The California Legal Update
New and Amended Statutes Edition

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

Vol. 30 January 1, 2025 No. 1

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ADMINISTRATIVE NOTES:

***New and Amended Statutes; Disclaimer*:** The statutes listed here are not intended to cover the entire body of the Legislature's work for 2024, nor the multiple Initiatives approved during the year by the voters. 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 criminal offense. Statutes that affect post-conviction (i.e., appellate) proceedings are also not included. The statutes that *are* included have been severely paraphrased, the degree of detail being dependent upon the novelty, importance, and/or complexity of the statute. Although I have made a sincere effort to avoid taking any part of a statute out of context, it is *strongly* recommended that the unedited statute be consulted before attempting to use it either in the field or the courtroom. The effective date of each new or amended statute is *January 1, 2025*, unless otherwise indicated. Bolding and italics have been added when necessary for emphasis.

***NEW AND AMENDED STATUTES*:**

***Animal Abuse*:**

See **Penal Code § 29805** (Amended; **SB 902**): ***Possession of a Firearm with a Prior Misdemeanor Conviction***, under "***Firearms***," below.

***Arrests*:**

See **Pen. Code § 836** (Amended; **AB 2943**) ***Warrantless Arrests for Shoplifting***, under ***Theft-Related Crimes***, below.

Pen. Code § 849 (Amended; **AB 2215**): ***Releasing an Arrested Person Without Booking*:**

An additional reason a peace officer may release from custody a person arrested without a warrant instead of taking the person before a magistrate is added as **subd. (b)(6)** to the existing list: I.e., "The person was arrested and subsequently delivered or referred to a public health or social service organization that provides services including, but not limited to, housing, medical care, treatment for alcohol or substance use disorders, psychological counseling, or employment training and education, the organization agrees to accept the delivery or referral, and no further proceedings are desirable."

As with a number of the other reasons for releasing an arrested subject (**paragraphs (1)**, **(3)** and **(5)**); "The record of arrest of a person released pursuant to . . . **(6)** of **subdivision (b)** shall include a record of release. Thereafter, the arrest shall not be deemed an arrest, but a detention only."

Note: **P.C. § 849(b)** continues to specify these other grounds for release:

(1) When an officer is satisfied there are insufficient grounds for a criminal complaint;
(2) The person was arrested for intoxication only and no further proceedings are desirable;
(3) The person was arrested for being under the influence of a controlled substance and was delivered to a facility or hospital for treatment and no further proceedings are desirable;
(4) The person was arrested for driving under the influence of alcohol or drugs and is delivered to a hospital for medical treatment that prohibits immediate delivery before a magistrate; or
(5) The person was arrested and delivered to a hospital or urgent care facility for mental health evaluation and treatment, and no further proceedings are desirable.

***Assault and Battery Crimes*:**

Penal Code §§ 241 & **243** (Amended; **AB 977**): ***Assault and/or Battery on Health Care Workers***:

The misdemeanor crimes of **Penal Code §§ 241(c)** (assault against specified persons) and **243(b)** (assault against specified persons) have been amended to add physicians, nurses, and other health care workers of a hospital engaged in providing services within the emergency department.

A "*health care worker*" is described as a person, who in the course and scope of employment, performs duties directly associated with the care and treatment rendered by the hospital's emergency department or the department's security.

Note: Both are punishable by up to one year in jail and/or by a fine of up to $2,000.

Note: This bill also creates new **H&S Code § 1317.5a** to permit health facilities that operate an emergency department to post a notice stating "WE WILL NOT TOLERATE any form of threatening or aggressive behavior toward our staff. Assaults and batteries against our staff are crimes and may result in a criminal conviction."

Penal Code § 243.4 (Amended; **SB 442**): ***Sexual Battery***: ***Masturbating or Touching an Intimate Part***:

The misdemeanor crime of sexual battery (**subdivision (e)(1)**) has been expanded to include a situation in which the perpetrator causes the victim, against his or her will, to masturbate or to touch an intimate body part of *the perpetrator*, or *the victim*, or *a third person*, when done for the purpose of sexual arousal, sexual gratification, or sexual abuse.

Note: Punishable by up to six months in jail and/or by a fine of up to $2,000, or $3,000 if the victim was an employee of the defendant.

***Child Pornography*:**

Penal Code § 311.11 (Amended; **AB 1831**): ***Digitally Altered or Artificial-Intelligence-Generated Child Pornography***:

The new felony crime of *possession of child pornography* is added as **paragraph (2)** of **subdivision (a)** of **P.C. § 311.11**, prohibiting the act of knowingly possessing or controlling any matter, data, image, film, or *digitally altered or artificial-intelligence-generated matter*, knowing that the matter is obscene and which depicts what appears to be a person under age 18, or contains digitally altered or artificial-intelligence-generated data depicting what appears to be

person under age 18, engaging in or simulating sexual conduct, as defined in P**.C. § 311.4(d)**.

Note: This new felony offense apples to an entirely "AI-generated" image or to a real person who was enhanced, or "*nudified*," or morphed, by AI.

This new felony is punishable in state prison (*16 months, two years, or three years*), or in county jail for up to *one year*, pursuant to **P.C. § 1170(h)**.

Note: Similar references to "*artificial intelligence*," or "*AI*," have been added to all the child pornography and obscenity statutes described in **Pen. Code § 311** through **Pen. Code § 312.3**, **AB 1831** and **SB 1381**.

***Consumer Protections*:**

Bus. & Prof. Code § 17500.6 (New; **AB 2426**): ***Advertising or offering for Sale Digital Goods***:

This new section makes it a misdemeanor for a seller of a "digital good" to advertise or offer for sale a digital good that is not available for permanent offline download by using the terms "*buy*," "*purchase*," or any other term reasonably understood to confer an unrestricted ownership interest in the digital good, unless the seller meets specified conditions.

Those conditions include the purchaser affirmatively acknowledges that the purchaser is receiving a license to access the digital good, or the seller provides a clear and conspicuous statement that buying or purchasing the digital good is a license.

Note: Examples of "*digital goods*" include a movie on a streaming service or a book to be read on an electronic device. The person purchasing the digital good is buying a license to access the good only, and is not purchasing the type of ownership that comes with products such as DVDs, CDs, and hardback or paperback books. [

Note also that existing **B&P § 17534** continues to provide that a violation of **Chapter 1** (Advertising—**B&P §§ 17500–17606**) in **Part 3** of *Division 7* of the **Business & Professions Code** is a misdemeanor crime.

Bus. & Prof. Code §§ 17601 & 17602 (Amended; **AB 2863**): ***Continuous Service Offers***:

Consumer protections regarding automatic renewal and continuous service offers have been increased by adding several prohibitions and requirements for businesses that make an automatic renewal or continuous service offer to a

consumer in California. Amendments made by this bill, however, only apply to contracts entered into, or amended, on and after *July 1, 2025*.

New Prohibitions:

1. Failing to obtain a consumer's express affirmative consent to the automatic renewal or continuous service offer.

2. Including any information in the contract that interferes with, detracts from, contradicts, or undermines the ability of consumers to provide their affirmative consent to the automatic renewal or continuous service.

3. Failing to maintain verification of the consumer's affirmative consent for at least *three years*, or one year after the contract is terminated, whichever period is longer

4. Misrepresenting, expressly or by implication, any material fact related to the transaction, including, but not limited to, the inclusion of an automatic renewal or continuous service, or any material fact related to the underlying good or service.

5. Failing to provide a consumer with notice, before confirming billing information, about the amount or range of costs the consumer will be charged and, if applicable, the frequency of those charges a consumer will incur unless the consumer takes timely steps to prevent or stop those charges.

New Requirements:

1. If a business provides for cancellation by a toll-free telephone number, the business shall answer calls promptly during normal business hours and shall not obstruct or delay the consumer's ability to cancel. However, a business is permitted to present a discounted offer or retention benefit if the consumer is first informed that the consumer may cancel at any time by saying "*cancel*" or words to that effect.

2. If a consumer leaves a voicemail message requesting cancellation, the business shall, within one business day, either process the cancellation or call back the consumer about the cancellation request.

3. The ability of a consumer to cancel or terminate an automatic renewal or continuous service must be made available to the consumer in the same medium that the consumer used to activate the automatic renewal or continuous service, such as in person, by telephone, by mail, or by email.

4. A business must send an annual reminder to a consumer using the same medium that activated the automatic renewal or continuous service, with information about the product or service to which the automatic renewal or continuous service applies, the frequency and amount of charges, and the means to cancel.

An amendment to this section adds the phrase "*free-to-pay conversion*" to the definitions of both automatic renewal and continuous service, which is defined as "a provision under which a consumer receives a product or service for free for an initial period and then will incur an obligation to pay for the product or service unless affirmative action is taken to cancel."

Note: Existing **B&P § 17534** continues to provide that a violation of **Chapter 1** (Advertising—**B&P §§ 17500–17606**) in **Part 3** of **Division 7** of the **Business & Professions Code** is a misdemeanor crime.

***Controlled Substances*:**

Health & Safety Code §§ 11300, **11301**, **11302**, **11303**, **11304**, **11305** & **11306** (New; **AB 2136**): ***Controlled Substance Checking Services*:**

These new statutes provide that a "checking service,' or an employee of such a service, or a person who possesses a controlled substance or analog and is engaged in obtaining controlled substances checking services from a provider, *shall not* be subject to detention, arrest, criminal prosecution, civil or administrative action, disciplinary action, forfeiture of property, or referral or transfer to United States Immigration and Customs Enforcement or another immigration authority.

The possession of a controlled substance for purposes of getting it checked is prohibited from being the sole grounds for an investigation. It is also provided that it is *not* a violation of **Division 10** of the **Health and Safety Code** (**H&S §§ 11000–11651**) for a "controlled substance checking service provider" to perform a variety of tasks, including receiving, possessing, transporting, or analyzing samples of controlled substances or analogs; and providing results of analyses.

Using a controlled substance checking service shall not serve as the basis for a reasonable suspicion or probable cause for a law enforcement officer to conduct a search or seizure.

"*Controlled Substance Checking*" is defined as the process of identifying, analyzing, or testing a substance, controlled or not, or residue on drug paraphernalia, or controlled substance packaging to determine whether the substance contains contaminants, toxic substances, hazardous compounds, or other adulterants.

Entities that are eligible to provide checking services:

1. An entity that provides syringe exchange services;

2. A research institution, college, or university; *or*

3. A community-based or nonprofit organization working in collaboration with public health departments, syringe exchange services, research institutions, colleges, or universities to reduce the potential harm associated with the use of controlled substances.

Note: Also amended by this bill are **H&S Code §§ 11014.5** and **11364.5**, removing to from the definition of "*drug paraphernalia*" equipment that is used to test a substance for contaminants, toxic substances, and other adulterants. The bill also amends **H&S Code § 11364** to add an exception to the crime of possession of drug paraphernalia: obtaining controlled substance checking services.

Health & Safety Code § 11370.1 (Amended; **Prop. 36**; Effective on or before *December 18, 2024*): ***Possession of Fentanyl***:

Fentanyl is added to the crime of possessing a hard drug while armed with a loaded firearm.

Health & Safety Code § 11370.4 (Amended; **Prop. 36**; Effective on or before *December 18, 2024*): ***Trafficking in Fentanyl***:

A new subdivision is added for trafficking fentanyl in specified quantities (one ounce to 80 kilograms) with an increased punishment from *three to 25 years* in prison.

Health & Safety Code § 11375 (Amended; **AB 2018**): ***Controlled Substances*:**

"Fenfluramine" is removed from the list of controlled substances that are illegal to sell or possess for purposes of sale, or possess without a prescription.

Note: This bill also amends **H&S Code § 11057** to remove fenfluramine from the list of **Schedule IV** controlled substances.

Health & Safety Code §§ 11675, **11676**, **11677**, **11678**, **11679**, & **11680** (New; **AB 2871**): ***Overdose Fatality Review Teams***:

A county or regional group of counties is heretofore authorized to establish an interagency drug overdose fatality review team to assist local agencies in identifying and reviewing overdose fatalities, to facilitate communication among the various persons and agencies involved in overdose fatalities, and to integrate

local overdose prevention efforts through strategic planning, data dissemination, and community collaboration.

A county is also permitted to develop standardized protocols for postmortem examinations involving an overdose.

Those who may comprise an overdose fatality review team include medical personnel, coroners, district attorneys, city attorneys, county counsel, law enforcement, local drug trafficking experts, drug treatment providers, public heath and behavioral health experts, and experts in the field of forensic toxicology.

Communications and documents shared within or produced by an overdose fatality review team related to an overdose fatality are confidential.

Health & Safety Code § 11395 (New; **Prop. 36**; Effective on or before *December 18, 2024*): ***Possession of a Hard Drug with Priors***:

A new treatment-mandated felony is created that permits a felony charge for possessing a hard drug if the offender has *two* prior misdemeanor or felony drug-related convictions. Offenders are permitted to choose drug and mental health treatment instead of jail or prison.

Health & Safety Code § 11758.05 (New; **SB 908**): ***Fentanyl-Related Child Overdoses***:

The *State Department of Public Health* (DPH) is now required by the new legislation to use its best efforts to utilize all of its relevant data regarding overdoses in California to monitor and identify current trends of fentanyl-related deaths of children *zero to five years of age*. DPH is also required to develop guidance and spread awareness of the trends to protect and prevent children from fentanyl exposure. By *January 1, 2026*, DPH is required to distribute its findings and guidance to local health departments, county boards of supervisors, and the Legislature.

***Diversion*:**

Pen. Code § 1001.80 (Amended; **SB 1025**): ***Military Diversion***:

Military diversion has been expanded from misdemeanor crimes only to also include felony crimes with a few exclusions, requiring for felony crimes that the defendant's condition (sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or a mental health problem) was a significant factor in the commission of the charged offense.

The requirements for military diversion for misdemeanor crimes remains the same; i.e., that the defendant was or is, a member of the United States military, and the defendant may be suffering from sexual trauma, traumatic brain injury,

post traumatic stress disorder, substance abuse, or mental health problems as a result of military service.

For military diversion for felony offenses, however, as with **P.C. § 1001.36** mental disorder diversion, the court in a military diversion felony case is required to find that the defendant's condition was a significant factor in the commission of the offense unless there is clear and convincing evidence that it was not a motivating factor, causal factor, or contributing factor. A court is permitted to consider any relevant and credible evidence, including, but not limited to, a police report, preliminary hearing transcript, witness statement, statement by the defendant's mental health treatment provider, medical record, or a report by a qualified medical expert, that the defendant displayed symptoms consistent with the condition at or near the time of the crime (same as for mental disorder diversion). The court to also authorized to request, using existing resources, an assessment to aid in this determination.

