

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

PUBLIC SAFETY 2002

CREATING A SAFER CALIFORNIA

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ANIMAL ABUSE

Reports of Animal Abuse, Cruelty or Neglect

There have been numerous studies over the years documenting the connection between cruelty to animals and human violence. Animal cruelty is often a precursor to violence committed against humans and is associated with more serious problems such as child or spousal abuse, and mental health issues.

AB 670 (Strom-Martin), Chapter 134, permits employees of child or adult protective services agencies to report suspected instances of animal cruelty, abuse, or neglect to the entity or entities that investigate animal abuse or neglect. Specifically, this new law:

- Permits any employee of a county child protective services agency, while acting in the scope of his or her employment, who had knowledge of or observed an animal whom he or she reasonably suspected had been the victim of cruelty, abuse, or neglect, to report the cruelty, abuse, or neglect to the county animal control agency.
- Permits a written report of animal cruelty, abuse, or neglect, as specified, to be made within two working days of receiving the information concerning the animal, and if an immediate response was necessary the report may be made by telephone as soon as possible.
- States that this permissive reporting requirement creates a duty to investigate suspected animal cruelty, abuse, or neglect.
- Provides that reports of animal cruelty, abuse, and neglect, may be made on a preprinted form containing each of the following:
 - His or her name and title;
 - His or her business address and telephone number;
 - The name, if known, of the animal owner or custodian;
 - The location of the animal and the premises on which the suspected animal abuse took place;
 - A description of the location of the animal and the premises; and,
 - The type and numbers of animals involved.

BACKGROUND CHECKS

Criminal Background Checks: Volunteers Who Transport Persons Impaired by Drugs or Alcohol

The Designated Drivers Association (DDA) is a nonprofit organization with the sole purpose of reducing vehicle accidents and deaths caused by driving under the influence (DUI). DDA volunteers drive impaired individuals home in their own vehicles free of charge. To maintain a safe program, it is important to investigate the background of volunteer drivers. Currently, the DDA cannot access the criminal history information of their volunteers through the Department of Justice (DOJ). The release of criminal history information to human resource agencies is limited by statute to a narrow class of individuals.

AB 1855 (Steinberg), Chapter 990, expands the list of potential recipients of criminal history information from the DOJ to include public or private entities responsible for determining the character or fitness of a person applying as a volunteer who transports individuals impaired by alcohol or drugs.

Background Checks: Potential Conservators

By the year 2020, California will have over nine million senior citizens. Adequate safeguards should exist to protect seniors from those individuals who would take advantage of them.

AB 1957 (Robert Pacheco), Chapter 644, allows a public guardian providing conservatorship services or an agency designated as a county conservatorship investigator to order a criminal background check on any person the public guardian is considering as a potential conservator. Specifically, this new law:

- Authorizes a public guardian providing conservatorship services or an agency designated as a county conservatorship investigator to order criminal background checks on any person being considered as a potential conservator.
- Allows a potential conservatee to request a criminal background check on any person being investigated as a potential conservator.
- Authorizes the release of specified convictions occurring within 10 years of the date of the request, or beyond 10 years if the subject of the request was incarcerated within the last 10 years.

- Prohibits the Department of Justice (DOJ) from retaining submitted fingerprints and related information, and authorizes the DOJ to charge a reasonable fee for the costs of processing a request.
- Exempts private professional conservators who are in compliance with other provisions of law.
- States the criminal records information received by a public guardian shall be kept confidential, except that it may be disclosed, under seal, to the court and to the attorney for the person for whom a conservatorship is being considered when the appointment of a conservator as an alternative to the public guardian is being considered by the court. The attorney for the proposed conservatee shall keep any disclosed criminal records information confidential.
- Requires the Legislative Analyst's Office, as part of its analysis of the Budget Bill for the 2006-07 fiscal year, include, to the extent available, the number of annual requests for information and whether this information was of benefit to the public guardian or conservatorship investigator in assessing potential conservators.
- States that this section shall only remain operative until January 1, 2007; and as of that date, is repealed unless a later statute is enacted.

Background Clearances on Individuals Who Roll Fingerprints

Existing law provides for criminal background checks for various employment, licensing and certification purposes. The criteria for the type of criminal history information released by the Department of Justice (DOJ) varies depending on the type of employment, and license or certification being sought.

AB 2659 (Runner), Chapter 623, requires DOJ, commencing January 1, 2004, to maintain a certification program to process fingerprint-based criminal background clearances on individuals who roll applicant fingerprint impressions. Specifically, this new law:

- Requires DOJ to establish, implement, and maintain a certification program to process fingerprint-based criminal background clearances on individuals who roll applicant fingerprint impressions, manually or electronically, for licensure, certification or employment purposes.
- Prohibits persons from rolling applicant fingerprints for non-law enforcement purposes unless certified.
- Provides that law enforcement personnel and state employees who have received training pertaining to applicant fingerprint rolling are exempt from the certification requirement.

- Authorizes DOJ to charge a fee sufficient to include processing costs of the certification program.
- Requires any individual who rolls fingerprint impressions for persons who are being fingerprinted for applicant licensure, certification, or employment purposes, to submit to DOJ two sets of fingerprints, along with the appropriate fees and documentation in order to process state and federal criminal background clearances.

Criminal Background Checks: Revised Criteria

The Department of Justice (DOJ) maintains state summary criminal history information and may release that information to specified persons and entities. Existing law allows criminal background checks for various employment, licensing and certification purposes. The criteria for what criminal history information DOJ can release depends on the type of employment, license or certification being sought.

SB 900 (Ortiz), Chapter 627, consolidates background check criteria for specified agencies for use for employment, licensing or certification purposes. Specifically, this new law:

- Makes legislative findings and declarations relative to state criminal history information.
- Provides that whenever criminal history information is released for the purposes of peace officer employment or certification, DOJ will disseminate information, as specified.
- Provides that whenever criminal history information is released for the purposes of employment, licensing or certification at a criminal justice agency, as defined in Penal Code Section 13101, DOJ will disseminate information, as specified.
- Provides that whenever criminal history information is released for the purpose of licensing a community care, residential, elder care or day-care facility, DOJ will disseminate information, as specified.
- Provides that a human resource agency that is not a transportation agency or an employer of an in-home supportive care person that requests a background check will receive specified sexual offense information.
- Establishes a procedure for financial institutions to obtain criminal background information.
- Provides that whenever criminal history information is released for any purpose other than those already mentioned, DOJ will disseminate information regarding every conviction and every arrest for which the employee or applicant is awaiting trial.
- Provides that agencies or individuals may contract for subsequent arrest information.

- Expands the information released to cities, counties, or districts to include arrests for which the concessionaire or affiliate is awaiting trial.
- Requires an agency or employer of a prospective employee or volunteer who would have supervisory or disciplinary power over a minor who has been convicted of a violation or attempted violation of specified sexual or child endangerment offenses to advise the parents or guardians of the minors.

Department of Justice Handgun Registry: Access by City Attorneys

The Attorney General has the responsibility of permanently keeping, properly filing and maintaining all information reported to DOJ pertaining to pistols, revolvers, or other firearms capable of being concealed upon the person and maintaining a registry of that information. Registry information can be furnished to the owner or lawful possessor of the firearm and specified officers.

The Attorney General is also required to keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry concealable loaded firearms in public and information from the licensing agency; dealers' records of sales of firearms and other information from licensed firearms dealers (and sheriffs who effect the lawful transfer of firearms in smaller counties) pertaining to handguns; and other reports as to specified firearms which are submitted pursuant to law. That information is to be maintained in order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property. Numerous persons are statutorily permitted access to that summary information if needed in the course of their duties. The persons with access to summary criminal history information include prosecuting city attorneys of any city within the state, but the use is limited to criminal law purposes.

SB 1490 (Perata), Chapter 916, permits a city attorney prosecuting a civil action to have access to information in the handgun registry maintained by the Attorney General, solely for use in prosecuting that action. Specifically, this new law:

- Expressly adds to those who may have access to Penal Code Section 11106 handgun registry information "a city attorney prosecuting a civil action."
- Provides that DOJ's DNA Laboratory will be known as the Jan Bashinski DNA Laboratory.

CHILD ABUSE

Child Abuse and Neglect Reporting Law

A mandated reporter who has knowledge of or observes a child he or she knows or reasonably suspects has been the victim of child abuse is required report it immediately to specified child protection agencies.

AB 299 (Rod Pacheco), Chapter 936, allows a clergy member or custodian of records for the clergy member to report known or suspected instances of child sexual abuse that occurred prior to January 1, 1997 that were not previously reported. Specifically, this new law:

- Allows on or before January 1, 2004, a clergy member or custodian of records for the clergy member to report known or suspected instances of child sexual abuse that occurred prior to January 1, 1997 that were not previously reported.
- Exempts any knowledge of child sexual abuse acquired during a penitential communication.
- Provides that these reports may be made even if the victim of the known or suspected abuse has reached the age of majority.
- Adds the custodian of records of a clergy member to the list of mandated reporters who are required to report instances of known or suspected child abuse to specified child protection agencies.
- Makes local child support agency caseworkers mandated reporters instead of family support officers.

Emergency Alert System: The Amber Plan

The "Amber Plan", first established in Dallas, Texas, after the kidnap and murder of a nine-year-old girl, makes the emergency broadcast system available for use by law enforcement officials to alert the general public when a child has been abducted and is believed to be in danger. Currently, the Amber Plan is being used in a number of different states.

AB 415 (Runner), Chapter 517, requires law enforcement agencies to use the Emergency Alert System to assist recovery efforts in child abduction cases by disseminating information to the general public. Specifically, this new law:

- Makes legislative findings regarding child abduction cases and the value of using the Emergency Alert System to recover abducted children.

- Requires a law enforcement agency to request activation of the Emergency Alert System if there has been an abduction of a child 17 years of age or younger and there is imminent danger of serious bodily injury or death.
- Provides that the California Highway Patrol (CHP), if requested, shall activate the system. The CHP, in consultation with the Department of Justice, as well as a representative from the California State Sheriffs Association, the California Police Chiefs' Association, and the California Peace Officers' Association, shall develop policies and procedures regarding activation of the system.
- Requires the development of a comprehensive child abduction education system to educate children on the appropriate behavior to deter abduction.

Child Abuse Central Index

In the 12 years since the Child Abuse Central Index (CACI) was last reviewed at the request of the Legislature, the child abuse reporting law and the CACI have undergone substantial changes, some in response to recommendations by the State Auditor. A thorough evaluation of the contemporary system would provide the Legislature with updated recommendations for changes to CACI and conclusions regarding the level of protection it provides children.

AB 2442 (Keeley), Chapter 1064, establishes the Child Abuse and Neglect Reporting Act (CANRA) Task Force for the purpose of reviewing the CANRA and the CACI. Specifically, this new law:

- Creates the CANRA Task Force for the purpose of reviewing the act and addressing the following:
 - The value of CACI in protecting children; and,
 - Changes needed with respect to CANRA, including but not limited to CACI.
- States that the Task Force shall be chaired by a designee of the Attorney General (AG). Members serve at the pleasure of their respective appointing authority, without compensation, except for reimbursement of necessary expenses. The Task Force is composed of the following representatives:
 - One representative from the Department of Justice (DOJ), in addition to the chairperson;
 - One representative from the Department of Social Services;
 - One representative from the County Welfare Directors' Association;
 - One representative from the California State Child Death Review Council;

- ❑ Two representatives from local law enforcement, one selected by the California State Sheriffs' Association, and one selected by the California Police Chiefs' Association;
- ❑ One representative from the Judicial Council;
- ❑ Two representatives of the State Bar of California, one of whom practices criminal defense and one of whom represents children in criminal and civil proceedings;
- ❑ Two representatives from recognized organizations involved in privacy advocacy, civil liberties advocacy, or legal aid, one of whom is appointed by the Speaker of the Assembly, and one of whom is appointed by the Senate Committee on Rules;
- ❑ Two members of the public, one of whom is appointed by the Speaker of the Assembly, and one of whom is appointed by the Senate Committee on Rules; and,
- ❑ Two representatives appointed by the Governor.
- Requires the DOJ to provide staff and support for the Task Force.
- Requires the Task Force to meet at least once every two months. Subcommittees may be formed and meet as necessary. All meetings shall be open to the public.
- Requires the Task Force, on or before January 1, 2004, to report its findings and recommendations to the Governor, the AG, the Speaker of the Assembly, and the Senate Committee on Rules.
- States that this section shall become inoperative as of March 1, 2004.

Statute of Limitations in Child Annoying/Molesting Cases

In a criminal case where the defendant is accused of a sexual offense, evidence of the defendant's commission of another sexual offense or offenses is not made inadmissible by the general rule against the admission of character evidence. A prosecution for the misdemeanor offense of annoying or molesting a child under the age of 14 years must be commenced within two years after commission of the crime.

AB 2499 (Frommer), Chapter 828, makes a number of changes to substantive provisions of law affecting the prosecution of sexual assault cases. Specifically, this new law:

- Expands the definition of "sexual offense" for purposes of the admission of character evidence to include assault with intent to commit specified offenses.
- Provides that evidence of other sexual offenses shall be disclosed by the prosecution in compliance with Penal Code Section 1054.7, at least 30 days before trial, unless good cause is shown why disclosure should be denied, restricted, or deferred, as specified.
- Increases the statute of limitations in misdemeanor child annoying/molesting cases from two to three years in cases involving minors under the age of 14.

Child Abuse and Neglect Reporting Act

AB 505 (Leonard), Chapter 1598, Statutes of 1988, enacted provisions of law which made it a misdemeanor for a supervisor or administrator to impede or inhibit the reporting of suspected child abuse. In 1988, the penalty provision was inadvertently "chaptered out".

AB 2672 (Leonard), Chapter 858, makes it an infraction punishable by a fine not to exceed \$5,000 for a supervisor or administrator to knowingly impede or inhibit a mandated reporter from reporting an instance of suspected child abuse or neglect.

Uniform Medical Forensic Forms

Specified health practitioners who provide services to a patient whom he or she reasonably suspects is suffering from any wound or other physical injury resulting from assaultive or abusive conduct are required to notify local law enforcement and prepare a written report. However, there is no standardized reporting procedure for documenting the examination findings.

SB 580 (Figueroa), Chapter 249, requires the Office of Criminal Justice Planning (OCJP) to develop a standard form for specified health practitioners to report any wound or physical injury resulting from suspected assaultive or abusive conduct, and another standard form for the medical forensic examination of victims of child abuse or neglect. Specifically, this new law:

- Requires the OCJP, in cooperation with specified state and local agencies, associations, medical experts and advocates, to develop a standard form for specified health practitioners to report any wound or physical injury resulting from suspected assaultive or abusive conduct.
- Requires the physical injury standard form to include a place for a notation concerning each of the following:
 - ❑ The name and whereabouts of the injured person, extent of the injury, and the identity of the person alleged to have inflicted the injury;
 - ❑ The name, address, telephone number, and occupation of the person reporting;
 - ❑ The address of the injured person;
 - ❑ The date, time, and location of the incident;
 - ❑ Other details, including the reporter's observations and beliefs concerning the incident;
 - ❑ Any statements relating to the incident made by the victim; and,
 - ❑ The names of any individuals believed to have knowledge of the incident.
- Requires the physical injury standard form be completed within one year of the enactment of this section and this section shall be repealed as of January 1, 2004.
- Requires on or before January 1, 2004, the OCJP, in cooperation with specified state and local agencies, associations, medical experts, and advocates, to develop medical forensic forms, instructions, and examination protocol for victims of child abuse or neglect.
- Requires the child abuse and neglect standard form to include a place for a notation concerning each of the following:
 - ❑ Notification of injuries or report of suspected child physical abuse or neglect to law enforcement authorities or child protective services, in accordance with existing reporting procedures;
 - ❑ Addressing relevant consent issues, if indicated;
 - ❑ Taking a patient history of child physical abuse or neglect that includes other relevant medical history;
 - ❑ Performance of a physical examination for evidence of child physical abuse or neglect;

- ❑ Collection or documentation of any physical evidence of child abuse or neglect, including any recommended photographic procedures;
 - ❑ Collection of other medical or forensic specimens, including drug ingestion or intoxication, as indicated;
 - ❑ Procedures for the preservation and disposition of physical evidence;
 - ❑ Complete documentation of medical forensic examination findings with recommendations for diagnostic studies, including blood tests and x-rays; and,
 - ❑ An assessment as to whether there are findings that indicate physical abuse or neglect.
- States that the child abuse and neglect forms shall become part of the patient's medical record pursuant to the advisory committee of the OCJP and subject to confidentiality laws pertaining to the release of medical records.
 - States that it is the intent of the Legislature that medical forensic forms and reporting forms be available on the Internet, from a central Web site, such as one operated by the OCJP or via links in that Web site to other state department Web sites providing these forms.

Domestic Violence Reporting

Children who reside in homes where domestic violence is taking place face a heightened risk of abuse and neglect. Currently, law enforcement agencies are not required to cross-report the information obtained during a domestic violence call to the appropriate child protective services (CPS) agency.

SB 1745 (Polanco), Chapter 187, requires CPS, law enforcement and other specified agencies and organizations, to jointly develop protocols to address responses to incidents of domestic violence in homes where a child resides. Specifically, this new law:

- Requires CPS, law enforcement, child abuse and domestic violence experts, and community-based organizations serving abused children and victims of domestic violence, commencing January 1, 2003, to develop in collaboration with one another, protocols as to how law enforcement and CPS agencies will cooperate in their responses to incidents of domestic violence in homes where a child resides.
- Exempts counties where protocols consistent with this section have already been developed.
- States that it is the intent of the Legislature that this act provide consistent coordination of current activities among agencies responsible for domestic violence and child abuse throughout California, thereby reducing duplication, overlap, and local costs as well as providing improved protection for families experiencing domestic violence.

- Makes a technical non-substantive correction to the Child Abuse and Neglect Reporting Act.

COMPUTER CRIMES

Identity Theft: Conspiracy by Government Employees

Any person who manufactures, sells, or transfers documents falsely purported to be a government-issued identification card or driver's license is guilty of a misdemeanor punishable by imprisonment in the county jail for one year and/or by a fine of not more than \$1,000 for a first-time conviction and not more than \$5,000 for a subsequent conviction.

AB 1155 (Dutra), Chapter 907, establishes a new alternate felony/misdemeanor where a government employee criminally conspires to assist another in obtaining a driver's license or other identification card issued by the Department of Motor Vehicles (DMV). Specifically, this new law:

- Creates a new alternate felony-misdemeanor, punishable by imprisonment in the county jail for up to one year and/or a fine of up to \$10,000, or imprisonment in state prison for 16 months, 2 or 3 years and a fine of up to \$10,000, where a government employee participates "as part of a criminal conspiracy" and assists another person in obtaining one of the following documents:
 - ❑ Driver's license;
 - ❑ Identification card;
 - ❑ Vehicle registration; or,
 - ❑ Any other official DMV document.
- Limits this new crime to situations where the governmental employee knew that the person assisted is not entitled to the document and the other person intends to use the document to commit identity theft.

Unlawful Use of Scanning Devices

California has more victims of identity theft than any other state. Identity theft has become the largest source of consumer fraud complaints received by the Federal Trade Commission. Law enforcement agencies report that individuals have engaged in a practice referred to as "skimming" to commit credit card fraud. Skimming occurs when a credit card is used to pay for a legitimate transaction. When the customer's attention is diverted, an employee swipes the card through a hand-held scanning device that retrieves and stores data from the card's magnetic stripe. While there are some limited legitimate uses for these hand-held devices, the majority of them are used for fraudulent purposes.

SB 1259 (Ackerman), Chapter 861, creates a new misdemeanor offense for the unlawful possession or use of a scanning device. Specifically, this new law:

- Provides that any person who knowingly, willfully, and with the intent to defraud possesses a scanning device, or without the permission of the authorized user, uses a scanning device to access, read, obtain, memorize or store information encoded on the magnetic strip of a payment card is guilty of a misdemeanor, punishable by up to one year in the county jail and a \$1,000 fine.
- Provides that any person who knowingly, willfully, and with the intent to defraud possesses a re-encoder, or without the permission of the authorized user, uses a re-encoder to place encoded information on the magnetic strip of a payment card or any electronic medium that allows an authorized transaction to occur, is guilty of a misdemeanor, punishable by up to one year in the county jail and a \$1,000 fine.
- Provides that any scanning device or re-encoder used to commit a specified violation may be seized and destroyed as contraband. Any computer, software, or data owned by the defendant that is used to facilitate the commission of the offense, is subject to forfeiture.
- Defines "scanning device", "re-encoder", and "payment card".
- Provides that nothing in this new law shall preclude prosecution under any other provision of law.

Search Warrants: Electronic Communication Records

Prosecutors have reported a number of cases involving online identity theft, auction fraud and credit card fraud where judges have declined to authorize search warrants for electronic communication records if the underlying offense is a misdemeanor. For example, there have been instances where a suspect sells non-existent items to multiple victims through Internet auction sites. Because individual fraudulent transactions often amount to a loss of less than \$400 (grand theft), courts are unwilling to approve a search warrant. This occurs despite Penal Code Section 1524(a) 3 provisions that permit the issuance of a search warrant for information to ascertain the identity and location of a particular computer account used to commit a public offense.

SB 1980 (McPherson), Chapter 864, authorizes a prosecuting or investigating agency to obtain a search warrant to search specified records of a provider of electronic communication or remote computing services. Specifically, this new law:

- Provides that a prosecuting or investigating agency may obtain a search warrant to search specified records of a provider of electronic communication or remote computing services when it is shown that the provider has records or evidence showing that:

- Property was stolen or embezzled constituting a misdemeanor; or,
- Property or things are in the possession of any person with the intent to use it as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery.
- Requires a provider of electronic communication or remote computing services to disclose in response to a search warrant the name, address, local and long-distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of that service, and the types of services the subscriber or customer utilized.
- Provides that a governmental entity receiving subscriber records or information under this section is not required to provide notice to a subscriber or customer.
- Provides that a court issuing an order pursuant to this new law, on a motion made promptly by the service provider, may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with the order otherwise would cause an undue burden on the provider.
- Requires a provider of wire or electronic communication or remote computing services, upon the request of a peace officer, to take all necessary steps to preserve records and other evidence in its possession pending the issuance of a search warrant or a specified written request declaring an intent to file a warrant. Records shall be retained for a period of 90 days, which is extended for an additional 90-day period upon a renewed request by the peace officer.
- Provides that no cause of action will be brought against a provider for providing information, facilities or assistance in good-faith compliance with a search warrant.

CONTROLLED SUBSTANCES

Restricted Chemicals Permits

Businesses obtain licenses to produce or use precursor chemicals under the licensure provisions for pharmaceutical producers. This includes manufacturers who produce chemicals for such uses as industrial solvents, consumer goods (hairspray, film), etc. Existing law provides that producers and users of chemicals listed in Health and Safety Code Section 11100 must obtain a permit from Department of Justice (DOJ). Applications for permits must include documentation of legitimate uses for regulated chemicals. Existing law further provides that "[s]elling, transferring, or otherwise furnishing or obtaining any [restricted] substance specified in subdivision (a) of [Health and Safety Code] Section 11100 without a permit is a misdemeanor or a felony." Any protection from prosecution under the controlled substance laws for the buyer would result from the licensing by DOJ of the manufacturer/distributor and tacit approval of a reported transaction.

AB 154 (La Suer), Chapter 13, authorizes the DOJ to delay the effective date for businesses to obtain permits to use specified restricted chemicals in cases where such chemicals were only placed on the restricted list on or after January 1, 2002.

Specifically, this new law provides that the DOJ may postpone for up to six months the permit requirements as to a substance added to the list in Health and Safety Code Section 11100 on or after January 1, 2002.

Controlled Substances: Destruction of Hazardous Chemicals

Currently, the Department of Toxic and Substance Control (DTSC) is responsible for removing the contamination caused by illegal drug laboratories in California. Up until 1991 when the Legislature placed this responsibility with DTSC, the removal and disposal of toxic waste materials and apparatus found at clandestine laboratory sites had been the responsibility of the Department of Justice.

A court must order the destruction of all seized controlled substances and related paraphernalia, whether or not the defendant is convicted, at the end of a case, unless the court finds that the controlled substance or paraphernalia was lawfully possessed by the defendant.

