 954** of the Statutes of 1991.

(E) Any firearm included in the list promulgated by the Attorney General pursuant to former **Section 12276.5** of the **Penal Code**, as it read in **Section 3** of **Chapter 954** of the Statutes of 1991, and any other models that are only variations of those weapons with minor differences, regardless of the manufacturer. The Legislature has defined assault weapons as the types, series, and models listed in this paragraph because it was the most effective way to identify and restrict a specific class of semiautomatic weapons.

(F) As used in this paragraph, “*series*” includes all other models that are only variations, with minor differences, of those models listed in **subparagraph (A)**, regardless of the manufacturer.

(2)

(A) Notwithstanding **paragraph (1)**, “*assault weapon*” also means any of the following:

(i) A semiautomatic, centerfire rifle that does not have a fixed magazine but has any one of the following:

(I) A pistol grip that protrudes conspicuously beneath the action of the weapon.

(II) A thumbhole stock.

(III) A folding or telescoping stock.

(IV) A grenade launcher or flare launcher.

(V) A flash suppressor.

(VI) A forward pistol grip.

(ii) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.

(iii) A semiautomatic, centerfire rifle that has an overall length of less than *30 inches*.

(iv) A semiautomatic pistol that does not have a fixed magazine but has any one of the following:

(I) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.

(II) A second handgrip.

(III) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer's hand, except a slide that encloses the barrel.

(IV) The capacity to accept a detachable magazine at some location outside of the pistol grip.

(v) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than *10 rounds*.

(vi) A semiautomatic shotgun that has *both* of the following:

(I) A folding or telescoping stock.

(II) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.

(vii) A semiautomatic shotgun that does not have a fixed magazine.

(viii) Any shotgun with a revolving cylinder.

(ix) A semiautomatic, centerfire firearm that is not a rifle, pistol, or shotgun, that does not have a fixed magazine, but that has any one of the following:

(I) A pistol grip that protrudes conspicuously beneath the action of the weapon.

(II) A thumbhole stock.

(III) A folding or telescoping stock.

(IV) A grenade launcher or flare launcher.

(V) A flash suppressor.

(VI) A forward pistol grip.

(VII) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.

(VIII) A second handgrip.

(IX) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer's hand, except a slide that encloses the barrel.

(X) The capacity to accept a detachable magazine at some location outside of the pistol grip.

(x) A semiautomatic, centerfire firearm that is not a rifle, pistol, or shotgun, that has a fixed magazine with the capacity to accept more than *10 rounds*.

(xi) A semiautomatic, centerfire firearm that is not a rifle, pistol, or shotgun, that has an overall length of less than *30 inches*.

(B) For purposes of this paragraph, "*fixed magazine*" means an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.

(C) The Legislature finds a significant public purpose in exempting from the definition of "*assault weapon*" pistols

that are designed expressly for use in Olympic target shooting events. Therefore, those pistols that are sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that were used for Olympic target shooting purposes as of *January 1, 2001*, and that would otherwise fall within the definition of “*assault weapon*” pursuant to this section are exempt, as provided in **subparagraph (D)**.

(D) “*Assault weapon*” does *not* include either of the following:

- (i) Any antique firearm.
- (ii) Any of the following pistols, because they are consistent with the significant public purpose expressed in **subparagraph (C)**:

MANUFACTURER	MODEL	CALIBER
BENELLI	MP90	.22LR
BENELLI	MP90	.32 S&W LONG
BENELLI	MP95	.22LR
BENELLI	MP95	.32 S&W LONG
HAMMERLI	280	.22LR
HAMMERLI	280	.32 S&W LONG
HAMMERLI	SP20	.22LR
HAMMERLI	SP20	.32 S&W LONG
PARDINI	GPO	.22 SHORT

PARDINI	GP-SCHUMANN	.22 SHORT
PARDINI	HP	.32 S&W LONG
PARDINI	MP	.32 S&W LONG
PARDINI	SP	.22LR
PARDINI	SPE	.22LR
WALTHER	GSP	.22LR
WALTHER	GSP	.32 S&W LONG
WALTHER	OSP	.22 SHORT
WALTHER	OSP-2000	.22 SHORT

(c) “*Federally regulated firearm precursor part*” means any firearm precursor part deemed to be a firearm pursuant to **Chapter 44** (commencing with **Section 921**) of **Title 18** of the **United States Code** and regulations issued pursuant thereto, and that has been imprinted with a serial number by a federal licensee authorized to serialize firearms in compliance with all applicable federal laws and regulations.

(d) “*Firearm*” means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.

(e)

(1) “*Firearm precursor part*” means any forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted.

(2) Firearm parts that can only be used on antique firearms, as defined in **subdivision (c)** of **Section 16170** of the Penal Code, are not firearm precursor parts.

(f) “*Unserialized firearm*” means a firearm that does not have a serial number as required by law or has had its serial number altered or obliterated.

B&P Code § 22949.62 (New; **SB 1327**): *Prohibition on Assault Weapons, .50 BMG Rifles, Unserialized Firearms, or Firearm Precursor Parts; Prohibition of Firearms for Persons Under 21 Years of Age:*

(a) Notwithstanding any other law, no person within this state may manufacture or cause to be manufactured, distribute, transport, or import into the state, or cause to be distributed, transported, or imported into the state, keep for sale, offer or expose for sale, or give or lend, any assault weapon, .50 BMG rifle, or unserialized firearm, except as provided in **subdivisions (e)** and **(f)** and in **Section 22949.63**.

(b)

(1) Except as provided in **paragraph (2)**, or except by operation of law, it shall be unlawful for a person to purchase, sell, offer to sell, or transfer ownership of any firearm precursor part in this state that is not a federally regulated firearm precursor part.

(2) This **subdivision (b)** shall not apply to all of the following:

(A) The purchase of a firearm precursor part that is not a federally regulated firearm precursor part by a federally licensed firearms manufacturer or importer, or by a federal licensee authorized to serialize firearms.

(B) The sale, offer to sell, or transfer of ownership of a firearm precursor part that is not a federally regulated firearm precursor part to a federally licensed firearms manufacturer or importer, or to a federal licensee authorized to serialize firearms.

(C) A common carrier licensed under state law, or a motor carrier, air carrier or carrier affiliated with an air carrier through common controlling interest that is subject to **Title 49** of the **United States Code**, or an authorized agent of any such carrier, when acting in the course and scope of duties incident to the receipt, processing, transportation, or delivery of property.

(c)

(1) A person licensed under **Sections 26700 to 26915, inclusive, of the Penal Code** shall not sell, supply, deliver, or give possession or control of a firearm to any person who is *under 21 years of age*.

(2)

(A) **Paragraph (1)** shall not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person *18 years of age or older* who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(B) **Paragraph (1)** shall not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun, semiautomatic centerfire rifle, completed frame or receiver, or firearm precursor part to a person who is *18 years of age or older* and provides proper identification of being an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States. For purposes of this subdivision, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.

(C) **Paragraph (1)** shall not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun to any of the following persons who are *18 years of age or older*:

(i) An active peace officer, as described in **Chapter 4.5** (commencing with **Section 830**) of **Title 3** of **Part 2** of the **Penal Code**, who is authorized to carry a firearm in the course and scope of employment.

(ii) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.

(iii) A reserve peace officer, as described in **Section 832.6** of the **Penal Code**, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.

(iv) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States.

(d) The prohibitions described in **subdivisions (a), (b), and (c)** apply whether or not the firearm or firearm precursor part is misused or is intended to be misused in a criminal or unlawful manner.

(e) **Subdivisions (a), (b), and (c)** do *not* apply to the sale of an assault weapon, .50 BMG rifle, unserialized firearm, or firearm precursor part to, or the purchase, transport, importation, sale or other transfer, or manufacture of, an assault weapon, a .50 BMG rifle, unserialized firearm, or firearm precursor part by, any law enforcement agency, public entity that employs peace officers, or any authorized law enforcement representative thereof, if that person or entity is not prohibited by law from possessing an assault weapon, .50 BMG rifle, unserialized firearm, or firearm precursor part, including, without limitation, the Department of Justice, a police department or sheriffs' or marshals' office, the Department of Corrections and Rehabilitation, the Department of the California Highway Patrol, a district attorneys' office, the Department of Fish and Wildlife, the Department of Parks and Recreation, the Department of Cannabis Control, the military or naval forces of this state or of the United States, a law enforcement or military agency of another state, any federal law enforcement agency, or any foreign government or agency approved by the United States Department of State, for use in the discharge of the official duties of such entities.

(f) **Subdivisions (a) and (b)** do *not* apply to a person who is the executor or administrator of an estate that includes an assault weapon or a .50 BMG rifle registered under **Article 5** (commencing with **Section 30900**) of **Chapter 2** of **Division 10** of **Title 4** of **Part 6** of the **Penal Code**, or that was possessed pursuant to **subdivision (a)** of **Section 30630** of the **Penal Code**, or a firearm assigned a serial number pursuant to **Chapter 3** (commencing with **Section 29180**) of **Division 7** of **Title 4** of **Part 6** of the **Penal Code**, that is disposed of as authorized by the probate court, if the disposition is otherwise permitted by **Chapter 1.5** (commencing with **Section 30400**) or **Chapter 2** (commencing with **Section 30500**), of **Division 10** of **Title 4** of **Part 6** of the **Penal Code**.

B&P Code § 22949.63 (New; **SB 1327**): *Possession or Transfer by Licensed Firearms Dealers and Gunsmiths; Transfer, Relinquishment, or Disposal to Law Enforcement or as Part of a Buyback Program:*

(a) Notwithstanding **Section 22949.62**, any licensed firearms dealer may take possession of any assault weapon or .50 BMG rifle from any person to whom it is legally registered or who has been issued a permit to possess it pursuant to **Chapter 2** (commencing with **Section 30500**) of **Division 10** of **Title 4** of **Part 6** of the **Penal Code**, or of any firearm precursor part, for the purposes of servicing or repair.

(b) Notwithstanding **Section 22949.62**, any licensed firearms dealer may transfer possession of any assault weapon, .50 BMG rifle, or firearm precursor part received pursuant to **subdivision (a)**, to a gunsmith for purposes of repairing or servicing that weapon. A transfer is permissible only to the following persons:

(1) A gunsmith employed the dealer.

(2) A gunsmith with whom the dealer has contracted for gunsmithing services.

(c) **Paragraph (2)** of **subdivision (b)** applies only if the gunsmith receiving the assault weapon, .50 BMG rifle, or firearm precursor part meets both of the following qualifications:

(1) The gunsmith holds a dealer license issued pursuant to **Chapter 44** (commencing with **Section 921**) of **Title 18** of the **United States Code** and the regulations issued pursuant thereto.

(2) The gunsmith holds any business license required by a state or local governmental entity.

(d) In addition to the uses permitted in **Chapter 1.5** (commencing with **Section 30400**) of, and **Article 5** (commencing with **Section 30900**) of **Chapter 2** of, **Division 10** of **Title 4** of **Part 6** of the **Penal Code**, any licensed gun dealer who lawfully possesses an assault weapon, .50 BMG rifle, or firearm precursor part pursuant to those provisions *may* do either of the following:

(1) Transport the firearm or firearm precursor part between dealers or out of the state if that person is permitted pursuant to the National Firearms Act. Any transporting allowed by this section or **Section 22949.62** shall be in compliance with **Sections 16850** and **25610** of the **Penal Code**.

(2) Sell the firearm or firearm precursor part to a resident outside the state.

(e) Notwithstanding **Section 22949.62**, any individual *may*, provided that the assault weapon or .50 BMG rifle is transported in compliance with **Sections 16850** and **25610** of the **Penal Code**, do any of the following:

(1) Arrange in advance to relinquish an assault weapon, .50 BMG rifle, unserialized firearm, or firearm precursor part to a police or sheriff's department.

(2) Sell, deliver, or transfer an assault weapon, .50 BMG rifle, unserialized firearm, or firearm precursor part to an authorized representative of a city, city and county, county, or state government, or of the federal government, provided that the entity is acquiring the weapon as part of an authorized, voluntary program in which the entity is buying or receiving weapons from private individuals.

(3) Transfer, relinquish, or dispose of a firearm or precursor part in compliance with the requirements of **Section 29810** or **Section 29830** of the **Penal Code**.

B&P Code § 22949.64 (New; **SB 1327**): *Enforcement; Private Civil Actions*:

(a) Notwithstanding any other law, the requirements of this chapter *shall* be enforced exclusively through the *private civil actions* described in **Section 22949.65**. No enforcement of this chapter may be taken or threatened by this state, a political subdivision, a district or county or city attorney, or an executive or administrative officer or employee of this state or a political subdivision against any person, except as provided in **Section 22949.65**.

(b) The fact that conduct violates this chapter *shall not* be an independent basis for enforcement of any other law of this state, or the denial, revocation, suspension, or withholding of any right or privilege conferred by the law of this state or a political subdivision, or a threat to do the same, by this state, a political subdivision, a district or county or city attorney, or an executive or administrative officer or employee of this state or a political subdivision, or a board, commission, or similar body assigned authority to do so under law, against any person, except as provided in **Section 22949.65**. Nor shall any civil action predicated upon a violation of this chapter be brought by this state, a political subdivision, a district or county or city attorney, or an executive or administrative officer or employee of this state or a political subdivision. For avoidance of doubt, the rights and privileges described by this subdivision include, but are not limited to, any business licenses and permits issued pursuant to this code or any firearms, ammunition, or precursor parts dealer or vendor licenses issued pursuant to **Title 4** (commencing with **Section 23500**) of **Part 6** of the **Penal Code**. This subdivision shall not be construed to prevent or limit enforcement of any other law regulating conduct that also violates this chapter, including, but not limited to,

Chapter 1.5 (commencing with **Section 30400**) and **Chapter 2** (commencing with **Section 30500**) of **Division 10** of **Title 4** of **Part 6** of the **Penal Code**.

(c) **Subdivisions (a) and (b)** shall not be construed to do any of the following:

(1) Legalize the conduct prohibited by this chapter or by **Chapter 1.5** (commencing with **Section 30400**) and **Chapter 2** (commencing with **Section 30500**) of **Division 10** of **Title 4** of **Part 6** of the **Penal Code**.

(2) Waive any requirements prescribed in **Chapter 3** (commencing with **Section 29180**) of **Division 7** of **Title 4** of **Part 6** of the **Penal Code**.

(3) Limit or affect the availability of a remedy established by **Section 22949.65**.

(4) Limit the enforceability of any other laws that regulate or prohibit any conduct relating to firearms or firearm precursor parts.

B&P Code § 22949.65 (New; **SB 1327**): *Violations Warranting Civil Action; Penalties; Time Limitations; Standing; Defenses:*

(a) Any person, other than an officer or employee of a state or local governmental entity in this state, may bring a civil action against any person who does any of the following:

(1) Knowingly violates **Section 22949.62**.

(2) Knowingly engages in conduct that aids or abets a violation of **Section 22949.62**, regardless of whether the person knew or should have known that the person aided or abetted would be violating **Section 22949.62**.

(3) Knowingly commits an act with the intent to engage in the conduct described by **paragraph (1) or (2)**.

(b) If a claimant prevails in an action brought under this section, the court shall award all of the following:

(1) *Injunctive relief* sufficient to prevent the defendant from violating this chapter or engaging in acts that aid or abet violations of this chapter.

(2)

(A)

(i) *Statutory damages* in an amount of not less than *ten thousand dollars* (\$10,000) for each weapon or firearm precursor part as to which the defendant violated **Section 22949.62**, and for each weapon or firearm precursor part as to which the defendant aided or abetted a violation of **Section 22949.62**.

(ii) This subparagraph shall remain in effect unless found by a court to be invalid or unconstitutional, in which case this subparagraph is repealed and **subparagraph (B)** shall become operational.

(B)

(i) A civil penalty in an appropriate amount to be determined by the court for each violation of this chapter. In making that determination, the court shall consider factors that include, but are not limited to, the number of firearms or precursor parts involved in the defendant's violation of this chapter, the duration of the prohibited conduct, whether the defendant has previously violated this chapter or any other federal, state, or local law concerning the regulation of firearms, and any other factors tending to increase the risk to the public, such as proximity of the violations to sensitive places.

(ii) This subparagraph shall become effective only if a court finds **subparagraph (A)** to be invalid or unconstitutional.

(3) Attorney's fees and costs.

(c) Notwithstanding **subdivision (b)**, a court *shall not* award relief under this section in response to a violation of **subdivision (a)** if the defendant demonstrates that the defendant previously paid the full amount of any monetary award under **subdivision (b)** in a previous action for each weapon or firearm precursor part as to which the defendant violated, or aided or abetted a violation of, **Section 22949.62**.

(d) Notwithstanding any other law, a cause of action under this section shall be extinguished unless the action is brought not later than four years after the cause of action accrues.

(e) An act or omission in violation of **Section 22949.62** *shall* be deemed an injury in fact to all residents of, and visitors to, this state, and any such person shall have standing to bring a civil action pursuant to this section.

(f) Notwithstanding any other law, none of the following is a defense to an action brought under this section:

- (1) A defendant's ignorance or mistake of law.
- (2) A defendant's belief that the requirements of this chapter are unconstitutional or were unconstitutional.
- (3) A defendant's reliance on any court decision that has been overruled on appeal or by a subsequent court, even if that court decision had not been overruled when the defendant engaged in conduct that violates this chapter.
- (4) A defendant's reliance on any state or federal court decision that is not binding on the court in which the action has been brought.
- (5) Nonmutual issue preclusion or nonmutual claim preclusion.
- (6) Any claim that the enforcement of this chapter or the imposition of civil liability against the defendant will violate a constitutional right of a third party.
- (7) A defendant's assertion that this chapter proscribes conduct that is separately prohibited by the **Penal Code** or any other law of this state, or that this chapter proscribes conduct beyond that which is already prohibited by the **Penal Code** or any other law of this state.
- (8) Any claim that the firearm or firearm precursor part at issue was not misused, or was not intended to be misused, in a criminal or unlawful manner.

(g)

(1) Both of the following are affirmative defenses to an action brought under this section:

(A) A person sued under **paragraph (2) of subdivision (a)** reasonably believed, after conducting a reasonable investigation, that the person aided or abetted was complying with this chapter.

(B) A person sued under **paragraph (3) of subdivision (a)** reasonably believed, after conducting a reasonable investigation, that the person was complying with this chapter or was aiding or abetting another who was complying with this chapter.

(2) The defendant has the burden of proving an affirmative defense under this subdivision by a preponderance of the evidence.

(h) **This section** *shall not* be construed to impose liability on any speech or conduct protected by the **First Amendment** to the **United States Constitution**, as made applicable to the states through the **Fourteenth Amendment** to the **United States Constitution**, or by Section 2 of Article I of the California Constitution.

(i) Notwithstanding any other law, this state, a state official, or a district, county, or city attorney *shall not* intervene in an action brought under this section. However, this subdivision does not prohibit a person described by this subdivision from filing an amicus curiae brief in the action.

(j) Notwithstanding any other law, a court *shall not* award attorney's fees or costs to a defendant in an action brought under this section.

(k) An action pursuant to this section *shall not* be brought against a federal government, state, political subdivision, or an employee of a federal government, state, or political subdivision on the basis of acts or omissions in the course of discharge of official duties.

B&P Code § 22949.66 (New; **SB 1327**): *Limitation on Third-Party Constitutional Rights as a Defense:*

(a) A defendant against whom an action is brought under **Section 22949.65** does *not* have standing to assert the right of another individual to keep and bear arms under the **Second Amendment** to the United States Constitution as a defense to liability under **that section** unless either of the following is true:

(1) The United States Supreme Court holds that the courts of this state must confer standing on that defendant to assert the third-party rights of other individuals in state court as a matter of federal constitutional law.

(2) The defendant has standing to assert the rights of other individuals under the tests for third-party standing established by the United States Supreme Court.

(b) A defendant in an action brought under **Section 22949.65** may assert an affirmative defense to liability under this section if *both* of the following are true:

(1) The defendant has standing to assert the third-party right of an individual to keep and bear arms in accordance with **subdivision (a)**.

(2) The defendant demonstrates that the relief sought by the claimant will violate a third-party's rights under the **Second Amendment** to the **United**

States Constitution right as defined by clearly established case law of the United States Supreme Court.

(c) Nothing in this section shall in any way limit or preclude a defendant from asserting the defendant's personal constitutional rights as a defense to liability under **Section 22949.65**, and a court shall not award relief under **Section 22949.65** if the conduct for which the defendant has been sued was an exercise of a state or federal constitutional right that personally belongs to the defendant.

B&P Code § 22949.67 (New; **SB 1327**): *Construction of Chapter:*

This chapter *shall not* be construed to do any of the following:

(a) Authorize the initiation of a cause of action under this chapter against a person purchasing, obtaining, or attempting to purchase or obtain an assault weapon, .50 BMG rifle, unserialized firearm, or firearm precursor part from a person acting in violation of this chapter.

(b) Wholly or partly repeal, either expressly or by implication, any other statute that regulates or prohibits any conduct relating to firearms or firearm precursor parts, including, but not limited to, **Chapters 1.5** and **2** (commencing with **Sections 30400** and **30500**, respectively) of **Division 10** of **Title 4** of **Part 6** and **Chapter 3** (commencing with **Section 29180**) of **Division 7** of **Title 4** of **Part 6** of the **Penal Code**.

(c) Restrict a political subdivision from regulating or prohibiting conduct relating to assault weapons, .50 BMG rifles, unserialized firearms, or firearm precursor parts in a manner that is at least as stringent as the laws of this state.

B&P Code § 22949.68 (New; **SB 1327**): *Venue for Civil Action:*

(a) Notwithstanding any other law, a civil action brought under **Section 22949.65** shall be brought in any of the following:

(1) The county in which all or a substantial part of the events or omissions giving rise to the claim occurred.

(2) The county of residence for any one of the natural person defendants at the time the cause of action accrued.

(3) The county of the principal office in this state of any one of the defendants that is not a natural person.

(4) The county of residence for the claimant if the claimant is a natural person residing in this state.

(b) Notwithstanding any other law, if a civil action is brought under **Section 22949.65** in one of the venues described by **subdivision (a)**, the action shall not be transferred to a different venue without the written consent of all parties.

B&P Code § 22949.69 (New; **SB 1327**): *Immunity*:

(a) Notwithstanding any other law, this state has sovereign immunity, a political subdivision has governmental immunity, and each officer and employee of this state or a political subdivision has official immunity in any action, claim, or counterclaim or any type of legal or equitable action that challenges the validity of any provision or application of this chapter, on constitutional grounds or otherwise.

(b) A provision of state law *shall not* be construed to waive or abrogate an immunity described by **subdivision (a)** unless it expressly waives immunity under this section.

B&P Code § 22949.70 (New; **SB 1327**): *Severability of Provisions*:

(a) It is the intent of the Legislature that every provision, section, subdivision, sentence, clause, phrase, and word in this chapter, and every application of the provisions in this chapter, are severable from each other.

(b) If any application of any provision in this chapter to any person, group of persons, or circumstances is found by a court to be invalid or unconstitutional, the remaining applications of that provision to all other persons and circumstances shall be severed and shall not be affected. All constitutionally valid applications of this chapter shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the Legislature's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this chapter to impose an unconstitutional burden in a large or substantial fraction of relevant cases, the applications that do not present an unconstitutional burden shall be severed from the remaining applications and shall remain in force, and shall be treated as if the Legislature had enacted a statute limited to the persons, group of persons, or circumstances for which the statute's application does not present an unconstitutional burden. If any court declares or finds a provision of this chapter facially unconstitutional, when discrete applications of that provision can be enforced against a person, group of persons, or circumstances without violating the United States Constitution and the California Constitution, those applications shall be severed from all remaining applications of the provision, and the provision shall be interpreted as if the Legislature had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate the United States Constitution and the California Constitution.