Excluded from military diversion are the same felony crimes that are excluded from mental disorder diversion pursuant to **P.C. § 1001.36**; murder or voluntary manslaughter; an offense for which a conviction would require **P.C. § 290** sex offender registration (except **P.C. § 314** indecent exposure); rape; lewd or lascivious act on a child under age 14; assault with intent to commit rape, sodomy, or oral copulation in violation of **P.C. § 220**; rape or sexual penetration in concert in violation of **P.C. § 264.1**; continuous sexual abuse of a child in violation of **P.C. § 288.5**; a violation of **P.C. § 11418(b)** or **(c)** (weapons of mass destruction).

Existing language in **P.C. § 1001.80** provides that a "*misdemeanor violation*" of **V.C. 2§§ 3152** (DUI) or **23153** (DUI causing injury) are offenses for which a defendant may be diverted. This language is now in **subdivision (n)(1)**. A new **paragraph (2)** in **subdivision (n)** provides that; "A defendant shall not be placed in a pretrial diversion program in accordance with this section for any offense related to driving under the influence other than those identified in **paragraph (1)**." Therefore, no other misdemeanor crimes related to driving under the influence are eligible for military diversion. And no felony crimes related to driving under the influence are eligible for military diversion, including felony **V.C. § 23152**, felony **V.C. § 23153**, **P.C. § 191.5(a)** (gross vehicular manslaughter while intoxicated), and **P.C. § 191.5(b)** (vehicular manslaughter while intoxicated).

A "*Firearms Prohibition Order*" permits the prosecution, in a misdemeanor or felony case apparently, to request an order from the court that the defendant be prohibited from controlling, owning, or possessing a firearm until diversion is successfully completed, because the person is a danger to self or others pursuant to **W&I § 8103(i)**. The prosecution, however, is required to prove, by *clear and convincing evidence*, that the defendant poses a significant danger of causing personal injury to self or another person by controlling, owning or possessing a

firearm, and that the prohibition is necessary to prevent personal injury to the defendant or another person because less restrictive alternatives have either been tried and found to be ineffective or are inadequate or inappropriate for the circumstances of the defendant. It is also provided that a firearms prohibition order shall be in effect until the defendant successfully completes diversion or until firearm rights are restored pursuant to **W&I § 8103(g)(4)**, which allows a person subject to a firearms prohibition to petition the court to lift the prohibition. At such a hearing, the burden is on the offender to prove by a *preponderance of the evidence* that the offender would be likely to use firearms in a safe and lawful manner. All of the firearm prohibition provisions in **P.C. § 1001.80** are virtually identical to those for **P.C. § 1001.36** mental disorder diversion.

***Domestic Violence*:**

Penal Code § 273.76 (New; **AB 2907**): ***Required Duties of an Arresting Officer in a Domestic Violence Situation***:

A law enforcement officer arresting for an offense involving *domestic violence* as defined in **P.C. § 13700(a)** and **(b)** or in **Family C. §§ 6203** and **6211**, is required to do all of the following:

1. Query the Automated Firearms System through the California Law Enforcement Telecommunications System (CLETS) for any firearms owned or possessed by the arrestee;

2. Ask the arrestee, victim, and any other household members about any firearms owned or possessed by the arrestee;

3. Ensure that, pursuant to **P.C. § 18250**, any firearm or deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search is taken into temporary custody; *and*

4. Document in detail, in the arrest report, the actions taken as required above.

Note: **P.C. § 18250** authorizes a law enforcement officer to take temporary custody of a firearm or deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search, at the scene of a domestic violence incident, or when serving a domestic violence protective order or a gun violence protective order.

The investigating or filing officer is required to include a copy of the Automated Firearms System report when filing the case with the district attorney or prosecuting city attorney.

Relevant Definitions:

Family C. § 6203 defines "*abuse*" as intentionally or recklessly causing or attempting to cause bodily injury; sexual assault; placing a person in reasonable apprehension of imminent serious bodily injury to that person or another person; or engaging in behavior that has been or could be enjoined pursuant to **Family C. § 6320** (attacking, striking, stalking, threatening, sexually assaulting, battering, falsely personating, harassing, destroying personal property, contacting, coming within a specified distance or, or disturbing the peace of).

P.C. § 13700(a) defines "*abuse*" as intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to self or another.

Family C. § 6211 defines "*domestic violence*" as abuse perpetrated against a spouse, former spouse, cohabitant, former cohabitant, person with whom the suspect is having or has had a dating or engagement relationship; a person with whom the suspect has had a child; and any other relationship by consanguinity (blood) or affinity (marriage) in the second degree.

P.C. § 13700(b) defines "*domestic violence*" as abuse committed against an adult or minor who is a spouse former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

Pen. Code § 679.07 (New; **SB 989**): ***Homicide Investigations in Domestic Violence Cases***:

This new section requires a law enforcement investigator, before making any findings as to the manner and cause of death of a deceased individual with an identifiable history of being victimized by domestic violence, to interview family members who have relevant information about the domestic violence, if at least *three* of the ten specified conditions are present. I.e.:

1. The decedent died prematurely or in an untimely manner;

2. The death appears to be a suicide or accident;

3. One partner wanted to end the relationship;

4. The history of domestic violence includes coercive control;

5. The decedent is found dead in a home or residence;

6. The decedent is found by a current or previous partner;

7. The history of domestic violence includes strangulation or suffocation;

8. The current or previous partner of the decedent, or child of the decedent or decedent's partner, is the last to see the decedent alive;

9. The partner had control of the scene before law enforcement arrived; or

10. The body of the decedent was moved or other evidence altered in some way.

A law enforcement investigator is permitted to request a complete autopsy in a case where there is an identifiable history of the decedent being victimized by domestic violence and at least *one* of the above conditions is present.

Also, if a local law enforcement agency finds that a death is *not* a homicide and closes the case, family members or their legal counsel have the right to request all records of the investigation available under the **California Public Records Act**.

"*Identifiable history of being victimized by domestic violence*" is defined as demonstrable past incidents of being victimized by domestic violence that may be verified by police reports, written or photographic documentation, restraining order declarations, eyewitness statements, or other corroborating evidence.

Note: This bill also amends **C.C.P. § 129** to permit family members to obtain photographs and recordings taken of a deceased relative at the scene of the death or in the course of a post mortem examination or autopsy, amends **Gov't. Code § 27491** related to coroner duties; and amends **P.C. § 13519** related to police training.

Pen. Code § 13730 (Amended; **AB 2822**): ***Domestic Violence Incident Reports and Firearms***:

Information that a law enforcement domestic violence incident report form must include has been expanded to include a notation about whether the responding officer(s) removed a firearm or other deadly weapon from the location of the domestic violence call.

Note: This section continues to require that a domestic violence report note whether the officer observed signs that the abuser was under the influence of alcohol or a controlled substance; whether any law enforcement agency had previously responded to a domestic violence call at the same address involving the same abuser and victim; whether the officer(s) inquired about the presence of there were indications that the victim was strangled or suffocated. The section

also continues to provide that a firearm or other deadly weapon found at the scene is subject to confiscation pursuant to existing **P.C. § 18250**.

> **P.C. § 18250** requires law enforcement to take custody of a firearm or deadly weapon in plain sight or discovered pursuant to a consensual or lawful search, when at the scene of a domestic violence incident involving a threat to life or a physical assault, or when serving a protective order or a gun violence restraining order.

***Drink Spiking*:**

Bus. & Prof. Code § 25624.5 (New; **AB 2389)** ***Drink Spiking Reporting Requirements***:

Pursuant to **subd. (b)** of this new statute, bar and night club (i.e., an "on-sale general public premises (Type 48)" licensee) employees are required to contact law enforcement or emergency medical services when notified by a customer that the customer or another customer believes they have been a victim of drink spiking (aka, "*roofied*").

Specifically, the bar or night club employee is required to provide any of the following information to law enforcement or to emergency medical services:

1. A positive result from a drug testing device (e.g., a test strip, sticker, or straw designed to detect the presence of a controlled substance in a drink.)

2. Observation of someone tampering with a customer's drink.

3. Verbal communication to staff that a customer has been drugged.

4. Observation of symptoms associated with the effects of drink spiking or the controlled substances used for drink spiking.

"*Drink spiking*" is defined in **subd. (a)(2)** as including, but not being limited to, adding a controlled substance or alcohol to a person's drink without the knowledge or consent of that person.

The licensees or staff members are required to monitor the customer to the best of their ability until law enforcement or emergency medical services arrive, and to follow any instructions given by law enforcement or emergency medical services personnel, to the best of their ability.

A violation of this section is not a crime, as specifically noted in **Subd. (c)**.

***Elections*:**

Elections Code §§ 18580, **18581**, **& 18582 (**New; **AB 2642**; Effective *9/24/2024*): ***Protecting Elections from Armed Coercion and Extremism (PEACE) Act***:

Elections Code § 18580: For the purposes of this article, the following definitions apply:

(a) "*Firearm*" means a device designed to be used as a weapon, from which a projectile is expelled through a barrel by the force of an explosion or other form of combustion. It includes any firearm that is in the nature of an air gun, spring gun or pistol, or other weapon in which the propelling force is a spring, an elastic band, carbon dioxide, compressed or other gas or vapor, or air or compressed air, or is ignited by compressed air, and that ejects a bullet or missile smaller than three-eighths of an inch in diameter with sufficient force to injure a person that is so substantially similar in coloration and overall appearance to an existing firearm or weapon as to lead a reasonable person to perceive that the device is a firearm or weapon.

(b) "*Imitation firearm*" has the same meaning as in **P.C. § 16700**.

(c) "*Law enforcement officer*" has the same meaning as in **P.C. § 13519.05**.

(d) "*Officer holding an election or conducting a canvass*" has the same meaning as in **E.C. § 18502**.

(e)

(1) "*Open carry*" has the same meaning as in **P.C. § 26350**.

(2) Notwithstanding **P.C. § 26350**, this definition applies to any firearm or imitation firearm that is openly carried and applies to any firearm that is openly carried, regardless of whether the firearm is loaded.

(f) "*Voting*" includes any action necessary to make a vote effective in a primary, special, or general election, including registration or other action required by law as a prerequisite to voting, casting a ballot by any method permitted by law, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to a candidate or measure for which votes are received in an election.

Elections Code § 18581 prohibits a person from intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce, another person for any of the following:

1. Voting or attempting to vote;

2. Urging or aiding a person to vote;

3. Exercising any powers or duties to administer an election, such as counting votes, canvassing, or certifying an election; *or*

4. Past or present participation in the administration of an election.

The section further provides that a person who openly carries a firearm or imitation firearm "while interacting with or observing" the above activities shall be *presumed* to have engaged in intimidation in the absence of an affirmative showing to the contrary by a preponderance of the evidence. A law enforcement officer, however, is not subject to this presumption, but that a court may consider a law enforcement officer's possession of a firearm in determining whether the officer committed any of the above violations.

Elections Code § 18582 authorizes the following persons to enforce the provisions of this Act by filing a civil lawsuit:

1. A person aggrieved by a violation of **E.C. § 18581**;

2. An officer holding an election or conducting a canvas; *or*

3. The Attorney General.

Pursuant to this section, a plaintiff need not prove that a perpetrator intended to intimidate, threaten or coerce. However, intent must be proved for an attempt to intimidate, threaten, or coerce. A court to consider intent in determining the appropriate relief.

Elections Code §§ 20510, 20511, **C. 20512**, **20513**, **20514**, **20515**, **20516**, **20517**, **20518**, **20519**, & **20520** (New; **AB 2655**): ***Defending Democracy from Deepfake Deception Act of 2024*:**

This new chapter in the **Elections Code** requires any large online platform to develop and implement procedures to identify and remove "*materially deceptive content*" during a period beginning *120 days* before an election, and to label such content as manipulated and not authentic if it is posted outside the 120-day period.

It is concerned about content that portrays a candidate or elections official as doing or saying something that the candidate or elections official did not do or say.

"*Materially deceptive content*" is defined as audio or visual media that is digitally created or modified, including, but not limited to, deepfakes and the output of chatbots, such that it would falsely appear to a reasonable person to be an authentic record of the content depicted.

A large online platform is required to provide an easily accessible way for California residents to report deceptive content that should be removed or labeled, and requires a platform to respond to the reporter within *36 hours*, describing any action taken or not taken with respect to the content.

New **Elections Code § 20516** provides that a district attorney, city attorney, or the Attorney General may seek injunctive relief or other equitable relief against any large online platform to compel the removal or labeling of content, or to compel compliance with the content reporting requirements described above. The burden of proof is by "*clear and convincing evidence*" and that such actions are entitled to precedence in accordance with **C.C.P. § 35** (amended).

Several exceptions to this new chapter are set forth, including:

1. Materially deceptive content that constitutes satire or parody;

2. A regularly published online newspaper or magazine of general circulation that carries news and commentary of general interest, if the publication contains a clear disclosure that the materially deceptive content does not accurately represent any actual event, speech, or conduct; *and*

3. A broadcasting station that broadcasts materially deceptive content as part of a bona fide newscast or interview, if the broadcast clearly acknowledges that the content does not accurately represent any actual event, speech, or conduct.

Note: A lawsuit has already been filed challenging the constitutionality of these new statutes.

Elections Code § 20012 (New; **AB 2839**; Effective *September 17, 2024*): ***Deceptive Election Advertisements or Communication:***

Prohibits a person, committee, or entity, with malice, from knowingly distributing an advertisement or election communication containing materially deceptive content during a specified period before and/or after an election about a voting machine, an elected official, an election official, or a candidate for any federal, state, or local office in California.

A violation is enforceable by a civil action brought by a candidate, or a committee participating in the election, or an election official, or a recipient of materially deceptive content. Authorizes injunctive or other equitable relief, general or special damages, and reasonable attorney's fees and costs.]

Note: A lawsuit has already been filed challenging the constitutionality of this new statute.

***Firearms*:**

See **Calif. Code of Civil Procedure § 527.9**, **Calif. Code of Civil Procedure § 527.11**, and **Calif. Code of Civil Procedure § 527.12**, under "***Restraining and Protective Orders***," below.

Pen. Code § 14245 (New; **AB 1252**): ***DOJ Office of Gun Violence Prevention***:

This provision adds new **Title 12.3** in **Part 4** of the **Penal Code** entitled "***Gun Violence Prevention***." Under this Title, the *Office of Gun Violence Prevention* is established within Department of Justice to advise the Attorney General on gun violence prevention-related matters, to serve as a liaison to gun violence prevention stakeholders, and to support the implementation, coordination, and effectiveness of gun violence prevention laws and programs. This new Office is required by *July 1, 2026*, to issue a public report outlining the new legislation and funding necessary to achieve sustained reductions in gun violence. The section requires that the report include a five-year strategic plan for reducing gun violence in California.

Pen. Code § 16745 (New; **SB 53**): ***Definition of "Authorized User" for Purposes of Firearm Storage*:**

A definition of "*authorized user*" is added to **P.C. § 16745**, for purposes of firearm storage crimes specified in existing **P.C. §§ 25105** and 25135, and in new **P.C. § 25145**, defining "*authorized user*" as an individual who is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm and who is either the lawful owner of the firearm or has been lawfully authorized by the lawful owner of the firearm to access, possess, and use it.

