California Legislative Digest

2020 Laws

A PRODUCT OF THE:

CALIFORNIA PEACE OFFICERS' ASSOCIATION

CALIFORNIA HIGHWAY PATROL EUREKA

OFFICE OF THE ATTORNEY GENERAL liberty and justice under law CALIFORNIA DEPARTMENT OF JUSTICE

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AUTHOR SUBMITS BILL

A legislator sends the idea and the language of the bill to the Legislative Counsel where it is drafted into the actual bill. The drafted bill is returned to the legislator for introduction. This is called putting the bill "across the Desk."

FIRST READING

A bill's first reading is when the Senate or Assembly Clerk reads the bill number (i.e. Assembly Bill (AB) or Senate Bill (SB) 432), the name of the author, and the descriptive title of the bill. The bill is then sent electronically to the Office of State Publishing. **A bill must be in print for 30 days before it can be acted on.**

The bill then goes to the Senate or Assembly Rules Committee where it is assigned to the appropriate policy committee for its first hearing.

COMMITTEE HEARINGS

Bills are assigned according to subject area (i.e. Public Safety Committee, Transportation Committee, Judiciary Committee, etc.). During the hearing the author presents the bill, people testify in support or opposition of the bill, and the committee acts on the bill. The committee can: *pass the bill*, *pass the bill as amended*, or *defeat the bill*. It takes a majority vote of the membership of the committee to pass a bill.

Bills which require money must also be heard in fiscal committee, Senate or Assembly Appropriations.

SECOND AND THIRD READINGS

Bills passed by committees are recommendations to the house as a whole. When a Committee passes a measure, they are recommending that the body accept the proposal. Upon passage by the Committee, the measure is placed on the Second reading file and is given its Second Reading. It remains on Second Reading File for one legislative day and the moves to the Third Reading File.

When a bill is read the third time is explained by the author, discussed and debated by the Senate or Assembly members and voted on by a roll call vote. Bills which require money, or which take effect immediately, require a 2/3 vote in each house (27 votes in the Senate and 54 in the Assembly). All other bills require a simple majority of 21 Senate votes or 41 Assembly votes.

REPEAT PROCESS IN THE OTHER HOUSE

Once the bill has been approved by the house of origin, the entire procedure above is repeated in the other house.

GOVERNOR

The bill then goes to the Governor, where he/she can: sign it into law, allow it to become law without signature, or veto it. A governor's veto can be overridden by a 2/3 majority of both houses. Most bills go into effect January 1 of the next year.

Assembly Bill No. 127

AMENDED IN SENATE MAY 14, 2019

Introduced by Assembly Member Lackey
(Coauthor: Assembly Member Cooper)
(Coauthors: Senators Bates, Chang, and Wilk)

December 4, 2018

An act to ~~amend Section 23152 of~~ *add Section 23152.5* to the Vehicle Code, relating to driving under the influence, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 127, as amended, Lackey. Driving under the influence: research. Existing law prohibits a person who is under the influence of alcohol, drugs, or the combined influence of alcohol or drugs from driving a vehicle. A violation of this prohibition is a crime.

This bill would exempt from that prohibition a person who is under the influence of a drug or the combined influence of an alcoholic beverage and a drug for purposes of conducting research on impaired driving while driving a vehicle under the supervision of, and on the property of, the Department of the California Highway Patrol.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2⁄3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 23152 of the Vehicle Code is amended to read~~:

~~23152. (a) It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle~~.

~~(b) (1) It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle~~.

~~(2) For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.~~

~~(3) In a prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving~~.

~~(c) It is unlawful for a person who is addicted to the use of a drug to drive a vehicle. This subdivision does not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11876) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code~~.

~~(d) It is unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210. In a prosecution under this subdivision, it is rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving~~.

~~(e) Commencing July 1, 2018, it shall be unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a motor vehicle when a passenger for hire is a passenger in the vehicle at the time of the offense. For purposes of this subdivision, "passenger for hire" means a passenger for whom consideration is contributed or expected as a condition of carriage in the vehicle, whether directly or indirectly flowing to the owner, operator, agent, or any other person having an interest in the vehicle. In a prosecution~~

~~under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.~~

~~(f) It is unlawful for a person who is under the influence of a drug to drive a vehicle.~~

~~(g) It is unlawful for a person who is under the combined influence of an alcoholic beverage and drug to drive a vehicle.~~

~~(h) This section does not apply to a person who is under the influence of a drug or the combined influence of an alcoholic beverage and drug for purposes of conducting research on impaired driving who is driving a vehicle under the supervision of, and on the property of, the Department of the California Highway Patrol.~~

SECTION 1. Section 23152.5 is added to the Vehicle Code, to read:

23152.5. Notwithstanding Section 23152, a person who is under the influence of a drug or the combined influence of an alcoholic beverage and drug who is under the supervision of, and on the property of, the Department of the California Highway Patrol may drive a vehicle for purposes of conducting research on impaired driving.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to promote public safety by facilitating research conducted by the Department of the California Highway Patrol regarding impaired driving as soon as possible, it is necessary that this act take effect immediately.

SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 127 **Hearing Date:** June 4, 2019
Author: Lackey
Version: May 14, 2019
Urgency: Yes **Fiscal:** No
Consultant: MK

Subject: ***Driving Under the Influence: Research***

HISTORY

Source: Author

Prior Legislation: None

Support: Alcohol Justice; California District Attorneys Association; California Narcotic Officers' Association; California State Sheriffs' Association; Los Angeles County Sheriff's Department;

Opposition: None known

Assembly Floor Vote: 74 – 0

PURPOSE

The purpose of this bill is to allow a person who is under the supervision and on the property of the California Highway Patrol, to drive a vehicle while under the influence of a drug, or while under the combined influence of a drug and alcohol, for the purpose of conducting research on impaired driving, and it contains an urgency clause.

Existing law makes it unlawful to drive a vehicle while under the influence of an alcoholic beverage. (Vehicle Code § 23152 (a).)

Existing law makes it unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle. (Vehicle Code § 23152 (b).)

Existing law makes it unlawful for a person who is under the influence of any drug to drive a vehicle. (Vehicle Code § 23152 (f).)

Existing law makes it unlawful for a person who is under the combined influence of any alcoholic beverage and drug to drive a vehicle. (Vehicle Code § 23152 (g).)

Existing law provides that a person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood or breath for the purpose of determining the alcoholic content of his or her

blood, if lawfully arrested for an offense allegedly committed in violation driving under the influence of drugs or alcohol. If a blood or breath test, or both, are unavailable, then the person shall give urine. (Vehicle Code § 23612 (a)(1)(A).)

Existing law provides that a person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood for the purpose of determining the drug content of his or her blood, if lawfully arrested driving under the influence of drugs or drugs and alcohol. If a blood test is unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test. (Vehicle Code § 23612 (a)(1)(B).)

Existing law states that the testing shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of specified driving under the influence offenses. (Vehicle Code § 23612 (a)(1)(C).)

This bill allows a person who is under the supervision and on the property of the California Highway Patrol, to drive a vehicle while under the influence of a drug, or while under the combined influence of a drug and alcohol, for the purpose of conducting research on impaired driving, and it contains an urgency clause.

COMMENTS

1. Need for This Bill

According to the author:

> In 2016, voters approved the California Marijuana Legalization Initiative (Proposition 64) which authorized the Department of California Highway Patrol (CHP) three million dollars annually for five years to develop internal protocols for detection, testing, and enforcing laws against driving under the influence. However, in existing law, there is no statutory exemption which permits anyone to be both lawfully under the influence of a drug and to drive a vehicle (VEH 23152). This impacts the Department's ability to adequately test and observe the effects cannabis has on driving related abilities. Ultimately, this hinders the Department from completing its obligation to the California voters. This bill will make a technical, statutory fix to permit CHP to develop protocols as approved by voters in Proposition 64.

2. Proposition 64

In 2016, Californians voted to approve Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA). Prop 64 legalized the recreational use of marijuana by adults age 21 and over, imposed taxes on the retail sale and cultivation of marijuana, and took a number of other steps to establish a regulatory and administrative scheme for the product.

Prop 64 also established the California Marijuana Tax Fund, which is a continuously appropriated fund consisting of specified taxes, interest, penalties, and other amounts imposed by AUMA. AUMA requires, after other specified disbursements are made from the fund, the Controller to disburse the sum of $3,000,000 annually to the Department of the California Highway Patrol beginning fiscal year 2018–2019 until fiscal year 2022–2023, and requires the department to use those funds to, among other things, establish and adopt protocols to determine whether a driver is operating a vehicle while impaired and setting forth best practices to assist law enforcement agencies.

3. Research on Marijuana Impaired Driving

The Center for Medicinal Cannabis Research (CMCR) was established by SB 847 (Vasconcellaos), Chapter 750, Statutes of 1999. CMCR has worked closely with California State legislators, regulatory agencies, and law enforcement regarding the development and implementation of research and policy pertaining to the use and impact of cannabis and cannabinoid products. Since the passage of California Proposition 64, CMCR leadership has met with representatives from the Bureau of Cannabis Control, the Medical Board of California, the California Highway Patrol, and the California Office on Traffic Safety, among others.

Although California is one of just ten states that has legalized the recreational use of marijuana, every state in the country criminalizes the act of driving under the influence. Unlike alcohol, however, there is no per se level at which a person is presumed to be under the influence as a result of marijuana use. Alcohol is straightforward: a higher concentration in the bloodstream means more impairment and a higher likelihood of accidents. Marijuana is more complex. The psychoactive ingredient in marijuana is tetrahydrocannabinol (THC). Although there are tests that can determine the concentration level of THC in a driver's blood, saliva, urine, and hair, the level of intoxication associated with a given THC blood concentration depends on how marijuana was ingested, whether someone is a regular user, the level of THC in the dose, and whether they've ingested other drugs or alcohol. (Berger, *Why It's Difficult to Develop a Test for Roadside Marijuana*. Healthline (January 25, 2018), available at: https://www.healthline.com/health-news/difficult-to-develop-roadside-test-for-marijuana#1, [as of February 12, 2019].)

The National Institutes of Health (NIH) notes that "Marijuana significantly impairs judgment, motor coordination, and reaction time, and studies have found a direct relationship between blood THC concentration and impaired driving ability." (https://www.drugabuse.gov/publications/research-reports/marijuana/does-marijuana-use-affect-driving, [as of Feb. 11, 2019].)

The NIH also points out a study by the United States Department of Transportation's NationalHighways Traffic Safety Association (NHTSA). (https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/812117-drug_and_alcohol_crash_risk.pdf, [as of Feb. 11, 2019].) The NHTSA study initially found that drivers with higher levels of THC in their system correlated with a higher risk of being involved in a crash. Ultimately, however, the NHTSA concluded that once the analyses were adjusted for variables such as age, gender, ethnicity, and alcohol concentration level, there was not a significant increase in levels of crash risk associated with the presence of THC. (*Id.* at p. 8.) The study done by the NHTSA appears to be at odds with a number of other studies which did find a statistically significant increase in crash risk associated with higher THC concentrations. (*See E.g.* Hartman, *Cannabis Effects on Driving Skills*, Clinical Chemistry, Vol. 59, iss. 3, March 2013, available at: http://clinchem.aaccjnls.org/content/59/3/478.long, [as of February 13, 2019].) At this point, there is no scientific consensus on what amount or level of THC in breath, blood or saliva constitutes functional impairment for drivers.

4. CHP research

This bill will allow CHP to conduct research on drunk or drugged driving by allowing a person to driver vehicle under the influence when under the supervision of and on the property of CHP for research purposes.

STATUTE

BOATING & WATERWAYS

SB 393 (Stone)- Vessels: impoundment

Harbors and Navigations Code Section 668.5 (Add)

SUMMARY:

Provides for the impounding of a vessel if a person is boating under the influence (BUI) and the conduct resulted in the unlawful killing of a person.

HIGHLIGHTS:

- *668.5. (a)* The interest of any registered owner of a vessel that has been used in the commission of a violation of subdivision (b) of Section 655 for which the owner was convicted and the conduct resulted in the unlawful killing of a person is subject to impoundment as provided in this section. Upon conviction, the court may order the vessel impounded at the registered owner's expense for a period of not less than one nor more than 30 days.
- *(b)* For purposes of this section, the court may consider in the interest of justice factors such as whether the impoundment of the vessel would result in the loss of employment of the registered owner of the vessel who committed the violation, or a member of the registered owner's family, the loss of the vessel resulting from the inability to pay impoundment fees, unfair infringement upon community property rights, or other factors the court finds to be relevant.
- *(c)* For purposes of this section, "vessel" means every watercraft used or capable of being used as a means of transportation on the waters of the state, including all boats, motorboats, personal watercraft, recreational vessels, and unregistered vehicles, except for foreign and domestic vessels engaged in interstate or foreign commerce upon the waters of the state.
- *(d)* A marina owner in possession of an impounded vessel pursuant to this section is not liable for damage to the vessel while the vessel is being impounded by the court, except for damage caused by the marina owner's acts or omissions constituting gross negligence or willful or wanton misconduct.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

CIVIL PROCEDURE/COURT ORDERS

AB 304 (Jones-Sawyer)- Wiretapping: authorization

Penal Code Section 629.98 (Amend)

SUMMARY:

Extends the sunset date until January 1, 2025, on provisions of California law which authorize the Attorney General, chief deputy attorney general, chief assistant attorney general, district attorney or the district attorney's designee to apply to the presiding judge of the superior court for an order authorizing the interception of wire or electronic communications under specified circumstances.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 397 (Chau)- Vehicles: driving under the influence

Vehicle Code Sections 23222 (Amend) and 23155 (Add)

SUMMARY:

Would, commencing January 1, 2022, require the disposition report made by the superior court for a conviction for driving under the influence of cannabis to state that the conviction was due to cannabis.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 800 (Chu)- Civil actions: confidentiality

Code of Civil Procedure Section 367.3 (Add)

SUMMARY:

Provides participants in the Safe at Home Program, which permits victims of domestic violence, stalking, sexual assault, or human trafficking to utilize confidential mailing addresses, the ability proceed in legal actions using a pseudonym.

HIGHLIGHTS:

- Provides that a person who is a participant in the Safe at Home Program and who is a party to a civil proceeding may proceed using a pseudonym for the true name of the party and may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the party.
- Provides that in a case in which a party is proceeding utilizing a pseudonym, in accordance with this bill, all parties are subject to sanction if they fail to comply with the following:
    - All parties and their agents and attorneys shall use the pseudonym in all pleadings, discovery documents, and other documents filed or served in the action, and at hearings, trial, and other court proceedings that are open to the public.
    - Additionally, all parties must exclude or redact any identifying characteristics of the plaintiff;
- Provides that following the final disposition of the proceedings a party in possession of any pleading, discovery document, or other document containing confidential information of the protected person obtained in the course of the action shall treat the documents as a nonpublic consumer record.
- Provides the court, on its own motion or on motion of the plaintiff, may order a record to be filed under seal in accordance with Rule 2.551 of the California Rules of Court, as that rule may be amended.
- Applies to all parties, not simply plaintiffs, clarifies the confidentiality of certain public records, and permits an additional six months for the adoption of the rules necessary to implement the bill.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1396 (Obernolte)- Protective orders: elder and dependent adults

Welfare & Institutions Code Section 15657.03 (Amend)

SUMMARY:

Allows a court that is issuing a protective order after a noticed hearing in response to elder abuse to also issue an order requiring the restrained party to attend mandatory clinical counseling or anger management courses provided by a mental or behavioral health professional licensed in the state to provide those services.

HIGHLIGHTS:

- Requires the Judicial Council to revise or promulgate forms as necessary to effectuate the provisions in 1), above, by January 1, 2021.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1510 (Reyes)- Sexual assault and other sexual misconduct: statutes of limitations on civil actions

Code of Civil Procedure Section 340.16 (Amend)

SUMMARY:

Creates a one-year window in which certain victims of sexual assault may revive claims for damages that are otherwise time-barred by a statute of limitations.

HIGHLIGHTS:

- Revives any claim for damages of more than $250,000 arising out of a sexual assault or other inappropriate sexual activity committed by a physician at a student health center between January 1, 1988, and January 1, 2017, even though the claim would otherwise be barred prior to January 1, 2020, solely because the applicable statute of limitations has or had expired. Specifies that this revived cause of action may proceed if already pending in court on the date when the bill takes effect or, if not filed by that date, may be commenced between January 1, 2020 and December 31, 2020.
- Specifies that the provisions above do not revive any of the following claims:
  - A claim litigated to finality in a court of competent jurisdiction before January 1, 2020.
  - A claim that has been compromised by a written settlement agreement entered into before January 1, 2020, between the plaintiff and the defendant.
  - A claim brought against a public entity.
- Clarifies that in order to bring a civil action for recovery of damages suffered as a result of sexual assault, as described in Code of Civil Procedure Section 340.16, it is not necessary that sexual assault resulted in a criminal proceeding, prosecution, or conviction.
- Requires an attorney representing a claimant seeking to revive a claim pursuant to the bill to file a declaration with the court under penalty of perjury stating that the attorney has reviewed the facts of the case and consulted with a mental health practitioner, and that the attorney has concluded on the basis of this review and consultation that it is the attorney's good faith belief that the claim value is more than two hundred fifty thousand dollars ($250,000).