(c) The Legislature further declares that it would have enacted this chapter, and each provision, section, subdivision, sentence, clause, phrase, and word, and all constitutional applications of this chapter, irrespective of the fact that any provision, section, subdivision, sentence, clause, phrase, or word, or application of this chapter, were to be declared unconstitutional or to represent an unconstitutional burden.

(d) If any provision of this chapter is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force.

(e) A court shall not decline to enforce the severability requirements of this section on the ground that severance would rewrite the statute or involve the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a state official from enforcing a statutory provision of this chapter does not rewrite a statute, as the statute continues to contain the same words as before the court's decision. Each of the following is true about a judicial injunction or declaration of unconstitutionality of a provision of this chapter:

(1) It is nothing more than an edict prohibiting enforcement that may subsequently be vacated by a later court if that court has a different understanding of the requirements of the California Constitution or the United States Constitution.

(2) It is not a formal amendment of the language in a statute.

(3) It no more rewrites a statute than a decision by the executive not to enforce a duly-enacted statute in a limited and defined set of circumstances.

B&P Code § 22949.71 (New; SB 1327): *Inoperative and Repeal Dates of Chapter:*

This chapter *shall* become inoperative upon invalidation of **Subchapter H** (commencing with **Section 171.201**) of **Chapter 171** of the **Texas Health and Safety Code** in its entirety by a final decision of the United States Supreme Court or Texas Supreme Court, and is repealed on *January 1* of the following year.

Note: The legislative history of this bill provides that its enforcement scheme is based upon a finding of the constitutionality of a state of Texas' heartbeat law for unborn children, still pending, which prohibits an abortion if a fetal heartbeat is detected, and authorizes a private person to bring an action for a violation of the law.

B&P Code § 22949.80 (New; Effective 6/30/22, and as further amended 9/29/22; **AB 2571; SB 1327**): *Marketing Firearms to Minors*:

(a)

(1) A firearm industry member *shall not* advertise, market, or arrange for placement of an advertising or marketing communication offering or promoting any firearm-related product in a manner that is designed, intended, or reasonably appears to be attractive to minors.

(2) In determining whether marketing or advertising of a firearm-related product is attractive to minors, as described in **paragraph (1)**, a court shall consider the totality of the circumstances, including, but not limited to, whether the marketing or advertising:

(A) Uses caricatures that reasonably appear to be minors or cartoon characters to promote firearm-related products.

(B) Offers brand name merchandise for minors, including, but not limited to, hats, t-shirts, or other clothing, or toys, games, or stuffed animals, that promotes a firearm industry member or firearm-related product.

(C) Offers firearm-related products in sizes, colors, or designs that are specifically designed to be used by, or appeal to, minors.

(D) Is part of a marketing or advertising campaign designed with the intent to appeal to minors.

(E) Uses images or depictions of minors in advertising and marketing materials to depict the use of firearm-related products.

(F) Is placed in a publication created for the purpose of reaching an audience that is predominately composed of minors and not intended for a more general audience composed of adults.

(3) This subdivision does not apply to a communication offering or promoting any firearm safety program, hunting safety or promotional program, firearm instructional course, sport shooting event or competition, or any similar program, course, or event, nor does it apply to a communication offering or promoting membership in any organization, or promotion of lawful hunting activity, including, but not limited to, any fundraising event, youth hunting program, or outdoor camp.

(b) A firearm industry member publishing material directed to minors in this state or who has actual knowledge that a minor in this state is using or receiving its

material, shall not knowingly use, disclose, compile, or allow a third party to use, disclose, or compile, the personal information of that minor with actual knowledge that the use, disclosure, or compilation is for the purpose of marketing or advertising to that minor any firearm-related product.

(c) As used in this chapter:

(1) “*Ammunition*” has the same meaning as provided in **subdivision (b)** of **Section 16150** of the **Penal Code**.

(2) “*Firearm*” has the same meaning as provided in **subdivisions (a)** and **(b)** of **Section 16520** of the **Penal Code**.

(3) “*Firearm accessory*” means an attachment or device designed or adapted to be inserted into, affixed onto, or used in conjunction with, a firearm which is designed, intended, or functions to alter or enhance the firing capabilities of a firearm, the lethality of the firearm, or a shooter’s ability to hold, carry, or use a firearm.

(4) “*Firearm industry member*” means any of the following:

(A) A person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association engaged in the manufacture, distribution, importation, marketing, wholesale, or retail sale of firearm-related products.

(B) A person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association formed for the express purpose of promoting, encouraging, or advocating for the purchase, use, or ownership of firearm-related products that does one of the following:

(i) Advertises firearm-related products.

(ii) Advertises events where firearm-related products are sold or used.

(iii) Endorses specific firearm-related products.

(iv) Sponsors or otherwise promotes events at which firearm-related products are sold or used.

(5) “*Firearm-related product*” means a firearm, ammunition, reloaded ammunition, a firearm precursor part, a firearm component, or a firearm accessory that meets any of the following conditions:

(A) The item is sold, made, or distributed in California.

(B) The item is intended to be sold or distributed in California.

(C) It is reasonably foreseeable that the item would be sold or possessed in California.

(D) Marketing or advertising for the item is directed to residents of California.

(6) “*Marketing or advertising*” means, in exchange for monetary compensation, to make a communication to one or more individuals, or to arrange for the dissemination to the public of a communication, about a product, the primary purpose of which is to encourage recipients of the communication to engage in a commercial transaction.

(7) “*Minor*” means a natural person *under 18 years of age* who resides in this state.

(d) This section *shall not* be construed to require or authorize a firearm industry member to collect or retain age information about users or subscribers of products or services offered.

(e)

(1) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed *twenty-five thousand dollars* (\$25,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(2) The court shall impose a civil penalty under **paragraph (1)** for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant’s misconduct, and the defendant’s assets, liabilities, and net worth.

(3) A person harmed by a violation of this section may commence a civil action to recover their actual damages.

(4) The court shall also order injunctive relief, including a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the court deems necessary to prevent the harm described in this section.

(5) Upon a motion, a court shall award reasonable attorney’s fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section.

(6) Each copy or republication of marketing or advertising prohibited by this section shall be deemed a separate violation.

(f) The provisions of this section are severable. If any portion, subdivision, paragraph, clause, sentence, phrase, word, or application of this section is for any reason held to be invalid by any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that it would have adopted this section and each and every portion, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any other portion of this section or application thereof would be subsequently declared invalid.

Note: The constitutionality of this section is pending in the federal court case of *So Cal Top Guns, Inc., et al. v. Bonta*; case #2:2022at00819.)

Civil Code § 3273.50 (New; Effective 7/1/2023; **AB 1594**): *The Firearm Industry Responsibility Act; Definitions:*

As used in this title, the following definitions apply:

(a) “*Ammunition*” has the same meaning as provided in **subdivision (b)** of **Section 16150** of the **Penal Code**.

(b) “*Firearm*” has the same meaning as provided in **subdivisions (a)** and **(b)** of **Section 16520** of the **Penal Code**.

(c) “*Firearm accessory*” means an attachment or device designed or adapted to be inserted into, affixed onto, or used in conjunction with a firearm that is designed, intended, or functions to alter or enhance the firing capabilities of a firearm, the lethality of the firearm, or a shooter’s ability to hold and use a firearm.

(d) “*Firearm-related product*” means a firearm, ammunition, a firearm precursor part, a firearm component, and a firearm accessory that meets any of the following conditions:

- (1) The item is sold, made, or distributed in California.
- (2) The item is intended to be sold or distributed in California.

(3) The item is or was possessed in California and it was reasonably foreseeable that the item would be possessed in California.

(e) “*Firearm precursor part*” has the same meaning as provided in **Section 16531** of the **Penal Code**.

(f) “*Firearm industry member*” shall mean a person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association engaged in the manufacture, distribution, importation, marketing, wholesale, or retail sale of firearm-related products.

(g) “*Reasonable controls*” means reasonable procedures, acts, or practices that are designed, implemented, and enforced to do the following:

(1) Prevent the sale or distribution of a firearm-related product to a straw purchaser, a firearm trafficker, a person prohibited from possessing a firearm under state or federal law, or a person who the firearm industry member has reasonable cause to believe is at substantial risk of using a firearm-related product to harm themselves or another or of possessing or using a firearm-related product unlawfully.

(2) Prevent the loss or theft of a firearm-related product from the firearm industry member.

(3) Ensure that the firearm industry member complies with all provisions of California and federal law and does not otherwise promote the unlawful manufacture, sale, possession, marketing, or use of a firearm-related product.

Civil Code § 3273.51 (New; Effective 7/1/2023; **AB 1594**): *Firearm Industry Standard of Conduct*:

(a) A firearm industry member shall comply with the firearm industry standard of conduct. It shall be a violation of the firearm industry standard of conduct for a firearm industry member to fail to comply with any requirement of this section.

(b) A firearm industry member shall do both of the following:

(1) Establish, implement, and enforce reasonable controls.

(2) Take reasonable precautions to ensure that the firearm industry member does not sell, distribute, or provide a firearm-related product to a downstream distributor or retailer of firearm-related products who fails to establish, implement, and enforce reasonable controls.

(c) A firearm industry member shall not manufacture, market, import, offer for wholesale sale, or offer for retail sale a firearm-related product that is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety in California. For the purposes of this subdivision, the following shall apply:

(1) A firearm-related product *shall not* be considered abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety based on a firearm's inherent capacity to cause injury or lethal harm.

(2) There shall be a presumption that a firearm-related product is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety if any of the following is true:

(A) The firearm-related product's features render the product most suitable for assaultive purposes instead of lawful self-defense, hunting, or other legitimate sport and recreational activities.

(B) The firearm-related product is designed, sold, or marketed in a manner that foreseeably promotes conversion of legal firearm-related products into illegal firearm-related products.

(C) The firearm-related product is designed, sold, or marketed in a manner that is targeted at minors or other individuals who are legally prohibited from accessing firearms.

(d) A firearm industry member *shall not* engage in any conduct related to the sale or marketing of firearm-related products that is in violation of the following sections:

(1) Paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (9) of subdivision (a) of Section 1770.

Note: Civil Code § 1770(a):

(1) Passing off goods or services as those of another.

(2) Misrepresenting the source, sponsorship, approval, or certification of goods or services.

(3) Misrepresenting the affiliation, connection, or association with, or certification by, another.

(4) Using deceptive representations or designations of geographic origin in connection with goods or services.

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or

quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have.

(6) Representing that goods are original or new if they have deteriorated unreasonably or are altered, reconditioned, reclaimed, used, or secondhand.

(7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(8) Disparaging the goods, services, or business of another by false or misleading representation of fact.

(9) Advertising goods or services with intent not to sell them as advertised.

(2) Section 17200 of the Business and Professions Code.

Note: B&P Code § 17200: “(A)ny unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by **Chapter 1** (commencing with **Section 17500**) of **Part 3** of **Division 7** of the **Business and Professions Code.**”

(3) Section 17500 of the Business and Professions Code.

Note: B&P Code § 17500: “(T)o induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised.”

(4) Section 17508 of the Business and Professions Code.

Note: B&P Code § 17508: “(T)o make any false or misleading advertising claim, including claims that (1) purport to be based on factual, objective, or clinical evidence, (2) compare the product’s effectiveness or safety to that of other brands or products, or (3) purport to be based on any fact.

Civil Code § 3273.52 (New; Effective 7/1/2023; **AB 1594**): *Violations of Standards of Conduct; Civil Actions:*

(a) An act or omission by a firearm industry member in violation of the firearm industry standard of conduct set forth in **Section 3273.51** shall be actionable under this section.

(b) A person who has suffered harm in California because of a firearm industry member’s conduct described by **subdivision (a)** may bring an action in a court of competent jurisdiction.

(c)

(1) The Attorney General may bring a civil action in a court of competent jurisdiction in the name of the people of the State of California to enforce this title and remedy harm caused by a violation of this title.

(2) A city attorney may bring a civil action in a court of competent jurisdiction in the name of the people of that city to enforce this title and remedy harm caused by a violation of this title.

(3) A county counsel may bring a civil action in a court of competent jurisdiction in the name of the people of that county to enforce this title and remedy harm caused by a violation of this title.

(d) If a court determines that a firearm industry member engaged in conduct described by **subdivision (a)**, the court may award any or all of the following:

(1) Injunctive relief sufficient to prevent the firearm industry member and any other defendant from further violating the law.

(2) Damages.

(3) Attorney’s fees and costs.

(4) Any other appropriate relief necessary to enforce this title and remedy the harm caused by the conduct.

(e)

(1) In an action alleging that a firearm industry member failed to establish, implement, and enforce reasonable controls in violation of **paragraph (1)** of **subdivision (b)** of **Section 3273.51**, there shall be a rebuttable

presumption that the firearm industry member failed to implement reasonable controls if both of the following conditions are satisfied:

(A) The firearm industry member’s action or failure to act created a reasonably foreseeable risk that the harm alleged by the claimant would occur.

(B) The firearm industry member could have established, implemented, and enforced reasonable controls to prevent or substantially mitigate the risk that the harm would occur.

(2) If the rebuttable presumption described by **paragraph (1)** is established, the firearm industry member has the burden of proving by a preponderance of the evidence that the firearm industry member established, implemented, and enforced reasonable controls.

(f) An intervening act by a third party, including, but not limited to, criminal misuse of a firearm-related product, shall not preclude a firearm industry member from liability under this section.

Civil Code § 3273.54 (New; Effective 7/1/2023; **AB 1594**): *Firearm Industry Standard of Conduct; Construction of Title:*

(a) This title *shall not* be construed or implied to limit or impair in any way the right of a person or entity to pursue a legal action under any other authority.

(b) This title *shall not* be construed or implied to limit or impair in any way an obligation or requirement placed on a firearm industry member by any other authority.

(c) This title *shall* be construed and applied in a manner that is consistent with the requirements of the California and the United States Constitutions.

Civil Code § 3273.55 (New; Effective 7/1/2023; **AB 1594**): *Firearm Industry Standard of Conduct; Operation of Title:*

This title shall become operative on *July 1, 2023*.

Pen. Code § 16515 (New; Effective 6/30/2022; **AB 1621**): *Federal Licensee Authorized to Serialize Firearms:*

“*Federal licensee authorized to serialize firearms*” means a person, firm, corporation, or other entity that holds any valid federal firearms license that authorizes the person, firm, corporation, or other entity to imprint serial numbers onto firearms pursuant to **Chapter 44** (commencing with **Section 921**) of **Title 18** of the **United States Code** and regulations issued pursuant thereto.

Pen. Code § 16517 (New; Effective 6/30/2022; **AB 1621**): *Federally Licensed Manufacturer or Importer*:

“*Federally licensed manufacturer or importer*” means a person, firm, corporation, or other entity that holds a valid license to manufacture or import firearms issued pursuant to **Chapter 44** (commencing with **Section 921**) of **Title 18** of the **United States Code** and regulations issued pursuant thereto.

Pen. Code § 16519 (New; Effective 6/30/2022; **AB 1621**): *Federally Regulated Firearm Precursor Part*:

“*Federally regulated firearm precursor part*” means any firearm precursor part deemed to be a firearm pursuant to **Chapter 44** (commencing with **Section 921**) of **Title 18** of the **United States Code** and regulations issued pursuant thereto, and, if required, has been imprinted with a serial number by a federal licensee authorized to serialize firearms in compliance with all applicable federal laws and regulations.

Pen. Code § 16520 (Amended; Effective 6/30/22; **AB 1621**): “*Firearm;*” *Firearm Precursor Parts*:

Amendment to this section expands the definition of “*firearm*” for the purposes of numerous specified firearms provisions to include “*firearm precursor parts*,” and expands the list of **Penal Code**, **Code of Civil Procedure**, and **Welfare & Institutions Code** sections involving firearms that it applies to.

Note: Examples of firearm precursor parts include unfinished firearm frames and receivers.

New **subd. (b)** provides the new definition of “*firearm*” as follows: “Firearm includes the frame or receiver of the weapon, including both a completed frame or receiver, and a firearm precursor part.”

The definition of “*firearm*” that includes “firearm precursor parts” has expanded the scope of a number of such crimes relating to firearms, including these:

1. A person in possession of only a precursor part, such as an unfinished firearm frame or receiver, who is prohibited from having firearms because of a felony conviction, a specified misdemeanor conviction, a probation condition, or a restraining order can be charged with a felony crime in **P.C. §§ 29800, 29805, 29815, or 29825**.
2. Firearm precursor parts can now be the subject of a gun violence restraining order (**P.C. §§ 18100–18205**) or seized at the scene of a domestic violence incident (**P.C. §§ 18205– 18500**).

3. Firearm precursor parts are subject to laws relating to licenses to sell or transfer firearms (**P.C. §§ 26500–26590**), gun shows (**P.C. §§ 27200–27415**), and the sale, lease, transfer, or delivery of firearms (**P.C. §§27500–28000**).
4. Adds a number of sections that the new “*firearm*” definition applies to, including **P.C. § 136.2** (protective orders), **P.C. § 646.91** (emergency protective order against stalking), **P.C. §§ 23900–23925** (prohibiting the obliteration of identification marks or numbers on firearms), **P.C. §§ 27200–27350** (gun shows), new **P.C. § 29185** (misdemeanor crimes involving the use or sale of computer numerical (CNC) milling machines, which are used to manufacture firearms), **C.C.P. §§ 527.6–527.9** (restraining orders prohibiting harassment, workplace violence, and violence at schools, which subject the restrained person to a firearms prohibition), and **W&I §§ 15657.03** (elder and dependent adult protective orders).

Pen. Code § 16531 (Amended; Effective 6/20/22; **AB 1621**): “*Firearm Precursor Part*,”
Defined:

The definition of a “*firearm precursor part*” has been revised as follows:

(a) “*Firearm precursor part*” means any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.

(b) The Department of Justice, consistent with this section, shall provide written guidance and pictorial diagrams demonstrating examples of firearm precursor parts.

(c) Firearm parts that can only be used on antique firearms, as defined in **subdivision (c) of Section 16170**, are not firearm precursor parts.

Pen. Code § 11712 (New; Effective 6/20/22; **AB 1621**): *Valid State or Federal Serial Number or Mark of Identification*; *Defined:*

“*Valid state or federal serial number or mark of identification*” means either of the following:

(a) A serial number that has been imprinted by a federal licensee authorized to serialize firearms in accordance with federal law, or that has

been assigned to a firearm pursuant to **Chapter 53 of Title 26** of the **United States Code** and the regulations issued pursuant thereto.

(b) A serial number or mark of identification issued by the California Department of Justice pursuant to **Section 23910** or **29180**.

Pen. Code § 18005 (Amended; Effective 6/30/2022; **AB 200**): *Destruction of Firearms:*

As amended, the destruction of weapons surrendered to law enforcement (including firearms) is mandated. Provisions that had permitted law enforcement to sell at public auction to specified persons, weapons that had value for sporting, recreational, or collection purposes, has been eliminated.

New **subd. (d)** has been added to provide that if a weapon is evidence in a criminal case, it must be retained as required by **P.C. §§ 1417–1417.9** (which pertain to the disposition of evidence in criminal cases.)

Pen. Code § 18010 (Amended; Effective 6/20/22; **AB 1621**): *Enjoining Unlawful Firearm Precursor Parts; Unlawful Precursor Parts as a Nuisance:*

The unlawful transfer of a “*firearm precursor part*” is added to those activities (the unlawful importation or sale of a precursor part) that a district attorney, city attorney, or the Attorney General is now authorized to bring an action to enjoin.

Unlawfully possessed or transferred “*firearm precursor parts*” is added to those precursor parts (unlawfully imported or sold precursor parts) that are a nuisance.

Pen. Code § 18150 (Amended; **AB 2870**): *Petition; Grounds for Issuance; Supporting Affidavit; Issuance or Denial on Same Day Filed:*

(a)

(1) Any of the following individuals may file a petition requesting that the court issue an *ex parte gun violence restraining order* enjoining the subject of the petition from having in their custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition:

(A) An immediate family member of the subject of the petition.

(B) An employer of the subject of the petition.

(C) A coworker of the subject of the petition, if they have had substantial and regular interactions with the subject for at least one year and have obtained the approval of the employer.

(D) An employee or teacher of a secondary or postsecondary school that the subject has attended in the last six months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisory role.

(E) A law enforcement officer.

(F) A roommate of the subject of the petition.

(G) An individual who has a dating relationship with the subject of the petition.

(H) An individual who has a child in common with the subject of the petition, if they have had substantial and regular interactions with the subject for at least one year.

(2) For purposes of this subdivision, “*dating relationship*” has the same meaning as in **paragraph (10) of subdivision (f) of Section 243**.

Note: Per **P.C. § 243(f)(10)**, a “*dating relationship*” means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.

(3) For purposes of this subdivision, “*immediate family member*” means any spouse, whether by marriage or not, domestic partner, parent, child, any person related by consanguinity or affinity within the second degree, or any person related by consanguinity or affinity within the fourth degree who has had substantial and regular interactions with the subject for at least one year.

(4) For purposes of this subdivision, “*roommate*” means a person who regularly resides in the household, or who, within the prior six months, regularly resided in the household, and who has had substantial and regular interactions with the subject for at least one year.

(5) This chapter does not require a person described in **paragraph (1)** to seek a gun violence restraining order.

(b) A court may issue an ex parte gun violence restraining order if the petition, supported by an affidavit made in writing and signed by the petitioner under oath, or an oral statement taken pursuant to **subdivision (a) of Section 18155**, and any additional information provided to the court shows that there is a substantial likelihood that both of the following are true:

(1) The subject of the petition poses a significant danger, in the near future, of causing personal injury to the subject of the petition or another by having in their custody or control, owning, purchasing, possessing, or receiving a firearm as determined by considering the factors listed in **Section 18155**.

(2) An ex parte gun violence restraining order is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition.

(c) An affidavit supporting a petition for the issuance of an ex parte gun violence restraining order shall set forth the facts tending to establish the grounds of the petition, or the reason for believing that they exist.

(d) An ex parte order under this chapter shall be issued or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be issued or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(e) This section shall become operative on *September 1, 2020* (although it was amended effective *January 1, 2023*).

Note: The above is a portion of California’s so-called “*Red Flag Statutes*,” **P.C. §§ 18100-18500**.

Pen. Code § 18170 (Amended; **AB 2870**): *Who May Petition:*

(a)

(1) Any of the following individuals may request that a court, after notice and a hearing, issue a gun violence restraining order enjoining the subject of the petition from having in their custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition for a period of time between *one to five years*:

(A) An immediate family member of the subject of the petition.

(B) An employer of the subject of the petition.

(C) A coworker of the subject of the petition, if they have had substantial and regular interactions with the subject for at least one year and have obtained the approval of the employer.

(D) An employee or teacher of a secondary or postsecondary school that the subject has attended in the last six months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisory role.

(E) A law enforcement officer.

(F) A roommate of the subject of the petition.

(G) An individual who has a dating relationship with the subject of the petition.

(H) An individual who has a child in common with the subject of the petition, if they have had substantial and regular interactions with the subject for at least one year.

(2) This chapter does *not* require a person described in **paragraph (1)** to seek a gun violence restraining order.

(b) For purposes of this subdivision, “*dating relationship*” has the same meaning as in **paragraph (10)** of **subdivision (f)** of **Section 243**.

Note: Per **P.C. § 243(f)(10)**, a “*dating relationship*” means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.

(c) For purposes of this section, “*immediate family member*” means any spouse, whether by marriage or not, domestic partner, parent, child, any person related by consanguinity or affinity within the second degree, or any person related by consanguinity or affinity within the fourth degree who has had substantial and regular interactions with the subject for at least one year.

