

New Laws for 2024

**The most important
new statutes, rules, and forms
for
California Criminal Law**

**Including Jury Instructions, Juvenile Justice,
LPS, and others**

Selected and edited by

Garrick Byers

Statute Decoder

gbyerslaw@comcast.net

GUIDE TO THIS MATERIAL

Each bill number is also a link to its full official text and Legislative Counsel's Digest, with links to Bill Analysis (Committee Reports) and others.

Many new statutes and rules would fit under two or more categories but are included under only one. There are many cross references. Only the most important new laws, rules and forms are included.

A complete list of new bills is online at "California Legislative Information," "Publications," "New Laws Report." Almost-complete lists of new criminal law bills are published by the Public Safety Committees of both the Senate the Assembly. All new Rules and Forms are at the Calif. Courts web site. Both the Calif. Courts and the DMV have pages on their websites for new legislation affecting them.

This treatise is for information only and is not legal advice.

***New statutory or rule text is in this font.* Existing statutory or rule text is in this font. ~~Deleted statutory or rule text is in this font.~~**

Abbreviations:

AB = Assembly Bill

BP = Bus. and Professions Code

CCP = Code of Civil Procedure

CCR = California Code of Regs.

CDCR = CA Dept. of Correct. and Rehab. Def. = Defendant or Defense

DOJ = CA Dept. of Justice

DV = Domestic Violence

EC = Evidence Code

FC = Family Code

FTA = Failure to Appear

GC = Government Code

HS = Health and Safety Code

M = Minor

PC = Penal Code

P = The People or Prosecution

SB = Senate Bill.

Stats = Statutes and Amendments to the Codes

VC = Vehicle Code

V = The Victim or Alleged Victim

WI = Welfare and Inst. Code

W = Witness

Garrick Byers, certified as a Criminal Law Specialist by the State Bar's Board. of Legal Spec., was a Public Defender for 35 years, was a CPDA President, and is currently a member of CPDA's Legislative Committee. He was Interim Dir. of Sonoma County's law enforcement review office. He is currently in private practice. He frequently speaks and writes for CEB, CPDA, Public Defender offices, and others. © G. Byers 2023.

HIGHLIGHTS AND LOWLIGHTS

- P can give peace officer names, Def.’s name and case number to a public defender’s or alternative office, or Atty in a criminal case to notify Atty’s for other Defs of exculpatory or impeachment evidence. *See Peace Officers*
- The deprivation of liberty from incarceration satisfies the punishment purposes of sentencing; the purpose of incarceration is rehabilitation and safe and successful reentry back into the community.” *See Sentences*
- Tablets provided by CDCR to Incarcerated Persons. *See Prisoners*
- Habeas corpus: false evidence; new evidence; substantial dispute about expert evidence, all revised. PC 1473 is rearranged. *Habeas corpus*
- Victim compensation for emotional injury expanded *Victims*
- The first new “strike” in 20 years added to the serious felony list. *Enhance.*
- Cruising can no longer be prohibited by local authorities. A lowrider prohibition is repealed. *Vehicles*
- Race-blind charging model required of DOJ starting 1/1/24; starting 1/1/25, P must review most cases using race-blind procedures. *Crim. Proc.*
- Appellate EOT forms now inquire if Def (or M) will be prejudiced. *Forms*
- Cases on appeal can be remanded to trial court for RJA motions *Appeals*
- CALCRIM 209, “Implicit or Unconscious Bias” adopted. *Crim. Procedure*

Early Notices: Selected New Laws This Year with Delayed Operative Dates

POST must develop a definition of biased conduct and provide guidance for evaluating peace officers and their social media for bias.

Stopping, standing, or parking within 20 feet of an unmarked or marked crosswalk gets a warning until 1/1/25, then, a citation. *See Vehicles*

Trivia Question: What is the new name of a state capitol plaza.? Hint: she is a former deputy Public Defender.

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APPEALS

See also, Postconviction



Raising Racial Justice Act Claims on Appeal by Asking for Remand

[AB 1118, \(Stats 2023 Ch. 464\)](#) Amends “The Racial Justice Act,” PC 745

From the Legislative Counsel’s Digest

[The California Racial Justice Act (CRJA, or RJA)] prohibits the state from seeking a . . . conviction or sentence based on race, ethnicity, or national origin. . . . [Def can] file a motion in the trial court or, if judgment has been imposed, [can] file a petition for writ of habeas corpus to allege a violation of this prohibition.

This bill . . . additionally authorize[s] [Def] in specified circumstances to raise a claim alleging [a CRJA] violation . . . on direct appeal. . . . The bill . . . authorize[s] [Def] to move to stay the appeal and request remand to the superior court to file a motion.

From the RJA, PC 745, as amended: [Paragraph break added]

(b) [Def.] may file a motion ~~in the trial court or, if judgment has been imposed, may file pursuant to this section,~~ or a petition for writ of habeas corpus or a motion under [PC 1473.7] in a court of competent jurisdiction, alleging a violation of [the RJA]. *For claims based on the trial record, [Def] may raise a claim alleging a violation of [the RJA] on direct appeal from the conviction or sentence.*

The [Def] may also move to stay the appeal and request remand to the superior court to file a motion pursuant to this section. If the motion is based in whole or in part on conduct or statements by the judge, the judge shall disqualify themselves from any further proceedings under this [§].

From the Assembly Floor Report of May 18, 2023 (emphasis added)

“[This Bill] . . . clarifies that RJA claims can be raised on appeal, or, if additional evidence is needed, permits individuals to request stay of an appeal and remand to the trial court to file a motion. The bill also clarifies that a case need not be set for trial to file an RJA motion.”

From the “Senate Committee on Public Safety” report for a hearing on June 6, 2023.

Generally, a trial court loses jurisdiction once an appeal is filed. But in other post-conviction relief contexts, stays and remands have been permitted by the courts – for example to file a petition to vacate a felony murder conviction and be resentenced under [former PC 1170.95, now PC 1172.6. (See *People v. Martinez* (2019) 31 Cal.App.5th 719, 729 [“A Court of Appeal presented with such a stay request and convinced it is supported by good cause can order the pending appeal stayed with a limited remand to the trial court for the sole purpose of permitting the trial court to rule on a petition under section 1170.95.”].)



ATTORNEYS

“Reporting Professional Misconduct”: New Rule of Prof. Conduct

A link to new Rule and its 10 Comments: [“Rule of Professional Conduct 8.3”](#)

A link to the State Bar’s [“Rule 8.3 Required Reporting”](#) web page.

Rule 8.3 Reporting Professional Misconduct

(Rule Approved by the Supreme Court, Effective August 1, 2023)

(a) A lawyer shall, without undue delay, inform the State Bar, or a tribunal* with jurisdiction to investigate or act upon such misconduct, when the lawyer knows* of credible evidence that another lawyer has committed a criminal act or has engaged in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation or misappropriation of funds or property that raises a substantial* question as to that lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects.

(b) Except as required by . . . (a), a lawyer may, but is not required to, report . . . a violation of these Rules or the State Bar Act.

(c) For purposes of this rule, “criminal act” as used in paragraph (a) excludes conduct that would be a criminal act in another state, United States territory, or foreign jurisdiction, but would not be a criminal act in California.

(d) This rule does not require or authorize disclosure of information gained by a lawyer while participating in a substance use or mental health program, or require disclosure of information protected by [BP] 6068, subd[.] (e) and rules 1.6 and 1.8.2; mediation confidentiality; the lawyer-client privilege; other applicable privileges; or by other rules or laws, including . . . confidential [info.] under [BP] 6234

* Terms with an asterisk are defined in RPC 1.0.1 Terminology.

BP 6234 is part of the “[Atty] Diversion and Assistance Act. (BP 6230-6238).

Among the links on the State Bar’s “Rule 8.3 Required Reporting” page are:

- An “online complaint form” designed for non-lawyers.
- Rule 8.3 Reporting Scenarios, including some not requiring reporting.

- Frequently Asked Questions.

Here is FAQ 9: What happens if I fail to report misconduct under rule 8.3? A lawyer who fails to report conduct as required by rule 8.3 may be subject to disciplinary action by the State Bar.

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BACKGROUND CHECKS

Partial rollback of a background check law.

[SB 531 \(Stats 2023 Ch. 616\)](#)

Amends Educ. Code 45125

Urgency statute, eff. Oct. 8, 2023

[This background check requirement was so onerous that some entities offering work experience were pulling out, reducing pupils’ opportunities. GB]

From the Legislative Counsel’s Digest (emphasis added)

[Before this bill] *any* entity that ha[d] a contract with a local educational agency . . . [had to] ensure that [almost] *any* employee who interacts with pupils, . . . , ha[d] a valid criminal records summary. . . .

This bill . . . exempt[s] [from that] requirement . . . an employee of an[] entity that . . . offers work experience opportunities for pupils or workplace placements . . . if . . . [there is] at least one adult employee in the workplace during the pupil’s work hours[] who . . . [is] responsible for the [pupil’s] safety . . . [who] has a valid criminal records summary and . . . [the] pupil’s parent or guardian has signed a consent form [with exceptions].

From the Senate Committee on Education for September 13, 2023:

. . . . Background check requirement expanded to contractors. The 2021 Budget Act expanded this [background check requirement [from contractors

for janitorial services, administrative services, grounds, and landscape maintenance] to *any* contract involving individuals interacting with students, whether in-person or online. [emphasis added GB]

... Unintended consequences of [this] background check requirement ... [S]tudent work experience opportunities [were] negatively impacted. Many employers who previously had hosted students for work experience and WorkAbility were unable or unwilling to comply with the requirement that all ... employees who might have contact with the student(s) be fingerprinted. [There were other problems as well.]

... Barriers to complying with the fingerprinting requirement. ... [C]hal- lenges ... by outside entities ... include ... (a) Workplaces cannot bear the .. cost [burden of] fingerprinting of any staff who interact with students, in- cluding the fingerprinting service cost, travel cost, and extra staff time; (b) Workplaces cannot ... ensure that students will only interact with those staff who have been cleared; (c) Complications of staff turnover ... ; d) Lack of ... capacity to maintain records of those cleared and communicate subsequent arrest and conviction info[.]; [Other challenges were also identified.]



CUSTODY: see STATE PRISON or COUNTY JAIL



COUNTY JAIL

Standards for Mental Health Care in Local Correctional Facilities

[AB 268 \(Stats 2023, Ch. 298\)](#). Amends PC 6025; adds 6048 & 6048.5

Effective July 1, 2024

[Note by GB: The Board of State and Community Corrections (BSCC) promulgates the regulations at CCR Title 15, Ch. 1; within that, see Subchapter 4, “Minimum Standards for Local Detention Facilities,” §§ 1000 to 1282. BSCC’s website is at <https://www.bscc.ca.gov/> .]

From the Legislative Counsel’s Digest:

. . . [BSCC] . . . provide[s] statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California’s adult and juvenile criminal justice system. ¶...¶

The bill . . . , commencing July 1, 2024, require[s] [BSCC] to develop and adopt regulations [on] standards of care for incarcerated persons with mental health issues by [county jails], including [1] requirements for training of correctional staff, [2] requirements for mental health screening, and [3] requirements for safety checks of incarcerated persons.

From uncodified section 1:

The Legislature finds and declares . . . :

(a) (b) Clinical decisions and actions regarding medical and mental health care [for] incarcerated persons . . . should solely be the responsibility of . . . medical and mental health professionals without interference from other personnel, unless there is an immediate risk to life or security.

(c) The delivery of medical and mental health care should be a collaborative effort between medical and mental health, correctional, and administrative staffs. . . .

(d) Correctional officers should [be trained] to recognize when . . . to refer an incarcerated person to a medical or mental health care professional.

(e) Correctional officers assigned to special mental health housing areas and those performing screening, medication administration, or health care liaison functions need preservice training and routine refresher training in . . . management of inmates with significant mental illness.

From new PC §§ 6048 and 6048.5

§ 6048:

Commencing July 1, 2024, the board shall develop . . . regulations setting minimum standards for mental health care at local correctional facilities that meet or exceed the standards for health services in jails established by the National Commission on Correctional Health Care. . . :

(a) Safety checks of incarcerated persons shall be sufficiently detailed to determine the safety and well-being of the incarcerated person, and that they are not in distress. This determination shall not require facility staff to disturb or wake incarcerated persons during sleeping hours.

(b) Correctional officers shall be certified in cardiopulmonary resuscitation (CPR) and [must], when safe and appropriate . . . begin CPR on a non-responsive person without obtaining approval from supervisors or medical staff.

(c) Jail supervisors shall be required to conduct random audits of safety checks [as specified].

(d) In-service training of correctional officers shall include [at least] four hours of training on mental and behavioral health annually. . . .

(e) Mental health screening or evaluation conducted at booking or intake shall be . . . by a qualified mental health care professional, if available. [Such] screening or evaluation . . . conducted by anybody [else] shall be reviewed by a qualified mental health care professional [ASAP].

(f) Jail staff shall review the medical and mental health history and the county electronic health record, if available, of any person booked or transferred into the jail to determine any history of mental health issues.

§ 6048.5. *“[Q]ualified mental health care professional” [defined, to include any of a wide variety of mental or emotional health professionals].*



CRIMES

See also Enhancements

See also Sentences, and Sentencing including Probation



Trespass, PC 602, subd. (o): requirements simplified

SB 602 (Stats 2023, Ch. 404)

Amends PC 602

From the Legislative Counsel’s Digest

. . . [The former complicated, prolix, definition of this type of misdemeanor . . . trespass . . . involved refusing or failing to leave land, or . . . structures belonging to, or lawfully occupied by, another and not open to the . . . public upon being requested to leave by a peace officer at the [owner’s or occupier’s] request . . . and upon being informed by the peace officer that they are acting at [that] request]

Prior] law require[d] the [requestor] . . . to make a separate request . . . on each occasion when the . . . officer's assistance . . . is requested, except that a single request . . . may be made for a period [up to] 12 months when the premises or property is . . . posted as being closed [Prior] law also authorize[d] a single request for [an] officer's assistance . . . for [up to] 30 days . . . when there is a fire hazard or the [requestor] is absent

This bill . . . [simplifies that by authoriz[ing] a single request . . . submitted electronically, in a [specified] notarized form . . . to a peace officer. The bill . . . extend[s] the maximum . . . time . . . from 30 days to 12 months for requests pertaining to fire hazard or the owner's absence. The bill . . . authorize[s] local governments to accept electronic submissions of requests



“Murder” definition refined to reflect California’s changed reproductive health laws.

[SB 345, § 14 \(Stats 2023, Ch. 260, § 14\)](#)

Amends PC 187

[This is part of a nine-bill package (the other eight are non-criminal on reproductive health care, see <https://www.gov.ca.gov/2023/09/27/california-expands-access-and-protections-for-reproductive-health-care/>)

From the Legislative Counsel’s Digest.

(6) Existing law defines murder as the unlawful killing of a human being, or a fetus, with malice aforethought. Existing law creates an exemption for a person who commits an act that results in the death of a fetus under specific circumstances, including if the act is solicited, aided, abetted, or consented to by the person pregnant with the fetus.

This bill . . . expand[s] that exemption to include a person pregnant with a fetus who committed the act that resulted in the death of the fetus.

From the Senate Comm. on Public Safety report for April 18, 2023.

“This [bill] . . . clarif[ies] that self-managed abortion is not murder.”

PC 187 as amended

(a) Murder is the unlawful killing of a human being, or a fetus, with malice aforethought.

(b) This section shall not apply to any person who commits an act that results in the death of a fetus if any of the following apply:

(1) The act complied with the *former* Therapeutic Abortion ~~Act, Article Act~~ [\[HS 123400 et seq.\] or the Reproductive Privacy Act \[HS 123460 et seq.\]](#)

(2) The act was committed by a holder of a physician’s and surgeon’s certificate, . . . where, to a medical certainty, the result of childbirth would be

death of the ~~mother of~~ *person pregnant with* the fetus or where ~~her~~ *the pregnant person’s* death . . . , although not medically certain, would be substantially certain or more likely than not.

(3) ~~The act~~ *It was an act or omission by the person pregnant with the fetus* or was solicited, aided, abetted, or consented to by the ~~mother of~~ *person pregnant with* the fetus.



Vehicular Manslaughter: A clerical error corrected

[SB 883, § 3 \(Stats. 2023, Ch. 311\)](#) Amends, inter alia, PC 192.

[The correction is to the name of the crime described in VC 23109, subd. (a).]