- Requires the above declaration to be filed upon filing the complaint, or for those claims already pending, within 60 days of the effective date of the bill.
- Limit the claims that can be revived pursuant to the bill to those in which the damages are alleged to exceed $250,000.
- Require an attorney, in order to revive a claim pursuant to the provisions of the bill, to file a declaration with the court under penalty of perjury stating that the attorney has reviewed the facts of the case and consulted with a mental health practitioner, and that the attorney has concluded on the basis of this review and consultation that it is the attorney's good faith belief that the claim value is more than two hundred fifty thousand dollars ($250,000).
- Require the above declaration to be filed upon filing the complaint, or for those claims already pending, within 60 days of the effective date of the bill.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1638 (Obernolte)- Search warrants: vehicle recording devices

Penal Code Section 1524 (Amend)

SUMMARY:

Gives law enforcement statutory authority to obtain a search warrant in order to access event data recorders (EDR) data in limited cases when an accident results in death or serious bodily injury.

HIGHLIGHTS:

- Would authorize a search warrant to be issued on the grounds that the property or things to be seized are data, from a recording device, as defined, installed by the manufacturer of a motor vehicle, that constitutes evidence that tends to show the commission of a public offense felony or misdemeanor offense involving a motor vehicle, resulting in death or serious bodily injury, as defined, to any person.
- Data can include information regarding the vehicle's braking, steering, airbag deployment, seat belt use, seat belt pre-tensioners, speed, engine throttle, time between crash events, and other pertinent factors, which is crucial in aiding an officer during an accident investigation.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Current law does not allow law enforcement to obtain EDR data for any motor vehicle manufactured on or after July 1, 2004 without a court order or the consent of the vehicle owner. Unfortunately, in solo accidents the driver may be deceased or critically injured and, therefore, unable to give consent.

This bill will give law enforcement the statutory authority for a search warrant to in order to access the most crucial and scientifically reliable evidence regarding the cause of an accident.

However, vehicle accidents resulting in death or serious bodily injury do not always exhibit indications that the accident involved a public offense, so the law could have limited application.

NOTES:

AB 925 (Gloria)- Protective orders: confidential information regarding minors

Code of Civil Procedure Section 527.6 (Amend) and Family Code Section 6301.5 (Amend)

SUMMARY:

Allows a court to permit disclosure of confidential information about a minor in order to implement a civil domestic violence protective order or a civil harassment restraining order, or if disclosure would be in the minor's best interest.

HIGHLIGHTS:

- Makes clear that a minor who has alleged abuse or harassment cannot be sanctioned for disclosing the minor's own confidential information.
- Permits a court, whether to implement a domestic violence protective order or civil harassment restraining order, or if it is in the minor's best interest, to authorize disclosure of information regarding a minor that the court has otherwise deemed confidential.
- Permits a court, if it is in the minor's best interests, to authorize disclosure of any portion of the confidential information regarding a minor that the court has otherwise deemed confidential to any other person upon that person's petition. The court must afford the party who originally requested confidentiality an opportunity to contest this disclosure.
- Alters the penalty for a prohibited use of a minor's confidential information from an order of civil contempt to a permissive sanction, while preserving the previously specified fines of up to $1,000. Requires the court to assess whether the sanctioned party has, or is reasonably likely to have, the ability to pay the fine.
- Alters the type of prohibited use of a minor's confidential information that is subject to sanction from any disclosure or misuse of the information to disclosure of the information made without a court order.
- Permits either a minor's legal guardian, or a person to whom a minor's confidential information has been disclosed, to further disclose the minor's confidential information without a court order if necessary, to prevent abuse or harassment or if doing so is in the minor's best interest. However, they may disclose no more information than necessary and only if obtaining a court order would cause delay. Such a disclosure is only sanctionable if it is malicious or reckless.

- Exempts a minor who has alleged abuse or harassment from sanctions for disclosing the minor's otherwise-protected confidential information.
- Clarifies that information regarding a minor protected by a confidentiality order shall be included in the notice sent to the restrained party to the extent necessary for:

  (a) enforcement of the confidentiality order and

  (b) the restrained party to comply with and respond to the protective order
- Alters the requirements of that notice to specifically identify the information made confidential and to include a statement that disclosure is punishable by a monetary fine.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 36 (Hertzberg)- Pretrial release: risk assessment tools

Penal Code Chapter 1.7 (commencing with Section 1320.35) of Title 10 of Part 2 (Add)

SUMMARY:

Requires each pretrial services agency that uses a pretrial risk assessment tool to validate the tool on a regular basis and requires the Judicial Council to publish a yearly report on its Web site with specified data related to outcomes and potential biases in pretrial release.

HIGHLIGHTS:

- Specifies that each pretrial services agency that uses a pretrial risk assessment tool shall validate the tool by January 1, 2021.
- Amends the frequency of the validation to occur no less than once every three years.
- Requires the Judicial Council to publish a yearly report on its website with specified data related to outcomes and potential biases in pretrial release.
- Requires pretrial services agencies, the Department of Justice, courts and local governments that elect to use risk assessment tools to work with the Judicial Council to provide the data necessary for the report required under the bill.
- Requires Judicial Council to provide a report to the courts and the Legislature containing recommendations to mitigate bias and disparate effect in pretrial decision making.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 233 (Wiener)- Immunity from arrest

Evidence Code Section 1162 (Amend), Section 782.1 (Repeal and Add) and Penal Code Section 647.3 (Add)

SUMMARY:

Evidence Code Section 782.1: Provides that possession of a condom is not admissible in the prosecution of a violation of specified crimes related to prostitution.

HIGHLIGHTS:

- *EC 1162:* Prohibits the use of evidence that a victim of, or a witness to, a serious felony, as specified, assault, extortion, human trafficking, or stalking, was engaged in an act of prostitution at or around the time they were the witness or victim to the crime in a separate prosecution for the crime of prostitution**.**
- *PC 647.3:* Prohibits the arrest of a person for misdemeanor drug or prostitution related offenses if the person is reporting a serious felony, as specified, assault as specified, domestic violence, as specified, extortion, as specified, human trafficking, as specified, sexual battery, as specified, or stalking, as specified, if the person was engaged in such an offense at or around the time that they were a victim of, or witness to the crime they are reporting.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Prohibits condoms from being used as evidence of prostitution [PC §647(b)], lewd acts in public [P.C. §647(a)], loitering with the intent to commit prostitution [P.C. §653.22], and committing a public nuisance [P.C. §372], regardless of the circumstances of a particular case. Condoms would also be prohibited from being the basis for probable cause to arrest for the same offenses.

NOTES:

SB 485 (Beall)- Driving privilege: suspension or delay

Business and Professions Code Sections 25658, 25658.4, 25658.5, 25661 and 25662 (Amend) and Penal Code Sections 529.5 and 647 (Amend) and Vehicle Code Sections 1808, 13202.5 and 23224 (Amend) and 13201.5, 13202, 13202.4 and 13202.6 (Repeal)

SUMMARY:

Removes the ability of the court to delay, suspend or revoke, or order DMV to delay, suspend, or revoke a person's driving privilege as a result of a conviction for various offenses.

HIGHLIGHTS:

- Repeals the license suspensions for the following offenses:
  - Vandalism
  - Controlled substance or alcohol use, possession or related conduct
  - Firearm use
- Provides that notwithstanding any other law, and to the extent permitted by federal law, and to the extent federal funding is not jeopardized, the court and DMV shall not suspend or delay a person's driving privilege based on that person's conviction of a criminal offense not involving a violation of this code, unless the offense involved the use, or attempted use, of a vehicle and the suspension and delay is otherwise authorized by law.
- Provides that it is not intended to affect any order or determination made by the court or the DMV before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person.
- Provides this bill is intended to remove the authority of the court and the DMV to suspend, delay, or otherwise restrict the driving privilege of the following persons pursuant to this bill:
  - Persons who are convicted, on or after January 1, 2020, of an offense described in this bill that would have been subject to the suspension, delay or restriction.
  - Persons who were convicted, before January 1, 2020, of an offense described in this bill that would have been subject to the suspension, delay or restriction, but whose driving privilege had not been suspended, delayed or otherwise restricted before January 1, 2020.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 495 (Durazo)- Child custody

Family Code Section 3011, 3020, and 3040 (Amend)

SUMMARY:

Prohibits a court from considering sex, gender identity, gender expression, or the sexual orientation of a parent, legal guardian, or relative in making a best interest determination for purposes of awarding child custody or visitation rights.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 651 (Glazer)- Discovery: postconviction

Penal Code Section 1054.9 (Amend)

SUMMARY:

Clarifies that the right to post conviction discovery applies to any case in which a person was convicted of a serious or violent felony resulting in a sentence of 15 years or more without regard to when that conviction occurred, and further clarifies that a provision of law requiring attorneys to keep their files for the term of the client's incarceration is meant to apply prospectively.

HIGHLIGHTS:

- Clarifies a provision of law in order to allow access to postconviction discovery materials for defendants who are serving time on a serious or violent felony conviction resulting in a sentence of 15 years or more without regard to when the conviction occurred.
- Provides that the requirement that in criminal matters involving a conviction for a serious or a violent felony resulting in a sentence of 15 years or more, trial counsel must retain a copy of a former client's files for the term of his or her that client's imprisonment, applies prospectively.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

COMMUNICATIONS

AB 911 (Rodriguez)- Office of Emergency Services: emergency information: study

Government Code Article 6.3 (commencing with Section 8592.20) of Chapter 7 of Division 1 of Title 2 (Add)

SUMMARY:

Requires OES to complete a study to determine the feasibility of developing a statewide system that would enable all Californians to voluntarily provide vital health and safety information, with an encrypted connection, to be made available to all first responders in an emergency if a "911" call is placed.

HIGHLIGHTS:

- Requires OES to submit a report of the results to the Legislature and the State 911 Advisory Board by January 1, 2021.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 956 (Diep)- Telecommunications: automatic dialing-announcing devices: emergency alert notifications

Public Utilities Code Section 2872 (Amend)

SUMMARY:

Authorizes public safety agencies to place calls through automatic dialing-announcing devices for the purposes of testing all modes of 911 emergency telephone systems.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Will cover newer technologies (some that cities and counties have now and/or will acquire in the future) and allow mass notifications on a variety of platforms by LE and other agencies.

NOTES:

AB 1079 (Santiago)- Telecommunications: privacy protections

Public Utilities Code Section 2891.1 (Amend)

SUMMARY:

Authorizes public safety agencies to test the systems that respond to 911 calls or communicate threats to life or property on unpublished or unlisted telephone numbers without first obtaining the subscriber's express consent.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

By allowing agencies to obtain the telephone numbers of California residents for the purposes of testing state and local emergency alert systems, AB 1079 better prepares the state for the next disaster.

NOTES:

AB 1168 (Mullin)- Emergency services: text to 911

Government Code Section 53112 (Amend)

SUMMARY:

Requires each public safety answering point (PSAP) to deploy a text to 911 service that enables an individual to text "911" for emergency services that is capable of accepting either Short Message Service (SMS) messages or Real-Time Text (RTT) messages, by January 1, 2021.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1699 (Levine)- Telecommunications: mobile internet service providers: first response agencies: emergencies

Public Utilities Code Section 2898 (Add)

SUMMARY:

Prohibits a mobile internet service provider from impairing or degrading the lawful internet traffic of first response agencies during an emergency.

HIGHLIGHTS:

- Authorizes a first response agency to submit a request to a mobile internet service provider to not impair or degrade the lawful internet traffic of an account used by the agency in response to an emergency.
- Specifies that as part of the request, the first response agency shall identify the account number and lines for the mobile internet service provider.
- Requires the first response agency that submits the specified request to notify the mobile internet service provider upon the account no longer being used by the agency in response to the emergency.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1747 (Gonzalez)- CLETS: immigration

Government Code Section 15160 (Amend)

SUMMARY:

Prohibits subscribers (i.e., law enforcement) from using information transmitted through the California Law Enforcement Telecommunications System (CLETS) for immigration enforcement purposes, except when the information sought pertains to an individual's criminal history (unless that history is solely a violation of entering the country illegally). The law also requires, beginning July 1, 2021, California law enforcement agencies to document the reason for the initiation of all non-criminal history inquiries made through CLETS.

HIGHLIGHTS:

- Reinforces the desire of the California Legislature that state and local law enforcement agency resources, including CLETS, not be used for purposes of immigration enforcement.
- No subscribers shall use the system for investigations of Section 1325 of Title 8 of the United States Code (Improper Entry by Alien) if a violation of that section is the only criminal history in an individual's record.
- Commencing on July 1, 2021, any inquiry for information other than criminal history submitted through the system shall include a reason for the inquiry.
- Commencing on July 1, 2021, the Attorney General may conduct investigations to monitor compliance with the section.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT:

Existing law, pursuant to the California Values Act, generally prohibits, with exceptions, California law enforcement from using resources for immigration enforcement purposes. This law imposes additional restrictions on information transmitted via CLETS, generally disallowing use of such information for immigration enforcement.

Law enforcement will also be required to document the reason for the initiation of all non-criminal history inquiries on CLETS. For example, non-criminal history inquiries are routinely made by officers during traffic stops and at the scene of traffic collisions.

These inquiries have a legitimate, non-immigration purpose in the form of verifying that a driver has a valid license. Under this law, officers will be required to document the reason for each and every one of those inquiries.

NOTES:

SB 438 (Hertzberg)- Emergency medical services: dispatch

Government Code Section 53110 (Amend) and Section 53100.5 (Add), Health and Safety Code Sections 17979.223 and 1798.8 (Add)

SUMMARY:

Prohibits a public agency from entering into a contract for 911 call processing services unless the contract is with another public agency, with specified exceptions, and defines medical control.

HIGHLIGHTS:

- Exempts from the prohibition above the following entities:
  - A joint powers authority (JPA) that contracted for dispatch of emergency response resources on or before January 1, 2019, may continue to contract for dispatch of those resources and renegotiate or adopt new contracts, if the membership of the JPA includes all public safety agencies (PSAs) that provide prehospital EMS and the JPA consents to the renegotiation or adoption of the contract; or,
  - A public agency that has contracted for 911 call processing services on or before January 1, 2019, may continue to do so with the concurrence of the PSAs providing prehospital EMS. If a PSA does not concur:
    i. The public agency may continue to contract for 911 call processing services for those agencies that do concur, while the non-concurring agency processes calls within its jurisdiction, and
    ii. If continuing the contract is not feasible, the withdrawing public safety agency shall assume "911" call processing services for the service area originally subject to delegation, assignment, or contract.
- Requires a PSA that provides 911 call processing services for EMS to make a connection available from the PSA dispatch center to an EMS provider's dispatch center for the timely transmission of emergency response information.
- Authorizes a PSA to recover the costs incurred in establishing and maintaining a connection required above, from an EMS provider.
- Requires an EMS provider that elects not to use the connection provided, to be dispatched by the appropriate PSA and charged a rate negotiated by the parties.

- Prohibits the response interval calculations for an EMS provider that it not directly dispatched from a PSA from including the call processing times of the PSA, and requires the response interval calculations to begin upon receipt of notification by the EMS provider of the emergency response caller data, either electronically, or by any other means prescribed in below.
- Defines "connection" for purposes above, to mean either a direct computer aided dispatch (CAD) to CAD link, where permissible under law, between the PSA and an EMS provider or an indirect connection, including, but not limited to, a ring down line, intercom, radio, or other electronic means for timely notification of caller data, and the location of the emergency response.
- Requires, unless an EMS agency has approved an emergency medical dispatch (EMD) program that allows for a tiered or modified response, the LEMSA-authorized EMS system providers, and the statutorily authorized EMS system providers within the jurisdiction of the incident, shall be simultaneously notified, or as close as technologically feasible, and dispatched at the same response mode. Requires a PSA implementing an EMD program to be subject to the review and approval of the LEMSA, and to perform 911 call processing services and operate the program in accordance with applicable state guidelines and regulations, as specified.
- Requires a LEMSA to approve or deny a PSA's plan to implement an EMD or advanced life support program within 90 days of submission. Allows a PSA to appeal a decision in court, as provided. Specifies that this provision does not authorize a PSA to alter the response of specified EMS transport providers.
- States that medical control by a LEMSA medical director, or medical direction and management of an EMS system, pursuant to the provisions of this bill, will not be construed to do any of the following:
    - Limit, supplant, prohibit, or otherwise alter a PSA's authority to directly receive and process requests for assistance originating within the PSA's territorial jurisdiction through the emergency "911" system;
    - Authorize or permit a LEMSA to delegate, assign, or enter into a contract in contravention
    - Authorize or permit a LEMSA to unilaterally reduce a PSA's response mode below that of the EMS transport provider, prevent a public safety response, or alter deployment of public safety emergency response resources within the PSA's territorial jurisdiction; or,

- Authorize or permit a LEMSA to prevent a PSA from providing mutual aid pursuant to the California Emergency Services Act.

- States that a PSA's adherence to the policies, procedures, and protocols adopted by a LEMSA does not constitute a transfer of any of the PSA's authorities regarding the administration of EMS.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 670 (McGuire)- Telecommunications: community isolation outage: notification

Government Code Section 53122 (Add)

SUMMARY:

Requires telecommunications service providers to submit a specified outage notification to CalOES when a telecommunications outage impacting 911 service and emergency notifications occurs.