(d) For purposes of this subdivision, “*roommate*” means a person who regularly resides in the household, or who, within the prior six months, regularly resided in the household, and who has had substantial and regular interactions with the subject for at least one year.

(e) This section shall become operative on *September 1, 2020*.

Note: The above is a portion of California’s so-called “*Red Flag Statutes*,” **P.C. §§ 18100-18500**.

Pen. Code § 18190 (Amended; **AB 2870**): *Renewal and Duration of Renewed Order; Contents of Renewed Order*:

(a)

(1) Any of the following people may request a renewal of a gun violence restraining order at any time within the *three months before* the expiration of a gun violence restraining order:

(A) An immediate family member of the subject of the petition.

(B) An employer of the subject of the petition.

(C) A coworker of the subject of the petition, if they have had substantial and regular interactions with the subject for at least one year and have obtained the approval of the employer.

(D) An employee or teacher of a secondary or postsecondary school that the subject has attended in the last six months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisory role.

(E) A law enforcement officer.

(F) A roommate of the subject of the petition.

(G) An individual who has a dating relationship with the subject of the petition.

(H) An individual who has a child in common with the subject of the petition, if they have had substantial and regular interactions with the subject for at least one year.

(2) For purposes of this subdivision, “*dating relationship*” has the same meaning as in **paragraph (10)** of **subdivision (f)** of **Section 243**.

Note: Per **P.C. § 243(f)(10)**, a “*dating relationship*” means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.

(3) For purposes of this subdivision, “*immediate family member*” means any spouse, whether by marriage or not, domestic partner, parent, child, any person related by consanguinity or affinity within the second degree, or any person related by consanguinity or affinity within the fourth degree

who has had substantial and regular interactions with the subject for at least one year.

(4) For purposes of this subdivision, “*roommate*” means a person who regularly resides in the household, or who, within the prior six months, regularly resided in the household, and who has had substantial and regular interactions with the subject for at least one year.

(5) This chapter does *not* require a person described in **paragraph (1)** to seek a gun violence restraining order.

(b) A court may, after notice and a hearing, renew a gun violence restraining order issued under this chapter if the petitioner proves, by *clear and convincing evidence*, that **paragraphs (1) and (2) of subdivision (b) of Section 18175** continue to be true.

(c) In determining whether to renew a gun violence restraining order issued under this chapter, the court shall consider evidence of the facts identified in **paragraph (1) of subdivision (b) of Section 18155** and any other evidence of an increased risk for violence, including, but not limited to, evidence of any of the facts identified in **paragraph (2) of subdivision (b) of Section 18155**.

(d) At the hearing, the petitioner shall have the burden of proving, by *clear and convincing evidence*, that **paragraphs (1) and (2) of subdivision (b) of Section 18175** are true.

(e) If the renewal petition is supported by *clear and convincing evidence*, the court shall renew the gun violence restraining order issued under this chapter.

(f)

(1) The renewal of a gun violence restraining order issued pursuant to this section shall have a duration of between *one to five years*, subject to termination by further order of the court at a hearing held pursuant to **Section 18185** and further renewal by further order of the court pursuant to this section.

(2) In determining the duration of the gun violence restraining order pursuant to **paragraph (1)**, the court shall consider the length of time that the circumstances set forth in **subdivision (b) of Section 18175** are likely to continue, and shall issue the order based on that determination.

(g) A gun violence restraining order renewed pursuant to this section shall include the information identified in **subdivision (a) of Section 18180**.

(h) This section shall become operative on *September 1, 2020*.

Note: The above is a portion of California’s so-called “*Red Flag Statutes*,” **P.C. §§ 18100-18500**.

Pen. Code § 18275 (Amended; **AB 200**): *Destruction of Firearms Held for Over 12 Months*:

This section dealing with the sale or destruction of firearms or weapons taken into custody by law enforcement at the scene of a *domestic violence incident* has been amended to eliminate the authority to sell the firearm or weapon. Now any firearm or weapon taken pursuant to **P.C. § 18275** that is held by law enforcement for more than *12 months* is considered a nuisance, must be destroyed.

Note: The above is a portion of California’s so-called “*Red Flag Statutes*,” **P.C. §§ 18100-18500**.

Pen. Code § 23910 (Amended; **AB 1621**): *DOJ Authority to Assign a Distinguishing or Mark to a Firearm*:

As amended, DOJ is now “*authorized*” (instead of “*required*”) to assign a distinguishing number or mark to a firearm, upon request, when the number or mark on the firearm has been destroyed or obliterated.

Pen. Code § 23920 (Amended; Effective 1/1/2024; **AB 1621**): *Possession or Disposition of Pistol, Revolver, or Other Firearm, Without Correct Identification Mark*:

New **subd. (b)** is added, as follows: “Except as provided in **Section 23925**, any person who, on or after *January 1, 2024*, knowingly possesses any firearm that does not have a valid state or federal serial number or mark of identification is guilty of a *misdemeanor*.”

Note: **P.C. § 23925** (Amended; **AB 1621**) lists the following exceptions to this statute:

- (1) The possession of a firearm that was made or assembled prior to *December 16, 1968*, and is not a handgun.
- (2) The possession of a firearm that has been entered, before *July 1, 2018*, into the centralized registry set forth in **Section 11106**, as being owned by a specific individual or entity, if that firearm has assigned to it a distinguishing number or mark of identification because the department accepted entry of that firearm into the centralized registry.
- (3) The possession of a firearm that is a curio or relic, or an antique firearm, as those terms are defined in **Section 479.11 of Title 27 of the Code of Federal Regulations**.

(4) The possession of a firearm by a federally licensed firearms manufacturer or importer, or any other federal licensee authorized to serialize firearms.

(5) The possession of a firearm by a person who, before *January 1, 2024*, has applied to the Department of Justice for a unique serial number or mark of identification, pursuant to **Section 29180**, and fully complies with the provisions of that section, including imprinting the serial number or mark of identification onto the firearm within *10 days* after receiving the serial number or mark of identification from the department.

(6)

(A) The possession of a firearm by a new resident who, pursuant to **Section 29180**, applies for a unique serial number or other mark of identification from the Department of Justice within *60 days* after arrival in the state, for any firearm the resident wishes to legally possess in the state that does not have a valid state or federal serial number or mark of identification, and who fully complies with the provisions of that section, including imprinting the serial number or mark of identification onto the firearm within **10 days** after receiving the serial number or mark of identification from the department.

(B) The good faith effort by a new resident to apply for a unique serial number or other mark of identification after the expiration of the *60-day* period specified in this paragraph, or any other person's good faith effort to apply for a unique serial number or mark of identification for a firearm that does not have a valid state or federal serial number or other mark of identification, shall not constitute probable cause for a violation of **Section 23920**.

(7) The possession of a firearm by a nonresident of this state who is traveling with a firearm in this state in accordance with the provisions of **Section 926A** of **Title 18** of the **United States Code**, or who possesses or imports a firearm into this state exclusively for use in an organized sport shooting event or competition.

Note: This is part of a lengthy bill dealing with un-serialized firearms, also known as “*ghost guns*,” and firearm precursor parts.

Pen. Code § 26806 (New; Effective 1/1/2024; **SB 1384**): *Required Video Surveillance of Licensee Business Premises*:

(a) Commencing *January 1, 2024*, a licensee shall ensure that its business premises are monitored by a *digital video surveillance system* that meets all of the following requirements:

(1) The system *shall* clearly record images and, for systems located inside the premises, audio, of the area under surveillance.

(2) Each camera *shall* be permanently mounted in a fixed location. Cameras shall be placed in locations that allow the camera to clearly record activity occurring in all areas described in **paragraph (3)** and reasonably produce recordings that allow for the clear identification of any person.

(3) The areas recorded *shall* include, without limitation, all of the following:

(A) Interior views of all entries or exits to the premises.

(B) All areas where firearms are displayed.

(C) All points of sale, sufficient to identify the parties involved in the transaction.

(4) The system *shall* continuously record *24 hours per day* at a frame rate no less than 15 frames per second.

(5) The media or device on which recordings are stored *shall* be secured in a manner to protect the recording from tampering, unauthorized access or use, or theft.

(6) Recordings *shall* be maintained for a minimum of *one year*.

(7) Recorded images *shall* clearly and accurately display the date and time.

(8) The system *shall* be equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the system or storage device.

(b) A licensee *shall not* use, share, allow access, or otherwise release recordings, to any person except as follows:

(1) A licensee *shall* allow access to the system to an agent of the department or a licensing authority conducting an inspection of the licensee's premises, for the purpose of inspecting the system for compliance with this section, and only if a warrant or court order would not generally be required for that access.

(2) A licensee *shall* allow access to the system or release recordings to any person pursuant to search warrant or other court order.

(3) A licensee *may* allow access to the system or release recordings to any person in response to an insurance claim or as part of the civil discovery process, including, but not limited to, in response to subpoenas, request for production or inspection, or other court order.

(c) The licensee *shall* post a sign in a conspicuous place at each entrance to the premises that states in block letters not less than one inch in height:

“THESE PREMISES ARE UNDER VIDEO AND AUDIO SURVEILLANCE. YOUR IMAGE AND CONVERSATIONS MAY BE RECORDED.”

(d) A licensee *shall*, on an annual basis, provide certification to the department, in a manner prescribed by the department, that its video surveillance system is in proper working order.

(e) This section does *not* preclude any local authority or local governing body from adopting or enforcing local laws or policies regarding video surveillance that do not contradict or conflict with the requirements of this section.

Pen. Code §§ 27240, 27245, 27305, 27310, & 27350 (Amended; **AB 2552**): *Gun Show Rules and Regulations*:

P.C. § 27240: *Signs at Gun Shows*:

Additional notice requirements for signs posted at the public entrance of a gun show or event have been added, which are the same notices that licensed gun dealers are already required to post in their premises pursuant to existing **P.C. § 26835**:

1. Firearms must be handled responsibly and securely stored.
2. Children may be unable to distinguish firearms from toys.

3. You may be guilty of a misdemeanor if you keep a firearm where a minor is likely to access it, or if a minor obtains and improperly uses it, or carries it off of the premises.
4. If you negligently store or leave a firearm where a person under *age 18* is likely to access it, you may be guilty of a misdemeanor.
5. Discharging firearms in poorly ventilated areas, cleaning firearms, or handling ammunition may result in exposure to lead.
6. Federal regulations require that if you do not take possession of a firearm you are acquiring ownership of within *30 days* after you complete the initial background check paperwork, you must complete the background check process a second time.
7. No person shall make an application to purchase more than one handgun or semiautomatic centerfire rifle within any *30-day* period and no delivery shall be made to a person who has made multiple applications.
8. If a firearm you own or possess is lost or stolen, you must report the loss or theft to a local law enforcement agency within *five days*.

P.C. § 27245: *Fines and Ineligibility for a License:*

The maximum fine is increased from \$2,000 to \$4,000, for the misdemeanor crime of a gun show producer willfully failing to comply with laws relating to gun shows (**P.C. §§ 27200– 27240**), except for the posting of required signs. Increases, from one year to two years, the length of time a gun show producer is not eligible for a gun show license after a conviction.

The maximum fine is increased from \$1,000 to \$2,000 for a first offense, and from \$2,000 to \$4,000 for a second or subsequent offense for the willful failure of a gun show producer to post required signs. The length of time a gun show producer is not eligible for a gun show license after a second or subsequent conviction is increased from *one* to *two years*.

P.C. § 27305: *Gun Show Vendor Certifications:*

Two additional actions that gun show vendors must certify in writing to a gun show producer that they will *not* do are added by amendment:

1. Display, possess, or offer for sale an unserialized finished or unfinished frame or receiver; *and*

2. Display, possess, or offer for sale an attachment or conversion kit designed to convert a handgun into a short-barreled rifle or into an assault weapon.

P.C. § 27310: *Firearm Precursor Parts & DOJ Inspections:*

Firearm precursor parts are added to the list of items (firearms and ammunition) whose transfer or sale at a gun show must be conducted in accordance with state and federal law.

Firearm precursor part vendors are added to those persons (firearms dealers, ammunition vendors, manufacturers) that DOJ may inspect at a gun show to ensure compliance with state and federal laws.

Beginning *July 1, 2023*, DOJ is now required to annually conduct enforcement and inspection of a minimum of one-half of all gun shows or events in California.

DOJ is now required to post violations of state and federal law on its Internet website for *90 days* after an inspection.

By *May 1, 2024*, and annually thereafter, that DOJ is now required to submit a report to the Legislature summarizing enforcement efforts.

P.C. § 27350: *Violations of the Gun Show Enforcement and Security Act:*

Subdivision (b) is amended to specify that the misdemeanor punishment for a second or subsequent violation of the **Gun Show Enforcement and Security Act of 2000 (P.C. §§ 27300–27345)** is up to *six months* in jail and/or a fine of up to *\$1,000*.

Per amendment, DOJ *shall* prohibit a defendant convicted of a second or subsequent violation from participating as a vendor at any gun show for *one year*.

Subdivision (c) is also amended to provide that the misdemeanor punishment for a first knowing violation of the **Gun Show Enforcement and Security Act of 2000 (P.C. §§ 27300–27345)** is up to *six months* in jail and/or by a fine of up to **\$2,000**. As amended, a convicted defendant *shall* be prohibited from participating as a vendor at any gun show for *one year*.

Pen. Code § 27510 (Amended; Effective 6/30/2022; **AB 1621**): *Firearm-Related Parts that May Be Sold, Delivered, or Given to a Person 18 to 20 Years of Age Who Possesses a Valid Hunting License:*

Completed firearm frames, completed firearm receivers, and firearm precursor parts is added by amendment to those items (firearms that are not handguns, and semiautomatic centerfire rifles) that *may* be sold, delivered, or given to a person *age 18* who possesses a valid hunting license, even if that person is under age 21.

Pen. Code § 27530 (Amended; Effective 6/30/2022; **AB 1621**): *Firearm Requirements for Transfer:*

(a) *No person shall* sell or otherwise transfer ownership of a firearm that is not imprinted with a serial number imprinted by a federal licensee authorized to serialize firearms.

(b) This section does *not* apply to any of the following:

(1) A firearm made or assembled prior to *December 16, 1968*, that is not a handgun.

(2) A firearm that is a curio or relic, or an antique firearm, as those terms are defined in **Section 479.11** of **Title 27** of the **Code of Federal Regulations**.

(3) A firearm that has been entered, before *July 1, 2018*, into the centralized registry set forth in **Section 11106**, as being owned by a specific individual or entity, if that firearm has assigned to it a distinguishing number or mark of identification because the department accepted entry of that firearm into the centralized registry.

(4) The transfer, surrender, or sale of a firearm to a law enforcement agency.

(5) The sale or transfer of ownership of a firearm to a federally licensed firearms manufacturer or importer, or any other federal licensee authorized to serialize firearms.

Pen. Code § 27535 (Amended; Effective 1/1/2024; **AB 1621**): *Purchase of More than One Firearm in a 30-Day Period:*

The infraction/misdemeanor crime of making an application to purchase more than “*one handgun or semiautomatic centerfire rifle*” within a *30-day* period, is to be expanded by amendment to prohibit, beginning *January 1, 2024*, making an application to purchase more than “*one firearm*” within a *30-day* period.

Also added is a provision that this section does *not* authorize a person to make an application to purchase a combination of firearms, completed firearm frames, completed firearm receivers, or firearm precursor parts, within the same *30-day* period.

Pen. Code § 27540 (Amended; Effective 1/1/2024; **AB 1621**): *Firearms Dealer Delivering Firearms Within 30 Days of Another Purchase:*

The misdemeanor/felony prohibition on a firearm dealer delivering a handgun or semiautomatic centerfire rifle to a person who made an application within *30 days* to purchase another handgun or semiautomatic centerfire rifle is to be expanded to prohibit, beginning *January 1, 2024*, the delivery of any firearm when the dealer is notified by DOJ that the purchaser made another application within *30 days* to purchase a handgun, a semiautomatic centerfire rifle, a completed firearm frame, a completed firearm receiver, or a firearm precursor part.

Pen. Code § 27573 (New; **SB 915**): *Sale of Firearms, Firearms Precursor Parts, and Ammunition on State Property Forbidden:*

(a) A state officer or employee, or operator, lessee, or licensee of any state property, *shall not* contract for, authorize, or allow the sale of any firearm, firearm precursor part, or ammunition on state property or in the buildings that sit on state property or property otherwise owned, leased, occupied, or operated by the state.

(b) This section does *not* apply to any of the following:

(1) A gun buyback event held by a law enforcement agency.

(2) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties.

(3) The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before *January 1, 2023*.

(4) The purchase of firearms, firearm precursor parts, or ammunition on state property by a law enforcement agency in the course of its regular duties.

(5) The sale or purchase of a firearm pursuant to **subdivision (b) or (c)** of **Section 10334** of the **Public Contract Code**.

Pen. Code § 27575.1 (New; **AB 1769**): *Sale of Firearms at the Ventura County Fair and Event Center:*

(a) Notwithstanding any other law, an officer, employee, operator, lessee, or licensee of the 31st District Agricultural Association, as defined in **Section 3883 of the Food and Agricultural Code**, shall not contract for, authorize, or allow the sale of any firearm, firearm precursor part, or ammunition on the property or in the buildings that comprise the Ventura County Fair and Event Center, in the County of Ventura, the City of Ventura, or any successor or additional property owned, leased, or otherwise occupied or operated by the district.

(b) This section does *not* apply to any of the following:

(1) A gun buyback event held by a law enforcement agency.

(2) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties.

(3) The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before *January 1, 2023*.

(4) The purchase of ammunition on state property by a law enforcement agency in the course of its regular duties.

Pen. Code § 29010 (Amended; **AB 2156**): *License to Manufacture Firearms; Use of Three-Dimensional Printers:*

New **subd. (b)** is added, providing that: “A person, firm, or corporation *shall not* use a three-dimensional printer to manufacture any firearm, including a frame or receiver, or any firearm precursor part, unless that person, firm, or corporation is licensed pursuant to **Chapter 2** (commencing with **Section 29030**). As used in this section, “*three-dimensional printer*” means a computer-aided manufacturing device capable of producing a three-dimensional object from a three-dimensional digital model through an additive manufacturing process that involves the layering of two-dimensional cross sections formed of a resin or similar material that are fused together to form a three-dimensional object.”

Pen. Code § 29180 (Amended; Effective 6/30/22; **AB 1621**): *Manufacturing or Assembling a Firearm Not Imprinted with a Valid State or Federal Serial Number:*

New **subd. (f)** is added, providing that: “A person, corporation, or firm shall not knowingly manufacture or assemble, or knowingly cause, allow, facilitate, aid, or abet the manufacture or assembling of, a firearm that is not imprinted with a valid state or federal serial number or mark of identification.”

Pen. Code § 29185 (New; Effective 6/30/2022; **AB 1621**): *Prohibitions on Computer Numerical Control (CNC) Milling Machine to Manufacture Firearms:*

(a) No person, firm, or corporation, other than a federally licensed firearms manufacturer or importer, *shall* use a computer numerical control (CNC) milling machine to manufacture a firearm, including a completed frame or receiver or a firearm precursor part.

(b) It is unlawful to sell, offer to sell, or transfer a CNC milling machine that has the sole or primary function of manufacturing firearms to any person in this state, other than a federally licensed firearms manufacturer or importer.

(c) It is unlawful for any person in this state other than a federally licensed firearms manufacturer or importer to possess, purchase, or receive a CNC milling machine that has the sole or primary function of manufacturing firearms.

(d) **Subdivisions (b) and (c)** do *not* apply to any of the following:

(1) A person who is engaged in the business of selling manufacturing equipment to a federally licensed firearms manufacturer or importer who possesses a CNC milling machine with the intent to sell or transfer the CNC milling machine to a federally licensed firearms manufacturer or importer.

(2) A common carrier licensed under state law, or a motor carrier, air carrier or carrier affiliated with an air carrier through common controlling interest that is subject to **Title 49** of the **United States Code**, or an authorized agent of any such carrier, when acting in the course and scope of duties incident to the receipt, processing, transportation, or delivery of property.

(3) A person who, before the effective date of the act that added this section, possessed a CNC milling machine that has the sole or primary function of manufacturing firearms and who, within 90 days after that date, does one of the following:

(A) Sells or transfers the machine to a federally licensed firearms manufacturer or importer.

(B) Sells or transfers the machine to a person described in **paragraph (1)**.

(C) Removes the machine from this state.

(D) Relinquished the machine to a law enforcement agency.

(E) Otherwise lawfully terminates possession of the machine.

(e) This section does *not* apply to any member of the Armed Forces of the United States or the National Guard, while on duty and acting within the scope and course of employment, or any law enforcement agency or forensic laboratory.

(f) A violation of this section is punishable as a misdemeanor.

Note: “*Milling*” is the process of cutting and drilling material, such as metal, wood, or plastic. Computer numerical control means that the milling machine is operated by a computer rather than manually by a human, which makes the cutting precise and eliminates human error.

Pen. Code § 29610 (Amended; Effective 7/1/2023; **SB 715**): *Minor’s Possession of Specified Firearms Prohibited:*

(a) A minor shall not possess a *handgun*.

(b) A minor shall not possess a *semiautomatic centerfire rifle*.

(c) Commencing *July 1, 2023*, a minor shall not possess *any firearm*.

(d) The provisions of this section are cumulative, and *shall not* be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of this code shall not be punished under more than one provision.

Note: See the still valid exceptions in existing **P.C. § 29615**.

Pen. Code § 29805 (Amended; **AB 1621 & 2239**): *Possession of a Firearm by Specified Misdemeanants:*

Adding to those with a misdemeanor conviction who may not legally possess a firearm is new **Subd. (d)** which provides:

Any person who is convicted on or after *January 1, 2023*, of a misdemeanor violation of **Section 273a, subdivision (b), (c), or (f)** of **Section 368**, or **subdivision (e) or (f)** of **Section 29180**, and who, within *10 years* of the conviction owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and. imprisonment.

Note: **P.C. § 273a** covers “*child endangerment*,” or causing or permitting a child to suffer physical pain, mental suffering, or injury.

P.C. § 368(b), (c) and (f) cover elder or dependent adult abuse.

P.C. § 29180(e) covers the illegal allowing, facilitating, aiding, or abetting a person who comes within specified classes (i.e., felons or those convicted of violent offenses, or those described as mental patients) to possess a firearm.

P.C. § 29180(f) covers the manufacturing or assembling of a firearm without a serial number or mark of identification.

A violation of **subd. (d)** is punishable by imprisonment in the state prison or by up to *one year* in jail, and/or by a fine of up to *\$1,000*.

Pen. Code § 29880 (New; **AB 2551**): *Notice to Law Enforcement and/or Mental Health Department of Attempt to Acquire Firearm or Attempt to Report Acquisition or Ownership of Firearm to Registry by Prohibited Person:*

(a) If the Department of Justice determines that a person prohibited from owning, purchasing, receiving, or possessing a firearm by this chapter, **Chapter 3** (commencing with **Section 29900**), or **Section 8100** or **8103** of the **Welfare and Institutions Code** has attempted to acquire a firearm, or has attempted to report their acquisition or ownership of a firearm in order to have it listed in the registry set forth in **Section 11106** as owned by that person, whether the report is mandated by this part or made pursuant to **Section 28000**, the department shall notify the local law enforcement agency with primary jurisdiction over the area in which the person was last known to reside of the attempt in a manner and format prescribed by the Department of Justice.

(b) If a person described in **subdivision (a)** is prohibited from owning or possessing a firearm pursuant to **Section 8100** or **8103** of the **Welfare and Institutions Code**, the department shall also notify the county department of mental health in the county in which the person was last known to reside.