Note: See **P.C. § 25145**, *below*, for new residential firearm storage requirements that will be in effect on *January 1, 2026*.

Pen. Code § 17060 (Amended; **SB 53**; Effective *1/1/2026*): ***Residence, Defined***:

A cross-reference to new **P.C. § 25145** so that the definition of "*residence*" in new **P.C. § 25145** is governed by the existing definition in **P.C. § 17060** (i.e.,

houses, condominiums, rooms, motels, hotels, time-shares but not recreational vehicles or other vehicles "where human habitation occurs").

Note: See **P.C. § 25145**, below, for new residential firearm storage requirements that will be in effect on *January 1, 2026*.

Pen. Code §§ 18000 & **18005 (**Amended; **AB 2739**, **AB 2842** & **SB 1019**): ***The Surrender to Law Enforcement and Destruction of Firearms***:

Pursuant to **AB 2739**, new **Pen. Code § 26110** and new **P.C. § 26395** are added to the list of code sections for which a firearm must be surrendered to a law enforcement agency (**P.C. § 18000**) and then may be destroyed by the law enforcement agency unless it was stolen and needs to be returned to the lawful owner, or it needs to be retained as evidence in a criminal case (**P.C. § 18005**).

Note: New **P.C. § 26110** (see below) is also created by this bill and provides that the unlawful carrying of any firearm in violation of **P.C. § 25850** is a nuisance and is subject to **P.C. §§18000** and **18005**.

Note: **P.C. § 25850** is the crime of carrying a loaded firearm on the person or in a vehicle while in any public place or on any public street.

Note: New **P.C. § 26395** (see below) is also created by this bill and provides that the unlawful carrying of any handgun in violation of **P.C. § 26350** is a nuisance and is subject to P**.C. §§ 18000** and **18005**.

Note: **P.C. § 26350** is the crime of openly carrying an unloaded handgun.

Pursuant to **AB 2842**, **P.C. § 18005** is amended to provides that if a law enforcement agency contracts with a third party for the destruction of firearms or other weapons, the agency must ensure that the contract explicitly prohibits the sale of any firearm or weapon, or any part or attachment of a firearm or weapon, except that recycling of scrap metal or other material resulting from the destruction is not prohibited.

SB 1019 further amends **P.C. § 18005** to require every law enforcement agency to develop and maintain a written policy on the destruction of firearms and other weapons, including policies for identifying firearms and other weapons that are required to be destroyed, and keeping records of those firearms and other weapons, including entry into the *Automated Firearms System*, as applicable. It also requires the destruction policy to be posted on the agency's internet website.

"*Destroy*" is defined as destroying a firearm or other weapon in its entirety by smelting, shredding, crushing, or cutting all parts, including the frame, receiver, barrel, bolt, or grip, and all attachments, including a sight, scope, silencer, or suppressor.

Pen. Code § 18108 (Amended; **AB 2621**): ***Gun Violence Restraining Orders***:

The policies and standards that law enforcement agencies are required to adopt relating to "gun violence restraining orders" (GVROs) is amended by adding a number of things that a GVRO policy must include, such as updating a GVRO policy to incorporate changes in the law governing GVROs; instruction on the types of evidence a court considers when issuing a GVRO; examples of situations in which each type of emergency GVRO is most appropriate; encouraging officers to provide information about mental health referral services during a contact with a person exhibiting mental health issues; standards and procedures for determining prior to the expiration of a temporary or ex parte GVRO whether the subject of the GVRO presents an ongoing risk for violence such that a GVRO issued after notice and hearing might be necessary; and participating in the evidence presentation process at a GVRO hearing.

Pen. Code § 18120 (Amended; **SB 899**; Effective *1/1/2026*): ***Relinquishment of Firearms by One Subject to a Gun Violence Restraining Order***:

Effective *January 1, 2026*, changes are made to this section which continues to require that a person subject to a gun violence restraining order surrender firearms and ammunition. The changes made are as follows:

The court will be required to provide the restrained person with information on how firearms and ammunition are to be relinquished and the process for submitting a receipt to the court to show proof of relinquishment.

The court will be required to review its file to determine whether the restrained person filed the required receipt with the court showing that firearms and ammunition were relinquished, and to inquire of the respondent whether relinquishment has been complied with.

It will be required that violations of the firearms prohibition be reported to the prosecuting attorney within two business days of the court hearing unless the restrained person provides a receipt showing compliance at a subsequent hearing or by directly filing the receipt with the court clerk.

It will further be required that if the restrained person does not file a receipt within *48 hours* of the relinquishment order, the court shall order the court clerk to immediately notify the appropriate law enforcement officials about the issuance and contents of the protective order, information about the firearm or ammunition, and any other information the court deems appropriate.

Note: Existing **P.C. § 1524(a)(14)** authorizes the issuance of a search warrant to seize firearms and/ammunition in the possession of a person who is the subject of a GVRO, has been lawfully served with the GVRO, and has failed to relinquish.

Also Note: If a respondent declines to relinquish firearms or ammunition based on the assertion of the right against self-incrimination, the court may grant "use immunity" for the act of relinquishing firearms or ammunition.

Pen. Code § 18120.5 (New; **SB 899**; Effective *1/1/2026*): ***Court Hearing Re; A Gun Violence Restraining Order Violation***:

Effective on *January 1, 2026,* this new section will provide a method for informing a court that a restrained party has a firearm in violation of a gun violence restraining order (**P.C. §§ 18100**, **18205**) or in violation of an order issued pursuant to **P.C. § 136.2** (a protective order issued in a criminal case to protect a crime victim or witness).

The court will be required to consider the information about a firearm presented at a noticed hearing in order to determine, by a *preponderance of the evidence*, whether the person subject to one of the above restraining orders has "a firearm in or subject to their immediate possession or control" in violation of the order.

The court is authorized to make the determination concerning an alleged gun violence restraining order violation at any noticed hearing where a restraining order is issued, at a subsequent review hearing, or at any subsequent hearing while the restraining order remains in effect. The court is permitted to consider whether the restrained person filed a firearm relinquishment, storage, or sales receipt or if an exemption from the firearm prohibition was granted.

This section provides that when information about a firearm is presented at a noticed hearing, the court may then set a "*review hearing*" to determine whether a violation of the order has taken place. It is required that the review hearing be held within *10 court days* of the noticed hearing, unless the court finds good cause to extend the date of the review hearing or removes it from the calendar.

If the restrained person is not present when the court sets the review hearing, the protected person is required to provide notice to the restrained person at least *two court days* before the review hearing. The court is required to order the restrained person to appear at the review hearing. The court is authorized to permit a party or witness to appear remotely.

The determination made pursuant to this section (i.e., about whether the restrained party has a firearm) may be considered by the court in issuing an order to show cause for contempt pursuant to **C.C.P. § 1209(a)(5)** or an order for monetary sanctions pursuant to **C.C.P. § 177.5. C.C.P.**

Note: **C.C.P. § 1209(a)(5)** provides that the disobedience of any lawful judgment, order, or process of the court constitutes contempt of court. *C.C.P. § 177.5* permits a judge to impose a monetary sanction of up to *$1,500*, payable to the court, for a violation of a lawful court order done without good cause or substantial justification.

Pen. Code § 18155 (Amended; **AB 2917**): ***Evidence a Court Must or May to Hear at a Gun Violence Restraining Order Hearing*:**

This amended section adds additional evidence a court is *required* to consider when deciding whether to issue an ex parte gun violence restraining order (GVRO):

1. A recent threat of violence or act of violence directed toward another individual, group, or location (instead of simply "*directed toward another*");

2. An expanded list of protective order violations a court must consider to include a recent violation of an unexpired protective order issued pursuant to **C.C.P. § 527.8** (protective order obtained by an employer on behalf of an employee, to prohibit harassment or violence) or *C.C.P. § 527.85* (protective order obtained by a postsecondary educational institution when a student has suffered unlawful violence or a credible threat of violence), or comparable firearm-prohibiting protective orders, including "extreme risk protection orders," issued by an out-of-state court; *and*

3. A pattern of violent acts or violent threats within the past *12 months* directed to another individual, group, or location (instead of simply "directed toward … another").

Adds additional evidence a court *may* consider when deciding whether to issue an ex parte gun violence restraining order (GVRO):

1. The unlawful and reckless use, display, or brandishing of a firearm "indicating an increased risk for violence or actual threat of violence … including, but not limited to, acts using electronic means of communication, including social media postings or messages, text messages, or email."

2. Expands the list of protective order violations a court may consider to include a history of a violation of a protective order issued pursuant to **C.C.P. §§ 527.8** or **527.85**, or comparable firearm-prohibiting protective orders, including "extreme risk protection orders," issued by an out-of-state court;

3. Evidence of recent attempted acquisition of firearms, ammunition, or deadly weapons. (Previously this applied only to completed acquisition.) Adds that a court may still issue a GVRO to temporarily prevent legal access to firearms, even if the respondent does not own f irearms, ammunition, or other deadly weapons at the time the court is considering issuing a GVRO;

4. Evidence of stalking, as defined in **P.C. § 646.9**;

5. Evidence of cruelty to animals, as defined in **P.C. § 597**;

6. Evidence of the respondent's oral or written threats of violence toward any person or group because of their actual or perceived race, ethnicity, nationality, religion, disability, gender, or sexual orientation;

7. Evidence of the respondent's knowing and intentional defacement, damage, or destruction of the real or personal property of another 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 California, or by the Constitution or laws of the United States, in whole or in part because of the other person's actual or perceived race, ethnicity, nationality, religion, disability, gender, or sexual orientation, in violation of **P.C. § 422.6(b)** (hate crimes); *and*

8. Evidence of the respondent's threats of violence to advance a political objective or threats of violence intended to interfere with another person's free exercise or enjoyment of any right or privilege secured to that person by the Constitution or laws of California or the United States, including, but limited to, threats using electronic means of communication, including social media postings or messages, text messages, or email.

Pen. Code § 25145 (New; **SB 53**; Effective *1/1/2026*): ***Firearm Storage***:

Beginning *January 1, 2026*, this new section requires that any firearm a person possesses in a residence be "*securely stored*" whenever the firearm is not being carried or readily controlled by the person or another lawful authorized user. This requirement is without regard to whether there is a child or prohibited person in the residence.

The section provides that a firearm is "*securely stored*" if it is "maintained within, locked by, or disabled using a certified firearm safety device or a secure gun safe."

"*Certified firearm safety device*" is defined as a firearm safety device or gun safe that is listed on the DOJ roster of tested and approved firearm safety devices certified for sale.

The Department of Justice (DOJ) is required "to seek to inform residents about the standards of storage of firearms as outlined in this section."

A violation of this section is an infraction, punishable by a fine of up to *$250* for a first violation and fine of up to *$500* for a second violation. A third or subsequent violation is a misdemeanor (i.e., up to *six months* in jail and/or a fine of up to *$1,000*, per **P.C. § 19**).

The application of any other law is not restricted, but an act or omission punishable in different ways by different provisions of law shall not be punished under more than one provision.

A person is prohibited from being charged with this section if the person secured the firearm using a firearm safety device or gun safe that the person reasonably believed met the requirements of this section.

Exempted from these provisions are unloaded antique firearms.

Note: Existing law in **P.C. § 23655(d)** already requires DOJ to compile, publish, and maintain a roster listing all of the devices that have been tested by a certified testing laboratory and have been determined to meet DOJ's standards.

Note: New **P.C. § 16745** (see above), which is also created by this bill, defines "*authorized user*" as an individual who is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm and who is either the lawful owner of the firearm or has been lawfully authorized by the lawful owner of the firearm to access, possess, and use it.

See also **P.C. § 25205** (Amended; **SB 53**; *Effective 1/1/2026*), describing the existing crime of a child or prohibited person obtaining access to a firearm from premises under the offender's control and carrying it off-premises, under circumstances where the offender knew or reasonably should have known that the child or prohibited person was likely to gain access to the firearm, which will be amended as of January 1, 2026, to be made consistent with **Pen. Code § 25145**, above, for new residential firearm storage requirements that will be in effect on *January 1, 2026*.]

Pen. Code § 26110 (New; **AB 2739**): ***Carrying a Loaded Firearm as a Nuisance***:

The unlawful carrying of any firearm in violation of existing **P.C. § 25850** is declared by this new statute to be a "nuisance" and is subject to **P.C. §§ 18000** and **18005**.

Two exceptions are listed:

> 1. Any firearm used in the violation of any provision of the **Fish & Game Code** or of any regulation adopted pursuant thereto; *and*
>
> 2. Any firearm forfeited pursuant to **Public Res. Code § 5008.6** (which permits the forfeiture of any "device or apparatus" that is capable of injuring or killing a person or an animal, and is used to commit any violation of the **Public Resources Code**.)

Note: **P.C. § 25850** is the crime of carrying a loaded firearm on the person or in a vehicle while in any public place or on any public street. This bill also amends both **P.C. §§ 18000** and **18005** to add **P.C. § 26110** to the list of code sections for which a firearm must be surrendered to a law enforcement agency (**P.C. § 18000**) and then may be destroyed by the law enforcement agency unless it was stolen and needs to be returned to the lawful owner, or it needs to be retained as evidence in a criminal case (**P.C. § 18005**).

Pen. Code § 26395 (New; AB 2739): ***Openly Carrying an Unloaded Handgun as a Nuisance***:

This new section provides that the unlawful carrying of any handgun in violation of existing **P.C. § 26350** is a "nuisance" and is subject to **P.C. §§ 18000** and **18005**.

Two exceptions are listed:

> 1. Any firearm used in the violation of any provision of the **Fish & Game Code** or of any regulation adopted pursuant thereto; *and*
>
> 2. Any firearm forfeited pursuant to **Public Res. Code § 5008.6** (which permits the forfeiture of any "device or apparatus" that is capable of injuring or killing a person or an animal, and is used to commit any violation of the **Public Resources Code**.)

Note: **P.C. § 26350** is the crime of openly carrying an unloaded handgun. This bill also amends both **P.C. §§ 18000** and **18005** to add **P.C. § 26350** to the list of code sections for which a firearm must be surrendered to a law enforcement agency (**P.C. § 18000**) and then may be destroyed by the law enforcement agency unless it was stolen and needs to be returned to the lawful owner, or it needs to be retained as evidence in a criminal case (**P.C. § 18005**.)

Pen. Code § 26576 (Amended**; AB 2842)**: ***Law Enforcement or Government Entity Buyback Programs for Firearms***:

As amended, this section provides that a gun acquired by a law enforcement agency or a government entity pursuant to a gun buyback program is *not* required to be destroyed if it is donated to a public or private nonprofit historical society, museum, or institutional collection, and is deactivated or rendered inoperable before delivery.

"*Deactivated or rendered inoperable*" is defined as rendering the firearm permanently inoperable by welding the chamber; cutting the barrel, chamber, or breech; plugging the barrel; or welding the bolt to the chamber.