HIGHLIGHTS:

- Makes OES responsible for notifying the appropriate county offices of emergency services, public safety answering points (PSAPs) and sheriffs for areas affected by an outage.
- Requires OES to adopt regulations by July 1, 2020, establishing thresholds for determining whether a telecommunications service outage constitutes a community isolation outage based on the risks to public health and safety resulting from the outage. OES may adopt these regulations as emergency regulations if necessary.
- Requires, upon adoption of OES's regulations, telecommunications service providers that provide 911 services to notify the OES when a community isolation outage impacting 911 calls or emergency notifications occurs. The telecommunications provider must send this notification to OES within 60 minutes of discovering the outage, and OES is responsible for notifying an applicable county office of emergency services, PSAP, and county sheriff.
- Specifies that the outage notification required by this bill must be submitted in a format specified by OES and must include the following information:
    a) The telecommunications provider's contact name
    b) The provider's calling number
    c) A description of the estimated area affected by the outage
    d) The approximate communities, including cities, counties, and regions affected by the outage
- Requires telecommunications services providers to provide OES with the following information in a format specified by OES:

a) The estimated time to repair the outage

b) A notification of service restoration when service has been restored.

- Requires telecommunications providers to ensure that the calling number provided to OES is staffed a contact person who shall be available to respond to inquiries until the provider notifies OES that service has been restored.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

CONTROLLED SUBSTANCES/NARCOTICS

AB 528 (Low)- Controlled substances: CURES database

Business and Professions Code Section 209 (Amend) and Health and Safety Code Sections 11164.1, 11165, 11165.1 and 11165.4 (Amend, Repeal and Add)

SUMMARY:

Makes various reporting and access changes to the CURES database.

HIGHLIGHTS:

- Changes the required timeline for dispensers to report prescription information to CURES from no later than seven days to within the following working day.
- Requires reports to CURES to be made within the necessary time frame following the date a prescription is released to the patient or patient's representative, rather than the date a prescription is dispensed.
- Authorizes physicians and surgeons who are licensed by the MBC but do not possess a federal DEA registration to register for access to CURES.
- Requires pharmacists to report Schedule V drugs to CURES.
- Expands the authority for a prescriber's licensed delegate to retrieve data from CURES on behalf of that prescriber.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1261 (Jones-Sawyer)- Controlled substances: narcotics registry

Health and Safety Code Sections 11591 and 11591.5 (Amend), Sections 11590, 11592, 11593 and 11595 (Repeal), and Section 11594 (Repeal and Add)

SUMMARY:

Eliminates all requirement that individuals convicted of specified drug offenses register with local law enforcement.

HIGHLIGHTS:

- Maintains law enforcement duties regarding the reporting of school employees who are arrested for specified controlled substances currently requiring registration upon conviction.
- Provides that all statements, photographs, and fingerprints obtained under previous provisions of law requiring registration for controlled substances offenses are not open to the public and are only subject to inspection by law enforcement officers.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

LE still able to notify school districts of arrests of enumerated offenses.

NOTES:

CORRECTIONS/PAROLE

AB 45 (Stone)- Inmates: medical care: fees

Penal Code Sections 5008.2 (Amend), Sections 4011.3 and 5007.9 (Add) and Sections 4011.2 and 5007.5 (Repeal and Add)

SUMMARY:

Prohibits CDCR and city and county jails from charging inmates a co-pay for medical visits and prohibits those entities from charging a fee for durable medical equipment or medical supplies provided to an inmate as medically necessary.

HIGHLIGHTS:

- Repeals authorization of CDCR to charge a $5 fee for an inmate-initiated medical visit, and instead prohibits CDCR from charging a fee for an inmate-initiated medical visit.
- Defines "durable medical equipment" as equipment that is prescribed by a licensed provider to meet the medical needs of an inmate and that meets all of the following criteria:
    - The equipment can withstand repeated use.
    - The equipment is used to serve a medical purpose.
    - The equipment is not normally useful to an individual in the absence of an illness, injury, functional impairment, or congenital anomaly.
    - The equipment is appropriate for use in or out of the prison.
- Provides that durable medical equipment includes, but is not limited to, eyeglasses, artificial eyes, dentures, artificial limbs, orthopedic braces and shoes, and hearing aids.
- Defines "medical supplies" as supplies that are prescribed by a licensed provider to meet the medical needs of an inmate and that meet all of the following criteria:
- The supplies cannot withstand repeated use.
- The supplies are usually disposable in nature.
- The supplies are used to serve a medical purpose.
- The supplies are not normally useful to an individual in the absence of an illness, injury, functional impairment, or congenital anomaly.

- The supplies are intended for use in an outpatient setting.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 701 (Weber)- Prisoners: exoneration: housing costs

Penal Code Section 3007.05 (Amend)

SUMMARY:

Provides a person who is exonerated of a crime $5,000 upon release from prison, to be used to pay for housing, and entitles the exonerated person to receive direct payment or reimbursement for reasonable housing costs for between up to four years thereafter.

HIGHLIGHTS:

- Specify that the money may go to hotel costs and mortgage expenses.
- Eliminates the one-year minimum required payment for reasonable housing costs, and defines reasonable housing costs to mean:
  - hotel costs, the cost of lodging, not to exceed 25 percent above the federal General Services Administration's per diem lodging reimbursement rate;
  - For payments necessary to secure and maintain rental housing, both of the following:

    i) The actual cost of any security deposits necessary to secure a rental housing unit, and

    ii) The cost of rent, not to exceed 25% above the fair market value as defined by the United States Department of Housing and Urban Development;
  - For mortgage expenses, the cost of mortgage payments, not to exceed 25 percent above the Federal Housing Administration's area loan limits.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 965 (Stone)- Youth offender hearings

Penal Code Section 3051 (Amend)

SUMMARY:

Authorizes the Secretary of CDCR to allow persons eligible for youthful offender parole to obtain an earlier youth offender parole eligibility date by adopting regulations pursuant to the specified provisions of the California Constitution enacted by Proposition 57 which grant CDCR the authority to award custody credits.

Requires a person's youth offender parole hearing to occur within six months of the first year they become eligible for parole under existing law providing for a youth offender parole hearing.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 141 (Bates)- Parole: sexually violent offenses: validated risk assessment

Penal Code Section 3053.9 (Add)

SUMMARY:

Clarifies that, for purposes of the prohibition against unlawfully accessing a computer system, a computer system includes devices or systems that are located within, connected to, or integrated with, a motor vehicle.

HIGHLIGHTS:

PC 3053.9: If an inmate has a prior conviction for a sexually violent offense, as defined in subdivision (b) of Section 6600 of the Welfare and Institutions Code, the board shall consider the results of a comprehensive risk assessment for sex offenders in considering parole.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

CPOA Position: Support

NOTES:

CRIMES/CRIMINAL PROCEDURE

AB 47 (Daly)- Driver records: points: distracted driving

Vehicle Code Section 12810.3 (Amend)

SUMMARY:

Makes only those electronic device violations that occur within 36 months, beginning July 1, 2021, of a prior conviction for the same offense subject to a violation point against the driver's record.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 169 (Lackey)- Driver records: points: distracted driving

Penal Code Sections 600.2 and 600.5 (Amend)

SUMMARY:

Expands the crime of causing injury to, or the death of, any guide, signal, or service dog (by deleting the requirement that the dog be in discharge of its duties when injury or death occurred) and adds the medical expenses and lost wages of the owner to the existing list of recoverable restitution costs.

HIGHLIGHTS:

- Makes these crimes applicable to dogs enrolled in a training school or program for guide, signal, or service dogs.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 391 (Voepel)- Leased and rented vehicles: embezzlement and theft

Vehicle Code Sections 10500 and 10855 (Amend, Repeal and Add)

SUMMARY:

Decreases the five-day period following the expiration of an auto-rental agreement or lease for the presumption of embezzlement to apply to 72 hours.

HIGHLIGHTS:

- Increases the length of the presumption of embezzlement from 48 hours to 72 hours.
- Sunset these provisions on January 1, 2024.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 611 (Nazarian)- Sexual abuse of animals

Penal Code Sections 597.9 (Amend) and 286.5 (Repeal and Add)

SUMMARY:

Prohibits sexual contact, as defined, with any animal. Provides for seizure and forfeiture of animals involved in such violations.

HIGHLIGHTS:

- States that every person who has sexual contact with an animal is guilty of a misdemeanor.
- Specifies that this section does not apply to any lawful and accepted practice related to veterinary medicine performed by a license veterinarian or a certified veterinary technician under the guidance of a licensed veterinarian, any artificial insemination of animals for reproductive purposes, any accepted animal husbandry practices such as raising, breeding or assisting with the birthing process of animals or any other practice that provides care for an animal, or is generally accepted practices related to the judging of breed conformation.
- Defines the following terms for purposes of this bill:
  - "Animal" means "any nonhuman creature, whether alive or dead"; and
  - "Sexual contact" means "any act, committed for the purpose of sexual arousal or gratification, abuse, or financial gain, between a person and an animal involving contact between the sex organs or anus of one and the mouth, sex organs, or anus of the other, or, without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, or the insertion of any part of the body of an animal into the vaginal or anal opening of a person."
- Specifies that any authorized officer investigating a violation of sexual contact with an animal may seize an animal that has been used in the commission of an offense to protect the health or safety of the animal or the health or safety of others, and to obtain evidence of the offense.
- Requires any animal seized be promptly taken to a shelter facility or veterinary clinic to be examined by a veterinarian for evidence of sexual contact.

- Applies specified animal seizure and animal forfeiture provisions from existing law to the provisions of this bill.
- States that upon the conviction for sexual contact with an animal, all animals lawfully seized and impounded with respect to the violation shall be forfeited and transferred to the impounding officer or appropriate public entity for proper adoption or other disposition.
- Specifies that a person convicted of a violation of sexual contact with an animal be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 814 (Chau)- Vehicles: unlawful access to computer systems

Penal Code Section 502 (Amend)

SUMMARY:

Clarifies that, for purposes of the prohibition against unlawfully accessing a computer system, a computer system includes devices or systems that are located within, connected to, or integrated with, a motor vehicle.

HIGHLIGHTS:

PC 502 (b)(5): "Computer system" means a device or collection of devices, including support devices and excluding calculators that are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions, including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control. *A "computer system" includes, without limitation, any such device or system that is located within, connected to, or otherwise integrated with, any motor vehicle as defined in Section 415 of the Vehicle Code.*

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1076 (Ting)- Criminal records: automatic relief

Business and Professions Code Sections 480, 480.2 and 11345.2 (Amend), Labor Code Section 432.7 (Amend), Penal Code Sections 11105 (Amend) and Sections 851.93 (Add) and Vehicle Code Section 13555 (Amend)

SUMMARY:

Requires the Department of Justice (DOJ), as of January 1, 2021, to review its criminal justice databases on a weekly basis, identify persons who are eligible for relief by having either their arrest records or conviction records withheld from disclosure, with specified exceptions, and requires the DOJ to grant that relief to the eligible person without a petition or motion to being filed on the person's behalf.

HIGHLIGHTS:

- Specifies that automatic arrest record relief should not be granted for a misdemeanor arrest once one year has elapsed since the date of the arrest unless there is no indication in the DOJ's databases that criminal proceedings have been initiated.
- Specifies that automatic arrest record relief should not be granted for realigned felony arrests once three years have elapsed since the date of the arrest unless is no indication in the DOJ's databases that criminal proceedings have been initiated.
- Specifies that relief granted pursuant to these provisions may still be accessed, shared, and utilized for purposes of making employment and licensing decisions related to community care facilities, foster homes, residential care facilities for the elderly, residential care facilities for persons with chronic illnesses, and child care homes and centers.
- Specifies that relief granted pursuant to these provisions does not make eligible a person who is otherwise ineligible to receive payment for providing in-home support services.
- Establishes specific procedural requirements for when and how a prosecuting attorney or probation department may file a petition to prevent DOJ from granting automatic relief.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1129 (Chau)- Privacy

Penal Code Section 647 (Amend)

SUMMARY:

Updates the crime of invasion of privacy to reflect emerging technology.

HIGHLIGHTS:

- Updates voyeurism crimes in *PC 647(j)(1)* to include 'electronic devices' or 'unmanned aircraft systems.'

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1294 (Salas)- Criminal profiteering

Penal Code Section 186.2 (Amend)

SUMMARY:

Expands the list of specified crimes that fall within the definition of gambling for purposes of providing a procedure for the forfeiture of property and proceeds acquired through a pattern of criminal profiteering activity.

HIGHLIGHTS:

- *PC 186.2(a):* "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

  (8) Gambling, as defined in Sections 320, 321, 322, 323, 326, 330a, 330b, 330c, 330.1, 330.4, 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 224 (Grove)- Grand theft: agricultural equipment

Penal Code Section 502 (Amend)

SUMMARY:

Makes the theft of agricultural equipment in excess of $950 grand theft punishable as an alternate felony misdemeanor and requires the proceeds of the fine imposed following a conviction of the new provision to be allocated to the Central Valley Rural Crime Prevention Program or the Central Coast Rural Crime Prevention Program.

HIGHLIGHTS:

- Provides that a person that steals, takes, or carries away tractors, all-terrain vehicles or other agricultural equipment, or any portion thereof, used in the acquisition or production of food for public consumption, which are of a value exceeding $950 is guilty of grand theft.
- States that in a county participating in a rural crime prevention program, the proceeds of any fine imposed for conviction of stealing agricultural equipment shall be allocated to the Central Valley Rural Crime Prevention Program or the Central Coast Rural Crime Prevention Program.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

CPOA Position: Support

NOTES:

SB 304 (Hill)- Criminal procedure: prosecutorial jurisdiction in multi-jurisdictional elder abuse cases

Penal Code Section 784.8 (Add)

SUMMARY:

Allows specified elder and dependent adult abuse offenses that occur in different jurisdictions to be consolidated in a single trial if all district attorneys in the counties with jurisdiction agree.

HIGHLIGHTS:

- States that if more than one felonious theft, embezzlement, forgery, fraud, or identity theft occurs against an elder or dependent adult in more than one jurisdictional territory, the jurisdiction of any of those offenses, and for any offenses properly joinable with that offense, is in any jurisdiction where at least one of the offenses occurred.
- Specifies that the consolidation of charges is subject to a hearing and other procedures established for the joinder of multiple offenses, within the jurisdiction of the proposed trial.
- Specifies that at the hearing, the prosecution shall present written evidence that all district attorneys in counties with jurisdiction of the offenses agree to the venue, and that charged offenses from any jurisdiction where there is not a written agreement from the district attorney shall be returned to that jurisdiction.
- Specifies that in determining whether all counts in the complaint should be joined in one county for prosecution, the court shall consider the location and complexity of the likely evidence, where the majority of the offenses occurred, the rights of the defendant and the people, and the convenience of, or hardship to, the victim or victims and witnesses.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 394 (Skinner)- Criminal procedure: diversion for primary caregivers of minor children.

Penal Code Chapter 2.9E (commencing with Section 1001.83) of Title 6 of Part 2 (Add)

SUMMARY:

Authorizes the superior court, in agreement with the prosecuting entity and the public defender of the county, to establish a pretrial diversion program for primary caregivers of minor children.

HIGHLIGHTS:

- Prohibits a defendant from being placed into a pretrial diversion program for primary caregivers for a crime alleged to have been committed against a person for whom the defendant is the primary caregiver.
- Clarifies that a defendant who is placed in a pretrial diversion program may be referred to supportive services and classes in already existing diversion programs and county outpatient services, as provided.
- Requires the provider of the pretrial diversion services in which the defendant is placed to provide regular reports on the defendant's progress.
- Clarifies the information that the court may consider in determining whether the defendant meets all of the eligibility requirements for a pretrial diversion program for primary caregivers.
- Set the period of diversion to not less than six months and not more than 24 months.
- State that if the defendant is also participating in juvenile court proceedings, the juvenile and criminal courts shall not duplicate efforts.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 439 (Umberg)- Criminal procedure: authorization and disclosure

Penal Code Sections 628.78 and 629.82 (Amend)

SUMMARY:

Allows overheard communications to be disclosed if they involve a grand theft involving a firearm or maliciously exploding or igniting a destructive device or any explosive causing bodily injury, mayhem or death

Allows overheard communications involving any crime by a peace officer to be used in administrative or disciplinary hearings, not criminal cases.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

In general, when a law enforcement officer overhears information that relates to an offense not related to the information for which the wiretap order was sought, it can't be used unless it is one of the offenses for which a wiretap may be authorized or a violent felony as defined by Penal Code Section 667.5(c).

This bill allows information relating to a grand theft involving a firearm or maliciously exploding or igniting a destructive device or any explosive causing bodily injury, mayhem or death that is overheard during a wiretap to be used. Thus when listening to a wiretap information overheard relating to the following offenses could be disclosed under this bill that cannot currently be disclosed: assault with a deadly weapon on a peace officer; rape of an unconscious person; exploding a destructive device with the intent to injure or intent to murder; rape of an unconscious person or a person with a mental disorder or disability; furnishing illicit drugs to a mirror; grand theft of a firearm; attempted kidnaping; attempted carjacking; attempted rape; residential burglary (person not present).