Pen. Code § 30372 (New; **AB 2551**): *Notice to Law Enforcement of Attempt to Purchase or Otherwise Acquire Ammunition by Prohibited Person Without Approval:*

(a) If a person attempts to purchase or otherwise acquire ammunition and the sale or other transfer is not approved by the Department of Justice pursuant to **Section 30370** because the person is prohibited from possessing ammunition pursuant to **Section 30305**, the department shall notify the local law enforcement agency with primary jurisdiction in which the person was last known to reside of the attempt.

(b) A local law enforcement agency that receives a notification pursuant to **subdivision (a)** may investigate whether the person is in unlawful possession of a firearm. However, the law enforcement agency shall not contact the person until it has attempted to confirm both of the following:

(1) That the person is prohibited from possessing ammunition pursuant to **Section 30305**.

(2) That the person did in fact attempt to make the reported purchase.

(c) **Subdivision (a)** does not apply if the sale or other transfer is not approved only because the address in the *Automated Firearms System* does not match the address on the person's identification, if there is a matching file with the same name, date of birth, and identification number.

(d) This section does *not* authorize a law enforcement agency to conduct a search without a warrant.

Pen. Code § 30400 (New: **AB 1621**): *Purchase, Sale, Offer to Sell, or Transfer of Precursor Parts*:

(a) Except as provided in **subdivision (b)** and in **Section 30420**, or except by operation of law, it shall be unlawful for a person to purchase, sell, offer to sell, or transfer ownership of any *firearm precursor part* in this state that is not a federally regulated firearm precursor part.

(b) This section does *not* apply to either of the following:

(1) The purchase of a firearm precursor part that is not a federally regulated firearm precursor part by a federally licensed firearms manufacturer or importer, or by a federal licensee authorized to serialize firearms.

(2) The sale, offer to sell, or transfer of ownership of a firearm precursor part that is not a federally regulated firearm precursor part to a federally licensed firearms manufacturer or importer, or to a federal licensee authorized to serialize firearms.

Pen. Code § 30401 (New: Effective June 30, 2022; **AB 1621**): *Determination of Firearm Precursor Part; Written Request*:

(a) The department *may*, upon receipt of a written request or form prescribed by the department, issue a determination to a person regarding whether an item or kit is a firearm precursor part.

(b) Any request or form submitted pursuant to **subdivision (a)** *shall* be executed under the penalty of perjury with a complete and accurate description of the item or kit, the name and address of the manufacturer or importer thereof, and a sample of the item or kit for examination.

(c) The sample of the item or kit *shall* include all accessories and attachments relevant to the firearm precursor part determination as each determination is limited to the submitted sample. The sample shall include any associated templates, jigs, molds, equipment, or tools that are made available by the seller, distributor, or manufacturer of the item or kit to the purchaser or recipient of the item or kit, and any instructions, guides, or marketing materials if they will be made available by the seller, distributor, or manufacturer with the item or kit.

(d) Upon completion of the examination, the department may return the sample to the person who made the request unless a determination is made that return of the sample would be a, or would place the person in, violation of the law. Unless otherwise stated by the department, a determination made by the department pursuant to this section shall not be deemed by any person to be applicable to, or authoritative with respect to, any other sample, design, model, or configuration.

Pen. Code § 30420 (Amended; Effective 6/30/2022; **AB 1621**): *Exceptions to the Precursor Parts Restrictions:*

This article does *not* apply to any of the following persons:

(a) A member of the Armed Forces of the United States or the National Guard, while on duty and acting within the scope and course of employment, or any law enforcement agency or forensic laboratory.

(b) A common carrier licensed under state law, or a motor carrier, air carrier or carrier affiliated with an air carrier through common controlling interest that is subject to **Title 49** of the **United States Code**, or an authorized agent of any such carrier, when acting in the course and scope of duties incident to the receipt, processing, transportation, or delivery of property.

(c) An authorized representative of a city, county, city and county, or state or federal government that receives an unserialized firearm precursor part as part of an authorized, voluntary program in which the governmental entity is buying or receiving firearms or firearm precursor parts from private individuals.

Note: Most of the specific sections contained in **Chapter 1.5** of **Division 10** of **Title 4** in **Part 6** of the **Penal Code** (**P.C. §§ 30400–30495**), as they relate to “*precursor parts*,” have either been amended or deleted (per **AB 1621**) in light of the addition of precursor parts to other provisions of the **Penal Code**, as listed above.

Harbor & Navigation Code:

Har. & Nav. Code § 655.2 (Amended; **AB 1682**): *Emergency Vessels Engaged in Public Safety Activities*:

An amendment to this section makes the below listed emergency vessels while engaged in “*Public safety activities*” exempt from the five-mile-per-hour speed limit in areas that are within 100 feet of swimmers or within 200 feet of a beach, swimming float, or diving platform:

1. Clearly identifiable lifeguard rescue vessels engaged in public safety activities;
2. Public safety vessels engaged in law enforcement or public safety activities that are displaying distinctive blue lights; and
3. Personal watercraft identifiable as lifeguard rescue vessels or public safety vessels operating in the surf zone.

“*Public safety activities*” includes a public agency sanctioned patrolling, traffic control, assisting disabled vessels, salvage operations, firefighting, providing medical assistance, search and rescue, and training.

Hate Crimes:

Pen. Code § 11411 (Amended; **AB 2282**): *Hanging a Noose, Placing Signs, Marks, or Emblems, or Desecrating Religious Symbols to Terrorize Others; Punishments*:

The punishments for the various hate crimes of *hanging a noose, placing signs, marks, or emblems, or desecrating religious symbols* on public or private property for the purpose of terrorizing others have been increased from misdemeanors to felonies (wobblers), punishable pursuant to **P.C. § 1170(h)** to 16 months or two or three years, by a fine of not more than ten thousand dollars (\$10,000), or by both the fine and imprisonment, or in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both the fine and imprisonment for the first conviction. (**Subds. (b), (c), and (d)**) Subsequent convictions carry an increased fine. (**Subd. (e)**)

The stated legislative intent of this section (per **subd. (a)**) is “to criminalize the placement or display of the Nazi Hakenkreuz (hooked cross), also known as the Nazi swastika that was the official emblem of the Nazi party, for the purpose of terrorizing a person. This legislation is not intended to criminalize the placement or display of the ancient swastika symbols that are associated with Hinduism, Buddhism, and Jainism and are symbols of peace.”

Human Trafficking:

Pen. Code §§ 236.14, 236.15 (Amended; **AB 2169**): *Petition for Vacatur Relief of Convictions, Arrests, and Adjudications for Non-Violent Offense Committed While Victim of Human Trafficking and Victims of Intimate Partner Violence or Sexual Violence, Respectively:*

Both statutes are amended as follows: In addition to requiring that a petitioner establish that the arrest or conviction for a non-violent offense (e.g., **P.C. § 647(b)**; prostitution) was the direct result of being a victim of human trafficking, intimate partner violence, or sexual violence, in order to be eligible for vacatur relief the petitioner must now prove, under the sections as amended, that the petitioner lacked the requisite intent to commit the offense. Upon such proof, the court is required to vacate the conviction as invalid “*due to legal defect.*” Also, as amended, these sections now eliminate the requirement that petitioners show they are engaged in a good faith effort to distance themselves from the human trafficking scheme (**P.C. § 236.14**) or from the perpetrator of the harm (**P.C. § 236.15**).

Immigration and Illegal Aliens:

Veh. Code § 1808.48 (New; **AB 1766**): *Law Enforcement Assisting in Immigration Enforcement:*

Notwithstanding any other law, no law enforcement agency, government agency or department, commercial entity, or other person shall obtain, access, use, or disclose, noncriminal history information maintained by the DMV for the purpose of immigration enforcement, as defined in **Gov’t. Code § 7284.4(f)**.

Note: **Gov’t. Code § 7284.4(f)** defines “*immigration enforcement*” as any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and of any federal criminal immigration law that penalizes a person’s presence in, entry, or reentry to, or employment in, the United States.

Veh. Code § 12801.9 (Amended; **AB 1766**): *Issuance of an Original Driver’s License or Identification Card to a Person Meeting All Other Qualifications Except Lawful Presence in the United States; Regulations; Use of License for Driving Only; Use of Identification Card for Identification Only; Discrimination Against License or Identification Card Holder:*

(a)

(1) Notwithstanding **Section 12801.5**, the department shall issue an original driver’s license to a person who is unable to submit satisfactory proof that the applicant’s presence in the United States is authorized under

federal law if the person meets all other qualifications for licensure and provides satisfactory proof to the department of the person's identity and California residency.

Note: Veh. Code § 12801.5 deals with “proof of (an) applicant’s authorized presence in (the) United States and California residency required; Detention or arrest as unlicensed driver precluded; Exception for underage driver; Legal requirement to obey motor vehicle laws regardless of licensing status.”

(2) Notwithstanding **Section 12801.5** and commencing no later than *July 1, 2027*, the department shall issue an identification card to a person who is unable to submit satisfactory proof that the applicant’s presence in the United States is authorized under federal law if the person provides satisfactory proof to the department of the person’s identity and California residency.

(b) The department *shall* adopt regulations to carry out the purposes of this section, including, but not limited to, procedures for (1) identifying documents acceptable for the purposes of proving identity and California residency, (2) procedures for verifying the authenticity of the documents, (3) issuance of a temporary license pending verification of any document’s authenticity, and (4) hearings to appeal a denial of a license or temporary license, or identification card.

(c) Regulations adopted for purposes of establishing the documents acceptable to prove identity and residency pursuant to **subdivision (b)** *shall* be promulgated by the department in consultation with appropriate interested parties, in accordance with the rulemaking provisions of the **Administrative Procedure Act (Chapter 3.5)** (commencing with **Section 11340**) of **Part 1** of **Division 3** of **Title 2** of the **Government Code**), including law enforcement representatives, immigrant rights representatives, labor representatives, and other stakeholders, which may include, but are not limited to, the Department of the California Highway Patrol, the California State Sheriffs’ Association, and the California Police Chiefs Association. The department shall accept various types of documentation for this purpose, including, but not limited to, the following documents:

(1) A valid, unexpired consular identification document issued by a consulate from the applicant’s country of citizenship, or a valid, unexpired passport from the applicant’s country of citizenship.

(2) An original birth certificate, or other proof of age, as designated by the department.

(3) A home utility bill, lease or rental agreement, or other proof of California residence, as designated by the department.

(4) The following documents, which, if in a language other than English, shall be accompanied by a certified translation or an affidavit of translation into English:

(A) A marriage license or divorce certificate.

(B) A foreign federal electoral photo card issued on or after *January 1, 1991*.

(C) A foreign driver's license.

(5) A United States Department of Homeland Security Form I-589, Application for Asylum and for Withholding of Removal.

(6) An official school or college transcript that includes the applicant's date of birth or a foreign school record that is sealed and includes a photograph of the applicant at the age the record was issued.

(7) A United States Department of Homeland Security Form I-20 or Form DS-2019.

(8) A deed or title to real property.

(9) A property tax bill or statement issued within the previous 12 months.

(10) An income tax return.

(d)

(1)

(A) A license issued pursuant to this section *shall* bear the following notice: "This card is not acceptable for official federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits."

(B) An identification card issued pursuant to this section *shall* bear the following notice: "This card is not acceptable for official federal purposes. This identification card is issued only as a means of identification. It does not establish eligibility for employment, voter registration, or public benefits."

(2) The notice described in **paragraph (1)** *shall* be in lieu of the notice provided in **Section 12800.5**.

(3) **Paragraphs (1) and (2)** *shall* become inoperative upon the department's next scheduled revision of the driver's license or identification card on or after **January 1, 2023**, at which time, a driver's license and identification card issued pursuant to this section shall bear the notice described in **Section 12800.5** or **13000.5**, respectively, as added by the act that added this paragraph.

(e) Notwithstanding **Section 40300** or any other law, a peace officer *shall not* detain or arrest a person solely on the belief that the person is an unlicensed driver, unless the officer has reasonable cause to believe the person driving is under *16 years of age*.

Note: **Veh. Code § 40300** deals with making arrests for violations of the Vehicle Code without a warrant.

(f) The inability to obtain a driver's license pursuant to this section does not abrogate or diminish in any respect the legal requirement of every driver in this state to obey the motor vehicle laws of this state, including laws with respect to licensing, motor vehicle registration, and financial responsibility.

(g) It is a violation of law to discriminate against a person because the person holds or presents a license or identification card issued under this section, including, but not limited to, the following:

(1) It is a violation of the **Unruh Civil Rights Act (Section 51 of the Civil Code)**, for a business establishment to discriminate against a person because the person holds or presents a license or identification card issued under this section.

(2)

(A) It is a violation of the **California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code)** for an employer or other covered person or entity, pursuant to **Section 12940 of the Government Code** and **subdivision (v) of Section 12926 of the Government Code**, to discriminate against a person because the person holds or presents a driver's license or identification card issued pursuant to this section, or for an employer or other

covered entity to require a person to present a driver's license, unless possessing a driver's license is required by law or is required by the employer and the employer's requirement is otherwise permitted by law. This section shall not be construed to limit or expand an employer's authority to require a person to possess a driver's license.

(B) Notwithstanding **subparagraph (A)**, this section *shall not* be construed to alter an employer's rights or obligations under **Section 1324a** of **Title 8** of the **United States Code** regarding obtaining documentation evidencing identity and authorization for employment. An action taken by an employer that is required by the federal **Immigration and Nationality Act (8 U.S.C. Sec. 1324a)** is not a violation of law.

(3) It is a violation of **Section 11135** of the **Government Code** for a state or local governmental authority, agent, or person acting on behalf of a state or local governmental authority, or a program or activity that is funded directly or receives financial assistance from the state, to discriminate against an individual because the individual holds or presents a license or identification card issued pursuant to this section, including by notifying a law enforcement agency of the individual's identity or that the individual carries a license or identification card issued under this section if a notification is not required by law or would not have been provided if the individual held a license issued pursuant to **Section 12801** or an identification card issued pursuant to **Section 13000**.

(h) Driver's license or identification card information obtained by an employer shall be treated as private and confidential, is exempt from disclosure under the **California Public Records Act (Division 10)** (commencing with **Section 7920.000**) of **Title 1** of the **Government Code**, and *shall not* be disclosed to any unauthorized person or used for any purpose other than to establish identity and authorization to drive, as applicable.

(i) Information collected pursuant to this section is not a public record and shall not be disclosed by the department, except as required by law.

(j) Documents provided by applicants to prove identity or residency pursuant to this section are not public records and shall not be disclosed except in response to a subpoena for individual records in a criminal proceeding or a court order, or in response to a law enforcement request to address an urgent health or safety need if the law enforcement agency certifies in writing the specific circumstances that do not permit authorities

time to obtain a court order. Immigration enforcement, as defined in **Section 7284.4** of the **Government Code**, does not constitute an urgent health and safety need for purposes of this subdivision.

(k) A license or identification card issued pursuant to this section *shall not* be used as evidence of an individual's citizenship or immigration status for any purpose.

(l) In addition to the fees required by **Section 14902**, a person applying for an identification card pursuant to this section may be required to pay an additional fee determined by the department that is sufficient to offset the reasonable administrative costs of implementing the provisions of the act that authorized the issuance of identification cards pursuant to this section. If this additional fee is assessed, it shall only apply until *June 30, 2030*.

(m) This section *shall* become inoperative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its internet website.

Veh. Code § 13001.5 (New; **AB 1766**): *Issuance of an Identification Card:*

Commencing no later than *July 1, 2027*, the department *shall* issue an identification card pursuant to **Section 12801.9** to an eligible applicant, other than a person described in **Section 13001**, who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law.

Note: **V.C. § 13001** deals with documentation of acceptance under Deferred Action for Childhood Arrivals program; ID card, and Social Security.

Juveniles and Non-Minor Juvenile Court Dependents:

W&I 625.7 (New; Effective 7/2/24; **AB 2644**): *Interrogations of Minors; Prohibited Tactics; Definitions:*

(a) During a custodial interrogation of a person *17 years of age or younger* relating to the commission of a misdemeanor or felony, a law enforcement officer *shall not* employ threats, physical harm, deception, or psychologically manipulative interrogation tactics.

(b) As used in this section, the following terms have the following meanings:

(1) “*Deception*,” includes, but is not limited to, the knowing communication of false facts about evidence, misrepresenting the accuracy of the facts, or false statements regarding leniency.

(2) “*Psychologically manipulative interrogation tactics*” include, but are not limited to the following:

(A) Maximization and minimization and other interrogation practices that rely on a presumption of guilt or deceit.

(i) Under this section, *maximization* includes techniques to scare or intimidate the person by repetitively asserting the person is guilty despite their denials, or exaggerating the magnitude of the charges or the strength of the evidence, including suggesting the existence of evidence that does not exist.

(ii) Under this section, *minimization* involves minimizing the moral seriousness of the offense, a tactic that falsely communicates that the conduct is justified, excusable, or accidental.

(B) Making direct or indirect *promises of leniency*, such as indicating the person will be released if the person cooperates.

(C) Employing the “*false*” or “*forced*” choice strategy, where the person is encouraged to select one of two options, both incriminatory, but one is characterized as morally or legally justified or excusable.

(c) **Subdivision (a)** does *not* apply to interrogations of a person *17 years of age or younger* if both of the following criteria are met:

(1) The law enforcement officer who questioned the person reasonably believed the information the officer sought was *necessary to protect life or property from an imminent threat*.

(2) The questions by law enforcement officers were limited to those questions that were reasonably necessary to obtain information *related to the imminent threat*.

(d) This section does *not* prevent an officer from using a lie detector test as long it is voluntary and was not obtained through the use of threats, physical harm, deception, or psychologically manipulative interrogation tactics as defined herein, and the officer does not suggest that the lie detector results are admissible in court or misrepresent the lie detector results to the person.

(e) This section shall become operative on *July 1, 2024*.

(f) For the purposes of this section, “*custodial interrogation*” shall have the same meaning as defined in **Section 859.5** of the **Penal Code**.

Note: A “*custodial interrogation*” is defined in **Subd. (g)** of **P.C. § 859.5** as “any interrogation in a fixed place of detention involving a law enforcement officer’s questioning that is reasonably likely to elicit incriminating responses, and in which a reasonable person in the subject’s position would consider himself or herself to be in custody, beginning when a person should have been advised of his or her constitutional rights, including the right to remain silent, the right to have counsel present during any interrogation, and the right to have counsel appointed if the person is unable to afford counsel, and ending when the questioning has completely finished.”

Note: While the effective date of this section isn’t until *July 1, 2024*, it is suggested that the requirements of this new statute be implemented now in order to insure the admissibility of a minor’s statements.

Welf. & Inst. Code § 627 (Amended; **AB 2644**): *Mandatory Notice to Public Defender:*

New Subd. (c) has been added to this section (which, in **Subds. (a)** and **(b)**, talk about the necessity of notifying the parents of a minor, and the right to make telephone calls, upon the minor being taken into custody), adding the following:

(c) *Immediately* after being taken to a place of confinement pursuant to this article, and no later than *two hours* after a minor has been taken into custody, the probation officer shall immediately notify the public defender or if there is no public defender, the indigent defense provider for the county, that the minor has been taken into custody.

Welf. & Inst. Code § 628.2 (New; **AB 2658**): *Custody Credits; Hearing Requirement for Electronic Monitoring Imposed for a Period Greater Than 30 Days; Collection of Data Regarding Use of Electronic Monitoring:*

(a) As used in this section, the following definitions *shall* apply:

(1) “*Minor*” means a person under the jurisdiction of the juvenile court pursuant to **Section 602**.

(2) “*Electronic monitoring*” means technology used to identify, track, record, or otherwise monitor a minor’s location or movement through electronic means.

(b) Electronic monitoring devices *shall not* be used to converse with a minor or to eavesdrop or record any conversation.

(c) A minor *shall* be entitled to have one day credited against the minor’s maximum term of confinement for each day, or fraction thereof, that the minor serves on electronic monitoring. The provision of custody credits pursuant to this subdivision shall apply to custody credits earned beginning *January 1, 2023*.

(d) If electronic monitoring is imposed for a period greater than *30 days*, the court *shall* hold a hearing every *30 days* to ensure that the minor does not remain on electronic monitoring for an unreasonable length of time. In determining whether a length of time is unreasonable, the court shall consider whether there are less restrictive conditions of release that would achieve the rehabilitative purpose of the juvenile court. If less restrictive conditions of release are warranted, the court shall order removal of the electronic monitor or modify the terms of the electronic monitoring order to achieve the less restrictive alternative.

(e) The Department of Justice *shall* collect data regarding the use of electronic monitoring, as specified in **Section 13012.4** of the **Penal Code**.

Welf. & Inst. Code § 707 (Amended; **AB 2361**): *Juvenile Court’s Findings Re: Amenability to Rehabilitation While Under the Jurisdiction of the Juvenile Court:*

An amendment to this section increases the burden of proof on the prosecution for getting a case transferred from juvenile court to criminal (adult) court, from a “*preponderance of the evidence*” standard, to a “*clear and convincing evidence*” standard, by adding that in order to transfer a minor from juvenile to adult court, the court must find “by clear and convincing evidence that the minor is *not amenable* to rehabilitation while under the jurisdiction of the juvenile court.” The reasons supporting an “*un-amenable*” finding must be entered upon the minutes.

As this statute exists, if the court orders a case transferred to adult court, “the court *shall* recite the basis for its decision in an order entered upon the minutes.” As amended, the minutes must now also include the reasons that support the court’s *un-amenable* finding.

Note: As now written, the Court must still consider the criteria in **W&I & 707(a)(3)(A)–(E)**: The degree of criminal sophistication exhibited by the minor; whether the minor can be rehabilitated prior to the expiration of the juvenile court’s jurisdiction; the minor’s previous delinquent history; the success of previous attempts by the juvenile court to rehabilitate the minor; and the circumstances and gravity of the offense alleged.

Welf. & Inst. Code § 727.13 (New; AB 2317): Voluntary Admission of Minor or Non-Minor Dependent into Psychiatric Treatment Facility; Applicability to Foster Children:

(a)

(1) Whenever voluntary admission into a psychiatric residential treatment facility is sought for a minor or nonminor dependent who is subject to a petition pursuant to **Section 601** or **602**, the court *shall* review the application for a *voluntary admission* as described in this section. A minor may not be admitted for inpatient treatment prior to court authorization unless the minor is subject to an involuntary hold pursuant to **Chapter 2** (commencing with **Section 5585.50**) of **Part 1.5** of **Division 5**.

(2) For purposes of this section, “*voluntary admission*” for a child within the custody of a parent, guardian, or Indian custodian *refers to the parent, guardian, or Indian custodian’s voluntary decision* to have the child admitted to a psychiatric residential treatment facility. “*Voluntary admission*” for a child not within the custody of a parent, guardian, or Indian custodian refers to the child’s decision to voluntarily admit themselves pursuant to **Section 6552**. “*Voluntary admission*” for a nonminor dependent refers to the nonminor dependent’s decision to voluntarily admit themselves.

(b)

(1) When a parent, guardian, or Indian custodian who retains physical custody of a minor under the jurisdiction of the juvenile court pursuant to **Section 601** or **602** seeks to have a minor admitted to a *psychiatric residential treatment facility*, or when a minor who is the subject of a petition pursuant to **Section 601** or **602** seeks to make a voluntary admission to a psychiatric residential treatment facility, the probation officer shall file *an ex parte application* for an order authorizing the voluntary admission pursuant to **Section 6552** within *48 hours* of being informed of the request or, if the courts are closed for more than 48 hours after being informed of the request, on the first judicial day after being informed of the request. The application shall satisfy the requirements of **Title 3** of the **California Rules of Court**, and include all of the following:

(A) A brief description of the minor mental disorder.