Pen. Code § 27520 (Amended; **SB 758**): ***Bringing a Firearm Into the State With the Intent to Violate the Law***:

This section made it a crime to bring a firearm into California with the intent to violate specified laws about the illegal transfer of firearms. Previously this section provided that no person, corporation, or dealer shall acquire a firearm for the purposes of selling, loaning, or transferring the firearm, if there is an intent to violate **P.C. § 27510** (delivery of a firearm to a person under age 21) or **P.C. § 27540** (which specifies several requirements for the delivery of a firearm, such as the recipient presents evidence of identity, age, and a firearm safety certificate; the recipient is not prohibited from having a firearm; and the firearm is unloaded and in a locked container); or, if there is an intent to avoid the provisions of **P.C. § 27545** (requiring that a firearm transaction be processed through a licensed firearms dealer if neither party holds a dealer's license.)

As amended, this section now clarifies that it is intended to prohibit a person, corporation, or dealer from acquiring within California, or bringing into California, a firearm for the purpose of selling, loaning, or transferring the firearm, if the intent is as described above.

Violation of this section is a felony/misdemeanor crime punishable *by16 months, two years, or three years* in jail pursuant to **P.C. § 1170(h)**, or by up to one year in jail.

Penal Code § 29805 (Amended; **SB 902**): ***Possession of a Firearm with a Prior Misdemeanor Conviction***:

New **Subd. (g)** added to **P.C. § 29805** expands the section's 10-year firearm prohibition by adding an additional misdemeanor conviction; i.e., a violation of **P.C. § 597(a)**, the crime of *maliciously and intentionally maiming, mutilating, torturing, wounding, or killing a living animal*. As a result, a person who sustains a conviction for **P.C. § 597(a)** on or after *January 1, 2025* who, within 10 years of the conviction owns, purchases, receives, or possesses any firearm is punishable

by up to *one year* in jail and/or by a fine of up to *$1,000* (i.e., a straight misdemeanor).

Note: A violation of the other subdivisions in **P.C. § 29805** continue to be felony/misdemeanor crimes punishable in state prison or by up to one year in jail.

Pen. Code § 29825 (Amended; **AB 2907**): ***Purchasing or Receiving a Firearm While Subject to a Listed Protective Order***:

Amendment to this section expanded the felony crime described in **subdivision (a)** of purchasing, receiving, or attempting to purchase or receive, a firearm, while *subject to a specified protective order* that includes a firearm prohibition, by adding a number of protective orders that will trigger this crime.

Also expanded is the felony crime in **subdivision (b)** of owning or possessing a firearm while subject to a specified protective order that includes a firearm prohibition, by adding a number of protective orders that will trigger this crime.

Subdivision (a) continues to be a felony/misdemeanor wobbler crime punishable by *16 months, two years, or three years* in state prison or up to one year in county jail, and/or by a fine of up to *$1,000*. **Subdivision (b)** continues to be a misdemeanor crime punishable by up to *one year in jail and/or by a fine of up to $1,000*. These protective orders are *added* to both **subdivisions (a)** and **(b)**:

1. **P.C. § 273.5(j)**; domestic violence;

2. **P.C. § 368(l)**; elder/dependent adult physical abuse or fraud;

3. **P.C. § 646.9(k)**; stalking; *and*

4. **P.C. § 1203.097(a)(2)**; a domestic violence protective order issued as a condition of probation that prohibits violence, threats, stalking, sexual abuse, and harassment, and that includes, if appropriate, a residence exclusion or stay away condition.

Both subdivisions continue to apply to these orders:

1. **P.C. § 136.2**; an order protecting a victim or witness in a criminal case;

2. **P.C. § 646.91**; an emergency protective order issued in a stalking case at the request of a peace officer;

3. **C.C.P. § 527.6**; an order prohibiting harassment;

4. **C.C.P. § 527.8**; an order obtained by an employer to prohibit harassment or violence against an employee;

5. **C.C.P. § 527.85**; an order obtained by a postsecondary school to prohibit violence against a student;

6. **Family Code § 6218**; an order enjoining specific acts of abuse, excluding a person from a dwelling, or prohibiting other specified behavior;

7. **W&I Code § 15657.03**; elder/dependent adult abuse); *and*

8. An equivalent out-of-state order.

Pen. Code § 29825.5 (New; **AB 2907**): ***Relinquishment of Firearms and Ammunition Under a Protective Order***:

This new section requires a court to order a defendant to relinquish firearms when issuing a protective order pursuant to **P.C. § 273.5** (domestic violence), **P.C. § 368** (elder/dependent adult physical abuse or fraud), or **P.C. § 646.9** (stalking). Also described are the firearm relinquishment procedures to be followed.

The section requires that a firearm be surrendered within *24 hours* of being served with the order by surrendering to a local law enforcement agency or by selling to a licensed firearms dealer. The court is required to provide information to the defendant about how firearms and ammunition are to be relinquished.

If the defendant declines to relinquish firearms or ammunition based on the assertion of the right against self-incrimination, the court may grant "use immunity" for the act of relinquishing firearms or ammunition.

A relinquishment exemption is provided for peace officers and non-peace officers who are required to carry firearms on the job, if not prohibited from having firearms or ammunition under any other law.

As for a peace officer, if he or she cannot be reassigned to a position where use of a firearm and/or ammunition are not necessary, a court may permit the officer to carry a firearm and ammunition either on duty or off duty if the officer undergoes a psychological evaluation and the court finds by a preponderance of the evidence that the officer does not pose an additional threat and that the officer's personal safety depends on the ability to carry a firearm and ammunition outside of scheduled work hours. If a non-peace officer is required to carry a firearm and/or ammunition as a condition of continued employment and cannot be reassigned to a position where a firearm and/ or ammunition are not necessary, a court may permit the person to possess a firearm and/or ammunition during scheduled work hours if the court finds by a preponderance of the evidence that the defendant does not pose an additional threat of harm. The court is authorized, but does not

required, to order a psychological evaluation to assist in making this determination.

***Free Speech*:**

Civil Code § 51.7 (Amended**; AB 3024**; Effective *9/25/2024*): ***The Ralph Civil Rights Act of 1976*:**

The ***Ralph Civil Rights Act of 1976*** is expanded to include the definition of "*intimidation by threat of violence*" to include "terrorizing the owner or occupant of private property with the distribution of materials on the private property, without authorization, with the purpose of terrorizing the owner or occupant of that private property."

"*Terrorize*" is defined in **subd. (b)(4)** as "caus(ing) a person of ordinary emotions and sensibilities to fear for personal safety."

New **subdivision (e)** is added to provide that speech alone shall not support an action brought pursuant to **Section 51.7**, except upon a showing of all of the following:

1. The speech itself threatens violence against a specific person or group of persons;

2. The person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property;

3. The person threatening violence is acting in reckless disregard for the threatening nature of the speech; *and*

4. The person threatening violence has the apparent ability to carry out the threat.

Note: The **Ralph Civil Rights Act of 1976** generally provides that "(a)ll persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of political affiliation, or on account of any characteristic listed or defined in **subdivision (b)** or **(e)** of **Section 51**, or position in a labor dispute, or because another person perceives them to have one or more of those characteristics." (**Subd. (b)(1)**)

***Human Trafficking*:**

Wel. & Inst. Code §§ 23020, **23022**, **23024** & **23026** (New; **AB 2020): *Survivors of Human Trafficking Support Act***:

New **Division 15** in the **Welfare & Institutions Code**, entitled "*Survivors of Human Trafficking Support Act*," has been created. This new division requires each law enforcement agency, by *December 1, 2026*, to establish and maintain a written policy regarding interactions with survivors of human trafficking based on guidelines developed by the "Commission on Peace Officer Standards and Training" (POST).

These new statutes, in turn, requires POST to develop guidelines by *June 1, 2026*, establishing a written policy regarding law enforcement's interactions with human trafficking survivors include all of the following:

1. An officer contacting a survivor must inform the survivor of the right to have an advocate present during any interview or proceeding;

2. The officer must explain the benefits of having an advocate present, such as "confidentiality and evidentiary privilege," emotional support, assistance in accessing resources, and assistance with understanding legal rights;

3. If the survivor requests an advocate, the officer must contact a rape crisis center or other appropriate organization to arrange for an advocate to be present;

4. If the survivor refuses an advocate, the officer must obtain a written waiver and inform the survivor that the waiver may be revoked at any time;

5. An officer must provide referrals to organizations that provide services to human trafficking survivors, including immigrant services organizations;

6. A law enforcement agency, in collaboration with community-based organizations, must establish a process for referring human trafficking victims to the county social services department; and

7. A law enforcement agency must work with community based organizations to provide referrals to services that are consistent with a survivor's culture, sexual orientation, and gender identity

***Racial Issues*:**

Pen. Code § 741 (New; **AB 1778**): ***Documentation of Race-Blind Prosecutorial Charging Decisions***:

Beginning *January 1, 2025*, prosecution agencies (defined as agencies that prosecute criminal violations of the law as felonies or misdemeanors) are required to start using a redaction and review process for charging crimes (see *Note*, below), using the general guidelines in this new section:

1. An initial charging evaluation is done by a prosecutor who does not have knowledge of the redactions and who determines only whether the case should or should not be charged, not the individual charges that should be filed.

2. A second, complete review is done, using unredacted reports, in which individual charges and enhancements are considered and charged.

Pursuant to these provisions, each of the following charging decisions are to be documented as part of the case record:

1. The initial charging evaluation determined that the case *not* be charged and the second review determined that a charge *should be* filed.

2. The initial charging evaluation determined that the case *should be* charged and the second review determined that *no charge* be filed.

3. The explanation for the charging decision change.

This new section provides that the documented change in the charging decision as well as the explanation, must be disclosed upon request, after sentencing in the case or dismissal of all charges, subject to **P.C. § 1054.6** (work product materials or information not required to be disclosed) or any other applicable law.

If a prosecuting agency that is not able to put a case through a race-blind initial charging evaluation, prosecutors must document the reason. This documentation shall be made available by the agency "upon request."

It is required that the county collect data on the race-blind initial charging evaluation and make that data available for research purposes.

Each prosecuting agency is permitted to exclude certain classes of crime or factual circumstances from a race-blind initial charging evaluation, requiring that the agency's list of exclusions be made available upon request to DOJ and to the public.

Pen. Code § 741 further provides that the following crimes may be excluded from a race-blind initial charging evaluation process: homicides; hate crimes; charges arising from a physical confrontation where that confrontation is captured on video; domestic violence and sex crimes; gang crimes; 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; 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 **P.C. § 368** (elder fraud) and **P.C. § 503** (embezzlement), and other fraud crimes consisting of voluminous documentation; cases involving public integrity, including, but not limited to, conflict of interest crimes under **Gov't. Code § 1090** (prohibits legislators and state, county, district, and city officers and employees from having a financial interest in any contract made by them in their official capacity); cases in which the prosecution agency itself investigated the alleged crime or participated in the pre-charging 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; 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.

Note: Beginning *January 1, 2024,* DOJ was required to develop and publish guidelines for "*Race-Blind Charging*," whereby the initial review of a case for charging is based on information and reports from which the race of a suspect, victim, or witness has been removed or redacted. Prosecutors were required to develop a redaction and review process for the purpose of implementing this requirement.

Note: See **Pen. Code § 745**; the **Racial Justice Act**, for which the above is intended to facilitate.

***Restraining and Protective Orders*:**

Calif. Code of Civil Procedure § 527.9 (Amended; **SB 899**; Effective *1/1/2026*): ***Firearms and Temporary Restraining Orders***:

This section has been substantially expanded as of *January 1, 2026*, to include:

The relinquishment of ammunition along with firearms.

A court will be required to provide the restrained person with information on how firearms and ammunition are to be relinquished.

The court will be required to review its file to determine whether the restrained person filed the required receipt with the court showing that firearms and ammunition were surrendered to law enforcement or sold to a

licensed gun dealer within *48 hours* of the court issuing the relinquishment order, and to inquire of the respondent whether relinquishment has been complied with.

Violations of the firearms prohibition of any restraining order shall be reported to the prosecuting attorney within two business days of the court hearing unless the restrained person provides a receipt showing compliance at a subsequent hearing or by directly filing the receipt with the court clerk.

If the restrained person does not file a receipt within *48 hours* of the relinquishment order, the court shall order the court clerk to immediately notify the appropriate law enforcement officials about the issuance and contents of the protective order, information about the firearm or ammunition, and any other information the court deems appropriate.

> *Note*: **Penal Code § 1524** is also to be to expanded to authorize the issuance of a search warrant to seize a firearm, ammunition, or both, that is owned, possessed, or controlled by a person who is subject to a firearms prohibition because of a restraining order specified in **C.C.P. 527.9**, and the person has been lawfully served with the prohibition order, and has failed to relinquish the firearm or ammunition.

The existing relinquishment exemption will be split into separate relinquishment exemptions for peace officers and non-peace officers and will add that the restrained person must not be prohibited from having firearms or ammunition under any other law.

When the restrained person is a peace officer, if he or she cannot be reassigned to a position where use of a firearm and ammunition are not necessary, a court will be able to permit the officer to carry a firearm and ammunition either on duty or off duty, if the officer undergoes a psychological evaluation and the court finds by a preponderance of the evidence that the officer does not pose an additional threat and that the officer's personal safety depends on the ability to carry a firearm and ammunition outside of scheduled work hours. If a non-peace officer is required to carry a firearm and/or ammunition as a condition of continued employment and cannot be reassigned to a position where a firearm and/or ammunition are not necessary, a court will be able to permit the person to possess a firearm and/or ammunition during scheduled work hours if the court finds by a preponderance of the evidence that the respondent does not pose an additional threat of harm. The bill authorizes, but does not require, the court to order a psychological evaluation to assist in making this determination. The bill also provides that if an exemption is granted during the pendency of a temporary restraining order and the court

subsequently issues a restraining order after a hearing, or if a restraining order is renewed, the court will be required to review the exemption and make a finding as whether it remains appropriate. The court will be authorized to terminate or modify an exemption at any time if the subject of the restraining order demonstrates a need for modification, or no longer meets the requirements for an exemption, or violates the restraining order.

Note: See also **Family Code § 6389** (Amended; **AB 2759**), re: changes to the exceptions to the firearm/ammunition prohibition that applies when a person is subject to a domestic violence protective order.

The bill further provides that if the respondent declines to relinquish firearms or ammunition based on the assertion of the right against self-incrimination, the court may grant "use immunity" for the act of relinquishing firearms or ammunition.

Calif. Code of Civil Procedure § 527.11 (New; **SB 899**; Effective *1/1/2026*: ***Noticed Hearing re: Firearm Possession in Violation of a Restraining Order***:

Effective on *January 1, 2026*, this new section will provide a method for informing a court that a restrained party has a firearm in violation of a restraining order issued pursuant to **C.C.P. §§ 527.6** (harassment), **527.8** (workplace violence or harassment), **527.85** (violence against a postsecondary school student), or **W&I § 15657.03** (elder or dependent adult abuse).