NOTES:

SB 459 (Galgiani)- Crimes: rape: great bodily injury

Penal Code Section 12022.8 (Amend)

SUMMARY:

Makes the five-year enhancement for the infliction of great bodily injury (GBI) in the commission of specified sex offenses applicable to the crime of spousal rape where the victim was prevented from resisting by the use of any intoxicating or anesthetic substance or a controlled substance.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

When prosecuting any rape by intoxication there is a significant challenge of proving the degree of intoxication and consequently the ability to consent. The burden of proving consent where there is an established relationship, particularly a marital relationship is also difficult to overcome in most cases. The combination of rape by intoxication where there is a spousal relationship, on its face does present some challenges.

This enhancement is not expected to be used frequently.

NOTES:

DATA/RECORDS

AB 1331- Criminal justice data

Penal Code Sections 13150, 13151 and 13202 (Amend, Repeal and Add)

SUMMARY:

Beginning July 1, 2020, expands the data that law enforcement entities are required to report to the Department of Justice related to every arrest to include the Criminal Investigation and Identification (CII) number and incident report number.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Likely minor costs to each individual agency to report the additional data elements to DOJ. Local costs to comply with this measure likely would be subject to reimbursement from the General Fund as a state-mandated local program, the extent of which would be determined by the Commission on State Mandates. (General Fund, local funds).

NOTES:

AB 1600 (Kalra)- Discovery: personnel records: peace and custodial officers

Code of Civil Procedure Section 1005 (Amend) and Evidence Code Sections 1043 and 1047 (Amend)

SUMMARY:

Shortens the notice requirement in criminal cases when a defendant files a motion to discover police officer misconduct from 16 days to 10 days.

HIGHLIGHTS:

- *EC 1047(a):* Records of peace officers or custodial officers, as defined in Section 831.5 of the Penal Code, including supervisorial officers, who either were not present during the arrest or had no contact with the party seeking disclosure from the time of the arrest until the time of booking, or who were not present at the time the conduct at issue is alleged to have occurred within a jail facility, shall not be subject to disclosure.
- *EC 1047(b):* States that if a supervisorial officer whose records are being sought had direct oversight of a peace officer, and had command influence over the circumstances at issue, the supervisorial officer's records shall be subject to disclosure if the peace officer under supervision was present during the arrest, had contact with the party seeking disclosure from the time of the arrest until the time of booking, or was present at the time the conduct at issue is alleged to have occurred within a jail facility.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

In many cases, defendants' motions are overbroad and seek information to which parties are not entitled, which makes these oppositions imperative. Shortening this notice requirement would make it far more difficult to pull together all of these necessary items and would thereby reduce cities' opportunity to prepare a meaningful and appropriate opposition to a Pitchess motion.

NOTES:

SB 620 (Portantino)- Criminal offender record information: referral of persons on supervised release

Penal Code Article 8 (commencing with Section 13350) of Chapter 2 of Title 3 of Part 4 (Add)

SUMMARY:

Allows, with the person's consent, local law enforcement to release the name and address of people on supervised release to local service providers.

HIGHLIGHTS:

- Provides that the information that may be released is limited to the name and address of the person on supervised release.
- Defines "person on supervised release" as a person on parole from state prison, post release community supervision, mandatory supervision or supervised probation. It does not include a person on federal probation or any other type of supervised release from federal custody.
- Defines "service provider" means a nonprofit organization that provides transitional services to persons of supervised release, including but not limited to, assistance with housing, job training or placement and counseling or mentoring.
- Provides that a person on supervised release shall be notified that they may consent to have their name and address may be released to service providers in the community.
- Provides that before any information is released the law enforcement agency shall contact the person's parole or probation officer to determine whether or not the person has declined to have his or her information released.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Possible one-time costs (GF/Proposition 30) in the hundreds of thousands of dollars to all 58 county probation departments to create and implement a process for obtaining consent from supervised individuals for referral to transitional services. Probation costs will likely decrease over time once a process for obtaining a supervised person's consent is implemented. GF costs will depend on whether the Commission on State Mandates determines this is a state mandated local program.

NOTES:

FIREARMS

AB 12 (Irwin)- Firearms: gun violence restraining orders

Penal Code Sections 18109, 18120, 18160, 18170, 18175, 18180, 18185, 18190 and 18197 (Amend, Repeal and Add)

SUMMARY:

Extends the duration of gun violence restraining orders (GVRO) and their renewals to a maximum of five years.

HIGHLIGHTS:

- Authorizes the employing law enforcement agency to be named in a GVRO petition filed by a law enforcement officer in place of the individual officer's name.
- Delays implementation until September 1, 2020.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

At the termination of the 1-5-year prohibition, law enforcement may have to assist the attorney to determine if the person still meets PC 18175.

NOTES:

AB 61 (Ting)- Gun violence restraining orders

Penal Code Sections 18150, 18170, and 18190 (Amend, Repeal and Add)

SUMMARY:

Expands the category of persons that may file a petition requesting a court to issue an ex parte temporary gun violence restraining order (GVRO), a one year GVRO, or a renewal of a GVRO, to include an employer, a coworker who has substantial and regular interactions with the subject of the petition for at least one year and has obtained the approval of the employer, and an employee or teacher of a secondary school, or postsecondary school the subject has attended in the last six months and has the approval of the school administration staff.

HIGHLIGHTS:

- Delays implementation of this measure until September 1, 2020.
- Clarifies that school administration staff means a school administrator or a school administration staff member with a supervisorial role**.**

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

It is possible that the Watch Commander or Sergeant in the field may be provided an order by a citizen (GVRO) and law enforcement does not know about it. Currently only law enforcement can obtain a GVRO.

Additional training about GVROs is needed for LE since they may be faced with these orders.

NOTES:

AB 164 (Cervantes)- Firearms: prohibited persons

Penal Code Section 29825 (Amend)

SUMMARY:

Prohibits any person subject to a valid restraining order, injunction, or protective order issued out of state from possessing, receiving or purchasing, or attempting to possess, receive or purchase a firearm in this state if the out-of-state order is equivalent in the prohibition against possessing, receiving or purchasing a firearm.

HIGHLIGHTS:

- Requires the Attorney General to undertake the actions necessary to implement this provision to the extent the Legislature appropriates funds for this purpose.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 879 (Gipson)- Firearms

Penal Code Sections 16170, 18010, 27585 and 30800 (Amend), Sections 16531, 16532 and Chapter 1.5 (commencing with Section 30400) to Division 10 of Title 4 of Part 6 (Add)

SUMMARY:

Requires, commencing July 1, 2023, the sale of firearms precursor parts be conducted through licensed a firearms precursor part vendor.

HIGHLIGHTS:

- Clarify that a firearm precursor is not a firearm or the frame or receiver thereof.
- Defines a "firearm precursor part" to mean a component of a firearm that is generally necessary to build or assemble a firearm.
- Defines a "firearm precursor part vendor '' to mean "any person, firm, corporation, dealer, or any other business that has a current ammunition vendor license, as specified."
- Provides that commencing July 1, 2024, a licensed firearms dealer and a licensed ammunition vendor shall automatically be deemed a licensed firearm precursor parts vendor, if the dealer and licensed ammunition vendor comply with specified requirements.
- Provides that a person prohibited from owning or possessing a firearm shall not own or possess, or have under his custody or control a firearm precursor part and a violation is punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed $1,000, or by both that fine and imprisonment.
- States that commencing July 1, 2024, the sale of a firearm precursor part by and party shall be conducted or processed through a licensed firearm precursor party vendor.
- Provides that commencing July 1, 2024, a valid firearm precursor part vendor license shall be required for any person, firm or corporation, or other business enterprise to sell more than one firearm precursor part in any 30-day period, except as exempted, and a violation is a misdemeanor.
- Provides that commencing July 1, 2024, a firearm precursor part vendor shall not sell or otherwise transfer ownership of any firearm precursor part without, at the time of delivery, legibly recording specified information.

- States that commencing July 1, 2025, the vendor shall electronically submit to the DOJ firearm precursor part purchase information in a format and a manner prescribed by the department for all sales or other transfers of ammunition.
- States that commencing July 1, 2025, a firearm parts vendor shall verify with the DOJ, in a manner prescribed by the DOJ, that the person is authorized to purchase firearm precursor parts.
- States that commencing July 1, 2025, the DOJ shall electronically approve the purchase or transfer of firearm precursor parts through a vendor, except as otherwise specified. This approval shall occur at the time of purchase or transfer, prior to the purchaser or transferee taking possession of the firearm precursor parts.
- Allows the DOJ shall recover the reasonable cost of regulatory and enforcement activities related to this article by charging firearms precursor parts purchasers and transferees a per-transaction fee not to exceed $1.
- Authorizes the DOJ to issue firearms precursor parts vendor licenses, commencing July 1, 2024.
- Allows the DOJ to charge firearm precursor parts vendor license applicants a reasonable fee sufficient to reimburse the DOJ for the reasonable estimated costs of administering the license program

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Unknown, potentially significant workload cost pressures to the court to adjudicate charges brought against defendants who are alleged to have committed one or more of the misdemeanors created and expanded upon by this measure.

NOTES:

AB 1292 (Bauer-Kahan)- Firearms

Penal Code Sections 16960, 16990, 25570, 27920, and 31700 (Amend), Sections 26392, 26406, 26582, 26589 and 27922 (Add)

SUMMARY:

Specifies circumstances which allow a firearm to be transferred from one person to another by operation of law without the need to go through a firearms dealer.

HIGHLIGHTS:

- Add the following individuals to the list of persons that take title or possession of a firearm by operation of law:
  - A limited or general conservator appointed by a court, as specified
  - Guardian ad litem (acting on behalf of a child) appointed by a court, as specified
  - The trustee of a trust that includes a firearm that is under court supervision;
  - A special administrator appointed by a court, as specified; and
  - A guardian appointed by a court, as specified.
- *PC 25570:* Exempts an individual from specified prohibitions on possession and transfer of firearms (including open carry) when the individual is delivering a firearm to law enforcement these circumstances:
  - Person gives prior notice to the LE agency that they are transporting the gun
  - Person took the gun from someone who was committing a crime against them and notified a LE agency that they are transporting it for disposition

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Since the GVROs are extending their prohibition times, the need for transfer of a weapon if it is in custody may happen.

NOTES:

SB 61 (Portantino)- Firearms: transfers

Penal Code Sections 27510, 27540 and 27590 (Amend) and Sections 26835 and 27535 (Amend, Repeal and Add)

SUMMARY:

Extends the prohibition on purchasing more than one handgun a month to also include semiautomatic centerfire rifles.

HIGHLIGHTS:

- Exempts the following from the one gun a month prohibition: (Pen. Code, § 27535, subd. (b).)
  - Any law enforcement agency.
  - Any agency duly authorized to perform law enforcement duties.
  - Any state or local correctional facility.
  - Any private security company licensed to do business in California.
  - Any person who is properly identified as a full-time paid peace officer and who is authorized to and does carry a firearm during the course and scope of employment as a peace officer.
  - Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.
  - Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.
  - Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).
  - Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.
  - The exchange of a handgun or semiautomatic centerfire rifle where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.
  - The replacement of a handgun or semiautomatic centerfire rifle when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior

to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

- The return of any handgun or semiautomatic centerfire rifle to its owner.
- A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training,

- Specifies that specified licensees shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age, with specified exemptions.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 172 (Portantino)- Firearms

Health and Safety Code Article 9.9 (commencing with Section 1567.90) to Chapter 3 of, Article 2 (commencing with Section 1568.095) to Chapter 3.01 of, and Article 2.7 (commencing with Section 1569.280) to Chapter 3.2 of, Division 2 (Add) and the heading of Article 1 (commencing with Section 1568.01) to Chapter 3.01 of Division 2 (Add), and Penal Code Sections 17060, 25100, 25105, 25200, 26835, 29805, and 31700 (Amend), and Sections 27881, 27882, and 27883 (Add), and Welfare and Institutions Code Section 4684.53 (Amend)

SUMMARY:

Enacts a number of provisions related to firearms storage.

HIGHLIGHTS:

- Establishes firearm storage requirements for Residential Care Facilities for the Elderly (RCFEs) that choose to permit residents to possess firearms on premises.
- Broadens the application of criminal storage crimes.
- Adds criminal storage offenses to those offenses that can trigger a 10-year firearm prohibition and create an exemption to firearm loan requirements for the purposes of preventing suicide.
- Enacts the Keep Our Seniors Safe Act and requires DSS to promulgate regulations prescribing the procedures for a firearm and ammunition to be centrally stored in a locked gun safe within an assisted living facility that permits residents to possess firearms on its premises.
- Requires a facility to prepare and maintain an individual weapons inventory for each firearm and type of ammunition stored within the facility and submit the inventories to the Department of Justice (DOJ).

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

FORENSICS/DNA

SB 22 (Leyva)- Rape kits: testing

Penal Code Sections 680, 680.3 and 12823.14 (Amend)

SUMMARY:

Requires law enforcement agencies to submit sexual assault forensic evidence to a crime lab and requires crime labs to either process the evidence for DNA profiles and upload them into the Combined DNA Index System (CODIS) or transmit the evidence to another crime lab for processing and uploading.

HIGHLIGHTS:

- States that a law enforcement agency in whose jurisdiction a specified sex offense occurred, for any sexual assault forensic evidence received by the law enforcement agency on or after January 1, 2016, shall either submit the sexual assault forensic evidence to a crime lab within 20 days after it is booked into evidence, or ensure that a rapid turnaround DNA program is in place to submit forensic evidence collected from the victim of a sexual assault directly from the medical facility where the victim is examined to the crime lab within five days after the evidence is obtained from the victim.
- States that a crime lab, for any sexual assault forensic evidence received by the crime lab on or after January 1, 2016, shall either process sexual assault forensic evidence, create DNA profiles when able, and upload qualifying DNA profiles into the Combined DNA Index System (CODIS) as soon as practically possible, but no later than 120 days after initially receiving the evidence, or transmit the sexual assault forensic evidence to another crime lab as soon as practically possible, but no later than 30 days after initially receiving the evidence, for processing of the evidence for the presence of DNA.
- If a DNA profile is created, the transmitting crime lab shall upload the profile into CODIS as soon as practically possible, but no later than 30 days after being notified.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Fiscal: Possible state reimbursable costs (local funds/GF) in the hundreds of thousands of dollars annually for local law enforcement agencies.

Operational: Additional personnel may be required to process evidence within required timeframe(s).

NOTES:

HOMELESSNESS & MENTAL ILLNESS

AB 46 (Carrillo)- Individuals with Mental Illness: Change of Term

Harbors and Navigation Code Section 4005 (Amend), Penal Code Sections 1026, 1367, 2625, 2960, 2962, 2966, 2968, 2970, 2972, 2974, 2978, 4011.6, 4497, 4497.10, and 6102 (Amend), Probate Code Section 6100.5 (Amend), Revenue and Taxation Code Section 253 (Amend), and Welfare and Institutions Code Sections 4242, 5213, and 5300 (Amend).

SUMMARY:

Replaces terminology used to describe mental health conditions and individuals with mental health conditions.

HIGHLIGHTS:

- Replaces, in various sections of California's code:
  - "Insane" with "mental health disorder"
  - "Mentally incapacitated" with "lacks mental capacity"
  - "Mentally or severely disordered" with "mental or severe mental health disorder"
  - "Developmentally disabled" with "developmental disability"
  - "Mental disorder" and "mental defect" with "mental health disorder"
  - "Mentally ill" with "mental illness."

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

May affect verbiage used in reports or court testimony that would not reflect current codes.

NOTES:

AB 728 (Santiago)- Homeless multidisciplinary personnel teams

Welfare and Institutions Code Sections 18999.8 (Amend) and 18999.81 (Repeal)

SUMMARY:

Establishes, until January 1, 2025, a pilot program in the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Clara, and Ventura that allows homeless adult and family multidisciplinary teams (MDTs) established in these counties to have the goal of facilitating expedited identification, assessment, and linkage of individuals at risk of homelessness to housing and supportive services, and the goal of facilitating the expedited prevention of homelessness for those individuals.

HIGHLIGHTS:

- Allows homeless adult and family multidisciplinary teams (MDTs) to share client information of individuals who are at high-risk of becoming homeless in order to coordinate housing and supportive services.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 40 (Wiener)- Conservatorship: serious mental illness and substance abuse disorders

Welfare and Institutions Code Sections 5451, 5453, 5453, 5456, 5462, 5463, and 5555 (Amend) and Section 5465.5 (Add)

SUMMARY:

This urgency bill amends an existing pilot program that establishes a conservatorship procedure for a person who is incapable of caring for their own health and well-being due to a serious mental illness and substance use disorder. Amendments include changes to conservatorship notices to the individuals, outreach with voluntary services, a temporary conservatorship process, and defining the standards for admission, renewal, and conclusion of the housing conservatorship.