(B) The name of the psychiatric residential treatment facility proposed for treatment.

(C) A brief description of how the mental disorder may reasonably be expected to be cured or ameliorated by the course of treatment offered by the psychiatric residential treatment facility.

(D) A brief description of why the facility is the least restrictive setting for care and why there are no other available hospitals, programs, or facilities which might better serve the minor's medical needs and best interest.

(E) A copy of the plan required by **subdivisions (c) and (d)** of **Section 16010.10**.

(F)

(i) If the parent, guardian, or Indian custodian is seeking the minor's admission to the facility, the basis of their belief that the minor's admission to a psychiatric residential treatment facility is necessary.

(ii) If the minor is seeking admission, whether the parent, guardian, or Indian custodian agrees with the minor request for admission.

(G) A description of any mental health services, including community-based mental health services, that were offered or provided and an explanation for why those services were not sufficient, or an explanation for why no such services were offered or provided.

(H) A statement describing how the minor was given the opportunity to confer privately with their counsel regarding the application.

(I) A brief description of whether any member of the minor's child and family team, if applicable, objects to the admission, and the reasons for the objection, if any.

(J) The information required by this paragraph shall be sufficient to satisfy the applicant's initial burden of establishing the need for an ex parte hearing required by **subdivision (c)** of **Rule 3.1202** of the **California Rules of Court**.

(2) Upon receipt of an ex parte application pursuant to **paragraph (1)**, the juvenile court *shall* schedule a hearing for the next judicial day. The court clerk shall immediately notify the probation officer and the minor's counsel of the date, time, and place for the hearing.

(3) The probation officer *shall* provide notice of the hearing in accordance with **Title 3** of the **California Rules of Court** to the minor and their

counsel of record, the minor's parents or guardian, the minor's tribe in the case of an Indian child, and any person designated as the minor's educational or developmental representative pursuant to **subdivision (b)** of **Section 726**. The provisions in **subdivision (c)** of **Section 527 of the Code of Civil Procedure** shall apply to notice of the hearing. The probation officer shall make arrangements for the minor to be transported to the hearing.

(b)

(1) At the hearing, the court *shall* consider evidence in the form of oral testimony under oath, affidavit, or declaration, or other admissible evidence, including a probation department court report, as to all of the following:

(A) Whether the minor suffers from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the psychiatric residential treatment facility in which the minor wishes to be placed.

(B) Whether the psychiatric residential treatment facility is the least restrictive setting for care.

(C) Whether there is any other available hospital, program, or facility which might better serve the minor's medical needs and best interest, including less restrictive facilities or community-based care.

(D) Whether and how the minor, parent, or legal guardian, as appropriate, has been advised of the nature of inpatient psychiatric services, patient's rights as identified in **Section 6006**, and their right to contact a patients' rights advocate.

(E) Whether and how the probation officer addressed the possible voluntary admission with the minor's attorney.

(F) Whether the minor was given the opportunity to confer privately with their attorney while considering a voluntary admission.

(G) Whether and how the possible voluntary admission was addressed with the child and family team, whether any member of the team objects to voluntary admission, and the reasons for the objection.

(H) The probation department's plan for the minor, as described in **Section 16010.10**.

(I) A brief description of any community-based mental health services that were offered or provided, or an explanation for why no such services were offered or provided.

(2)

(A) If the minor's parent, guardian, or Indian custodian seeks to give voluntary consent to the child's admission, the court *shall* inquire about the child's position on the admission.

(B) If the minor seeks to give voluntary consent to admission, the court *shall* inquire of the minor whether they knowingly and intelligently consent to admission into the psychiatric residential treatment facility, and whether they are giving consent without fear or threat of detention or initiation of conservatorship proceedings.

(3) The court *shall not* continue the hearing unless the minor consents to the continuance and the court determines that additional evidence is necessary to support the findings required by **subdivision (c)**. Any continuance shall be for only such period of time as is necessary to obtain the evidence and only if it is not detrimental to the minor's health condition.

(d)

(1) The court may grant a parent, guardian, or Indian custodian's request to have a child admitted, or authorize the minor's voluntary consent to admission, into a psychiatric residential treatment facility only if it finds, by clear and convincing evidence, all of the following:

(A) That the minor suffers from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the hospital, facility, or program in which the minor wishes to be placed.

(B) That the psychiatric residential treatment facility is the least restrictive setting to treat the child's mental disorder.

(C) That there is no other available hospital, program, facility, or community-based care which might better serve the minor's medical needs and best interest.

(D) That the minor has given knowing and intelligent consent to admission to the facility and that the consent was not made under fear or threat of detention or initiation of conservatorship proceedings.

(E) That the minor and, where appropriate, the parent or guardian have been advised of the nature of inpatient psychiatric, patient's rights as identified in **Section 6006**, and their right to contact a patients' rights advocate.

(2)

(A) When authorizing a parent's or guardian's consent to admission or the minor's voluntary consent, the court may make any orders necessary to ensure that the child welfare services agency promptly makes all necessary arrangements to ensure that the minor is discharged in a timely manner and with all services and supports in place as necessary for a successful transition into a less restrictive setting.

(B) The court's order authorizing the admission to a psychiatric residential treatment facility *shall* be effective until the first of the following events occurs: (1) the parent, guardian, or Indian custodian, or the child if admission was granted pursuant to **Section 6552**, withdraws consent for the child to be present in the psychiatric residential treatment facility, (2) the court finds that the child no longer suffers from a mental disorder that may reasonably expected to be ameliorated by the treatment offered by the facility or that the psychiatric residential treatment facility is no longer the least restrictive setting for the treatment of the child's mental health needs, or (3) the court makes a superseding order.

(3) For minors who were in the custody of their parent, legal guardian or Indian custodian at the time of the authorization of admission, and based on the evidence presented during the ex parte hearing, the court *shall* consider whether the parent's, legal guardian's or Indian custodian's conduct contributed to the deterioration of the minor's mental disorder. If the court determines that the parent's, legal guardian's, or Indian custodian's conduct may have contributed to the deterioration, it shall direct the county probation department to investigate whether the child may be safely returned to the custody of the parent, legal guardian or Indian custodian upon their discharge from the psychiatric residential treatment facility and to take appropriate action, including, but not limited to, assessing the minor pursuant to **Section 241.1**, making a report to the county child welfare services agency's suspected child abuse and neglect

hotline, or proceeding to modify court orders pursuant to **Article 20** (commencing with **Section 775**).

(e)

(1) Whenever a nonminor dependent under the supervision of a county juvenile probation department seeks to voluntarily consent to admission to a psychiatric residential treatment facility, the probation officer *shall* file an ex parte application within *48 hours* of the request or, if the courts are closed for more than *48 hours* after being informed of the request, on the first judicial day after being informed of the request, for a hearing to address whether the nonminor dependent has been advised of the nature of inpatient psychiatric services, patient's rights as identified in Section 6006, and their right to contact a patients' rights advocate, and gives informed voluntary consent to admission. The application shall satisfy the requirements of **Title 3** of the **California Rules of Court**, and include all of the following:

(A) A brief description of the medical necessity for admission into a psychiatric residential treatment facility.

(B) The name of the psychiatric residential treatment facility proposed for treatment.

(C) A copy of the probation department's plan developed pursuant to **subdivisions (c) and (d) of Section 16010.10**.

(D) A description of any mental health services, including community-based mental health services, that were offered or provided to the nonminor dependent and an explanation for why those services were not sufficient, or an explanation for why no such services were offered or provided.

(E) A brief description of whether the nonminor dependent believes admission to a less restrictive facility would not adequately address their mental disorder.

(F) A statement describing how the nonminor dependent was given the opportunity to confer privately with their counsel regarding the application.

(G) The information required by this paragraph *shall* be considered sufficient to satisfy the applicant's initial burden of establishing the need for an ex parte hearing required by **subdivision (c) of Rule 3.1202** of the **California Rules of Court**.

(2) Upon receipt of an ex parte application pursuant to **paragraph (1)**, the juvenile court *shall* schedule a hearing for the next judicial day. The court clerk *shall* immediately notify the probation officer and the nonminor dependent's counsel of the date, time, and place for the hearing.

(3) The probation officer *shall* provide notice of the hearing in accordance with **Title 3** of the **California Rules of Court** to all parties to the proceeding and their counsel of record, the nonminor dependent's tribe, if applicable, the nonminor dependent's court-appointed special advocate, if applicable, and any person designated as the nonminor dependent's educational or developmental representative pursuant to **subdivision (b)** of **Section 726**. The provisions in **subdivision (c)** of **Section 527** of the **Code of Civil Procedure** shall apply to notice of the hearing. The probation officer shall make arrangements for the nonminor dependent to be present for the hearing.

(4) At the hearing, the court *shall* consider evidence in the form of oral testimony under oath, affidavit, or declaration, or other admissible evidence, as to all of the following:

(A) Whether the nonminor dependent's receipt of treatment in the psychiatric residential treatment facility is medically necessary.

(B) Whether there is an available less restrictive setting sufficient to meet the nonminor dependent's needs, including a less restrictive facility or community-based care.

(C) Whether and how the nonminor dependent has been advised of the nature of inpatient psychiatric services, patient's rights as identified in **Section 6006**, and their right to contact a patients' rights advocate.

(D) Whether and how the probation officer addressed the voluntary admission with the nonminor dependent's attorney, including whether the nonminor dependent was given the opportunity to confer privately with their attorney about a voluntary admission.

(E) Whether and how the possible voluntary admission was addressed with the child and family team, whether any member of the team objects to voluntary admission, and the reasons for the objection.

(F) The probation department's plan for the nonminor dependent, as described in **Section 16010.10**.

(5)

(A) The court *shall* make a finding whether the nonminor dependent has given knowing and intelligent consent to admission. If the court finds that the nonminor dependent has not given knowing and intelligent consent, it shall direct the probation officer to convey its finding to the facility and direct the facility to discharge the nonminor dependent. If the court finds that the nonminor dependent has given knowing and intelligent consent, nothing in this section requires a court order to discharge the nonminor if the nonminor dependent subsequently withdraws their consent.

(B) The court *may* make any orders necessary to ensure that the probation department promptly makes all necessary arrangements to ensure that the nonminor dependent is discharged in a timely manner and with all services and supports in place as necessary for a successful transition into a less restrictive setting.

(6) The judicial proceedings described in this subdivision *shall not* delay a nonminor dependent's access to medically necessary services as defined in **Section 14059.5** and **Section 1396d(r)** of **Title 42** of the **United States Code**, which may include voluntary admission to a psychiatric residential treatment facility for inpatient psychiatric services, while the judicial proceedings are ongoing.

(f)

(1)

(A) No later than *60 days* following the admission of a minor to a psychiatric residential treatment facility, and every *30 days* thereafter, the court *shall* hold a review hearing on the minor's placement in the facility and the medical necessity of the placement.

(B) If the hearing described in **subparagraph (A)** coincides with the date for a review hearing pursuant to **Section 727.2**, the court may hold the hearing simultaneously with the status review hearing.

(C) At the hearing described in **subparagraph (A)**, the court *shall* consider all of the following:

(i) Whether the minor, or parent or guardian, continues to consent to the voluntary admission made pursuant to this section.

(ii) Whether the minor continues to suffer from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the facility.

(iii) Whether there continues to be no other available hospital, program, facility, or community-based mental health service which might better serve the minor's medical needs and best interest.

(iv) Whether the psychiatric residential treatment facility, which is licensed pursuant to **Section 4081**, continues to meet its legal obligation to provide services to the minor.

(v) The county probation department's plan as described in **subdivisions (c) and (d) of Section 16010.10**, and the department's actions to implement that plan.

(D) If the court finds that the minor or their parent or guardian continues to give voluntary consent to admission, that the minor continues to suffer from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the facility, and that there continues to be no other available hospital, program, facility, or community-based mental health service which might better serve the minor's medical need and best interest, the court may authorize continued inpatient psychiatric services for the minor in a psychiatric residential treatment facility. If the child has been in the facility for over 30 days, there shall be a rebuttable presumption that the facility is not the least restrictive alternative to serve the child's medical need and best interest.

(E)

(i) If the court finds that the minor or their parent or guardian no longer consents to the minor's admission, the court *shall* direct the probation officer to work immediately with the facility for discharge to a different setting with the appropriate and necessary services and supports in place. A statement from the minor's attorney that the minor no

longer gives voluntary consent to the admission to the facility may be sufficient to support a finding that the minor no longer gives voluntary consent. The court shall set a hearing no later than *30 days* to verify that the minor has been discharged. If the minor has not been discharged by the time of the hearing, the court shall issue any and all orders to effectuate the child's immediate discharge, including exercising its powers under **subdivision (b)** of **Section 727**. This paragraph does not preclude involuntary detention of the minor pursuant to the requirements of the **Children's Civil Commitment and Mental Health Treatment Act of 1988** or **Lanterman-Petris-Short Act** if the minor withdraws voluntary consent. This paragraph does not preclude a parent, guardian, Indian custodian, or the minor's probation officer or attorney from arranging the minor's discharge from the facility without a court order.

(ii) If the court's determination under **clause (i)** includes a determination that the minor should receive treatment through another hospital, program, facility, or community-based mental health service, the court *shall* hold a hearing no later than *60 days* from the child's discharge to ensure that the other services have been provided.

(F) If the court determines the psychiatric residential treatment facility, which is licensed pursuant to **Section 4081**, failed to meet its legal obligation to provide services to the minor, it may direct the social worker to engage with the facility to ensure the minor is receiving all necessary services. If necessary, the court may exercise its powers under **subdivision (b)** of **Section 727**.

(G) The court may make any orders necessary to ensure that the county probation department makes all necessary arrangements for the minor's discharge promptly and that all services and supports are in place for the minor's successful transition to a different setting. The court may direct the social worker to work with the facility on the child's aftercare plans as appropriate based on the child's progress.

(2)

(A) No later than *60 days* following the admission of a nonminor dependent to a psychiatric residential treatment facility, and every 30 days thereafter, the court *shall* hold a review hearing on the

child or nonminor dependent's placement in the facility and the medical necessity of that placement.

(B) If the hearing described in **subparagraph (A)** coincides with the date for a hearing pursuant to **Sections 366.31** and **727.25**, the court may hold the hearing simultaneously with the status review hearing.

(C) At the hearing in **subparagraph (A)**, the court *shall* consider all of the following:

(i) Whether the nonminor dependent continues to consent to the voluntary admission made pursuant to this section.

(ii) Whether there is an available less restrictive setting sufficient to meet the nonminor dependent's needs, including a less restrictive facility or community-based care.

(iii) Whether the nonminor dependent continues to meet medical necessity for care and treatment in the psychiatric residential treatment facility.

(iv) Whether the psychiatric residential treatment facility, which is licensed pursuant to **Section 4081**, continues to meet its legal obligation to provide services to the nonminor dependent.

(v) The county child welfare agency's plan as described in **subdivisions (c)** and **(d)** of **Section 16010.10**, and the agency's actions to implement that plan.

(D) If the court finds at any review hearing that the nonminor dependent continues to voluntarily consent to admission and that the evidence supports the nonminor dependent's need for care and treatment in the psychiatric residential treatment facility, the court *shall* enter these findings in the record and direct the probation officer to transmit them to the facility or interdisciplinary team. If the nonminor dependent continues to voluntarily consent to admission, the court may direct the probation officer to work with the facility on the nonminor dependent's aftercare plans as appropriate based on the nonminor dependent's needs to achieve independence.

(E)

(i) If the court finds that the nonminor dependent no longer voluntarily consents, the court *shall* direct the probation officer to notify the facility and immediately work with the nonminor dependent and the facility for discharge to a less restrictive setting with the appropriate and necessary services and supports in place. A statement from the nonminor dependent's attorney that the nonminor dependent no longer gives voluntary consent to the admission to the facility may be sufficient to support a finding that the nonminor dependent no longer gives voluntary consent. The court *shall* set a hearing no later than 30 days to verify that the nonminor dependent has been discharged. If the nonminor dependent has not been discharged by the time of the hearing, the court shall issue any and all orders to effectuate the nonminor dependents' immediate discharge, including exercising its powers under **subdivision (b) of Section 727**. This paragraph does not preclude involuntary detention of the nonminor dependent pursuant to the requirements of the Lanterman-Petris-Short Act if the nonminor dependent withdraws voluntary consent. This paragraph does not preclude the nonminor dependent from arranging their own discharge from the facility without a court order.

(ii) If the court's determination under **clause (i)** includes a determination that the nonminor dependent should receive treatment through another hospital, program, facility, or community-based mental health service, the court *shall* hold a hearing no later than *60 days* from the nonminor dependent's discharge to ensure that the other services have been provided.

(F) This paragraph does not prevent the court from holding review hearings more frequently at its discretion.

(g)

(1) The court's order authorizing a request for admission to a psychiatric residential treatment facility *shall* be effective until the first of the following events occurs: (1) the parent, guardian, or Indian custodian, or minor if admission was granted pursuant to **Section 6552**, or nonminor dependent withdraws consent for the minor or nonminor dependent to be present in the psychiatric residential treatment facility, (2) the court finds that the minor or nonminor dependent no longer suffers from a mental disorder that may reasonably be expected to be ameliorated by the treatment offered by the facility or that the psychiatric residential treatment facility

is no longer the least restrictive setting for the treatment of the minor's mental health needs, or (3) the court makes a superseding order. This section does not require a court order to discharge a patient if the parent, guardian, Indian custodian, minor, or nonminor dependent withdraw their consent for admission.

(2) Whenever a minor or nonminor dependent is discharged due to revocation of consent to admission, the county probation department *shall*, within *two court days* of being notified of the revocation of consent, file a petition pursuant to **Section 778** requesting an order vacating the court's authorization of the minor's or nonminor dependent's admission to the facility. This subdivision does not require a court order for the discharge of a minor arranged for by the child's probation officer or attorney or nonminor dependent when consent to admission has been withdrawn.

(h) At any review hearing pursuant to **Section 366.31, 727.2, or 727.25**, if a minor or nonminor dependent has been admitted to a psychiatric residential treatment facility, as defined in **Section 1250.10**, pursuant to the consent of a conservator, the court *shall* review the probation department's plan developed pursuant to **subdivisions (c) and (d) of Section 16010.10**. The court may make any orders necessary to ensure that the probation department promptly makes all necessary arrangements to ensure that the minor or nonminor dependent is discharged in a timely manner and with all services and supports in place as necessary for a successful transition to a less restrictive setting. The court may direct the probation officer to work with the facility or, where appropriate, the minor's or nonminor dependent's court-appointed conservator to ensure the minor or nonminor dependent is receiving all necessary child welfare services and to develop the minor's or nonminor dependent's aftercare plan as appropriate based on the evidence of the minor's or nonminor dependent's progress.

(i) The documentation required by this section *shall not* contain information that is privileged or confidential under existing state or federal law or regulation without the appropriate waiver or consent.

(j) For purposes of this section, a "*psychiatric residential treatment facility*" refers to a psychiatric residential treatment facility defined in **Section 1250.10** of the **Health and Safety Code**.

(k) All provisions in this section that apply to nonminor dependents *shall* apply equally to foster children who remain under juvenile court jurisdiction pursuant to **subdivision (a) of Section 303** after reaching the age of majority even if they do not meet the definition of "*nonminor dependent*" contained in **subdivision (v) of Section 11400**.

Law Enforcement:

Pen. Code § 13660 (New; **AB 1406**): *Wearing of an Electroshock Device by Law Enforcement:*

See **Tasers**, below.

Pen Code § 13680 (New; **AB 655**): *California Law Enforcement Accountability Reform Act; Participation in Hate Groups; Definitions:*

For purposes of this title, the following terms have the following meanings:

(a) “*Genocide*” means any of the following acts committed with specific intent to destroy, in whole or substantially in part, a national, ethnic, racial, or religious group through means including killing or causing serious bodily injury to members of the group, causing permanent impairment of the mental faculties of members of the group through drugs, torture, or similar means, subjecting the group to conditions of life that are intended to cause the physical destruction of the group, in whole or in part, imposing measures intended to prevent births within the group, or forcibly transferring children of the group to another group.

(b) “*Hate crime*” has the same meaning as is **Section 422.55**.

Note: Per **P.C. § 422.55**, “*hate crime*” is defined as follows:

(a) “*Hate crime*” means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (1) Disability.
- (2) Gender.
- (3) Nationality.
- (4) Race or ethnicity.
- (5) Religion.
- (6) Sexual orientation.
- (7) Association with a person or group with one or more of these actual or perceived characteristics.

(b) “*Hate crime*” includes, but is not limited to, a violation of **Section 422.6**.

Note: **P.C. § 422.6**, in turn, provides as follows:

(a) No person, whether or not acting under color of law, shall by force or threat of

force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in **subdivision (a)** of **Section 422.55**.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in **subdivision (a)** of **Section 422.55**.

(c) “*Hate group*” means an organization that supports, advocates for, threatens, or practices genocide or the commission of hate crimes.

(d) “*Membership in a hate group*” means being, or holding oneself out as, a member of a hate group with the intent to further the unlawful aims of the group.

(e) “*Participation in any hate group activity*” means active and direct involvement in, or coordination or facilitation of, any hate crime by hate group members.

(f) “*Peace officer*” means a person described within **Chapter 4.5** (commencing with **Section 830**) of **Title 3** of **Part 2**, who is employed by an agency or department of the state, or any political subdivision thereof, that provides uniformed police services to members of the public including, without limitation, a municipal police department, a county sheriff’s department, the California Highway Patrol, the University of California, California State University, or any California Community College police department, and the police department of any school district, transit district, park district, or port authority. “Peace officer” also

includes any state or local correctional or custodial officer, and any parole or probation officer.

(g)

(1) “*Public expression of hate*” means any statement or expression to another person, including any statement or expression made in an online forum that is accessible to another person, that explicitly advocates for, explicitly supports, or explicitly threatens to commit genocide or any hate crime or that explicitly advocates for or explicitly supports any hate group.

(h) “*Sustained*” means a final determination by the investigating agency following an investigation, or, if adverse action is taken, a final determination by a commission, board, hearing officer, or arbitrator, as applicable, following an opportunity for an administrative appeal pursuant to **Sections 3304** and **3304.5** of the **Government Code**, that the allegation is true.

Pen Code § 13681 (New; **AB 655**): ***California Law Enforcement Accountability Reform Act; Law Enforcement Candidate Participation in a Hate Group:***

(a) Any background investigation of a candidate for a peace officer position *shall* include an inquiry into whether the candidate has engaged or is engaging in membership in a hate group, participation in any hate group activity or advocacy of public expressions of hate.

(b) The hiring agency *shall* deny employment to a candidate for a peace officer position if, during a preemployment background it is determined that in the past 7 years and since 18 years of age, the candidate has engaged in membership in a hate group, participation in any hate group activity, or advocacy of public expressions of hate.

(c) A candidate for a peace officer position *shall not* be ineligible to be hired pursuant to this section if the candidate has ceased all activities described in **subdivision (a)** and at least 7 years has passed since the last such activity.

Pen Code § 13682 (New; **AB 655**): ***California Law Enforcement Accountability Reform Act; Investigation of Alleged Membership or Participation in Hate Group:***

(a) Notwithstanding **Section 19635** of the **Government Code**, or any other law, any public agency that employs peace officers shall investigate, or cause to be investigated by the appropriate oversight agency, any internal complaint or complaint from a member of the public that alleges, with sufficient particularity to investigate the matter, that a peace officer employed by that agency has in the previous seven years and since 18 years of age, engaged in membership in a hate

group, participation in any hate group activity or advocacy of any public expressions of hate.