Section 192 of the Penal Code is amended to read (emphasis added):

Manslaughter is the unlawful killing of a human being without malice. It is of three kinds: (a) Voluntary (b) Involuntary

(c) Vehicular—

(1) . . . [D]riving a vehicle in the commission of an unlawful act, not amounting to a felony, and *with gross negligence*; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, and *with gross negligence*. (2) (3). . . . (d)

(e)(1) “Gross negligence,” . . . does not prohibit . . . a charge of murder . . . upon facts . . . consistent with . . . People v. Watson (1981) 30 Cal.3d 290.

(2) “Gross negligence,” as used in this section, may include, based on the totality of the circumstances, any of the following:

(A) Participating in a sideshow pursuant to [VC 23109(i)(2)(A)].

(B) ~~An exhibition of speed~~ *Engaging in a motor vehicle speed contest* pursuant to [VC 23109, subd. (a)].

(C) Speeding over 100 miles per hour.

////////////////////////////////////
CRIMINAL PROCEDURE

See also, “Appeal” for a clarification of the RJA at all court levels

////////////////////////////////////
Race-Blind Charging Procedures to be Developed by DOJ Starting Jan. 1, 2024, and Prosecution Agencies Starting Jan. 1, 2025

[AB 2778 \(Stats. 2022, Ch. 806\)](#)

Adds PC 741

[This is a bill from 2022 that had delayed operative dates of 2024 and 2025]

From the Legislative Counsel’s Digest

... Beginning on January 1, 2024, [DOJ must] develop and publish “Race-Blind Charging” guidelines whereby all prosecuting agencies . . . implement a process to review a case for charging based on info[.] [with] all [identifiers of] race of the suspect, victim, or witness have been . . . redacted.

Following [DOJ’s] guidelines, ... prosecution agencies [must] independently develop and execute a process to . . . redact information based on general criteria, including, beginning January 1, 2025, how cases are to be redacted, that the initial charging evaluation is to determine whether the case should be charged . . . , and that a prosecutor without knowledge of specified facts [must] perform the initial charging evaluation based on redacted info[.]

The bill . . . require[s] a second, complete review . . . using unredacted reports . . . evidence to consider the applicable . . . charges and enhancements to charge in a criminal complaint or allow the case to be submitted to a jury.

If the decision to charge . . . after a second review is different from the [initial] charging determination . . . , [there must be] documentation of [that] ... [and] an explanation ... [in] the case record and . . . these documents

[must] be disclosed, upon request, after sentencing or dismissal ..., unless [they] are privileged or work product. [Query by GB: Does this delayed disclosure withstand the Racial Justice Act’s (PC 745) discovery provisions?]

... [A] decision not to put a case through a race-blind charging evaluation [must] be documented.

... [A] prosecuting agency [can] remove or exclude certain classes of crimes or factual circumstances from a race-blind initial charging evaluation, including homicides, hate crimes, and cases involving public integrity. [Ten class of crimes and factual circumstances are listed in PC 741. GB]



Deadline for applying for Prop. 47 relief, and good cause requirement for late applications both deleted.

[SB 749 \(Stats 2023 Ch. 633\)](#)

Amends PC 1170.18

Urgency, effective Oct. 8, 2023.

From the Legislative Counsel’s Digest

. . . Prop[.] 47, . . . [passed] Nov[.] 4, 2014, . . . reduced the penalties for various crimes. . . . [A] person who, on Nov[.] 5, 2014, was . . . convict[ed] of a felony. . . who would have been guilty of a misdemeanor . . . if the act had been in effect at the time of the conviction[could] petition . . . to have the sentence reduced [T]hose petitions [had] to be filed on or before Nov[.] 4, 2022, or at a later date upon showing of good cause. . . .

This bill . . . amends Prop[.] 47 [by] remov[ing] that deadline

From PC 1170.18 as amended:

From the Legislative Counsel’s Digest:

[Anyone licensed under the Contractors State License Law who lends, or permits the use of, the person’s license to any other person is guilty of a misd.]

[Before this bill,] the time for beginning prosecution for . . . [those] offenses [was within] one year after commission of the offense.

[This bill extends that time to] within 3 years after discovery of the . . . offense, or within 3 years after completion of the offense, whichever is later.

From P C 802 as amended.

(a) Except as provided in [subds. (b) to (e)], prosecution for a misd[.] or infraction] shall be commenced within one year after . . . the offense.

¶ . . . ¶ (e)(1) . . .

(2) Prosecution for a misdemeanor violation of [BP 119, subds. (b) and (e)] by licensed Contractors [i.e., for the offenses in the Leg. Counsel’s Dig., above], within three years after discovery of the commission of the offense, or within three years after completion of the offense, whichever is later.

[Sic. The phrase “shall be commenced” just before the first “within” was left out of the amendment, probably by a drafter’s error. GB]



Demurrer Allowed for Constitutionally Invalid Statute

SB 883. § 7 (Stats 2023, Ch. 311)

Amends, inter alia, PC 1004

From the Legislative Counsel’s Digest

(5) Existing law authorizes a [Def] to demur on the accusatory pleading . . . prior to the entry of a plea, when, among other things, it appears on the face of the pleading that the facts stated do not constitute a public offense or the pleading contains matter which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

This bill . . . additionally authorize[s] a [Def] to demur if the statutory provision alleged in the accusatory pleading is constitutionally invalid.

From PC 1004 as amended

[Def] may demur to the accusatory pleading at any time prior to the entry of a plea, when it appears upon the face thereof either:

~~1.(a)~~ ~~2. (b)~~ ~~3.(c)~~ ~~4.(d)~~ ~~5. (e)~~

(f) That the statutory provision alleged in the accusatory pleading is constitutionally invalid.

From the Assembly Comm. on Public Safety report for July 11, 2023.

The California Supreme Court has repeatedly held that [PC] 1004 is the proper vehicle for a [Def] to challenge a facially unconstitutional allegation. [Before this bill] [PC] 1004 [did] not, however, expressly state [that]. . . . This clarification . . . make[s] the statute consistent with the [both the U.S and Calif.] Supreme Court[s]’ long-standing [caselaw], [citing cases].



New CALCRIM 209: Implicit or Unconscious Bias

[Y]ou must not let bias influence your assessment of the evidence or your decisions.

. . . . Our brains help us navigate and respond quickly to events by grouping and categorizing people, places, and things. We all do this. These mental shortcuts are helpful in some situations, but in the courtroom they may lead to biased decisionmaking.

Bias can affect what we notice and pay attention to, what we see and hear, what we remember, how we perceive people, and how we make decisions. We may favor or be more likely to believe people whom we see as similar to us or

with whom we identify. Conversely, we may disfavor or be less likely to believe people whom we see as different.

Although we are aware of some of our biases, we may not be aware of all of them. We refer to those biases as “implicit” or “unconscious.” They may be based on stereotypes we would reject if they were brought to our attention. Implicit or unconscious biases can affect how we perceive others and how we make decisions, without our being aware of their effect.

To ensure that bias does not affect your decisions in this case, consider the following steps:

1. Reflect carefully and thoughtfully about the evidence. Think about why you are making each decision and examine it for bias. Resist the urge to jump to conclusions or to make judgments based on personal likes or dislikes, generalizations, prejudices, stereotypes, or biases.
2. Consider your initial impressions of the people and the evidence in this case. Would your impressions be different if any of the people were, for example, of a different age, gender, race, religion, sexual orientation, ethnicity, or national origin? Was your opinion affected because a person has a disability or speaks in a language other than English or with an accent? Think about the people involved in this case as individuals. Focusing on individuals can help reduce the effect of stereotypes on decisionmaking.
3. Listen to the other jurors. Their backgrounds, experiences, and insights may be different from yours. Hearing and sharing different perspectives may help identify and eliminate biased conclusions.

The law demands that jurors make unbiased decisions, and these strategies can help you fulfill this important responsibility. You must base your decisions solely on the evidence presented, your evaluation of that evidence, your common sense and experience, and these instructions.

New September 2023

BENCH NOTES

Instructional Duty This instruction may be given on request or sua sponte.

AUTHORITY

- Right to Unbiased Jurors. [Pen. Code, § 745\(a\)](#).

- Conduct Exhibiting Bias Prohibited. [Pen. Code, § 1127h](#); Standard 10.20(b) of the California Standards of Judicial Administration.
- Implicit Bias in Decisionmaking. *People v. McWilliams* (2023) 14 Cal.5th 429, 451 (conc. opn. of Liu, J.) [discussing empirical studies]; [United States v. Ray \(6th Cir. 2015\) 803 F.3d 244, 259–260 & fn. 8](#) [defining . . . implicit bias and recognizing its impact].

[Two paragraphs of this Instruction were also added to CALCRIM 101.]

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CRIMINAL RECORDS
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See also “Peace Officers.”

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Automatic relief from criminal records
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[AB 567 \(Stats 2023, Ch. 444\)](#)

Amends PC 1203.425

[DOJ is currently granting relief under this statute for convictions, and under the related statute, PC 851.93 for arrests. DOJ is required (subject to an annual appropriation) to publish statistics on the Open Justice Web portal (see PC 13010) on the number of convictions and arrests granted relief. In 2022, this relief was granted for millions of convictions and arrests. See <https://openjustice.doj.ca.gov/data> . GB]

From the Legislative Counsel’s Digest *(emphasis added)*

[Existing and ongoing law], subject to an appropriation, requires [DOJ], on a monthly basis, to review . . . the statewide criminal justice databases and identify persons . . . eligible for automatic conviction record relief. . . . [A] person is eligible . . . if, on or after January 1, 1973, they were sentenced to probation, and completed it without revocation, or [was] convicted of an infraction or a misdemeanor, and other criteria are met

Existing [and ongoing] law, *commencing July 1, 2024*, and subject to an appropriation, . . . makes this arrest record relief available to a person who has been arrested for a felony, including a felony punishable by imprisonment in the state prison, as specified.

This bill . . . *commencing July 1, 2024*, require[s] [DOJ] to . . . confirm[] that relief was granted upon request from [Def]

Added PC 1203.425, subd. (a)(7):

(7) Upon request from the subject of the record, the department shall provide confirmation that relief was granted pursuant to this section.

From the Assembly Floor Analysis of Sept. 1, 2023:

SUMMARY: Extends, commencing July 1, 2024, automatic conviction record relief to misdemeanor convictions where the sentence has been successfully completed following a revocation of probation. . . .

COMMENTS . . . : [T]his bill extend[s] automatic conviction record relief to misdemeanor convictions where the sentence [was] . . . completed [after a probation revocation].

Major Provisions: 1) Extended automatic record relief to misdemeanor convictions where the sentence has been successfully completed following a revocation of probation. 2) Provided that upon request from the subject of the record, [DOJ] shall provide confirmation that relief was granted. . . .



The reimbursements petitioners must pay for seeking relief pursuant to PC 1203.4, 1203.41, 1203.42, and 1203.45, are all repealed.

[AB 134 §§ 6, 8, 9, 12, 13 \(Stats 2023, Ch. 47\)](#) Urgency, effective July 10, 2023.

Amends PC 1203.4, 1203.41, 1203.42, and 1203.45; repeals PC 1203.426.

(For other aspects of AB 134, see this section below; Juvenile Law.)

Typical repealed language is the following from PC 1203.4, former subd. (d):

~~(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted [up to] . . . \$150 . . . , and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted . . . , [up to] . . . \$150 . . . , and to reimburse any city for the actual costs of services rendered, . . . [up to] . . . \$150~~

//

An unfilled order of restitution or restitution fine is no longer grounds to deny PC 1203.4b conviction-dismissal for people who completed Calif. Conservation Camp or its County equivalent.

[AB 134 § 4 \(Stats 2023, Ch. 47, § 7\)](#) Amends PC 1203.4b

Urgency, effective July 10, 2023.

(For other aspects of AB 134, see this section above; Juvenile Law; and “Answer to the Trivia Question.”)

From the Legislative Counsel’s Digest:

Mental Health Diversion: Borderline Personality Disorder No Longer Disqualifying.

[AB 1412 \(Stats 2023, Ch. 687\)](#)

Amends PC 1001.36

For another aspect of AB 1412, also amending PC 1001.36, see next entry.

From the Legislative Counsel’s Digest

. . . Existing law conditions eligibility [for mental health diversion] on, among other criteria, a court finding that [Def] suffers from a mental disorder, as specified, excluding antisocial personality disorder, borderline personality disorder, and pedophilia.

This bill . . . remove[s] borderline personality disorder as an exclusion

From PC 1001.36 as amended in this regard.

(b) [Def] is eligible for pretrial [mental health] diversion . . . if. . . :

(1) [Def.] has been diagnosed with a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders [DSM], including, but not limited to, bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality ~~disorder, borderline personality disorder,~~ *disorder* and pedophilia. (2)



Mental Health Diversion: P can ask the court to prohibit Def from having a gun during diversion.

[AB 1412 \(Stats 2023, Ch. 687\)](#)

Amends PC 1001.36

This amendment becomes operative on July 1, 2024.

(For another aspect of AB 1412 and Mental Health Diversion, also amending PC 1001.36, see the entry immediately above.)

From the Legislative Counsel’s Digest for AB 455 (the amendment by AB 455 is identical to amendment to PC 1001.36 made by AB 1412. GB)

This bill [will], on July 1, 2024, authorize [P] to request [a court order], to prohibit a [Def] subject to pretrial [mental health] diversion from owning or possessing a firearm because they are a danger to themselves or others until they successfully complete diversion or their firearm rights are restored [e.g. by a petition pursuant to WI 8103, subd. (g)(4) . . .].

From PC 1001.36 as, in effect, amended by AB 1412 in this regard.

(k) A finding that [Def] suffers from a mental disorder, any progress reports concerning [Def’s] treatment, *including, but not limited to, any finding that the defendant be prohibited from owning or controlling a firearm because they are a danger to themselves or others pursuant to subdivision (m)*, or any other records related to a mental disorder that were created [by] . . . diversion . . . or for use at a hearing on [Def’s] eligibility for diversion . . . may not be used in any other proceeding without [Def’s] consent, unless that . . . is relevant [and] admissible [as specified]

(m)(1) [P] may request [a court order] that [Def] be prohibited from owning or possessing a firearm until they successfully complete diversion because they are a danger to themselves or others [under] WI 8103, subd.] (i)

(2) [P] shall bear the burden of proving, by clear and convincing evidence, both of the following are true:

(A) [Def] poses a significant danger of causing personal injury to themselves or another by having in their custody or control, [etc.] a firearm.

(B) The prohibition is necessary to prevent . . . injury to [Def.] or any other person because less restrictive alternatives either have been tried and [are] ineffective or are inadequate or inappropriate

(3)(A). . . (B) If the court finds that [P] has met the burden, the court shall order that [Def.] is prohibited, and shall inform [Def.] they are prohibited, from owning or controlling a firearm until they successfully complete diversion because they are a danger to themselves or others.

(4) [This] order . . . shall be in effect until [Def.] has successfully completed diversion or until their firearm rights are restored [by WI 8103, subd. (g)(4).

(n) This section shall become operative on July 1, 2024.

[A conforming amendment was made to WI 8103 by SB 455.]



The education requirement of PC 1000 drug programs increased.

[SB 46, § 3 \(Stats 2023, Ch. 481\)](#) Amends PC 1211 [and, in effect, PC 1000]

The reason that PC 1211 effects PC 1000 diversion is because PC 1000, subd. (c), requires, by reference, that the drug program comply with PC 1211.

For another aspect of SB 46 see “*Probation.*”

From PC 1211 as amended by § 3 of SB 46 (editorial features added):

(a) . . . [T]o ensure the quality of drug diversion programs provided pursuant to [PC 1210] and [PC 1000 et seq. drug diversion] [the following are] minimum requirements, criteria, and fees for the successful completion of drug diversion ~~. . .~~ *programs, . . . :*

(1) An initial assessment of each divertee, which *may* include . . . :

(A) Social, *cultural, linguistic*, economic, and family background.

[(B) to (F)]

(2) A minimum of 20 hours of either effective education or counseling or any combination of both for each divertee. *[This] shall include education about [1] how the use of controlled substances affects the body and brain, [2] factors that contribute to physical dependence, [3] how to recognize and respond to the signs of drug overdose, and [4] the dangers of using controlled substances unless under appropriate medical supervision.*

This education shall be culturally and linguistically appropriate and may include, but is not limited to, [1] informing program participants about the physical and mental health risks associated with substance use disorders, [2] the grave health risk to those who are exposed to controlled substances and [3] the extreme danger to human life when controlled substances are manufactured and distributed.