HIGHLIGHTS:

- Shortens the maximum length of a housing conservatorship from one year to six months. Provides that the conservatorship applies only if the person is presently incapable of caring for their own health and well-being due to a serious mental illness and substance use disorder, and that conservatorship is the least restrictive alternative needed for the protection of the person. Defines these terms and further requires a showing that, as a result of the person's serious mental illness and substance use disorder, it is more likely than not that the person will, in the near future, decompensate to a degree of functional impairment that will require public assistance, services, or entitlements.
- Establishes, as a prerequisite to the housing conservatorship, a 28-day temporary conservatorship, which may be imposed if a person has been detained eight or more times in a 12-month period for evaluation and treatment pursuant to a 72-hour "5150 hold" under the LPS Act. This 28-day period is the window in which a determination must be made if a six-month housing conservatorship is sought.
- Requires counties to meet several additional requirements, including the provision of specified services to the person and notice regarding the possibility of a conservatorship, before imposing the temporary conservatorship.
- Provides that the establishment of a conservatorship is subject to a finding by the court that either (a) the county health director or director's designee previously attempted to obtain a court order authorizing AOT and the petition was denied or AOT was insufficient to treat the person's mental illness, or (b) the director or designee recommends, and the court finds by

clear and convincing evidence, that the person does not meet the criteria described for AOT or that AOT would be insufficient to treat the person.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

The goal of this bill is to make meaningful and clarifying changes to the housing conservatorship program that increases safeguards for those being conserved, increasing transparency and reporting requirements, and improving constitutional protections while not expanding the scope of the program previously established.

NOTES:

JUVENILES

AB 1394 (Daly)- Juveniles: sealing of records

Welfare and Institutions Code Sections 781.1 (Add) and 903.3 (Repeal)

SUMMARY:

Eliminates the imposition of any fee charged by a superior court or probation department to an applicant who files a petition to seal juvenile court records.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1423 (Wicks)- Transfers to juvenile court

Welfare and Institutions Code Section 707.5 (Add)

SUMMARY:

Allows a criminal court to return a case to juvenile court for further proceedings under certain circumstances.

HIGHLIGHTS:

- Provides that, in guilty plea cases, there must be agreement of the parties before the court approves the return of the case to the juvenile court.
- Requires the court to state its reasons on the record when making a determination to transfer the case to the juvenile court.
- Requires the juvenile court to set the case on calendar within two court days, rather than three.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

LOCAL OPERATIONS & POLICIES

AB 339 (Irwin)- Gun violence restraining orders: law enforcement procedures

Penal Code Sections 18108 (Add)

SUMMARY:

Requires each municipal police department, county sheriff's department, the Department of California Highway Patrol, and the University of California and California State University Police Departments to develop and adopt written policies and standards regarding the use of gun violence restraining orders (GVRO) on or before January 1, 2021.

HIGHLIGHTS:

- *18108. (a):* Each municipal police department and county sheriff's department, the Department of the California Highway Patrol, and the University of California and California State University Police Departments shall, on or before January 1, 2021, develop, adopt, and implement written policies and standards relating to gun violence restraining orders.
- (b) The policies and standards shall instruct officers to consider the use of a gun violence restraining order during a domestic disturbance response to any residence which is associated with a firearm registration or record, during a response in which a firearm is present, or during a response in which one of the involved parties owns or possesses a firearm. The policies and standards should encourage the use of gun violence restraining orders in appropriate situations to prevent future violence involving a firearm.
- (c) The policies and standards should also instruct officers to consider the use of a gun violence restraining order during a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions, if that person owns or possesses a firearm. The policies and standards shall encourage officers encountering situations in which there is reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm to consider obtaining a mental health evaluation of the person by a medically trained professional or to detain the person for mental health evaluation pursuant to agency policy relating to Section 5150 of the Welfare and Institutions Code. The policies and standards should reflect the policy of the agency to

prevent access to firearms by persons who, due to mental health issues, pose a danger to themselves or to others by owning or possessing a firearm.

- (d) The written policies and standards developed pursuant to this section shall be consistent with any gun violence restraining order training administered by the Commission on Peace Officer Standards and Training, and shall include all of the following:
    - Standards and procedures for requesting and serving a temporary emergency gun violence restraining order.
    - Standards and procedures for requesting and serving an ex parte gun violence restraining order.
    - Standards and procedures for requesting and serving a gun violence restraining order issued after notice and hearing.
    - Standards and procedures for the seizure of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
    - Standards and procedures for verifying the removal of firearms and ammunition from the subject of a gun violence restraining order.
    - Standards and procedures for obtaining and serving a search warrant for firearms and ammunition.
    - Responsibility of officers to attend gun violence restraining order hearings.
    - Standards and procedures for requesting renewals of expiring gun violence restraining orders.
- (e) Municipal police departments, county sheriff's departments, the Department of the California Highway Patrol, and the University of California and California State University Police Departments are encouraged, but not required by this section, to train officers on standards and procedures implemented pursuant to this section, and may incorporate these standards and procedures into an academy course, preexisting annual training, or other continuing education program.
- (f) In developing these policies and standards, law enforcement agencies are encouraged to consult with gun violence prevention experts and mental health professionals.
- (g) Policies developed pursuant to this section shall be made available to the public upon request.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Agencies with exisiting GVRO policies, or agencies without one will need to address the mininmums in this bill by January 1, 2021.

NOTES:

AB 1215 (Ting)- Law enforcement: facial recognition and other biometric surveillance.

Penal Code Section 832.19 (Add and Repeal)

SUMMARY:

Prohibits, until January 1, 2023, a law enforcement officer or agency from installing, activating, or using a biometric surveillance system in connection with a law enforcement agency's body-worn camera or any other camera.

HIGHLIGHTS:

- Specifies that the definition of "facial recognition or other biometric surveillance" includes technology used to assist in identifying an individual.
- Permit an agency to use facial recognition or other biometric surveillance software for purposes of redacting from public records a person's facial image as required by law.
- State that these provisions do not preclude a law enforcement agency or law enforcement officer from using a mobile fingerprint scanning device during a lawful detention to identify a person who does not have proof of identification if this use is lawful and does not generate or result in the retention of any biometric data or surveillance information.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 338 (Hueso)- Senior and disability victimization: law enforcement policies

Penal Code Sections 368.5 (Amend) and 368.6 (Add), and Welfare and Institutions Code Section 15650 (Amend)

SUMMARY:

Establishes the "Senior and Disability Justice Act" which requires a local law enforcement agency that adopts or amends its policy regarding senior and disability victimization after April 13, 2021, to include information and training on elder and dependent adult abuse as specified.

HIGHLIGHTS:

- Requires, if a local law enforcement agency adopts or revises a policy manual on elder and dependent adult abuse on or after April 13, 2021, that the policy include specified provisions, including those related to enforcement and training. The policies mandated for inclusion are as follows:
  - Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking and homicide against adults and children with disabilities.
  - A statement of the agency's commitment to providing equal protection.
  - The definitions and elements of lewd or lascivious acts by a caretaker, elder physical abuse, or false imprisonment of an elder or dependent adult.
  - The policy shall instruct officers to consider whether there is any indication that the perpetrator committed the criminal act because of bias, as defined.
  - An agency protocol and schedule for training officers, as specified by the bill.
  - A requirement that when an officer intends to interview a victim or witness to an alleged crime and the victim or witness reports or demonstrates deafness or hearing loss, the officer first secure the services of an interpreter.
  - An agency protocol for providing appropriate training for civilian personnel who interact with the public front desk personnel.
  - The fact that the agency requires officers to investigate every report of senior and disability victimization and does not dismiss any reports as merely civil matter or for any other reason without an investigation.

- An appendix to the policy describing the requirement for these investigations
- A statement that it is the agency's policy to make arrests or to seek arrest warrants, in accordance with Penal Code Section 836, and, in the case of domestic violence, as allowed by Penal Code Section 13701. The policy shall also state the agency protocol for seeking those arrest warrants
- The agency protocol for arrests for elder and dependent adult abuse and other related crimes other than domestic violence.
- The fact that elder and dependent adult abuse, dependent person sexual abuse by a caretaker, other sex crimes, and child abuse can also be domestic violence.
- The fact that many victims of sexual assault and other sex crimes may delay disclosing the crimes
- An instruction to notify potential victims of sex crimes that they have a right to have a support person of their choice present at all times.
- The agency's cross-reporting requirements and an agency protocol for carrying out these cross-reporting requirements.
- Mandated reporting requirements.
- The fact that victims and witnesses with disabilities can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons.
- A procedure for first-responding officers to follow when interviewing persons with cognitive and communication disabilities until officers
- The unit or office, or multiple units or offices of the agency, or the title or titles of an officer or officers, tasked with specified responsibilities.
- An agency protocol for seeking emergency protective orders by phone from a court at any time of the day or night.
- A requirement that all officers treat an unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability as a potential homicide until a complete investigation, including an autopsy, is completed.
- A requirement that, whenever an officer verifies that a relevant protective order has been issued, the officer shall make reasonable efforts to determine if the order prohibits the possession of firearms or requires the relinquishment of firearms.
- Civil remedies and resources available to victims, including, but not limited to, the program administered by the California Victim Compensation Board.

- The content of any model policy on elder and dependent adult abuse and related crimes that the Commission on Peace Officer Standards and Training may develop, as well as the adoption of that policy.
- Use of the full term "elder and dependent adult abuse" in every reference to that crime, with no shorthand terms, including, but not limited to, "elder abuse" or "adult abuse."
- A detailed checklist of first-responding officers' responsibilities, as specified.
- The relevant content of any memoranda of understanding or similar agreements or procedures for cooperating with other responsible agencies.
- A statement of the agency chief executive's responsibilities, as specified.
- An agency protocol for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.
- Any relevant portions of the San Diego County Elder and Dependent Adult Abuse Blueprint and its addendums that the agency chooses to adopt and incorporate in its policy.
- A requirement that all officers be familiar with the policy and carry out the policy at all times except in the case of unusual compelling circumstances as determined by the agency's chief executive or by another supervisory or command-level officer designated by the chief executive.
- A responsible officer who makes a determination allowing a deviation from the policy shall produce a report stating the unusual compelling circumstances. The policy shall include an agency protocol for providing copies of those reports to the alleged victims and reporting parties.
- For each agency protocol, either a specific title-by-title list of officers' responsibilities, or a specific office or unit in the law enforcement agency responsible for implementing the protocol.

➢ Requires a law enforcement agency that adopts or revises a policy on elder and dependent adult abuse on or after July 1, 2020, to post a copy of that policy on its Web site.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

May impact in-progress creation or completion of senior and/or disability victimzation policies in order to meet an April 13, 2021 deadline.

NOTES:

MISCELLANEOUS

AB 309 (Maienschein)- Vehicles that appear to be used by law enforcement: ownership or operation by public historical society or museum

Vehicle Code Sections 27604, 27605, and 27606 (Amend)

SUMMARY:

Extends exemptions from the general prohibition against owning or operating a vehicle with law enforcement markings.

HIGHLIGHTS:

- Exempts below vehicles from existing laws regarding those vehicles which resemble a law enforcement vehicle:
  - The vehicle is possessed by a federal, state, or local historical society, museum, or institutional collection that is open to the public;
  - The vehicle is secured from unauthorized operation and is not operated upon a public road or highway.
  - The prohibition on operation on a public road or highway does not apply to:
  - Vehicles of a model year at least 25 years prior to the year of operation, or
  - Instances where the vehicle is being operating within a temporary street closure for a special event when the operation is approved by the local authority having jurisdiction over the street closure.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Law enforcement should be aware of the provisions of this bill should they encounter a vehicle that resembles a law enforcement vehicle driving upon a highway. As the prior statute only allowed vehicles prior to 1979 to be operated, we will now see vehicles 25 years or older on roads.

NOTES:

AB 620 (Cooley)- Coroner: sudden unexplained death in childhood

Government Code Sections 27491.42 (Add)

SUMMARY:

Defines "sudden unexplained death in childhood" (SUDC) and requires a coroner to notify the parents or responsible adult of a child that comes within the definition of the importance of taking tissue samples.

HIGHLIGHTS:

- Provides the coroner shall not be liable for damages in a civil action for any act or omission in compliance with this bill.
- Defines “sudden unexplained death in childhood” as the sudden death of a child one year of age or older but under 18 years of age that is unexplained by the history of the child and where a thorough postmortem examination fails to demonstrate an adequate cause of death.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1117 (Grayson)- Peace officers: peer support

Government Code Article 22 (commencing with Section 8669.1) of Chapter 7 of Division 1 of Title 2 (Add)

SUMMARY:

Enacts the Law Enforcement Peer Support and Crisis Referral Services Program authorizing a local or regional law enforcement agency to establish a peer support and crisis referral program (Peer support program).

HIGHLIGHTS:

- *8669.2 (b):* The peer support and crisis referral program may provide employee support and referral services for matters including, but not limited to, the following:

  (1) Substance use and substance abuse.

  (2) Critical incident stress.

  (3) Family issues.

  (4) Grief support.

  (5) Legal issues.

  (6) Line-of-duty deaths.

  (7) Serious injury or illness.

  (8) Suicide.

  (9) Victims of crime.

  (10) Workplace issues.

  (c) The agency's hiring authority shall consult with an employee representative organization to develop and implement a program created pursuant to this section.

- Exempts criminal matters and criminal proceedings from the confidentiality provisions of the bill.

- Exempts the law enforcement agency from liability for damages relating to the peer support services, as specified.
- Prohibits a peer support team member from providing peer support services in specified circumstances, including if the peer support team member and the law enforcement personnel receiving peer support services were involved as participants or witnesses to the same traumatic incident, or are both involved in a shared active or ongoing investigation.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1223 (Arambula)- Living organ donation

Government Code Sections 19991.11 (Amend) and Labor Code Section 1510 (Amend)

SUMMARY:

Requires a private or public employer to grant an employee an additional unpaid leave of absence, not exceeding 30 business days in a one-year period, for the purpose of organ donation, provided that in the case of a public employee, they have exhausted all sick leave, and prohibits life, long-term care or disability insurance policies from discriminating against an organ donor.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 192 (Hertzberg)- Posse comitatus

Penal Code Sections 150 and 1550 (Repeal)

SUMMARY:

Repeals the posse comitatus provision of the Penal Code, which makes an able-bodied person 18 years of age or older who neglects or refuses to assist a peace officer or a judge in making an arrest, retaking an escaped person into custody, or preventing the breach of the peace, subject to a fine between $50-$1000.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

This bill serves as another example of legislation in California that will further erode trust in our public institutions. The use of public assistance, although seldom used, is beneficial when trained citizens assist officers in need, particularly in many rural extents of the state where departments with minimal staffing often have officers alone or in need of assistance.

CPOA Position: Oppose

NOTES:

SB 259 (Nielsen)- Department of Justice: crime statistics: reporting

Penal Code Section 13012.7 (Add)

SUMMARY:

Requires DOJ to include statistics on lewd or lascivious felonies consistent with those reported for rape, commencing with the report that includes data from 2022.

HIGHLIGHTS:

- Defines "lewd or lascivious felonies" to include:
  - Any person who assaults another person under 18 years of age with the intent to commit rape, sodomy, and oral copulation.
  - Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available to another person, a child under the age of 16 for purpose of any lewd or lascivious act.
  - A person who willfully and lewdly commits any lewd or lascivious act upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child.
  - Any person who either resides in the same home with the minor child or has recurring access to the child, who over a period of time engages in three or more acts of substantial sexual conduct with a child under the age of 14 years at the time of the commission of the offense.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 310 (Skinner)- Jury service

Code of Civil Procedure Section 203 (Amend)

SUMMARY:

Makes a person who is currently on parole, postrelease community supervision (PRCS), felony probation, or mandated supervision for the conviction of a felony ineligible for jury service, make a person who is currently required to register as a sex offender pursuant to Section 290 of the Penal Code based on a felony conviction ineligible for jury service, adopt a severability clause, and eliminate provisions related to jury source lists.

HIGHLIGHTS:

- Provides that a person is ineligible for jury service while incarcerated in any prison or jail.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

SB 542 (Stern)- Workers' compensation

Labor Code Section 3212.15 (Add and Repeal)

SUMMARY:

Creates a rebuttable presumption for specified peace officers that a diagnosis of post-traumatic stress disorder (PTSD) is occupational, and therefore covered by the workers' compensation system.

HIGHLIGHTS:

- PTSD is an occupational injury for the following peace officers who are primarily engaged in active law enforcement activities:
  - Sheriffs, undersheriffs, deputy sheriffs, police chiefs, police officers, and municipal law enforcement inspectors.
  - Members of the California Highway Patrol, University of California Police Department, and California State University Police Department.
  - Members of a community college police department and school district police departments.
  - Members of an arson investigation unit.
  - Parole officers and correctional officers.
  - Fire and rescue services coordinators who work for the Office of Emergency Services.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

PROBATION

AB 433 (Ramos)- Probation: notice to victim

Penal Code Section 1103.3 (Amend)

SUMMARY:

Requires that the prosecutor be given two days written notice of a hearing for early termination of probation and requires the prosecutor to notify the victim if the victim has asked to be notified about the case.

HIGHLIGHTS:

- Requires a hearing to be held in open court before the judge before early termination of probation.
- Requires the prosecuting attorney to be given a two-day written notice and an opportunity to be heard on the decision to terminate probation early.
- Requires the prosecuting attorney to provide notice to the victim if the victim has requested to be notified about the progress of the case.
- Requires the prosecuting attorney to request a continuance of the hearing if the victim advises the prosecuting attorney that there is an outstanding restitution.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 484 (Jones-Sawyer)- Crimes: probation

Penal Code Section 1203.076 (Amend)

SUMMARY:

Eliminates the 180-day mandatory confinement period for a sentence of probation on convictions relating to the sale of cocaine, cocaine hydrochloride, or heroin.