Existing **C.C.P. 527.9** (see above) prohibits the subject of all of these restraining orders from having firearms or ammunition, unless the court grants an exemption for employment purposes. This new section will require (as of January 1, 2026) the court to consider the information about a firearm presented at a noticed hearing, in order to determine, by a *preponderance of the evidence*, whether the person subject to one of the above restraining orders has "a firearm in or subject to their immediate possession or control" in violation of the order.

The court will be authorized to make the determination at any noticed hearing where a restraining order is issued, at a subsequent review hearing, or at any subsequent hearing while the restraining order remains in effect. The court will be permitted to consider whether the restrained person filed a firearm relinquishment, storage, or sales receipt or if an exemption from the firearm prohibition was granted.

This new section also provides that when information about a firearm is presented at a notice hearing, the court may then set a "review hearing" to determine whether a violation of the order has taken place. It will be required that the review hearing be held within *10 court days* of the noticed hearing, unless the court finds good cause to extend the date of the review hearing or removes it from the

calendar. The section also provides that if the restrained person is not present when the court sets the review hearing, the protected person is required to provide notice to the restrained person at least *two court days* before the review hearing. The court will then be required to order the restrained person to appear at the review hearing. The court will be permitted to hold the review hearing in the absence of the protected person. Provisions are included in this new section for the parties to appear remotely.

The section provides that the determination made pursuant to this section (i.e., about whether the restrained party has a firearm) may be considered by the court in issuing an order to show cause for contempt pursuant to **C.C.P. 1209(a)(5)** or an order for monetary sanctions pursuant to **C.C.P. 177.5**.

Note: **C.C.P. 1209(a)(5)** provides that the disobedience of any lawful judgment, order, or process of the court constitutes contempt of court. **C.C.P. 177.5** permits a judge to impose a monetary sanction of up to $1,500, payable to the court, for a violation of a lawful court order committed without good cause or substantial justification.

Calif. Code of Civil Procedure § 527.12 (New; **SB 899**; Effective *1/1/2026*): ***Service of Orders by a Peace Officer***:

Effective on *January 1, 2026*, this new section requires a peace officer, upon the request of a petitioner, to serve a temporary restraining order, an order after hearing, or a protective order issued pursuant to **C.C.P. §§ 527.6** (harassment), **527.8** (workplace violence or harassment), **527.85** (violence against a postsecondary student), **P.C. § 136.2** (criminal case order protecting crime victims and witnesses), or **W&I § 15657.03** (elder or dependent adult abuse).

As of *January 1, 2026*, the petitioner will be required to provide the peace officer with an endorsed copy of the restraining order. The officer, after serving the order, will be required to transmit proof of service to the issuing court. The petitioner will not be allowed to charge a fee to serve the restraining order.

If the protected person cannot produce an endorsed copy of the order, the peace officer will be required verify the existence of the order in the California Restraining and Protective Order System. If the order has been issued but not served, the peace officer will be required to notify the respondent of the terms of the order and advise the respondent to obtain a copy of the full order from the issuing court. The officer's verbal notice of the terms of the order will constitute full service of the order.

There will be no civil liability on the part of, and no cause of action for false arrest or false imprisonment against, a peace officer who makes an arrest pursuant to a protective or restraining order that is regular on its face, if the peace officer, in making the arrest, acts in good faith and has reasonable cause to believe that

the person against whom the order is issued has notice of the order and has committed an act in violation of the order. A peace officer is not exonerated from liability, however, for unreasonable use of force in the enforcement of a restraining order.

If there is more than one order in effect at the same time and one of them is an emergency protective order, that order has precedence in enforcement pursuant to **P.C. § 136.2(c)** (the provisions of the emergency order are more restrictive than the other order(s)). The peace officer must enforce the emergency protective order first. If none of the orders are emergency orders and one of them is a no-contact order, the peace officer shall enforce the no-contact order first. If there is more than one civil restraining order and none are emergency orders or no contact orders, the peace officer shall enforce the order issued last. If there are both criminal and civil orders in effect and none are an emergency order or a no-contact order, the peace officer shall enforce the criminal order issued last.

Penal Code § 273.75 (Amended; **AB 2907**): ***Protective Orders***:

Protective orders issued pursuant to **P.C. §§ 136.2(i)** (domestic violence, sexual assault, or gang cases); **273.5(j)** (domestic violence); **368(l)** (elder/dependent adult physical abuse or fraud); **646.9(k)** (stalking); and **1203.097(a)(2)** (a criminal court domestic violence protective order issued as a condition of probation that prohibits violence, threats, stalking, sexual abuse, and harassment, and that includes, if appropriate, a residence exclusion or stay-away condition), have been added to the statute that requires the district attorney or prosecuting city attorney, in a domestic violence case, to do a thorough investigation of the defendant's criminal history, including prior convictions for violence and weapons offenses and any current protective or restraining orders issued by a civil or criminal court, and to present that information to the court.

Information presented by the arresting agency pursuant to new **P.C. § 273.76** (see "*Domestic Violence*," above) is added to the information gathered by the prosecutor that must be presented for consideration by the court when the court is (1) setting bail or releasing a defendant on his or her own recognizance, (2) considering a plea agreement, or (3) issuing a protective order pursuant to any of the sections specified above.

New **subdivision (d)** is added providing that if the court receives information that the defendant owns or possesses a firearm or ammunition, the court must notify the defendant about how to comply with the firearm and ammunition prohibition. If evidence of compliance with the prohibition is not provided within *48 hours* of the defendant being served with the protective order or after a review hearing pursuant to **California Rule of Court 4.700**, the court shall order the court clerk to notify the prosecuting agency and appropriate law enforcement officials about the protective order and about the firearm and ammunition. The prosecuting agency and law enforcement officials are required to take all actions necessary to

obtain any firearms and ammunition owed, possessed, or controlled by the defendant and to address any violation of the protective order with respect to firearms or ammunition, as appropriate and as soon as possible.

Penal Code § 490.8 (New; **AB 3209**): ***Restraining Order from Retail Establishment***:

See "*Theft-Related Offenses*," below.

Penal Code § 1203.097 (Amended; **AB 2907**): *Domestic Violence Protective Orders*:

This section has been amended to show that it is the intent of the Legislature that the length of a domestic violence protective order be based upon the seriousness of the offense, the probability of future violations, the safety of the victim and victim's immediate family, and the information provided to the court pursuant to **P.C. § 273.75**.

Subdivision (a)(2) continues to require that when a defendant is granted probation in a domestic violence case, a criminal court protective order protecting the victim from violence, threats, stalking, sexual abuse, and harassment, be issued, with a residence exclusion or stay-away condition if appropriate.

Note: Existing **P.C. § 273.75** requires the district attorney or prosecuting city attorney, in a domestic violence case, to do a thorough investigation of the defendant's criminal history, including prior convictions for violence and weapons offenses and any current protective or restraining orders issued by a civil or criminal court, and to present that information for consideration by the court when the court is (1) setting bail or releasing a defendant on their own recognizance, (2) considering a plea agreement, or (3) issuing a specified protective order. **P.C. § 273.75** also requires that information presented to the prosecuting agency by the arresting agency, pursuant to new **P.C. § 273.76** be presented to the court for consideration. (see "*Domestic Violence*," above)

Pen. Code § 18108 (Amended; **AB 2621**): ***Gun Violence Restraining Orders***. See "***Firearms***," above.

Pen. Code § 18120 (Amended; **SB 899**; Effective *1/1/2026*): ***Relinquishment of Firearms by One Subject to a Gun Violence Restraining Order***. See "***Firearms***," above.

Pen. Code § 18120.5 (New; **SB 899**; Effective *1/1/2026*): ***Court Hearing Re; A Gun Violence Restraining Order Violation***: See "***Firearms***," above.

Pen. Code § 18155 (Amended; **AB 2917**): ***Evidence a Court Must or May Hear at a Gun Violence Restraining Order Hearing***. See "***Firearms***," above.

Pen. Code § 29825 (Amended; **AB 2907**): ***Purchasing or Receiving a Firearm While Subject to a Listed Protective Order***. See "***Firearms***," above.

Pen. Code § 29825 (Amended; **AB 2907**): ***Purchasing or Receiving a Firearm While Subject to a Listed Protective Order***. See "***Firearms***," above.

Pen. Code § 29825.5 (New; **AB 2907**): ***Relinquishment of Firearms and Ammunition Under a Protective Order***. See "***Firearms***," above.

***Revenge Pornography*:**

Penal Code § 647(j)(4) (Amended; **SB 926**, **AB 1962**, **AB 1874** & **SB 1414**): ***Distribution of Revenge Pornography*:**

Penal Code § 647 has been amended to create a new misdemeanor crime of "*distribution of revenge porn*," at new **Subd. (j)(4)**. New **Paragraph (A)(ii)** of **Subd. (j)(4)** applies to the distribution of artificially created, digitized, or computer-generated fake sexually explicit images, without consent. This new crime applies to adult defendants only, specifically providing that this crime "shall not apply to a person who was under 18 years of age at the time the person committed the offense."

Specifically, new **P.C. § 647(j)(4)(A)(i)**, the statute now reads: "A person who intentionally distributes or causes to be distributed the image of the intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates, when **subclauses (I)** to **(III)**, inclusive, are all true:

(I) The person distributing the image knows or should know that the distribution of the image will cause serious emotional distress.

(II) The person depicted suffers serious emotional distress.

(III) One of the following has occurred:

(ia) The person depicted in the image and the person distributing the image had agreed or had an understanding that the image shall remain private.

(ib) The image was knowingly recorded, captured, or otherwise obtained by the person distributing the image without the authorization of the person depicted, and the image was recorded or captured under circumstances in which the person depicted had a reasonable expectation of privacy.

> **(ic)** The image is knowingly obtained by the person distributing the image by exceeding authorized access from the property, accounts, messages, files, or resources of the person depicted.

Also, at new **P.C. § 647(j)(4)(A)(ii)**, the statute now reads: "A person who intentionally creates and distributes or causes to be distributed any photo realistic image, digital image, electronic image, computer image, computer-generated image, or other pictorial representation of an intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates that was created in a manner that would cause a reasonable person to believe the image is an authentic image of the person depicted, under circumstances in which the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress."

See also **P.C. § 647(j)(4)(A)(i)**: Revenge porn where the parties agreed or understood that the image would remain private, or where the image was recorded or captured without authorization, or where the perpetrator distributed the image by exceeding authority.

AB 1962 also adds in new **P.C. § 647(j)(6)**, that a defendant shall not be punished for both a violation of **P.C. § 647(j)(4)** and **P.C. § 647(j)(2)** or **P.C. § 502**, if that punishment would be barred under **P.C. § 654**.

Notes:

> **P.C. § 647(j)(2)** is the crime of using a concealed camcorder or camera to secretly videotape, photograph, or record, another identifiable person under or through the clothing, for the purpose of viewing the victim's body or undergarments, under circumstances where the victim has a reasonable expectation of privacy.
>
> **P.C. § 502** sets forth numerous computer crimes, including unauthorized access and taking or copying data.

P.C. § 647(j)(4)(A)(ii): Artificially Created Revenge Porn: **SB 926** creates a new misdemeanor revenge porn crime in **P.C. § 647(j)(4)(A)(ii)** that applies to the distribution of artificially created, digitized, or computer-generated fake sexually explicit images, without consent. This new misdemeanor crime applies to adult offenders only, specifically providing that this crime "shall not apply to a person who was under *18 years* of age at the time the person committed the offense." Specifically, this statute provides:

> "A person who intentionally creates and distributes or causes to be distributed any photo realistic image, digital image, electronic image, computer image, computer-generated image, or other pictorial representation of an intimate body part or parts of another identifiable person, or an image of the person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or an image of masturbation by the person depicted or in which the person depicted participates that was created in a manner that would cause a reasonable person to believe the image is an authentic image of the person depicted, under circumstances in which the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress."

Under **P.C. § 647(k)** (**AB 1874**), the punishment for **P.C. § 647(j)** crimes is increased by adding a new **paragraph (3)** in **subdivision (k)** to provide that if the victim of a violation of a **P.C. § 647(j)(3)** crime was a minor at the time of the offense, a second or subsequent violation of **P.C. § 647(j)(3)** is a felony/misdemeanor crime (a "wobbler"), punishable in county jail pursuant to **P.C. § 1170(h)** (16 months, two years, or three years), or up to one year in jail, and/or by a fine of up to *$2,000*. This increased punishment applies only to an adult defendant and not to a perpetrator who was under *age 18* at the time the offense was committed.

> *Note*: **P.C. § 647(j)(3)** is the crime of using a concealed camcorder or camera to secretly videotape, photograph, or record, another identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent of knowledge of that person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, tanning booth, or in any other area in which the person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

P.C. § 647(k)(1) continues to provide that a second or subsequent violation of any **P.C. § 647(j)** crime is punishable by up to one year in jail and/or by a fine of up to *$2,000*. **P.C. § 647(k)(2)** continues to provide that if the victim of a violation of any **P.C. § 647(j)** crime was a minor at the time of the offense, the crime is punishable by up to one year in jail and/or by a fine of up to *$2,000*.

P.C. § 647(*l*) (**SB 1414**) changes the punishment provisions for specified **P.C. § 647(b)** prostitution crimes, amending the existing **P.C. § 647(*l*)(1)** so that it applies to adult defendants only. Now solicitation of a minor victim by a defendant *age 18 or older*, where the defendant knew or should have known that the person solicited was a minor, is punishable by two days to one year in jail, and/or by a fine of up to *$10,000*. New **P.C. § 647(l)(2)** provides that if the solicited minor was *under age 16*, or if the person solicited was *under age 18* and

was a victim of human trafficking under **P.C. § 236.1**, the violation is a felony/misdemeanor crime (a "wobbler") and is punishable by either of the following: 1. Up to one year in jail and a fine of up to *$10,000*; *or* 2. Imprisonment pursuant to **P.C. § 1170(h)** (16 months, two years, or three years in jail).

A second or subsequent violation of **P.C. § 647(*l*)(2)** is a non-alternative (straight) felony punishable pursuant to **P.C. § 1170(h)** (16 months, two years, or three years in jail).

***Search Warrants*:**

Pen. Code § 1524 (Amended; **SB 1002**): ***Search Warrant to Seize Ammunition From Mentally Ill Offender with a Firearms Prohibition***:

Pen. Code § 1524, listing the grounds for issuing a search warrant, has been expanded in new **subd. (a)(21)**, to authorize the issuance of a search warrant to seize property that "*includes ammunition*" that is owned, possessed, or controlled by a person who is subject to a mental illness related firearms prohibition in **W&I § 8103**, the person has been lawfully served with the **W&I § 8103** order, and the person has failed to relinquish ammunition.