Note: Gov't. Code § 19635 provides: “No adverse action *shall* be valid against any state employee for any cause for discipline based on any civil service law of this state, unless notice of the adverse action is served within *three years* after the cause for discipline, upon which the notice is based, first arose. Adverse action based on fraud, embezzlement, or the falsification of records *shall* be valid, if notice of the adverse action is served within *three years* after the discovery of the fraud, embezzlement, or falsification.”

(b) The agency shall remove from appointment as a peace officer, any peace officer against whom a complaint described in **subdivision (a)** is sustained.

(c) The Department of Justice shall adopt and promulgate guidelines for the investigation and adjudication of complaints described in **subdivision (a)** by a public agency or oversight agency.

(d) Nothing in this section authorizes or requires adverse action to be taken against any peace officer who engages in any activities described in **subdivision (a)** as part of any undercover assignment in the course of their employment as a peace officer, or in any undercover work as part of any bona fide academic or journalistic research.

Pen Code § 13683 (New; **AB 655**): *California Law Enforcement Accountability Reform Act; Records Relating to Complaint Investigation:*

(a) Notwithstanding **Section 832.7, subdivision (f)** of **Section 6254** of the **Government Code**, or any other law, any record relating to an investigation of a complaint described in **Section 13682** in which a sustained finding was made by the public agency or oversight agency that a peace officer has engaged in membership in a hate group, participation in any hate group activity, or advocacy of public expressions of hate shall not be confidential and shall be made available for public inspection.

Note:

Pen. Code § 832.7 deals with the Confidentiality of Peace Officer Records.

Gov't. Code § 6254 (Amended) describes Records Exempt from Disclosure Requirements.

(b) A record disclosed pursuant to this section *may* be redacted as follows:

(1) To remove personal data or information, such as a home address, telephone number, email address, or identities of family members.

(2) To preserve the anonymity of complainants and witnesses.

(3) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers.

(4) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer or another person.

P.C. 13778.2 (New; Effective 9/27/2022; **AB 1242**): *Prohibition of Arrest for Lawful Abortions; Cooperation with Other States; Subpoenas for Out-of-State Proceedings:*

See “**Abortions**,” above.

Veh. Code § 1808.48 (New; **AB 1766**): *Law Enforcement Assisting in Immigration Enforcement:*

See “**Immigration and Illegal Aliens**,” above.

Veh. Code § 2806.5 (New; Effective 1/1/2024; **AB 2773**): *Explaining the Reason for a Traffic or Pedestrian Stop:*

Beginning *January 1, 2024*, a peace officer making a traffic or pedestrian stop, *before* engaging in questioning related to a criminal investigation or traffic violation, is required to state the reason for the stop. An exception applies if the officer has a reasonable belief that withholding the reason for the stop is necessary to protect life or property from an imminent threat. The officer is also required to document the reason for the stop on any citation or police report resulting from the stop.

See also **Gov’t. Code § 12525.5** (Amended; **AB 2773**), adding “The reason given to the person stopped at the time of the stop” to the types of information that local and state law enforcement agencies are required to report annually to the Attorney General on all stops conducted by the agency.

Editor’s Note: While an officer explaining to a detained individual the reason(s) for a detention (whether the result of a traffic stop or upon a reasonable suspicion

to believe the person detained is involved in criminal activity) is, in most cases, just good practice, and should be encouraged, for the Legislature to dictate when—or even if—in the sequence of events such an explanation should be made only increases the dangerousness inherent any such contact by distracting the officer from his or her primary responsibility of protecting not only his or her own safety, but the safety of anyone else who might be involved in the contact or otherwise in the immediate vicinity. To enact legislation such as this is an outrageous usurpation of the Legislature’s authority.

Veh. Code § 5204 (Amended; **SB 1359**): *Citations for Expired Registration:*

A law enforcement officer is to confirm with DMV that a vehicle does not have a current registration before issuing a citation for the failure to display current registration tabs. The officer is prohibited from issuing a citation for failing to display current registration tabs when the vehicle’s registration is current.

Note: This amendment does *not* prohibit a vehicle from being stopped for the failure to display registration tabs or for having registration tabs that have expired.

See also **Veh. Code § 40225** (Amended; **SB 1359**), prohibiting the issuance of a citation for the license tabs not being current (a violation of **Veh. Code § 5204(a)**) *by any person who is authorized to enforce parking violations* without first confirming with DMV that the vehicle does not have a current valid registration. If the person does not have access to DMV records, a citation cannot be issued for **Veh. Code § 5204(a)**.

Manslaughter:

Pen. Code § 192 (Amended; **SB 1472**): *Ryan’s Law: Elements of Gross Manslaughter for Purposes of Manslaughter:*

New **subd. (e)(2)** has been added to the manslaughter statute, listing three additional circumstances that may, based on the totality of the circumstances, constitute “gross negligence” for purposes of manslaughter:

- (A) Participating in a sideshow pursuant to **V.C. § 23109(i)(2)(A)** (which defines “*sideshow*” as an event in which two or more persons block or impede traffic on a highway or in an offstreet parking facility, for the purpose of performing motor vehicle stunts, speed contests, exhibitions of speed, or reckless driving, for spectators);
- (B) Exhibition of speed pursuant to **V.C. § 23109(a)**; or
- (C) Speeding over 100 miles per hour.

Note: There is an apparent drafting error in listing **subd. (a)** for **V.C. § 23109**. This section applies to “*speed contests*” while **subd. (c)** of **V.C. § 23109** applies to the “*exhibition of speed.*” Existing **P.C. § 7.5** provides that if there is a conflict between a code section and a description, the code section (in this case, **V.C. 23109(a)**; “*speed contests*”) would prevail over the description (“*exhibition of speed*”), unless it is clear from the context that the descriptive language is intended to narrow the application of the code section. Despite this drafting error, both speed contests and exhibition of speed may constitute gross negligence, depending on the facts of the case. **SB 1472** simply lists three acts that may constitute gross negligence. It does not exclude any acts.

Marijuana:

B&P Code § 21000 (Amended; **AB 1885**): *Animals and the Medicinal and Adult-Use Cannabis Regulation and Safety Act:*

Cannabis products intended for use on, or consumption by, animals, is added in **subparagraph (b)(2)** to the types of cannabis products that come within the provisions of the **Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)**, so that now, pet and animal cannabis products can be manufactured, tested, and sold explicitly for pet and animal use.

Note: Also amended is **B&P Code § 4884** to permit veterinarians to recommend the use of cannabis on an animal for therapeutic and health purposes. Previously a veterinarian was permitted only to *discuss* cannabis use for an animal.

B&P Code § 26001 (Amended; **AB 2155**): *Cannabis Beverage:*

The **Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)** is amended to add a new **subdivision (g)**, with a definition of “*cannabis beverage:*” I.e., “A form of edible cannabis product that is intended to be consumed in its final state as a beverage.”

Preexisting **Subdivisions (g)** through **(ax)** are moved down accordingly.

B&P Code §§ 26300-26308 (New; **SB 1326**): *Interstate Cannabis Agreements:*

This new **Chapter 25** authorizes the governor of California to enter into agreements with other states that have legalized medicinal or recreational cannabis, in order to engage in interstate commercial cannabis activity.

The governor is required to submit any agreement for comment by the public and by the Joint Legislative Budget Committee.

However, no such agreement will take effect until:

Federal law is amended to allow the interstate transfer of cannabis, *or*

A federal law is enacted that prohibits spending federal funds to prevent the interstate transfer of cannabis, *or*

The U.S. DOJ issues an opinion or memo allowing the interstate transfer of cannabis between authorized commercial cannabis businesses, *or*

The California Attorney General issues a written opinion that these kinds of agreements will not result in significant legal risk to the State of California under the federal Controlled Substances Act, based on a review of applicable law, including federal judicial decisions and administrative actions.

B&P Code §§ 26320-26325 (New; Effective 1/1/2024; **SB 1186**): *The Medicinal Cannabis Patients' Right of Access Act*:

This new **Chapter 26**, not effective until *January 1, 2024*, was enacted in order to ensure that medicinal cannabis can be delivered to medicinal cannabis patients. Thus, a local jurisdiction is prohibited from adopting or enforcing any regulation that prohibits, or effectively prohibits, the retail sale by delivery of medicinal cannabis to medicinal cannabis patients or their primary caregivers by licensed medicinal cannabis businesses.

Specifically, the regulation of any of the following that has the effect of prohibiting the retail sale by delivery of medicinal cannabis is prohibited:

1. The number of medicinal cannabis businesses authorized to deliver medicinal cannabis in the local jurisdiction;
2. The operating hours of medicinal cannabis businesses;
3. The number or frequency of sales by delivery of medicinal cannabis;
4. The types or quantities of medicinal cannabis authorized to be sold by delivery; *and*
5. The establishment of physical business premises.

Nothing in this new chapter, however, prohibits the adoption or enforcement of reasonable regulations on the retail sale by delivery of medicinal cannabis, including zoning requirements that are not inconsistent with this new chapter, public health and safety requirements, licensing requirements, and the imposition and collection of applicable state and local taxes.

Also, nothing in this new chapter should be construed to affect the ability of a local jurisdiction to adopt or enforce regulations on *commercial* cannabis operations other than the retail sale by delivery of medicinal cannabis.

A civil action may be filed to enforce this new chapter, to be brought by the Attorney General, a medicinal cannabis patient or primary caregiver, a medicinal cannabis business, or “any other party otherwise authorized by law.”

Gov’t. Code § 12954 (New; Effective 1/1/2024; **AB 2188**): *Discrimination in the Workplace for the Use of Cannabis*:

(a) It is unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalizing a person, if the discrimination is based upon any of the following:

(1) The person’s use of cannabis off the job and away from the workplace. This paragraph does not prohibit an employer from discriminating in hiring, or any term or condition of employment, or otherwise penalize a person based on scientifically valid preemployment drug screening conducted through methods that do not screen for nonpsychoactive cannabis metabolites.

(2) An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.

(b) Nothing in this section permits an employee to possess, to be impaired by, or to use, cannabis on the job, or affects the rights or obligations of an employer to maintain a drug- and alcohol-free workplace, as specified in **Section 11362.45** of the **Health and Safety Code**, or any other rights or obligations of an employer specified by federal law or regulation.

(c) This section does *not* apply to an employee in the building and construction trades.

(d) This section does *not* apply to applicants or employees hired for positions that require a federal government background investigation or security clearance in accordance with regulations issued by the United States Department of Defense pursuant to **Part 117** of **Title 32** of the **Code of Federal Regulations**, or equivalent regulations applicable to other agencies.

(e) This section does *not* preempt state or federal laws requiring applicants or employees to be tested for controlled substances, including laws and regulations requiring applicants or employees to be tested, or the manner in which they are

tested, as a condition of employment, receiving federal funding or federal licensing-related benefits, or entering into a federal contract.

(f) This section becomes operative on *January 1, 2024*.

H&S 11361.9 (Amended; **AB 1706**): *Recall and Dismissal of Marijuana Convictions*:

Amendments to this section (the section requiring DOJ to review records and identify specific cannabis-related convictions; i.e., for **H&S §§ 11357, 11358, 11359, and 11360** that are eligible for recall, dismissal, sealing, and/or re-designation pursuant to **H&S § 11361.8**) result in the following changes:

1. The prosecution is now permitted to challenge a resentencing only if the defendant is still serving a sentence for a cannabis conviction, while continuing to provide that *July 1, 2020*, was the deadline for prosecutors to review all other cases and determine whether to challenge the granting of relief.
2. Provides that if relief was not challenged by *July 1, 2020*, the conviction is deemed unchallenged, recalled, dismissed, or redesignated, as applicable, and the court shall issue an order, by *March 1, 2023*, recalling and dismissing the sentence, or dismissing and sealing the conviction, or redesignating the conviction. The **Section 11361.8** provision that “the court shall reduce or dismiss the conviction pursuant to **Section 11361.8**” has been deleted.
3. A deadline of *March 1, 2023*, by which the courts are required to update records in accordance with this section and report to DOJ all convictions that have been recalled dismissed, redesignated, or sealed, is added.
4. A deadline of *July 1, 2023*, by which DOJ is required to update the records in its state criminal history database and adds that DOJ must ensure that inaccurate criminal history information is not disseminated, is added.
5. DOJ is now required to conduct a public “*awareness campaign*” about the process for requesting one’s own criminal history information pursuant to existing **P.C. §§ 11120–11127** in order to verify that the information has been updated, along with information about how to contact the courts, the prosecution, and public defenders “to assist in verifying the updates.”
6. A requirement that a conviction or arrest that has been sealed pursuant to **H&S § 11361.8** is deemed never to have occurred, and that “the person may reply accordingly to any inquiry about the events,” has been added.

7. DOJ is now required, from *March 1, 2023* to *June 1, 2024*, to submit quarterly reports to the Legislature about the number of cases recalled, dismissed, resentenced, sealed and redesignated in each county; the status of cases challenged by the prosecution and the disposition of the challenged cases; the number of convictions in the state criminal history database that are potentially eligible for relief; and the status of the public awareness campaign.

Mental Patients:

Wel. & Inst. Code §§ 5970-5987 (New; SB 1338): *The “The Community Assistance, Recovery, and Empowerment (CARE) Act:”*

Also known as the “**CARE Act**,” an extensive *civil court* system has been established to evaluate and treat mentally ill people and provide them with a variety of services, including mental health care, medication, housing resources, and social services.

P.C. § 1370.01 (Amended; **SB 1223**) provides that a judge who finds a mentally incompetent *misdemeanor* defendant *not* to be eligible for mental disorder diversion (per **P.C. § 1001.36**), may refer the defendant to **CARE**. Pursuant to **P.C. § 1370.01**, a court is to hold a **CARE** eligibility hearing within *14 days* of the referral and requires that the charges be dismissed pursuant to **P.C. § 1385** (“in the interests of justice”) if a defendant is accepted into a **CARE** program.

Pursuant to **W&I § 5970.5**, the counties of Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne are required to implement a **CARE** program by *October 1, 2023*, unless a delay is approved or funding is not allocated. The remaining counties are required to implement a **CARE** program by *December 1, 2024*, unless a delay is approved or funding is not allocated.

Pursuant to **W&I § 5872**, in order to qualify for **CARE**, a person (the respondent) must meet all of the following criteria:

1. Be age 18 or older;
2. Is currently experiencing a severe mental illness and has a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders.
3. Is *not* clinically stabilized in on-going voluntary treatment;
4. Is unlikely to survive safely in the community without supervision and the person’s condition is substantially deteriorating; or is in need of services and support in order to prevent relapse or deterioration that would

likely result in grave disability or serious harm to the person or others, as defined in **W&I § 5150**;

5. Participation in **CARE** would be the least restrictive alternative necessary to ensure recovery and stability; *and*

6. It is likely the person will benefit from **CARE**.

Pursuant to **W&I § 5973**, **CARE** proceedings may commence in the county where the respondent resides, or where the respondent is found, or where the respondent is facing criminal or civil proceedings.

Pursuant to **W&I § 5974**), any of these persons (“petitioner”) may file a petition to initiate the **CARE** process:

1. An adult who lives with the respondent;
2. An adult who is the spouse, parent, child, sibling, or grandparent of the respondent;
3. The director of a hospital or charitable organization;
4. A licensed behavioral health professional;
5. A first responder (e.g., peace officer, firefighter, paramedic, EMT, mobile crisis response worker, homeless outreach worker) who has had repeated interactions with the respondent;
6. A public guardian or public conservator;
7. The director of a county behavioral health agency;
8. The director of county adult protective services;
9. The director of a California Indian health services program;
10. The judge of a tribal court; *or*
11. The respondent (i.e., defendant).

If the petitioner is a person other than the director of a county behavioral health agency, at the initial hearing on the petition the court shall substitute the director of a county behavioral health agency as the petitioner (per **W&I § 5971(m)**).

Pursuant to **W&I § 5978**, A court may also start the **CARE** process by referring a person to **CARE** from assisted outpatient treatment, or from conservatorship proceedings, or when a misdemeanor defendant has been found incompetent to stand trial pursuant to **P.C. § 1370.01** and has been found ineligible for **P.C. § 1001.36** mental disorder diversion.

Pursuant to **W&I § 5975**, it is required that the Judicial Council develop a **CARE** petition form and any other necessary forms. A petition must be signed under the penalty of perjury and to contain the name and address of the respondent, the petitioner's relationship to the respondent, facts showing the respondent meets the **CARE** criteria, and either an affidavit of a licensed behavioral health professional that the respondent meets the diagnostic criteria for **CARE** or evidence that the respondent was detained for a minimum of two intensive treatments pursuant to **W&I §§ 5250–5259.3** and that the most recent treatment was within the previous *60 days*.

Pursuant to **W&I §§ 5976–5977.4**:

Respondents are entitled to counsel, and have the right to be present at the hearing, to present evidence and call witnesses, to cross-examine witnesses, and to appeal decisions.

Hearings are presumptively closed to the public, but the respondent may demand that the hearing be public, or, may request the presence of a family member or friend without waiving the right to keep the hearing closed.

A court is required to first determine whether the petitioner has made a prima facie showing that the respondent meets the **CARE** criteria. If not, the petition is dismissed. If yes, the case is set for a hearing.

At the hearing on the merits, the burden of proof is on the petitioner to show that the respondent meets the **CARE** criteria by *clear and convincing evidence*. Otherwise, the petition must be dismissed.

If the court finds that the respondent meets the **CARE** criteria, then the court must order the county behavioral health agency to work with the respondent, the respondent's attorney, and the respondent's supporter to engage in behavioral health treatment and determine if the parties will be able to enter into a **CARE** agreement.

The court is required to set a case management hearing within *14 days*, in order to hear evidence about whether the parties have entered into a **CARE** agreement. If the court approves a **CARE** plan, a status review hearing must be held at least every *60 days*.

All proceedings are required to be conducted in an “informal nonadversarial atmosphere with a view to obtaining the maximum cooperation of the respondent.”

Pursuant to **W&I § 5979**:

The court *may* terminate the **CARE** process if it determines by *clear and convincing evidence* that the respondent is not participating, or is not adhering to the **CARE** plan.

The court *may* also use its existing legal authority pursuant to the **Lanterman-Petris-Short Act (W&I Code §§ 5000–5556)** to have the respondent evaluated, including an evaluation pursuant to **W&I Code §§5200–5213**, to determine if the respondent is a danger to self or others.

The respondent’s failure to comply with an order “*shall not* result in a penalty outside of this section, including, but not limited to, contempt or a failure to appear.” A respondent’s failure to comply with a medication order shall not result in any penalty, including under this section.

Prostitution:

Pen. Code §§ 653.20, 653.22 (Repealed) & **P.C. 653.23** (Amended; **SB 357**): *Loitering With the Intent to Commit Prostitution; Etc.:*

The misdemeanor crime of loitering with the intent to commit prostitution (**P.C. § 653.22**) has been repealed, as has **P.C. § 653.20**, which defined the terms associated with that crime.

P.C. § 653.23 (Aiding in an act of prostitution) has been amended to eliminate all references to **P.C. § 653.22**, but continues to set forth two misdemeanor crimes involving **P.C. § 647(b)**; Prostitution:

1. Directing, supervising, recruiting, or aiding another person in the commission of **P.C. § 647(b)**.
2. Collecting or receiving all or part of the proceeds earned from an act of prostitution committed by another person in violation of **P.C. § 647(b)**.

Pen. Code § 653.29 (New; **SB 357**): *Recall of Loitering With the Intent to Commit Prostitution Conviction:*

A defendant who is currently serving a sentence for **P.C. § 653.22** (Loitering With the Intent to Commit Prostitution; see above) whether by trial or plea, may petition for recall and resentencing, or dismissal, and sealing of the conviction. A defendant who has completed a sentence for **P.C. 653.22** may file an application

to have the conviction dismissed and sealed as legally invalid. No hearing is necessary in a case where the defendant has finished serving the **P.C. § 653.22** sentence, unless the defendant requests a hearing.

The Judicial Council is to develop the necessary forms for these petitions and applications.

Racial Issues:

Pen. Code § 741 (New; Effective 1/1/2024; **AB 2778**): “*Race-Blind Charging*”
Guidelines; Exceptions:

(a) Beginning *January 1, 2024*, the Department of Justice shall develop, issue, and publish “*Race-Blind Charging*” guidelines for a process whereby all prosecution agencies, for purposes of this section defined as agencies, or branches of agencies, that prosecute criminal violations of the law as felonies or misdemeanors, *shall* implement a process by which an initial review of a case for potential charging is performed based on information, including police reports and criminal histories from the Department of Justice, from which direct means of identifying the race of the suspect, victim, or witness have been removed or redacted.

(b) Following the department’s guidelines, prosecution agencies *shall* independently develop and execute versions of this redaction and review process with the following general criteria:

(1) Beginning *January 1, 2025*, cases received from law enforcement agencies and suspect criminal history documentation *shall* be redacted, by the receiving prosecution agency, in order to be used for a race-blind initial charging evaluation, which shall precede the ordinary charging evaluation. This redaction *may* occur in a separate version of the documents and may be done mechanically, by hand performed by personnel not associated with the charging of the case, or by automation with the use of computer programming, so long as the method used reasonably ensures correct redaction. The redaction *may* be applied to the entire report or to only the “narrative” portion of the report so long as the portion submitted for initial review is sufficient to perform that review and the unredacted portions are not part of the initial charging evaluation.

(2) The initial charging evaluation based on redacted information, including redacted reports, criminal histories, and narratives, *shall* determine whether the case should be charged or not be charged. Individual charges *shall not* be determined at this initial charging evaluation stage. Other evidence *may* be considered as part of this initial charging evaluation so long as the other evidence does not reveal redacted

facts. The initial charging evaluation *shall* be performed by a prosecutor who does not have knowledge of the redacted facts for that case.

(3) After completion of a race-blind initial charging evaluation, the case *shall* proceed to a second, complete review for charging using unredacted reports and all available evidence in which the most applicable individual charges and enhancements may be considered and charged in a criminal complaint, or the case may be submitted to a grand jury.

(4)

(A) Each of the following circumstances *shall* be documented as part of the case record:

(i) The initial charging evaluation determined that the case not be charged and the second review determined that a charge shall be filed.

(ii) The initial charging evaluation determined that the case shall be charged and the second review determined that no charge be filed.

(B) The explanation for the charging decision change *shall* be documented as part of the case record.

(C) The documented change between the result of the initial charging evaluation and the second review, as well as the explanation for the change, *shall* be disclosed, upon request, after sentencing in the case or dismissal of all charges comprising the case, subject to **Section 1054.6** or any other applicable law.

(5) If a prosecution agency was unable to put a case through a race-blind initial charging evaluation, the reason for that inability *shall* be documented and retained by the agency. This documentation *shall* be made available by the agency upon request.

(6) The county *shall* collect the data resulting from the race-blind initial charging evaluation process and make the data available for research purposes.

(c) Each prosecution agency *may* remove or exclude certain classes of crimes or factual circumstances from a race-blind initial charging evaluation. This list of exclusions and the reasons for exclusion shall be available upon request to the Department of Justice and members of the public. Due to the increased reliance on victim or witness credibility, the availability of additional defenses, the increased reliance on forensics for the charging decision, or the relevance of racial

animus to the charging decision, each of the following crimes *may* be excluded from a race-blind initial charging evaluation process:

- (1) Homicides.
- (2) Hate crimes.
- (3) Charges arising from a physical confrontation where that confrontation is captured in video as evidence.
- (4) Domestic violence and sex crimes.
- (5) Gang crimes.
- (6) Cases alleging either sexual assault or physical abuse or neglect where the charging decision relies upon either a forensic interview of a child or interviews of multiple victims or multiple defendants.
- (7) Cases involving financial crimes where the redaction of documentation is not practicable or is cost prohibitive due to the volume of redactions, including, but not limited to, violations of **Sections 368** and **503** and other crimes sounding in fraud consisting of voluminous documentation.
- (8) Cases involving public integrity, including, but not limited to, conflict of interest crimes under **Section 1090** of the **Government Code**.
- (9) Cases in which the prosecution agency itself investigated the alleged crime or participated in the precharging investigation of the crime by law enforcement, including, but not limited to, the review of search warrants or advising law enforcement in the course of the investigation.
- (10) Cases in which the prosecution agency initiated the charging and filing of the case by way of a grand jury indictment or where the charges arose from a grand jury investigation.