Eliminates the 180-day mandatory confinement period for a sentence of probation on convictions for transporting, importing, selling, furnishing, administering, or giving away, or offering to transport, import, sell, furnish, administer, or give away, or attempting to import or transport, PCP.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

PROSTITUTION, SEX CRIMES & HUMAN TRAFFICKING

AB 218 (Gonzalez)- Damages: childhood sexual assault: statute of limitations

Code of Civil Procedure Sections 340.1 and 1002 (Amend) and Government Code Section 905 (Amend)

SUMMARY:

Extends the civil statute of limitations for childhood sexual assault by 14 years, revives, for three years, old claims, and increases certain penalties for childhood sexual assault.

HIGHLIGHTS:

- Redefines childhood sexual abuse as childhood sexual assault and expands the definition slightly (to align with PC 311.4(d)).
- Extends the time for commencing a civil action based on injuries resulting from childhood sexual assault to 22 years after the plaintiff reaches majority (i.e., until 40 years of age) or within five years of the date the plaintiff discovers or reasonably should have discovered that the psychological injury or illness occurring after the age of majority was caused by the abuse, whichever occurs later.
- Prohibits suit against third parties after the plaintiff's 40th birthday unless the person or entity knew or had reason to know, or was otherwise on notice, of any misconduct that creates a risk of childhood sexual assault by an employee, volunteer, representative, or agent, or failed to take reasonable steps, or to implement reasonable safeguards, to avoid acts of childhood sexual assault.
- Revives, until three years of January 1, 2020, or the time period under above, whichever is later, any actions for childhood sexual assault that has not been litigated to finality and that would otherwise be barred as of January 1, 2020, because of applicable statute of limitations, claims presentation deadline, or any other time limit.
- Allows a person, in an action for recovery of damages suffered as the result of childhood sexual assault, to recover up to tremble damages if the sexual assault is the result of a cover-up by the defendant of a sexual assault of a minor, unless otherwise prohibited. Defines "cover-up" as a concerted effort to hide evidence relating to childhood sexual assault.

- Eliminates the existing limitation on exemption from the Government Tort Claims Act and instead exempts, from the Government Tort Claims Act, all claims for childhood sexual assault against a local public entity, including those arising out of conduct occurring before January 1, 2009.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 640 (Frazier)- Sex crimes: investigation and prosecution

Penal Code Section 13836 (Amend)

SUMMARY:

Requires the training course developed by the advisory committee within the Office of Emergency Services (OES) for district attorneys on the investigation and prosecution of sexual assault cases, child sexual exploitation cases, and child sexual abuse, to also include training on the investigation and prosecution of sexual abuse cases involving victims with developmental disabilities.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 662 (Cunningham)- Crimes against minors

Penal Code Section 266 (Amend)

SUMMARY:

Expands the crime of inveigling or enticing an unmarried female minor of chaste character for sexual purposes to any minor for those purposes.

HIGHLIGHTS:

- Changes the crime of enticing a female into a house of prostitution to allow the victim to be a person of any gender.
- Deletes the element from that crime that requires the victim be "unmarried."
- Deletes the element from that crime that requires the victim be "of previous chaste character."
- Deletes the element from that crime that requires the solicitor be "any man."

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

AB 1735 (Bauer-Kahan)- Evidence: privileges: human trafficking caseworker-victim privilege

Evidence Code Sections 1038, 1038.1 and 1038.2 (Amend) and 1038.3 (Add)

SUMMARY:

Makes changes to existing law governing the human trafficking caseworker-victim privilege to update the law, which has largely remained unchanged for the past 15 years.

HIGHLIGHTS:

- *EC 1038.2(c):* Modifies the definition of "human trafficking caseworker" in current law to be a person who is employed by a "human trafficking victim services organization" and who has specified experience, education, and training working with victims of human trafficking.
- *EC 1038.3:* Clarifies that nothing in the bill limits any obligation for any person to report child abuse, as required by law.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

RULES OF THE ROAD/TRANSPORTATION

AB 1266 (Rivas)- Traffic control devices: bicycles

Vehicle Code Sections 22101 (Amend)

SUMMARY:

This bill allows bicycles to travel straight through a right or left-hand-turn-only lane while at an intersection, if an official traffic control device indicates the movement is permitted. The Department of Transportation (Caltrans) would be required to develop standards to implement the provisions.

HIGHLIGHTS:

- Allows a bicycle to travel straight through a right or left-hand-turn-only lane at an intersection.
- Caltrans will develop standards for lane striping, pavement markings, and appropriate regulatory signs that articulates the movement is permitted.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT:

This bill may initially cause confusion for motorists who are unaware that a bicyclist may proceed straight through a right or left-hand turn only lane and assume the bicyclist will obey the previous rules of the road.

This bill could also lead to more bicycle collisions at intersections as they will be performing a movement that motorists are unfamiliar with.

There is also the possibility bicyclists will perform this movement at intersections where it is not permitted.

NOTES:

AB 1614 (Gipson)- Vehicles: license plate pilot program

Vehicle Code Section 4853 (Amend)

SUMMARY:

This bill extends authorization for the Department of Motor Vehicle's pilot program evaluating alternatives to vehicle license plates, registration stickers, and registration cards from January 1, 2020, to January 1, 2021.

HIGHLIGHTS:

- The pilot program is evaluating the use of digital license plates, license plate wraps (vinyl alternatives to metal plates), and digital registration cards.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT:

Officers in the field could encounter vehicles with digital license plates. Digital plates do not look like the traditional California license plates and are typically white with black characters. Additionally, it can be difficult to distinguish between a California digital license plate from the other authorized states.

NOTES:

AB 1810 (Transportation Committee)- Transportation: Omnibus Bill

Vehicle Code Sections 34261 and 23229 (Amend)

SUMMARY:

Amends Section 34621 of the California Vehicle Code (CVC) allowing motor carriers of property to continue operating for 30 days past their permit expiration date, under specified circumstances, during delays by DMV in processing permit renewals.

Amends Section 23229 CVC to close a loophole in the law which allowed passengers of limousines, housecars, and charter-party carriers to smoke or ingest marijuana.

HIGHLIGHTS:

- Motor carriers of property will now be able to continue operating without interruption for 30 days while waiting for renewal of their permit, if their permit expires while the DMV processes the renewal application.
- This 30-day grace period only applies if the motor carrier is currently operating with a valid permit and is in compliance with all other regulations.
- Passengers of limousines, housecars, and charter-party carriers are no longer allowed to smoke or ingest marijuana in those vehicles.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT:

The grace period for motor carriers of property could make enforcement of permit requirements slightly problematic. The Carrier Information Reporting and Evaluation System used by enforcement personnel does not contain history of motor carrier permits, merely whether the permit is valid or expired.

This law now requires an enforcement officer encountering a motor carrier during the 30-day extension period to contact the DMV to inquire if the carrier had submitted a renewal application for their permit. The DMV is only available during business hours on weekdays, so this information would not be available during motor carrier encounters that occur on weekends or holidays.

Law enforcement can now cite passengers in limousines, housecars, and charter-party vehicles for smoking or ingesting marijuana while in those vehicles.

NOTES:

SB 112 (Budget and Fiscal Review Committee)- Muffler Citation

Vehicle Code Sections 27150.2, 27151 and 40610 (Amend)

SUMMARY:

This bill reactivates the authority for law enforcement to issue a notice to correct citation for failing to have an adequate muffler or for having an exhaust system that produces noise that exceeds decibel limit standards for motor vehicles only. Citations issued to motorcyclists for excessive noise would remain non-correctable.

HIGHLIGHTS:

- The notice to correct violation is required to provide a reasonable time for correction and proof of correction of the particular defect, not to exceed 30 days, or 90 days for the all-terrain vehicle safety certificate.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT:

Law enforcement will now be able to issue a "fix-it ticket" for those vehicles with modified or defective exhaust systems, excluding motorcycles.

NOTES:

SB 395 (Archuleta)- Wild game animals: accidental taking and possession of wildlife: collision with a vehicle: wildlife salvage permits

Fish and Game Code Sections 2000.5 (Amend), 1023 and 2000.3 (Add) and 2000.6 (Add and Repeal)

SUMMARY:

Directs the Department of Fish and Wildlife to conduct a wildlife-collision data collection pilot program to support wildlife conservation efforts. Additionally, this bill would authorize the Fish and Game Commission, in consultation with CHP and other stakeholders, to establish a wildlife salvage pilot program authorizing the issuance of a permit for the removal of deer, elk, pronghorn antelope, and wild pigs killed as a result of a collision with a vehicle, if the wild game meat is used for human consumption.

HIGHLIGHTS:

- Provides Caltrans, the Department of Fish and Wildlife, and other state agencies with a mandate to track collisions involving large game animals in California, with the goal of assessing areas where wildlife crossings are needed most.
- Allows the taking of large game animals after a collision in designated pilot areas only and only if the motorist obtains a wildlife salvage permit.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT:

Authorizing residents to harvest animals struck by vehicles may create a traffic safety hazard. Motorists may stop in an unsafe location following a collision with an animal in an attempt to remove the animal from the roadway. The bill states that the Fish and Game Commission may establish a pilot program and that it can be limited to certain areas or counties. If the pilot program is established, the Commission is mandated to create a web-based portal to facilitate issuance of wildlife salvage permits to motorists.

Moreover, motorists must comply with Section 21718 of the California Vehicle Code, which restricts when and where motorists may stop on a freeway. Additional data collection may be imposed on law enforcement above and beyond that which is currently gathered in the context of these collisions.

NOTES:

SB 543 (Pan)- Pedicabs

Vehicle Code Section 21215.2 (Amend)

SUMMARY:

Removes the January 1, 2020 sunset date on existing law authorizing individuals on a pedicab to consume alcohol if the passenger is physically on board and within the pedicab.

HIGHLIGHTS:

- Section 21215.2 CVC is amended to delete the sunset date of January 1, 2020, to allow cities to permanently authorize the consumption of alcoholic beverages on pedicabs.
- The pilot program was commenced to determine if the safety precautions created in bill SB 530 (Pan, Chapter 496, Statutes of 2015) would indeed minimize or prevent injuries while consuming alcohol on pedicabs.
- Since January 1, 2016, pedicab operators have been required to report any crashes caused or experienced to the California Highway Patrol annually. There have not been any reported incidents.
- Pedicabs allowing alcohol consumption can only be operated once an operator has met significant safety standards and operating requirements including local government approval have been met. This includes; all passengers being 21 years of age or older, alcohol may only be consumed by passengers while physically onboard the pedicab, alcohol beverages may only be supplied by the passengers of the pedicab, the operator or safety monitor shall have met the safety training course requirement, and the consumption of alcoholic beverages onboard the pedicab shall be authorized by local ordinance or resolution.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Alcohol consumption will continue to be allowed on pedicabs.

Minor enforcement costs to the Department of Alcoholic Beverage Control (ABC) and local law enforcement, potentially offset to some extent by fine revenues. Training costs for operator and safety monitors will likely be covered by fees paid to private training providers.

NOTES:

SENTENCING

SB 136 (Wiener)- Sentencing

Penal Code Section 667.5 (Amend)

SUMMARY:

For new felony convictions, requires that the current one-year sentence enhancement for each prior felony be imposed only for prior convictions for sexually violent offenses.

HIGHLIGHTS:

- "Sexually violent offense" means the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person, or threatening to retaliate in the future against the victim or any other person, and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as defined in subdivision (a): a felony violation of Section 261, 262, 264.1, 269, 286, 287, 288, 288.5, or 289 of, or former Section 288a of, the Penal Code, or any felony violation of Section 207, 209, or 220 of the Penal Code, committed with the intent to commit a violation of Section 261, 262, 264.1, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

CPOA Position: Oppose

NOTES:

TRAINING

SB 273 (Rubio)- Domestic violence

Penal Code Sections 13519 (Amend) and 803.7 (Add)

SUMMARY:

Extends the window to prosecute a felony domestic violence crime from three years to five years and makes changes to domestic violence training for peace officers.

HIGHLIGHTS:

- *PC 803.7 (b):* Provides that its provisions regarding the statute of limitations for felony domestic violence apply to crimes that are committed on or after January 1, 2020, and to crimes for which the statute of limitations that was in effect prior to January 1, 2020, has not elapsed as of January 1, 2020.

OFFICER TRAINING:

- *PC 13519 (a):* Requires the domestic violence training that peace officers receive to include a brief current and historical context on communities of color impacted by incarceration and violence.
- Specifies that the domestic violence experts included in trainings may include victims of domestic violence and people who have committed domestic violence and have been or are in the process of being rehabilitated.
- Provides, with respect to the domestic violence training that law enforcement officers receive, that the types of techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim must include, but are not limited to:
    - Methods for ensuring victim interviews occur in a venue separate from the alleged perpetrator and with appropriate sound barriers to prevent the conversation from being overheard.
    - Questions for the victim, including, but not limited to, the following:
        a. Whether the victim would like a follow-up visit to provide needed support or resources.
        b. Information on obtaining a gun violence restraining order and a protective order, as described.

- A verbal review of the resources available for victims outlined on the written notice, as provided.

- Provides, with respect to the domestic violence training that law enforcement officers receive, that the signs of domestic violence that officers are trained to recognize, include, criminal conduct that may be related to domestic violence, which may include but is not limited to:
  - "Coercion," as described, for purposes of committing or impeding the investigation or prosecution of domestic violence.
  - False imprisonment, as defined.
  - Extortion, as defined, and the use of fear, as described.
  - Identity theft, as defined, impersonation through an internet website or by other electronic means, as defined, false personation, as defined, receiving money or property as a result of false personation, and mail theft.
  - Stalking, as defined, including by telephone or electronic communication.
  - Nonconsensual pornography
- Provides that one representative of an organization working to advance criminal justice reform and one representative of an organization working to advance racial justice be added to the groups and individuals with whom POST must consult in developing domestic violence training for law enforcement officers.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Who's going to do the follow up? To my knowledge there is no state-wide, universal program or process in place for this.

NOTES:

SB 399 (Atkins)- POST

Penal Code Sections 13500 (Amend)

SUMMARY:

Requires the President pro Tempore of the Senate and the Speaker of the Assembly to each appoint a member of the Commission on Peace Officer Standards and Training (POST) who is not a peace officer.

HIGHLIGHTS:

- Requires the two appointees to have demonstrated expertise in one or more of the following areas:
  - Implicit and Explicit bias.
  - Cultural competency.
  - Mental health and policing.
  - Work with vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

No immediate impact.

NOTES:

USE OF DEADLY FORCE

AB 392 (Weber)- Peace officers: deadly force

Penal Code Sections 196 and 835a

SUMMARY:

Revises the standards for use of deadly force by peace officers.

HIGHLIGHTS:

PC 196

- Specifies that homicide is justifiable when committed by a peace officer and those acting by their command in their aid and assistance, under either of the following circumstances:
    a) In obedience to any judgment of a competent court; or
    b) When the homicide results from a peace officer's use of force that is in compliance with the standards of Penal Code Section 835a.

PC 835a

- *835(a) (4):* That the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.
- *835(b):* Provides that any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.
- *835(c) (1):* Specifies that, despite the ability to use objectively reasonable force, a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:
    - To defend against an imminent threat of death or serious bodily injury to the officer or to another person.
    - To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace

officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

- *835(c) (2):* Provides that a peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person.
- *835(d):* Specifies that a peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right to self-defense by the use of **objectively reasonable** force, otherwise in compliance with the provisions of this bill to effect the arrest or to prevent escape or to overcome resistance.

DEFINITIONS

- "*retreat*" does not mean tactical repositioning or other de-escalation tactics.
- "*deadly force*" means any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.
- Specifies that a threat of death or serious bodily injury is "*imminent*" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.
- Specifies that the "*totality of the circumstances*" means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

- Does not mean that force itself is ultimately necessary, rather, objectively reasonable force must appear to be necessary.
- Puts into code the "objectively reasonable" standard you've been trained on as a result of *Graham v. Connor, Tennessee v. Garner* and other United States Supreme Court case law.
- Likely more questions asked, more debates, greater need for judicial interpretation and more discussion about whether there were other options available to an officer, in particular when deadly force was used in any given incident.

CPOA Position: Neutral (final version)

NOTES:

SB 230 (Caballero)- Law enforcement: use of deadly force: training: policies

Government Code Section Chapter 17.4 (commencing with Section 7286) to Division 7 of Title 1 (Add) and Penal Code Section 13519.10 (Add)

SUMMARY:

Requires law enforcement agencies to maintain a policy by January 1, 2021 that provides guidelines on the use of force, utilizing de-escalation techniques and other alternatives to use of force, specific guidelines for the application of deadly force, and factors for evaluating and reviewing all use of force incidents.

HIGHLIGHTS:

GC 7286:

- (b) Each law enforcement agency shall, by no later than January 1, 2021, maintain a policy that provides a minimum standard on the use of force.
- Each agency's policy shall include all of the following:
  - A requirement that officers utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible.
    - "Feasible" means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.
  - A requirement that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.
  - A requirement that officers report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer.
  - Clear and specific guidelines regarding situations in which officers may or may not draw a firearm or point a firearm at a person.