Note: **W&I § 8103** specifies firearm and deadly weapon prohibitions for mentally ill offenders, mentally disordered sex offenders, offenders found not guilty by reason of insanity for specified offenses, offenders found to be mentally incompetent to stand trial, persons placed under a conservatorship because they are gravely disabled, persons taken into custody on a **W&I § 5150** hold or certified for intensive treatment, and defendants who are granted mental disorder diversion (**P.C. § 1001.36**) and have been found to be a danger to self or others.

Streets & Highway Code § 31490 (Amended; **AB 2645**): ***Warrantless Alert Information at Electronic Toll Collection Locations***:

A transportation agency that uses an electronic toll collection system to provide to a peace officer, may do so without a search warrant, providing the date, time, and location of a vehicle license plate captured by the system, in response to the various alerts that law enforcement is permitted to activate pursuant to **Gov't. Code §§ 8594–8594.15**.

The alerts are Amber Alert (youth under age 18), Blue Alert (law enforcement officer death or injury), Silver Alert (missing person over age 65 or cognitively impaired), Endangered Missing Advisory (persons at risk, developmentally disabled, cognitively impaired, or abducted), Feather Alert (missing indigenous persons), Ebony Alert (missing Black youth), and Yellow Alert (hit and run incident resulting in a death).

***Sex Offenders*:**

Penal Code § 290 (Amended; **SB 1414**): ***Sex Offender Registration Requirements***:

New **subdivision (c)(2)(A)** adds to the list of registerable offenses a violation of the crime as described in **Pen. Code § 647(*l*)(2)**, providing that the defendant is required to register as a sex offender where the defendant is *18 years* of *age or older* and more than *10 years older* than the solicited minor at time of the offense, when convicted on or after *January 1, 2025*, and has a prior conviction for a violation of **P.C. § 647(*l*)(2)**.

Note:

New **P.C. § 647(l)(2)** was created by this bill, increasing the punishment for specified violations of **P.C. § 647(b)** (prostitution). It provides that if the solicited minor was under *age 16*, or if the person solicited was under *age 18* and was a victim of human trafficking under **P.C. § 236.1**, the violation is a felony/misdemeanor crime (a "wobbler") and is punishable by either of the following:

1. Up to one year in jail and a fine of up to $10,000; *or*
2. Imprisonment pursuant to P.C. § 1170(h) (16 months, two years, or three years in jail).

New **P.C. § 647(*l*)(2)** also provides that a second or subsequent violation of **P.C. § 647(*l*)(2)** is a non-alternative (straight) felony punishable pursuant to **P.C. § 1170(h)** (16 months, two years, or three years in jail).

The section further provides in **subd. (*l*)(2)(B)** that the court is not precluded from requiring the defendant to register pursuant to **P.C. § 290.006**, which authorizes a court to impose a registration requirement for a conviction not specified in **P.C. § 290** if the court finds that the defendant committed the offense as a result of a sexual compulsion or for purposes of sexual gratification.

***Sexual Assault*:**

Evid. Code § 1106 (Amended; **SB 1386**): ***The Rape Shield Law in Civil Cases***:

The rape shield law in civil cases has been strengthend by expanding the list of what a defendant is prohibited from proving through opinion evidence, reputation evidence, and evidence of specific instances of the plaintiff's sexual conduct.

Specifically, evidence of the sexual assault plaintiff's sexual conduct is *not* admissible to attack the credibility of the plaintiff's testimony on the issues of "consent" or on the "absence of injury" suffered by the plaintiff.

The provision that had permitted evidence of the plaintiff's sexual conduct to be admitted to attack the victim's credibility, or to prove something other than consent if the defendant was able to prove that the probative value of that evidence outweighs the prejudice to the plaintiff pursuant to **Evidence C. § 352**, has been eliminated.

As amended, the section now clarifies that evidence offered to attack the credibility of the plaintiff's testimony about something other than consent or lack of injury remains admissible pursuant to existing **Evidence C. § 783**, which requires a written motion by the defendant and a court hearing outside the jury's presence.

Pen. Code § 667.5 (Amended; **SB 268**): ***Rape of an Unconscious Person as a Violent Felony***:

Rape of an unconscious person as defined in **P.C. § 261(a)(3)** is added to the list of violent felonies in **subdivision (c)** of **P.C. § 667.5**; "wherein it is pleaded and proved that the defendant caused the intoxication by administering a controlled substance to the victim without their consent and with the intent to sexually assault the victim."

Note: This aggravating factor applies, pursuant to the section: "If a person is prevented from resisting by an intoxicating or anesthetic substance, or a controlled substance, and this condition was known, or reasonably should have been known by the accused."

***Social Media, Cyber Protection, Artificial Intelligence, & Social Media Platforms*:**

Bus. & Prof. Code §§ 22588.2, 22588.3, & 22588.4 (New; **AB 2481**; *Effective 1/1/2026*): ***The Youth Social Media Protection Act***:

This complicated new chapter requires a "*large social media platform*" (as defined in **B&P Code § 22588.2(c)(1))** to create a process by which a "*verified reporter*" (principals of K-12 schools and mental health professionals who provide services to minors, as listed in **B&P Code § 22588.2(k)**) can make a report of a "*social media-related threat*" (as defined in **B&P Code § 22588.2(h)**) or a violation of the large social media platform's terms of service (see **B&P Code § 22588.2(c)(1)(A)**) that in the verified reporter's opinion, poses a risk or a severe risk to the health and safety of a minor (e.g., cyberbullying, as defined in **B&P Code § 22588.2(b)**.)

B&P Code § 22588.3 also requires a large social media platform to establish an internal process to receive and "substantively respond" within *72 hours*, or *within 24* hours if the report is of a "severe risk" (as defined in **B&P Code § 22588.2(f)**). This section also provides that a substantive response means to inform the

reporter that the content does or does not violate the terms and conditions of the social media platform.

B&P Code § 22588.3 is intended to bring to light instances a "*social media-related threat*," which includes content that promotes, incites, facilitates, or perpetrates any of the following (see **§ 22588.2, subd. (h)**):

(1) Suicide.
(2) Disordered eating.
(3) Drug trafficking.
(4) Substance abuse.
(5) Fraud.
(6) Human trafficking punishable pursuant to Section 236.1 of the Penal Code.
(7) Sexual abuse.
(8) Cyberbullying.
(9) Harassment.
(10) Distribution of harmful matter, as defined by **Section 313** of the **Penal Code**.

The term "*risk*" is defined as a social media-related threat that more likely than not will cause harm to a child. "*Severe risk*" is defined as a social media-related threat that more likely than not will cause serious bodily or mental harm to a child. (See **B&P Code § 22588.3(e) and (f)**.)

Bus. & Prof. Code § 22588.4 provides that this chapter shall become operative on *January 1, 2026*.

Bus. & Prof. Code §§ 22589, **22589.1**, **22589.2**, & **22589.3** (Amended; **SB 1504**): ***The Cyberbullying Protection Act*:**

These sections were amended to add district attorneys, city attorneys, county counsels, the parent/guardian of a minor, and an administrator where a minor attends school, to the list of persons (the Attorney General) who may bring a civil action for a violation of the **Act**.

The civil penalty for a violation has been increased to *$10,000* per violation.

The application of the **Act** as been expanded from conduct that occurs among "*pupils*" in a school setting to conduct directed at any "*minor*" committed by "*any person*."

Also, it is now provided that a social media platform must confirm receipt of a cyberbullying report within *36 hours*, provide periodic written updates to the reporter every *14 days*, and inform the reporter of its final determination and action taken within *30 days* of the report.

Examples of "*severe conduct*" relative to what may may constitute "*cyberbullying*" are described as calls for self-injury or suicide of a minor; attacking a minor based on the minor's experience of sexual assault or domestic abuse; statements of intent to engage in sexual activity with a minor; threatening to release a minor's telephone number, residential address, images, or email address; calling for threats of violence, humiliation, or criminal activity against a minor; or, expressing disgust toward a minor who is depicted in the process of menstruating, urinating, vomiting, or defecating.

Bus. & Prof. Code §§ 22670 & **22671** (New; **SB 981**); ***Digital Identity Theft***:

B&P Code § 22671 requires a "*social media platform*" (as defined in **B&P Code § 22675(e)**, as amended. See below) to provide a mechanism that is reasonably accessible to a California resident user who has an account with the social media platform, so that the user can report sexually explicit digital identity theft to the platform.

A *30- to 60-day* time frame is established for the platform to determine whether there is a reasonable basis that the reported content is sexually explicit digital identity theft. The platform is required to temporarily block the content from being publicly viewable pending the determination.

The platform is also required to immediately remove content from being publicly viewable if the content is determined to be sexually explicit digital identity theft.

Subdivision (c) of **§ 22670** provides that "*sexually explicit digital identity theft*" means the posting of "*covered material*" on a social media platform. "Covered material" is defined in **subdivision (a)** of **§ 22670** as material that meets all of the following criteria:

1. The material is an image or video created or altered through digitization that would appear to a reasonable person to be an image or video of any of the following:

    a. An intimate body part of an identifiable person;
    b. An identifiable person engaged in an act of sexual intercourse, sodomy, oral copulation, or sexual penetration; or
    c. An identifiable person engaged in masturbation.

2. The reporting person is the person depicted in the material and did not consent to the use of the reporting person's likeness in the material.

3. The material is displayed, stored, or hosted on the social media platform. Provides that "covered material" does not include an image or video that contains only minor alterations that do not lead to significant

changes to the perceived content or meaning of the content, including changes to brightness or contrast of images and other minor changes that do not impact the content of the image or video.

Note: **B&P Code § 22675(e)** (Amended) defines "*Social media platform*" as 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.

Bus. & Prof. Code §§ 22757, **22757.1**, **22757.2**, **22757.3**, **22757.4**, **22757.5**, & **22757.6** (New; **SB 942**; Effective *1/1/2026*): ***The AI* (*Artificial Intelligence*) *Transparency Act***:

B&P § 11757(a) defines "*Artificial intelligence*" or "**AI**" as "an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments."

B&P § 11757(b) defines "*Covered provider*" as "a person that creates, codes, or otherwise produces a generative artificial intelligence system that has over *1,000,000* monthly visitors or users and is publicly accessible within the geographic boundaries of the state.

B&P § 11757.2(a) provides that a "*covered provider*" (as defined above) "shall make available an AI detection tool at no cost to the user that meets" the criteria as is listed as follows:

> **(1)** The tool allows a user to assess whether image, video, or audio content, or content that is any combination thereof, was created or altered by the covered provider's GenAI system.
>
> **(2)** The tool outputs any system provenance data that is detected in the content.
>
> **(3)** The tool does not output any personal provenance data that is detected in the content.
>
> **(4)**
>
> > **(A)** Subject to **subparagraph (B)**, the tool is publicly accessible.
> >
> > **(B)** A covered provider may impose reasonable limitations on access to the tool to prevent, or respond to, demonstrable risks to the security or integrity of its GenAI system.
>
> **(5)** The tool allows a user to upload content or provide a uniform resource locator (URL) linking to online content.
>
> **(6)** The tool supports an application programming interface that allows a user to invoke the tool without visiting the covered provider's Internet website.

Subdivision (b) further provides that a covered provider *shall* collect user feedback related to the efficacy of the covered provider's AI detection tool and incorporate relevant feedback into any attempt to improve the efficacy of the tool.

Also, pursuant to **subdivision (c)**, covered provider shall *not* do any of the following:

> **(1)**
>
> > **(A)** Except as provided in **subparagraph (B)**, collect or retain personal information from users of the covered provider's AI detection tool.
> >
> > **(B)**
> >
> > > **(i)** A covered provider may collect and retain the contact information of a user who submits feedback pursuant to

subdivision (b) if the user opts in to being contacted by the covered provider.

(ii) User information collected pursuant to *clause (i)* shall be used only to evaluate and improve the efficacy of the covered provider's AI detection tool.

(2) Retain any content submitted to the AI detection tool for longer than is necessary to comply with this section.

(3) Retain any personal provenance data from content submitted to the AI detection tool by a user.

Pursuant to B&P § 22757.2, a covered provided shall make available an AI detection tool at no cost to the user that meets the criteria as listed in the section.

B&P § 22757.3 lists a covered provider's GenAI system criteria.

B&P §22757.4 provides the penalties for failing to comply with the above: I.e.:

(a)

(1) A covered provider that violates this chapter shall be liable for a civil penalty in the amount of five thousand dollars *($5,000*) per violation to be collected in a civil action filed by the Attorney General, a city attorney, or a county counsel.

(2) A prevailing plaintiff in an action brought pursuant to this subdivision shall be entitled to all reasonable attorney's costs and fees.

(b) Each day that a covered provider is in violation of this chapter shall be deemed a discrete violation.

(c) For a violation by a third-party licensee of **paragraph (3)** of **subdivision (c)** of **Section 22757.3**, the Attorney General, a county counsel, or a city attorney may bring a civil action for both of the following:

(1) Injunctive relief.

(2) Reasonable attorney's fees and costs.

B&P § 22757.5 notes that this chapter does *not* apply to any product, service, Internet website, or application that provides exclusively non-user-generated video game, television, streaming, movie, or interactive experiences.

B&P § 22757.6 notes that this chapter shall become operative on *January 1, 2026*.

Bus. & Prof. Code §§ 22946, **22946.1**, **22946.2**, **22946.3** (New; **SB 918**; Effective *7/1/2025*): ***Social Media Platforms and Law Enforcement***:

Generally, this new chapter requires social media platforms to be more responsive to law enforcement requests for information about crimes committed using social media, such as drug trafficking. Specifically:
Pursuant to **B&P § 22946.1**:

(a) A social media platform shall maintain a law enforcement contact process that does all of the following:

(1) Makes available a staffed hotline for law enforcement personnel for purposes of receiving, and responding to, requests for information.

(2) Provides continual availability of the law enforcement contact process.

(3) Includes a method to provide status updates to a requesting law enforcement agency on a request for information or a warrant provided pursuant to **subdivision (b)**.

(b)

(1) Except as provided by any other law, . . . a social media platform *shall* comply with a search warrant within *72 hours* if both of the following apply:

(A) The search warrant is provided to the social media platform by a law enforcement agency.

(B) The subject of the search warrant is information associated with an account on the social media platform and that information is controlled by a user of the social media platform.

(2) A court may reasonably extend the time required to comply with a search warrant pursuant to this subdivision if the court makes a written finding that the social media platform has shown good cause for that extension and that an extension would not cause an adverse result, as defined in **Section 1524.2** of the **Penal Code**.

Note: The exceptions to the requirement that a search warrant be complied with within 72 hours relate to abortions; i.e., **The Reproductive Rights Law Enforcement Act** as in **P.C. §§ 13775–13778.3**, and **P.C. § 1546.5**; part of the **Electronic Communications Privacy Act**.

B&P § 22946.2 Notes that "(t)his chapter does *not* apply to a social media platform with fewer than 1,000,000 discrete monthly users."

B&P § 22946.3 proves that the operative date of this chapter is *July 1, 2025*.

B&P § 22946 provides the following definitions:

(a) "*Law enforcement agency*" means a law enforcement agency in the state.