AB 2589 (Cardoza), Chapter 443, modifies and clarifies provisions governing the disposal and destruction of hazardous chemicals by law enforcement agencies to reflect the agencies' current practices. Specifically, this new law:

- Extends an exemption which allows a law enforcement agency to destroy, without a court order, any seized, hazardous chemicals intended for use in the

unlawful manufacture of controlled substances to include the related containers and/or items contaminated with a hazardous substance.

- Requires that photographs be taken of the containers or items contaminated with a hazardous substance being destroyed without a court order, and provides that the photographs should reasonably demonstrate the size of the containers and items.
- Makes conforming changes to clarify that the DTSC must also remove containers for hazardous chemicals when removing such chemicals.
- Provides that if hazardous chemicals are seized pursuant to a warrantless search, the required affidavit must be filed with the court after the criminal proceedings are initiated.
- Provides, with respect to the destruction of hazardous chemicals in a controlled substance investigation, that if a search warrant was issued involving the underlying incident, an affidavit containing specified information shall be filed in the court that issued the search warrant.
- Authorizes the chief of a law enforcement agency to designate another person to implement applicable provisions as to destruction of hazardous chemicals, containers and associated contaminated items.

Narcotic Treatment Programs: Methadone and Levoalphacetylmethadol Dosage

In the early 1970's, the Legislature set dosage limits for physicians prescribing methadone and Levoalphacetylmethadol (LAAM) as part of a course of drug treatment. Research over the last 30 years has shown that individuals vary enormously in their metabolism of methadone. Additionally, there are well-documented drug interactions between methadone and other medications that interfere with the metabolism of methadone. The result is that some patients may require higher doses of methadone than what is permissible under existing law.

SB 1447 (Chesbro), Chapter 543, deletes methadone and LAAM treatment limitations on physicians providing drug abuse treatment. Specifically, this new law:

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

- Provides that the uniform statewide monthly reimbursement rate for narcotic replacement therapy dosing and ancillary services shall be based upon the following:
 - The outpatient rates for the same or similar services under the fee-for-service Medi-Cal program;
 - Cost report data; and,
 - Other data deemed reliable and relevant by the Department of Health Services.
- Provides that the uniform statewide monthly reimbursement rate for ancillary services shall not exceed the outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.
- Provides that reimbursement paid by a county to a narcotic treatment program provider for Proposition 36 services, and for which the individual client is not liable to pay, does not constitute a usual and customary charge to the general public for the purposes of this section.
- Requires certified narcotic treatment program providers to submit performance reports, as specified.

CORRECTIONS

Non-Violent Female Parolees

Existing law directs the California Department of Corrections (CDC) to establish three pilot programs for the intensive training of female parolees to allow them to reintegrate into society following in-prison therapeutic community drug treatment.

AB 310 (Goldberg), Chapter 619, allows non-violent female parolees who violate parole to participate in existing intensive training and counseling programs in lieu of revocation of parole. Specifically, this new law:

- Requires the CDC to prepare an informational handout explaining the programs.
- Requires the CDC to give a copy of the informational handout to each female inmate and parolee eligible for any of the programs.

Prison Inmate Visitation

Existing law makes numerous findings and declarations relating to inmate visiting including the finding that maintaining an inmate's family and community relationships is an effective correctional technique which reduces recidivism. Existing law also finds that enhancing visitor services increases the frequency and quality of visits, thereby discouraging violent prisoner activity.

AB 2133 (Goldberg), Chapter 238, requires the Department of Corrections (CDC) to recognize the value of prison inmate visitation. Specifically, this new law requires that any amendments to existing or future regulations adopted by CDC must recognize and consider the value of visiting as a means of improving prison safety and the important role of inmate visitation in preparing an inmate for successful release and rehabilitation.

Correctional Employees' Personal Information

In January 2001, a laptop computer belonging to Wasco State Prison was stolen from a staff member's vehicle. The laptop contained confidential information about 216 staff members of the prison, including social security numbers, home addresses and telephone numbers, and medical information. The computer was returned to the institution almost one month later, at which time the prison discovered that confidential information about the 216 staff members might have been compromised. Existing law provides privacy protections for personal information contained in records kept by state agencies, including personnel records, pursuant to the Information Practices Act. This Act prohibits agencies from disclosing any personal information in their records, except in specific circumstances, such as to the individual to whom the information pertains, or with his or her consent, or pursuant to a subpoena or search warrant.

AB 2203 (Florez), Chapter 240, prohibits the removal of documents containing an employee's personal information from a state prison without the warden's authorization. This new law provides that any person who knowingly removes documents, computers, or computer-accessible media containing personal information about an employee from a state prison must have the warden's authorization, or he or she will be subject to disciplinary action. It also requires the warden to notify the employee whose information is unaccounted for, lost, or stolen within 24 hours of the unauthorized disclosure.

Parental Rights of Prisoners

Existing law requires that an order for the temporary removal of a prisoner from a state prison to attend a proceeding affecting the adjudication of parental or marital rights be transmitted to the warden not less than 48 hours before the order is executed. Existing law also requires a court to send a prescribed notice to a prisoner in state or local facilities, and allows the court to order the prisoner to be present at any proceeding seeking to terminate parental rights or other proceedings affecting parental or marital rights.

AB 2336 (Negrete McLeod), Chapter 65, extends the time for which an order for the temporary removal of prisoner from a prison to attend a proceeding affecting the adjudication of parental or marital rights must be issued from 2 days to 15 days before the order is executed.

Prisoner Access to Personal Information

Existing law prohibits a prison inmate, county jail inmate and California Youth Authority (CYA) ward from having access to personal information of another person such as social security numbers, addresses, driver's license numbers, credit card numbers, or telephone numbers if the offender has been convicted of an offense involving: (1) forgery or fraud, (2) misuse of a computer, (3) sex offenses requiring registration, and (4) any misuse of the personal or financial information of another person.

Existing law also requires a county jail and prison inmate who has access to any personal information to disclose that he or she is confined before taking any personal information from any person.

AB 2456 (Jackson), Chapter 196, expands the list of specifically included types of personal information to which prison and county jail inmates are denied access. Specifically, this new law prohibits prison inmates, county jail inmates and CYA wards from having access to the following personal information: addresses; telephone numbers; health insurance, taxpayer, school, or employee identification numbers; mothers' maiden names; demand deposit account, debit card, credit card, savings, or checking account numbers, personal identification numbers, or passwords; social security numbers; places of employment; dates of birth; state- or government-issued driver's license or identification numbers; alien registration numbers; government passport numbers; unique biometric data, such as fingerprints, facial scan

identifiers, voice prints, retina or iris images, or other similar identifiers; unique electronic identification numbers; address or routing codes; and telecommunication identifying information or access devices.

Parole: High-Risk Sex Offenders

AB 1300 (Rod Pacheco), Chapter 142, Statutes of 2000, extended the period of parole from three to five years for any inmate convicted of specified sex offenses. Additionally, AB 1300 required that any inmate sentenced under the "one-strike" sex law be on parole for a period of five years, which may be extended for an additional five-year period.

AB 1300 inadvertently omitted forcible sexual penetration from the list of sex offenses for which the period of parole was extended, and did not include habitual sex offenders in the provisions which extended parole for one-strike sex offenders.

AB 2539 (Rod Pacheco), Chapter 829, includes forcible sexual penetration among the "violent" sex offenses that require a five-year period of parole. Specifically, this new law:

- Adds sexual penetration accomplished by means of force, violence, duress, menace, or fear to the list of violent sex offenses which requires an inmate to be released on parole for a period not to exceed five years.
- Requires a habitual sex offender who has received a life sentence to be placed on parole for a period of five years.
- Provides that any person imprisoned for the commission of a specified violent sex offense released on parole for a period not to exceed five years and has been on continuous parole for three years shall be discharged from parole unless the California Department of Corrections (CDC) recommends the person be retained on parole.
- Provides that any person receiving a life sentence as a one-strike sex offender, or a habitual sex offender released on parole for a period of five years and has been on continuous parole for three years shall be discharged from parole unless the CDC recommends the person be retained on parole.

Inmate Day Labor Projects

Penal Code Section 2816 authorizes the chairman of the Prison Industry Board (PIB) (the Director of the California Department of Corrections) to approve the use of inmate day labor to perform public works projects when the total expenditure does not exceed \$200,000. Projects involving expenditures of greater than \$200,000 are required to be reviewed and approved by the entire PIB.

When enacted in 1983, the intent of Penal Code Section 2816 was to provide PIB review of the use of inmate day labor only on projects subject to approval by the Public Works Board (major capital outlay projects). In 1983, the minor capital outlay limit was established at \$200,000; thus, any project over this amount was considered major capital outlay. In 1991, this limit was increased to \$250,000; in 2000, the limit was increased to \$400,000.

When Public Contract Code Section 10108 was amended to raise the minor capital outlay limit, Penal Code Section 2816 was not amended accordingly.

AB 2773 (Salinas), Chapter 113, aligns the Penal Code section related to the dollar amount of Inmate Day Labor projects requiring approval by the PIB with the minor capital outlay limit specified in the Public Contract Code.

Interstate Compact for Adult Offenders

Existing law provides for a new Interstate Compact for Adult Offender Supervision that will be effective upon adoption of the compact by 35 states. The compact provides for the adoption of votes by a commission to govern the interstate movement of criminal offenders. Existing law also provides for a California Council for Interstate Adult Offender Supervision which states the appointment and length of terms for the seven-member Council for Interstate Adult Offender Supervision.

SB 330 (Morrow), Chapter 1078, changes the appointment, composition and terms of the Council including designating the Director of the California Department of Corrections (CDC) as a member, the commissioner and the Compact administrator for purposes of the federally created Interstate Compact. This new law also requires the Council to report to the Legislature on the status of implementing the Compact. Specifically, this new law:

- Requires the Council, not later than July 1, 2005, to submit a report to the Legislature on the status of implementing the Interstate Compact for Adult Offender Supervision in California. The report must clearly differentiate the role and responsibilities of the state Compact administrator from local supervisory agencies and must articulate the interdependence between the state Compact administrator and other related entities, including, but not limited to, local supervisory agencies. Additionally, the report must identify the process by which the state Council communicates with county probation officers and superior courts.

- Provides that there will be seven members of the Council; however, the Director of the CDC, or his or her designee, shall be a member and serve as the commissioner, who shall represent California and serve on the Interstate Commission for Adult Offender Supervision. The commissioner shall also be the Compact administrator for the State of California for purposes of the Interstate Compact for Adult Offender Supervision. The Governor shall appoint three members - one shall represent victims rights groups and one shall represent chief probation officers. One member each shall be appointed by the Senate Committee on Rules and the Speaker of the Assembly. The Judicial Council shall appoint one superior court judge as a member.

Reasonable Force to Collect DNA

The "DNA and Forensic Identification Data Bank" assists federal, state, and local criminal justice and law enforcement agencies within and outside California in the expeditious detection and prosecution of people responsible for sex offenses and other violent crimes, exclusion of suspects under investigation, and the identification of missing and unidentified people, particularly abducted children.

Existing law requires persons convicted of specified offenses to give blood and saliva samples, as well as fingerprint impressions. Refusing to provide such samples for inclusion in the Department of Justice's (DOJ) DNA Data Bank is a misdemeanor, punishable by a fine of \$500 and/or up to one year in jail. If the person is already incarcerated, he or she may be punished by sanctions for misdemeanors according to a schedule determined by the CDC.

SB 1242 (Brulte), Chapter 632, allows law enforcement and correctional personnel to use reasonable force to collect blood specimens, saliva samples or print impressions from individuals for inclusion in the DOJ's DNA and Forensic Identification Bank if the individual refuses to provide such specimens, samples or impressions. Specifically, this new law:

- Requires the Department of Corrections (CDC), California Youth Authority (CYA) and the Board of Corrections (BOC) (for local detention facilities) to adopt regulations or guidelines governing the use of reasonable force that include the following:
 - The term "use of reasonable force" shall be defined as the force that an objective, trained and competent correctional employee, faced with similar facts and circumstances, would consider necessary and reasonable to gain compliance with the DNA requirements;
 - The use of reasonable force shall not be authorized without the prior written authorization of the supervising officer on duty. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impression and refused;
 - The use of reasonable force shall be preceded by efforts to secure voluntary compliance with the DNA requirements; and,

- If the use of reasonable force includes a cell extraction, the regulation shall provide that the extraction be videotaped.
- Requires the CDC, CYA and BOC to report to the Legislature, no later than January 1, 2005, regarding the use of reasonable force which shall include, but is not limited to, the number of refusals; the number of incidents of the use of reasonable force; the type of force used; the efforts undertaken to obtain voluntary compliance, if any; and whether any medical attention was needed by the prisoner or personnel as a result of force being used.

Inmate Welfare Fund

Under existing law, the county board of supervisors is required to pay the necessary expenses of inmates confined in the county jail. Additionally, county sheriffs are required to deposit the profits from the sale of commissary items and commissions attributable to inmates' use of pay telephones in an inmate welfare fund, which is to be used for the benefit, education and welfare of the inmates.

SB 1482 (Polanco), Chapter 146, clarifies that inmate welfare funds shall not be used to pay required county expenses of confining inmates in a local detention system, such as meals, clothing, housing, or medical services or expenses. Inmate welfare funds may be used to augment those required county expenses deemed by the sheriff to be in the best interest of inmates.

COURT HEARINGS AND PROCEDURES

Electronic Surveillance

The United States Supreme Court ruled in Katz v. United States (1967) 389 U.S. 347, 88 S.Ct. 507, 19 L.Ed.2D 576, that telephone conversations were protected by the Fourth Amendment to the United States Constitution. Intercepting a conversation is a search and seizure similar to the search of a citizen's home. Thus, law enforcement is constitutionally required to obtain a warrant based on probable cause and to give notice and inventory of the search. In 1968, Congress authorized wiretapping by enacting Title III of the Omnibus Crime Control and Safe Streets Act. (See 18 USC Section 2510 et seq.). Title III mandates that before any state law enforcement officers may use wiretaps, the State must pass an enabling statute which, at a minimum, affords the same protections as the federal law.

California wiretap law has more privacy protections than Title III in that it affords the opportunity to a larger class of persons to contest the legality of evidence obtained through wiretapping and provides for broader grounds for the suppression of evidence. In addition, California law formerly provided that wiretaps may only be used in cases involving murder, kidnapping, bombing, criminal gangs, and the sale of more than three pounds of cocaine, heroin, PCP, or methamphetamine.

California wiretapping statutes had a sunset date of January 1, 2003.

AB 74 (Washington), Chapter 605, extends the sunset date of the current wiretap law until January 1, 2008 and expands the list of offenses eligible for intercept orders to include offenses involving weapons of mass destruction (WMD), restricted biological agents, and destructive devices. Specifically, this new law:

- Extends the sunset date of the current wiretap law from January 1, 2003 to January 1, 2008.
- Provides that an application for modification of an order may be made when there is probable cause to believe that a person or persons identified in the original order have commenced to use a facility or device that is not subject to the original order. Any modification shall only be valid for the period authorized under the order being modified. The application for modification shall meet specified requirements
- Expands the list of offenses eligible for intercept orders to include offenses involving WMD or restricted biological agents.
- Authorizes law enforcement to act on information concerning violent felonies developed during the surveillance that was not part of the original application.

- Expands the definitions of the type of communications that can be intercepted pursuant to court order to include specified wire and pager communications.
- Allows a district attorney to designate another person as having the authority to apply for an order to intercept an electronic communication if the district attorney is unavailable and permits the sequential designation of judges who may consider wiretap applications.
- Adds “precursors” to the already enumerated drug offenses as the type of activity that law enforcement may seek a wiretap order.
- Makes a number of changes to the reporting requirements concerning interceptions conducted pursuant to applicable provisions.
- Provides that a defendant shall be notified that he or she was identified as the result of an interception. The notice shall be provided prior to the entry of a plea of guilty or nolo contendere, or at least 10 days before any trial, hearing or proceeding in the case, other than an arraignment or grand jury proceeding. The prosecution shall provide the defendant a copy of all recorded interceptions from which evidence against the defendant was derived, as specified.

Identity Theft: Procedural Remedies

A victim of identity theft may petition the court for a determination of his or her factual innocence. Specified procedures for initiating a law enforcement investigation and/or for petitioning the court for an expedited judicial determination in cases where a person reasonably believes, learns, or suspects that his or her personal identifying information has been unlawfully used by another are set forth in the Penal Code.

AB 1219 (Simitian), Chapter 851, establishes procedures and sources for a victim of identity theft to initiate an investigation by a law enforcement agency or to move for an expedited judicial determination where an identity theft has occurred. Specifically, this new law:

- Authorizes a court, on its own motion or upon application of the prosecuting attorney, to move for an expedited judicial determination if the perpetrator was cited for a crime under the victim's identity or where a criminal complaint has been filed against the perpetrator in the victim's name.
- Provides that after a court has issued a determination of factual innocence pursuant to this new law, the court may order the name and associated personal identifying information contained in court records, files, and indexes accessible by the public deleted, sealed, or labeled to show that the data is impersonated and does not reflect the defendant's identity.
- Provides that a court that has issued a determination of factual innocence pursuant to this new law may at any time vacate that determination if the petition, or any information submitted in

support of the petition, is found to contain any material misrepresentation or fraud.

- Requires the Judicial Council of California to develop a form for use in issuing an order pursuant to the provision of this bill.

Exclusion of Witnesses: Motion to Suppress

Existing law provides for the exclusion and separation of potential and actual witnesses at a felony preliminary examination. An investigator for the defense or the investigating officer for the prosecution may remain in the courtroom during the examination. Additionally, the court may exclude from the courtroom any witness not at the time under examination so that such a witness may not hear the testimony of other witnesses.

AB 1590 (Simitian), Chapter 401, provides for the exclusion and separation of potential and actual witnesses during a hearing on a motion to suppress evidence. Specifically, this new law:

- Provides that while a witness is under examination during a hearing pursuant to a search or seizure motion, the judge or magistrate shall, upon motion of either party, do any of the following:
 - Exclude all potential and actual witnesses who have not been examined;
 - Order the witnesses not to converse with each other until they are all examined;
 - Order, where feasible, that the witnesses be kept separated from each other until they are all examined; and,
 - Hold a hearing, on the record, to determine if the person sought to be excluded is, in fact, a person excludable under this section.
- Allows either party to challenge the exclusion of any person.
- Exempts the investigating officer or the investigator for the defendant and officers having custody of persons brought before the court.

Identity Theft: Prosecution

Generally, two or more offenses connected together in their commission or in the same class of crimes may be joined in one accusatory pleading. For other crimes, such as burglary, carjacking, robbery, theft, or embezzlement, that occur in one jurisdiction and the property is brought into another jurisdiction, or a person receives the property in another jurisdiction, the district attorney (DA) can prosecute in any of the jurisdictions. A DA can also prosecute in a contiguous jurisdiction if the defendant is arrested in that jurisdiction; the prosecution secures on the record the defendant's knowing, voluntary, and intelligent waiver of the right of vicinage; and the defendant is charged with one or more property crimes in the arresting territory. Often times when a person commits the crime of identity theft, he or she obtains the personal identifying information in one jurisdiction and uses the wrongfully obtained information (e.g., credit information) in another jurisdiction.

AB 1773 (Wayne), Chapter 908, provides that a DA can prosecute a person for the unauthorized use of personal identifying information in the county where the information was taken or the county where the information was used for an illegal purpose. Specifically, this new law:

- Includes the county where the defendant took the personal identifying information or the county where the defendant used the personal identifying information for an illegal purpose as the proper jurisdiction for prosecution of unauthorized use of personal identifying information.
- Provides that if the same defendant or defendants used the same personal identifying information belonging to one person in multiple jurisdictions, all of the offenses may be prosecuted in any one of the jurisdictions where the same defendant or defendants used the information for an illegal purpose or the jurisdiction where the personal identifying information was taken.
- Requires the court to conduct a hearing to consider whether the matter should proceed in the county of filing or whether one or more counts should be severed.
- Requires the DA filing the complaint to present evidence to show the DA in each county where charges could have been filed have agreed that the matter should proceed in the county of filing.
- Clarifies that this new law does not alter victim rights, as specified.
- Provides that no state reimbursement is required as the provisions of this act will produce cost savings to local government and the courts.

Criminal Investigations: Attorney Work Product

When the office of an attorney, physician, psychotherapist, or clergy member is searched as part of a criminal investigation, a special master must be employed. The individual whose office has been searched may request a hearing in superior court to litigate the validity of the warrant and issues related to privileges that would bar disclosure of the items seized. Often, this review process can result in lengthy delays which result in the expiration of the statute of limitations.

AB 2055 (Robert Pacheco), Chapter 1059, creates an exception to the attorney work product rule, and provides that the statute of limitations will be tolled during the time when issues relating to the attorney-client or the work product privilege are litigated. Specifically, this new law:

- Provides that attorney work product is discoverable in any criminal investigation or criminal or civil action brought by a prosecutor if the attorney is suspected of a crime or fraud and the attorney's services were sought or obtained to enable any person to commit or plan to commit a crime or fraud. This new law provides that an attorney may request an in-camera hearing to determine whether or not the work product is discoverable.
- Tolls the statute of limitations for a crime until evidence is provided to the prosecuting attorney if:
 - Proof of the crime depends substantially upon evidence seized from a lawyer, physician, psychotherapist or clergyman pursuant to a search warrant; and,
 - The evidence is subject to a challenge based on evidentiary privilege or suppression that must be resolved by the court.
- Provides that the court will not find that work product applies to documentary evidence obtained pursuant to a search warrant if there is probable cause to believe that the attorney knowingly engaged in criminal activity, unless it is established that the services of the lawyer were not sought or obtained to enable or aid any person to commit or plan to commit a crime or a fraud. Further, this new law provides that the attorney has a right to request an in-camera hearing on the issue of work product.

Criminal Jurisdiction: Terrorist Offenses

A coordinated terrorist attack would likely occur in more than one jurisdiction, and an exception to the general rule should be made which would allow prosecution in any of the

jurisdictions where a terrorist offense was committed. This would reduce the inconvenience to victims and witnesses and eliminate the necessity of multiple trials.

AB 2106 (Bogh), Chapter 64, provides that when more than one violation involving possession or use of a weapon of mass destruction (WMD), threatening to use a WMD, or possession of a restricted biological agent occurs in more than one territorial jurisdiction and the offenses are part of a single scheme or terrorist attack, the jurisdiction of any of the offenses is in any jurisdiction where at least one of those offenses occurred.

Duplicative Firearm and Injury Enhancements

Existing firearms and weapons enhancement statutes are often redundant and duplicative of other statutory enhancements. In addition, there are many specific procedural provisions that needlessly duplicate general provisions of law.

AB 2173 (Wayne), Chapter 126, eliminates duplicative firearm and injury enhancement statutes. AB 2173 deletes specific procedural provisions in favor of general procedural provisions. Specifically, this new law:

- Eliminates the existing 4-, 5-, or 10-year sentence enhancement for the use of a firearm in the commission or attempted commission of a carjacking.
- Eliminates the existing 5-, 6-, or 10-year sentence enhancement for shooting at an occupied car resulting in great bodily injury or death.
- Eliminates the existing 3-, 4-, or 10-year enhancement for the use of a firearm in the commission or attempted commission of specified controlled substance offenses.
- Eliminates the existing four-year sentence enhancement for shooting from an occupied car resulting in paralysis or significant impairment.
- Eliminates the existing four-year sentence enhancement for shooting at a house, car, or building resulting in paralysis or significant impairment.
- Conforms to judicial decisions that require a firearm use enhancement be imposed where the underlying offense was assault with a firearm, assault with a deadly weapon which is a firearm, or murder if the killing was perpetrated by means of shooting from a vehicle.
- Clarifies that 10-20-life provisions apply to a principal in a gang-related felony when a firearm is used in the commission of the offense.
- Deletes several specific provisions in the firearms and injury enhancement statutes where there are applicable general provisions.

- Contains uncodified language stating legislative intent.

Community Impact Statements: Study

A victim of a crime or next of kin, as specified, is allowed to file a written statement to the court (or probation officer where the defendant is a minor) expressing his or her views concerning the crime. The court is required to consider the statements prior to sentencing. In that statement, the victim of any crime, the parents or guardians if the victim is a minor, or the next of kin if the victim has died have the right to reasonably express his, her, or their views concerning the crime, the person responsible, and the need for restitution. The statements may also be filed in audio or video form.