- A requirement that officers consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.
- Procedures for disclosing public records in accordance with Section 832.7.
- Procedures for the filing, investigation, and reporting of citizen complaints regarding use of force incidents.
- A requirement that an officer intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.
- Comprehensive and specific guidelines regarding approved methods and devices available for the application of force.
- An explicitly stated requirement that officers carry out duties, including use of force, in a manner that is fair and unbiased.
- Comprehensive and specific guidelines for the application of deadly force.
    - "Deadly force" means any use of force that creates a substantial risk of causing death or serious bodily injury. Deadly force includes, but is not limited to, the discharge of a firearm.
- Comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident, including reporting use of force incidents to the Department of Justice in compliance with Section 12525.2.
- The role of supervisors in the review of use of force applications.
- A requirement that officers promptly provide, if properly trained, or otherwise promptly procure medical assistance for persons injured in a use of force incident, when reasonable and safe to do so.
- Training standards and requirements relating to demonstrated knowledge and understanding of the law enforcement agency's use of force policy by officers, investigators, and supervisors.
- Training and guidelines regarding vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

- Comprehensive and specific guidelines under which the discharge of a firearm at or from a moving vehicle may or may not be permitted.
- Factors for evaluating and reviewing all use of force incidents.
- Minimum training and course titles required to meet the objectives in the use of force policy.
- A requirement for the regular review and updating of the policy to reflect developing practices and procedures.

- (c) Each law enforcement agency shall make their use of force policy adopted pursuant to this section accessible to the public.
- (d) This section does not supersede the collective bargaining procedures established pursuant to the Myers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4), the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4), or the Higher Education Employer-Employee Relations Act (Chapter 12 (commencing with Section 3560) of Division 4).

PC 1351.10:

Mandates that POST implement a course(es) for the "regular and periodic" training of law enforcement in the use of force and develop uniform, minimum guidelines for adoption by CA agencies.

(b) the courses and guidelines must include all of the following:

- Legal standards for use of force
- Duty to intercede
- The use of objectively reasonable force
- Supervisory responsibilities
- UOF review and analysis
- Guidelines for use of deadly force
- State required reporting
- De-escalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence
- Implicit and explicit bias and cultural competency
- De-escalation techniques to effectively, safely and respectfully interact with people with disabilities or behavioral health issues.
- Use of force scenario including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don't shoot situations, and real-time force option decision making.

- Alternatives to the use of deadly force and physical force, so that de-escalation tactics and less lethal alternatives are, where reasonably feasible, part of the decision-making process leading up to consideration of deadly force.
- Mental health and policing, including bias and stigma.
- Using public service, including the rendering of first aid, to provide a positive point of contact between law enforcement officers and community members to increase trust and reduce conflicts.

WHAT THIS BILL MEANS TO LAW ENFORCEMENT

Operational impacts to policy creation/updating, training adherence.

NOTES:

CALIFORNIA PEACE OFFICERS' ASSOCIATION
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2020 Legislative Platform & Priorities

Chief Neil Gallucci, CPOA President, *Carlsbad Police Department*

Commander W. Paul LeBaron, Law & Legislation Committee Chair, *Long Beach Police Department*

Shaun Rundle, Deputy Director, *California Peace Officers' Association*

The California Peace Officers' Association (CPOA) is an organization of more than 36,000 law enforcement professionals of all jurisdictional levels, representing sworn personnel of all ranks, professional staff and retired peace officers. It is a profession dedicated to maintaining safe and thriving communities across California. In addition to implementing the most innovative and relevant training and leadership development for law enforcement anywhere in the world, our responsibility to the profession means that we have a very large bill load and participate in many legislative issues.

Grouped alphabetically by category, the topics below represent the primary interests of CPOA's advocacy efforts for the 2020 legislative year:

BEHAVIORAL/MENTAL HEALTH RESPONSE

- **Support legislation that expands the treatment of and response to mentally ill persons and inform the Legislature and Governor on the effective mental and behavioral health practices currently being used by law enforcement in California.**
- **Educate the Legislature and Governor on the growing issues associated with the mentally ill, and the increased and often burdensome demand placed on law enforcement to response to these issues, which include: homelessness, substance abuse and dependency, and unpredictable and potentially harmful behavior towards the public and peace officers.**
- **Promote policies and funding to alleviate the serious mental health care challenges in county jails by expediting competency hearings and the placement of mentally ill inmates in mental health care facilities.**

CONTROLLED SUBSTANCES

- **Inform the Legislature on growing national and local trends related to substance abuse and its correlations to increased homelessness, transiency, and erratic behavior against peace officers and peers.**
- **Oppose legislation that would expunge or otherwise reduce sentences for the most dangerous cannabis crimes, including sales to minors, commercial drug trafficking and driving under the influence of drugs (DUID).**
- **Support expanding funding for law enforcement agencies and partners that promote substance abuse prevention programs (e.g., DARE, etc.), drug enforcement endeavors such as multi-agency drug task forces, and treatment programs for juveniles and adults.**

CRIMES & CRIMINAL REFORM

- **Oppose any efforts to further decriminalize existing crimes in California or lessen the sentences of any offenses that would result in the early release of serious criminals who could further harm the safety of the public and law enforcement personnel.**
- **Support legislation that combats the growing crime of human trafficking and provide to the legislature details and figures to further understand the scope of human trafficking in California.**
- **Educate and inform the Legislature and Governor on the continuing interconnectivity of crimes that have occurred in the wake of recent criminal justice reforms.**

DATA REPORTING

- **Engage the Legislature, Governor and California Department of Justice on effective and relevant reporting of local agency data and ensure that any disclosed data be fair and balanced and protects the safety of officers and the public they serve.**

FUNDING & LOCAL BUDGET CONTROL

- **Support funding initiatives for POST and other law enforcement support organizations.** We will work with Legislative Budget Committees, POST and the Governor's office to ensure ongoing funding is addressed and achieved.
- **Support and encourage legislation and budget negotiations that retain funding for State and local law enforcement agencies to effectively serve their communities.** These needs include behavioral health treatment, local California Public Records Act (CPRA) processing, development and funding of federal, state and local drug and major crimes task forces, crisis intervention teams, and adequate patrol staffing.
- **Identify opportunities for reimbursements to supplement increased custodial and supervision costs resulting from prison realignment.**
- **Oppose legislation with mandates for local agency adherence to operations and programs that may not be reimbursable by State budget funds.**

LEGAL USE OF FORCE

- **Support evidence-based studies that seek to improve law enforcement tactics and non-lethal force options that ensure both the safety of the public and peace officers.**
- **Work collectively with the office of the California Attorney General to maintain transparency concerning lethal force encounters while concurrently retaining local control of investigations of such incidents.**

LOCAL OPERATIONS

- **CPOA supports the deployment and research of new and emerging technologies that provide law enforcement with the tools to provide the highest level of service to our communities.**
  - **9-1-1 & Communications**-CPOA supports the development and deployment of enhanced 911 services to allow first responders the ability to respond quickly to the needs of the people of California.
  - **Digital Evidence**-CPOA will engage with the Legislature and Governor on the extreme need for local funding to collect, store and retain large amounts of digital evidence as well as secure appropriate legal access to the such evidence.
  - **Forensics Analysis**-CPOA will engage with the Legislature, Governor and Department of Justice on the critical need to fund and expand forensic laboratory analysis by rape kit, ballistic, latent print and other trace evidence submitted by local agencies, especially those without current forensic analysis capabilities.

    Expand availability and funding for rapid DNA analyses for mass casualty incidents and to help resolve cold cases and major crime investigations.
  - **Mobile & Body Worn Cameras**-CPOA supports the funding and deployment of mobile cameras in vehicles and for personal wear, funding for the use of secure cloud storage for law enforcement and the development of policies to protect the privacy of the children, students, patients, the innocent, victims and peace officers.
    - Support any body worn camera measures that provide for local agency discretion in the use of equipment and policy and deployment decisions that best serve individual communities and their department.
    - Given the size and diversity of jurisdictions and law enforcement operations in California, CPOA is concerned about any effort to legislative "one-size-fits-all" policies concerning deployment of body worn cameras, and the review, storage, and release of video footage.
    - Support efforts that provide local agencies with the ability to engage with their communities, local district attorneys, and other stakeholders to determine if/when body worn camera video may be released, while preserving privacy rights of Californians and ensuring integrity and due process in the criminal justice system.
  - **New Generation Investigative Technology**-CPOA supports the deployment of new and emerging investigation technology, including unmanned aircraft, and the development of local policies that provides the tools to save abducted children; collect DNA, prevent the exploitation of children and vulnerable adults and prosecute those who violate the rights of any person.
- **CPOA supports transparent government and the role of the California Public Records Act while simultaneously observing and protecting the current Rule of Law in California.**

ROLE OF THE PROFESSION

- **Engage with the Legislature and Governor on proposals that maintain and strengthen the integrity and effectiveness of public safety in California, and oppose any measures intending to weaken the same.**
- **While CPOA recognizes that the law enforcement professional is rapidly changing, CPOA will engage with the Legislature and Governor on, and oppose any legislation that seeks to incorrectly portray, by statute and/or rhetoric, the duties and focuses of California peace officers.**
- **CPOA supports and will educate the Legislature and Governor on evidence and fact-based programs and approaches to public safety policy.**

CASE LAW

FOURTH AMENDMENT: CONSENSUAL ENCOUNTER

1. *People v. Chamagua* (2019) 33 Cal.App.5th 925: Did the officer's accusatory questions and time of day turn an otherwise consensual encounter into a detention?

> **RULE: Accusatory questioning does not turn an encounter into a detention and "sundown does not remove the power of free consent."**

2. FACTS: Officers were on patrol at 10:45 p.m. when Def. saw the patrol car, immediately changed direction, and quickly walked into an apartment complex driveway. At the same time, Def. put something in his pocket. Officers pulled their patrol car "just slightly" into the driveway, alongside of Def., and got out of their car. An officer asked, "Hey, how are you doing? What's your name? Do you got anything illegal on you?" Def. responded, "I have a pipe on me." The officer searched him and found a pipe with traces of crystal methamphetamine. The officer then asked, "Hey, you know, anything else illegal that you have on you?" Def. admitted he had meth, and after officers recovered that as well, he was arrested, read his *Miranda* rights, and admitted he had intended to sell the meth. Def. testified at the suppression hearing and gave a different version of events. Trial court denied the suppression motion primarily on credibility grounds.

3. HELD: Affirmed. Because a reasonable and innocent person would have felt free to leave, the encounter was consensual up until discovery of the pipe, at which point the officers had probable cause to arrest and search.

- Court accepted officer's version of events because trial court made a credibility determination.
- Encounter was consensual because officers simply asked questions and did not:
    - use or threaten physical force;
    - command the suspect to do anything, or
    - make any show of authority.
- Asking questions, even incriminating ones, does not turn an encounter into a detention; "Sundown does not remove the power of free consent."

FOURTH AMENDMENT: DETENTIONS

1. *People v. Kidd* (2019) 36 Cal.App.5th 12: Was a suspect detained when an officer made a U-turn to park behind a suspect, turned spotlights onto the suspect's car, and immediately got out and walked toward the car? Did the fact that the car was parked with its fog lights illuminated constitute reasonable suspicion?

> **RULE: If the circumstances of a contact with a parked vehicle would make the driver expect that if he/she drove away the officer would respond by following with a red light and sirens, it constitutes a detention.**

2. FACTS: At 1:30 a.m., an officer saw a car parked on a residential street with its front amber fog lights on. Two individuals were seated inside. To see if they needed assistance, the officer passed the car, made a U-turn, and parked 10 feet behind it, which had another car parked about 10 feet in front of it. The officer pointed two spotlights—one by his driver's side mirror, the other on the overhead light bar—at the occupied car. He exited his patrol vehicle. When he walked to the driver's side, he smelled a strong marijuana odor emanating from the car. When the officer reached the driver's window, he shined his flashlight in the car and asked the occupants what they were doing. Def. was in the driver's seat. The passenger was trying to hide some bags of what he suspected to be marijuana. The officer asked if either of the men were on probation or parole, and Def. said he was on probation.

Def. spontaneously told the officer that there was a firearm inside the car's center console. The officer confirmed Def. was on probation and was subject to a search condition. A search of the car revealed marijuana, in several different packages, a digital scale, a pistol with the serial number scratched off, a loaded magazine for the pistol, and 142 pills later identified as Alprazolam. Def.'s motion to suppress was granted. The People appealed.

3. HELD: Dismissal affirmed. Def. was detained when the officer made a U-turn, parked behind him, and focused spotlights on his car. Although the officer did not prevent Def.'s egress and did not use his colored emergency lights, a reasonable person in Def.'s position would expect that if he drove away, the officer would respond by following with a red light and sirens. Motorists are trained to yield immediately when a law enforcement vehicle pulls in behind them and turns on its lights.

The detention was not supported by reasonable suspicion. It is not a Vehicle Code violation to have one's foglamps on while parked. The detention could not be justified by the hunch that Def. was about to drive away only with his foglamps illuminated.

FOURTH AMENDMENT: DETENTIONS

1. *People v. Arebalos-Cabrera* (2018) 27 Cal.App.5th 179: Was the suspect still being detained after the traffic stop ended and he was told he was free to go but, moments later, he consented to search of his vehicle?

> **RULE: While not determinative, an officer's statement that a driver is "free to go" is an important factor in assessing whether, under the totality of the circumstances, a reasonable person would feel free to leave or terminate the encounter.**

2. FACTS: Def. was being surveilled by a multiagency narcotics suppression team, and his tractor-trailer had been identified as possibly transporting narcotics. A CHP officer with a special enforcement unit stopped Def. after observing him speeding and weaving across the lines. Def. showed the officer his driver's license, log book, and paperwork for the trip. Another officer arrived and ran his license and plates. Def. performed FST's but was not impaired. The officer discussed the suspicious nature of the logbook showing no trips the prior month. The officer returned the paperwork and told Def. he was free to leave. The stop lasted 15 to 20 minutes.

After Def. began to walk back to his truck, the officer asked Def. to search his truck. Def. gave consent orally and in writing. A search using a K-9 revealed over ten kilograms of heroin and four kilograms of methamphetamine in secret compartments in the cab.

3. HELD: Affirmed. Def. was no longer detained when he consented to the search. Normally, a traffic stop ends when the police have no further need to control the scene and they inform the driver and passengers that they are free to leave. Questioning a suspect after the stop has ended is consensual without some other indication of restraint (e.g., presence of several officers, display of a weapon, physical touching, or use of language or tone of voice indicating compliance was compelled).

FOURTH AMENDMENT: VEHICLE SEARCH AND PAT SEARCH

1. *People v. Fews* (2018) 27 Cal.App.5th 553: Does a driver's possession of a small amount of marijuana provide probable cause for a vehicle search? Must there be probable cause for a vehicle search to support a pat search of a passenger?

> **RULE: Possession of even a small amount of marijuana may provide probable cause for an automobile search. A pat search requires a separate analysis to determine whether there is reasonable suspicion that the suspect is connected to criminal activity and is armed.**

2. FACTS: Def. was the passenger in an SUV with expired registration. The driver abruptly stopped in a red zone, in front of a marked police vehicle, in an area known for narcotics-related shootings and stabbings. As soon as police turned on their lights and siren, the driver quickly got out, ignored orders not to reach back into the vehicle, and took from the SUV a half-burnt marijuana blunt.

The driver and SUV smelled of recently burnt marijuana. Meanwhile, Def. was making furtive movements and fidgeting in the front passenger seat. Seeing Def. reaching around the passenger compartment, his baggy clothing, and knowing a vehicle search would leave only one officer to watch both the driver and passenger, the officer asked Def. to exit the car, he did a pat search, and found a loaded gun. Thereafter, police searched the vehicle. The magistrate found that the probable cause to search the car also justified a pat search for officer safety and denied the suppression motion.

3. HELD: Affirmed. (1) Possession of marijuana while driving and driving under the influence of marijuana remain crimes even after Prop. 64. There was probable cause to search the car to determine if there was additional contraband. (2) A pat search requires reasonable suspicion that the defendant is connected to criminal activity and is armed; it is not dependent solely on whether there is probable cause for the vehicle search. Based on the evasive driving, high-crime area, and Def.'s behavior, the officers reasonably suspected Def. was connected to the possession and transportation of drugs and could be armed.

FOURTH AMENDMENT: DETENTION DURING VEHICLE DOG SNIFF

1. *People v. Vera* (2018) 28 Cal.App.5th 1081: Is a detention unduly prolonged when an officer has another officer write a traffic citation while a K-9 sniffs the vehicle?

> **RULE: A detention is not unduly prolonged if the use of a K-9 to sniff a vehicle did not add any time to the duration of the stop.**

2. FACTS: Detective Maltese stopped Def.'s car for having illegally tinted windows. As he walked up to Def.'s vehicle, the detective could not see through the rear window because it was so darkly tinted. Def. did not comply with officer's order to lower the rear window. Def. was ordered out of the car and a switchblade was found during a patsearch. Def. said his driver's license was in the glove compartment and gave the detective permission to retrieve it.