(b) "*Law enforcement liaison*" means a natural person employed by a social media platform who serves as a point of contact with law enforcement agencies.

(c) "*Search warrant*" means a search warrant duly executed pursuant to Chapter 3 (commencing with **Section** 1523) of Title 12 of Part 2 of the Penal **Code**.

(d) "*Social media platform*" has the same meaning as defined in **B&P Code § 22945(a)(3)**; i.e., a public or semipublic Internet-based service or application that has users in California and that meets both of the following criteria:

(A)

(i) 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.

(ii) 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.

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

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

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

(iii) 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.

Health & Safety Code §§ 27000, **27000.5**, **27001**, **27002**, **27003**, **27004**, **27005**, **27006** & **27007** (New; **SB 976**): ***Protecting Our Kids From Social Media Addiction Act***:

This new **Act** prohibits the operator of an "*addictive Internet-based service or application*" from providing an addictive feed to a user unless the operator does not have actual knowledge that the user is a minor, or, the operator has obtained verifiable parental consent to provide an addictive feed to the minor.

Beginning *January 1, 2027*, instead of not having knowledge that the user is a minor, the operator *must* reasonably determine that the user is *not* a minor, pursuant to regulations to be promulgated by the Attorney General, unless the operator has parental consent.

The **Act** also prohibits the operator of an addictive Internet-based service or application, between the hours of *midnight and 6:00 a.m.*, and between the hours of *8:00 a.m. and 3:00 p.m., Monday through Friday*, from *September through May*, all in the user's time zone, from sending notifications to a user if the operator has actual knowledge the user is minor, unless the operator has obtained parental consent to send the notifications.

Beginning *January 1, 2027*, notifications to a minor are prohibited if the operator has not reasonably determined that the user is *not* a minor pursuant to regulations to be promulgated by the Attorney General, unless the operator has parental consent.

The operator of an addictive Internet-based service or application is required to provide a mechanism through which the parent of a user who is a minor may prevent the child from accessing or receiving notifications between specific hours chosen by the parent; may limit the child's access to a specified time each day; may limit the child's ability to view the number of likes or other forms of feedback to pieces of media; and may require that the default feed provided to the child be one in which pieces of media are not selected or prioritized for display based on information provided by the child or associated with the child's device.

All the above is to be enforced by the Attorney General in a civil action. The Attorney General is required to adopt regulations "to further the purposes of this chapter," including regulations regarding age assurance and parental consent, by *January 1, 2027*.

"*Addictive feed*" is defined as an Internet website, online service, online application, or mobile application in which multiple pieces of media are recommended, selected, or prioritized for display to a user based, in whole or in part, on information provided by the user or associated with the user's device. Among the exceptions listed is when a user has requested the specific media.

"*Addictive Internet-based service or application*" is defined as an Internet website, online service, online application, or mobile application, including a social media platform, that offers or provides users with an addictive feed as a significant part of the services provided. Two exceptions are listed: (1) where interactions between users are limited to commercial transactions or to consumer reviews of products and services; and (2) where the primary purpose is cloud storage.

***Theft-Related Crimes*:**

Penal Code § 487 (Amended; **AB 2943**): ***Calculating the Total Value of Theft-Related Offenses***:

This section has been re-written to clarify how one is to combine (aggregate) the value of multiple misdemeanor thefts to reach the over-$950 felony threshold. It does so by noting that in making such a calculation, a total-value calculation applies to acts committed against multiple victims and to acts committed in counties other than the county of the current offense. Even so, the calculation of the total loss retains the requirement that in order to aggregate the value of stolen money, labor, or property, the acts must be motivated by "*one intention, one general impulse, and one plan*." (Referred to as the ***Bailey*** doctrine, pursuant to ***People v. Bailey*** (1961) 55 Cal.2nd 514.)

As re-written, the section clarifies that "[E]vidence that distinct acts are motivated by one intention, one general impulse, and one plan may include, but is not limited to, evidence that the acts involve the same defendant or defendants, are substantially similar in nature, or occur within a 90-day period."

Subd. (e) of **P.C. § 487** now reads 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, including acts committed against multiple victims or in counties other than the county of the current offense, 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*. Evidence that distinct acts are motivated by one intention, one general impulse, and one plan may include, but is not limited to, evidence that the acts involve the same defendant or defendants, are substantially similar in nature, or occur within a 90-day period."

Penal Code § 490.3 (Proposition 36: (New; Effective on or before *December 18, 2024*): ***Aggregating the Value of Property***:

Permits aggregating (combining) the value of property or merchandise stolen during multiple thefts to meet the *greater-than-$950* threshold so that a felony theft may be charged instead of a series of misdemeanor petty thefts.

See also **Penal Code § 666.1** (new), Permitting a felony to be charged when an offender commits petty theft or shoplifting and has two prior misdemeanor or felony convictions for theft-related offenses.

Penal Code § 490.8 (New; **AB 3209**): ***Restraining Order from Retail Establishment***:

(a) A court sentencing a defendant for any violation described in **subdivision (b)** *shall* consider issuing an order restraining the defendant from entering the premises of the retail establishment, that may be valid for up to *two years*, as determined by the court.

(b) Subdivision (a) shall apply to a person convicted of any of the following offenses:

(1) Shoplifting in violation of **Section 459.5**.

(2) Any theft, including a violation of **Section 487** or **488**, from a retail establishment.

(3) Organized retail theft in violation of **Section 490.4**.

(4) Any vandalism of a retail establishment in violation of **Section 594**.

(5) Any assault or battery of an employee of a retail establishment while that person is working at the retail establishment, including a violation of **Section 240**, **242**, or **245**.

(c)

(1) An order issued pursuant to **subdivision (a)** shall prohibit the restrained person from entering the retail establishment, or being present on the grounds of, or any parking lot adjacent to and used to service, the retail establishment.

(2) If the retail establishment is part of a chain or franchise, the court may include other retail establishments in that chain or franchise within a specified geographic range in the order.

(d) In determining whether to impose a retail crime restraining order pursuant to **subdivision (a)** or **(e)**, the court shall consider whether the retail establishment is the only place that sells food, pharmaceuticals, or other basic life necessities within *one mile* of where the individual resides, or otherwise creates undue hardship for the individual.

(e)

(1) A prosecuting attorney, city attorney, county counsel, or attorney representing a retail establishment may file a petition requesting a retail crime restraining order for an individual who has been arrested, including, but not limited to, the issuance of a citation in lieu of a custodial arrest pursuant to **Section 853.6**, *two or more times* for any of the offenses listed in **subdivision (b)** within the same retail establishment.

(2) An order issued pursuant to this subdivision shall be issued after a hearing.

(3) The respondent shall be personally served with notice of the hearing and shall be entitled to representation by court-appointed counsel.

(4) The petitioner shall bear the burden of proving, by a *preponderance of the evidence*, that the respondent, on *two or more separate occasions*, committed an offense described in **subdivision (b)** within the retail establishment or on the grounds thereof.

(5) The court may issue an order restraining the respondent from entering the premises of the retail establishment for a period not to exceed *two years* if the court finds by a *preponderance of the evidence* that both of the following are true:

(A) The respondent, on two or more separate occasions, committed an offense described in **subdivision (b)** within the retail establishment or on the grounds thereof.

(B) There is a *substantial likelihood* that the individual will return to the retail establishment.

(6)

(A) An order issued pursuant to this subdivision shall prohibit the restrained person from entering the retail establishment, or being present on the grounds of, or any parking lot adjacent to and used to service, the retail establishment.

(B) If the retail establishment is part of a chain or franchise, the court may include other retail establishments in that chain or franchise within a specified geographic range in the order.

(f) A violation of an order issued pursuant to this section is punishable as a misdemeanor. Declarative of existing law, prosecution under this section *shall not* preclude prosecution for any other offenses committed during a violation of this section.

(g) Notwithstanding **Section 853.6**, an officer arresting a person for a violation of this section is not required to release the person pursuant to a written notice to appear.

(h) Declarative of existing law, a court may offer an individual charged with a violation of this section an opportunity to participate in a diversion program for which they are eligible, including those described in **Title 6** (commencing with **Section 976**) of **Part 2**.

(i) If a person subject to a retail crime restraining order issued pursuant to this section was not present in court at the time the order was issued or renewed, the retail crime restraining order shall be personally served on the restrained person by a law enforcement officer, or by a person as provided in **Section 414.10** of the **Code of Civil Procedure**.

(j) The Judicial Council may prescribe the form of the petitions and orders and any other documents, and may promulgate any rules of court, necessary to implement this section.

See **Penal Code § 496.5;** ***Vehicle Breaking, Entering, and Possession of the Property Stolen from a Vehicle***, below.

Penal Code § 496.6 (New; **AB 2943**): ***Unlawful Deprivation of Retail Business Opportunity***:

(a) Any person who possesses property unlawfully that was acquired through one or more acts of *shoplifting*, *theft*, or *burglary from a retail business*, whether or not the person committed the act of shoplifting, theft, or burglary, is guilty of the unlawful deprivation of a retail business opportunity when both of the following apply:

(1) The property is not possessed for personal use and the person has the intent to sell, exchange, or return the merchandise for value, or the intent to act in concert with one or more persons to sell, exchange, or return the merchandise for value.

(2) The value of the possessed property exceeds *nine hundred fifty dollars* (*$950*). For purposes of determining the value of the property, the property described in **paragraph (1)** can be considered in the aggregate with either of the following:

(A) Any other such property possessed by the person with such intent within the prior *two years*.

(B) Any property possessed by another person acting in concert with the first person to sell, exchange, or return the merchandise for value, when such property was acquired through one or more acts of shoplifting, theft, or burglary from a retail business, regardless of the identity of the person committing the act of shoplifting, theft, or burglary.

(b) For the purpose of determining in any proceeding whether the defendant has the intent to sell, exchange, or return the merchandise for value, the trier of fact *may* consider any competent evidence, including, but not limited to, the following:

(1) Whether the defendant has in the prior *two years* sold, exchanged, or returned for value merchandise acquired through shoplifting, theft, or burglary from a retail business, or through any related offense, including any conduct that occurred in other jurisdictions, if relevant to demonstrate a fact other than the defendant's disposition to commit the act, as provided by **subdivision (b)** of **Section 1101** of the **Evidence Code**.

(2) The property involved in the offense is of a type or quantity that would not normally be purchased for personal use or consumption, including use or consumption by one's immediate family.

(c) The criminal deprivation of a retail business opportunity is punishable by imprisonment in the county jail for up to *one year* or pursuant to **subdivision (h)** of **Section 1170**.

Note: 16 months, 2, or 3 years, or one year in county jail.

Pen. Code § 532f (Amended; **AB 3108**): ***Mortgage Fraud***:

The felony/misdemeanor crime of mortgage fraud has been expanded by adding a new **subdivision (b)** that applies to mortgage brokers and loan originators. As amended, it is provided that a mortgage broker or loan originator commits mortgage fraud if, with the intent to defraud, the broker or originator does either of the following:

1. Instructs or deliberately causes a borrower to sign documents reflecting the terms of a business, commercial, or agricultural loan, with knowledge the borrower intends to use the loan proceeds primarily for personal, family, or household use (**Subd. (b)(1)**); *or*

2. Instructs or deliberately causes a borrower to sign documents reflecting the terms of a bridge loan, with knowledge that the loan proceeds will not be used to acquire or construct a new dwelling. (**Subd. (b)(2)**)

"*Bridge loan*" is defined in the section as a temporary loan, having a maturity of one year or less, for the purpose of acquiring or constructing a dwelling that is intended to become the borrower's principal dwelling.

The statute continues to provide that fraud involving a mortgage loan may only be prosecuted under this section when the value of the fraud meets the threshold for grand theft in **P.C. § 487(a)** (over *$950*). (**Subd. (k)**)

Pen. Code § 836 (Amended; **AB 2943**): ***Warrantless Arrests for Shoplifting***:

New **subdivision (f)** is added to permit a peace officer to arrest a shoplifter (**P.C. § 459.5**) without a warrant and when the offense was *not* committed in the officer's presence if *all* of the following conditions are met:

(1) The officer has *probable cause* to believe the alleged offender committed the violation; *and*

(2) The arrest is made "*without undue delay*" after the violation; *and*

(3) *Any* of the following takes place:

(A) The officer obtains a sworn statement from the person who witnessed the person to be arrested committing the alleged violation; *or*

(B) The officer observes video footage that shows the person to be arrested committing the alleged violation; *or*

(C) The person to be arrested possesses a quantity of goods inconsistent with personal use and the goods bear security devices affixed by a retailer that would customarily be removed upon purchase; *or*

(D) The person to be arrested confesses to the alleged violation to the arresting officer.

***Tobacco Products*:**

Health & Safety Code § 104559.1 (New; **AB 3218**): ***Unflavored & Flavored Tobacco***:

The Attorney General, no later than *December 31, 2025*, is required to establish and maintain an Internet website list of tobacco product brand styles that *lack a characterizing flavor*. This list shall be known as the Unflavored Tobacco List (UTL). Any tobacco product on this list is legal to sell, offer to sell, or possess for sale.

Manufacturers and importers of tobacco products are required to submit to the Attorney General a list of all brands styles of tobacco products that lack a characterizing flavor and to certify under penalty of perjury that the product lacks a characterizing flavor.

The Attorney General is authorized to seek civil penalties up to *$50,000* against an entity that submits a certification it had no reasonable basis to believe was true. Any brand style not on the UTL list shall be deemed a flavored tobacco product under **H&S § 104559.5(b)**, which prohibits a tobacco retailer from selling, offering to sell, or possessing for sale, a flavored tobacco product or a tobacco product flavor enhancer.

> *Note*: **H&S § 104559.5** (amended) provides that district attorneys and other entities may assess a civil penalty for a violation of **H&S § 104559.5(b)**. This section, as amended, also provides that "flavored tobacco product" includes any tobacco product, other than looseleaf tobacco, a premium cigar, or shisha tobacco product, that is not listed on the Unflavored Tobacco List established and maintained by the Attorney General pursuant to **H&S § 104559.1**.

Wholesalers and distributors are prohibited from selling a tobacco product not on the UTL list to a retailer or other person, and authorizes the Attorney General to assess civil penalties against a violator, of up to *$2,000* for a first violation to up to *$10,000* for a fifth violation within a *five-year period*.

***Vehicle Breaking, Entering, and Possession of the Property Stolen from a Vehicle*:**

Penal Code § 465 (New; **SB 905**): ***Unlawful Entry of a Vehicle***:

(a) A person who forcibly enters a vehicle, as defined in **Section 670** of the **Vehicle Code**, with the intent to commit a theft or any felony therein is guilty of unlawful entry of a vehicle.

(b) Unlawful entry of a vehicle is punishable by imprisonment in a county jail for a period not to exceed *one year* or imprisonment pursuant to **subdivision (h)** of **Section 1170**.

Note: 16 months, 2, or 3 years, or one year in county jail.