AB 2211 (Horton), Chapter 1092, requires the Judicial Council (JC) to conduct a study relative to community impact statements. Specifically, this new law:

- Requires the JC to study the potential effects, implementation issues and alternatives to requiring community impact statements.
- Requires the JC to obtain input from a cross-section of the stakeholders and to report its findings to the Legislature on or before December 31, 2004.

Sex Crimes Involving Multiple Victims: Territorial Jurisdiction

Existing law provides that when there have been multiple sex crimes in more than one jurisdiction involving the same defendant and victim, a court where at least one of the crimes occurred has jurisdiction over all the offenses. Existing law provides that if a defendant commits multiple sex crimes in a number of different counties involving different victims, a court does not have jurisdiction over out-of county crimes. Since prosecutors often introduce evidence of other similar offenses to establish the propensity of the defendant to commit the charged offense, this virtually ensures that victims will have to testify at multiple trials.

AB 2252 (Cohn), Chapter 194, eliminates the requirement that the territorial jurisdiction of the court for specified sex crimes is where the offense occurred. Specifically, this new law:

- Expands the definition of "sexual offense" for purposes of the exception to the rule against the admission of character evidence to include any conduct prohibited by Penal Code Section 220, except assault with intent to commit

mayhem. The additional sexual offenses would be assault with intent to commit rape, sodomy, oral copulation, rape in concert, lewd act upon a child, or forcible sexual penetration.

- Eliminates the requirement in cases involving multiple sex crimes that the defendant and the victim are the same for a court to exercise jurisdiction in any jurisdiction where at least one of the offenses occurred.
- Provides that when more than one offense involving assault with intent to commit specified sex crimes, rape, spousal rape, rape in concert, aggravated sexual assault of a child, sodomy, child molestation, oral copulation, continuous sexual abuse of a child, or sexual penetration occurs in more than one jurisdictional territory, the jurisdiction of any of those offenses, and for any offenses properly joinable with that offense, is any jurisdiction where at least one of the offenses occurred.
- Requires a court, before exercising jurisdiction over specified sex offenses and other properly joinable offenses that occurred outside of its jurisdictional territory, to conduct a hearing pursuant to Penal Code Section 954. During the hearing, the prosecution shall present evidence in writing that all district attorneys in counties with jurisdiction of the offenses agree to the venue. For offenses where there is no written agreement, they shall be returned to the individual jurisdiction.
- Limits the application of the current law that requires the same defendant and victim for a court to exercise jurisdiction in any jurisdiction where at least one of the offenses occurred to cases involving multiple incidents of domestic violence, stalking, or child abuse/endangerment.

Parental Rights of Prisoners

Existing law requires that an order for the temporary removal of a prisoner from a state prison to attend a proceeding affecting the adjudication of parental or marital rights be transmitted to the warden not less than 48 hours before the order is executed. Existing law also requires a court to send a prescribed notice to a prisoner in state or local facilities, and allows the court to order the prisoner to be present at any proceeding seeking to terminate parental rights or other proceedings affecting parental or marital rights.

AB 2336 (Negrete McLeod), Chapter 65, extends the time for which an order for the temporary removal of prisoner from a prison to attend a proceeding affecting the adjudication of parental or marital rights must be issued from 2 days to 15 days before the order is executed.

Enhanced Penalties for Gross Vehicular Manslaughter

Existing law provides that a person convicted of gross vehicular manslaughter (GVM) while intoxicated and has a prior conviction or convictions for certain vehicular manslaughter offenses or for specified Vehicle Code violations relative to driving under the influence (DUI) is punished by imprisonment for a term of 15-years-to-life under Courtney's Law.

In March 1999, a defendant was convicted of vehicular manslaughter. The defendant had 11 prior DUI convictions. At the original trial, the prosecutor failed to properly file an enhancement based on the defendant's prior felony drunk driving convictions. The trial court rejected the prosecutor's last-minute attempts to file a special motion to allow special sentencing for persons with multiple DUI convictions. As a result, the defendant was sentenced to 12 years in state prison instead of 15-years-to-life. The prosecution appealed. The appellate court, in an unpublished decision, ruled that the evidence of the prior felony conviction should have been considered at trial. The appellate court ordered a new trial for that specific purpose. After the limited trial, the judge re-sentenced the defendant to 15-years-to-life in state prison.

AB 2471 (Robert Pacheco), Chapter 622, specifies that the basis for imposing a sentence of 15-years-to-life for GVM while intoxicated where the defendant has specified prior convictions shall be pleaded in the information and proved to the jury, or the court in a court trial. Specifically, this new law:

- Clarifies that where a defendant is found guilty of GVM while intoxicated and has one or more prior convictions for vehicular manslaughter, vehicular manslaughter involving a vessel, DUI with specified prior convictions or DUI causing injury, he or she is shall be punished by imprisonment for 15-years-to-life.
- Provides that the basis for a 15-years-to-life sentence for GVM while intoxicated (specified prior convictions) shall be alleged in the charging documents and either admitted by the defendant or found to be true by the jury, or by the court in a court trial.
- Makes a technical change to the county board of parole commissioners by authorizing the designee of the sheriff or the designee of the probation officer to be a member of the board.

Ability to Pay Hearings

If a defendant is convicted of an offense, the defendant may be required to pay all costs for legal assistance provided by the court, probation services or probation investigations,

incarceration in a local detention facility, or probation supervision. Existing law allows a defendant to request an ability-to-pay hearing before the court to contest any assessed costs.

AB 2526 (Dickerson), Chapter 198, authorizes the court to consolidate ability-to-pay hearings into one proceeding. The court's determination of ability to pay may be used for all purposes.

Hate Crimes: Continuance of Trial

A court is required to continue a trial date in a case involving murder, stalking, physical or sexual child abuse, or a career criminal prosecution when the prosecutor assigned to the case is in another court on an unrelated matter.

AB 2653 (Chu), Chapter 788, provides that if a prosecutor of a hate crime case is unable to go to trial because he or she has been assigned to another proceeding in another courtroom, the court shall find good cause to grant a one-time continuance in the hate crime prosecution.

Government Misconduct: Motion to Vacate Judgement

If police misconduct, such as planting evidence, filing false police reports, committing perjury, or falsifying confessions comes to light years after the conduct occurs, defendants who are no longer in either actual or constructive custody are precluded from having their convictions set aside. Similarly, existing procedures for a declaration of factual innocence do not apply to situations such as the Rampart scandal. The provisions for petitioning the court to make a declaration of factual innocence are inapplicable if there has been a conviction.

SB 1391 (Burton), Chapter 1105, creates a process for a convicted person, whether or not in custody, to vacate a judgement based on fraud or the presentation of false evidence by the government. Specifically, this new law:

- Provides that upon the prosecution of a post-conviction writ of habeas corpus or a motion to vacate a judgement in a case in which a sentence of death or life without the possibility of parole has been imposed, the court may order that counsel for the defendant be provided reasonable access to discovery materials.
- Requires that before the court grants access to specified materials, the defendant must demonstrate that there have been good-faith efforts to obtain discovery materials from trial counsel that were unsuccessful.

- Defines "discovery materials" as materials in the possession of the prosecution and law enforcement authorities to which the defendant would have been entitled at time of trial.
- Permits the court to order that the defendant be provided access to physical evidence for the purpose of examination upon a showing that there is good cause to believe that access to physical evidence is reasonably necessary to the defendant's effort to obtain relief. The actual costs of examination or copying shall be borne or reimbursed by defendant.
- Removes the sunset date of the provision in the Penal Code for the retention of biological evidence for purposes of DNA testing.
- Provides that a person no longer unlawfully imprisoned or restrained may make a motion to vacate a judgment for any of the following reasons:
 - ❑ Newly discovered evidence of fraud by a government official that completely undermines the prosecution's case that is conclusive and points unerringly to innocence;
 - ❑ Newly discovered evidence that a government official testified falsely at the trial that resulted in the conviction and that the testimony of the official was substantially probative on the issue of guilt or punishment; or,
 - ❑ Newly discovered evidence of misconduct by a government official that resulted in fabrication of evidence that was substantially material and probative on the issue of guilt or punishment. Evidence of misconduct in other cases is not sufficient to warrant relief.
- Provides that the procedure for vacating a judgement, including the burden of producing evidence and proof, is the same as for a writ of habeas corpus. A motion must be filed within one year of either the date of discovery of the governmental misconduct or the effective date of this new law.

Public Safety Officers Procedural Bill of Rights

The Public Safety Officers Procedural Bill of Rights (POBOR) Act specifies the procedures to be followed whenever any public safety officer is subject to investigation and interrogation for alleged misconduct which may result in punitive action. "Punitive action" is defined as any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer as punishment.

SB 1516 (Romero), Chapter 1156, establishes additional rights under the POBOR Act for specified willful and malicious conduct by an employer. Specifically, this new law:

- Adds the following protections to POBOR:

- ❑ Provides that, in addition to existing extraordinary relief, upon a finding by a superior court that a public safety department, its employees, agents, or assigns, with respect to acts taken within the scope of employment, willfully and maliciously violated any provision of the POBOR Act with the intent to injure a public safety officer, the public safety department, for each and every offense, shall be liable for a civil penalty of up to \$25,000, and for reasonable attorney's fees, as specified;
- ❑ Provides that if there is sufficient evidence to establish actual damages suffered by the officer, the public safety department shall also be liable for the amount of the actual damages;
- ❑ Provides that a public safety department may not be required to indemnify a contractor for the contractor's liability pursuant to this new law if there is, within the contract between the public safety department and the contractor, a "hold harmless" or similar provision that protects the public safety department from liability for the actions of the contractor; and,
- ❑ Provides that an individual shall not be liable for any act for which a public safety department is liable under this section.
- Provides that if the court finds that a bad faith or frivolous action or a filing for an improper purpose has been brought, the court may order sanctions, as specified, against the party filing the action, the parties attorney, or both. Those sanctions may include, but are not limited to, reasonable expenses, including attorney's fees, incurred by a public safety department.

Child Victims: Closed-Circuit Television

On April 21, 2001, the Judicial Council issued a report on existing provisions of law which allow a minor under the age of 13 to testify by way of closed-circuit television when the testimony involves a sexual offense upon or with a minor, or where the minor is a victim of a "violent" felony. The Judicial Council found that closed-circuit testimony was infrequently used; and when it was, "the procedure went smoothly."

SB 1559 (Figueroa), Chapter 96:

- Deletes the sunset date of January 1, 2003 in provisions of law which allow a minor under the age of 13 to testify by way of closed-circuit television when

the testimony involves a recitation of facts, and if the testimony relates to an alleged sexual offense on or with the minor, or the minor is a victim of a "violent" felony.
- Deletes provisions of law to become effective January 1, 2003 eliminating the ability of a minor under the age of 13 to testify by way of closed-circuit television when the minor is a victim of a "violent" felony.

Search Warrants: Electronic Communication Records

Prosecutors have reported a number of cases involving online identity theft, auction fraud and credit card fraud where judges have declined to authorize search warrants for electronic communication records if the underlying offense is a misdemeanor. For example, there have been instances where a suspect sells non-existent items to multiple victims through Internet auction sites. Because individual fraudulent transactions often amount to a loss of less than \$400 (grand theft), courts are unwilling to approve a search warrant. This occurs despite Penal Code Section 1524(a) 3 provisions that permit the issuance of a search warrant for information to ascertain the identity and location of a particular computer account used to commit a public offense.

SB 1980 (McPherson), Chapter 864, authorizes a prosecuting or investigating agency to obtain a search warrant to search specified records of a provider of electronic communication or remote computing services. Specifically, this new law:

- Provides that a prosecuting or investigating agency may obtain a search warrant to search specified records of a provider of electronic communication or remote computing services when it is shown that the provider has records or evidence showing that:
 - Property was stolen or embezzled constituting a misdemeanor; or,
 - Property or things are in the possession of any person with the intent to use it as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery.
- Requires a provider of electronic communication or remote computing services to disclose in response to a search warrant the name, address, local and long-distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of that service, and the types of services the subscriber or customer utilized.
- Provides that a governmental entity receiving subscriber records or information under this section is not required to provide notice to a subscriber or customer.
- Provides that a court issuing an order pursuant to this new law, on a motion made promptly by the service provider, may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with the order otherwise would cause an undue burden on the provider.
- Requires a provider of wire or electronic communication or remote computing services, upon the request of a peace officer, to take all necessary steps to preserve records and other evidence in its possession pending the issuance of a search warrant or a specified written request declaring an intent to file a

warrant. Records shall be retained for a period of 90 days, which is extended for an additional 90-day period upon a renewed request by the peace officer.

- Provides that no cause of action will be brought against a provider for providing information, facilities or assistance in good-faith compliance with a search warrant.

CRIME PREVENTION

Rural Crime Prevention Program

The Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare are authorized to develop a Rural Crime Prevention Program. The district attorney's office of each respective county administers the program under a joint powers agreement with the corresponding county sheriff's office until January 1, 2002.

AB 374 (Matthews), Chapter 719, extends the sunset date of the Central Valley Rural Crime Prevention Program until July 1, 2005. Specifically, this new law:

- Renames the "Rural Crime Prevention Program" the "Central Valley Rural Crime Prevention Program".
- Extends the sunset date of the Central Valley Rural Crime Prevention Program until July 1, 2005.
- Requires, by June 30, 2003, the Central Valley Rural Crime Task Force to develop a uniform procedure for the collection and reporting of data on agricultural crimes, and for one participating county to establish a central database for the collection and maintenance of data on agricultural crimes.
- Provides that funds appropriated shall be allocated based on the participating county's compliance with uniform data collection and reporting requirements.
- Adds an urgency clause.

Sexual Assault Felony Enforcement Teams

Law enforcement agencies are charged with the enforcement of existing criminal provisions regarding sex offenders, including probation, parole and registration with local law enforcement officials.

AB 1858 (Hollingsworth), Chapter 1090, authorizes counties to establish and implement sexual assault felony enforcement (SAFE) team programs. Specifically, this new law:

- Provides that the mission of the SAFE program shall be to reduce violent sexual assaults through proactive surveillance and arrest of habitual sex offenders, and strict enforcement of sex offender registration requirements.

- Requires that the proactive surveillance and arrest of offenders be conducted within the limits of existing statutory and constitutional law, and states that nothing in this chapter shall be construed to authorize the unlawful violation of any person's rights.
- Provides that regional SAFE teams may consist of officers and agents from the following law enforcement agencies to the extent that they have available resources:
 - ❑ Police departments;
 - ❑ Sheriff's departments;
 - ❑ The Bureau of Investigations of the Office of the District Attorney;
 - ❑ County probation departments;
 - ❑ The Bureau of Investigations of the California Department of Justice;
 - ❑ The California Highway Patrol;
 - ❑ The California Department of Corrections; and,
 - ❑ The Federal Bureau of Investigation.
- Requires SAFE programs to have the following objectives:
 - ❑ To identify, monitor, arrest, and assist in the prosecution of habitual sex offenders who violate the terms and conditions of their probation or parole, who fail to comply with sex offender registration requirements, or who commit new sexual assault offenses;
 - ❑ To collect data to determine if the proactive law enforcement procedures of the SAFE program are effective in reducing violent sexual assaults; and,
 - ❑ To develop procedures for operating a multi-jurisdictional task force.

Public Safety Officials Home Protection Act

Information such as a person's address can generally be released upon request as it is a matter of public record. Specifically, home address information is available from public agencies, such as a county assessor or registrar recorder's office, at no cost. Persons can also access this information from private companies that have assimilated the information for a cost to the requestor. Existing law provides for exemptions from the Public Records Act and requires a "public interest balancing test" that allows an agency to withhold any record by demonstrating "that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served

by disclosure of record."

Existing law also provides that any person who, with apparent ability and intention to carry out the threat, threatens to kill or cause serious bodily injury to any elected official, county public defender, county clerk, exempt Governor's appointee, judge, deputy commissioner of the Board of Prison Terms, or the staff or a family member of such officials, is guilty of an alternate felony-misdemeanor.

AB 2238 (Dickerson), Chapter 621, prohibits the intentional posting of home addresses or telephone numbers of elected or appointed officials with the intent to cause imminent great bodily injury and prohibits the publishing of the residence addresses of law enforcement officers in retaliation for the due administration of the law. This new law also creates an advisory task force to determine how to protect a public official's home information. The task force is required to file a report on its findings. Specifically, this new law:

- Provides that it is a misdemeanor, punishable by up to six months in county jail, to post on the Internet the home address or telephone number of any elected or appointed official or his or her spouse and child who reside in the same home threatening to cause imminent great bodily harm.
- Provides that is a misdemeanor, punishable by up to one year in county jail or a felony punishable by 16 months, 2 or 3 years in state prison where the conduct described above leads to the bodily injury of the official or family member.
- Expands the group of protected individuals under this section to include various specified active and retired peace officers; officers of the court, including prosecuting and defense attorneys, correctional officers and investigators; and other specified individuals who are employed at law enforcement agencies and departments.
- Provides that any person who maliciously, and with the intent to inflict imminent physical harm in retaliation for the due administration of the laws, publishes or disseminates the residential address or telephone number of a public safety official or a family member who resides with the public safety official is guilty of a misdemeanor. Where the violation results in the bodily injury to the peace officer or family member, it is a felony punishable by 16 months, 2 or 3 years in state prison.

- Creates an advisory task force to determine how to protect a public safety official's home information. The task force is chaired by the Attorney General and is comprised of representatives from the following:
 - Interested state enforcement entities including, but not limited to, the Department of Justice, the Department of the California Highway Patrol, and the Office of Privacy Protection in the Department of Consumer Affairs.
 - The judicial community.
 - The legal community, including, the district attorneys and public defenders.
 - The state recorders and assessors.
 - The business community involved in real estate transactions.
- Requires the task force to prepare a report of its findings that, among other things, includes a comprehensive plan on how to protect a public safety official's home information, definitions of those comprising public safety officials, and other information or proposals that may be necessary to carry out this act. This report is to be filed with the Legislature no later than September 1, 2003.

Megan's Law: Access by Military Personnel

In 1996, California enacted Megan's Law, which generally provides for the public disclosure of specified information about sex offenders categorized as "serious" or "high risk." Megan's Law requires that all sheriff and police departments in cities with populations exceeding 200,000 make a CD-ROM with specified offender information available to the public for viewing. Smaller law enforcement departments have voluntarily made the CD-ROM available. In order to view the CD-ROM, existing law requires that the applicant provide identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age. Thus, a member of the military from another state who resides in California would be unable to view the registry.

SB 1965 (Alpert), Chapter 118, allows military personnel equal access to the database. Specifically, this new law expands the class of persons who may view the Megan's Law CD-ROM to include an applicant who possesses a military identification card and orders with proof of permanent assignment or attachment to a military command or vessel in California.

CRIMINAL JUSTICE PROGRAMS

Emergency Alert System: The Amber Plan

The "Amber Plan", first established in Dallas, Texas, after the kidnap and murder of a nine-year-old girl, makes the emergency broadcast system available for use by law enforcement officials to alert the general public when a child has been abducted and is believed to be in danger. Currently, the Amber Plan is being used in a number of different states.

AB 415 (Runner), Chapter 517, requires law enforcement agencies to use the Emergency Alert System to assist recovery efforts in child abduction cases by disseminating information to the general public. Specifically, this new law:

- Makes legislative findings regarding child abduction cases and the value of using the Emergency Alert System to recover abducted children.
- Requires a law enforcement agency to request activation of the Emergency Alert System if there has been an abduction of a child 17 years of age or younger and there is imminent danger of serious bodily injury or death.
- Provides that the California Highway Patrol (CHP), if requested, shall activate the system. The CHP, in consultation with the Department of Justice, as well as a representative from the California State Sheriffs Association, the California Police Chiefs' Association, and the California Peace Officers' Association, shall develop policies and procedures regarding activation of the system.
- Requires the development of a comprehensive child abduction education system to educate children on the appropriate behavior to deter abduction.

Sexual Assault Felony Enforcement Teams

Law enforcement agencies are charged with the enforcement of existing criminal provisions regarding sex offenders, including probation, parole and registration with local law enforcement officials.

AB 1858 (Hollingsworth), Chapter 1090, authorizes counties to establish and implement sexual assault felony enforcement (SAFE) team programs. Specifically, this new law:

- Provides that the mission of the SAFE program shall be to reduce violent sexual assaults through proactive surveillance and arrest of habitual sex offenders, and strict enforcement of sex offender registration requirements.
- Requires that the proactive surveillance and arrest of offenders be conducted within the limits of existing statutory and constitutional law, and states that nothing in this chapter shall be construed to authorize the unlawful violation of any person's rights.
- Provides that regional SAFE teams may consist of officers and agents from the following law enforcement agencies to the extent that they have available resources:
 - ❑ Police departments;
 - ❑ Sheriff's departments;
 - ❑ The Bureau of Investigations of the Office of the District Attorney;
 - ❑ County probation departments;
 - ❑ The Bureau of Investigations of the California Department of Justice;
 - ❑ The California Highway Patrol;
 - ❑ The California Department of Corrections; and,
 - ❑ The Federal Bureau of Investigation.
- Requires SAFE programs to have the following objectives:
 - ❑ To identify, monitor, arrest, and assist in the prosecution of habitual sex offenders who violate the terms and conditions of their probation or parole, who fail to comply with sex offender registration requirements, or who commit new sexual assault offenses;
 - ❑ To collect data to determine if the proactive law enforcement procedures of the SAFE program are effective in reducing violent sexual assaults; and,
 - ❑ To develop procedures for operating a multi-jurisdictional task force.

Firearms: Illegal Trafficking

A federally licensed firearms dealer is prohibited, as specified, from delivering, selling, or transferring a firearm to a person who is also federally licensed and whose licensed premises are located in California unless the intended recipient presents proof of state licensure as a firearms dealer or presents proof of exemption from that licensure requirement.

In 1999, federal authorities arrested a California resident for using a falsified federal firearms licensee (FFL) to buy hundreds of guns from licensed wholesalers. In less than one year, the person had transferred and sold more than 1,100 unsafe guns in California, the largest gun-trafficking case in California history.

AB 2080 (Steinberg), Chapter 909, establishes a process for the Department of Justice (DOJ) to verify that a FFL holder in California who accepts deliveries of guns is also a fully licensed California dealer. Specifically, this new law:

- Provides that the provisions of this new law will be known as the "Firearms Trafficking Prevention Act of 2002".
- Defines "gunsmith" as a FFL holder who primarily repairs, makes or fits special barrels, stocks or trigger mechanisms to firearms.
- Requires compliance with verification requirements as noted above as a condition of maintaining state dealer licensure status beginning January 1, 2005.
- Provides that DOJ shall immediately computerize its centralized list of state-licensed firearm dealers, wholesalers, and gunsmiths, as specified.
- Creates an infraction for a dealer, importer, or collector of firearms to fail to implement the verification procedure established by this new law.
- Requires, in addition to other applicable penalties provided by law, DOJ to immediately remove from the centralized list any wholesaler, as specified.
- Provides that a wholesaler whose licensed premises is within California comply with certain maintenance and inspection requirements.
- Establishes a DOJ procedure for verification inquiries, as specified.
- Requires that within 30 days of a person being federally licensed as a firearms dealer (whether initially or as a renewal) whose licensed premises are, or will be, located in California, that the FFL dealer shall submit to DOJ in a format prescribed by DOJ, under penalty of perjury, a report to DOJ indicating specified identifying information.
- Provides that any costs incurred by DOJ to implement the key sections of this new law, which cannot be absorbed by DOJ will be funded from the Dealer Record of Sale Account.

Environmental Circuit Prosecutor Project

In 1992, the Legislature enacted the Local Toxics Enforcement and Training Act to provide support for prosecutors, peace officers, and regulators. In 1998 the Budget bill appropriated within the Secretary of Environmental Protection - Special Environmental Programs budget

\$404,000 to the Environmental Circuit Prosecutor Project (ECPP). ECPP, a cooperative effort of CDAA and Cal EPA for the past four years, has provided local district attorneys, particularly in rural areas, the means to ensure that environmental laws are effectively and uniformly prosecuted. This past year a working group was established following the Governor's veto message on AB 960 (Keeley) that urged affected state agencies and other stakeholders to craft a long-term solution for supporting the ECPP.