Pen. Code § 745 (Amended; **AB 256**): *Sentencing on Basis of Race, Ethnicity, or National Origin*:

(a) The state *shall not* seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin. A violation is established if the defendant proves, by a *preponderance of the evidence*, any of the following:

- (1) The judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin.

(2) During the defendant's trial, in court and during the proceedings, the judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror, used racially discriminatory language about the defendant's race, ethnicity, or national origin, or otherwise exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin, whether or not purposeful. This paragraph does not apply if the person speaking is relating language used by another that is relevant to the case or if the person speaking is giving a racially neutral and unbiased physical description of the suspect.

(3) The defendant was charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, and the evidence establishes that the prosecution more frequently sought or obtained convictions for more serious offenses against people who share the defendant's race, ethnicity, or national origin in the county where the convictions were sought or obtained.

(4)

(A) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for that offense on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins in the county where the sentence was imposed.

(B) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins, in the county where the sentence was imposed.

(b) A defendant *may* file a motion in the trial court or, if judgment has been imposed, may file a petition for writ of habeas corpus or a motion under **Section 1473.7** in a court of competent jurisdiction, alleging a violation of **subdivision (a)**. If the motion is based in whole or in part on conduct or statements by the judge, the judge shall disqualify themselves from any further proceedings under this section.

(c) If a motion is filed in the trial court and the defendant makes a prima facie showing of a violation of **subdivision (a)**, the trial court *shall* hold a hearing. A

motion made at trial *shall* be made as soon as practicable upon the defendant learning of the alleged violation. A motion that is not timely may be deemed waived, in the discretion of the court.

(1) At the hearing, evidence *may* be presented by either party, including, but not limited to, statistical evidence, aggregate data, expert testimony, and the sworn testimony of witnesses. The court *may* also appoint an independent expert. For the purpose of a motion and hearing under this section, out-of-court statements that the court finds trustworthy and reliable, statistical evidence, and aggregated data are admissible for the limited purpose of determining whether a violation of **subdivision (a)** has occurred.

(2) The defendant *shall* have the burden of proving a violation of **subdivision (a)** by a *preponderance of the evidence*. The defendant does not need to prove intentional discrimination.

(3) At the conclusion of the hearing, the court *shall* make findings on the record.

(d) A defendant *may* file a motion requesting disclosure to the defense of all evidence relevant to a potential violation of **subdivision (a)** in the possession or control of the state. A motion filed under this section *shall* describe the type of records or information the defendant seeks. Upon a showing of good cause, the court *shall* order the records to be released. Upon a showing of good cause, and in order to protect a privacy right or privilege, the court may permit the prosecution to redact information prior to disclosure or may subject disclosure to a protective order. If a statutory privilege or constitutional privacy right cannot be adequately protected by redaction or a protective order, the court *shall not* order the release of the records.

(e) Notwithstanding any other law, except as provided in **subdivision (f)**, or for an initiative approved by the voters, if the court finds, by a *preponderance of evidence*, a violation of **subdivision (a)**, the court *shall* impose a remedy specific to the violation found from the following list:

(1) Before a judgment has been entered, the court *may* impose any of the following remedies:

(A) Declare a mistrial, if requested by the defendant.

(B) Discharge the jury panel and empanel a new jury.

(C) If the court determines that it would be in the interest of justice, dismiss enhancements, special circumstances, or special allegations, or reduce one or more charges.

(2)

(A) After a judgment has been entered, if the court finds that a conviction was sought or obtained in violation of **subdivision (a)**, the court *shall* vacate the conviction and sentence, find that it is legally invalid, and order new proceedings consistent with **subdivision (a)**. If the court finds that the only violation of **subdivision (a)** that occurred is based on **paragraph (3) of subdivision (a)**, the court *may* modify the judgment to a lesser included or lesser related offense. On resentencing, the court *shall* not impose a new sentence greater than that previously imposed.

(B) After a judgment has been entered, if the court finds that only the sentence was sought, obtained, or imposed in violation of **subdivision (a)**, the court *shall* vacate the sentence, find that it is legally invalid, and impose a new sentence. On resentencing, the court *shall not* impose a new sentence greater than that previously imposed.

(3) When the court finds there has been a violation of **subdivision (a)**, the defendant *shall not* be eligible for the death penalty.

(4) The remedies available under this section do not foreclose any other remedies available under the **United States Constitution**, the **California Constitution**, or any other law.

(f) This section also applies to adjudications and dispositions in the juvenile delinquency system and adjudications to transfer a juvenile case to adult court.

(g) This section shall not prevent the prosecution of hate crimes pursuant to **Sections 422.6 to 422.865**, inclusive.

(h) As used in this section, the following definitions apply:

(1) “*More frequently sought or obtained*” or “*more frequently imposed*” means that the totality of the evidence demonstrates a significant difference in seeking or obtaining convictions or in imposing sentences comparing individuals who have engaged in similar conduct and are similarly situated, and the prosecution cannot establish race-neutral reasons for the disparity. The evidence may include statistical evidence, aggregate data, or nonstatistical evidence. Statistical significance is a factor the court may consider, but is not necessary to establish a significant difference. In evaluating the totality of the evidence, the court shall consider whether systemic and institutional racial bias, racial profiling, and historical patterns of racially biased policing and

prosecution may have contributed to, or caused differences observed in, the data or impacted the availability of data overall. Race-neutral reasons shall be relevant factors to charges, convictions, and sentences that are not influenced by implicit, systemic, or institutional bias based on race, ethnicity, or national origin.

(2) “*Prima facie showing*” means that the defendant produces facts that, if true, establish that there is a substantial likelihood that a violation of **subdivision (a)** occurred. For purposes of this section, a “substantial likelihood” requires more than a mere possibility, but less than a standard of more likely than not.

(3) “*Relevant factors,*” as that phrase applies to sentencing, means the factors in the California Rules of Court that pertain to sentencing decisions and any additional factors required to or permitted to be considered in sentencing under state law and under the state and federal constitutions.

(4) “*Racially discriminatory language*” means language that, to an objective observer, explicitly or implicitly appeals to racial bias, including, but not limited to, racially charged or racially coded language, language that compares the defendant to an animal, or language that references the defendant’s physical appearance, culture, ethnicity, or national origin. Evidence that particular words or images are used exclusively or disproportionately in cases where the defendant is of a specific race, ethnicity, or national origin is relevant to determining whether language is discriminatory.

(5) “*State*” includes the Attorney General, a district attorney, or a city prosecutor.

(6) “*Similarly situated*” means that factors that are relevant in charging and sentencing are similar and do not require that all individuals in the comparison group are identical. A defendant’s conviction history may be a relevant factor to the severity of the charges, convictions, or sentences. If it is a relevant factor and the defense produces evidence that the conviction history may have been impacted by racial profiling or historical patterns of racially biased policing, the court shall consider the evidence.

(i) A defendant *may* share a race, ethnicity, or national origin with more than one group. A defendant *may* aggregate data among groups to demonstrate a violation of **subdivision (a)**.

(j) This section applies as follows:

(1) To all cases in which judgment is not final.

(2) Commencing *January 1, 2023*, to all cases in which, at the time of the filing of a petition pursuant to **subdivision (f) of Section 1473** raising a claim under this section, the petitioner is sentenced to death or to cases in which the motion is filed pursuant to **Section 1473.7** because of actual or potential immigration consequences related to the conviction or sentence, regardless of when the judgment or disposition became final.

(3) Commencing *January 1, 2024*, to all cases in which, at the time of the filing of a petition pursuant to **subdivision (f) of Section 1473** raising a claim under this section, the petitioner is currently serving a sentence in the state prison or in a county jail pursuant to **subdivision (h) of Section 1170**, or committed to the Division of Juvenile Justice for a juvenile disposition, regardless of when the judgment or disposition became final.

(4) Commencing *January 1, 2025*, to all cases filed pursuant to **Section 1473.7** or **subdivision (f) of Section 1473** in which judgment became final for a felony conviction or juvenile disposition that resulted in a commitment to the Division of Juvenile Justice on or after *January 1, 2015*.

(5) Commencing *January 1, 2026*, to all cases filed pursuant to **Section 1473.7** or **subdivision (f) of Section 1473** in which judgment was for a felony conviction or juvenile disposition that resulted in a commitment to the Division of Juvenile Justice, regardless of when the judgment or disposition became final.

(k) For petitions that are filed in cases for which judgment was entered before *January 1, 2021*, and only in those cases, if the petition is based on a violation of **paragraph (1) or (2) of subdivision (a)**, the petitioner *shall* be entitled to relief as provided in **subdivision (e)**, unless the state proves beyond a reasonable doubt that the violation did not contribute to the judgment.

School Violence:

Educ. Code § 49390 (New; **SB 906**): *Threats of Homicide at School; Definitions:*

For purposes of this article, unless the context requires otherwise, the following definitions apply:

(a) “*Law enforcement*” means any of the following:

(1) A peace officer employed or contracted by a school, school district, or local educational agency for school safety purposes.

(2) A police or security department of a local educational agency.

(3) A local law enforcement agency or agencies with geographic jurisdiction over a local educational agency.

(b) “*Local educational agency*” means a school district, county office of education, or charter school serving pupils in any of grades 6 to 12, inclusive, as part of a middle school or high school.

(c) “*Reasonable suspicion*” means articulable facts, together with rational inferences from those facts, warranting an objective suspicion.

(d) “*School official*” means any certificated or classified employee of a local educational agency or member of the school district governing board, county board of education, or governing body of a charter school whose official duties bring the individual in contact with pupils in any of grades 6 to 12, inclusive, as part of a middle school or high school, on a regular basis.

(e) “*Threat or perceived threat*” means any writing or action of a pupil that creates a reasonable suspicion that the pupil is preparing to commit a homicidal act related to school or a school activity. This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death in a social media post, journal, class note, or other media associated with the pupil. It may also include a warning by a parent, pupil, or other individual.

Educ. Code § 49391 (New; **SB 906**): *Development of Model Content*:

(a)

(1) On or before *July 1, 2023*, the department shall develop model content, in consultation with relevant local educational agencies, civil rights groups, and the Department of Justice.

(2) The model content developed pursuant to **paragraph (1)** shall include, at a minimum, content that informs parents or guardians of California’s child access prevention laws and laws relating to the safe storage of firearms, including, but not limited to, **Division 4** (commencing with **Section 25000**) of **Title 4** of **Part 6** of the **Penal Code**.

(b) The department shall update the model content on a yearly basis as necessary to reflect any changes in law.

Educ. Code § 49392 (New; **SB 906**): *Notification to Parents and Guardians Regarding the Safe Storage of Firearms:*

(a) Commencing with the 2023-24 school year, and each school year thereafter, a local educational agency serving pupils in kindergarten or any of grades 1 to 12, inclusive, shall, informed by the model content developed by the department pursuant to **Section 49391**, include in the annual notification pursuant to **Section 48980**, to the parents or guardians of pupils in kindergarten or any of grades 1 to 12, inclusive, information related to the safe storage of firearms.

(b) For purposes of this section, “*local educational agency*” means a school district, county office of education, or charter school.

Educ. Code § 49393 (New; **SB 906**): *Report to Law Enforcement by School Official of Threat or Perceived Threat:*

(a) A school official who is alerted to or observes any threat or perceived threat, as described in **subdivision (e)** of **Section 49390**, shall immediately report the threat or perceived threat to law enforcement. The report shall include copies of any documentary or other evidence associated with the threat or perceived threat.

(b) When two or more school officials jointly have an obligation to report pursuant to **subdivision (a)**, and when there is agreement among them, the report required by this section may be made by any of them in a single report. A school official who has knowledge that the designated reporting school official has failed to make the single report shall thereafter make the report.

(c) Law enforcement shall keep a record of any report received pursuant to this section.

Educ. Code § 49394 (New; **SB 906**): *Investigation and Assessment of Threat or Perceived Threat:*

(a) Upon the notification described in **Section 49393**, the local law enforcement agency or the schoolsite police, as described in **paragraphs (1) and (2)** of **subdivision (a)** of **Section 49390**, as appropriate, with the support of the local educational agency, shall immediately conduct an investigation and assessment of any threat or perceived threat described in **subdivision (e)** of **Section 49390**.

(b) The investigation and threat assessment under **subdivision (a)** shall include a review of the firearm registry of the Department of Justice.

(c) The investigation and threat assessment under **subdivision (a)** shall include a search conducted at the schoolsite, only if the search is justified by a reasonable suspicion that it would produce evidence related to the threat or perceived threat.

Educ. Code § 49395 (New; **SB 906**): *Immunity From Civil Liability*:

A local educational agency serving pupils in kindergarten or any of grades 1 to 12, inclusive, and a school of a local educational agency, is immune from civil liability for any damages allegedly caused by, arising out of, or relating to the requirements of this article.

Search Warrants:

Pen. Code § 1524 (Amended; Effective 9/27/2022; **AB 1242**): *Restrictions on Warrants for Prohibited Violations*:

New **subd. (h)** is added to provide that a search warrant *shall not* issue for any item or items that pertain to an investigation into a “*prohibited violation*,” as defined in **P.C. § 629.51**.

Note; **P.C. § 629.51** defines “*prohibited violation*” as providing, facilitating, obtaining, or intending or attempting to provide, facilitate, or obtain, *an abortion* that is lawful under California law. The goal of the bill is to prohibit cooperating with, or providing information to, a law enforcement agency in another state that has different abortion laws.

Pen. Code § 1546.5 (New; **AB 1242**): *Restrictions on Electronic Communications Services Corporation Compliance with Out-of-State Legal Process Regarding Prohibited Violation as Defined in P.C. § 629.51; Civil Action to Compel Compliance; Liability*:

A California corporation or a corporation with principal executive offices located in California and that provides electronic communication services is prohibited from providing records, information, facilities, or assistance pursuant to a warrant, court order, subpoena, wiretap order, pen register order, trap and trace order, or other legal process issued by another state, that relates to an investigation into or enforcement of a prohibited violation, as defined in **P.C. § 629.51**.

The Attorney General is authorized to bring a civil action to compel compliance with this new section.

Note: **P.C. § 629.51** defines “*prohibited violation*” as providing, facilitating, obtaining, or intending or attempting to provide, facilitate, or obtain, *an abortion* that is lawful under California law. The goal of the bill is to prohibit cooperating with, or providing information to, a law enforcement agency in another state that has different abortion laws.

Second Hand Dealers:

B&P Code § 21628 (Amended; **SB 1317**): *Reporting Requirements:*

The requirement for a secondhand dealer to report the name and personal identifying information about a seller/pledger to DOJ through the *California Pawn and Secondhand Dealer System (CAPSS)* has been deleted. Instead a secondhand dealer is now required to merely record the identification information, such information to be maintained for three years from the date the sale was reported to CAPSS. The identity of the seller/pledger will be listed as “on file.”

Note: As a result, the *CAPSS report* will have information about the property sold to the secondhand dealer, but nothing about the identity of the seller.

In addition to the already-existing requirement that a secondhand dealer is to provide information to law enforcement when the dealer is notified that an item has been reported as lost, stolen, or embezzled, there has been added a requirement that the identification information for the seller/pledger must be supplied “immediately upon request or no later than the next business day.”

Sex Trafficking:

Civil Code § 52.6 (Amended; **AB 1661**): *Sex Trafficking Notices:*

Hair, nail, electrolysis and skin care businesses is added to those businesses (e.g., airports, bus stations, truck stops, hospital emergency rooms, roadside rest areas, job recruitment centers, hotels and inns, massage businesses) that are required to post a notice regarding resources for victims of, and witnesses to, human trafficking and slavery.

Violation of this section subjects the violator to a \$500 penalty for a first offense, and a \$1,000 penalty for each subsequent offense, in a civil action brought by the Attorney General and/or specified county counsels and city attorneys.

Civil Code § 52.65 (New; **AB 1788**): *Civil Liability of a Hotel, Motel, Etc., for Sex Trafficking Activity:*

(a) A hotel is in violation of this section, and subject to civil penalties, if either or both of the following conditions are met:

(1) Sex trafficking activity occurred in the hotel, a supervisory employee of the hotel either knew of the nature of the activity, or acted in reckless disregard of the activity constituting sex trafficking activity within the hotel, and the supervisory employee of the hotel failed to inform law

enforcement, the National Human Trafficking Hotline, or another appropriate victim service organization within *24 hours*.

(2) An employee of the hotel was acting within the scope of employment and knowingly benefited, financially or by receiving anything of value, by participating in a venture that the employee knew or acted in reckless disregard of the activity constituting sex trafficking within the hotel.

(b) If there is reasonable cause to believe there has been a violation pursuant to **subdivision (a)**, a city, county, or city and county attorney may bring a civil action for injunctive and other equitable relief against a hotel for violation of this section. A city, county, or city and county attorney who brings a civil action under this section *may* also seek civil penalties in the amount of *one thousand dollars* (\$1,000) for the first violation in a calendar year, *three thousand dollars* (\$3,000) for the second violation within the same calendar year, and *five thousand dollars* (\$5,000) for the third and any subsequent violation within the same calendar year.

(c) The court *may* exercise its discretion to increase the amount of the civil penalty, not to exceed *ten thousand dollars* (\$10,000), for any fourth or subsequent violation, considering all of the following factors:

- (1) The defendant's culpability.
- (2) The relationship between the harm and the penalty.
- (3) The penalties imposed for similar conduct in similar statutes.
- (4) The defendant's ability to pay.

(d) The lack of reporting of a sex trafficking case that occurs in a hotel *shall not*, by itself, without meeting the conditions in either **paragraph (1)** or **(2)** of **subdivision (a)**, result in the liability of an employer of that establishment to the sex trafficking victim or victims in the case in question or to any other party.

(e) No liability for civil penalties shall arise under this section against a hotel employee.

(f) Violation of this section, by itself, shall not result in criminal liability against the hotel.

(g) Nothing in this section affects criminal or civil liability that may arise pursuant to other provisions of law.

(h) For the purposes of this section, the following terms shall have the following definitions:

- (1) "*Hotel*" means a motel, or any other operator or management company that offers and accepts payment for rooms, sleeping accommodations, or board and lodging and retains the right of access to, and control of, a

dwelling unit that is required to provide training and education regarding human trafficking awareness pursuant to **Section 12950.3** of the **Government Code**.

(2) “*Sex trafficking*” means human trafficking for the purposes of engaging in a commercial sex act as set forth in **subdivision (c)** of **Section 236.1** of the Penal Code.

Note: Pen. Code § 236.1(c) provides in relevant part that: “A person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of **Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518** is guilty of human trafficking.

(3) “*Supervisory employee*” means any individual, regardless of the job description or title, who has each of the following capabilities and qualifications:

(A) Holds authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend this action, if, in connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(B) Holds responsibility for duties that are not substantially similar to those of their subordinates. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.

(i) An action brought pursuant to this section *shall* be commenced within *five years* of the date when the violation of **subdivision (a)** occurred, or, if the victim of that sex trafficking activity was a minor when the violation occurred, within *five years* of the date the victim attains the age of majority.

Substance Abuse:

H&S § 11857 (New; **SB 349**): *The California Ethical Treatment for Persons with Substance Use Disorder Act; Citation and Purpose of Chapter:*

(a) This chapter shall be known, and may be cited, as the **California Ethical Treatment for Persons with Substance Use Disorder Act**.

(b) The purpose of this chapter is to provide protection for substance use disorder treatment clients and their families. This chapter shall be construed in favor of maximizing protections for clients and families, and the communities in which they live.

H&S § 11857.1 (New; SB 349): *The California Ethical Treatment for Persons with Substance Use Disorder Act; Definitions:*

The following definitions apply for purposes of this chapter:

(a) “*Certified treatment program*” means a program certified pursuant to **Chapter 7** (commencing with **Section 11830**) of **Part 2**.

(b) “*Licensed treatment facility*” means a facility that is, or is required to be, licensed to provide substance use disorder treatment services, including a residential alcoholism or drug abuse recovery or treatment facility licensed under **Chapter 7.5** (commencing with **Section 11834.01**) of **Part 2**.

(c) “*Treatment provider*” means a licensed treatment facility or a certified treatment program.

H&S § 11857.2 (New; SB 349): *The California Ethical Treatment for Persons with Substance Use Disorder Act; Client Bill of Rights:*

(a) Every treatment provider operating in the state *shall* adopt, and make available to all clients and prospective clients, a client bill of rights that ensures that persons receiving treatment for a substance use disorder have the right to all of the following:

(1) To be treated for the life-threatening, chronic disease of substance use disorder with honesty, respect, and dignity, including privacy in treatment and in care of personal needs.

(2) To be informed by the treatment provider of all the aspects of treatment recommended to the client, including the option of no treatment, risks of treatment, and expected result or results.

(3) To be treated by treatment providers with qualified staff.

(4) To receive evidence-based treatment.

(5) To be treated simultaneously for co-occurring behavioral health conditions, when medically appropriate and the treatment provider is authorized to treat co-occurring conditions.

- (6) To receive an individualized, outcome-driven treatment plan.
- (7) To remain in treatment for as long as the treatment provider is authorized to treat the client.
- (8) To receive support, education, and treatment for their families and loved ones, if the treatment provider is authorized to provide these services.
- (9) To receive care in a treatment setting that is safe and ethical.
- (10) To be free from mental and physical abuse, exploitation, coercion, and physical restraint.
- (11) To be informed of these rights once enrolled to receive treatment, as evidenced by written acknowledgment or by documentation by staff in the clinical record that a written copy of these rights were given.
- (12) To be informed by the treatment provider of the law regarding complaints, including, but not limited to, to be informed of the address and telephone number of the department.
- (13) To receive ethical care that covers and ensures full compliance with the requirements set forth in Chapter 5 (commencing with Section 10500) of **Division 4** of **Title 9** of the **California Code of Regulations** and the alcohol and other drug program certification standards adopted in accordance with **Section 11830.1**, if applicable.

(b) This section does *not* require a treatment provider to provide treatment or services for which they will not be reimbursed.

H&S § 11857.3 (New; **SB 349**): *The California Ethical Treatment for Persons with Substance Use Disorder Act; Marketing or Advertising Materials; Required Disclosures:*

- (a) Any marketing or advertising materials published or disseminated by a treatment provider *shall* provide accurate and complete information, in plain language that is easy to understand, and shall include both of the following:
 - (1) Information about the types and methods of services provided or used, and information about where they are provided, using the categories of treatment identified in **subdivision (a)** of **Section 11834.26** and the levels of care established pursuant to **subdivision (a)** of **Section 11834.015**.
 - (2) The treatment provider's name and brand.

(b) Any licensed treatment facility or certified treatment program that is required to disclose specified information pursuant to **subdivision (a) of Section 11833.05** shall provide this information about its program to prospective clients.

(c) It is unlawful for a treatment provider to make a false or misleading statement, or provide false or misleading information, about the nature, identity, or location of substance use disorder treatment services in advertising materials, on a call line, on an internet website, or in any other marketing materials.

(d) It is unlawful for a treatment provider to make a false or misleading statement about their status as an in-network or out-of-network provider.

(e) It is unlawful for any person or entity to provide, or direct any other person or entity to provide, false or misleading information about the identity of, or contact information for, any treatment provider.