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DOMESTIC VIOLENCE (DV)

See also “Sentences and Sentencing” for Protective Orders

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Specified DV crimes in multiple jurisdictions each with the same V and Def can be brought in one.

[AB 806 \(Stats. 2023, Ch. 666\)](#)

Amends PC 784.7

From the Legislative Counsel’s Digest

[Before this bill, and continuing] if more than one violation of specified crimes . . . occurs in more than one jurisdictional territory and [Def] and [V] are the

(c) of Section 236.1, where the person who committed the offense was a victim of human trafficking, as described in subdivision (b) or (c) of Section 236.1, at the time of the offense

[Conforming changes are made to PC 667.1, 1170.125.]



Fentanyl weight enhancement

[AB 701 \(Stats 2023, Ch. 540\)](#)

Amends HS 11370.4 and 11372

From the Legislative Counsel’s Digest

Existing law . . . imposes an additional [prison] term, and . . . a specified fine, upon a person . . . convicted of a violation of, or of a conspiracy to violate, specified . . . law[s] [about] heroin, cocaine base, and cocaine, if [that] exceeds a specified weight.

This bill . . . add[s] fentanyl to [those] substances . . . and . . . require[s] a [Def] . . . to know of the substance’s nature or character as a controlled substance to be subjected to an additional term and authorized fine.

From HS 11370.4 as amended.

(a) **(1) Any** A person convicted of a violation of, or of a conspiracy to violate, [HS] 11351, 11351.5, or 11352 with respect to a substance containing heroin, *fentanyl*, cocaine base . . . , or cocaine . . . , *when the person knew of the substance’s nature or character as a controlled substance*, shall receive an additional term as follows:

[The weights, from (A) to (F), vary from 1 kilogram to 80 kilograms, and the extra years vary from 3 years to 25 years.]

[The maximum amount of the fines listed in HS 11372 are unchanged.]



EVIDENCE

See “Victims,” Medical Evidentiary Exams for Vs of child abuse or neglect.
See “Mental Health” for certain hearsay in LPS Conservatorship cases.



Two recently enacted EC §§ are amended to limit them to civil cases

- * New EC 801.1, concerning certain expert medical testimony, added by Stats 2023, Ch. 75, is now limited to civil cases. [SB 135, § 1 \(Stats 2023, Ch. 190\)](#).
- * EC 1227 now limited to wrongful death. [AB 1754, § 58 \(Stats 2023, Ch. 131\)](#)



Sexually Violent Predators, Probable Cause Hearing, Hearsay

[AB 1253 \(Stats. 2023, Ch. 363\)](#)

Adds EC 1285

Added EC section 1285.

Within an official written report or record of a [peace] officer regarding a sexual offense that resulted in a . . . conviction, the following statements are not made inadmissible by the hearsay rule at the . . . [WI 6602 probable cause hearing in an SVP case] . . . ::

- (a) A statement from a [V] of the sexual offense.
- (b) A statement from an eyewitness to the sexual offense.
- (c) A statement from a sexual assault medical examiner who examined a [V] of the sexual offense.

[This bill abrogates the decision in *Walker v. Superior Court* (2021) 12 Cal.5th 177, which held that W&I 6602 (probable cause sexually violent predator hearings) does not create an exception letting hearsay on **non**-predicate offenses to be introduced through a psychologist’s evaluation report. GB]



“Excited Delirium” now a prohibited term for coroners and peace officers to describe a cause of death.

[AB 360 \(Stats 2023, Ch. 431\)](#) Adds EC 1156.5 and HS 24400 ff.

From the Legislative Counsel’s Digest (emphasis added)

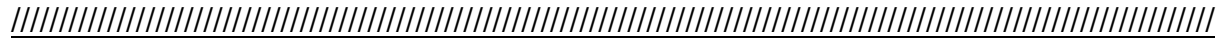
This bill . . . prohibit[s] “excited delirium,” . . . from being recognized as a valid medical diagnosis or cause of death [This] . . . prohibit[s] a *coroner, medical examiner, physician, or physician assistant* from stating on the [death certificate] or [any] report that [death was caused by] excited delirium.

The bill . . . prohibit[s] a *peace officer* from using the term “excited delirium” to describe an individual *in an incident report*, but [does] not prohibit the peace officer from describing an individual’s behavior, as specified.

From the Senate Committee on Public Safety report for June 6, 2023.

Excited delirium is not a reliable, independent medical or psychiatric diagnosis. There are no diagnostic guidelines, and it is not . . . in the DSM-5. . . .

Neither the American Medical Association nor the American Psychiatric Association recognizes this term as a legitimate diagnosis. In fact, the only place where this term is . . . used is to describe deaths that occur in police custody.



FINES, FEES, AND PENALTIES

See “Criminal Records” for deletion of the “reimbursement” requirement for certain petitions to clean one’s record.



FIREARMS AND RELATED MATTERS

See also Diversion; Mental Health Diversion



Persons prohibited from gun possession can’t possess body armor.

[AB 92 \(Stats. 2023, Ch. 232\)](#)

Amends PC 31360

From the Legislative Counsel’s Digest:

[It was already] a felony for a person . . . convicted of a violent felony to purchase, own, or possess body armor [with an exception, upon petition for a person whose job or safety depends on that ability].

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court *and the prosecuting attorney* whether [Def] has properly complied

(3) If the report . . . does not confirm relinquishment of firearms registered in the defendant's name, the court shall take one of the following actions:

(A) If the court finds probable cause, after a warrant request has been submitted . . . , that [Def] has failed to relinquish any firearms as required, the court shall order a search warrant for, and removal of, any firearms at any location where the judge has probable cause to believe the [Def's] firearms are located. The court shall set a court date to confirm relinquishment of all firearms. The search warrant shall be executed within 10 days

(B) If the court finds good cause to extend the time for providing proof of relinquishment, the court shall set a court date within 14 days

(C) If the court finds additional investigation is needed, the court shall refer [this] to [P] and set a court date within 14 days

~~(3) (4) Prior to final disposition or sentencing in the case, the court shall make findings concerning whether the probation officer's report indicates confirm~~ that [Def] has relinquished all firearms as required, and [complied with this section's other requirements].

~~(4) If the court finds probable cause that [Def] has failed to relinquish any firearms as required, the court shall order the search for and removal of any firearms at any location where the judge has probable cause to believe [Def's] firearms are located. . . .~~

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding . . . \$100. . . .

(d) The following procedures shall apply to any[Def] who is a prohibited person . . . who does not remain in custody at any time within the ~~five-day~~ *48-hour* period following conviction: [The procedures are set out at length. Formerly, this procedure required everything to be done in ~~five days~~ now it limits the time to *48 hours*].

(e) The [procedures for a person who is in custody.]

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in

paragraph (3) of subdivision (c), or allow an alternative method of relinquishment. ¶



FORMS

Only select recent Judicial Council forms are covered. All Judicial Council forms, including “Latest Changes” are at the California Courts website. Some forms covered here are approved but not yet on the web site; status is noted.

Appellate

CR-126 Rev. eff. Jan. 1, 2024. Application for Extension of Time to File Brief. [Adds an inquiry of whether Def will be prejudiced.]

CR-133 Rev. Request for Court-Appointed Lawyer in Misdemeanor Appeal and Fee Waiver

JV-816 Rev. eff. Jan. 1, 2024. Application for Extension of Time to File Brief. [Adds an inquiry of whether the Juvenile will be prejudiced.]

JV-817 Rev. eff. Jan. 1, 2024. Application for Extension of Time to File Brief. [Adds an inquiry of whether any of the parties will be prejudiced.]

Superior Court Appellate Division APP-150-INFO Revised 12 sides Information on Writ Proceedings in Misdemeanor and Infraction Cases.

CARE Act Court. Comprehensive new set forms, including two Information forms. CARE-050-INFO to CARE 120. See also “Rules.”

Criminal

CR-101 Rev. to be effective Jan. 1, 2024: Plea form . . . Felony [revised to accommodate listing aggravating factors that are being admitted].

CR-105 Rev. Defendant's Financial Statement on Eligibility for Appointment of Counsel and Record on Appeal at Public Expense

See appellate for two forms on criminal law appeals.

Juvenile Justice

JV-710 Rev. Order to Transfer Juvenile to Criminal Court Jurisdiction (Welfare and Institutions Code, § 707)

JV-915 to JV 918. Three new forms and an Information form, for ending juvenile sex offender registration.

See Appellate for forms on Juvenile Justice and Delinquency appeals



HABEAS CORPUS

Habeas Corpus: (1) “New evidence” no longer requires that it could not have been discovered pretrial; (2) “False evidence,” and “Significant dispute” on expert evidence, also refined.

[SB 97 \(Stats. 2023, Ch. 381\)](#)

Amends PC 1473

From the Legislative Counsel’s Digest:

Existing law allows a person . . . unlawfully imprisoned or restrained of their liberty to prosecute a writ of habeas corpus to inquire into the cause of [this].

Existing law allows [the] writ . . . to be prosecuted on several bases, including on the basis of the discovery of new evidence discovered after trial that could not have been discovered prior to trial by the exercise of due diligence.

This bill . . . allow[s] for . . . a writ of habeas corpus to be prosecuted on the additional bases of the discovery of new evidence that has not been previously presented and heard at trial and has been discovered after trial.

The bill . . . allow[s] a petitioner . . . in state prison to not appear at an evidentiary hearing if [that is waived], or to appear [remotely] unless counsel [says] [Def's] presence is needed.

The bill . . . require[s] a presumption in favor of granting relief . . . if [P] concede[s] or stipulate to a factual or legal basis for the relief.

[I]f after granting postconviction relief [P] retries [Def], [this Bill lets] [Def's] postconviction counsel to be appointed . . . to represent [Def] . . .]

[The Leg. Counsel's Dig. does not mention the amendments to "false evidence" and "significant dispute."]

From the Assembly Committee on Public Safety rpt for Jun. 27, 2023

. . . . [T]his bill:

- 1) Provides that a habeas petition may be prosecuted based on the introduction of material false evidence, rather than false evidence that is substantially material or probative on the issue of guilt or punishment.
- 2) Revises the grounds for prosecuting a habeas petition based on new evidence to include evidence that would have changed the outcome of a case, not just a trial.
- 3) Redefines "new evidence" to include evidence discovered after a plea or trial that has not previously been presented or heard, removing the requirement that it could not have been discovered prior to trial by the exercise of due diligence¶ ¶ (emphasis added)

From the Senate Rules Committee report prepared Sept. 14, 2023:

This bill makes changes to the provisions regarding when new evidence can be used as the basis for a habeas petition. It brings the existing new evidence standard into conformity with other standards like *Brady* and IAC (ineffective assistance of counsel).

[The legislative history on the web doesn't expand on "other standards."]

From PC 1473 as amended ["new evidence" is in subd. (b)(1)(C)(i) and (ii)]

(a) A person unlawfully imprisoned or restrained of their liberty, under any pretense, may prosecute a writ of habeas corpus

(b) ~~(1)~~ [The] writ . . . may be prosecuted for, but not limited to, . . . :

~~(1)~~ ~~(A)~~ False evidence that is ~~substantially~~ material ~~or probative~~ on the issue of guilt or punishment was introduced against a person at a hearing or trial relating to the person's incarceration.

~~(2)~~ ~~(B)~~ False physical evidence, [as defined in specified circumstances], was a material factor directly related to the plea of guilty by the person.

~~(3)~~ ~~(C)~~ ~~(A)~~ ~~(i)~~ New evidence exists that is ~~credible, material,~~ presented without substantial delay, ~~and of such decisive force and value that it would have~~ *is admissible, and is sufficiently material and credible that it* more likely than not ~~would have~~ changed the outcome ~~at trial. of the case.~~

~~(B)~~ ~~(ii)~~ For purposes of this section, "new evidence" means evidence that has ~~been discovered after trial, that could not have been discovered prior to trial by the exercise of due diligence, and is admissible and not merely cumulative, corroborative, collateral, or impeaching.~~ *not previously been presented and heard at trial and has been discovered after trial.*

~~(4)~~ ~~(D)~~ A significant dispute has emerged or further developed in [Def's] favor regarding expert medical, scientific, or forensic testimony that was introduced at trial ~~and contributed to the conviction, such that it would have~~ *or a hearing and that expert testimony* more likely than not ~~changed affected~~ the outcome ~~at trial. of the case.~~

~~(A)~~ (i) . . . [T]he expert medical, scientific, or forensic testimony includes the expert’s conclusion or the scientific, forensic, or medical facts upon which their opinion is based.

~~(B)~~ (ii) . . . [T]he significant dispute may be as to the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which a medical, ~~scientific~~ *scientific*, or forensic expert based their testimony.

~~(C)~~ (iii) . . . [A] significant dispute can be established by credible expert testimony or declaration, or by peer reviewed literature showing that experts in the relevant . . . community, substantial in number or expertise, have concluded that developments have occurred that undermine the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which [the] . . . expert based their testimony.

~~(D)~~ (iv) In assessing whether a dispute is significant, the court shall give great weight to evidence that a consensus has developed in the relevant . . . community undermining the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which [the] expert based their testimony or that there is a lack of consensus as to the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which [the] expert based their testimony.

~~(E)~~ (v) The significant dispute must have emerged or further developed within the relevant . . . community, [as defined].

~~(F)~~ (vi) If the petitioner makes a prima facie showing that they are entitled to relief, the court shall issue an order to show cause why relief shall not be granted. To obtain relief, all the elements of this ~~paragraph~~ *subparagraph* must be established by a preponderance of the evidence..

~~(G)~~ [The text that was here has been moved to new subd. (c).]

~~(c)~~ [The text that was here has been moved to new subd. (b)(3).]

~~(d)~~ [The text that was here has been moved to new subd. (d).]

~~(e)~~ (2) (1) “[F]alse evidence” includes opinions of experts that have either been repudiated by the expert who originally provided the opinion . . . or that have been undermined by the state of scientific knowledge or later scientific research or technological advances.

(3) Any allegation that the prosecution knew or should have known of the false nature of the evidence is immaterial to the prosecution of a writ of habeas corpus brought under subparagraph (A) or (B) of paragraph (1).

[This text was moved here, unchanged, from former subd. (c).]

~~(2)~~ (4) This ~~section~~-*subdivision* does not create additional liabilities, beyond those already recognized, for an expert [discussed in (2) above]

(c) This section does not change the existing procedures for habeas relief.

[This text was moved here, unchanged, from former subd. (b)(4)(G).]

(d) This section does not limit the grounds for which a writ of habeas corpus may be prosecuted or preclude the use of any other remedies.

[This text was moved here, unchanged, from former subd. (d).]

~~(f)~~ (e) . . . [A] writ . . . may also be prosecuted after judgment . . . [because] a criminal conviction or sentence was sought, obtained, or imposed in violation of [PC 745, subd. (a), the Racial Justice Act], if that section applies based on the date of judgment [The only change in this subdivision is that it has been re-lettered from subd. (f) to subd. (e).]

(f)[At] an evidentiary hearing [if] [Def] is . . . in . . . prison, [Def] may choose not to appear . . . with a signed or oral waiver on record, or . . . may appear remotely . . . unless counsel [says] presence . . . is needed.

(g) . . . [I]f [P] concedes or stipulates to a factual or legal basis for habeas relief, there [is] a presumption in favor of granting relief. This presumption may be overcome only if the record . . . contradicts the concession or stipulation or it would lead to the court issuing an order contrary to law.

(h)(1) If after the court grants postconviction relief under this section and the prosecuting agency elects to retry the petitioner, the petitioner’s postconviction counsel may be appointed as counsel or cocounsel to represent the petitioner on the retrial [as specified]. . . .

//

Racial Justice Act (RJA): Habeas Corpus Training Requirements

[SB 133, § 20 \(Stats 2023, Ch. 34, § 20\)](#)

Adds PC 1473.1

This statute was effective June 30, 2023. It requires an implementing California Rule of Court which has not yet been promulgated. See: “Rules.”

[NOTE: new PC 1473.1 refers to PC 1473, subd. (f). Eff. Jan. 1, 2023, that subdivision is (by SB 97, Stats 2023, Ch. 381) re-lettered to be subd. (e).

Added PC 1473.1:

The Judicial Council shall promulgate standards for appointment of private counsel in superior court for claims filed pursuant to [PC] 1473, subd. (f) [re-lettered as subd. (e); see note above], authorizing habeas corpus writs for certain RJA violations] by individuals who are not sentenced to death. These standards shall include a minimum requirement of 10 hours of training in the . . . Racial Justice Act. . . .