AB 2486 (Keeley), Chapter 1000, establishes the Local Environmental Enforcement and Training Act (Act) of 2002. Specifically, the new law:

- Changes the name of the Local Toxics Enforcement and Training Program to the Local Environmental Enforcement and Training Program and establishes the current Environmental Circuit Prosecutor Project in statute.
- Changes the focus of the program from training local law enforcement, regulatory personnel, and local prosecutors in hazardous materials enforcement to the enforcement of environmental law generally, including the laws governing toxic materials, air and water quality, waste management, pesticides and wildlife resources.
- Transfers administration of the program from the Department of Toxic and Substance Control to the California Environmental Protection Agency (Cal EPA). This new law creates the Environmental Circuit Prosecutor Project as a joint project of Cal EPA and the CDAA. The main purpose of the project is to provide experienced prosecutors to local district attorneys, particularly in rural areas, to assist in the prosecution of environmental crimes. Cal EPA will award funds from the Environmental Enforcement and Training Account to the California District Attorney's Association (CDAA) to fund the project. Circuit prosecutors will be employed by CDAA and deputized by county district attorneys when they assist in the prosecution of cases. County district attorneys will also provide matching funds or in-kind contributions of at least 20 percent of the cost of prosecuting cases involving circuit prosecutors.
- Changes the name of the Hazardous Materials Enforcement and Training Account to the Environmental Enforcement and Training Account and provides that funding for the account will come from appropriations made to Cal EPA, public and private contributions and proceeds from court judgements. Appropriations from the account are capped at \$2 million annually and must be allocated as follows: one-quarter to the Environmental Circuit Prosecutor Project, one-quarter to the CDAA to train and assist local prosecutors, investigators, and environmental regulators, one-quarter, or \$100,000, whichever is less, to the Commission on Peace Officer Standards and Training to train local law enforcement personnel, and the balance to Cal EPA to allocate where needed.

Olympic-Style Competition Firearms: Exemptions

After the enactment of SB 23 (Perata), Chapter 129, Statutes of 1999, which further defined the scope of the ban on assault weapons, it became necessary to exempt pistols designed

expressly for use in Olympic target shooting events. AB 2351 (Zettel), Chapter 967, Statutes of 2000, established a list of weapons used in competitive shooting sports that, while technically prohibited, were exempt from the assault weapon and unsafe handgun prohibitions.

Generally, existing law also prohibits a firearms dealer, as defined, from delivering a handgun on or after January 1, 2003 unless the recipient performs a safe handling demonstration, as specified. The required demonstration includes loading a dummy round, applying a firearm safety device, and operating the slide of a semiautomatic pistol.

AB 2793 (Pescetti), Chapter 911, allows the Department of Justice (DOJ) to exempt new models of competitive Olympic target shooting pistols from both the unsafe handgun and assault weapons laws and makes minor changes to the safe handling demonstration provisions. Specifically, this new law:

- Requires that DOJ create a program consistent with the existing stated purpose for the exemptions from the "unsafe handgun" and "assault weapons" laws for new models of competitive pistols that would otherwise fall under the purview of those laws.
- Provides that the exempt competitive pistols may be based on recommendations by USA Shooting consistent with the regulations contained in the USA Shooting Official Rules or may be based on the recommendation or rules of any other organization that the department deems relevant.
- Exempts an Olympic competition pistol from the firearms safety device law if no device exists other than a cable lock that DOJ has determined would damage the barrel of the pistol.
- Expands the type of dummy round that may be used in the loading and slide demonstrations and clarifies the other "dummy rounds" in addition to those that are "orange" may be used to meet the demonstration requirements of the new Handgun Safety Certificate law that becomes operative on January 1, 2003.

Victims of Crime Program

California's Victim of Crime Program (VCP), created in 1993, was the first of its kind in the nation and only the second program worldwide. Significant improvements have been made to the program since its inception, but numerous statutory changes have made the laws confusing and difficult to use for victims and administrators alike.

SB 1423 (Chesbro), Chapter 1141, recasts and revises numerous provisions of the VCP administered by the Victim Compensation and Government Claims Board and makes numerous technical and substantive changes, as specified. Specifically, this new law:

- Makes numerous changes to Government Code provisions relating to VCP, including the following substantive changes:
 - ❑ Repeals existing Government Code Sections 13955.5, 13968, 13969, 13969.2, 13969.5, and 13969.7; and repeals existing Government Code Sections 13959 to 13969.5, inclusive.
 - ❑ Expands the existing scope of emergency awards, as specified.
 - ❑ Consolidates, simplifies and redrafts existing provisions authorizing an extension of time for filing for good cause, as specified.
 - ❑ Allows a minor to verify an application for compensation under penalty of perjury if the minor seeks compensation for medical and mental health counseling related services and the minor is authorized by statute to consent to such services.
 - ❑ Adds "relative caregivers" as persons allowed to sign for minors or incompetent victims without being or becoming adoptive parents.
 - ❑ Makes specified technical changes relative to in-patient mental health counseling for both victims and derivative victims.
 - ❑ Adds a provision to allow the Board to approve additional licensed mental health professionals or unlicensed professionals, as specified, and allows the Board to place any restriction or limitation on the reimbursement for services provided by these professionals.
 - ❑ Makes specified changes relative to income/support loss.
 - ❑ Expands the Board's authority to establish expedited payment contracts with any qualified provider of mental health services.
 - ❑ Deletes existing law in Government Code Section 13968(b) that includes language relative to the mandate to display certain VCP posters in hospitals and requires the Board to send information to all physicians in California.
 - ❑ Deletes specified existing sunset dates from legislation governing the VCP, as specified.
 - ❑ Adds new Penal Code Section 1202.42 regarding income deduction orders and new Penal Code Section 1202.43 regarding persons to whom payable.
- Makes numerous other technical and additional substantive revisions to existing law, as specified.

The Comprehensive Statewide Domestic Violence Program

In the 2001-2002 domestic violence shelter funding cycle, the Office of Criminal Justice Planning (OCJP) funded 75 out of 97 applicants. Ten long-established shelters were defunded. Significant criticism followed and the Legislature and the Administration provided emergency funding for the shelters.

Existing law requires the Comprehensive Statewide Domestic Violence Program to provide assistance to existing domestic violence service providers and establish a program for the development of domestic violence services in underserved areas. The program provides financial and technical assistance in the implementation of a variety of programs, including crisis hotlines, counseling, shelters, emergency food, clothing, transportation, court and social service advocacy, community resource and referrals, and household establishment assistance. Shelter programs receive top priority.

SB 1895 (Escutia), Chapter 510, creates an advisory council to work with OCJP in implementing the Comprehensive Statewide Domestic Violence Program. Specifically, this new law:

- Requires OCJP to consult with an advisory council in implementing the CSDVP, including funding priorities and requests for proposals; and,
- Requires the council to consist of domestic violence victims' advocates, battered women service providers, representatives of women's organizations, law enforcement, and other domestic violence groups.

CRIMINAL OFFENSES

Identity Theft: Conspiracy by Government Employees

Any person who manufactures, sells, or transfers documents falsely purported to be a government-issued identification card or driver's license is guilty of a misdemeanor punishable by imprisonment in the county jail for one year and/or by a fine of not more than \$1,000 for a first-time conviction and not more than \$5,000 for a subsequent conviction.

AB 1155 (Dutra), Chapter 907, establishes a new alternate felony/misdemeanor where a government employee criminally conspires to assist another in obtaining a driver's license or other identification card issued by the Department of Motor Vehicles (DMV). Specifically, this new law:

- Creates a new alternate felony-misdemeanor, punishable by imprisonment in the county jail for up to one year and/or a fine of up to \$10,000, or imprisonment in state prison for 16 months, 2 or 3 years and a fine of up to \$10,000, where a government employee participates "as part of a criminal conspiracy" and assists another person in obtaining one of the following documents:
 - ❑ Driver's license;
 - ❑ Identification card;
 - ❑ Vehicle registration; or,
 - ❑ Any other official DMV document.
- Limits this new crime to situations where the governmental employee knew that the person assisted is not entitled to the document and the other person intends to use the document to commit identity theft.

Vandalism: Etching Cream

Etching cream is a caustic substance, sometimes containing hydrofluoric and sulfuric acid, used to create permanent etched designs on windows, mirrors, and glassware. The cream is applied directly onto the glass, left on for a period of time, and then removed. The glass will be permanently marked. Minors are now using etching cream to vandalize the glass windows of businesses, buses, and bus shelters.

Existing law provides it is a misdemeanor for a minor to purchase spray paint or possess spray paint in a public place for the purpose of defacing property. It is also a misdemeanor for a person, except a parent, to sell or furnish spray paint to a minor.

AB 1344 (Cox), Chapter 523, creates a misdemeanor for a minor to purchase etching cream or possess etching cream in a public place for the purpose of defacing property. This new law creates a misdemeanor for a person, other than a supervising parent, instructor, or employer, to sell or furnish etching cream to a minor. Specifically, this new law:

- Defines "etching cream" as any caustic cream, gel, liquid, or solution capable, by means of a chemical action, of defacing, damaging, or destroying hard surfaces in a manner similar to acid.
- Creates a misdemeanor for a person, firm, or corporation to sell or furnish etching cream that is capable of defacing property to a person under 18 years old, unless the minor provided "bona fide evidence of majority and identity". This new law defines "bona fide evidence of majority and identity" as identification issued by a federal, state, or local government entity.
- Provides for an exception allowing a parent, instructor or employer to furnish etching cream to a minor in a supervised situation.
- Requires retailers who sell etching cream to post a sign stating, "Any person who maliciously defaces real or personal property with etching cream or paint is guilty of vandalism which is punishable by a fine, imprisonment, or both."
- Creates a misdemeanor for a minor to possess etching cream for the purpose of defacing property while on any public highway, street, or alley or in any public place, whether or not the person is in a vehicle.
- Provides that the court may order the defendant, as a condition of probation, to perform between 100 and 300 hours of community service, depending on the number of prior convictions.
- Provides that the court may order counseling as a condition of probation.

Citizen Arrests: Peace Officer Liability for Refusing to Receive or Arrest Charged Persons

Penal Code Section 142 provides that a peace officer who willfully refuses to arrest a person charged with a crime is guilty of an alternate felony/misdemeanor, which poses a potential conflict when a peace officer is confronted with a citizen's arrest. If the officer refuses to take custody of the individual because of a lack of probable cause, he or she could be found in violation of Penal Code Section 142. On the other hand, if the officer does not believe that a crime has been committed but accepts custody for the purpose of complying with state law, he or she could be found to have violated the individual's federal civil rights.

AB 1835 (Bates), Chapter 526, extends the immunity from liability given to peace officers for false arrest or false imprisonment to arrests made pursuant to a citizen's arrest. This new law also exempts peace officers from criminal liability for refusing to take persons into

custody pursuant to a citizen's arrest. Specifically, this new law:

- Exempts arrests made pursuant to a citizen's arrest from the state statute requiring officers to receive a person charged with a criminal offense.
- Add arrests made pursuant to a citizen's arrest as one of the types of arrest for which an officer receives immunity for false arrest or false imprisonment.

Burglary Tools: Ceramic Spark Plug Pieces

Automobile burglary results in annual costs of millions of dollars to California's citizens in the form of personal property loss and increased insurance rates. Thieves and street gangs commonly use spark plugs or spark plug chips to break the window of an automobile in order to steal the automobile or its contents.

AB 2015 (Corbett), Chapter 335, makes the possession of ceramic or porcelain spark plug clips or pieces with the intent to commit burglary a misdemeanor punishable by up to six months in county jail, or a fine not to exceed \$1,000, or both. Additionally, this new law clarifies that it is not the intent of the Legislature to make other common objects, such as rocks or pieces of metal, burglary tools.

Theft of Advertising Services: Hate Literature

The Ku Klux Klan and the White Aryan Resistance were inserting hate literature into food packages and free newspapers. In response, Penal Code Sections 640.2 and 538c were enacted, making it a misdemeanor to attach or insert an unauthorized advertisement in a newspaper with the intent to redistribute it to the public. There have been a number of reported instances where hate groups have placed materials in free publications such as rental guides, homes for sale listings, and other promotional publications offered free of charge. However, because such materials are not included within the existing statutory definition of newspapers, prosecutors are unable to file charges alleging the unlawful theft of advertising services.

AB 2145 (Chu), Chapter 1134, expands the scope of the misdemeanor offense of theft of newspaper advertising services. Specifically, this new law:

- Expands the definition of "newspaper" for purposes of the misdemeanor offense of theft of advertising services to include any newspaper, magazine, periodical, or other tangible publication.
- Revises the exemption from prosecution to provide that it is not a crime if the publisher or authorized distributor consents to the attachment or insertion of the advertisement.
- Revises the exemption from prosecution to provide that it is not a crime if a distributor is directed to insert an unauthorized advertisement by a person or company if the distributor is

unaware that the advertisement is unauthorized.

- Provides that a conviction under this section shall not constitute a conviction for petty theft.

Enhanced Penalties for Gross Vehicular Manslaughter

Existing law provides that a person convicted of gross vehicular manslaughter (GVM) while intoxicated and has a prior conviction or convictions for certain vehicular manslaughter offenses or for specified Vehicle Code violations relative to driving under the influence (DUI) is punished by imprisonment for a term of 15-years-to-life under Courtney's Law.

In March 1999, a defendant was convicted of vehicular manslaughter. The defendant had 11 prior DUI convictions. At the original trial, the prosecutor failed to properly file an enhancement based on the defendant's prior felony drunk driving convictions. The trial court rejected the prosecutor's last-minute attempts to file a special motion to allow special sentencing for persons with multiple DUI convictions. As a result, the defendant was sentenced to 12 years in state prison instead of 15-years-to-life. The prosecution appealed. The appellate court, in an unpublished decision, ruled that the evidence of the prior felony conviction should have been considered at trial. The appellate court ordered a new trial for that specific purpose. After the limited trial, the judge re-sentenced the defendant to 15-years-to-life in state prison.

AB 2471 (Robert Pacheco), Chapter 622, specifies that the basis for imposing a sentence of 15-years-to-life for GVM while intoxicated where the defendant has specified prior convictions shall be pleaded in the information and proved to the jury, or the court in a court trial. Specifically, this new law:

- Clarifies that where a defendant is found guilty of GVM while intoxicated and has one or more prior convictions for vehicular manslaughter, vehicular manslaughter involving a vessel, DUI with specified prior convictions or DUI causing injury, he or she is shall be punished by imprisonment for 15-years-to-life.
- Provides that the basis for a 15-years-to-life sentence for GVM while intoxicated (specified prior convictions) shall be alleged in the charging documents and either admitted by the defendant or found to be true by the jury, or by the court in a court trial.
- Makes a technical change to the county board of parole commissioners by authorizing the designee of the sheriff or the designee of the probation officer to be a member of the board.

School Safety: Trespass

When any person enters a campus or facility where it reasonably appears that the person is committing an act likely to interfere with the peaceful activities of the campus, an administrator or other authorized person may direct the person to leave. If that person fails to do so, re-enters the campus or facility within 30 days, or within seven days if the person is

a parent or guardian of a student, he or she is guilty of a misdemeanor. As written, existing law allows a person who has unlawfully entered a school campus and disrupted school activities to return after 30 days and not face arrest.

AB 2593 (Rod Pacheco), Chapter 343, makes it a misdemeanor to fail to leave or to return to a school campus or facility, without following posted requirements to contact the administrative office of the campus, after having been asked to leave by a school administrator. Specifically, this new law:

- Provides that any person who is not a student, officer, or employee of a public school who enters a school campus or facility and commits an act likely to interfere with the peaceful activities of the campus or facility, and if asked to leave, fails to leave or returns without following the posted requirements to contact the administrative office of the campus, is guilty of a misdemeanor.
- Deletes provisions allowing a person who is asked to leave a school campus to re-enter after 30 days, or after seven days if the person is a parent or guardian of a student at the school.
- Deletes the requirement that an administrator inform a person being asked to leave a campus or facility that if he or she re-enters within the number of days prescribed, he or she will be guilty of a crime.

Cheating in Gambling Games or Wagering Events

The use of any game, device, sleight of hand, pretension to fortune tell, trick, or other means whatever, by use of cards or other implements or instruments, or while betting on sides or hands of any play or game, to fraudulently obtain from another person money or property of like value is unlawful.

AB 2965 (Wiggins), Chapter 624, creates a misdemeanor and an alternate misdemeanor/felony for cheating in gambling games or wagering events. Specifically, this new law:

- Defines the word "cheat" as any means to alter the elements of chance, method of selection, or criteria which determine the result of a gambling game, amount or frequency of payment in a gambling game, value of a wagering instrument and the value of a wagering credit.
- Makes it unlawful for any person to commit various acts of cheating while playing gambling games, including the following:
 - Alter or misrepresent the outcome of a gambling game in which lawful wagers have been made as described.

- ❑ Increase or decrease a wager, or to determine the course of play after acquiring knowledge, not available to all players as specified.
- ❑ Claim, collect, take, or attempt to claim, collect, or take money or something of value from a gambling game with the intent to defraud as described.
- ❑ Knowingly entice or induce another to go to any place where a gambling game is operated in violation or these or other current statutes.
- ❑ Place or increase a wager after acquiring knowledge of the outcome of the gambling game subject to the wager, as described.
- ❑ Reduce the amount wagered or cancel the wager after acquiring knowledge of the outcome of the game.
- ❑ Manipulate with the intent to cheat any component of a gambling game device in a manner contrary to the designed and normal operational purpose of the component, as specified.
- Makes it unlawful for any person at a gambling establishment to use, or possess with the intent to use a device to project the outcome of a game, keep track of the cards played, analyze the probability of the occurrence of an event relating to a gambling game, analyze the strategy for playing or wagering a gambling game.
- Makes it unlawful to counterfeit chips, equipment or other instruments in a gambling game, associated equipment, or cashless wagering system.
- Makes it illegal to possess any key or device that opens or affects the operation of a gambling game or paraphernalia for manufacturing slugs (e.g., gaming tokens) unless the person is an employee of a gambling establishment and is acting in furtherance of his or her employment.
- Makes it unlawful for any person to instruct another in cheating, as specified.
- Makes a first violation of this act a misdemeanor and punishable by imprisonment in a county jail for a term not to exceed one year, by a fine of not more than \$5,000, or by both fine and imprisonment. A second or subsequent violation of this act will also be a misdemeanor punishable by imprisonment in either a county jail or state prison and a fine of not more than \$15,000.

Airport Security: Prohibited Weapons

Existing law makes it an alternate felony/misdemeanor, punishable by imprisonment in the state prison for 16 months, 2 or 3 years, or by up to one year in the county jail, for any person to possess specified weapons within a state or local public building or at any meeting required to be open to the public.

Further, existing law provides that any unauthorized person who knowingly enters an airport operations area if the area has been posted with notices restricting access to authorized personnel shall be punished by a fine not exceeding \$100. If a person refuses to leave an airport operations area after being requested to by a peace officer, the offense is punishable by imprisonment in the county jail not exceeding six months; by a fine not exceeding \$1,000; or by both.

SB 510 (Scott), Chapter 608, makes it a misdemeanor to possess specified weapons, pieces of weapons, replica weapons and ammunition in a sterile area of an airport where access is controlled by screening of persons or property. Specifically, this new law:

- Makes it a misdemeanor punishable by up to six months in the county jail, a fine not exceeding \$1,000, or both for any person to knowingly possess within an airport in an area where access is controlled by inspection or in an area in which such inspections are conducted any of the following items:
 - Any firearm.
 - Any knife with a blade length in excess of four inches, the blade of which is fixed, or is capable of being fixed in an unguarded position by the use of one or two hands.
 - Any box cutter or straight razor.
 - Any military practice handgrenade.
 - Any metal replica handgrenade.
 - Any plastic replica handgrenade.
 - Any imitation firearm that is a replica of a firearm and is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
 - Any frame, receiver, barrel or magazine of a firearm.
 - Any unauthorized tear-gas weapon.
 - Any taser or stun gun, as defined.
 - Any instrument that expels a metallic projectile such as a BB or pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun or paint gun.
 - Any ammunition as defined.

- Allows persons who have written permission from a duly authorized official who is in charge of the airport or terminus to possess a specified weapon.
- Exempts peace officers, retired peace officers authorized to carry concealed weapons, full-time paid peace officers of another state or the Federal Government who are carrying out official duties while in California.
- Defines "airport" as an airport, with a secured area, that regularly serves an air carrier holding a certificate issued by the United States Secretary of Transportation.
- Defines "sterile area" as a portion of an airport where access is controlled by the screening of persons or property.
- States that the provisions of this section are cumulative, and shall not be construed as restricting the application of any other laws. However, an act or omission punishable in different ways under this provision and under other provisions of law shall not be punishable by more than one provision.
- Makes a refusal to leave an airport operations area after being requested by authorized personnel a misdemeanor.

Identity Theft: Personal Identifying Information

This new law makes it an alternate felony/misdemeanor to willfully obtain the personal identifying information of another person and to use such information to obtain, or attempt to obtain, credit, goods, or services in the name of the other person without consent. Personal identifying information is defined as the name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, maiden name, demand deposit account number, savings account number, mother's maiden name or credit card number of an individual person.

SB 1254 (Alpert), Chapter 254, creates a new misdemeanor for the acquisition and possession of specified identifying information and expands the definition of identity theft. Specifically, this new law:

- Expands the list of items and data constituting "personal identifying information" for purposes of identity theft.
- Makes it a misdemeanor for the acquisition, possession, retention, or transfer of identifying information with the intent to defraud, and without an element of use of the information.
- Requires wireless communication providers, in addition to financial institutions and utilities covered by existing law, to give identity theft victims information about fraudulent accounts opened in their names.

- Places provisions requiring 10-day compliance with a victim's request in the Penal Code, in addition to such requirements in existing Financial and Civil Code sections.

Unlawful Use of Scanning Devices

California has more victims of identity theft than any other state. Identity theft has become the largest source of consumer fraud complaints received by the Federal Trade Commission. Law enforcement agencies report that individuals have engaged in a practice referred to as "skimming" to commit credit card fraud. Skimming occurs when a credit card is used to pay for a legitimate transaction. When the customer's attention is diverted, an employee swipes the card through a hand-held scanning device that retrieves and stores data from the card's magnetic stripe. While there are some limited legitimate uses for these hand-held devices, the majority of them are used for fraudulent purposes.

SB 1259 (Ackerman), Chapter 861, creates a new misdemeanor offense for the unlawful possession or use of a scanning device. Specifically, this new law:

- Provides that any person who knowingly, willfully, and with the intent to defraud possesses a scanning device, or without the permission of the authorized user, uses a scanning device to access, read, obtain, memorize or store information encoded on the magnetic strip of a payment card is guilty of a misdemeanor, punishable by up to one year in the county jail and a \$1,000 fine.
- Provides that any person who knowingly, willfully, and with the intent to defraud possesses a re-encoder, or without the permission of the authorized user, uses a re-encoder to place encoded information on the magnetic strip of a payment card or any electronic medium that allows an authorized transaction to occur, is guilty of a misdemeanor, punishable by up to one year in the county jail and a \$1,000 fine.
- Provides that any scanning device or re-encoder used to commit a specified violation may be seized and destroyed as contraband. Any computer, software, or data owned by the defendant that is used to facilitate the commission of the offense, is subject to forfeiture.
- Defines "scanning device", "re-encoder", and "payment card".
- Provides that nothing in this new law shall preclude prosecution under any other provision of law.

Stalking: Revised Definitions of Harassment and Course of Conduct

Any person who willfully, maliciously, and repeatedly follows or harasses another person when a credible threat is made, intended to place that person in fear for his or her safety or the safety of his or her immediate family, is guilty of the crime of stalking. As interpreted by the courts, a violation of this law may be committed by following maliciously and repeatedly or by harassing only once without malice. "Harass" refers to a course of conduct that would

cause a reasonable person to suffer substantial emotional distress and that actually causes such distress. A "course of conduct" is defined as a pattern of conduct composed of a series of acts, as specified.

SB 1320 (Kuehl), Chapter 832, modifies the definition of "stalking" and deletes some of the elements that a prosecutor must currently establish to prove the crime of stalking. Specifically, this new law:

- Revises the definition of the crime of stalking to no longer require that the willful and malicious harassment of another person also be done repeatedly.