(c) As used in this section, forcible entry of a vehicle means the entry of a vehicle accomplished through any of the following means: the use of a tool or device that manipulates the locking mechanism, including, without limitation, a slim jim or other lockout tool, a shaved key, jiggler key, or lock pick, or an electronic device such as a signal extender, or force that damages the exterior of the vehicle, including, but not limited to, breaking a window, cutting a convertible top, punching a lock, or prying open a door.

(d) A person may not be convicted both pursuant to this section and pursuant to **Section 459**.

Note: It is still a crime to commit a vehicle burglary, pursuant to **P.C. § 459**, an element of which is that the doors be locked. The "*forceful entry*" element of this new offense infers also that the doors are locked, although it is not an element that must be proved. The punishments for both, however, are the same (See **Pen. Code § 461**). And while a defendant may not be "convicted" of both (per **subd. (d)**), both sections may be charged.

Penal Code § 496.5 (New; **SB 905**): ***Unlawful possession of property acquired through acts of theft from a vehicle***:

(a) A person who unlawfully possesses property that was acquired through one or more acts of theft from a vehicle, unlawful entry of a vehicle, burglary of a locked vehicle, or vehicle tampering as defined in **Section 10852** of the **Vehicle Code**, whether or not the person committed the act of theft, burglary, or vehicle tampering, is guilty of automotive property theft for resale when both of the following apply:

(1) The property is not possessed for personal use and the person has the intent to sell or exchange the property for value, or the intent to act in concert with one or more persons to sell or exchange the property for value.

(2) The value of the possessed property exceeds *nine hundred fifty dollars ($950*). For purposes of determining the value of the property, the property described in **paragraph (1)** can be considered in the aggregate with any of the following:

(A) Any other such property possessed by the person with such intent within the last *two years*.

(B) Any property possessed by another person acting in concert with the first person to sell or exchange the property for value,

when that property was acquired through one or more acts of theft from a vehicle, unlawful entry of a vehicle, burglary of a locked vehicle, or vehicle tampering as defined in **Section 10852** of the **Vehicle Code**, regardless of the identity of the person committing the acts of theft, burglary, or vehicle tampering.

(b) For the purpose of determining, in any proceeding, whether the defendant had the intent to sell or exchange the property for value, the trier of fact may consider any competent evidence, including, but not limited to, the following:

(1) Whether the defendant has in the past two years sold or exchanged for value any property acquired through theft from a vehicle, burglary of a locked vehicle, or vehicle tampering as defined in **Section 10852** of the Vehicle Code, or through any related offenses, including any conduct that occurred in other jurisdictions, if relevant to demonstrate a fact other than the defendant's disposition to commit the act, as provided by **subdivision (b)** of **Section 1101** of the **Evidence Code**.

(2) Whether the property involved in the offense is of a type or quantity that would not normally be purchased for personal use or consumption, including use or consumption by one's immediate family.

(c) A violation of **subdivision (a)** is punishable by imprisonment in the county jail for up to *one year* or pursuant to **subdivision (h)** of **Section 1170**.

Note: 16 months, 2, or 3 years, or one year in county jail.

(d) This section does not preclude or prohibit prosecution under any other law.

***Vehicle Code Violations*:**

Veh. Code § 5201.1 (Amended; **AB 2111**): ***Erasing or Obscuring the Reflective Coating On, or the Alteration of, a License Plate***:

Subdivision (c) is amended to expand the infraction crime of erasing the reflective coating of, painting over the reflective coating of, or altering a license plate to avoid visual or electronic capture of the license plate or its characters, regardless of the reason.

Note: Previously this crime applied only if the intent was to avoid a license plate being captured by "state or local law enforcement." As amended, the section now applies no matter the perpetrator's intent.

A violation is punishable by a $250 fine.

Note: **Subdivision (a)** continues to prohibit selling a product or device that obscures the reading or recognition of a license plate and **subdivision (b)** continues to prohibit operating a vehicle with such a product or device.

Veh. Code § 14602.7 (Amended; **AB 3085**): ***Thiry-Day Vehicle Impounds for Listed Offenses***:

The list of offenses is expanded for which a peace officer may impound a vehicle for up to *30 days* pursuant to a warrant or court order issued by a magistrate, by adding **V.C. § 23109(a)** (motor vehicle speed contest on a highway or in an off-street parking facility) and **V.C. § 23109(c)** (exhibition of speed on a highway or in an off-street parking facility).

The section continues to apply to **V.C. § 23103** (reckless driving), **V.C. § 2800.1** (evading a peace officer), **V.C. § 2800.2** (evading a peace officer with willful or wanton disregard for the safety of persons or property), and **V.C. § 2800.3** (evading a peace officer and proximately causing serious bodily injury to any person). The section also continues to provide that a magistrate presented with an affidavit of a peace officer establishing reasonable cause to believe that a vehicle was an instrumentality used in the peace officer's presence in violation of one of the above offenses, is required to issue a warrant or court order authorizing any peace officer to immediately seize and remove the vehicle for up to *30 days*.

A vehicle's identification number is added as a way to describe the vehicle to be impounded. Therefore, the vehicle to be impounded may now be described by vehicle type and license number, or vehicle type and vehicle identification number.

An impounding agency is permitted to send notice of impoundment to the legal owner of the vehicle by electronic service instead of by certified mail, return receipt requested. This amendment also changes the method of notice about a storage hearing to the registered and legal owner of the vehicle by eliminating notice by mail or personal delivery, and by adding notice by certified mail, return receipt requested or electronic service.

Note: This section applies to the situation where law enforcement has a warrant or a court order. The impoundment of vehicles without either still requires that the "*Community Caretaking*" theory applies; e.g., that the vehicle is illegally parked, constitutes a hazard, or may be subject to theft or vandalism if left at the scene.

Veh. Code § 23109 (Amended; **AB 2807**): ***Vehicle Sideshows or Street Takeovers***:

Added to **subdivision (i)** of this section is that a "*sideshow*" is also known as a "*street takeover*." The entire definition of "sideshow" is as follows: "(A)n 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. A sideshow is also known as a street takeover."

Subdivision (i) continues to provide that beginning *July 1, 2025*, a court may suspend a driver's license for *90 days* to *six months* when an offender violates **V.C. § 23109(c)** (engaging in a motor vehicle exhibition of speed), if the violation occurred as part of a sideshow.

Note: This amendment was made in 2021 by **AB 3**, and had a delayed effective date of *July 1, 2025*.

Veh. Code § 23109.2 (Amended; **AB 2186**): ***Exhibition of Speed in an Offstreet Parking Facility***:

The exhibition of speed *in an offstreet parking facility* (**V.C. § 23109(c)**) is added to the list of crimes for which a peace officer may arrest the offender and impound the vehicle.

Note: This section has always applied to a violation of **V.C. § 23109(c)**, but *only* if the exhibition of speed occurred on highway. Now it applies to any violation of **V.C. § 23109(c)**, whether the exhibition of speed occurs on a highway or in an offstreet parking facility. The section also continues to apply to a motor vehicle speed contest (**V.C. § 23109(a)**), reckless driving on a highway (**V.C. § 23103(a)**), and reckless driving in an offstreet parking facility (**V.C. § 23103(b)**).

Also added to the section is that, regarding **V.C. § 23109(c)** crimes, this section does *not* apply to aiding or abetting an exhibition of speed on a highway or in an offstreet parking facility. The section continues to provide that a removed vehicle may be impounded for not more than *30 days*.

V.C. § 23109.3 (New; **AB 1978**): ***Impounding a Vehicle Upon the Owner's Violation of V.C. § 23109(d) Without Arresting the Owner***:

This new statute authorizes a peace officer to impound a vehicle without taking the owner or driver into custody for a violation of **V.C. § 23109(d)**. The section specifically provides that if a peace officer arrests a person for a violation of **V.C. § 23109(d)** and seizes and removes the vehicle used to commit the violation pursuant to **V.C. § 22651(h)(1)**, the peace officer is *not* required to take the person into custody. (Instead, the officer can issue a citation at the scene.)

Note: **V.C. § 23109(d)** is the crime of obstructing or placing a barricade, or assisting or participating in placing a barricade or obstruction, on a highway or in an offstreet parking facility for the purpose of facilitating or aiding a motor vehicle speed contest or exhibition of speed, inferring that the vehicle is used to create a barricade or obstruction. It is not necessary for the offender to actually participate in the speed contest or the exhibition of speed. **V.C. § 22651(h)(1)**

permits a peace officer to remove a vehicle when the officer arrests a person in control of the vehicle for an offense, and the officer actually takes the offender into custody.

Veh. Code § 24016 (Amended; **AB 1774**): ***Selling a Device Modifying the Speed Capability of an Electric Bicycle***:

A new infraction crime is added in **subdivision (e)**: Selling a product or device that can modify the speed capability of an electric bicycle so that it no longer meets the definition of an electric bicycle in **V.C. § 312.5(a)**.

Pursuant to existing **V.C. § 40000.1** and **42001**, this is an infraction crime punishable by a fine of up to *$100* for a first violation, a fine of up to *$200* for a violation within one year of a first violation, and a fine of up to *$250* for a third or subsequent violation within one year of two or more violations.

Subdivision (d) is amended to clarify that the infraction crime of tampering or modifying an electric bicycle to change its speed capability does not apply if the bicycle continues to meet the definition of an e-bike in **V.C. § 312.5(a)**.

Veh. Code § 28155 (New; **SB 1313**): ***Illegally Disabling a Driver Monitoring System***:

Two new infraction crimes have been created which prohibit the use of devices that neutralize, disable, or interfere with a "driver monitoring system," which includes a system of cameras and other detection devices to monitor the alertness of a driver while a vehicle is using advanced driver assistance system technology. Such a driving monitoring system may monitor a driver's eyes, or use weight sensors to ensure a person is in the driver's seat, and/or have a sensor in the steering wheel to ensure a person is holding it even though the vehicle is performing the driving tasks. These new provisions provide for several exceptions, such as when a vehicle is being repaired.

V.C. § 28155(a) prohibits a vehicle from being equipped with a device that is specifically designed, marketed, or used for neutralizing, disabling, or interfering with a driver monitoring system that is engaged when drivers are using advanced driver assistance system features or autonomous technology, as defined in **V.C. § 38750**.

V.C. § 28155(b) prohibits using, buying, possessing, manufacturing, selling, advertising for sale, or distributing a device that is specifically designed for neutralizing, disabling, or interfering with a driver monitoring system that is engaged when drivers are using advanced driver assistance system features or autonomous technology, as defined in **V.C. § 38750**.

"*Autonomous technology*" is defined in **V.C. § 38750** as the capability to drive a vehicle without the active physical control or monitoring by a human operator.

The penalty for these new infractions is a fine of up to *$100* for a first violation, a fine of up to *$200* for a second violation occurring within one year of a prior violation that resulted in a conviction, and a fine of up to *$250* for a third or subsequent violation occurring within one year of two or more prior violations that resulted in convictions. (See **V.C. § 42001**)

Note: Apparently, "*nag reduction devices*" are available for sale. An example is a device that attaches to the steering wheel and applies pressure to simulate a driver's hands on the wheel, in order to trick the driver monitoring device into thinking the driver's hands are on the wheel. Also, online forums offer guidance on crafting devices to defeat safety systems whose purpose is to make sure that a driver is alert and paying attention while using advanced driver assistance system features.

Veh. Code §§ 28200, **28202**, **28204**, **28206**, **28210**, **28220**, **28222**, **28224**, **28226**, **28228**, **28240**, **28242** & **28244** (New; **SB 1394**): ***Connected Vehicle Service***:

New **Chapter 6** in **Division 12** of the **Vehicle Code**, entitled "*Connected Vehicle Service*" has been created to establish procedures for terminating remote vehicle technology so that a vehicle with "connected vehicle service" cannot be tracked by a person outside the vehicle using a mobile phone app to check a car's location, or to lock and unlock vehicle doors, or to turn on headlights, etc.

This new Chapter requires a vehicle manufacturer or entity that provides connected vehicle service, beginning *July 1, 2025*, to provide on its internet website a clearly visible link called "HOW TO DISCONNECT REMOTE VEHICLE ACCESS." This is so that a driver may request that another person's access to connected vehicle service be terminated.

By *January 1, 2028*, it will be required that vehicles with connected vehicle service to clearly indicate to a person inside the vehicle when a person who is outside the vehicle has accessed either connected vehicle service or connected vehicle location access. It will also require that if a vehicle has connected vehicle location access, there must be a mechanism that can be easily used by the driver to immediately disable it.

Note: Apparently, GPS-tracking technology in cars is being exploited by domestic violence abusers. The purpose of this new Chapter is to create a process for domestic violence victims to terminate remote access to a vehicle to ensure their safety and privacy.

Veh. Code §§ 38750 (Amended), **38751** (Effective 7/1/26), **38752** & **38753** (New; **AB 1777**): ***Autonomous Vehicles***:

New **V.C. § 38751**, beginning *July 1, 2026*, requires a manufacturer operating an "*autonomous vehicle*" under a testing or deployment permit to comply with all of the following:

1. Maintain a dedicated emergency response telephone line that is available when an autonomous vehicle is on a public road. This requires that the telephone line shall be free to public agencies and requires that calls be picked up within *30 seconds* by a remote human operator. It also requires that the remote human operator have the ability to immobilize an autonomous vehicle, allow an emergency response official (e.g., peace officers or first responders) to move the vehicle, or cause the vehicle to move as directed by the official;

2. Equip each vehicle with a two-way communication device that enables emergency response officials near the vehicle to communicate with the remote human operator; *and*

3. If a vehicle has an override system that allows someone physically present to move the vehicle, provide access to the override system to law enforcement and firefighters so the vehicle can be immobilized or moved. Manufacturers of autonomous vehicle are required to provide training to law enforcement and firefighters on the use of the override system.

New **V.C. § 38752** makes any traffic violation committed by an autonomous vehicle the responsibility of the manufacturer. A peace officer is authorized to issue a "*notice of autonomous vehicle noncompliance*." A manufacturer is required to provide the notice to the DMV within *72 hours*. New **V.C. § 38752** will not become operative until DMV issues regulations addressing notices of autonomous vehicle noncompliance pursuant to **V.C. § 38750**.

***Wiretaps*:**

Pen. Code § 629.52 (Amended; **AB 1892**): ***Ex Parte Wiretap Authorizations***:

Felony violations of **Pen. Code §§ 311.2(b)**, **311.2(d)**, **311.4(b)**, and **311.4(c)** are added to the list of crimes for which an ex parte order authorizing the interception of a wire communication (a wiretap), or an electronic communication may be obtained.

Note: **P.C. § 311.2(b)** and **(d)** involve distributing or exhibiting obscene matter that depicts a person *under age 18* personally engaging in or personally simulating sexual conduct. **P.C. § 311.4(b)** and **(c)** involve employing, using,

inducing, or coercing a minor to engage in producing obscene matter or to give a live performance involving sexual conduct by a minor.