[As of this writing, Dec. 8, 2023, that rule has not yet been promulgated.]



INVESTIGATIONS

Mapping Overdose Cases in Real Time.

[SB 67 \(Stats 2023, Ch. 859\)](#)

Amends HS 11758.03, adds 11758.02 & 11758.04, repeals 11758.06

From New HS 11758.02 Stating this New Laws Intent

[This law’s intent is] that the overdose information [gathered here] . . . be used for . . . making decisions [on] the allocation of public health and educational resources to communities adversely impacted by . . . drugs that lead to overdoses.

From the Legislative Counsel’s Digest (Emphasis added]

. . . . This bill . . . require[s] a coroner or medical examiner who evaluates an individual who died . . . [from] . . . an overdose to report the data gathered . . . to the *Overdose Detection Mapping Application Program [ODMAP]*. . . .

This bill . . . prohibit[s] overdose information reported by a coroner or medical examiner from being used in a criminal investigation or prosecution

From the Senate Committee on Health report for April 19, 2023. [The order of paragraphs is rearranged for clarity; emphasis added]

“In 1988, Congress created the High Intensity Drug Trafficking Areas (HIDTA) program to [assist] federal, state, local, and tribal law enforcement . . . [in] critical drug-trafficking regions There are currently . . . four [HIDTAs] in California: Central Valley, Northern California, Los Angeles, and San Diego/Imperial Valley. In . . . 2017, the Washington/Baltimore HIDTA launched [ODMAP] an overdose mapping tool that allows . . . log[ging] an overdose in real time into a centralized database . . . to support *public safety* and public health efforts to mobilize an immediate response to a sudden increase, or spike, in overdose events. ODMAP is only available to government agencies serving the interest of *public safety* and health, The system currently serves more than 3,700 agencies . . . in all 50 states. . . .

¶ ¶ [ODMAP info. can be used by] only authorized personnel and eliminat[es] all personal identifiable information[.] ODMAP [lets] first responders . . . effectively track and address live patterns of overdoses. . . .

¶ ¶ In July of 2022, [the Emergency Medical Systems Agency, *EMSA*, which coordinates California’s EMS services] entered into a data sharing agreement with ODMAP. . . .” ¶ ¶

[In *opposition* to this bill], “Oakland Privacy” states . . . [This bill] mix[es] together health and policing functions. . . . ODMAP encourage[s] *law enforcement agencies to overlay ODMAP data with other law enforcement data to seek out patterns*. . . . [T]he . . . prohibit[ion] [on] . . . ODMAP [info.] from being used for the investigation or prosecution of a crime has limitations, . . . [e.g.] immigration is a civil matter, . . . and . . . both Immigration and Customs Enforcement and U.S. Customs and Border Patrol have open access to ODMAP data. . . .

From HS 11758.03 as amended:

For purposes of this chapter [HS Div. 10.5, Pt. 1, Ch. 2.5 “Fatal Drug Overdose Information’], the following terms have the following meanings: . . .

(d) “Overdose” means a condition, including extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death, resulting from the consumption or use of any controlled dangerous substance that requires medical attention . . . , and clinical suspicion for drug overdose, including respiratory depression, unconsciousness, or altered mental state, without other conditions to explain the clinical condition. [Sic. query if “suspicion” was intended to be “supervision.” GB]

From new HS 11758.04:

(a) A coroner or medical examiner who evaluates an individual who died . . . [from] an overdose . . . shall report [this] to [ODMAP] (b)

(c) Overdose information reported to [ODMAP] by a coroner or medical examiner, or shared with [ODMAP] by the [EMSA], shall not be used for a criminal investigation or prosecution. . . .

[Note by GB: Although this bill says, “*Overdose information reported to [or shared with] [ODMAP] shall not be used for a criminal investigation or prosecution,*” this only prohibits that report itself, and information directly from that report from being so used. It does not prohibit that same information acquired independently from the report from being so used.]

committed a crime or violated an order of the juvenile court.... [E]xisting law requires the peace officer to advise [M of *Miranda* rights].

Existing law requires that [an M] consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation and before waiving any of the above-specified rights.

This bill ..., [starting] Jan[.], 2024, prohibit[s] [peace] officers from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics, as specified, during a custodial interrogation of [an M].

From Added WI 625.7.

(a) During a custodial interrogation of a person 17 years of age or younger [i.e., M]..., [an] officer shall not employ threats, physical harm, deception, or psychologically manipulative interrogation tactics.

(b) [Definitions]:

(1) “Deception,” includes, but is not limited to, the knowing communication of false facts about evidence, misrepresenting the accuracy of the facts, or false statements regarding leniency.

(2) “Psychologically manipulative interrogation tactics” include, but are not limited to the following:

(A) Maximization and minimization and other interrogation practices that rely on a presumption of guilt or deceit.

(i) ... [M]aximization includes techniques to scare or intimidate [M] by repetitively asserting [that M] is guilty despite [M’s] denials, or exaggerating the ...charges or the strength of the evidence, including suggesting the existence of evidence that does not exist.

(ii) ... [M]inimization involves minimizing the moral seriousness of the offense, a tactic that falsely communicates that the conduct is justified, excusable, or accidental.

(B) Making direct or indirect promises of leniency, such as indicating [M] will be released if [M] cooperates.

(C) Employing the “false” or “forced” choice strategy, where the person is encouraged to select one of two options, both inculpatory, but one is characterized as morally or legally justified or excusable.

(c) Subd[.] (a) does not apply to interrogations of [M] if ...:

(1) The ... officer who questioned [M] reasonably believed the information ... was necessary to protect life or property from an imminent threat. [And]

(2) The questions ... were limited to those ... that were reasonably necessary to obtain information related to the imminent threat.

(d) This ... does not prevent [use of] a lie detector test [that] is voluntary and ... not obtained [by] threats, physical harm, deception, or psychologically manipulative ... tactics ..., and the officer does not suggest that the ... results are admissible in court or misrepresent the ... results to [M].

(e) This section shall become operative on July 1, 2024. . . .



Transfer of M to, and remand back from, Adult Court: More Mitigating Factors to Consider.

[SB 545 \(Stats 2023, Ch. 716\)](#) Amends WI 707 and 707.5, and adds 707.2

From the Legislative Counsel’s Digest

[P] [can] make a motion to transfer [M] from juvenile court to [adult] court . . . [when M] [at age 16 or older] is alleged to have committed a felony . . . , or [when] a specified serious offense is alleged to have been committed by [an M age] 14 or 15 . . . , [who] was not apprehended prior to the end of juvenile court jurisdiction. . . . [T]he court [must] find by clear and convincing evidence that [M] is not amenable to rehabilitation [by] juvenile court [law],

after consideration of specified criteria, . . . [T]he court [can] give weight to any relevant factor.

This bill . . . make[s] consideration of any relevant factor mandatory and . . . specif[ies] additional factors that the juvenile court [must] consider when evaluating [M's] criminal sophistication

The bill . . . require[s] the court to consider evidence [indicating] that the [alleged V] trafficked, sexually abused, or sexually battered the minor when considering the circumstances and gravity of the offense alleged. . . .

The bill . . . require[s] the juvenile court to retain [M] . . . if the court receives evidence that the [alleged V] trafficked, sexually abused, or sexually battered [M] before the . . . offense, unless the court finds by clear and convincing evidence that the [alleged V] had not [done so].

Existing law authorizes a person whose case was transferred from juvenile court to [adult] court . . . to file a motion to return . . . to juvenile court for disposition under specified circumstances. . . .

The bill . . . require[s] [the adult] court . . . to return a case to juvenile court . . . if the court receives evidence that [V] trafficked, sexually abused, or sexually battered [M] prior to, or during . . . the alleged offense, unless the court finds, by clear and convincing evidence, that [V] had not [done so].

From WI 707 as amended:

(a)(1)[When M] is alleged to be a person described in [WI] 602 by reason of the violation, when [M] was 16 years of age or older, of any offense listed in subd[.] (b) or any other felony . . . , [P] may make a motion to transfer [M] . . . to [adult] court

(2)[When] an individual is alleged to be a person described in [WI] 602 by [violating], when the individual was [age] 14 or 15 . . . any offense listed in subd[.] (b), but was not apprehended prior to the end of juvenile court jurisdiction, [P] may [move] to transfer the individual . . . to [adult] court

(3) [T]o [transfer] [M] . . . the court [must] find by clear and convincing evidence that [M] is not amenable to rehabilitation [by] juvenile court [law]. . . . [T]he court shall consider the criteria . . . in subparagraphs (A) to (E). . . .

(A)(i) The degree of criminal sophistication exhibited by [M].

(ii) When evaluating th[at] criterion . . . , the juvenile court ~~may~~ *shall* give weight to any relevant factor, including, but not limited to, [M's] age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged ~~offense,~~ *offense*; [M's] impetuosity or failure to appreciate risks and consequences of criminal ~~behavior,~~ *behavior*; the effect of familial, adult, or peer pressure on [M's] ~~actions, and~~ *actions*; the effect of t[M's] family and community ~~environment and childhood trauma~~ *environment; the existence of childhood trauma; [M's] involvement in the child welfare or foster care system; and the status of [M] as a [V] of human trafficking, sexual abuse, or sexual battery* on . . . criminal sophistication.

(B)(i) Whether [M] can be rehabilitated [before aging out]. (ii) When evaluating [this] criterion . . . , the juvenile court ~~may~~ *shall* give weight to any relevant factor

(C)(i) [M's] previous delinquent history. (ii) When evaluating [this] criterion . . . , the juvenile court ~~may~~ *shall* give weight to any relevant factor. . . .

(D)(i) Success of previous [court] attempts . . . to rehabilitate [M]. (ii) When evaluating [this] criterion . . . , the juvenile court ~~may~~ *shall* give weight to any relevant factor. . . .

(E)(i) The circumstances and gravity of the offense alleged (ii) When evaluating [this] criterion . . . , the juvenile court ~~may~~ *shall* give weight to any relevant factor *(iii) When evaluating [this] criterion . . . , the court shall consider evidence . . . that indicates that the [alleged V] trafficked, sexually abused, or sexually battered [M].* (b)

From added WI 707.2

Notwithstanding a finding made [under WI 707, subd. (a)(3)] that [M] is not amenable to rehabilitation while [in] juvenile court, if the court, during a [§ 707] transfer hearing . . . receives evidence that [M] was trafficked, sexually abused, or sexually battered by the alleged [V] prior to or during the . . . alleged offense, [M] shall be retained [in] juvenile court unless the court finds by clear and convincing evidence that the [alleged V] did not traffic, sexually abuse, or sexually batter the minor.

From amended WI 707.5

707.5.

(a) (b)(1) *(2) If the court receives evidence that [M] was trafficked, sexually abused, or sexually battered by the alleged victim prior to or during the . . . alleged offense, the case shall be returned to juvenile court, as [specified], unless the court finds, by clear and convincing evidence, that the [alleged V] had not sexually abused, sexually battered, or trafficked the minor prior to or during the . . . the alleged offense. This . . . shall . . . prioritize the successful treatment and rehabilitation of minor [Vs] of human trafficking and sex crimes who commit acts of violence against their abusers. . . . [T]hese minors [should] be viewed as [Vs] and provided treatment and services in the juvenile or family court system.*



Informal Supervision Disqualifying Restitution Amt Raised to \$5K

[AB 1643 \(Stats 2023, Ch. 850\)](#)

Amends WI 653.5 and 654.3

From the Legislative Counsel’s Digest

. . . . [A] probation officer, in certain circumstances, [can] delineate a specific program of supervision for [an M] who is alleged to have committed a crime. . . . [M is] ineligible for that . . . if [M] is alleged to have committed an offense in which the restitution owed to [V] exceeds \$1,000, except . . . where the interest of justice would best be served.

This bill . . . instead prohibits [M] from participating in [that] program . . . if [M] has committed an offense in which the restitution owed exceeds \$5,000.

. . . [T]he probation officer [must] commence proceedings within 48 hours if [M] has been referred . . . for specified offenses, including if [M] is alleged to have committed an offense in which restitution. . . exceeds \$1,000.

This bill . . . instead require[s] the probation officer to commence proceedings within 48 hours if the minor is alleged to have committed an offense in which restitution . . . exceeds \$5,000.

From the Senate Rules Committee, Floor Analysis for June 28, 2023.

Juvenile delinquency actions are begun by the filing of a petition under [WI] 602. The petition alleges criminal offenses and is brought by [P].

[WI] 654 provides an opportunity for pre-petition informal supervision, also known as diversion. . . .

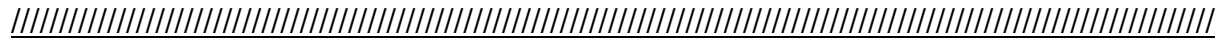
If the probation officer concludes that [M] is within the juvenile court's jurisdiction, or likely soon will be, the officer can delineate a specific program of supervision for [M] for up to six months to try to adjust the situation *In re Adam R.* (1997) 57 Cal.App.4th 348.)

After the filing of a petition, the court may also offer informal supervision. ([WI] 654.2.)

Informal supervision is a voluntary contract between the probation officer, [M] and the parents or guardians. If [M] successfully completes this program, the case is then closed. If [M] is unsuccessful at any time . . . the probation department may make a referral to [P] for a formal petition to the juvenile court. . . . [T]he court cannot require [M] to admit the truth of the petition before granting informal supervision. (*In re Ricky J.* (2005) 128 Cal.App.4th 783.)

[A] number of circumstances render [an M] presumptively ineligible for informal supervision. For example, [M] is presumptively ineligible for informal supervision where the petition alleges that [M] has committed an offense in which . . . restitution exceeds \$1,000. ([WI] 654.3, subd. (a)(5).) Additionally, probation is required to refer certain types of cases to the prosecutor within 48 hours. These include cases in which it appears to the probation officer that the minor has committed an offense in which the restitution . . . exceeds \$1,000. ([WI] 653.5, subd. (b)(7).)

These dollar thresholds were established in 1989 This bill . . . increase[s] the thresholds to \$5,000 which . . . partly reflects inflation but also recognizes that diversion of youth leads to better outcomes for both the youth and public safety than formal processing through the juvenile justice system.



The requirement that juveniles found to have committed certain drug offenses, and their parents, take part in education or treatment.

[AB 890, § 2.5 \(Stats 2023, Ch. 818\)](#) Adds HS 11356.6, and amends HS 11373

For another aspect of AB 890 see “*Probation.*”

From the Legislative Counsel’s Digest for SB 46

(This Digest portion applies because AB 890, §§ 2.5 and 3, incorporates amendments to HS 11373 made by SB 46)

. . . Existing law requires a juvenile court to order a minor, found to have been in possession of any controlled substance, to receive education or treatment from a local community agency, as specified, and to order the minor’s parents or guardian to participate in the education or treatment if beneficial to the minor. . . .

. . . The bill would strike the requirement that a juvenile court order a minor and their parents or guardians to receive education or treatment. . . .

From HS 11373 as amended by § 2.5 of AB 890 [this incorporates changes made to HS 11373 by SB 46]

~~If (4)(A) the defendant is a minor,~~ *To fulfill the requirements of paragraph (1), when a defendant is granted probation by the trial court after conviction for a violation of Section 11350, 11351, or 11352 involving any amount of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof,* the trial court shall ~~also order his or her parents or guardian to participate in the education or treatment to the extent the court determines that participation~~

~~will aid the education or treatment of the minor.~~ *order that person to successfully complete a fentanyl and synthetic opiate education program, if one is available.*

~~If (B) a minor is found by a juvenile court to have been in possession of any controlled substance, in addition to any other order it may make, the juvenile court shall order the minor to receive education or treatment from a local community agency designated by the court, if the service is available and the person is likely to benefit from the service, and it shall also order his or her parents or guardian to participate in the education or treatment to the extent the court determines that participation will aid the education or treatment of the minor.~~ *A fee shall not be imposed for participation or enrollment in a fentanyl and synthetic opiate education program.*

//

Juvenile Court Can Keep Jurisdiction of a Person Age 25 and Over Up To 2 More Years for a 707(b) Offense

[SB 135 \(Stats 2023, Ch. 190\)](#)

Amends, inter alia, WI 607

A “Budget Bill,” effective Sept. 13, 2023.

For other aspects of SB 135, see “*Criminal Procedure*” and “*Evidence*.”

From the Legislative Counsel’s Digest

(6) Under existing law, the juvenile court may retain jurisdiction over a person who is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains 21 years of age, except as provided.