- Removes the existing legal requirement that in order for a prosecutor to prove harassment, there must be evidence of a course of conduct that would cause a reasonable person to suffer substantial emotional distress, and that actually caused substantial emotional distress to the victim.
- Revises the existing definition of "course of conduct" from a "pattern of conduct composed of a series of acts" to "two or more acts" occurring over a period of time, however short, evidencing a continuity of purpose.
- Clarifies the definition of "credible threat" by specifying that constitutionally protected activity is not included within its meaning.

Fleeing California to Avoid Paying Spousal Support

A court is generally authorized to order spousal support for a period of time in judgments of dissolution of marriage, legal separation or nullity, as specified. Contempt is one remedy available to enforce any judgment or order made under the Family Code. Each month for which payment has not been made in full may be punishable as a separate count of contempt. The period of limitations for commencing a contempt action is three years from the date that the payment was due. If the action before the court is enforcement of another order under the Family Code, the period of limitations for commencing a contempt action is two years from the time that the alleged contempt occurred. A parent's willful failure to support a minor child "without lawful excuse" is a misdemeanor, punishable by a fine and/or imprisonment for up to one year in county jail.

SB 1399 (Romero), Chapter 410, makes it a misdemeanor, punishable by up to one year in county jail and/or a fine of up to \$2,000, to flee California with the intent to avoid paying court-ordered spousal support. Specifically, this new law:

- Provides that if a court has made an order for the temporary or permanent award of spousal support, that a person must pay and the person has notice of that order, as specified, he or she is punishable by imprisonment in a county jail for a period not exceeding one year, a fine not exceeding \$2,000, or both that imprisonment and fine.
- Limits the application of this new crime to cases where a person flees California with the intent to willfully omit, without lawful purpose, to furnish the spousal support.

Speed Contests and Reckless Driving

Currently, any person who drives a vehicle on a highway or off-street parking facility in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Existing law also prohibits a person from engaging in any exhibition of speed or motor vehicle speed contest, including a motor vehicle race against another vehicle, a clock, or other timing device. The penalty for an exhibition of speed or speed contest is a misdemeanor: as a first offense, punishable by 24 hours to 90 days in jail and/or a fine of

\$355 to \$1,000; for a second offense within five years, four days to six months in jail and a fine of \$500 to \$1,000.

SB 1489 (Perata), Chapter 411, allows for the impoundment of vehicles used in reckless driving or exhibition of speed violations. Specifically, this new law:

- Provides that when a person is arrested for engaging in a speed contest, reckless driving on a highway or a parking facility, or exhibition of speed, the officer may immediately arrest that person and seize and impound the vehicle.
- Provides that the impounding agency shall release the vehicle if the registered owner of the vehicle was neither the driver nor a passenger of the vehicle at the time of the violation or was unaware that the driver was using the vehicle to engage in any of the activities prohibited by this new law.
- Names this new law the "U'kendra K. Johnson Memorial Act".
- Establishes a sunset date of January 1, 2007 relative to the impound provisions.

Vandalism: Native American Sacred Sites

Under existing law, it is a misdemeanor for any person to knowingly and willfully excavate upon or remove, destroy, injure, or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, fossilized footprints, inscriptions made by human agency, rock art, or any other archaeological, paleontological, or historical feature situated on public land. The current penalty is inadequate given the serious nature of offenses relating to the vandalism of Native American sacred or historical sites.

SB 1816 (Chesbro), Chapter 1155, establishes the Native American Historic Resource Protection Act for the purpose of protecting specified Native American historic, cultural, and sacred sites; and makes it a misdemeanor to destroy, injure, or deface these sites. Specifically, this new law:

- Makes it punishable by up to one year in the county jail, and by a fine not to exceed \$10,000, for any person to unlawfully and maliciously excavate, remove, destroy, injure or deface a Native American historic, cultural, or sacred site listed or eligible for inclusion on the California Register of Historic Resources.

- Requires that the act be committed with the specific intent to vandalize, deface, or destroy a Native American historic, cultural, or sacred site on public land, or on private land by any person except the owner of the land.
- Exempts any otherwise lawful act undertaken by the owner of the land upon which artifacts are found, and any research conducted under the auspices of an accredited post-secondary educational institution or other legitimate research institution on public or private land with permission and in accordance with law.
- Makes any violation of the Native American Historic Resources Protection Act subject to a civil penalty not to exceed \$50,000 for each violation in addition to any other penalty imposed by law. In determining the amount of any civil penalty imposed, the court shall take into account the damage to the resource, the commercial or archeological value of the resource, and the cost to repair the resource.
- Provides that civil penalties collected shall be distributed to the city or county that brought the action, and in the case of actions brought by the Attorney General the funds shall be distributed to the Native American Heritage Commission. Funds collected shall be used to repair or restore damage to Native American Cultural resources.

False Emergency Reports

Any person who makes a false report that an "emergency" exists, knowing that the report is false, is guilty of a misdemeanor. An "emergency" is defined as any condition which results in, or which could result in, the response of a public official in an authorized emergency vehicle. Over the past decade, several law enforcement and emergency service agencies have added helicopters and other aircraft to their inventory when resources were available to do so. However, the current Penal Code section does not reflect the existence of aircraft being used to respond to emergency situations.

SB 2057 (O'Connell), Chapter 521, creates a new misdemeanor and felony for making a false report, as specified. Specifically, this new law:

- Expands the misdemeanor offense of knowingly making a false emergency report to public officials that results in a response by public officials in an emergency vehicle to include a false report that results in a response by public officials in an emergency aircraft or vessel.
- Requires the felony offense of knowingly making a false emergency report to public officials that results in great bodily injury or death to include the element of knowledge that the false report is likely to cause great bodily injury or death.

DNA

DNA Data Bank: Terrorist Activity

The DNA and Forensic Identification Data Base and Data Bank Act of 1998 provides for the collection of specified biological samples from certain convicted sex offenders and violent criminals in order to more effectively identify and apprehend the perpetrators of unsolved crimes.

AB 2105 (La Suer), Chapter 160, adds specified terrorist activities and attempts to commit these offenses to the list of offenses requiring a convicted person to give blood and saliva samples to law enforcement for the purpose of DNA identification analysis.

Reasonable Force to Collect DNA

The "DNA and Forensic Identification Data Bank" assists federal, state, and local criminal justice and law enforcement agencies within and outside California in the expeditious detection and prosecution of people responsible for sex offenses and other violent crimes, exclusion of suspects under investigation, and the identification of missing and unidentified people, particularly abducted children.

Existing law requires persons convicted of specified offenses to give blood and saliva samples, as well as fingerprint impressions. Refusing to provide such samples for inclusion in the Department of Justice's (DOJ) DNA Data Bank is a misdemeanor, punishable by a fine of \$500 and/or up to one year in jail. If the person is already incarcerated, he or she may be punished by sanctions for misdemeanors according to a schedule determined by the CDC.

SB 1242 (Brulte), Chapter 632, allows law enforcement and correctional personnel to use reasonable force to collect blood specimens, saliva samples or print impressions from individuals for inclusion in the DOJ's DNA and Forensic Identification Bank if the individual refuses to provide such specimens, samples or impressions. Specifically, this new law:

- Requires the Department of Corrections (CDC), California Youth Authority (CYA) and the Board of Corrections (BOC) (for local detention facilities) to adopt regulations or guidelines governing the use of reasonable force that include the following:

- The term "use of reasonable force" shall be defined as the force that an objective, trained and competent correctional employee, faced with similar facts and circumstances, would consider necessary and reasonable to gain compliance with the DNA requirements;
- The use of reasonable force shall not be authorized without the prior written authorization of the supervising officer on duty. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impression and refused;
- The use of reasonable force shall be preceded by efforts to secure voluntary compliance with the DNA requirements; and,
- If the use of reasonable force includes a cell extraction, the regulation shall provide that the extraction be videotaped.
- Requires the CDC, CYA and BOC to report to the Legislature, no later than January 1, 2005, regarding the use of reasonable force which shall include, but is not limited to, the number of refusals; the number of incidents of the use of reasonable force; the type of force used; the efforts undertaken to obtain voluntary compliance, if any; and whether any medical attention was needed by the prisoner or personnel as a result of force being used.

DOMESTIC VIOLENCE

Eligibility for Compensation: Child Victims of Domestic Violence

Currently, children living in a home where domestic violence occurs are not defined as victims under the Victims of Crime Program (VCP) if they did not actually witness a violent incident.

Current research indicates that children who live in households with domestic violence are at greater risk for maladjustment than are children who do not live with such violence. Specifically, children exposed to domestic violence demonstrated more externalizing behaviors than did children from non-violent homes. The internalizing behaviors included depression, suicidal behaviors, anxiety, fears, phobias, insomnia, tics, bed-wetting, and low self-esteem. The behavior problems ranged from temper tantrums to fights. The children also demonstrated impaired ability to concentrate; difficulty in their schoolwork; and significantly lower scores on measures of verbal, motor, and cognitive skills.

AB 2462 (Bates), Chapter 479, provides that a child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed to have sustained physical injury, regardless of whether the child has witnessed the crime, for purposes of reimbursement from the VCP, as specified. Specifically, this new law:

- Provides that a child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed by the California Victim Compensation and Government Claims Board to have sustained physical injury, regardless of whether the child has witnessed a crime.
- Contains an additional technical amendment conforming its provisions to the law that will become operative on January 1, 2004.

Domestic Violence: Protective Orders

Judges generally have broad discretion to modify the terms and conditions of a defendant's probation.

AB 2563 (Vargas), Chapter 66, amends the procedures required for a court to modify or terminate a domestic violence protective order issued as a condition of a defendant's probation by increasing from two to five days the notice given to district attorneys for modification or termination of protective orders. This new law requires a court to consider if there have been any material changes in circumstances since the issuance of the order. Specifically, this new law:

- Gives the prosecuting attorney a five-day written notice and an opportunity to be heard when modifying or terminating a protective order in a case involving domestic violence.
- Expressly authorizes the court to limit or terminate a protective order that is a condition of probation in a case involving domestic violence.
- Further requires the court, in determining whether to limit or terminate this type of protective order, to "consider if there has been any material change in circumstances since the crime for which the order was issued, and any issue that relates to whether there exists good cause for the change" including, but not limited to consideration of all of the following:
 - ❑ Whether the probationer has accepted responsibility for the abusive behavior perpetrated against the victim.
 - ❑ Whether the probationer is currently attending and actively participating in counseling sessions.
 - ❑ Whether the probationer has completed parenting counseling, or attended substance abuse counseling.
 - ❑ Whether the probationer has moved from California, or is incarcerated.
 - ❑ Whether the probationer is still cohabitating, or intends to cohabit, with any subject of the order.
 - ❑ Whether the defendant has performed well on probation, including consideration of any progress reports.
 - ❑ Whether the victim desires the change to the protective order and if so, the victim's reasons, whether the victim has consulted a victim advocate, and whether the victim has prepared a safety plan and has access to local resources.
 - ❑ Whether the change will impact any children involved, including consideration of any Child Protective Services information.
 - ❑ Whether the ends of justice would be served by limiting or terminating the order.

Seizure of Firearms in Domestic Violence Cases

Domestic violence perpetrators are prohibited from possessing firearms. Yet, no consistent system has been developed in California for courts, prosecutors, and law enforcement to ensure that defendants have complied with the law. A law enforcement agency can petition the court for the permanent removal of a firearm seized at the scene of a domestic violence incident if there is reasonable cause to believe that the return of the weapon would likely result in danger to the victim or reporting witness. The agency must advise the owner of the

weapon and initiate a petition to determine if the weapon should be returned within 30 days of the seizure. Including any extensions of time, a petition must be filed within 60 days of the seizure.

AB 2695 (Oropeza), Chapter 830, assists law enforcement agencies by extending the time for filing the petition to prevent the return of a firearm. Specifically, this new law:

- Requires a law enforcement agency to include information about applicable procedures for the return of a firearm on the receipt upon seizure.
- Increases the period for the return of a firearm or other deadly weapon seized by law enforcement, but not retained, from no later than 72 hours to no later than 5 business days after the seizure.
- Increases the period from 30 to 60 days from the date of seizure where a law enforcement agency must initiate a petition to determine if the return of a firearm or other deadly weapon would likely result in danger to the victim or reporting witness.
- Extends from 60 to 90 days the period where a law enforcement agency may seek an extension of the period for filing a petition for good cause.
- Provides that subject to available funding, the Attorney General, working with the Judicial Council, the California Alliance Against Domestic Violence, and specified law enforcement groups, will develop a protocol for the enforcement of specified restrictions on firearm ownership. The protocol is to be designed to facilitate the process for notice to defendants, disposal of firearms, and how defendants may obtain possession of seized firearms when legally permitted to do so. The protocol is to be completed on or before January 1, 2005.

Domestic Violence: Elder Abuse

Existing law defines "domestic violence" as abuse committed against an adult or fully emancipated minor who is a spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship. When law enforcement officers respond to incidents of abuse, it is difficult for them to make a distinction between whether the victim is legally emancipated or unemancipated under California's domestic violence statutes.

Current law permits a warrantless arrest irrespective of a relationship where a felony is committed in the presence of an officer. An officer is also given the discretion to make an arrest in assault and battery cases without a warrant when the abuser and victim have a specified (domestic violence) relationship; however elder abuse, is not one of those specified relationships. By expanding the definition of domestic violence, this new law changes the procedures for law enforcement responses to crimes involving minors or significant others, and abuse by an adult child against an elderly parent if they live together.

AB 2826 (Daucher), Chapter 534, revises the definition of domestic violence with respect to law enforcement responses to include all minors, and amends current law authorizing arrests without a warrant in certain domestic violence cases to specifically apply to assault and/or battery cases involving seniors, as specified. Specifically, this new law:

- Defines "elderly parent abuse" as abuse committed against an adult who is 65 or older by a child or stepchild.
- Requires every law enforcement agency to develop written policies for officer and dispatcher responses to elderly parent abuse, including a policy to arrest when probable cause exists.
- Provides that if a suspect commits an assault or battery upon a person who is 65 years of age or older and is related to the suspect by blood or legal guardianship, a peace officer is authorized to arrest the suspect without a warrant where both of the following circumstances apply:
 - The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed; and,
 - The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.
- Requires law enforcement officers to provide specified information to elderly parent abuse victims.
- Requires law enforcement to maintain a record of all protective orders issued in elderly parent abuse incidents to inform officers responding to elderly parent abuse calls of the existence, terms, and effective dates of the protective orders.

- Requires the clerk of the court to provide a pamphlet containing legal information to any person applying for a protective order relating to elderly parent abuse.
- Requires every law enforcement agency to develop a system for recording all elderly parent abuse calls, including whether a weapon was involved, and to maintain statistics relating to these calls to be provided to the Attorney General. This new law requires every law enforcement agency to develop an incident report form that includes an elderly parent abuse identification code and information about whether the alleged abuser was under the influence, whether law enforcement has previously responded to the same address, and whether a firearm was present.
- Provides that the San Diego Association of Governments may serve as a regional clearinghouse for criminal justice data involving elderly parent abuse.
- Provides that it is the intent of the Legislature that any increased costs resulting from this act are offset by savings to local agencies with respect to domestic violence and elder parent abuse.

Domestic Violence Restraining Orders

The clerk of the court or a law enforcement officer is required to notify the Department of Justice (DOJ) by electronic transmission after a protective order has been served, which includes the person and agency who served the order. However, this information is not being immediately reported, and the results have been disappointing: almost 70 percent of protective orders in the DOJ's Domestic Violence Restraining Order System (DVROS) database, which may have been properly served, are shown as never having been served. Law enforcement personnel must have an accurate database of restraining orders in order to effectively enforce them.

SB 1627 (Kuehl), Chapter 265, revises requirements relating to the transmittal of information about the proof of service of a domestic violence protective order to the DOJ. Specifically, this new law:

- Requires a law enforcement officer who has served a protective order to submit the proof of service into the DVROS within one business day of service of the order, including his or her name and law enforcement agency, and to transmit the original proof of service form to the issuing court.
- Requires the clerk of the court to submit proof of service of a protective order by a person other than law enforcement directly to the DVROS within one business day, including the name of the person serving the order. This new

law requires the clerk of the court to, if unable to provide the information by electronic transmission, transmit a copy of the proof of service within one business day to the local law

enforcement agency to transmit to the DVROS.

- Requires local courts to include information on how to return proofs of service, including mailing addresses and fax numbers in information packets to be distributed by courts.
- Clarifies that proofs of service are not necessary for the DVROS if the order indicates that both parties were personally present when the court issued the protective order.

Domestic Violence Counselors: Confidentiality Provisions

Indemnification is provided for a victim and derivative victim of specified types of crimes and for certain expenses for which the victim and derivative victim has not been and will not be reimbursed from any other source, subject to specified conditions. No victim or derivative victim may receive assistance under these provisions if the California Victim Compensation and Government Claims Board finds that the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of the defendant. Indemnification is made under these provisions from the Restitution Fund, which is continuously appropriated to the Board for these purposes.

SB 1735 (Karnette), Chapter 629, requires a domestic violence counselor to inform a domestic violence victim of any applicable limitations on confidentiality of communications between the victim and the counselor. Specifically, this new law:

- Prohibits an application for a claim based on domestic violence from being denied solely because the victim did not make a police report.
- Requires the Board to adopt guidelines that allow the Board to consider and approve applications for assistance based on domestic violence relying upon evidence other than a police report to establish that a domestic violence crime has occurred.
- Requires a domestic violence counselor to inform a domestic violence victim of any applicable limitations on confidentiality of communications between the victim and the domestic violence counselor.
- Provides that the confidentiality limitations information may be given orally.

Domestic Violence Reporting

Children who reside in homes where domestic violence is taking place face a heightened risk of abuse and neglect. Currently, law enforcement agencies are not required to cross-report the information obtained during a domestic violence call to the appropriate child protective services (CPS) agency.

SB 1745 (Polanco), Chapter 187, requires CPS, law enforcement and other specified agencies and organizations, to jointly develop protocols to address responses to incidents of domestic violence in homes where a child resides. Specifically, this new law:

- Requires CPS, law enforcement, child abuse and domestic violence experts, and community-based organizations serving abused children and victims of domestic violence, commencing January 1, 2003, to develop in collaboration with one another, protocols as to how law enforcement and CPS agencies will cooperate in their responses to incidents of domestic violence in homes where a child resides.
- Exempts counties where protocols consistent with this section have already been developed.
- States that it is the intent of the Legislature that this act provide consistent coordination of current activities among agencies responsible for domestic violence and child abuse throughout California, thereby reducing duplication, overlap, and local costs as well as providing improved protection for families experiencing domestic violence.
- Makes a technical non-substantive correction to the Child Abuse and Neglect Reporting Act.

Seizure of Firearms in Domestic Violence Cases: Standard of Proof

In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would likely result in danger to a domestic violence victim or reporting witness, the agency may petition to the court to retain the weapon. Unless it is shown by clear and convincing evidence that the return of the weapon would endanger the victim or witness, the court must order it returned to the owner and award reasonable attorney's fees to the prevailing party. Data compiled by the Department of Justice shows that women are much more likely to be killed by their husbands and boyfriends than by other persons. Yet, when county counsels and city attorneys file petitions in civil courts to remove weapons from dangerous households, they must meet the highest standard of evidence.

SB 1807 (Chesbro), Chapter 833, lowers the standard of proof required to establish that returning a firearm or other deadly weapon would endanger the victim of a domestic violence incident. Specifically, this new law:

- Lowers the standard of proof required for a law enforcement agency to retain firearms or other deadly weapons in court actions brought by owners for the return of those items from "clear and convincing" to a "preponderance" of the evidence.

- Specifies that if the owner petitions for a second hearing within 12 months of the initial hearing, the court shall order the return of the weapon and award reasonable attorney's fees to the prevailing party unless it is shown by clear and convincing evidence that the return of the weapon would endanger the victim or the person reporting the assault or threat.
- Adds any "lawful" search to the existing "consensual" search required in domestic violence circumstances for the mandated seizure of firearms and weapons.

The Comprehensive Statewide Domestic Violence Program

In the 2001-2002 domestic violence shelter funding cycle, the Office of Criminal Justice Planning (OCJP) funded 75 out of 97 applicants. Ten long-established shelters were de-funded. Significant criticism followed and the Legislature and the Administration provided emergency funding for the shelters.

Existing law requires the Comprehensive Statewide Domestic Violence Program to provide assistance to existing domestic violence service providers and establish a program for the development of domestic violence services in underserved areas. The program provides financial and technical assistance in the implementation of a variety of programs, including crisis hotlines, counseling, shelters, emergency food, clothing, transportation, court and social service advocacy, community resource and referrals, and household establishment assistance. Shelter programs receive top priority.

SB 1895 (Escutia), Chapter 510, creates an advisory council to work with OCJP in implementing the Comprehensive Statewide Domestic Violence Program. Specifically, this new law:

- Requires OCJP to consult with an advisory council in implementing the CSDVP, including funding priorities and requests for proposals; and,
- Requires the council to consist of domestic violence victims' advocates, battered women service providers, representatives of women's organizations, law enforcement, and other domestic violence groups.

ELDER ABUSE

Increased Penalties for Elder Abuse

Existing law provides that battery is punishable by a fine not exceeding \$2,000, by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment. Existing law also provides for a one-year sentence enhancement for any person who commits a specified felony against a person 65 years of age or older.

AB 2140 (Simitian), Chapter 369, increases penalties for elder abuse. Specifically, this new law increases the maximum period of imprisonment in a county jail from six months to one year for a battery committed against an elder or dependent adult. AB 2140 also increases penalties for willfully causing or permitting any elder or dependent adult to suffer unjustifiable physical pain or mental suffering from six months in a county jail and/or \$1,000 to one year in a county jail and/or \$2,000 fine. This new law also increases penalties for willfully causing or permitting the health of an elder or dependent adult to be injured or to willfully cause or permit the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered from six months in county jail and/or \$1,000 to one year in county jail and/or \$2,000 fine.

Domestic Violence: Elder Abuse

Existing law defines "domestic violence" as abuse committed against an adult or fully emancipated minor who is a spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship. When law enforcement officers respond to incidents of abuse, it is difficult for them to make a distinction between whether the victim is legally emancipated or unemancipated under California's domestic violence statutes.

Current law permits a warrantless arrest irrespective of a relationship where a felony is committed in the presence of an officer. An officer is also given the discretion to make an arrest in assault and battery cases without a warrant when the abuser and victim have a specified (domestic violence) relationship; however elder abuse, is not one of those specified relationships. By expanding the definition of domestic violence, this new law changes the procedures for law enforcement responses to crimes involving minors or significant others, and abuse by an adult child against an elderly parent if they live together.

AB 2826 (Daucher), Chapter 534, revises the definition of domestic violence with respect to law enforcement responses to include all minors, and amends

current law authorizing arrests without a warrant in certain domestic violence cases to specifically apply to assault and/or battery cases involving seniors, as specified. Specifically, this new law:

- Defines "elderly parent abuse" as abuse committed against an adult who is 65 or older by a child or stepchild.
- Requires every law enforcement agency to develop written policies for officer and dispatcher responses to elderly parent abuse, including a policy to arrest when probable cause exists.
- Provides that if a suspect commits an assault or battery upon a person who is 65 years of age or older and is related to the suspect by blood or legal guardianship, a peace officer is authorized to arrest the suspect without a warrant where both of the following circumstances apply:
 - ❑ The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed; and,
 - ❑ The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.
- Requires law enforcement officers to provide specified information to elderly parent abuse victims.
- Requires law enforcement to maintain a record of all protective orders issued in elderly parent abuse incidents to inform officers responding to elderly parent abuse calls of the existence, terms, and effective dates of the protective orders.
- Requires the clerk of the court to provide a pamphlet containing legal information to any person applying for a protective order relating to elderly parent abuse.
- Requires every law enforcement agency to develop a system for recording all elderly parent abuse calls, including whether a weapon was involved, and to maintain statistics relating to these calls to be provided to the Attorney General. This new law requires every law enforcement agency to develop an incident report form that includes an elderly parent abuse identification code and information about whether the alleged abuser was under the influence, whether law enforcement has previously responded to the same address, and whether a firearm was present.
- Provides that the San Diego Association of Governments may serve as a regional clearinghouse for criminal justice data involving elderly parent abuse.
- Provides that it is the intent of the Legislature that any increased costs resulting from this act are offset by savings to local agencies with respect to domestic violence and elder parent

abuse.