(f) It is unlawful for any person or entity to include false or misleading information about the internet address of any treatment provider's website, or to surreptitiously direct or redirect the reader to another website.

(g) It is unlawful for any person or entity to suggest or imply that a relationship with a treatment provider exists, unless the treatment provider has provided express, written consent to indicate that relationship.

(h) It is unlawful for any person or entity to make a false or misleading statement about substance use disorder treatment services.

(i) A violation of this section constitutes a deceptive act or practice under the **Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code)**, regardless of whether any consumer was actually misled or deceived.

H&S § 11857.4 (New; SB 349): *The California Ethical Treatment for Persons with Substance Use Disorder Act; Records of Referrals:*

(a) Every treatment provider shall maintain records of referrals made to or from recovery residences, including, if available, information about where the client referred by a treatment provider ultimately elected to go.

(b) For purposes of this section, "recovery residence" has the same meaning as in **Section 11833.05**.

(c) For purposes of this section, "referral" means when a person or entity provides a client by any means the name, address, or other identifying information for a recovery residence.

H&S § 11857.5 (New; **SB 349**): *The California Ethical Treatment for Persons with Substance Use Disorder Act; Unlawful Conduct; Promulgation of Regulations:*

(a)

(1) A treatment provider *shall not* request, receive, or retain payment for substance use disorder treatments provided to a client as a result of conduct declared unlawful under this chapter.

(2) A person or entity who violates this chapter *shall* be subject to a civil penalty of not more than *twenty thousand dollars* (\$20,000) for each violation.

(3) Any person or entity who suffers any injury or damages, including, but not limited to, paying for treatment or services that were performed in violation of this chapter, as a result of the use or employment by a treatment provider or other person of any method, act, or practice declared unlawful under this chapter *may* bring a claim against the treatment provider who committed the violation and against any other person or entity who aided, abetted, or took part in the violation. In any action brought under this paragraph, the court *shall*, in addition to any other appropriate legal or equitable relief, award three times the damages sustained by any injured person. In any action under this paragraph, the court shall also award reasonable attorney's fees and costs to a prevailing plaintiff.

(4)

(A) The Attorney General, a district attorney, a county counsel, a city attorney, or any person who has suffered any injury or damages, including, but not limited to, paying for treatment or services that were performed in violation of this chapter, *may* bring a claim that an act or practice violates this chapter and seek one or more of the following:

(i) Declaratory relief to enjoin a person or entity who has violated or is violating this chapter.

(ii) A civil penalty of not more than *twenty thousand dollars* (\$20,000) for each violation of this chapter.

(B) If a claim under **clause (i)** or **(ii)** is successful, in whole or in part, the court shall award reasonable attorney's fees and costs to the plaintiff or prosecutor.

(5) The department *may* investigate an allegation of a violation of this chapter. Upon finding a violation, the department *may* take any action under **Sections 11831.7, 11834.34, and 11834.36** with respect to the offending provider, including, but not limited to, suspension or revocation of a license or certification. If the department imposes a civil penalty, the civil penalty shall not be more than *twenty thousand dollars* (\$20,000) for each violation of this chapter.

(b)

(1) The department *shall* promulgate regulations to implement the applicable provisions of this chapter.

(2) Notwithstanding **paragraph (1)** and the rulemaking provisions of the **Administrative Procedure Act (Chapter 3.5)** (commencing with **Section 11340**) of **Part 1** of **Division 3** of **Title 2** of the **Government Code**, the department *may*, if it deems appropriate, implement, interpret, or make specific this chapter by means of provider bulletins, written guidelines, or similar instructions, until regulations are adopted.

Tasers:

Pen. Code § 13660 (New; **AB 1406**): *Wearing of an Electroshock Device by Law Enforcement:*

(a) Any law enforcement agency that authorizes peace officers to carry an *electroshock device* shall prohibit that device from being holstered or otherwise carried on the same lateral side of the officer's body as the officer's primary firearm is holstered or otherwise carried.

(b) As used in this section, the following terms have the following meanings:

(1) "*Electroshock device*" means a *taser, stun gun*, or similar weapon that is designed to temporarily incapacitate a person through the controlled delivery of an electric shock, and is designed to be held in a manner similar to a pistol and operated using a finger trigger.

(2) "*Law enforcement agency*" means any agency or department of the state, or any political subdivision thereof, that employs any peace officer described in **Chapter 4.5** (commencing with **Section 830**) of **Title 3** of **Part 2**.

Note: The purpose of this new statute is to reduce the likelihood what has been termed as "*weapon confusion*," where an officer intends to use a Taser or stun gun but mistakenly draws a firearm instead.

Theft:

B&P Code § 21610 (Amended; **SB 1087**): *Core Recycler; Purchase of a Catalytic Converter; Necessary Records:*

A “*core recycler*” is defined as a person or business that buys used catalytic converters, transmissions, and other parts removed from a vehicle.

The following records are added to the documentation a core recycler who accepts a catalytic converter for recycling:

1. The business license number or tax identification number of a commercial enterprise that sells a catalytic converter.

A “*commercial enterprise*” is defined as an automobile dismantler; a core recycler that maintains a fixed place of business; a motor vehicle manufacturer or dealer; an automotive repair dealer; or any other licensed business that may “reasonably generate, possess, or sell used catalytic converters.”

2. The year, make, and model of the vehicle from which the catalytic converted was removed.

3. If applicable, a copy of the title of the vehicle from which the catalytic converter accepted was removed that shows the vehicle identification number matches the number permanently marked on the catalytic converter.

A core recycler is prohibited from providing payment for a catalytic converter unless the seller is a person described in new **Veh. Code § 10852.5**; i.e., an automobile dismantler; a core recycler; a motor vehicle manufacturer or dealer; a licensed automotive repair dealer; a licensed business that may reasonably generate, possess, or sell used catalytic converters; or an individual possessing documentation of lawful ownership of a used catalytic converter.

Note: New **Veh. Code § 10852.5** is an infraction that applies to all persons and prohibits purchasing a used catalytic converter from anyone except one of the above persons or entities. (See below)

Some of the requirements in **B&P Code § 21610** do not apply if a core recycler has a written agreement with a seller of a catalytic converter, and the agreement includes a log describing each catalytic converter received pursuant to the agreement with sufficient particularity so that catalytic converters in the core recycler’s inventory can be matched to the description in the log.

Note: The section continues to require:

That core recyclers to keep and maintain catalytic converter information for at least *two years*. (**Subd. (g)**)

That core recyclers make the information available for inspection by local law enforcement upon demand. (**Subd. (h)**)

That a violation of this section, or a false statement about the information a core recycler is required to maintain, is a misdemeanor crime, but punishable only by a fine and not jail time. (**Subds. (i), (j), and (k).**)

Note: The section also continues to authorize a court to order a defendant to stop engaging in the business of a core recycler for up to *30 days* (for a second violation) or at least *one year* (for a third and subsequent violation).

See also **Veh. Code § 10852.5** (New; **SB 1087**), creating a new infraction crime that applies to all persons (not just core recyclers), prohibiting the purchase of a used catalytic converter from any person or business who (or that) is *not* an automobile dismantler; a core recycler; a motor vehicle manufacturer or dealer; a licensed automotive repair dealer; a licensed business that may reasonably generate, possess, or sell used catalytic converters; or an individual possessing documentation of lawful ownership of a used catalytic converter, including a certificate of title or registration that has a vehicle identification number (VIN) that matches the VIN permanently marked on the catalytic converter.

Civil Code §§ 1749.8-1749.8.5 (New; Effective 7/1/2023; **SB 301**): *Online Marketplaces*:

New **Title 1.4D** in **Part 4** of **Division 3** of the **Civil Code**, entitled “*Online Marketplaces*,” is added to combat the sale of stolen goods online by requiring high-volume third-party sellers to provide identifying information to online marketplaces and consumers, and by authorizing the Attorney General to seek civil penalties for a violation of these new laws.

“*High-volume third-party seller*” is defined as a third-party seller who, in any continuous 12-month period during the previous 24 months, has entered into 200 or more discrete transactions through an online marketplace for the sale of new or unused consumer products to buyers located in California resulting in \$5,000 or more in gross revenues.

New **Civil Code § 1749.8.1** provides:

That third-party sellers must supply the following information to the online marketplace within *10 days* of qualifying as a high-volume seller;

A bank account number or name of the payee for payment issued by the online marketplace to the seller;

If the seller is an individual, the individual's name;

If the seller is not an individual, a copy of a valid government record or tax document that includes the business name and physical address of the seller;

A taxpayer identification number; *and*

A valid email address and telephone number.

An online marketplace is required to suspend the sales activity of any third-party seller who does not submit this information.

New **Civil Code § 1749.8.2** provides that “*High-Volume Third-Party Sellers*” with \$20,000 annual gross revenues in either of the two prior calendar years:

Must disclose the following information to consumers in an order confirmation message or other communication made to a consumer after a purchase is finalized:

The full name; physical address;

Contact information including a working telephone number, email address, or other means of direct electronic messaging; *and*

Whether or not another party is responsible for supplying the product to the consumer upon purchase.

Is *permitted* to disclose a state and country, instead of a physical address, if the seller has only a residential physical address.

Must disclose to consumers on the product listing of a third-party seller, a reporting mechanism that allows for the electronic and telephonic reporting of suspicious activity to the online marketplace.

Is *required* to suspend the sales activity of a seller who is not in compliance with this section, or who makes a false representation to the online marketplace or to consumers.

Is *permitted* to suspend the sales activity of a third-party seller who has not answered consumer inquiries within a reasonable timeframe.

New **Civil C. 1749.8.4** provides for some civil penalties, authorizing the Attorney General to bring a civil action for a violation of this new title, with a penalty of up to \$10,000 for each violation and/or obtain an injunction or restraining order.

The Attorney General *may* also obtain reasonable attorney’s fees, and costs, including expert witness fees and other litigation expenses, may be recovered.

Note: See also **Gov’t. Code §§ 7599.110–7599.113 (AB 1700)** which require the Attorney General to establish a reporting location on its internet website for consumers to report suspected stolen goods they find on online marketplaces, and requires online marketplaces to display a link to that location on their platforms.

Pen. Code § 487 (Amended; **AB 2356**): *Grand Theft; Aggravation of Thefts When Motivated by One Intention, General Impulse, and Plan:*

New **subd. (e)** is added, providing as follows: “If the value of the money, labor, real property, or personal property taken exceeds *nine hundred fifty dollars* (\$950) over the course of distinct but related acts, the value of the money, labor, real property, or personal property taken may properly be aggregated to charge a count of grand theft, if the acts are motivated by one intention, one general impulse, and one plan.”

Note: See **People v. Bailey** (1961) 55 Cal.2nd 514, where the defendant made a single fraudulent representation about her household situation that caused her to receive a number of welfare payments. Each payment fell below the felony threshold of \$950, but payments were permitted to be aggregated in order to charge felony grand theft because the evidence established that there was only one intention, one general impulse, and one plan.

Pen. Code §§ 487e, 487f, & 491 (Amended; **AB 1290**): *Theft of Companion Animals:*

All three theft-related offenses of **P.C. §§ 487e, 487f, & 491** have been amended to clarify that the unlawful taking of a “*companion animal*” (such an animal being “personal property”), is a “*theft*,” grand or petty theft depending upon the value of the animal taken (grand theft being over \$950; petty theft covered by **P.C. § 478f**).

“*Companion animal*” is defined “as an animal, including but not limited to, a dog or cat, that a person keeps and provides care for as a household pet or otherwise for the purpose of companionship, emotional support, service, or protection.” (**P.C. §§ 487e(b)(1), 487f(b)(1) & 491(b)(1)**) These amendments also provide that a companion animal does *not* include a feral animal; “including, but not limited to, feral cats as defined in **Section § 31752.5** of the **Food and Agricultural Code**. (**P.C. §§ 487e(b)(2), 487f(b)(2) & 491(b)(2)**)

Note: See *People v. Sadowski* (1984) 155 Cal.App.3rd 332, where the court upheld a **P.C. § 487** conviction for the grand theft of a cat even though “*cat*” is not specified in **P.C. § 487**, finding that **P.C. § 484** provides adequate notice of the elements of the crime of theft (including taking the “personal property of another”), that **P.C. § 487** provides adequate notice that the taking of property of a particular value is grand theft, and that **P.C. § 487** applies to thefts of all property, animals or otherwise, not specified elsewhere.

Pen. Code § 13899 (Amended; **AB 1653**): *Theft of Vehicle Parts and Accessories*:

The “*theft of vehicle parts and accessories*” is added to the property crimes specified in this section that deals with organized retail theft and vehicle burglary.

Note: **P.C. § 13899** authorizes regional property crimes task forces to operate in counties identified by the California Highway Patrol as having elevated levels of property crime, including, but not limited to, organized retail theft, vehicle burglary, and now, the theft of vehicle parts. The stated purpose of this amendment is to have these property crime task forces prioritize the theft of *catalytic converters* in that this type of theft has skyrocketed over the last few years.

Vehicle Code Violations:

Veh. Code §§ 21451, 21452, 21453, 21456, 21461.5, 21462, 21950, 21953, 21954, 21955, 21956, 21961, 21966 (Amended) & **21949.5** (New; **AB 2147**): *Rules for Vehicles and Pedestrians at Intersections; Jaywalking*:

Each of these sections is amended which, in combination, are interpreted to prohibit law enforcement from stopping and/or citing a pedestrian for violating the implied jaywalking provisions of each, “unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.”

However, this new prohibition does not relieve pedestrians from the duty of using due care for their safety and does not relieve drivers from the duty of exercising due care for the safety of any pedestrian in the roadway.

Note: These amendments do not legalize jaywalking, but rather merely prohibit a pedestrian from being detained and/or cited absent the jaywalking being hazardous under the circumstances.

Note: New **V.C. § 21949.5** requires the California Highway Patrol Commissioner, by *January 1, 2028*, and in consultation with the Institute of Transportation Studies at the University of California, to submit a report to the Legislature regarding pedestrian-related traffic crash data and an evaluation of whether and how this bill has impacted pedestrian safety.

Veh. Code § 21760 (Amended; **AB 1909**): *The Three Feet for Safety Act*:

The “**Three Feet For Safety Act**” (requiring vehicles passing bicyclists to stay at least three feet away from a bicyclist) is amended to require the passing vehicle to *change lanes* before passing a bicyclist under those circumstances where there is more than one lane for traffic going in that direction.

Veh. Code § 23109 (Amended; **AB 2000**): *Speed Contests and Exhibitions of Speed; Punishment*:

(a) A person *shall not* engage in a motor vehicle speed contest on a highway or in an offstreet parking facility. As used in this section, a motor vehicle speed contest includes a motor vehicle race against another vehicle, a clock, or other timing device. For purposes of this section, an event in which the time to cover a prescribed route of more than *20 miles* is measured, but in which the vehicle does not exceed the speed limits, is not a speed contest.

(b) A person *shall not* aid or abet in any motor vehicle speed contest on a highway or in an offstreet parking facility.

(c) A person *shall not* engage in a motor vehicle exhibition of speed on a highway or in an offstreet parking facility, and a person shall not aid or abet in a motor vehicle exhibition of speed on any highway or in an offstreet parking facility.

(d) A person *shall not*, for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest or exhibition upon a highway or in an offstreet parking facility, in any manner obstruct or place a barricade or obstruction or assist or participate in placing a barricade or obstruction upon a highway or in an offstreet parking facility.

(e)

(1) A person convicted of a violation of **subdivision (a)** shall be punished by imprisonment in a county jail for not less than *24 hours* nor more than *90 days* or by a fine of not less than *three hundred fifty-five dollars* (\$355) nor more than *one thousand dollars* (\$1,000), or by both that fine and imprisonment. That person shall also be required to perform *40 hours* of community service. The court may order the privilege to operate a motor vehicle suspended for *90 days to six months*, as provided in **paragraph (8)** of **subdivision (a)** of **Section 13352**. The person’s privilege to operate a motor vehicle may be restricted for *90 days to six months* to necessary travel to and from that person’s place of employment and, if driving a motor vehicle is necessary to perform the duties of the person’s employment, restricted to driving in that person’s scope of employment.

This subdivision does not interfere with the court's power to grant probation in a suitable case.

(2) If a person is convicted of a violation of **subdivision (a)** and that violation proximately causes bodily injury to a person other than the driver, the person convicted shall be punished by imprisonment in a county jail for not less than *30 days* nor more than *six months* or by a fine of not less than *five hundred dollars* (\$500) nor more than *one thousand dollars* (\$1,000), or by both that fine and imprisonment.

(f)

(1) If a person is convicted of a violation of **subdivision (a)** for an offense that occurred within *five years* of the date of a prior offense that resulted in a conviction of a violation of **subdivision (a)**, that person shall be punished by imprisonment in a county jail for not less than *four days* nor more than *six months*, and by a fine of not less than *five hundred dollars* (\$500) nor more than *one thousand dollars* (\$1,000).

(2) If the perpetration of the most recent offense within the *five-year* period described in **paragraph (1)** proximately causes bodily injury to a person other than the driver, a person convicted of that second violation shall be imprisoned in a county jail for not less than *30 days* nor more than *six months* and by a fine of not less than *five hundred dollars* (\$500) nor more than *one thousand dollars* (\$1,000).

(3) If the perpetration of the most recent offense within the **five-year** period described in **paragraph (1)** proximately causes serious bodily injury, as defined in **paragraph (4)** of **subdivision (f)** of **Section 243** of the **Penal Code**, to a person other than the driver, a person convicted of that second violation shall be imprisoned in the state prison, or in a county jail for not less than *30 days* nor more than *one year*, and by a fine of not less than *five hundred dollars* (\$500) nor more than *one thousand dollars* (\$1,000).

(4) The court shall order the privilege to operate a motor vehicle of a person convicted under **paragraph (1)**, **(2)**, or **(3)** suspended for a period of *six months*, as provided in **paragraph (9)** of **subdivision (a)** of **Section 13352**. In lieu of the suspension, the person's privilege to operate a motor vehicle may be restricted for six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

(5) This subdivision does not interfere with the court's power to grant probation in a suitable case.

(g) If the court grants probation to a person subject to punishment under **subdivision (f)**, in addition to **subdivision (f)** and any other terms and conditions imposed by the court, which may include a fine, the court shall impose as a condition of probation that the person be confined in a county jail for not less than *48 hours* nor more than *six months*. The court *shall* order the person's privilege to operate a motor vehicle to be suspended for a period of *six months*, as provided in **paragraph (9)** of **subdivision (a)** of **Section 13352** or restricted pursuant to **subdivision (f)**.

(h) If a person is convicted of a violation of **subdivision (a)** and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than *one day* nor more than *30 days*.

(i)

(1) A person who violates **subdivision (b)**, **(c)**, or **(d)** *shall* upon conviction of that violation be punished by imprisonment in a county jail for not more than *90 days*, by a fine of not more than *five hundred dollars* (\$500), or by both that fine and imprisonment.

(2)

(A) Commencing *July 1, 2025*, the court may order the privilege to operate a motor vehicle suspended for *90 days* to *six months* for a person who violates **subdivision (c)**, as provided in **subparagraph (B)** of **paragraph (8)** of **subdivision (a)** of **Section 13352**, only if the violation occurred as part of a sideshow. For purposes of this section, "*sideshow*" is defined as an event in which two or more persons block or impede traffic on a highway or in an offstreet parking facility, for the purpose of performing motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for spectators.

(B) The person's privilege to operate a motor vehicle may be restricted for *90 days* to *six months* to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

(C) If the court is considering suspending or restricting the privilege to operate a motor vehicle pursuant to this paragraph, the court shall also consider whether a medical, personal, or family hardship exists that requires a person to have a driver's license for such limited purpose as the court deems necessary to address the

hardship. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(j) If a person's privilege to operate a motor vehicle is restricted by a court pursuant to this section, the court *shall* clearly mark the restriction and the dates of the restriction on that person's driver's license and promptly notify the Department of Motor Vehicles of the terms of the restriction in a manner prescribed by the department. The Department of Motor Vehicles *shall* place that restriction in the person's records in the Department of Motor Vehicles and enter the restriction on a license subsequently issued by the Department of Motor Vehicles to that person during the period of the restriction.

(k) The court *may* order that a person convicted under this section, who is to be punished by imprisonment in a county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(l) For purposes of this section, "*offstreet parking facility*" has the same meaning as in **subdivision (c) of Section 12500**.

Note: V.C. Code § 12500(c) defines "offstreet Parking facility" as "any offstreet facility held open for use by the public for parking vehicles and includes any publicly owned facilities for offstreet parking, and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for the common public use of retail customers."

(m) This section shall be known and may be cited as the **Louis Friend Memorial Act**.

Veh. Code §§ 27151.1 (New; Effective 1/1/2027; **AB 2496**): *Failure to Correct Loud Mufflers and Whistle Tip Systems*:

Beginning *January 1, 2027*, anyone who has been ticketed for a violation of existing **V.C. § 27150.3** (adding a "*whistle tip*" to a vehicle's exhaust system) or amended **V.C. § 27151** (Amended; **AB 2956**; modifying a vehicle's exhaust system to increase the noise emitted) must be able to prove to the court within *three months* of the violation that the vehicle is fixed. Failing to do so will result in the vehicle's registration being put on hold.

A court, beginning *January 1, 2027*, is to notify the DMV to place a registration hold on a vehicle found to be in violation of **V.C. §§ 27150.3** or **27151** if the court has not been presented with a certificate of compliance within *three months* of the violation date.

DMV is to check to see whether there is a hold on the vehicle registration before renewing the registration of any vehicle. DMV is prohibited from renewing the

registration until it has received notice from the court that a certificate of compliance has been received.

Note: Subd. (d) of V.C. § 27150.3 defines a “*whistle tip*” as a device attached to a vehicle’s exhaust pipe for the sole purpose of creating a high-pitched or shrieking noise when the vehicle is operated.

Wiretapping & Eavesdropping:

Pen. Code §§ 629.51 & 629.52 (Amended; Effective 9/27/2022; **AB 1242**): *Prohibited Wiretap Authorization to Obtain Abortion Evidence:*

These wiretap statutes have been amended to prohibit a magistrate from authorizing the interception of wire or electronic communications for the purpose of investigating or recovering evidence of a “*prohibited violation*.”

A “*prohibited violation*” is defined as providing, facilitating, obtaining, or intending or attempting to provide, facilitate, or obtain, an *abortion* that is lawful under California law.

Pen. Code §§ 631 & 632.7 (Amended; **SB 1272**): *Wiretapping and Eavesdropping and Telephone Companies:*

The **P.C. § 631** (wiretapping) and **P.C. § 632.7** (eavesdropping) are updated to specifically add “*telephone companies*” to those entities (public utilities) to which the prohibitions on wiretapping and eavesdropping do *not* apply.

“*Telephone company*” is cross-referenced to existing **P.C. § 638(c)(3)**, referencing **Pub. Util. Code § 234**, noting that it includes any person providing residential or commercial telephone service to a subscriber utilizing specified technologies or methods such as a cordless telephone, a telephony device operating over the Internet utilizing voice over Internet protocol, a satellite telephone, etc.

Pen. Code §§ 638.50 & P.C. 638.52 (Amended; Effective 9/27/2022; **AB 1242**): *Pen Register and Trap and Trace Device Statutes and Prohibited Violations:*

The pen register and trap and trace device statutes have been amended to prohibit a magistrate from authorizing the installation and use of a pen register or a trap and trace device for the purpose of investigating or recovering evidence of a “*prohibited violation*.”

A “*prohibited violation*” is defined as one that provides, facilitates, obtains, or intends or attempts to provide, facilitate, or obtain, an *abortion* that is lawful under California law.