This bill . . . specif[i]es] that the court may retain jurisdiction over a person who is 25 years of age or older for a period not to exceed 2 years from the date of disposition if the person is found to meet certain conditions. The bill would require the court to exercise jurisdiction in conformance with the objectives of the juvenile court.

[The] law [already] require[d] [DOJ] to collect specified information from law enforcement agencies relative to hate crimes, including formal hate crimes policies, and require[d] [DOJ] and local law enforcement agencies to post that information on their internet websites.

This bill . . . require[s] the Attorney General to review the submitted materials . . . and . . . require[s] [DOJ] to instruct agencies that did not submit [compliant] materials . . . to submit compliant materials. The bill would require law enforcement agencies to submit the specified materials by a specified date. The bill . . . also require[s] [DOJ] to post the names of agencies that submitted compliant materials on its internet website. . . .

[Comments by GB: 1. The Digest does not mention that the requirements in this paragraph are “subject to the availability of adequate funding.” (PC 13023, subd. (a), as amended.) 2. The three amended statutes are extensive and detailed.]



MENTAL HEALTH

See “Diversion” for two new laws on Mental Health Diversion

See “Prisoners State and Local”



“Grave Disability” in the LPS Act Includes Severe Substance Disorder (Counties can defer implementation to Jan. 1, 2026.)

[SB 43 \(Stats 2023, Ch. 637\)](#)

Amends WI 5008, 5350, 5354, & 5402.

(See below for another aspect of SB 43.)

From the Legislative Counsel’s Digest

[Before this bill, the] law, for purposes of involuntary commitment, define[d] “gravely disabled” as either a condition in which a person, as a result of a mental health disorder, is unable to provide for their basic personal needs for food, clothing, or shelter or has been found mentally incompetent [to stand trial, IST]

This bill expands the definition of “gravely disabled” to also include a condition in which a person, as a result of a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is, in addition to the basic personal needs described above, unable to provide for their personal safety or necessary medical care, as defined.

The bill . . . also expand[s] the definition of “gravely disabled,” as it applies to specified sections [of the LPS Act], to include, in addition to the basic needs described above, the inability for a person to provide for their personal safety or necessary medical care as a result of chronic alcoholism.

The bill . . . authorize[s] counties to defer implementation of these provisions to January 1, 2026, as specified. . . .

From WI 5008 as amended. (editorial features added)

(h)(1) For purposes of. . . [WI] 5150, . . . [;] [WI] 5200 [et seq.]; . . . [;] ***[WI] 5225 [et seq.]; . . . [WI] 5250 [et seq.]; [and WI] 5350¹*** “gravely disabled” means ~~either any~~ of the ~~following:~~ ***following, as applicable:***

(A) A condition in which a person, as a result of a mental health disorder, ***a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder,*** is unable to provide for ~~his or her~~ ***their*** basic personal needs for food, clothing, ~~or shelter.~~ ***shelter, personal safety, or necessary medical care.***

¹ WI 5150 is the 72-hour LPS hold. WI 5200 et seq. is court ordered evaluations of persons who may be dangerous or gravely disabled. WI 5225 et seq. is court ordered evaluations of Defs who may be dangerous or gravely disabled, in specified circumstances. WI 5250 et seq is 14-day certifications for intensive treatment. And WI] 5350 et seq, is LPS Conservatorships.

(B) A condition in which a ~~person,~~ *person* has been found mentally incompetent under [PC] 1370 . . . and [certain other conditions exist] ¶ ¶

(h)(2) For purposes [WI] 5225 [et seq.; WI] 5250 [et seq.]), . . . [and] for [WI 5350), “gravely disabled” ~~means~~ *includes* a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for ~~his or her~~ *their* basic personal needs for food, clothing, ~~or shelter.~~ *shelter, personal safety, or necessary medical care.*

(3) The term “gravely disabled” does not include persons with intellectual disabilities by reason of that disability alone.

(4) A county . . . may . . . defer [these] changes . . . until Jan. 1, 2026.

¶...¶

(o) “Severe substance use disorder” [defined].

(p) “Personal safety” [defined].

(q) “Necessary medical care” [defined].



CARE Act: a civil mental health court starting, county by county, from Oct. ’23 to Dec. ’24 (unless extended). In many counties, public defenders, or similar attorneys will be appointed for respondents.

[SB 1338 \(Stats 2022, Ch. 102\)](#) and [SB 35 \(Stats 2023, Ch. 283\)](#)

SB 1338, in 2022, enacted, and SB 35 in 2023, amended “The Community Assistance, Recovery, and Empowerment (CARE) Act,” WI 5970 to 5987. Also amended were, inter alia, PC 1370.01 and WI 5354.

See below for CARE Act and Misd. 1368s and on LPS Conservatees.

From the California Rules of Court, Title 7 (“Probate *and Mental Health Rules*”) *Division2 (“Mental Health Rules”), Chapter 2 (“CARE Act Rules”*

Rule 7.2230. Counsel for respondent

(a) Appointment. If the court . . . finds . . . a prima facie showing that the respondent . . . may be [eligible for CARE Act court], the court must . . . :

(1) Appoint a qualified legal services project [for] the respondent; or

(2) If no qualified legal services project has agreed to accept CARE Act appointments . . . , appoint a public defender or an attorney acting in that capacity to represent the respondent. [Emphasis added. GB]

Public defenders or similar attorneys are being appointed by **most counties that started CARE Act courts in 2023**, says the Judicial Council’s video “[CARE Act Judicial Process Overview Training for Counsel](#)”.

From the Department of Health Care Services (DHCS), web page on the [Community Assistance, Recovery, and Empowerment \[CARE\] Act](#)

[T]he [CARE] Act . . . provides community-based behavioral health services and supports to Californians . . . with untreated schizophrenia spectrum or other psychotic disorders through a new civil court process.

[This] is . . . an [early] intervention for [such] individuals . . . to prevent . . . psychiatric hospitalizations, incarcerations, and [LPS Conservatorships].

The CARE Act authorizes specified . . . persons [in 13 categories from Family, Home; Community; and Respondent] to petition. . . [for] a voluntary CARE agreement or a court-ordered CARE plan [including] treatment, housing resources, and others. [Emphasis added]

. . . . Glenn, Orange, Riverside, San Diego, Stanislaus, and Tuolumne [Counties], and . . . San Francisco . . . implemented [this] . . . on Oct[.] 1, 2023. Los Angeles . . . implement[ed] [it on] Dec[.] 1, 2023, and all other counties . . . [must] implement [it] by Dec[.] 1, 2024 [with extensions to Dec. ’25].

From California Courts, Adult Civil Mental Health, CARE Act

To be eligible for CARE Act proceedings, the [Respondent] must . . . :

- Be [18 or over, and have] . . . schizophrenia spectrum or other psychotic disorder;

- [Have] a [severe and persistent] mental illness, [interfering] . . . with . . . daily living, [that] . . . may [cause] inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time
 - Not . . . [be] stabilized in an on-going voluntary treatment program
 - Meet one of the following:
 - [Be] unlikely to survive safely in the community without supervision and [with a] substantially deteriorating [condition].
 - [Needing] services . . . to prevent. . . deterioration that would likely result in grave disability or serious harm to the person or others
 - CARE [Act proceedings] would be the least restrictive alternative
 - Be likely to benefit from participation in CARE [Act court].
- Certain conditions and disorders are excluded, including:
- Serious mental illnesses outside of psychotic disorder class, including bipolar disorder, major depression, and post-trauma stress disorder
 - Psychotic disorders due to . . . [e.g.] traumatic brain injury, autism, dementia, or other physical health or neurological conditions
 - Substance use disorder that[is not otherwise] a psychotic disorder

From “10 Things to Know About the CARE Act” at the [California Courts Adult Civil Mental Health CARE Act page](#).

A CARE agreement is a voluntary . . . agreement [between] respondent and the . . . behavioral health agency after a court has found . . . eligib[ility] The . . . agreement [can include] . . . community-based services and supports [such as] clinical services: behavioral health care; counseling; specialized psychotherapies, . . . ; stabilization medications; a housing plan; and other supports . . . provided directly and indirectly through a local government entity.

A CARE plan is a court-ordered plan [with] the same elements as a CARE agreement. If a CARE agreement is not reached and . . . respondent meets

the criteria, the court will order the creation of a CARE plan. . . . Stabilization medications may only be included . . . if the respondent is found to lack capacity and may not be forcibly administered.

Respondent is also entitled to a support person, as defined. WI 5980.

CARE Act acceptance, hearings, and 11th month hearing:

Acceptance Hearing: from WI 5977.1 (e) *[The court may] . . . [A]pprov[e] a CARE plan [for up to a] year.*

Review Hearings: from WI 5977.2 (1) *[At least] every 60 days . . . the court shall hold a . . . review hearing. . . . [as specified in detail]. . . .*

Hearing at the 11th Month: from WI 5977.3

(a) (1) In the 11th month . . . , the court shall hold a . . . status hearing. . . . [T]he county behavioral health agency shall file a report . . . , includ[ing] (D) Recommendations for next steps. . . .

(2) [R]espondent . . . [may call witnesses, present evidence] and [make] recommendations. . . . [R]espondent may request. . . . graduat[ion] . . . or to remain in the program.

(3) (A) If the respondent elects . . . graduat[ion] the court shall order the . . . behavioral health agency and . . . respondent to [make a] . . . plan

(B) [R]espondent [may] elect[] to remain . . . up to . . . [another] year. The court may permit [this] if . . . (i) The respondent did not successfully complete . . . [and] (ii) would benefit from continuation

(b) [R]espondent may be involuntarily reappointed . . . only if . . . :

(1) The respondent did not successfully complete the CARE process.

(2) All [required] services and supports. . . were provided

(3) The respondent would benefit from continuation in the CARE process.

(4) The respondent [is currently eligible for CARE Act court].:

From the California Rules of Court, rule 7.2210(b). [All CARE Act documents and proceedings are confidential, as specified.]

Accountability [of the Respondent]; from WI 5979, subd. (a):

(a)(1) If . . . the court determines . . . that the respondent is not participating . . . or . . . adhering to their . . . plan, [then,]after . . . notice, the court may terminate the respondent’s participation in the CARE process.

(2) To ensure the respondent’s safety, the court may [use WI 5200 et seq. “Court-Ordered Evaluation for Mentally Disordered Persons”]. . . .

(3) [Failure] to successfully complete their CARE plan . . . shall be . . . considered . . . in a subsequent [LPS] hearing [e.g., in 5150s and Conservatorships] . . . [if held in the next] six months . . . [and] . . . [it is] presume[ed] . . . that the respondent needs . . . intervention [beyond] CARE

(4) [F]ailure to comply with an order shall not result in a penalty outside of this section, including, but not limited to, contempt or a failure to appear.

(5) [No penalty is caused by failure] to comply with a medication order. . . .

Accountability [of the County or Local Gov.]; From WI 5979, subd. (b):

(b)(1) If . . . , the court finds that the county or . . . local government entity is not complying . . . , the court shall report . . . to the presiding judge

(2)(A) The presiding judge . . . shall issue an order to show cause why the local government entity should not be fined as set forth [here]. . . .

(B) If the . . . judge . . . finds . . . that the local government entity has . . . failed to comply . . . the . . . judge . . . may . . . impos[e] a fine

(C) A fine . . . shall be . . . up to . . . \$1,000 . . . per day, not to exceed \$25,000 for each individual violation. . . .

(D)(i) . . . (ii) All moneys . . . shall be . . . distributed to the local government entity that paid . . . , to be used . . . [for eligible persons]. . . .

(3) If . . . the local government . . . [has at least 5 complaints in a year and] is persistently noncompliant [the] judge . . . may appoint a special master to secure . . . care for the respondent at the . . . government['s] cost. . . .



Misdemeanants Found Mentally Incompetent to Stand Trial (IST) May be Referred to CARE Act court.

[SB 35 \(Stats 2023, Ch. 283\)](#) Amends, inter alia, PC 1370.01; WI 5978

Effective September 30, 2023

For the CARE Act itself, see above; for the LPS conservatorships, see below.

From the Legislative Counsel’s Digest:

[The 2022 CARE bill] authorizes misdemeanor defendants who have been [found IST] to be referred to the CARE program and requires . . . [an eligibility hearing] . . .within 14 days. . . .

This bill . . . require[s] [that] hearing [to be] within 14 *court* days of the date the petition is filed and, if the hearing is delayed beyond 14 *court* days, to release a [Def] who is . . . in . . . jail, pending the hearing.

From PC 1370.01 [Misdemeanor only] as amended by § 1 of SB 35:

(a). . . (b) If . . . the [Def] is found [IST], the trial, judgment, or [violation of probation] hearing . . . shall be suspended and the court may:

(1)(A). . . [I]f the court deems the [Def] eligible [after a hearing], grant diversion pursuant to [PC] 1001.36 (B). . . . (C). . . .

(D) If the court finds the [Def] ineligible for [PC 1001.36] diversion . . . , the court may . . . hold a hearing to determine whether to . . . :

(i) Order modification of the treatment plan (ii) Refer [Def] to assisted outpatient treatment pursuant to [WI] 5346 (iii) Refer the [Def] . . . for possible [LPS] conservatorship [OR]

(iv) Refer the [Def] to the CARE program [If an eligibility hearing is not held within 14 court days after the date . . . [of] the . . . referral the court shall order the [Def], [if in jail], to be released . . . pending that hearing. If [Def] is accepted . . . , the charges shall be dismissed

(2) [The court] may also dismiss the charges pursuant to Section 1385. . . .

(c) If the [Def is on] probation . . . , the court shall dismiss the pending revocation . . . and may return the [Def] to supervision. . . .

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LPS Prospective Conservatees may be referred for CARE Act

[SB 43 \(Stats 2023 Ch. 637\)](#) Amends WI 5008, 5350, 5354, & 5402; adds 5122

For the CARE Act itself, and for IST misdemeanants, see above.

From WI 5354 as amended.

(a) The . . . conservatorship investigat[or] shall investigate all available alternatives to ~~conservatorship and conservatorship~~, *including, but not limited to, assisted outpatient treatment pursuant to [WI] 5346 and the . . . CARE . . . Act program . . . , and shall recommend conservatorship to the court only if no suitable alternatives are available. . . . [And] shall set forth all alternatives available, including ~~all conservatorship, assisted outpatient treatment [WI] 5346 and the CARE Act [WI] 5978, as applicable, and all other~~ less restrictive alternatives. . . .*

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LPS Conservatees may be referred for CARE Act proceedings.

SB 35, § 18 (Stats 2023, Ch. 283, § 18)

Amends WI 5978

From WI 5978 as amended:

(a) (b) A court may refer an individual from misdemeanor [IST] proceedings pursuant to [PC] 1370.01 . . . *to CARE Act proceedings. The county behavioral health director . . . shall be the petitioner.*

[Comment: This provision would be more noticeable if it were in PC 1370.01.]



Experts in LPS conservatorship cases can rely on health practitioner's statements in medical records.

SB 717 (Stats 2023 Ch. 883)

Adds WI 5623

From new WI 5623:

(a) [A]n opinion . . . by an expert . . . in a proceeding [about] the appointment . . . of [an LPS] conservator . . . , [relating] the statement of a health practitioner . . . in the medical record is not . . . inadmissible . . . hearsay . . . when the statement pertains to the person's symptoms or behavior stemming from a mental health disorder or severe substance use disorder that the expert relies upon to explain the basis for their opinion, if the statement is based on the [declarant's] observation . . . , and the court finds . . . that the time, content, and circumstances of the statement provide sufficient indicia of reliability.

(b) [A] party [can] call as a witness the declarant of any statement contained in the medical record, whether or not the declarant's statement was relied on by the expert witness.

(c) The court may grant a . . . continuance if an expert witness . . . relied on the medical record [that] has not been provided to . . . counsel.

(d)(1) “Health practitioner” [is broadly defined].

(2) “Medical record” [is broadly defined]. . . .



The Court Must Inform a Misdemeanant Found IST Whose Case is Dismissed and Who Aren’t Receiving Services of Their Need for Them.

SB 171 (Stats 2023 Ch. 883)

Adds WI 5623.6

From added WI 5323.6 [paragraph break added]

(b) [A Def] who has a misdemeanor charge . . . dismissed . . . who is . . . incompetent to stand trial [IST], and who is not receiving court directed services pursuant to [PC] 1370.01[subd.] (b) shall be notified by the court of their need for mental health services. . . .

The court shall . . . provide the [Def] with information that, at [least has] the name, address, and [phone] number of the . . . behavioral health department, the name and contact info[.] of the behavioral health professional that was providing services to them while incarcerated, if any, contact info[.] for the Medi-Cal program, and a list of available community-based organizations where the [Def] could obtain mental health services.