EVIDENCE

Electronic Surveillance

The United States Supreme Court ruled in Katz v. United States (1967) 389 U.S. 347, 88 S.Ct. 507, 19 L.Ed.2D 576, that telephone conversations were protected by the Fourth Amendment to the United States Constitution. Intercepting a conversation is a search and seizure similar to the search of a citizen's home. Thus, law enforcement is constitutionally required to obtain a warrant based on probable cause and to give notice and inventory of the search. In 1968, Congress authorized wiretapping by enacting Title III of the Omnibus Crime Control and Safe Streets Act. (See 18 USC Section 2510 et seq.). Title III mandates that before any state law enforcement officers may use wiretaps, the State must pass an enabling statute which, at a minimum, affords the same protections as the federal law.

California wiretap law has more privacy protections than Title III in that it affords the opportunity to a larger class of persons to contest the legality of evidence obtained through wiretapping and provides for broader grounds for the suppression of evidence. In addition, California law formerly provided that wiretaps may only be used in cases involving murder, kidnapping, bombing, criminal gangs, and the sale of more than three pounds of cocaine, heroin, PCP, or methamphetamine.

California wiretapping statutes had a sunset date of January 1, 2003.

AB 74 (Washington), Chapter 605, extends the sunset date of the current wiretap law until January 1, 2008 and expands the list of offenses eligible for intercept orders to include offenses involving weapons of mass destruction (WMD), restricted biological agents, and destructive devices. Specifically, this new law:

- Extends the sunset date of the current wiretap law from January 1, 2003 to January 1, 2008.
- Provides that an application for modification of an order may be made when there is probable cause to believe that a person or persons identified in the original order have commenced to use a facility or device that is not subject to the original order. Any modification shall only be valid for the period authorized under the order being modified. The application for modification shall meet specified requirements
- Expands the list of offenses eligible for intercept orders to include offenses involving WMD or restricted biological agents.
- Authorizes law enforcement to act on information concerning violent felonies developed during the surveillance that was not part of the original application.

- Expands the definitions of the type of communications that can be intercepted pursuant to court order to include specified wire and pager communications.
- Allows a district attorney to designate another person as having the authority to apply for an order to intercept an electronic communication if the district attorney is unavailable and permits the sequential designation of judges who may consider wiretap applications.
- Adds “precursors” to the already enumerated drug offenses as the type of activity that law enforcement may seek a wiretap order.
- Makes a number of changes to the reporting requirements concerning interceptions conducted pursuant to applicable provisions.
- Provides that a defendant shall be notified that he or she was identified as the result of an interception. The notice shall be provided prior to the entry of a plea of guilty or nolo contendere, or at least 10 days before any trial, hearing or proceeding in the case, other than an arraignment or grand jury proceeding. The prosecution shall provide the defendant a copy of all recorded interceptions from which evidence against the defendant was derived, as specified.

Peace Officers: Confidentiality of Personnel Records

Under current law, peace officer personnel records are confidential. Before a police or sheriff's department may disclose personnel information, a judge must review the records in private and decide what is relevant in a criminal or civil case. If the court decides to release records of citizen complaints, it issues an order to the agency. In response to complaints that some departments were informally releasing these confidential records, AB 2559 (Cardoza), Chapter 971, Statutes of 2000, modified existing law by stating that confidential peace officer personnel records of citizen complaints shall not be disclosed by the department or agency which employs the officer in any criminal or civil proceeding except by discovery procedures specified in existing law.

AB 1873 (Koretz), Chapter 63, makes a technical change to eliminate confusion relating to the confidentiality of peace officer personnel records. Specifically, this new law deletes the 2000 amendment to existing law that added the phrase "by the department or agency that employs the peace officer".

Confidentiality of Custodial Officers' Personnel Records

Existing law requires law enforcement agencies to establish procedures to investigate citizen complaints against peace officers. Peace officer personnel records of citizen complaints are confidential and shall not be disclosed in any criminal or civil proceeding, except by specified provisions of the Evidence Code.

"Custodial officers" are public employees responsible for maintaining custody of prisoners and performing tasks related to the operation of local detention facilities. As with peace officers, custodial officers are sometimes the subject of citizen complaints of official misconduct. Existing law is unclear whether the same protections regarding access to personnel records as currently provided to peace officers apply to those public employees who are employed in local detention facilities.

AB 2040 (Diaz), Chapter 391, extends procedures for peace officer citizen complaints, confidentiality of personnel records, and discovery to custodial officers.

Forensic Testing of Terrorist-Related Evidence

The American Society of Crime Laboratory Directors, Laboratory Accreditation Board (ASCLD/LAB) certifies that laboratories meet specified standards. Currently, there are 28 ASCLD/LAB laboratories in California, including 13 Department of Justice (DOJ) laboratories.

Existing law states it is the intent of the Legislature to review the needs of local forensic laboratories before providing additional funding for increased services or capital improvements.

AB 2114 (La Suer), Chapter 125, requires DOJ to adopt standards and guidelines to be used by laboratories operated by or contracting with the DOJ for handling potential evidence resulting from testing of substances suspected to be terrorist-related material. This new law requires the standards and guidelines to include information on issues relating to the chain of custody and the employment of controls suitable for preserving evidence for use in a criminal prosecution.

Community Impact Statements: Study

A victim of a crime or next of kin, as specified, is allowed to file a written statement to the court (or probation officer where the defendant is a minor) expressing his or her views concerning the crime. The court is required to consider the statements prior to sentencing. In that statement, the victim of any crime, the parents or guardians if the victim is a minor, or the next of kin if the victim has died have the right to reasonably express his, her, or their views concerning the crime, the person responsible, and the need for restitution. The statements may also be filed in audio or video form.

AB 2211 (Horton), Chapter 1092, requires the Judicial Council (JC) to conduct a study relative to community impact statements. Specifically, this new law:

- Requires the JC to study the potential effects, implementation issues and alternatives to requiring community impact statements.
- Requires the JC to obtain input from a cross-section of the stakeholders and to report its findings to the Legislature on or before December 31, 2004.

Stalking: Revised Definitions of Harassment and Course of Conduct

Any person who willfully, maliciously, and repeatedly follows or harasses another person when a credible threat is made, intended to place that person in fear for his or her safety or the safety of his or her immediate family, is guilty of the crime of stalking. As interpreted by the courts, a violation of this law may be committed by following maliciously and repeatedly or by harassing only once without malice. "Harass" refers to a course of conduct that would cause a reasonable person to suffer substantial emotional distress and that actually causes such distress. A "course of conduct" is defined as a pattern of conduct composed of a series of acts, as specified.

SB 1320 (Kuehl), Chapter 832, modifies the definition of "stalking" and deletes some of the elements that a prosecutor must currently establish to prove the crime of stalking. Specifically, this new law:

- Revises the definition of the crime of stalking to no longer require that the willful and malicious harassment of another person also be done repeatedly.
- Removes the existing legal requirement that in order for a prosecutor to prove harassment, there must be evidence of a course of conduct that would cause a reasonable person to suffer substantial emotional distress, and that actually caused substantial emotional distress to the victim.
- Revises the existing definition of "course of conduct" from a "pattern of conduct composed of a series of acts" to "two or more acts" occurring over a period of time, however short, evidencing a continuity of purpose.
- Clarifies the definition of "credible threat" by specifying that constitutionally protected activity is not included within its meaning.

Search Warrants: Electronic Communication Records

Prosecutors have reported a number of cases involving online identity theft, auction fraud and credit card fraud where judges have declined to authorize search warrants for electronic communication records if the underlying offense is a misdemeanor. For example, there have been instances where a suspect sells non-existent items to multiple victims through Internet

auction sites. Because individual fraudulent transactions often amount to a loss of less than \$400 (grand theft), courts are unwilling to approve a search warrant. This occurs despite Penal Code Section 1524(a) 3 provisions that permit the issuance of a search warrant for information to ascertain the identity and location of a particular computer account used to commit a public offense.

SB 1980 (McPherson), Chapter 864, authorizes a prosecuting or investigating agency to obtain a search warrant to search specified records of a provider of electronic communication or remote computing services. Specifically, this new law:

- Provides that a prosecuting or investigating agency may obtain a search warrant to search specified records of a provider of electronic communication or remote computing services when it is shown that the provider has records or evidence showing that:
 - Property was stolen or embezzled constituting a misdemeanor; or,
 - Property or things are in the possession of any person with the intent to use it as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery.
- Requires a provider of electronic communication or remote computing services to disclose in response to a search warrant the name, address, local and long-distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of that service, and the types of services the subscriber or customer utilized.
- Provides that a governmental entity receiving subscriber records or information under this section is not required to provide notice to a subscriber or customer.
- Provides that a court issuing an order pursuant to this new law, on a motion made promptly by the service provider, may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with the order otherwise would cause an undue burden on the provider.
- Requires a provider of wire or electronic communication or remote computing services, upon the request of a peace officer, to take all necessary steps to preserve records and other evidence in its possession pending the issuance of a search warrant or a specified written request declaring an intent to file a warrant. Records shall be retained for a period of 90 days, which is extended for an additional 90-day period upon a renewed request by the peace officer.
- Provides that no cause of action will be brought against a provider for providing information, facilities or assistance in good-faith compliance with a search warrant.

HATE CRIMES

Theft of Advertising Services: Hate Literature

The Ku Klux Klan and the White Aryan Resistance were inserting hate literature into food packages and free newspapers. In response, Penal Code Sections 640.2 and 538c were enacted, making it a misdemeanor to attach or insert an unauthorized advertisement in a newspaper with the intent to redistribute it to the public. There have been a number of reported instances where hate groups have placed materials in free publications such as rental guides, homes for sale listings, and other promotional publications offered free of charge. However, because such materials are not included within the existing statutory definition of newspapers, prosecutors are unable to file charges alleging the unlawful theft of advertising services.

AB 2145 (Chu), Chapter 1134, expands the scope of the misdemeanor offense of theft of newspaper advertising services. Specifically, this new law:

- Expands the definition of "newspaper" for purposes of the misdemeanor offense of theft of advertising services to include any newspaper, magazine, periodical, or other tangible publication.
- Revises the exemption from prosecution to provide that it is not a crime if the publisher or authorized distributor consents to the attachment or insertion of the advertisement.
- Revises the exemption from prosecution to provide that it is not a crime if a distributor is directed to insert an unauthorized advertisement by a person or company if the distributor is unaware that the advertisement is unauthorized.
- Provides that a conviction under this section shall not constitute a conviction for petty theft.

Hate Crimes: Continuance of Trial

A court is required to continue a trial date in a case involving murder, stalking, physical or sexual child abuse, or a career criminal prosecution when the prosecutor assigned to the case is in another court on an unrelated matter.

AB 2653 (Chu), Chapter 788, provides that if a prosecutor of a hate crime case is unable to go to trial because he or she has been assigned to another proceeding in another courtroom, the court shall find good cause to grant a one-time continuance in the hate crime prosecution.

JUDGES, JURORS AND WITNESSES

Exclusion of Witnesses: Motion to Suppress

Existing law provides for the exclusion and separation of potential and actual witnesses at a felony preliminary examination. An investigator for the defense or the investigating officer for the prosecution may remain in the courtroom during the examination. Additionally, the court may exclude from the courtroom any witness not at the time under examination so that such a witness may not hear the testimony of other witnesses.

AB 1590 (Simitian), Chapter 401, provides for the exclusion and separation of potential and actual witnesses during a hearing on a motion to suppress evidence. Specifically, this new law:

- Provides that while a witness is under examination during a hearing pursuant to a search or seizure motion, the judge or magistrate shall, upon motion of either party, do any of the following:
 - Exclude all potential and actual witnesses who have not been examined;
 - Order the witnesses not to converse with each other until they are all examined;
 - Order, where feasible, that the witnesses be kept separated from each other until they are all examined; and,
 - Hold a hearing, on the record, to determine if the person sought to be excluded is, in fact, a person excludable under this section.
- Allows either party to challenge the exclusion of any person.
- Exempts the investigating officer or the investigator for the defendant and officers having custody of persons brought before the court.

Public Safety Officials Home Protection Act

Information such as a person's address can generally be released upon request as it is a matter of public record. Specifically, home address information is available from public agencies, such as a county assessor or registrar recorder's office, at no cost. Persons can also access this information from private companies that have assimilated the information for a cost to the requestor. Existing law provides for exemptions from the Public Records Act and requires a "public interest balancing test" that allows an agency to withhold any record by demonstrating "that on the facts of the particular case the public

interest served by not making the record public clearly outweighs the public interest served by disclosure of record."

Existing law also provides that any person who, with apparent ability and intention to carry out the threat, threatens to kill or cause serious bodily injury to any elected official, county public defender, county clerk, exempt Governor's appointee, judge, deputy commissioner of the Board of Prison Terms, or the staff or a family member of such officials, is guilty of an alternate felony-misdemeanor.

AB 2238 (Dickerson), Chapter 621, prohibits the intentional posting of home addresses or telephone numbers of elected or appointed officials with the intent to cause imminent great bodily injury and prohibits the publishing of the residence addresses of law enforcement officers in retaliation for the due administration of the law. This new law also creates an advisory task force to determine how to protect a public official's home information. The task force is required to file a report on its findings. Specifically, this new law:

- Provides that it is a misdemeanor, punishable by up to six months in county jail, to post on the Internet the home address or telephone number of any elected or appointed official or his or her spouse and child who reside in the same home threatening to cause imminent great bodily harm.
- Provides that is a misdemeanor, punishable by up to one year in county jail or a felony punishable by 16 months, 2 or 3 years in state prison where the conduct described above leads to the bodily injury of the official or family member.
- Expands the group of protected individuals under this section to include various specified active and retired peace officers; officers of the court, including prosecuting and defense attorneys, correctional officers and investigators; and other specified individuals who are employed at law enforcement agencies and departments.
- Provides that any person who maliciously, and with the intent to inflict imminent physical harm in retaliation for the due administration of the laws, publishes or disseminates the residential address or telephone number of a public safety official or a family member who resides with the public safety official is guilty of a misdemeanor. Where the violation results in the bodily injury to the peace officer or family member, it is a felony punishable by 16 months, 2 or 3 years in state prison.
- Creates an advisory task force to determine how to protect a public safety official's home information. The task force is chaired by the Attorney General and is comprised of representatives from the following:
 - Interested state enforcement entities including, but not limited to, the Department of Justice, the Department of the California Highway Patrol, and the Office of Privacy Protection in the Department of Consumer Affairs.

- ❑ The judicial community.
- ❑ The legal community, including, the district attorneys and public defenders.
- ❑ The state recorders and assessors.
- ❑ The business community involved in real estate transactions.
- Requires the task force to prepare a report of its findings that, among other things, includes a comprehensive plan on how to protect a public safety official's home information, definitions of those comprising public safety officials, and other information or proposals that may be necessary to carry out this act. This report is to be filed with the Legislature no later than September 1, 2003.

Witness Protection Programs: Local Prosecutors

The California Witness Protection Program (CWPP) began operation on January 1, 1998, and is charged with the responsibility of reimbursing district attorneys for expenses incurred for protecting and/or relocating witnesses in criminal cases. Specific witness protection services - such as armed protection or escort, relocation, housing, change of identity, living expenses, and transportation/storage of personal possessions - are reimbursable expenses. Existing law authorizes the Attorney General (AG) to enter into a written agreement with a witness in a criminal prosecution in order to provide him or her with protection services. The AG may reimburse state and local agencies for the costs of providing such services only if the action is brought by local prosecutors. Finally, existing law provides immunity to the AG for any condition in the witness protection agreement that cannot reasonably be met due to a witness committing a crime while in the program.

SB 1739 (Morrow), Chapter 210, modifies the exclusive authority of the AG over the CWPP by allowing local prosecutors to identify program participants. Specifically, this new law:

- Adds lawful compensation provided to a witness participating in the CWPP to the list of exceptions to the rule that witnesses may not be compensated for their testimony.
- Modifies the exclusive authority of the AG over the CWPP by authorizing local prosecutors to:
 - ❑ Designate a witness as an endangered person;
 - ❑ Enter into written agreements for admission into the CWPP;
 - ❑ Specify the responsibilities of the protected persons that establish the conditions for local or state prosecutors providing protection; and,

- Designate a witness for purposes of being deemed a victim.
- Extends specified immunity provisions to counties and cities within California and their respective officers and employees.

JUVENILES

The Expedited Youth Accountability Program

Existing law establishes the Expedited Youth Accountability Program, operative in Los Angeles County until 2003.

The Expedited Youth Accountability Program allows peace officers and probation officers to cite minors accused of specified misdemeanor offenses directly to juvenile court in lieu of filing a petition or informal probation proceeding. The Program requires that the initial juvenile court hearing is held within 60 days of a juvenile's arrest, thus ensuring that preventive measures are taken at an early stage of the process.

The Expedited Youth Accountability Program utilizes rehabilitative options such as counseling, drug treatment, participation in a work project, driver license suspension, victim restitution and confinement of the minor to his or her home at late night hours.

AB 2154 (Robert Pacheco), Chapter 110, deletes the January 1, 2003 sunset date for the Expedited Youth Accountability Program thereby making the program operative indefinitely.

Prisoner Access to Personal Information

Existing law prohibits a prison inmate, county jail inmate and California Youth Authority (CYA) ward from having access to personal information of another person such as social security numbers, addresses, driver's license numbers, credit card numbers, or telephone numbers if the offender has been convicted of an offense involving: (1) forgery or fraud, (2) misuse of a computer, (3) sex offenses requiring registration, and (4) any misuse of the personal or financial information of another person.

Existing law also requires a county jail and prison inmate who has access to any personal information to disclose that he or she is confined before taking any personal information from any person.

AB 2456 (Jackson), Chapter 196, expands the list of specifically included types of personal information to which prison and county jail inmates are denied access. Specifically, this new law prohibits prison inmates, county jail inmates and CYA wards from having access to the following personal information: addresses; telephone numbers; health insurance, taxpayer, school, or employee identification numbers; mothers' maiden names; demand deposit account, debit card, credit card, savings, or checking account numbers, personal identification numbers, or passwords; social security numbers; places of employment; dates of birth; state- or government-issued driver's license or identification numbers; alien registration numbers; government passport numbers; unique biometric data, such as fingerprints, facial scan identifiers, voice prints, retina or iris images, or other similar identifiers; unique electronic

identification numbers; address or routing codes; and telecommunication identifying information or access devices.

MURDER/DEATH PENALTY

Government Misconduct: Motion to Vacate Judgement

If police misconduct, such as planting evidence, filing false police reports, committing perjury, or falsifying confessions comes to light years after the conduct occurs, defendants who are no longer in either actual or constructive custody are precluded from having their convictions set aside. Similarly, existing procedures for a declaration of factual innocence do not apply to situations such as the Rampart scandal. The provisions for petitioning the court to make a declaration of factual innocence are inapplicable if there has been a conviction.

SB 1391 (Burton), Chapter 1105, creates a process for a convicted person, whether or not in custody, to vacate a judgement based on fraud or the presentation of false evidence by the government. Specifically, this new law:

- Provides that upon the prosecution of a post-conviction writ of habeas corpus or a motion to vacate a judgement in a case in which a sentence of death or life without the possibility of parole has been imposed, the court may order that counsel for the defendant be provided reasonable access to discovery materials.
- Requires that before the court grants access to specified materials, the defendant must demonstrate that there have been good-faith efforts to obtain discovery materials from trial counsel that were unsuccessful.
- Defines "discovery materials" as materials in the possession of the prosecution and law enforcement authorities to which the defendant would have been entitled at time of trial.
- Permits the court to order that the defendant be provided access to physical evidence for the purpose of examination upon a showing that there is good cause to believe that access to physical evidence is reasonably necessary to the defendant's effort to obtain relief. The actual costs of examination or copying shall be borne or reimbursed by defendant.
- Removes the sunset date of the provision in the Penal Code for the retention of biological evidence for purposes of DNA testing.
- Provides that a person no longer unlawfully imprisoned or restrained may make a motion to vacate a judgment for any of the following reasons:
 - Newly discovered evidence of fraud by a government official that completely undermines the prosecution's case that is conclusive and points unerringly to innocence;
 - Newly discovered evidence that a government official testified falsely at the trial that resulted in the conviction and that the testimony of the official was substantially probative on the

issue of guilt or punishment; or,

- Newly discovered evidence of misconduct by a government official that resulted in fabrication of evidence that was substantially material and probative on the issue of guilt or punishment. Evidence of misconduct in other cases is not sufficient to warrant relief.
- Provides that the procedure for vacating a judgement, including the burden of producing evidence and proof, is the same as for a writ of habeas corpus. A motion must be filed within one year of either the date of discovery of the governmental misconduct or the effective date of this new law.

PEACE OFFICERS

Citizen Arrests: Peace Officer Liability for Refusing to Receive or Arrest Charged Persons

Penal Code Section 142 provides that a peace officer who willfully refuses to arrest a person charged with a crime is guilty of an alternate felony/misdemeanor, which poses a potential conflict when a peace officer is confronted with a citizen's arrest. If the officer refuses to take custody of the individual because of a lack of probable cause, he or she could be found in violation of Penal Code Section 142. On the other hand, if the officer does not believe that a crime has been committed but accepts custody for the purpose of complying with state law, he or she could be found to have violated the individual's federal civil rights.

AB 1835 (Bates), Chapter 526, extends the immunity from liability given to peace officers for false arrest or false imprisonment to arrests made pursuant to a citizen's arrest. This new law also exempts peace officers from criminal liability for refusing to take persons into custody pursuant to a citizen's arrest. Specifically, this new law:

- Exempts arrests made pursuant to a citizen's arrest from the state statute requiring officers to receive a person charged with a criminal offense.
- Add arrests made pursuant to a citizen's arrest as one of the types of arrest for which an officer receives immunity for false arrest or false imprisonment.

Peace Officers: Confidentiality of Personnel Records

Under current law, peace officer personnel records are confidential. Before a police or sheriff's department may disclose personnel information, a judge must review the records in private and decide what is relevant in a criminal or civil case. If the court decides to release records of citizen complaints, it issues an order to the agency. In response to complaints that some departments were informally releasing these confidential records, AB 2559 (Cardoza), Chapter 971, Statutes of 2000, modified existing law by stating that confidential peace officer personnel records of citizen complaints shall not be disclosed by the department or agency which employs the officer in any criminal or civil proceeding except by discovery procedures specified in existing law.

AB 1873 (Koretz), Chapter 63, makes a technical change to eliminate confusion relating to the confidentiality of peace officer personnel records. Specifically, this new law deletes the 2000 amendment to existing law that added the phrase "by the department or agency that employs the peace officer".

Confidentiality of Custodial Officers' Personnel Records

Existing law requires law enforcement agencies to establish procedures to investigate citizen complaints against peace officers. Peace officer personnel records of citizen complaints are confidential and shall not be disclosed in any criminal or civil proceeding, except by specified provisions of the Evidence Code.

"Custodial officers" are public employees responsible for maintaining custody of prisoners and performing tasks related to the operation of local detention facilities. As with peace officers, custodial officers are sometimes the subject of citizen complaints of official misconduct. Existing law is unclear whether the same protections regarding access to personnel records as currently provided to peace officers apply to those public employees who are employed in local detention facilities.

AB 2040 (Diaz), Chapter 391, extends procedures for peace officer citizen complaints, confidentiality of personnel records, and discovery to custodial officers.

Public Safety Officials Home Protection Act

Information such as a person's address can generally be released upon request as it is a matter of public record. Specifically, home address information is available from public agencies, such as a county assessor or registrar recorder's office, at no cost. Persons can also access this information from private companies that have assimilated the information for a cost to the requestor. Existing law provides for exemptions from the Public Records Act and requires a "public interest balancing test" that allows an agency to withhold any record by demonstrating "that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of record."

Existing law also provides that any person who, with apparent ability and intention to carry out the threat, threatens to kill or cause serious bodily injury to any elected official, county public defender, county clerk, exempt Governor's appointee, judge, deputy commissioner of the Board of Prison Terms, or the staff or a family member of such officials, is guilty of an alternate felony-misdemeanor.