Around that time, another officer, Garcia, arrived to provide backup. Maltese performed a records check on Def., finding no warrants, and examined the knife and determined it was illegal. Maltese then asked Garcia to write the citation for the window tint violation and Garcia said "sure." Over the next 32 seconds, Maltese went to his patrol car, obtained both his citation book and his K-9, and handed the citation book to Garcia. After Maltese handed Garcia the citation book, Garcia began writing the citation. At the vehicle, the dog alerted on the trunk, and alerted again on the interior dashboard. While the dog was examining the car, Garcia was still writing the citation. The detective found methamphetamine in the trunk and the center console behind air vents.

3. HELD: Affirmed. The critical inquiry in determining whether a detention was unduly prolonged is whether use of the K-9 added time to the stop. Here, the assisting officer was still diligently writing the citation when the dog alerted to the presence of narcotics. And Def. properly was detained for the time period necessary to perform "mission-related actions" of the traffic stop. The court credited the officer's uncontroverted testimony as to how long it took for the dog to alert to the trunk.

FOURTH AMENDMENT: REASONABLENESS OF A BLOOD DRAW

1. *People v. Fish* (2018) 29 Cal.App.5th 462: Is a blood draw conducted at a hospital entitled to a presumption that it was conducted in a reasonable manner?

> **RULE: Investigative blood draws should follow basic, accepted phlebotomy guidelines. A blood draw that was conducted at a hospital presumably was drawn by a person legally licensed to draw blood and was performed in a reasonable manner.**

2. FACTS: After Def. was arrested for a DUI, his blood was drawn at a hospital pursuant to a warrant.

The only witness at the suppression hearing was the arresting officer, Officer Ramos. Officer Ramos testified that the blood was drawn in his presence at a hospital. After the parties rested, Def. argued that the prosecution had failed to carry their "burden to prove that the blood was taken according to acceptable medical practices." The People responded that, because the blood draw was pursuant to a warrant, Def. had the burden show that the blood was not drawn in a reasonable manner. The trial court granted Def.'s motion to suppress. The People appealed.

3. HELD: Order reversed, and charges reinstated. If a blood draw was conducted pursuant to a search warrant, the search is presumed to be lawful, and the burden of demonstrating that it was illegally executed remains with the defendant. Egregious phlebotomy practices could place the burden of proof on the prosecution.

Note: The fact that a blood draw was conducted by a government employee at a police station could affect this determination.

FOURTH AMENDMENT: WARRANTLESS BLOOD DRAW

1. *People v. Cruz* (2019) 34 Cal.App.5th 764: Does a warrantless blood draw (against the suspect's wishes) violate the Fourth Amendment where the suspect is on DUI probation, and as a condition of that probation, he agreed to submit to chemical tests?

> **RULE: A warrantless blood draw against a suspect's wishes does not violate the Fourth Amendment when the suspect is on DUI probation and, as a condition of his probation, he consented to submit to chemical tests.**

2. FACTS: At 10:50 p.m., an officer saw Def. speeding, partially swerve into the opposing lane, make several quick turns, and nearly hit a pedestrian. The officer activated his emergency lights. Def.'s vehicle yielded and collided with the curb. Def. got out of his car and ran, falling several times. The officer caught up to him and arrested him. The officer smelled a strong odor of an alcoholic beverage emanating from his breath and person. When the officer asked if Def. was willing to submit to FST's, he said, "No." His response to every question the officer asked was, "I want my lawyer." The officer then read the "Admin Per Se Form," regarding the consequences of failing to submit to chemical testing. Again, he responded by saying he wanted his lawyer.

The officer transported Def. to the police station so he could author a search warrant for a blood draw. Upon learning that Def. was on DUI probation and had a term requiring him to submit to chemical testing, the officer stopped the warrant application and instead transported Def. to the hospital. At the hospital, Def. expressly stated he was not consenting to a blood draw. Nevertheless, the phlebotomist drew Def.'s blood; he had a BAC of 0.157%.

3. HELD: Affirmed. Because of his express agreement to submit to a chemical test as a term of his probation, Def. had no right to refuse the blood draw, and the officer was legally justified in having the blood drawn without a warrant.

Note: This case applies only to a DUI probation condition in which a defendant expressly consented to submit to chemical testing. The holding does not extend to a general probation search condition—an issue that the California Supreme Court has not yet resolved.

FOURTH AMENDMENT: WARRANTLESS BLOOD DRAW

1. *Mitchell v. Wisconsin* (2019) 139 S.Ct. 2525: Must an officer obtain a warrant for a blood draw of an unconscious DUI suspect?

> **RULE: When a DUI suspect is unconscious "the general rule is that a warrant is not needed" for a blood test.**

2. FACTS: An officer received a report of a drunk driver and soon found Def. stumbling and slurring his words. He could not stand without the support of two officers. He was arrested based on the results of a PAS test, measuring his BAC at 0.24%. The officer tried to drive Def. to the police station for a more reliable breath test, but Def. became too lethargic to take that test. The officer instead drove Def. to a hospital for a blood test, during which time Def. lost consciousness. Hospital staff drew a blood sample while Def. was unconscious, resulting in a BAC of 0.22% about 90 minutes after his arrest.

3. HELD: Affirmed. When probable cause exists to believe a person committed a DUI and the driver's unconsciousness or stupor requires him/her to be taken to the hospital before police have a reasonable opportunity to administer a breathalyzer, the officer may "almost always" order a warrantless blood test. Although warrants may be obtained quickly, they still take some time to obtain. The exigent circumstances exception to the warrant requirement allows blood tests of drunk drivers when there are special circumstances (e.g., a car accident, medical condition, or unconsciousness).

Note: The Court left open the possibility that "in an unusual case" a defendant could show that "his blood would not have been drawn if police had not been seeking BAC information, and that police could not have reasonably judged that a warrant application would interfere with other pressing needs or duties."

FOURTH AMENDMENT & THE ELECTRONIC COMMUNICATIONS PRIVACY ACT (ECPA): SOCIAL MEDIA SHARING

1. *People v. Pride* (2019) 31 Cal.App.5th 133: Does a suspect have a Fourth Amendment privacy interest (or ECPA protections) in the information he shares with "friends" on social media if he has unwittingly accepted a police officer/undercover agent into his network?

> **RULE: Neither the Fourth Amendment nor the ECPA prevents information that is freely shared on social media from being used against a defendant at trial, even if he/she shared it only with their "friends." Defendants run a risk that they have unwittingly accepted a friend request from a police officer. Evidence that an officer obtains by being a "friend" with the defendant on social media is admissible without a warrant.**

2. FACTS: Def. committed a robbery and then posted a video on social media showing the stolen items. A detective created a pseudonymous account on the social media service and the suspect unwittingly accepted him as a friend. The detective was then able to view the incriminating video, which led to further investigation and the Def.'s arrest. The video was played at trial

Def. argued that when the detective falsely portrayed himself as a "friend" he violated Def.'s privacy rights under the Fourth Amendment and the ECPA. He claimed his privacy interest was heightened because posts on this social network were not designed to be permanent but rather to disappear after a short time.

3. HELD: Affirmed.

(1) The detective's actions were proper. There is no Fourth Amendment privacy interest in social media posts intentionally sent to one's "friends." Def. ran the risk that his posts would spread to people he might not have wished to see them. This is consistent with the longstanding rule that the Fourth Amendment does not protect a suspect's voluntary communications with an undercover informant. The fact that this social network tries to automatically delete its messages, yet here the detective managed to save the incriminating video, does not change the analysis.

(2) The ECPA does not apply in such cases. It does not prohibit the warrantless use of information that was sent to its intended recipient. The detective here was the intended recipient; he did not compel Def. or the social media company to turn over the video.

FOURTH AMENDMENT: COMMUNITY CARETAKING EXCEPTION TO THE WARRANT REQUIREMENT

1. *People v. Oveida* (2019) 7 Cal.5th 1034: May officers enter a home and conduct a protective sweep for reasons short of an emergency to provide a community caretaking function?

> **RULE: The community caretaking exception does not justify the warrantless search of a residence in the absence of an exigency.**

2. FACTS: Def.'s sister called 911 and reported that Def. had threatened to kill himself and had attempted suicide before. An officer responded while another officer phoned Def.'s friend, Trevor Case, inside of the house. Case went outside and said Def. had threatened to commit suicide and tried to grab several firearms in his bedroom. Case, his wife, and Def. were the only people in the house. Case and his wife had physically restrained Ovieda to keep him from killing himself. While Case's wife restrained Ovieda, Case searched for additional guns. He found a handgun, two rifles, and ammunition and had moved them to the garage. Def. came outside, was handcuffed, and denied making suicidal comments or possessing any guns. Def. said he was depressed.

The officer believed a cursory search of the home was necessary because it was unknown how many more weapons were in the house, whether the weapons were secure, and whether anyone inside the house was injured or needed medical attention. This was a concern because the person who had made the 911 call, Def.'s sister, was not at the scene. A second officer agreed a safety sweep was necessary to confirm that there were no other people in the house, no one inside was hurt, and there were no weapons or firearms left out in the open. During the sweep, officers saw multiple firearms, ammunition, high-capacity magazines for an assault weapon, marijuana, concentrated cannabis, and drug cultivation equipment. The officer thought that two rifles were illegal assault weapons, and that the marijuana lab posed an immediate risk of fire or explosion.

3. HELD: Reversed. This case did not fall into any recognized scenario of exigent circumstances. A nonemergency community caretaking exception does not exist that permits officer to enter a home without a warrant. The concept of community caretaking exists only in the context of vehicle searches.

FIFTH AMENDMENT: USE OF INFORMANT/AGENT AFTER INVOCATION OF *MIRANDA*

1. *People v. Orozco* (2019) 32 Cal.App.5th 802: After a suspect invokes his *Miranda* rights, may police orchestrate a conversation between him and an informant/agent to elicit incriminating information? Also, if police fail to stop the interrogation after the Def. has invoked *Miranda*, does this error taint a subsequent confession?

> **RULES: (1) Invocation of *Miranda* by a suspect does not bar police from orchestrating a meeting, in custody, between the suspect an informant/undercover agent. Such a conversation is not an "interrogation" so long as the suspect does not know that the person is working with the police.**
>
> **(2) Police err when they fail to immediately stop an interrogation upon a suspect invoking *Miranda*, but this does not necessarily taint a later confession so long as the statement was not the result of coercion.**

2. FACTS: Def. was suspected of beating his infant daughter to death. He was *Mirandized* and denied all guilt. He then invoked *Miranda* by asking for a lawyer. Officers did not immediately stop the interrogation, but eventually did so without eliciting a confession. Officers then sent the deceased infant's mother (Def.'s girlfriend) to speak to him with the understanding that she should try to obtain more information. She elicited a confession, which was admitted at trial over defense objections that it had been obtained in violation of *Miranda*.

3. HELD: Affirmed.

(1) *Miranda* is designed to bar coercive interrogations. A Def. who speaks with a person that he does not know is working for the police is not being interrogated, even if police orchestrate this conversation while defendant is in custody. Although it was "deplorable" for officers to arrange this meeting before providing Def. with an attorney, the conduct was constitutional.

(2) The officers' failure to stop the interrogation after Def. invoked *Miranda* violated the Fifth Amendment—but it did not taint his later confession to his girlfriend. A *Miranda* violation only taints a subsequent statement if the original violation elicited information that put pressure on the suspect to say more, or if the subsequent statement was otherwise

involuntary, i.e., coerced, in and of itself. Def. never confessed anything to police and his statements to his girlfriend were not coerced.

(3) This procedure did not violate due process. The officers' actions were a form of deception, which is permissible. Nothing the officers did actually overcame Def.'s will because he never confessed to them, and only confessed to his girlfriend when he thought it was a private conversation.

FIFTH AMENDMENT: REINITIATING AN INTERROGATION

1. *People v. Anthony* (2019) 32 Cal.App.5th 1102: What is the appropriate procedure when a suspect stops an interrogation by invoking *Miranda*, but later asks officers to restart it?

> **RULE: When a suspect invokes *Miranda* but later decides he wants to speak with officers after all, officers must re-advise him/her of their *Miranda* rights anew or limit the second interview to questions that are not likely to elicit an incriminating response.**

2. FACTS: Def. and his fellow gang member were the victims of a shooting. A short while later, Def. was arrested for a retaliatory shooting. He invoked *Miranda* but one day later, while in custody, he asked to speak to officers again. They did not re-*Mirandize* him. Officers and Def. spoke with the understanding that they would discuss only the original shooting in which he was the victim. However, officers asked questions that shed light on the gang feud that was behind both shootings. This provided evidence, that was admitted at trial, of Def.'s motive and an intent to commit the retaliatory shooting.

3. HELD: Affirmed. Error was harmless.

(1) Officers violated *Miranda* during the reinitiated interview. It was unclear why Def. asked officers to return, but when they did, they:

(a) did not re-advise him of his *Miranda* rights; and
(b) assured him they only wished to talk about the prior shooting in which he was the victim; but
(c) asked him gang-related questions that called for an incriminating response.

This meant that Def. could not have knowingly and voluntarily waived *Miranda* in that interview simply by responding to the officers' questions.

(2) However, the *Miranda* violation was harmless due to overwhelming independent evidence of guilt. Def. was the driver of the car used in the shooting and was arrested near the scene of the crime after a car chase and crash. There was also overwhelming evidence of gang motive.

FIFTH AMENDMENT: *MIRANDA* CUSTODY

1. *In re M.S.* (2019) 32 Cal.App.5th 1177: Were police required to give *Miranda* warnings to a minor suspect prior to a crime scene reenactment? Were her statements voluntary?

> **RULE: *Miranda* warnings are not required for an out-of-custody suspect in order to conduct a crime scene reenactment. Physical and mental impairments do not necessarily preclude a suspect from giving a voluntary *Miranda* waiver.**

2. FACTS: A 15-year-old was brought to a hospital by her oblivious parents. An examination revealed a protruding umbilical cord. When questioned by a physician's assistant, M.S. admitted that she had just given birth to a baby boy, but claimed he was stillborn. She provided differing accounts of the circumstances surrounding the birth, and the police were called. After speaking to hospital staff, two plainclothes detectives interviewed M.S. in her hospital room with the door open and a nurse present, not yet knowing whether this was a criminal offense or a "medical event." M.S. gave them four versions of what had happened to the baby before finally saying that his body was in a plastic bag in the bathroom vanity. M.S. consented to a search of her family's apartment. Meanwhile, officers went to the apartment and, after obtaining M.S.'s father's written permission, conducted an initial warrantless search.

The deceased baby was in a trash bag in the bathroom. A blood-stained broccoli knife was also found. An autopsy revealed that the baby had been killed from a neck wound. A detective obtained M.S.'s consent to search her cellphone and laptop. Data downloaded from the cellphone showed internet searches on how to induce a miscarriage.

Three days later, back at her apartment, detectives asked M.S. to participate in a videotaped reenactment. M.S. was told that she was "not in any trouble right now," was "free to leave," and did not have to participate. In her parents' presence, M.S. agreed. Using a doll, she showed how she had cut the umbilical cord. She continued to insist that the baby was stillborn.

A week after the murder, detectives questioned M.S. at the police station. As her parents waited nearby, M.S. waived her *Miranda* rights. When confronted with the autopsy results, she finally admitted to cutting the baby's throat although she claimed she did not intend to

kill him. The juvenile court sustained the juvenile petition's allegation that M.S. had had committed second degree murder.

3. HELD: Affirmed. Prior to the reenactment, *Miranda* advisements were unnecessary because M.S. was not in custody when officers visited her at home. Sensitive to her age and physical condition, officers were not aggressive, told her that she could refuse and was free to leave, and gave her a break during the 30-minute reenactment. The *Miranda* waiver was valid and her statements were voluntary despite her allegation that she had been physically exhausted from giving birth 10 days earlier and had suffered from posttraumatic stress disorder. Before her waiver, she said she felt okay, and the interview was friendly and conducted by familiar detectives.

DUI TESTIMONY: HORIZONTAL GAZE NYSTAGMUS

1. *People v. Randolph* (2018) 28 Cal.App.5th 602: Is a police officer qualified to testify about the significance of a Def.'s performance on a Horizontal Gaze Nystagmus (HGN) test?

> **RULE: An officer may testify about the significance of a Def.'s performance on a horizontal gaze nystagmus (HGN) test without separate expert testimony.**

2. FACTS: Def. was weaving in his lane and crossed over into another lane of traffic. CHP officers pulled him over, noticed the standard signs of alcohol consumption, and conducted field sobriety tests, including the HGN test. Def. refused to do a PAS test or submit to the required breath or blood test. He was charged with driving under the influence along with a refusal allegation. At a pretrial hearing, CHP officers testified about their training and experience in determining whether a person was under the influence and unsafe to drive, including their reliance on the HGN test. The trial court concluded that expert opinion regarding the science of the HGN test was needed, and that without it there was insufficient evidence to prove the crime. The trial court dismissed the case in the interests of justice, and the People appealed.

3. HELD: Prosecution reinstated. An officer with adequate training and experience in performing the HGN test may testify about the significance of a defendant's performance without separate expert testimony. HGN testing is not a new technique but rather is generally accepted in the scientific community. Nothing prevents a Def. from challenging an officer's testimony through his/her own expert.