[Comments by GB. 1. This provision would be better noticed if it were in, or next to, PC 1370.01, which applies to misdemeanants. 2. The Legislative Counsel’s Digest does not note that this is limited to misdemeanors.]



NATIVE AMERICANS

Qualified tribal law enforcement and courts can access CLETS

[AB 44 \(Stats 2023, Ch. 638\)](#)

Adds GC 15168

[This bill was introduced by James C. Ramos, the first California Native American state lawmaker. See <https://a45.asmdc.org/biography> .]

From AB 44:

[Uncodified] SECTION 1. The Legislature finds and declares . . . :

(a) California [has] more Native American and Alaska Native people than any other state There are 109 federally recognized tribes in California and 67 nonfederally recognized tribes listed [by] the Native American Heritage Commission. Federally recognized tribes have a . . . government-to-government relationship with local, state, and federal entities, and are . . . sovereign nations. Tribes can create their own laws, government[s], and enrollment or membership rules. . . .

(b) California has the fifth largest caseload of missing and murdered Indigenous women and people. Nationwide, more than four in five Native American and Alaska Native women have experienced violence . . . , and more than [one-third] have in the last year. One in 130 Native American children are likely to go missing each year. Indigenous women go missing and are murdered at rates higher than any other [U.S.] ethnic group Nearly [½] of all indigenous women have been raped, beaten, or stalked by an intimate partner. LGBTQ+ Native[s] . . . are . . . often the targets of violence.

(c) California Native American tribes retain the inherent authority to self-govern, including the authority to enact laws that govern their lands.

(d) Approximately 26 tribal governments in the state have . . . establish[ed] law enforcement agencies . . . on Indian lands [There are] 22 tribal courts . . . serving approximately 40 tribes.

(e) Federal law requires certain states, including . . . California, to enforce state criminal laws on Indian lands (f) (g)

(h) . . . [CLETS law says,] . . . “the state has a[] . . . responsibility to give full support to all public agencies of law enforcement.” . . . Indian tribes have not been considered public agencies for this . . . , excluding them from CLETS

(i) [A]ccess to CLETS [goes to] sheriffs, city police . . . , [D.A.’s], courts, probation departments, the [CHP], [DOJ], the [Dep’t.] of Insurance, the Employment Development [Dep’t], university, college, and school . . . police [dep’ts], fire [dep’ts] arson investigation units, and the [FBI]. . . .

(j) Without access to CLETS, tribal police cannot receive, share, or update critical criminal record information, missing and unidentified persons files, protective order files, and violent persons files (k) [Nor can], tribal courts and tribal law enforcement cannot enter [DV] protective orders, emergency protective orders, or other restraining orders. . . . (l)

SEC. 2. Section 15168 is added to the Government Code, to read:

15168. (a) (b) The Attorney General shall provide [CLETS] access to any law enforcement agency or court of a tribe that . . . [is qualified under subd.] (c)

(c) . . . [T]he governing body of that tribe [must have] enacted or adopted a law, resolution, or ordinance . . . that provides . . . the following:

(1) The tribe . . . waives . . . its sovereign immunity from suit, regulatory or administrative action, and enforcement of . . . judgment[s] or arbitral award[s], for . . . claims arising from . . . actions or omissions of the tribe, . . . its officers, agents, and employees . . . acting [in] the scope of their authority and duty, . . . related to, the system.

(2) . . . California [laws] . . . govern any claim, suit, or regulatory or administration action, [and] the obligations, rights, and remedies shall be . . . in accordance with such laws, and . . . [Calif. or Fed.] courts . . . have exclusive jurisdiction.

(3) The tribe agrees to cooperate with any inspections . . . by [DOJ] for . . . compliance with the operating policies . . . , including any sanction or discipline imposed by [DOJ], up to and including removal of system access.

(4) The tribe and its agencies, entities, or arms, including [its] officers, agents, and employees . . . when acting within the scope of their authority . . . , shall comply with . . . California [laws] relating to . . . [CLETS] info[.].

(5) The tribe and [etc.] . . . shall comply with [DOJ’s] regulations, agreements, . . . policies . . . and procedures, relating to the security requirements, access to [and use of] the . . . information from the system. . . .

(d) (e) . . . (f) . . . : “Tribe” [and] “Sovereign immunity” [are defined].



PEACE OFFICERS

See “Native Americans: Qualified tribal law enforcement and courts can access CLETS”

See Investigations.



P can notify Def’s Atty of a peace officer to facilitate notice of possible exculpatory or impeachment evidence involving that officer.

[AB 709 \(Stats. 2023, Ch. 453\)](#)

Amends PC 13300

Added Subd. (o) of PC 13300: (editorial features added)

(o) [P] may provide a public defender’s [or] alternate public defender’s office, or a licensed attorney of record in a criminal case with a list containing only the names of the peace officer and defendant and the . . . case number to facilitate and expedite notifying counsel representing [Defs] whose cases may involve testimony by that peace officer of exculpatory or impeachment evidence involving that peace officer.

Any [such] disclosure . . . shall only be made upon agreement by the public defender’s [or] alternate public defender’s office, or the licensed attorney of record in a criminal case. Any [such] disclosure . . . shall not constitute disclosure under any other law, nor shall any privilege or confidentiality be deemed waived by that This . . . [does not] otherwise limit any legal mandate to disclose evidence or information, including, but not limited to, the disclosures required under [PC 1054 et seq., Discovery]

The Assembly Floor Report of September 13, 2023 contains a thorough analysis of the statutes, including those relating to dissemination of criminal history, the U.S. Supreme Ct. and Calif. cases that underlay this law.

According to the **Sen. Committee on Public Safety’s report for June 13, 2023**, this bill was supported by the California District Attorneys Association.

According to AB 709’s “History” menu tab, this bill passed both the Assembly and the House unanimously!

[Comments by GB. 1. In reaching the required “agreement” for this information exchange, both Ps and Defs should review the legislative history, including CDAA’s support of this bill. 2. This bill may spur litigation by peace officers about intrusion of privacy and statutory or constitutional violations.]



PROBATION

“Successful Completion of a Drug Treatment Program” for PC 1210 [Drug-Prop 36 (2000)] No Longer Requires Belief that Def. Will Not Use

[SB 46, §§ 2 & 3 \(Stats 2023, Ch. 481\)](#)

Amends PC 1210 and 1211

[Sec. 3 of SB 46 also applies to the PC 1000 Drug Diversion Program]

From the Legislative Counsel’s Digest

. . . Proposition 36 . . . (of 2000), [as amended] . . . requires that persons convicted of certain nonviolent drug possession offenses be granted probation and . . . complete [a] . . . drug . . . program . . . [A]fter . . . completion of probation and drug treatment, [the court must] set aside the conviction, and dismiss the complaint if the court finds that . . . there is reasonable cause to believe that [Def] will not abuse controlled substances in the future. . . .

This bill . . . remov[es] the requirement [that, to be considered as having successfully completed treatment] there be reasonable cause to believe that [Def] will not abuse controlled substances in the future. . . .

From PC 1210 as amended by § 2 of SB 46:

(c) The term “successful completion of treatment” means that a [Def] who . . . has completed the prescribed course of drug treatment as . . . ordered . . . ~~and, as a result, there is reasonable cause to believe that the defendant will not abuse controlled substances in the future.~~ . . .

From PC 1211 as amended by § 3 of SB 46 (editorial features added):

(a) . . . [T]o ensure the quality of drug diversion programs provided pursuant to [inter alia, *PC 1210*] and [PC 1000 et seq. drug diversion] [the following are] minimum requirements, criteria, and fees for the successful completion of drug diversion ~~programs~~ *programs*, . . . :

(1) An initial assessment of each divertee, which *may* include . . . :

(A) Social, *cultural, linguistic*, economic, and family background.

[(B) to (F)

(2) [At least] 20 hours of . . . education or counseling or . . . both for each divertee. *[This] shall include education about [1] how . . . controlled substances affect[] the body and brain, [2] factors that contribute to physical dependence, [3] how to recognize and respond to the signs of drug overdose, and [4] the dangers of using controlled substances*

This . . . shall be culturally and linguistically appropriate and may include, but is not limited to, [1] informing . . . participants about the physical and mental health risks associated with substance use disorders, [2] the grave health risk to those. . . exposed to controlled substances and [3] the . . . danger . . . when controlled substances are manufactured and distributed.

[Notes. 1. PC 1211 applies to PC 1210 because it is referred to in PC 1210. 2. PC 1211 effects the drug diversion program in PC 1000 et seq. because it is referred to in PC 1000, subd. (c).



Fentanyl and Certain Other Drugs & Analogs: Probation Conditions; and possible Condition of Mandatory Supervision.

[AB 890, §§ 1 & 2.5 \(Stats 2023, Ch. 818\)](#) Adds HS 11356.6; amends 11373

For another aspect of AB 890 see “Juvenile Law”

From the Legislative Counsel’s Digest

This bill . . . require[s] the court to order a person granted probation . . . for a violation of specified laws involving . . . fentanyl, carfentanil, benzimidazole opiate, or any analog thereof, to successfully complete a fentanyl and synthetic opiate education program, if one is available.

The bill . . . prohibit[s] a [Def] from being charged a fee for enrollment in that education program.

The bill . . . require[s] a court ordering a [Def] to complete those courses to only order [Def] to participate in programs that include, [inter alia], information [on] the nature and addictive elements of fentanyl and other synthetic opiates and their danger to . . . life and health.

The bill . . . require[s] program providers to report an unexcused absence by a [Def] from a fentanyl and synthetic opiate education program to the court and the probation department within 2 business days. . . .

From HS 11373 as amended by Sec. 2.5 of AB 890:

(a) ~~Whenever (1) any~~ *When a* person . . . is granted probation by the trial court *or sentenced pursuant to [PC 1170, subd. (h)]*, after conviction for a violation of any controlled substance offense under this division, the trial court shall, as a condition of probation, order that person to ~~secure complete successfully a controlled substance~~ education or treatment ~~from a local community agency designated by the court, if the service is available and the person is likely to benefit from the service.~~ *program, as appropriate for the individual, approved pursuant to subdivision (c), or if none is available, from a local community agency designated by the court.*

¶ . . . ¶

~~If (4)(A) the defendant is a minor,~~ . . . *[W]hen a defendant is granted probation . . . after conviction for . . . [HS] 11350, 11351, or 11352 involving any amount of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof,* the trial court shall ~~also order his or her parents or guardian to participate in the education or treatment to the extent the court determines that participation will aid the education or treatment of the minor.~~ *order that person to successfully complete a fentanyl and synthetic opiate education program, if one is available.*

¶ . . . ¶

[Subd. (c) sets out the requirements the programs must meet].

¶ . . . ¶

(e) Upon conviction of any felony in which [Def] is sentenced pursuant to [PC 1170, subd. (h)] and the court does not order suspension of the execution of the [county jail felony] term . . . pursuant to [PC 1170, subd. (h)(5)(B)] for a violation of any controlled substance offense under this division, a court shall, in addition to any other terms of imprisonment, fine, and conditions, recommend . . . that [Def] participate in a controlled substance education or treatment program . . . that complies with the standards outlined in [subd. (c)(2)].

[Comment by GB: By the repeated use of the word “probation,” it might seem that the period of mandatory supervision, which occurs after probation is denied is not included. But subdivision (e), makes it seem that the legislature intended that where the court imposes a period of mandatory supervision, the court should require the same drug program required of probationers. The courts will have to decide whether the court must, or can, so-order.]

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Unlawful sexual intercourse: what probation conditions must include

[AB 1371 \(Stats 2023, Ch. 838\)](#)

Amends PC 261.5

From PC 261.5 as amended:

(f) A person convicted of violating subdivision (d) who is granted probation shall not complete their community service at a school or location where children congregate.

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RACIAL JUSTICE ACT (RJA)

See Habeas corpus for two entries.

See Appeals for a clarification of the RJA at all court levels.



RECALL OF SENTENCE

The court can recall and resentence on its own motion when the underlying sentencing law changed to Def’s benefit.

Note: AB 600 § 2.5 and SB 88 § 1.5 amended PC 1172.1 identically. Although AB 88 was enacted last, *universally, these changes are called “SB 600.”*

The additional amendment to PC 1172.1, subd. (a)(8)(B) made, technically, by AB 88, and incorporated into AB 600, is also included here.

[AB 600, § 2.5 \(Stats 2023, Ch. 446\)](#) Amends PC 1172.1

See also, [AB 88, § 1.5 \(Stats 2023, Ch. 795, § 1.5\)](#) Amends PC 1172.1

For another aspect of SB 88, see “Parole”

From uncodified § 1 of AB 600 as amended.

(a) [The Legislative intent is] that in resentencing . . . [under PC] 1172.1 . . . , all ameliorative laws and court decisions allowing discretionary relief should be applied regardless of the date of the offense or conviction.

(b) [The Legislative intent is] that courts have full discretion in resentencing . . . [under PC] 1172.1 . . . to reconsider past decisions to impose prior strikes. The list of factors . . . in [P] v. Superior Court (Romero) (1996) 13

Cal.4th 497, is not exhaustive. Courts should consider [PC] 1385 . . . , post-conviction factors, or any other evidence that . . . incarceration is no longer in the interests of justice.

(c) Consistent with the . . . Racial Justice Act, [The Legislative intent is] to provide remedies that ameliorate discriminative practices in the criminal justice system, including discrimination in seeking or obtaining convictions or imposing sentences.

(d) [The Legislative intent is] that, . . . where the judge concludes that recall and resentencing [under PC] 1172.1 . . . is appropriate, [that] result in a meaningful modification. [This] means it will cause . . . actual change in the person's circumstances, including, but not limited to, immediate release, earlier release, and newly acquired entitlement to review by the [Parole Board] or the advancement of eligibility for a parole hearing.

From PC 1172.1 as amended by § 2.5 of AB 600 (this incorporates the amendment to Subd. (a)(8)(B) by AB 88.

(a)(1) When a [Def] . . . has been committed to the custody of the [CDCR] or to [county jail] pursuant [PC 1170, subd. (h)] . . . within 120 days of the date of commitment ~~on its own motion, or~~ at any time *if the applicable sentencing laws at the time of original sentencing are subsequently changed by new statutory authority or case law, at any time* upon the recommendation of [CDCR] or the [Parole Board] [or], the . . . county jail, the [county P . . . or the A.G. as specified] recall the sentence and commitment previously ordered and resentence the [Def] in the same manner as if they had not previously been sentenced, whether or not the [Def] is still in custody, and provided the new sentence . . . is no greater than the initial [one]. *Recall and resentencing under this section may be initiated by the original sentencing judge, a judge designated by the presiding judge, or any judge with jurisdiction in the case.*

(2) . . . (3) The resentencing court may, in the interest of justice and regardless of whether the original sentence was imposed after a trial or plea agreement, do the following:

(A) Reduce a [Def's] term of imprisonment by modifying the sentence.

(B) Vacate the [Def's] conviction and [sentence] on any necessarily included lesser offense or lesser related offense, whether or not that . . .

covered here are not yet approved, or are approved but not yet effective and not on the web site; their status is noted.

Expected to be promulgated: A Rule to implement new PC 1473.1 (added by [SB 133, § 20 \(Stats 2023, Ch. 34, § 20\)](#) (eff. June 30, 2023) concerning superior court habeas corpus petitions raising Racial Justice Act (RJA) issues. See “Habeas Corpus,” above.

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CARE Act Rules (All effective September 1, 2023)

[Each Rule number and title is also a link to that Rule.]

- Chapter 2. CARE Act Rules
- Article 1. Preliminary Provisions
- [Rule 7.2201. Title and purpose](#)
- [Rule 7.2205. Definitions](#)
- [Rule 7.2210. General provisions](#)
- Article 2. Commencement of Proceedings
- [Rule 7.2221. Papers to be filed](#)
- [Rule 7.2223. Venue and transfer \(§ 5973\)](#)
- [Rule 7.2225. Petitioner \(§§ 5974, 5978\)](#)
- [Rule 7.2230. Counsel for respondent \(§§ 5976\(c\), 5977\(a\)\(3\)\(A\), \(a\)\(5\)\(C\) & \(b\)\(1\)\)](#)
- Article 3. Notice and Joinder
- [Rule 7.2235. Notice of proceedings \(§§ 5977-5977.3, 5979\)](#) [
- [Rule 7.2240. Joinder of local government entity \(§ 5977.1\(d\)\(4\)\)](#)
- Article 4. Accountability
- [Rule 7.2301. Order to show cause \(§ 5979\(b\)\)](#)
- [Rule 7.2303. Participation in accountability hearings \(§ 5979\)](#)

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Rules for Secure Youth Treatment Facilities: (all effective July 1, 2023)

~~Rule 5.790(i) [CDCR, DJJ] repealed.~~

Rule 5.804 “Commitment to secure youth treatment facility.