AB 2238 (Dickerson), Chapter 621, prohibits the intentional posting of home addresses or telephone numbers of elected or appointed officials with the intent to cause imminent great bodily injury and prohibits the publishing of the residence addresses of law enforcement officers in retaliation for the due administration of the law. This new law also creates an advisory task force to determine how to protect a public official's home information. The task force is required to file a report on its findings. Specifically, this new law:

- Provides that it is a misdemeanor, punishable by up to six months in county jail, to post on the Internet the home address or telephone number of any elected or appointed official or his or her spouse and child who reside in the same home threatening to cause imminent great bodily harm.

- Provides that is a misdemeanor, punishable by up to one year in county jail or a felony punishable by 16 months, 2 or 3 years in state prison where the conduct described above leads to the bodily injury of the official or family member.
- Expands the group of protected individuals under this section to include various specified active and retired peace officers; officers of the court, including prosecuting and defense attorneys, correctional officers and investigators; and other specified individuals who are employed at law enforcement agencies and departments.
- Provides that any person who maliciously, and with the intent to inflict imminent physical harm in retaliation for the due administration of the laws, publishes or disseminates the residential address or telephone number of a public safety official or a family member who resides with the public safety official is guilty of a misdemeanor. Where the violation results in the bodily injury to the peace officer or family member, it is a felony punishable by 16 months, 2 or 3 years in state prison.
- Creates an advisory task force to determine how to protect a public safety official's home information. The task force is chaired by the Attorney General and is comprised of representatives from the following:
 - Interested state enforcement entities including, but not limited to, the Department of Justice, the Department of the California Highway Patrol, and the Office of Privacy Protection in the Department of Consumer Affairs.
 - The judicial community.
 - The legal community, including, the district attorneys and public defenders.
 - The state recorders and assessors.
 - The business community involved in real estate transactions.
- Requires the task force to prepare a report of its findings that, among other things, includes a comprehensive plan on how to protect a public safety official's home information, definitions of those comprising public safety officials, and other information or proposals that may be necessary to carry out this act. This report is to be filed with the Legislature no later than September 1, 2003.

Custodial Peace Officers

Existing law provides that any deputy sheriff of Los Angeles, Riverside or San Diego Counties who is employed to perform duties exclusively or initially relating to custodial assignments, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer. His or her authority extends to any place in California only while engaged in the performance of the duties of his or her respective employment or when

performing other law enforcement duties directed by his or her employing agency during a local state-of-emergency.

AB 2346 (Dickerson), Chapter 185, adds 10 county sheriffs to the existing authority granted only to Los Angeles, Riverside and San Diego Counties to employ deputy sheriffs to perform duties exclusively or initially relating to custodial assignments. Specifically, this new law allows the following counties to employ deputy sheriffs as custodial officers: Kern, Humboldt, Imperial, Mendocino, Plumas, Santa Barbara, Siskiyou, Sonoma, Sutter, and Tehama.

Government Misconduct: Motion to Vacate Judgement

If police misconduct, such as planting evidence, filing false police reports, committing perjury, or falsifying confessions comes to light years after the conduct occurs, defendants who are no longer in either actual or constructive custody are precluded from having their convictions set aside. Similarly, existing procedures for a declaration of factual innocence do not apply to situations such as the Rampart scandal. The provisions for petitioning the court to make a declaration of factual innocence are inapplicable if there has been a conviction.

SB 1391 (Burton), Chapter 1105, creates a process for a convicted person, whether or not in custody, to vacate a judgement based on fraud or the presentation of false evidence by the government. Specifically, this new law:

- Provides that upon the prosecution of a post-conviction writ of habeas corpus or a motion to vacate a judgement in a case in which a sentence of death or life without the possibility of parole has been imposed, the court may order that counsel for the defendant be provided reasonable access to discovery materials.
- Requires that before the court grants access to specified materials, the defendant must demonstrate that there have been good-faith efforts to obtain discovery materials from trial counsel that were unsuccessful.
- Defines "discovery materials" as materials in the possession of the prosecution and law enforcement authorities to which the defendant would have been entitled at time of trial.
- Permits the court to order that the defendant be provided access to physical evidence for the purpose of examination upon a showing that there is good cause to believe that access to physical evidence is reasonably necessary to the defendant's effort to obtain relief. The actual costs of examination or copying shall be borne or reimbursed by defendant.
- Removes the sunset date of the provision in the Penal Code for the retention of biological evidence for purposes of DNA testing.

- Provides that a person no longer unlawfully imprisoned or restrained may make a motion to vacate a judgment for any of the following reasons:
 - ❑ Newly discovered evidence of fraud by a government official that completely undermines the prosecution's case that is conclusive and points unerringly to innocence;
 - ❑ Newly discovered evidence that a government official testified falsely at the trial that resulted in the conviction and that the testimony of the official was substantially probative on the issue of guilt or punishment; or,
 - ❑ Newly discovered evidence of misconduct by a government official that resulted in fabrication of evidence that was substantially material and probative on the issue of guilt or punishment. Evidence of misconduct in other cases is not sufficient to warrant relief.
- Provides that the procedure for vacating a judgement, including the burden of producing evidence and proof, is the same as for a writ of habeas corpus. A motion must be filed within one year of either the date of discovery of the governmental misconduct or the effective date of this new law.

Public Safety Officers Procedural Bill of Rights

The Public Safety Officers Procedural Bill of Rights (POBOR) Act specifies the procedures to be followed whenever any public safety officer is subject to investigation and interrogation for alleged misconduct which may result in punitive action. "Punitive action" is defined as any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer as punishment.

SB 1516 (Romero), Chapter 1156, establishes additional rights under the POBOR Act for specified willful and malicious conduct by an employer. Specifically, this new law:

- Adds the following protections to POBOR:
 - ❑ Provides that, in addition to existing extraordinary relief, upon a finding by a superior court that a public safety department, its employees, agents, or assigns, with respect to acts taken within the scope of employment, willfully and maliciously violated any provision of the POBOR Act with the intent to injure a public safety officer, the public safety department, for each and every offense, shall be liable for a civil penalty of up to \$25,000, and for reasonable attorney's fees, as specified;
 - ❑ Provides that if there is sufficient evidence to establish actual damages suffered by the officer, the public safety department shall also be liable for the amount of the actual damages;
 - ❑ Provides that a public safety department may not be required to indemnify a contractor for the contractor's liability pursuant to this new law if there is, within the contract between the public safety department and the contractor, a "hold harmless" or similar provision that

protects the public safety department from liability for the actions of the contractor; and,

- Provides that an individual shall not be liable for any act for which a public safety department is liable under this section.
- Provides that if the court finds that a bad faith or frivolous action or a filing for an improper purpose has been brought, the court may order sanctions, as specified, against the party filing the action, the parties attorney, or both. Those sanctions may include, but are not limited to, reasonable expenses, including attorney's fees, incurred by a public safety department.

Public Safety Officer Medal of Valor Act

The Governor may make annual awards to employees or groups of employees who distinguished themselves by outstanding service to the state during the preceding year. Currently, there is no designated award for law enforcement personnel.

SB 1800 (Johannessen), Chapter 226, enacts the Public Safety Officer Medal of Valor Act and creates the Medal of Valor Review Board within the Department of Justice (DOJ). Specifically, this new law:

- Provides that the Governor may annually present a Medal of Valor to one or more, in extraordinary cases, public safety officers cited by the Attorney General from among candidates recommended by the Medal of Valor Review Board for extraordinary valor above and beyond the call of duty. The Medal of Valor will be the highest state award for valor given to public safety officers.
- Creates the Medal of Valor Review Board, comprised of representatives of firefighter, emergency medical technician and paramedic, and law enforcement organizations. The members of the Board shall serve without compensation or reimbursement for expenses.
- Provides that the Board may hold one annual hearing, sit and act at designated times and places, administer oaths, take testimony, and receive evidence as necessary.
- Authorizes witnesses requested to appear before the Board to be paid the same fees as are paid to witnesses pursuant to the Code of Civil Procedure. The per diem and mileage allowances for witnesses shall be paid from funds donated to the Board.
- Permits the Board to accept donations to pay for any costs associated with holding its annual meeting and having witnesses. The costs of producing the medals shall be funded from existing resources within the DOJ.

Citation and Arrest Quotas

Currently, state or local agencies employing peace officers engaged in the enforcement of the Penal and Vehicle Codes are prohibited from using the number of arrests or citations issued

by a peace officer (e.g., arrest quota) as the sole criterion for promotion, demotion, dismissal, or earning of any benefit provided by the agency.

The term "arrest quota" is defined as any requirement regarding the number of arrests made, or the number of citations issued, by a peace officer, or the proportion of such arrests made and citations issued by a peace officer relative to the arrests made and citations issued by another peace officer or group of officers.

SB 2069 (Burton), Chapter 105, prohibits the use of arrest quotas by parking enforcement agencies to prevent parking enforcement agencies from using the number of citations issued as a sole means of promotion or demotion and to include the Regents of the University of California in the agencies prohibited from using arrest quotas. Specifically, this new law:

- Adds citations issued by a "parking enforcement employee" to the definition of "arrest quota."

- Adds parking enforcement employers and employees engaged in the enforcement of the Penal or Vehicle Code from the prohibition of using quotas.
- Provides that for the purposes of the above sections, "agency" includes the "Regents of the University of California."

RESTITUTION

Community Impact Statements: Study

A victim of a crime or next of kin, as specified, is allowed to file a written statement to the court (or probation officer where the defendant is a minor) expressing his or her views concerning the crime. The court is required to consider the statements prior to sentencing. In that statement, the victim of any crime, the parents or guardians if the victim is a minor, or the next of kin if the victim has died have the right to reasonably express his, her, or their views concerning the crime, the person responsible, and the need for restitution. The statements may also be filed in audio or video form.

AB 2211 (Horton), Chapter 1092, requires the Judicial Council (JC) to conduct a study relative to community impact statements. Specifically, this new law:

- Requires the JC to study the potential effects, implementation issues and alternatives to requiring community impact statements.
- Requires the JC to obtain input from a cross-section of the stakeholders and to report its findings to the Legislature on or before December 31, 2004.

Terrorist Threats: Restitution for Costs of Emergency Response

Existing law provides that a person who falsely makes a bomb report to police, fire officials, the media, or transportation agents is guilty of an alternate felony-misdemeanor. Existing law also provides that any person who sends, gives or places a false or facsimile bomb, with intent to cause fear, is guilty of an alternate felony-misdemeanor.

SB 1267 (Battin), Chapter 281, requires a defendant to pay the costs of a responding police, fire or other government entity, or any private entity to a false bomb or false weapon of mass destruction (WMD). Specifically, this new law provides that a defendant who is convicted of a felony false report of a bomb or WMD under circumstances in which the defendant knew any underlying report was false must pay full restitution to any private or governmental entity.

Victims of Crime Program

California's Victim of Crime Program (VCP), created in 1993, was the first of its kind in the nation and only the second program worldwide. Significant improvements have been made to the program since its inception, but numerous statutory changes have made the laws confusing and difficult to use for victims and administrators alike.

SB 1423 (Chesbro), Chapter 1141, recasts and revises numerous provisions of the VCP administered by the Victim Compensation and Government Claims Board and makes numerous technical and substantive changes, as specified. Specifically, this new law:

- Makes numerous changes to Government Code provisions relating to VCP, including the following substantive changes:
 - ❑ Repeals existing Government Code Sections 13955.5, 13968, 13969, 13969.2, 13969.5, and 13969.7; and repeals existing Government Code Sections 13959 to 13969.5, inclusive.
 - ❑ Expands the existing scope of emergency awards, as specified.
 - ❑ Consolidates, simplifies and redrafts existing provisions authorizing an extension of time for filing for good cause, as specified.
 - ❑ Allows a minor to verify an application for compensation under penalty of perjury if the minor seeks compensation for medical and mental health counseling related services and the minor is authorized by statute to consent to such services.
 - ❑ Adds "relative caregivers" as persons allowed to sign for minors or incompetent victims without being or becoming adoptive parents.
 - ❑ Makes specified technical changes relative to in-patient mental health counseling for both victims and derivative victims.
 - ❑ Adds a provision to allow the Board to approve additional licensed mental health professionals or unlicensed professionals, as specified, and allows the Board to place any restriction or limitation on the reimbursement for services provided by these professionals.
 - ❑ Makes specified changes relative to income/support loss.
 - ❑ Expands the Board's authority to establish expedited payment contracts with any qualified provider of mental health services.
 - ❑ Deletes existing law in Government Code Section 13968(b) that includes language relative to the mandate to display certain VCP posters in hospitals and requires the Board to send information to all physicians in California.
 - ❑ Deletes specified existing sunset dates from legislation governing the VCP, as specified.
 - ❑ Adds new Penal Code Section 1202.42 regarding income deduction orders and new Penal Code Section 1202.43 regarding persons to whom payable.
- Makes numerous other technical and additional substantive revisions to existing law, as specified.

Domestic Violence Counselors: Confidentiality Provisions

Indemnification is provided for a victim and derivative victim of specified types of crimes and for certain expenses for which the victim and derivative victim has not been and will not be reimbursed from any other source, subject to specified conditions. No victim or derivative victim may receive assistance under these provisions if the California Victim Compensation and Government Claims Board finds that the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of the defendant. Indemnification is made under these provisions from the Restitution Fund, which is continuously appropriated to the Board for these purposes.

SB 1735 (Karnette), Chapter 629, requires a domestic violence counselor to inform a domestic violence victim of any applicable limitations on confidentiality of communications between the victim and the counselor. Specifically, this new law:

- Prohibits an application for a claim based on domestic violence from being denied solely because the victim did not make a police report.
- Requires the Board to adopt guidelines that allow the Board to consider and approve applications for assistance based on domestic violence relying upon evidence other than a police report to establish that a domestic violence crime has occurred.
- Requires a domestic violence counselor to inform a domestic violence victim of any applicable limitations on confidentiality of communications between the victim and the domestic violence counselor.
- Provides that the confidentiality limitations information may be given orally.

Victims of Crime: Indemnification

Generally, victims can receive reimbursement for medical costs; mental health counseling; psychological or psychiatric treatment; loss of wages directly resulting from an injury; loss of support, as specified; job retraining or employment rehabilitative services; and, when a victim dies, medical and burial expenses from the Victims of Crime Program, administered by the California Victim Compensation and Government Claims Board.

SB 1867 (Figueroa), Chapter 630, provides that in the case of a victim of domestic violence or sexual assault, the Board shall consider various factors. Specifically, this new law provides that in a case of a victim of domestic violence or sexual assault, the Board shall consider factors such as the victim's age, physical condition, psychological or emotional condition, compelling health or personal safety factors, reasonable fears of retaliation, and cultural or linguistic barriers, in determining whether the victim is eligible for assistance pursuant to this section.

Reimbursement for Victims of Terrorist Attacks

Various reimbursements are authorized for group mental health counseling and technical assistance related to the September 11, 2001, terrorist attacks as long as those payments do not exceed a total of \$2.575 million. The California Victims Compensation and Government Claims Board may expand the scope of assistance to include resident and family-member victims who incur pecuniary losses, as specified. The Board was also authorized to make a one-time allocation of \$1 million to the Victim Compensation Program in the State of New York to aid in compensating victims of the terrorist attacks on the World Trade Center.

SB 1873 (Escutia), Chapter 449, sets forth uncodified language to authorize wage and travel reimbursements, as specified, to derivative victims of the September 11, 2001, terrorist attacks from the Victims of Crime Program. Specifically, this new law:

- Authorizes payment from the Restitution Fund to a California resident parent and non-California residents, as specified, grandparent, sibling, spouse, child, or grandchild of a victim – whether a California resident or not – of any terrorist attacks that occurred at the World Trade Center, the Pentagon, and in Pennsylvania on September 11, 2001, equal to the loss of wages up to \$2,000 per eligible recipient due to traveling to and from, and attending, memorial services or government-initiated events in honor of the September 11th victims.
- Authorizes the same payment with the same limitations to any other family member of the victims, not described in the first provision.
- Limits the collective total for such payments to \$200,000.
- Repeals this new authorization on January 1, 2004 unless a later statute is enacted before January 1, 2004 to delete or extend that date.

SEX OFFENSES

Sexual Assault Victims: Post-Coital Contraception

About one in five American women will be raped at some point in their lives. Adding to the trauma of the assault, about one in ten women who are sexually assaulted will become pregnant by an attacker. As with other unintended pregnancies, about one-half of the pregnancies resulting from rape end in abortion. In 2000, there were over 8,000 rape cases reported in California. Post-coital contraception can safely prevent pregnancy if administered within 72 hours after a rape and can reduce the risk of pregnancy by as much as 95 percent. Despite its safety and efficacy, recent studies have found that many hospitals do not provide information about, or access to, post-coital or emergency contraception even to women requesting that information.

AB 1860 (Migden), Chapter 382, requires that female victims of sexual assault receive information regarding post-coital contraception. Specifically, this new law:

- Provides that where indicated by the history of contact, a female victim of sexual assault shall be provided the option of post-coital contraception by a physician or other health care provider.
- Requires that post-coital contraception be dispensed by a physician or other health care provider upon the request of the victim.

Sexually Violent Predators: Notification of Change in Status

If the Department of Mental Health (DMH) makes a recommendation to either pursue or not pursue recommitment of a person held as a sexually violent predator (SVP) or seeks judicial review of commitment status, the DMH shall notify local law enforcement officials and the district attorney in: (1) the county of commitment, (2) the community of the person's last legal residence, and (3) the community where the person will likely be released. If the person is subject to parole, the DMH must notify parole authorities. Notice shall be given at least 15 days prior to the scheduled release. Agencies receiving notice shall have 15 days from receipt of notice to make comments to the DMH about the impending release. The DMH shall consider the comments and may modify its decision as to the community where the person is to be released.

Existing law further provides that a victim, next of kin of a victim, or a witness involved in the conviction of a defendant of a violent crime may request that he or she be notified of the release, escape, execution, or death of the violent offender.

AB 1967 (Zettel), Chapter 139, requires the DMH to notify local law enforcement if the DMH is aware that a person held as a SVP has petitioned for conditional or unconditional release from confinement.

Specifically, this new law requires the DMH to notify local law enforcement that a SVP has petitioned the court for outpatient care in a community treatment program or for unconditional release. The requirement does not apply if DMH is not aware of the filing of the petition.

Sex Crimes Involving Multiple Victims: Territorial Jurisdiction

Existing law provides that when there have been multiple sex crimes in more than one jurisdiction involving the same defendant and victim, a court where at least one of the crimes occurred has jurisdiction over all the offenses. Existing law provides that if a defendant commits multiple sex crimes in a number of different counties involving different victims, a court does not have jurisdiction over out-of county crimes. Since prosecutors often introduce evidence of other similar offenses to establish the propensity of the defendant to commit the charged offense, this virtually ensures that victims will have to testify at multiple trials.

AB 2252 (Cohn), Chapter 194, eliminates the requirement that the territorial jurisdiction of the court for specified sex crimes is where the offense occurred. Specifically, this new law:

- Expands the definition of "sexual offense" for purposes of the exception to the rule against the admission of character evidence to include any conduct prohibited by Penal Code Section 220, except assault with intent to commit mayhem. The additional sexual offenses would be assault with intent to commit rape, sodomy, oral copulation, rape in concert, lewd act upon a child, or forcible sexual penetration.
- Eliminates the requirement in cases involving multiple sex crimes that the defendant and the victim are the same for a court to exercise jurisdiction in any jurisdiction where at least one of the offenses occurred.
- Provides that when more than one offense involving assault with intent to commit specified sex crimes, rape, spousal rape, rape in concert, aggravated sexual assault of a child, sodomy, child molestation, oral copulation, continuous sexual abuse of a child, or sexual penetration occurs in more than one jurisdictional territory, the jurisdiction of any of those offenses, and for any offenses properly joinable with that offense, is any jurisdiction where at least one of the offenses occurred.
- Requires a court, before exercising jurisdiction over specified sex offenses and other properly joinable offenses that occurred outside of its jurisdictional territory, to conduct a hearing pursuant to Penal Code Section 954. During the hearing, the prosecution shall present evidence in writing that all district attorneys in counties with jurisdiction of the offenses agree to the venue. For offenses where there is no written agreement, they shall be returned to the individual jurisdiction.
- Limits the application of the current law that requires the same defendant and victim for a court to exercise jurisdiction in any jurisdiction where at least one of the offenses occurred to

cases involving multiple incidents of domestic violence, stalking, or child abuse/ endangerment.

Statute of Limitations in Child Annoying/Molesting Cases

In a criminal case where the defendant is accused of a sexual offense, evidence of the defendant's commission of another sexual offense or offenses is not made inadmissible by the general rule against the admission of character evidence. A prosecution for the misdemeanor offense of annoying or molesting a child under the age of 14 years must be commenced within two years after commission of the crime.

AB 2499 (Frommer), Chapter 828, makes a number of changes to substantive provisions of law affecting the prosecution of sexual assault cases. Specifically, this new law:

- Expands the definition of "sexual offense" for purposes of the admission of character evidence to include assault with intent to commit specified offenses.
- Provides that evidence of other sexual offenses shall be disclosed by the prosecution in compliance with Penal Code Section 1054.7, at least 30 days before trial, unless good cause is shown why disclosure should be denied, restricted, or deferred, as specified.
- Increases the statute of limitations in misdemeanor child annoying/molesting cases from two to three years in cases involving minors under the age of 14.

Parole: High-Risk Sex Offenders

AB 1300 (Rod Pacheco), Chapter 142, Statutes of 2000, extended the period of parole from three to five years for any inmate convicted of specified sex offenses. Additionally, AB 1300 required that any inmate sentenced under the "one-strike" sex law be on parole for a period of five years, which may be extended for an additional five-year period.

AB 1300 inadvertently omitted forcible sexual penetration from the list of sex offenses for which the period of parole was extended, and did not include habitual sex offenders in the provisions which extended parole for one-strike sex offenders.

AB 2539 (Rod Pacheco), Chapter 829, includes forcible sexual penetration among the "violent" sex offenses that require a five-year period of parole. Specifically, this new law:

- Adds sexual penetration accomplished by means of force, violence, duress, menace, or fear to the list of violent sex offenses which requires an inmate to be released on parole for a period not to exceed five years.
- Requires a habitual sex offender who has received a life sentence to be placed on parole for a period of five years.

- Provides that any person imprisoned for the commission of a specified violent sex offense released on parole for a period not to exceed five years and has been on continuous parole for three years shall be discharged from parole unless the California Department of Corrections (CDC) recommends the person be retained on parole.
- Provides that any person receiving a life sentence as a one-strike sex offender, or a habitual sex offender released on parole for a period of five years and has been on continuous parole for three years shall be discharged from parole unless the CDC recommends the person be retained on parole.

Sex Crimes: Blood and Saliva Testing

Defendants convicted of specified sex offenses are required to provide a blood sample that can be tested for the presence of the acquired immune deficiency syndrome (AIDS) virus. However, there are a number of serious sex crimes that do not currently require the defendant to provide a sample for testing. In addition, recent changes in technology have demonstrated the reliability of saliva testing to determine exposure to or infection by HIV, AIDS, AIDS-related conditions, and other communicable diseases.

AB 2794 (Reyes), Chapter 831, expands the number of sex crimes that require a defendant to submit to a court-ordered blood or saliva test for evidence of the AIDS virus. Specifically, this new law:

- Adds rape in concert, unlawful sexual intercourse, sodomy, and oral copulation by false pretenses with the intent to create fear of physical injury or death to the list of sexual offenses that require the defendant to submit to a court-ordered blood test for evidence of the AIDS virus.
- Adds sexual penetration, as specified; aggravated sexual abuse of a child; continuous sexual abuse of a child; and any attempt to commit such acts to the list of sexual offenses that require the defendant to submit to a court-ordered

blood test for evidence of the AIDS virus if the court finds there is probable cause to believe that blood, semen, or any other bodily fluid capable of transmitting HIV has been transferred from a defendant to a victim.

- Permits the court to order a saliva test for evidence of antibodies to the probable causative agent of AIDS.
- Requires that the court order a defendant convicted of a specified offense to submit to a blood or saliva test within 180 days of the date of conviction.

- Expands the authority of the court to issue a search warrant for saliva testing in order to determine the presence of HIV.
- Adds attempts to commit specified offenses to the list of sexual offenses for which a court may issue a search warrant for the purpose of testing the accused for the presence of HIV.