~~Rule 5.805 [CDCR, DJJ commitments, repealed.~~

Rule 5.806. Secure youth treatment facility baseline term.

Rule 5.807. Secure youth treatment facility progress review process.

Rule 5.808. Discharge from secure youth treatment facility (§ 875(e)(3) & (4))

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Rule 8.504, amended eff. Jan. 1, 2024. (not yet on the Calif. Cts. web site)

[Rule 8.504 is about petitions filed in the Supreme Court. The amendment says: “If the petition seeks review of a Court of Appeal order summarily denying a writ petition, a copy of the underlying trial court order [involved] must [accompany the petition in the Supreme Court].

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SEARCH AND SEIZURE

Drivers and Pedestrians Must be Told Reasons for the Stop Before Questioning for Criminal or Traffic Investigations

[AB 2773 \(Stats. 2022, Ch. 805\)](#)

A 2022 law operative 1/1/24

Adds VC 2806.5 and Amends GC 1656.3 and 12525.5

From the Legislative Counsel’s Digest

This bill . . . require[s] a peace officer making a traffic or pedestrian stop, before ... questioning related to a criminal investigation or traffic violation, to

state the reason for the stop, unless the officer . . . believes that withholding the reason . . . is necessary to protect life or property from imminent threat.

The bill . . . require[s] the officer to document the reason for the stop on any citation or police report resulting from the stop. ¶...¶

The bill . . . require[s] [DMV] to include information regarding the duty of a peace officer to state the reason for the stop in the [“California Driver’s Handbook”] ... when the handbook is . . . revised or reprinted.

From Added VC 2806.5 (operative January 1, 2024):

(a) A peace officer making a traffic or pedestrian stop, before engaging in questioning related to a criminal investigation or traffic violation, shall state the reason for the stop. The officer shall document the reason for the stop on any citation or police report resulting from the stop.

(b) Subd[.] (a) does not apply when the officer ... believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including, but not limited to, cases of terrorism or kidnaping.

[Comments by GB: The examples suggest that “imminent threat” must be as serious as terrorism or kidnapping to justify failure to state reasons.

[Violation might not result in suppression of evidence. Custodial arrest in violation of a state law is not necessarily a violation of the Fourth Amendment. (*Atwater v. City of Lago Vista* (2001) 532 U.S. 318.)]



Searches authorized by probation status, home detention, electronic monitoring limited to probation or other peace officers.

[SB 852 §§ 4 to 8 \(Stats 2023, Ch. 218\).](#)

Amends, inter alia, PC 1203, 1203.016, 1203.017, 1203.018, and 1203.25

From Uncodified Sections 1 and 2:

Section 1. This act [is] the Prohibiting Rogue Officer Tricks and Ensuring Community Trust (PROTECT) Act.

Sec. 2. The Legislature finds and declares . . . :

(a) [U.S.] Immigration and Customs Enforcement (ICE) employees sometimes employ concerning tactics and strategies during home immigration enforcement operations.

(b) [Those] include ICE employees . . . using a “probation ruse,” where they misrepresent themselves as probation officers or claim that they are conducting a probation check.

(c) Individuals . . . on probation have no choice but to comply with a probation officer’s request because . . . their probation require[s] them to permit probation officers to access their homes and persons. (d) . . . (e) . . .

(f) ICE’s use of a “probation ruse” undermines the trust and faith in California’s local law enforcement.

(g) . . . California must . . . make it clear that ICE employees are not peace officers and cannot conduct probation “searches and seizures.”

Each effected Section now has language like this in § 1203, subd. (m):

(m) A person who is granted probation is subject to search or seizure as part of their terms and conditions only by a probation officer or other peace officer.

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SEXUALLY VIOLENT PREDATORS

See “Evidence,” sexually violent predators.



SENTENCES

“The deprivation of liberty from incarceration satisfies the punishment purposes of sentencing; the purpose of incarceration is rehabilitation and safe and successful reentry back into the community.”

[AB 1104, §§ 1 & 2.5 \(Stats 2023, Ch. 560\)](#) Amends, inter alia, PC 1170.

For another aspect of AB 1104, see “Prisoners, State and Local”

From uncodified Section 1 of AB 1104:

The Legislature hereby finds and declares . . . :

(a) Recognizing the errors and harm caused by the hyperpunitive policies enacted in the 1980s and 1990s, which led to the era of mass incarceration, the Legislature has been engaged on a multiyear course correction.

¶...¶ (f) . . . 95 percent of incarcerated people will be released

From PC 1170 as amended:

(a)(1) The Legislature finds and declares that the purpose of sentencing is public safety achieved through punishment, rehabilitation, and restorative justice. When a sentence includes incarceration, ~~this purpose is the deprivation of liberty satisfies the punishment purpose of sentencing.~~ *The purpose of incarceration is rehabilitation and successful community reintegration achieved through education, treatment, and active participation in rehabilitative and restorative justice programs. This purpose is best served by terms that are proportionate to the seriousness of the offense with provision for uniformity in the sentences of ~~offenders~~ people incarcerated for committing the same offense under similar circumstances.*

[Comments by GB: (1) Note the substitution of the phrase “people incarcerated” instead of “offenders.” (2) Query the extent to which this will apply also

From the Legislative Counsel’s Digest: [paragraph break added]

This bill [applies to an inmate] with a parent and child relationship with a child under 18 . . . , or who is a guardian or relative caregiver of a child [CDCR must] place the person in the . . . facility . . . nearest to the . . . child[’s] [residence], [if] [1] the placement would be . . . appropriate, [2] would facilitate increased contact between the person and their child, and [3] the incarcerated parent . . . consent[s]

[CDCR can] reevaluate [the] placement to [consider modification], including whether the . . . child has moved . . . nearer to an otherwise . . . appropriate institution. The bill . . . allow[s] [an inmate] to request a review of their housing . . . when there is a change in the . . . child[’s] [residence] upon which the . . . housing assignment was based.



The main objective of CDCR is helping successful reintegration back to communities able to be drug-free, healthy, and employable by providing the tools for this in a safe and humane environment.

[AB 1104, §§ 1 & 3 \(Stats 2023, Ch. 560\)](#) Amends, inter alia, PC 5000

From uncodified Section 1 of this bill:

(e) Effective rehabilitation increases public safety and builds stronger communities. . . . [T]o achieve these goals, it is essential that incarcerated people are able to live with dignity, are treated humanely, are able to maintain and build strong family and community connections, and have access to varied, high-quality educational and rehabilitative programs.

(f) According to the [U.S.] Bureau of Justice Statistics, 95 percent of incarcerated people will be released from prison back into the community.

(g) Community-based approaches provide relevant and individualized programs in the community and context in which an incarcerated person lives. [They] promote individual and societal healing, encourage accountability, and address intersecting needs, experiences, and identities.

(h) Community-based organizations are essential to ensuring that incarcerated people have access to a wide variety of rehabilitative programs that can help them take accountability, . . . heal from trauma, participate in restorative justice programs, and prepare for reentry.

PC 5000 as amended:

Commencing ~~(a) July 1, 2005, any~~ Any reference to the Department of Corrections in this or any other code refers to the Department of Corrections and Rehabilitation, Division of Adult Operations.

Nothing ~~(b) in the act enacted by Senate Bill 737 of the 2005-06 Regular Session shall be construed to alter the~~ The primary objective of adult incarceration **~~under~~in** the **reorganized** Department of Corrections and **Rehabilitation, which remains public safety as articulated in the legislative** *Rehabilitation shall be to facilitate the successful reintegration of the individuals in the department’s care back to their communities equipped with the tools to be drug-free, healthy, and employable members of society by providing education, treatment, and rehabilitative and restorative justice programs, all in a safe and humane environment, as set forth in the findings and declarations set forth in Section 1170.*

[Comments by GB: (1) DJJ within CDCR has been repealed. (2) Note the language: incarcerated persons are “. . . in [CDCR’s] care. . . .”]



Standardized, streamlined clearance process for rehabilitative programs and personnel, including formerly incarcerated persons.

[AB 581 \(Stats 2023, Ch. 335\)](#)

Adds to PC a new Chapter, “Rehabilitative Program Providers,” 7640 et seq.

From uncodified section 1: [editorial features added]

(a) . . . (b) [CDCR’s] mission . . . is “to facilitate the successful reintegration of the individuals in [their] care back to their communities equipped with the tools to be drug-free, healthy, and employable members of society by providing education, treatment, rehabilitative, and restorative justice programs, all in a safe and humane environment.” [from new PC 5000.]

(c) Community-based nonprofit organizations are essential to achieving the mission of providing rehabilitative programming

(d) Formerly incarcerated program providers are a vital part of the rehabilitative process, and bring a wealth of direct experience and knowledge to rehabilitative programs.

(e) (f) Standardizing and streamlining the clearance process for formerly incarcerated program providers will assist in the timely delivery of rehabilitative programming.

From the Legislative Counsel’s Digest [editorial features added]

This bill . . . establish[es] various clearance levels for program providers in state prisons, including [1] short-term clearance, [2] annual program provider clearance, and [3] statewide program provider clearance, as defined.

The bill . . . create[s] a procedure for a program provider to receive one of these clearances and an identification card to gain entry

This bill . . . require[s] [CDCR] to designate a standardized approval process for [formerly incarcerated] people [CDCR must] notify all applicants of their right to [and the process to] appeal [and] notify all applicants of [the appeal decision] . . . within 90 days.

From the above web page’s “Frequently Asked Questions:”

Who gets a tablet?

[A tablet designed for . . . correctional settings is provided] for every person incarcerated in CDCR’s adult institutions. . . . Granting or denying access to any tablet services [is] in accordance with CDCR’s regulations ([CCR] Title 15, [§§] 3006 Contraband or 3135 Disturbing or Offensive Correspondence). Tablets may be used in cells/dormitories. Institutions are responsible for developing site-specific rules about tablet use.

Incarcerated people in restricted housing for non-disciplinary reasons are allowed to access paid services on their tablets.

Incarcerated people in restricted housing for disciplinary reasons may not use paid services . . . while they are in restricted housing units¶ . . .

What is included . . . ?

Many features are free to users, including the Department Operations Manual (DOM), Health Care Department Operations Manual (HCDOM), Title 15, PREA, Policies and Regulations, internal handbooks, newspapers, and podcasts, library eBooks, audiobooks, games, law library materials, religious materials, mental and physical health materials, and rehabilitative content.

Users may purchase some services, such as approved movies, news and sports feeds, or premium music[, podcasts, messaging, video calling, audio calls, and . . . radio].

Users [can] securely send and receive email, with incoming and outgoing messages closely monitored. Users may send and receive pre-approved images, stickers, and e-cards, and can receive short video clips and photos from family and friends (videos/photos may not be sent, only received). . . .

Do the tablets allow video?

Yes. Users may receive, but not send, video clips from approved contacts. Videos are reviewed by institutional staff for safety and security Video calls are also available on the tablets in approved areas within each housing area. Users sign up for 15-minute blocks. . . [for] the docking station

required to access the video call . . . on the tablets. . . . [U]sers can sign up to use the available kiosks to make telephone or video calls

At this time, the [free Webex video visiting system](#) remains in place. However, tablets will be available for those who would like to make video calls in a different location, or to offset limited video visiting availability in visiting rooms. Video calls cost 20 cents per minute.

How do individuals use the tablets?

Instructions . . . are available on the tablets and kiosks [Staff may] also show users how to access the training materials. . . . [I]nstructions are posted in each housing unit. Employees and incarcerated workers are trained to assist any [inmate] with using the accessible settings on the tablets. These settings are . . . available to every user.

Are the tablets and [phones] accessible for people with disabilities?

The ADA [inmates] and workers [and] CDCR employees are trained to assist any [inmate] with using the accessible settings on the tablets. These settings are . . . available to every user. . . . Video Relay Solution (VRS) and [] phones with captioning technology (TTY) are available free

Are the Tablets Secure?

Each tablet is encrypted and all contents are monitored by institutional staff, who can immediately investigate any improper usage. The tablets . . . do not have internet access. Users may only access approved programs and content using tablets and kiosks in their housing units. CDCR can monitor, record, and store communications. E-messages are reviewed . . . for inappropriate content, and staff are alerted for further review before it is sent to the intended recipient. All photos and video messages are reviewed, which may result in a short delay. Authorized staff [can] turn off any of the services for any user or group of users at any time if there are safety or security concerns.

[Inmates] are not allowed to have obscene material and/or mail. . . . [See CCR] [Title 15, Art\[.\] 1 \[§\] 3006](#) [D]isturbing or offensive pictures or video messages submitted . . . by [anyone] . . . will be disapproved, and the sender . . . notified. If that person tries to send another [such] video, they will be banned from sending messages to any incarcerated person's tablet.

(b) A facility shall . . . :

(1) (A) During the initial booking, intake, and classification process, facility staff shall ask each individual . . . whether [they] practice[] a sincerely held religious belief that requires accommodation [about] grooming, . . . clothing, or . . . headwear.

(B) The facility shall allow the individual . . . to purchase facility-issued, for local facilities, or department-approved, religious clothing and headwear or provide access, as defined If unavailable, the facility shall allow the individual to retain their religious clothing and headwear . . . until facility-issued, . . . or department-approved, religious clothing and headwear can be accessed or purchased. If purchased . . . the price . . . shall not exceed the[item's] purchase price and normal taxes

(C) The facility shall not require an individual's hair or beard be trimmed or cut during the booking, intake, or classification . . . and shall allow the individual . . . to maintain their hair and beard length according to their sincerely held religious beliefs.

(2) Unless exigent circumstances exist, when an individual in custody wearing religious clothing or headwear is searched, . . . :

(A) Staff shall offer . . . the opportunity to have this [done] by members of the same gender[;] out of view of members of a differing gender.

(B) Following the search, staff shall return . . . any religious clothing or headwear purchased, accessed, or retained . . . , unless there is reason to confiscate [them] due to a [documented] security risk

(c) [D]efinitions . . . : (1) "Access" (2) "Individual in custody" (3) "Local detention facility"

(4) "Religious grooming" [is] construed broadly to include all forms of head, facial, and body hair [as] part of an individual religious observance.

(5) "Religious clothing and headwear" includes a hijab, kufi, scarf, yarmulke, patka, turban, bandana, and modesty belief with regard to fully covering the arms and legs.

(d) This [all] applies without regard to whether the facility is operated [by] a private contractor and without regard to whether the individual . . . has been charged with or convicted of a crime.

(e) [CDCR] may promulgate [implementing] regulations

(f) An incarcerated person who believes their request for a religious accommodation . . . has been denied [can] pursue relief [by 42 U.S.C. §§ 2000cc et seq.,] the Religious Land Use and Institutionalized Persons Act.

From added PC 4027.5 (paragraph breaks and editorial features added)

(a) On or before Jan[.] 1, 2025, [each county] sheriff . . . or the administrator of each local detention facility shall develop and implement a religious grooming, clothing, and headwear policy The policy shall meet the . . . requirements of [PC] 2607 and [accord] with accepted best practices.

(b) “[L]ocal detention facility” means any city, county, or regional facility used for the confinement of prisoners for more than 24 hours. . . .

(c) This section applies without regard to whether the facility is operated [by] a private contractor and without regard to whether the inmate has been charged with or convicted of a crime.



CDCR Must Collect and Publish Voluntary Data on some 36 Races and Ethnicities

[AB 943 \(Stats 2023, Ch 459\)](#)

Adds PC 2068

From Uncodified Section 1.

The Legislature finds and declares . . . :

(a) While [CDCR] currently publishes monthly data of its population . . . many ethnicity types, including Asians, Pacific Islanders, and Indigenous people are categorized as “other”. . . . (b). . . .

(c) . . . [B]ecause it is unknown . . . how many Asians, Pacific Islanders, and Indigenous people are currently in [CDCR], their experiences and urgency of needs are left out in rehabilitative and other] programs.

(d) From 2019 to 2021, inclusive, Asian Prisoner Support Committee, a California organization that provides direct support to Asian and Pacific Islander prisoners conducted a statewide survey in our prisons

(e) The survey shows that a majority of more than 500 respondents indicated war as being the main cause for displacement from their country of origin. When people resettle in the United States, they often experience economic hardship and violence. Many of these respondents react to these forms of trauma by joining a gang to find community.

(f) Southeast Asian adults have the highest rate of post-traumatic stress disorder compared with the general population due to war trauma, poverty, and other challenges after they or their families fled . . . wars

(g) (h) [T]o better serve Asians, Pacific Islanders, and Indigenous people, clos[e] service gaps[,] and ensure incarcerated and formerly incarcerated people [get] culturally competent and sensitive in-prison and reentry programs, collect[ing] the number of Indigenous people, and additional Asian, Native Hawaiian, and Pacific Islander . . . groups is critical [for] understanding of the needs and experiences of [them].

From added PC 2068: [editorial features added]

(a) [CDCR] shall collect voluntary self-identification information pertaining to race or ethnic origin of people admitted, in custody, and released and paroled, [including but not] limited to, American Indian/Alaskan Native, Bangladeshi, Black, Cambodian, Chinese, Colombian, Cuban, Fijian, Filipino, Guamanian or Chamorro, Guatemalan, Native Hawaiian, Other Hispanic Not Listed, Hmong, Indian, Indonesian, Jamaican, Japanese, Korean, Laotian, Malaysian, Mexican, Nicaraguan, Other, Other Asian Not

Listed, Other Pacific Islander Not Listed, Pakistani, Puerto Rican, Salvadorian, Samoan, Sri Lankan, Taiwanese, Thai, Tongan, Unknown, Vietnamese, and White.

Based on that voluntary self-identification information, [CDCR] shall prepare and publish monthly demographic data pertaining to the race or ethnic origin of people admitted, in custody, and released and paroled, . . .

(b) Starting Jan[.] 1, 2025, the data, except for personally identifying information . . . shall be publicly available on the department’s internet website via the [Offender Data Points dashboard](#). (c) . . .



VEHICLES

Failure to Attend Traffic Violator School No Longer a Misd., but Conviction No Longer Confidential and Applicable Points Assessed.

AB 466 (Stats 2023, Ch 85) Amends VC 400000.25 and 42005

From the Legislative Counsel’s Digest

This bill . . . remove[s] provisions making the failure to attend traffic violator school a misdemeanor and would clarify that the failure to attend traffic violator school is not punishable as a new offense. The bill would further clarify that the underlying conviction of a person who fails to attend traffic school shall not be confidential and the person shall have traffic violation points assessed as applicable.



Stopping, standing, parking too close to crosswalks

[AB 413 \(Stats 2023, Ch. 652\)](#)

Amends VC 22500

From the Legislative Counsel’s Digest (editorial features added)

This bill prohibit[s] the stopping, standing, or parking of a vehicle within 20 feet of the vehicle approach side of any unmarked or marked crosswalk or 15 feet of any crosswalk where a curb extension is present, as specified.

The bill . . . , prior to Jan[.] 1, 2025, authorize[s] jurisdictions to only issue a warning for a violation, and . . . prohibit[s] them from issuing a citation for a violation, unless [that] occurs in an area marked using paint or a sign.

From VC 22500 as amended.

A person shall not stop, park, or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic control device, in any of the following places:

[(a) to (m)]

(n)(1)(A) Within 20 feet of the vehicle approach side of any marked or unmarked crosswalk or within 15 feet of any crosswalk where a curb extension is present.

(B) [A] local authority may establish a different distance if both of the following requirements are met:

(i) [The] authority establishes the different distance by ordinance [including] a finding that [this] is justified by established traffic safety standards.

(ii) [The] authority has marked the . . . distance . . . using paint or a sign.

(2) [A] local authority may permit commercial vehicle loading or unloading within 20 feet of the vehicle approach side of any . . . crosswalk or . . . 15 feet of any crosswalk [with] a curb extension . . . if . . . :

(A) [This is done] . . . by [an] ordinance [that] identifies the crosswalk[s].

(B) [The] areas [are marked] with paint or signage.

(3) [A] local authority may permit parking for bicycles or motorized scooters within 20 feet of a crosswalk.

(4) Prior to Jan[.] 1, 2025, jurisdictions may only issue a warning . . . unless the violation occurs in an area marked using paint or a sign.



Cruising can no longer be regulated by local authorities; lowrider prohibition repealed.

[AB 436 §§ 1 & 2 \(Stats 2023, Ch. 803\)](#) Amends VC 21100, repeals VC 24008

The repealed texts defined “cruising” and, in essence, “lowrider”

From VC 21100 as amended:

Local authorities may adopt rules and regulations by ordinance or resolution regarding . . . :

[(a) to (j)]

~~**(k)(1) Regulating cruising-**~~

~~**(2) . . . [C]ruising . . . is the repetitive driving of a . . . vehicle past a traffic control point in [congested] traffic . . . at or near the . . . control point, as determined by the ranking peace officer . . . within the affected area, [and] time . . . after the vehicle operator has been given . . . written notice that further driving past the control point will be a violation**~~

. . . . VC 24008 is repealed:

~~**It is unlawful to operate any . . . vehicle . . . modified . . . so that any portion . . . , other than the wheels, has less clearance from the surface of a level roadway than the clearance between the roadway and the lowermost portion of any rim of any wheel**~~

[In common parlance, a vehicle described above is called a “lowrider.”]

The language in VC 4000, the basic registration statute, is typical for all three statutes:

~~(4). . . . (A) (i) A violation of this subdivision shall not be the sole basis for any enforcement action before the second month following after the month of expiration of the vehicle’s registration. . . .~~

(ii) Notwithstanding clause (i), if a vehicle is stopped for any other violation of this code, enforcement action for a violation of this subdivision may be taken before the second month following the month of expiration.

(B) This paragraph [is] operative from July 1, 2024, to Jan[.] 1, 2030

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VICTIMS

Victim’s Rights and Resource Center

[SB 86 \(Stats 2023, Ch. 105\)](#)

Amends PC 13897.1 and 13897.2

From the Legislative Counsel’s Digest

[Already established is] a resource center that operates a statewide, toll-free information service, consisting of legal and other information, for crime victims and providers of services to crime victims. . . .

This bill . . . require[s] the . . . center to additionally provide the information through an internet website and to the families of crime victims. . . . [T]he . . . website [must] include a summary of victims’ rights and resources

From the Assembly Comm. on Appropriations rpt. for June 28, 2023:

. . . While California has some of the broadest crime victims’ rights in the [U.S.], without guidance, many [Vs] struggle to understand these rights

and the complicated legal process which they often face alone. This bill . . . ensures that info[.] is easier to access, providing clarity and relief to [Vs].

. . . Existing law requires CalOES [Calif. Office of Emergency Services] to give grant[s] to a nonprofit, statewide resource center that provides information and resources to victims . . . [including] info[.] about relevant laws, [V's] rights, and local resources . . . CalOES funds CVRC, [Calif. Victims Resource Center] which operat[es] out of McGeorge School of Law . . . a confidential, toll-free hotline . . . , through which law students, under attorney supervision, provide info[.] and referrals . . . for [Vs] . . . and other[s]. This bill requires the . . . center to operate a website that provides specified information about state and county victim resources, the . . . criminal justice process, how to obtain restitution from the . . . Victim Compensation Board, and legal protections for victims and their families. CVRC currently operates a website that appears to satisfy this bill's requirements. . . .

[See <https://1800victims.org> ; see also <https://1800victims.org/about> . GB]



Human Trafficking, Victim's Rights

SB 376 (Stats 2023, Ch. 109)

Adds PC 236.21

Section 236.21 is added to the Penal Code, to read: . . .

(a)(1) A [V] of human trafficking or abuse, as defined in [PC] 236.1 . . . or [EC] 1038.2 . . . , has the right to have a human trafficking advocate and a support person of [V's] choosing present at an interview by a law enforcement authority, [P], or the suspect's defense attorney. The . . . officer or [P] may exclude the support person from the interview if [they] . . . believe[] . . . the support person's presence would be detrimental

(2) Prior to being present at [such] an interview . . . , a human trafficking advocate shall advise [V] of applicable limitations on the confidentiality of communications between [V] and the . . . advocate.

(3) . . . *[T]he following definitions apply:*

(A) *“Human trafficking advocate” means a person employed by an organization specified in [EC] 1038.2*

(B) *“Support person” means a family member or friend of the survivor and does not include the human trafficking advocate.*

(b) (1) *Prior to the . . . initial interview by a law enforcement authority or [P] pertaining to a criminal action arising out of a human trafficking incident, a [V] of human trafficking or abuse, as defined in [PC] 236.1 . . . or [EC] 1038.2 . . . shall be notified orally or in writing by the . . . law enforcement authority or [P] that [V] has the right to have a human trafficking advocate and a support person of [V’s] choosing present*

(2) *[When V] is advised of their rights . . . , the . . . law enforcement authority or [P] shall also advise [V] of the right to have a human trafficking advocate and a support person present at an interview by the suspect’s defense attorney or [that attorney’s] investigators or agents (3)*

(c) *An initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects does not constitute a law enforcement interview for . . . this section.*

[Notes by GB: 1. “victim of abuse” is not defined by PC 236.1 or EC 1038.2, but PC 236.1 mentions “abuse . . . of the legal process. . . .” 2. New PC 236.21 does not require Def’s Atty to tell V of the right to have an advocate or supporter present at an interview; but P is likely to ask V if Atty did give that advice. Def might counter by asking or pointing out that PC 236.1, subd. (b)(2) requires law enforcement or P to give that advice.]

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Victim’s compensation for emotional injuries expanded

[AB 56 \(Stats 2023, Ch. 512\)](#)

Amends GC 13955

From the Legislative Counsel’s Digest

[The] law generally provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation Board from the Restitution Fund . . . for specified losses suffered as a result of those crimes, including emotional injuries where the crime was a violation of specified provisions.

This bill . . . expand[s] eligibility for compensation to include emotional injuries from felony violations of, among other things, attempted murder, rape and sexual assault, mayhem, and stalking.

From GC 13955 as amended:

. . . [A] person shall be eligible for compensation when all of the following requirements are met:

(a) The person for whom compensation is being sought is any of[:]

- (1) A victim.
- (2) A derivative victim.

[(b) to (e) state additional requirements]

(f) As a direct result of the crime, the victim or derivative victim sustained one or more of the following:

(1) Physical injury (2) Emotional injury and a threat of physical injury.

(3) Emotional injury, where the crime was . . . any of[:]

(A) [listing various, mostly sexual, offenses]

(B) Felony violations of [PC 187, subd. (a)], [PC] 203, 206, 207, 209, 209.5, 210, 220, 264.1, 269, 288.7, or 646.9 . . . or any crime punishable [by PC] 667.61 or 667.71 of, or attempted violations of [PC] 187. . . .



Notification to V of community-based restorative justice programs

[AB 60 \(Stats 2023, Ch. 513\)](#)

Amends PC 679.02 & 679.027, & WI 742.

Operative July 1, 2024, if funded.

From uncodified section 1, stating findings and declarations:

(a) Restorative justice is . . . rooted in and developed from indigenous practices. . . . [This] is a community-based, nonpunitive set of processes that center the needs of people . . . harmed. [It] encourages accountability, healing, and repair [This] can include facilitated meetings between [V], the person who harmed them, family . . . , and [community] members [on the] causes and impact of the harm.

(b) Restorative justice processes often result in deep understanding of the harm caused, meaningful expressions of accountability, and agreements to take specific actions to repair harm, including personal or community service, engagement in [jobs] or counseling, and . . . restitution. [They] . . . provide an opportunity for [V] or survivors to ask questions, share about the impact of harm, and . . . dialogue in ways . . . not possible within the traditional criminal legal system.

(c) [One study] found that restorative justice processes result in higher rates of satisfaction for people who have been harmed than current criminal legal systems. [Another study of youth] . . . showed that restorative justice processes also reduce future acts of harm and violence and have been used with documented success in counties throughout the state.

(d) Restorative justice offers the opportunity to better meet the needs that aris[ing] [from] harm . . . than the traditional criminal legal system. . . .

From amended PC 679.02

(a) The following rights are . . . statutory rights of [Vs] and [Ws]: ¶...¶

(15)For [V], to be notified of the availability of community-based restorative justice programs and processes available to them, including, but not limited to, programs serving their community, county, county jails, juvenile detention facilities, and [CDCR]. [V] has a right to be notified as early and often as possible, . . . throughout the . . . case, and in postconviction proceedings.

(b) The rights set forth in subdivision (a) shall be set forth in the information and educational materials prepared pursuant to [PC] 13897.1. [These] shall be distributed to local law enforcement agencies and . . . by the Victims' Legal Resource Center established [by PC 13897 et seq.].

(c) Local law enforcement agencies shall make available copies of the materials described in subdivision (b) to [Vs and Ws].

From amended PC 679.027

(a) Every law enforcement agency . . . and every [P] . . . at the time[s] [specified], inform each [V], . . . [or] next of kin . . . of the rights they may have under applicable law . . . including rights . . . to housing, employment, compensation, and immigration relief.

(b)(1) Every law enforcement agency . . . and every [P] . . . shall . . . provide . . . to each [V] . . . a "Victim Protections and Resources" card . . .

(2) The Victim Protections and Resources card may be designed as part of and included with the "Marsy Rights" [sic] card described by [PC] 679.026.

(3) By June 1, 2025, the Attorney General shall design and make available in PDF or other imaging format to every agency listed [above] a "Victim Protections and Resources" card, [with] info[.] in lay terms about [V's] rights and resources, including, but not limited to,

¶...¶ *(J) The availability of community-based restorative justice programs and processes available to them, including programs serving their community, county, county jails, juvenile detention facilities, and [CDCR].*

(c) This section shall become operative on July 1, 2024, only if General Fund moneys over the multiyear forecasts beginning in the 2024–25 fiscal year are available to support ongoing augmentations and actions, and if an appropriation is made to backfill the Restitution Fund to support [this].

From WI 742 as amended:

(c) [V] shall be notified of . . . community-based restorative justice programs and processes . . . , including, but not limited to, programs [in] their community, county, county jails, juvenile . . . facilities, and [CDCR]. . . .

(2) Biased conduct may result from implicit and explicit biases.

(3) Conduct is biased if a reasonable person with the same training and experience would conclude . . . that the officer’s conduct resulted from bias towards that person’s membership in a protected class

(4) An officer need not admit biased or prejudiced intent for conduct to be determined to be biased conduct.

(b) When investigating any bias-related complaint or incident . . . , a law enforcement agency shall determine whether the conduct . . . constitutes “biased conduct,” using the definition developed by [POST]

(c) [POST] shall develop guidance for local law enforcement . . . on performing effective internet and social media screenings of officer applicants. [This] shall include, at minimum, strategies for identifying applicant social media profiles and for searching for, and identifying, content indicative of potential biases, such as affiliation with hate groups.

(d) In the investigation of any complaint involving any law enforcement activity [as described], the investigating law enforcement agency shall determine if racial profiling, as defined . . . , occurred. . . .



BRIEFLY NOTED

Gun violence restraining orders. [AB 301 \(Stats 2023, Ch. 234\)](#). Amends PC 18155: in deciding to issue a GVRO, courts can consider having body armor.



Probation: environmental crimes. [AB 508 \(Stats. 2023, Ch. 264\)](#). Adds PC 1204.1. Certain entities with more than 10 employees can get 5 years’ probation for a variety of specified environmental crimes

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Cannabis Growing Causing Harm to Surface or Groundwater. [SB 753 \(Stats 2023 Ch. 504\)](#). Illegally planting, etc., cannabis is a felony if done intentionally or with gross negligence and causes substantial environmental harm.

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ANSWER TO THE TRIVIA QUESTION

“Chief Justice Rose Elizabeth Bird Justice for All Plaza.”

[Senate Concurrent Resolution \[SCR\] 47 \(Stats 2023 Ch. 141\)](#)

The Legislative Counsel’s Digest

This measure . . . designate[s] the plaza at the center of the California State Capitol World Peace Rose Garden in . . . Sacramento as the Chief Justice Rose Elizabeth Bird Justice For All Plaza. The measure . . . also request[s] the [Dep’t] of General Services to determine the cost of erecting appropriate plaques and markers . . . and, upon receiving donations, to cover the cost

Statement of the Resolution’s author, Senator Steve Glazer

“Recognition in the State Capitol World Peace Rose Garden is a fitting way to acknowledge the late Chief Justice Rose Elizabeth Bird’s significant contributions to California,” Senator Glazer said. “I look forward to the day her historical marker is unveiled so that those who come to the Rose Garden can learn about her achievements in law and government.”

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