Stalking: Revised Definitions of Harassment and Course of Conduct

Any person who willfully, maliciously, and repeatedly follows or harasses another person when a credible threat is made, intended to place that person in fear for his or her safety or the safety of his or her immediate family, is guilty of the crime of stalking. As interpreted by the courts, a violation of this law may be committed by following maliciously and repeatedly or by harassing only once without malice. "Harass" refers to a course of conduct that would cause a reasonable person to suffer substantial emotional distress and that actually causes such distress. A "course of conduct" is defined as a pattern of conduct composed of a series of acts, as specified.

SB 1320 (Kuehl), Chapter 832, modifies the definition of "stalking" and deletes some of the elements that a prosecutor must currently establish to prove the crime of stalking. Specifically, this new law:

- Revises the definition of the crime of stalking to no longer require that the willful and malicious harassment of another person also be done repeatedly.
- Removes the existing legal requirement that in order for a prosecutor to prove harassment, there must be evidence of a course of conduct that would cause a reasonable person to suffer substantial emotional distress, and that actually caused substantial emotional distress to the victim.
- Revises the existing definition of "course of conduct" from a "pattern of conduct composed of a series of acts" to "two or more acts" occurring over a period of time, however short, evidencing a continuity of purpose.
- Clarifies the definition of "credible threat" by specifying that constitutionally protected activity is not included within its meaning.

Fraud in Fact versus Fraud in the Inducement

Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of specified circumstances, including where a person is at the time unconscious of the nature of the act, and this is known to the accused.

"Unconscious of the nature of the act" is defined as being incapable of resisting because the victim meets one of the following conditions: (1) was unconscious or asleep; (2) was not aware, knowing, perceiving, or cognizant that the act occurred; or, (3) was not aware,

knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

Existing law does not allow a prosecutor to charge a rape based on a fraudulent physical examination performed for sexual gratification or sexual abuse to prosecute for rape because the victim is unable to prove it is fraud in fact. If the examination was performed with the consent of the patient, it would merely be fraud in the inducement.

SB 1421 (Romero), Chapter 302, amends the definitions of "rape", "sodomy", "oral copulation", "forcible sexual penetration", and "sexual battery" to include circumstances where the victim is deemed to be unconscious of the nature of the offensive act because the victim is not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

Victims of Crime: Indemnification

Generally, victims can receive reimbursement for medical costs; mental health counseling; psychological or psychiatric treatment; loss of wages directly resulting from an injury; loss of support, as specified; job retraining or employment rehabilitative services; and, when a victim dies, medical and burial expenses from the Victims of Crime Program, administered by the California Victim Compensation and Government Claims Board.

SB 1867 (Figueroa), Chapter 630, provides that in the case of a victim of domestic violence or sexual assault, the Board shall consider various factors. Specifically, this new law provides that in a case of a victim of domestic violence or sexual assault, the Board shall consider factors such as the victim's age, physical condition, psychological or emotional condition, compelling health or personal safety factors, reasonable fears of retaliation, and cultural or linguistic barriers, in determining whether the victim is eligible for assistance pursuant to this section.

Megan's Law: Access by Military Personnel

In 1996, California enacted Megan's Law, which generally provides for the public disclosure of specified information about sex offenders categorized as "serious" or "high risk." Megan's Law requires that all sheriff and police departments in cities with populations exceeding 200,000 make a CD-ROM with specified offender information available to the public for viewing. Smaller law enforcement departments have voluntarily made the CD-ROM available. In order to view the CD-ROM, existing law requires that the applicant provide identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age. Thus, a member of the military from another state who resides in California would be unable to view the registry.

SB 1965 (Alpert), Chapter 118, allows military personnel equal access to the database. Specifically, this new law expands the class of persons who may view the Megan's Law CD-

ROM to include an applicant who possesses a military identification card and orders with proof of permanent assignment or attachment to a military command or vessel in California.

SEXUALLY VIOLENT PREDATORS

Sexually Violent Predators: Notification of Change in Status

If the Department of Mental Health (DMH) makes a recommendation to either pursue or not pursue recommitment of a person held as a sexually violent predator (SVP) or seeks judicial review of commitment status, the DMH shall notify local law enforcement officials and the district attorney in: (1) the county of commitment, (2) the community of the person's last legal residence, and (3) the community where the person will likely be released. If the person is subject to parole, the DMH must notify parole authorities. Notice shall be given at least 15 days prior to the scheduled release. Agencies receiving notice shall have 15 days from receipt of notice to make comments to the DMH about the impending release. The DMH shall consider the comments and may modify its decision as to the community where the person is to be released.

Existing law further provides that a victim, next of kin of a victim, or a witness involved in the conviction of a defendant of a violent crime may request that he or she be notified of the release, escape, execution, or death of the violent offender.

AB 1967 (Zettel), Chapter 139, requires the DMH to notify local law enforcement if the DMH is aware that a person held as a SVP has petitioned for conditional or unconditional release from confinement.

Specifically, this new law requires the DMH to notify local law enforcement that a SVP has petitioned the court for outpatient care in a community treatment program or for unconditional release. The requirement does not apply if DMH is not aware of the filing of the petition.

VEHICLES

Criminal Background Checks: Volunteers Who Transport Persons Impaired by Drugs or Alcohol

The Designated Drivers Association (DDA) is a nonprofit organization with the sole purpose of reducing vehicle accidents and deaths caused by driving under the influence (DUI). DDA volunteers drive impaired individuals home in their own vehicles free of charge. To maintain a safe program, it is important to investigate the background of volunteer drivers. Currently, the DDA cannot access the criminal history information of their volunteers through the Department of Justice (DOJ). The release of criminal history information to human resource agencies is limited by statute to a narrow class of individuals.

AB 1855 (Steinberg), Chapter 990, expands the list of potential recipients of criminal history information from the DOJ to include public or private entities responsible for determining the character or fitness of a person applying as a volunteer who transports individuals impaired by alcohol or drugs.

Enhanced Penalties for Gross Vehicular Manslaughter

Existing law provides that a person convicted of gross vehicular manslaughter (GVM) while intoxicated and has a prior conviction or convictions for certain vehicular manslaughter offenses or for specified Vehicle Code violations relative to driving under the influence (DUI) is punished by imprisonment for a term of 15-years-to-life under Courtney's Law.

In March 1999, a defendant was convicted of vehicular manslaughter. The defendant had 11 prior DUI convictions. At the original trial, the prosecutor failed to properly file an enhancement based on the defendant's prior felony drunk driving convictions. The trial court rejected the prosecutor's last-minute attempts to file a special motion to allow special sentencing for persons with multiple DUI convictions. As a result, the defendant was sentenced to 12 years in state prison instead of 15-years-to-life. The prosecution appealed. The appellate court, in an unpublished decision, ruled that the evidence of the prior felony conviction should have been considered at trial. The appellate court ordered a new trial for that specific purpose. After the limited trial, the judge re-sentenced the defendant to 15-years-to-life in state prison.

AB 2471 (Robert Pacheco), Chapter 622, specifies that the basis for imposing a sentence of 15-years-to-life for GVM while intoxicated where the defendant has specified prior convictions shall be pleaded in the information and proved to the jury, or the court in a court trial. Specifically, this new law:

- Clarifies that where a defendant is found guilty of GVM while intoxicated and has one or more prior convictions for vehicular manslaughter, vehicular manslaughter involving a vessel, DUI with specified prior convictions or DUI causing injury, he or she is shall be

punished by imprisonment for 15-years-to-life.

- Provides that the basis for a 15-years-to-life sentence for GVM while intoxicated (specified prior convictions) shall be alleged in the charging documents and either admitted by the defendant or found to be true by the jury, or by the court in a court trial.
- Makes a technical change to the county board of parole commissioners by authorizing the designee of the sheriff or the designee of the probation officer to be a member of the board.

Speed Contests and Reckless Driving

Currently, any person who drives a vehicle on a highway or off-street parking facility in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Existing law also prohibits a person from engaging in any exhibition of speed or motor vehicle speed contest, including a motor vehicle race against another vehicle, a clock, or other timing device. The penalty for an exhibition of speed or speed contest is a misdemeanor: as a first offense, punishable by 24 hours to 90 days in jail and/or a fine of \$355 to \$1,000; for a second offense within five years, four days to six months in jail and a fine of \$500 to \$1,000.

SB 1489 (Perata), Chapter 411, allows for the impoundment of vehicles used in reckless driving or exhibition of speed violations. Specifically, this new law:

- Provides that when a person is arrested for engaging in a speed contest, reckless driving on a highway or a parking facility, or exhibition of speed, the officer may immediately arrest that person and seize and impound the vehicle.
- Provides that the impounding agency shall release the vehicle if the registered owner of the vehicle was neither the driver nor a passenger of the vehicle at the time of the violation or was unaware that the driver was using the vehicle to engage in any of the activities prohibited by this new law.
- Names this new law the "U'kendra K. Johnson Memorial Act".
- Establishes a sunset date of January 1, 2007 relative to the impound provisions.

VICTIMS

Sexual Assault Victims: Post-Coital Contraception

About one in five American women will be raped at some point in their lives. Adding to the trauma of the assault, about one in ten women who are sexually assaulted will become pregnant by an attacker. As with other unintended pregnancies, about one-half of the pregnancies resulting from rape end in abortion. In 2000, there were over 8,000 rape cases reported in California. Post-coital contraception can safely prevent pregnancy if administered within 72 hours after a rape and can reduce the risk of pregnancy by as much as 95 percent. Despite its safety and efficacy, recent studies have found that many hospitals do not provide information about, or access to, post-coital or emergency contraception even to women requesting that information.

AB 1860 (Migden), Chapter 382, requires that female victims of sexual assault receive information regarding post-coital contraception. Specifically, this new law:

- Provides that where indicated by the history of contact, a female victim of sexual assault shall be provided the option of post-coital contraception by a physician or other health care provider.
- Requires that post-coital contraception be dispensed by a physician or other health care provider upon the request of the victim.

Victims of Crime: Services

The Victims of Crime Program (VCP) reimburses victims of crime for the pecuniary losses they suffer as a direct result of criminal acts. The VCP provides for reimbursement to eligible victims - for outpatient psychiatric, psychological, or other mental health counseling related expenses that became necessary as a direct result of the crime.

AB 2435 (Jackson), Chapter 139, requires that the Secretary of the State and Consumer Services Agency to submit a report to the Legislature no later than January 1, 2004 on crime victims services in California, as specified. Specifically this new law:

- Makes legislative findings and declarations and provides the State and Consumer Services Agency Secretary shall submit a report to the Legislature no later than January 1, 2004 that includes the following:
 - A review of the location, effectiveness, and appropriateness of services for victims of crime in California in comparison to services in other states,

federal standards outlined in publications of the federal Office for Victim Services, and comprehensive programs for services to crime victims.

- ❑ An examination of, and recommendations on revisions to, state law germane to crime victim services, with the goal of improving and integrating the services.
- ❑ A survey of existing training for providers of services to crime victims to identify gaps or inadequacies.
- ❑ A review of expenditures and revenues, including out-year projections of the cost of current services, and recommendations for increased services and revenues.
- ❑ An exploration of a variety of funding options to ensure seamless, integrated service delivery.
- This new law also specifies that the Secretary may convene a task force comprised of representatives of public and private agencies, business, media, criminal justice systems, education, human service providers, medical service providers, insurance providers, communities of faith, funding sources, and victims, to advise him or her on the report described in this section.
- This new law contains the following legislative findings and declarations:
 - ❑ Victims of violent crime are a special needs population requiring timely, coordinated responses to their physical and mental injuries.
 - ❑ Current services for victims of violent crime are fragmented and not easily accessed on a statewide basis.
 - ❑ Victims of crime should receive seamless, integrated responses and high-quality service delivery as a critical part of the justice system.

Eligibility for Compensation: Child Victims of Domestic Violence

Currently, children living in a home where domestic violence occurs are not defined as victims under the Victims of Crime Program (VCP) if they did not actually witness a violent incident.

Current research indicates that children who live in households with domestic violence are at greater risk for maladjustment than are children who do not live with such violence. Specifically, children exposed to domestic violence demonstrated more externalizing behaviors than did children from non-violent homes. The internalizing behaviors included depression, suicidal behaviors, anxiety, fears, phobias, insomnia, tics, bed-wetting, and low self-esteem. The behavior problems ranged from temper tantrums to fights. The children also demonstrated impaired ability to concentrate; difficulty in their schoolwork; and

significantly lower scores on measures of verbal, motor, and cognitive skills.

AB 2462 (Bates), Chapter 479, provides that a child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed to have sustained physical injury, regardless of whether the child has witnessed the crime, for purposes of reimbursement from the VCP, as specified. Specifically, this new law:

- Provides that a child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed by the California Victim Compensation and Government Claims Board to have sustained physical injury, regardless of whether the child has witnessed a crime.
- Contains an additional technical amendment conforming its provisions to the law that will become operative on January 1, 2004.

Sex Crimes: Blood and Saliva Testing

Defendants convicted of specified sex offenses are required to provide a blood sample that can be tested for the presence of the acquired immune deficiency syndrome (AIDS) virus. However, there are a number of serious sex crimes that do not currently require the defendant to provide a sample for testing. In addition, recent changes in technology have demonstrated the reliability of saliva testing to determine exposure to or infection by HIV, AIDS, AIDS-related conditions, and other communicable diseases.

AB 2794 (Reyes), Chapter 831, expands the number of sex crimes that require a defendant to submit to a court-ordered blood or saliva test for evidence of the AIDS virus. Specifically, this new law:

- Adds rape in concert, unlawful sexual intercourse, sodomy, and oral copulation by false pretenses with the intent to create fear of physical injury or death to the list of sexual offenses that require the defendant to submit to a court-ordered blood test for evidence of the AIDS virus.
- Adds sexual penetration, as specified; aggravated sexual abuse of a child; continuous sexual abuse of a child; and any attempt to commit such acts to the list of sexual offenses that require the defendant to submit to a court-ordered blood test for evidence of the AIDS virus if the court finds there is probable cause to believe that blood, semen, or any other bodily fluid capable of transmitting HIV has been transferred from a defendant to a victim.
- Permits the court to order a saliva test for evidence of antibodies to the probable causative agent of AIDS.
- Requires that the court order a defendant convicted of a specified offense to submit to a blood or saliva test within 180 days of the date of conviction.

- Expands the authority of the court to issue a search warrant for saliva testing in order to determine the presence of HIV.
- Adds attempts to commit specified offenses to the list of sexual offenses for which a court may issue a search warrant for the purpose of testing the accused for the presence of HIV.

Uniform Medical Forensic Forms

Specified health practitioners who provide services to a patient whom he or she reasonably suspects is suffering from any wound or other physical injury resulting from assaultive or abusive conduct are required to notify local law enforcement and prepare a written report. However, there is no standardized reporting procedure for documenting the examination findings.

SB 580 (Figueroa), Chapter 249, requires the Office of Criminal Justice Planning (OCJP) to develop a standard form for specified health practitioners to report any wound or physical injury resulting from suspected assaultive or abusive conduct, and another standard form for the medical forensic examination of victims of child abuse or neglect. Specifically, this new law:

- Requires the OCJP, in cooperation with specified state and local agencies, associations, medical experts and advocates, to develop a standard form for specified health practitioners to report any wound or physical injury resulting from suspected assaultive or abusive conduct.
- Requires the physical injury standard form to include a place for a notation concerning each of the following:
 - ❑ The name and whereabouts of the injured person, extent of the injury, and the identity of the person alleged to have inflicted the injury;
 - ❑ The name, address, telephone number, and occupation of the person reporting;
 - ❑ The address of the injured person;
 - ❑ The date, time, and location of the incident;
 - ❑ Other details, including the reporter's observations and beliefs concerning the incident;
 - ❑ Any statements relating to the incident made by the victim; and,
 - ❑ The names of any individuals believed to have knowledge of the incident.

- Requires the physical injury standard form be completed within one year of the enactment of this section and this section shall be repealed as of January 1, 2004.
- Requires on or before January 1, 2004, the OCJP, in cooperation with specified state and local agencies, associations, medical experts, and advocates, to develop medical forensic forms, instructions, and examination protocol for victims of child abuse or neglect.
- Requires the child abuse and neglect standard form to include a place for a notation concerning each of the following:
 - ❑ Notification of injuries or report of suspected child physical abuse or neglect to law enforcement authorities or child protective services, in accordance with existing reporting procedures;
 - ❑ Addressing relevant consent issues, if indicated;
 - ❑ Taking a patient history of child physical abuse or neglect that includes other relevant medical history;
 - ❑ Performance of a physical examination for evidence of child physical abuse or neglect;
 - ❑ Collection or documentation of any physical evidence of child abuse or neglect, including any recommended photographic procedures;
 - ❑ Collection of other medical or forensic specimens, including drug ingestion or intoxication, as indicated;
 - ❑ Procedures for the preservation and disposition of physical evidence;
 - ❑ Complete documentation of medical forensic examination findings with recommendations for diagnostic studies, including blood tests and x-rays; and,
 - ❑ An assessment as to whether there are findings that indicate physical abuse or neglect.
- States that the child abuse and neglect forms shall become part of the patient's medical record pursuant to the advisory committee of the OCJP and subject to confidentiality laws pertaining to the release of medical records.
- States that it is the intent of the Legislature that medical forensic forms and reporting forms be available on the Internet, from a central Web site, such as one operated by the OCJP or via links in that Web site to other state department Web sites providing these forms.

Victims of Crime Program

California's Victim of Crime Program (VCP), created in 1993, was the first of its kind in the nation and only the second program worldwide. Significant improvements have been made to the program since its inception, but numerous statutory changes have made the laws confusing and difficult to use for victims and administrators alike.

SB 1423 (Chesbro), Chapter 1141, recasts and revises numerous provisions of the VCP administered by the Victim Compensation and Government Claims Board and makes numerous technical and substantive changes, as specified. Specifically, this new law:

- Makes numerous changes to Government Code provisions relating to VCP, including the following substantive changes:
 - ❑ Repeals existing Government Code Sections 13955.5, 13968, 13969, 13969.2, 13969.5, and 13969.7; and repeals existing Government Code Sections 13959 to 13969.5, inclusive.
 - ❑ Expands the existing scope of emergency awards, as specified.
 - ❑ Consolidates, simplifies and redrafts existing provisions authorizing an extension of time for filing for good cause, as specified.
 - ❑ Allows a minor to verify an application for compensation under penalty of perjury if the minor seeks compensation for medical and mental health counseling related services and the minor is authorized by statute to consent to such services.
 - ❑ Adds "relative caregivers" as persons allowed to sign for minors or incompetent victims without being or becoming adoptive parents.
 - ❑ Makes specified technical changes relative to in-patient mental health counseling for both victims and derivative victims.
 - ❑ Adds a provision to allow the Board to approve additional licensed mental health professionals or unlicensed professionals, as specified, and allows the Board to place any restriction or limitation on the reimbursement for services provided by these professionals.
 - ❑ Makes specified changes relative to income/support loss.
 - ❑ Expands the Board's authority to establish expedited payment contracts with any qualified provider of mental health services.
 - ❑ Deletes existing law in Government Code Section 13968(b) that includes language relative to the mandate to display certain VCP posters in hospitals and requires the Board to send information to all physicians in California.
 - ❑ Deletes specified existing sunset dates from legislation governing the VCP, as specified.

- Adds new Penal Code Section 1202.42 regarding income deduction orders and new Penal Code Section 1202.43 regarding persons to whom payable.
- Makes numerous other technical and additional substantive revisions to existing law, as specified.

Child Victims: Closed-Circuit Television

On April 21, 2001, the Judicial Council issued a report on existing provisions of law which allow a minor under the age of 13 to testify by way of closed-circuit television when the testimony involves a sexual offense upon or with a minor, or where the minor is a victim of a "violent" felony. The Judicial Council found that closed-circuit testimony was infrequently used; and when it was, "the procedure went smoothly."

SB 1559 (Figueroa), Chapter 96:

- Deletes the sunset date of January 1, 2003 in provisions of law which allow a minor under the age of 13 to testify by way of closed-circuit television when the testimony involves a recitation of facts, and if the testimony relates to an alleged sexual offense on or with the minor, or the minor is a victim of a "violent" felony.
- Deletes provisions of law to become effective January 1, 2003 eliminating the ability of a minor under the age of 13 to testify by way of closed-circuit television when the minor is a victim of a "violent" felony.

Domestic Violence Counselors: Confidentiality Provisions

Indemnification is provided for a victim and derivative victim of specified types of crimes and for certain expenses for which the victim and derivative victim has not been and will not be reimbursed from any other source, subject to specified conditions. No victim or derivative victim may receive assistance under these provisions if the California Victim Compensation and Government Claims Board finds that the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of the defendant. Indemnification is made under these provisions from the Restitution Fund, which is continuously appropriated to the Board for these purposes.

SB 1735 (Karnette), Chapter 629, requires a domestic violence counselor to inform a domestic violence victim of any applicable limitations on confidentiality of communications between the victim and the counselor. Specifically, this new law:

- Prohibits an application for a claim based on domestic violence from being denied solely because the victim did not make a police report.
- Requires the Board to adopt guidelines that allow the Board to consider and approve applications for assistance based on domestic violence relying upon evidence other than a

police report to establish that a domestic violence crime has occurred.

- Requires a domestic violence counselor to inform a domestic violence victim of any applicable limitations on confidentiality of communications between the victim and the domestic violence counselor.
- Provides that the confidentiality limitations information may be given orally.

Victims of Crime: Indemnification

Generally, victims can receive reimbursement for medical costs; mental health counseling; psychological or psychiatric treatment; loss of wages directly resulting from an injury; loss of support, as specified; job retraining or employment rehabilitative services; and, when a victim dies, medical and burial expenses from the Victims of Crime Program, administered by the California Victim Compensation and Government Claims Board.

SB 1867 (Figueroa), Chapter 630, provides that in the case of a victim of domestic violence or sexual assault, the Board shall consider various factors. Specifically, this new law provides that in a case of a victim of domestic violence or sexual assault, the Board shall consider factors such as the victim's age, physical condition, psychological or emotional condition, compelling health or personal safety factors, reasonable fears of retaliation, and cultural or linguistic barriers, in determining whether the victim is eligible for assistance pursuant to this section.

Reimbursement for Victims of Terrorist Attacks

Various reimbursements are authorized for group mental health counseling and technical assistance related to the September 11, 2001, terrorist attacks as long as those payments do not exceed a total of \$2.575 million. The California Victims Compensation and Government Claims Board may expand the scope of assistance to include resident and family-member victims who incur pecuniary losses, as specified. The Board was also authorized to make a one-time allocation of \$1 million to the Victim Compensation Program in the State of New York to aid in compensating victims of the terrorist attacks on the World Trade Center.

SB 1873 (Escutia), Chapter 449, sets forth uncodified language to authorize wage and travel reimbursements, as specified, to derivative victims of the September 11, 2001, terrorist attacks from the Victims of Crime Program. Specifically, this new law:

- Authorizes payment from the Restitution Fund to a California resident parent and non-California residents, as specified, grandparent, sibling, spouse, child, or grandchild of a victim – whether a California resident or not – of any terrorist attacks that occurred at the World Trade Center, the Pentagon, and in Pennsylvania on September 11, 2001, equal to the loss of wages up to \$2,000 per eligible recipient due to traveling to and from, and attending, memorial services or government-initiated events in honor of the September 11th victims.

- Authorizes the same payment with the same limitations to any other family member of the victims, not described in the first provision.
- Limits the collective total for such payments to \$200,000.
- Repeals this new authorization on January 1, 2004 unless a later statute is enacted before January 1, 2004 to delete or extend that date.

WEAPONS

Restricted Chemicals Permits

Businesses obtain licenses to produce or use precursor chemicals under the licensure provisions for pharmaceutical producers. This includes manufacturers who produce chemicals for such uses as industrial solvents, consumer goods (hairspray, film), etc. Existing law provides that producers and users of chemicals listed in Health and Safety Code Section 11100 must obtain a permit from Department of Justice (DOJ). Applications for permits must include documentation of legitimate uses for regulated chemicals. Existing law further provides that "[s]elling, transferring, or otherwise furnishing or obtaining any [restricted] substance specified in subdivision (a) of [Health and Safety Code] Section 11100 without a permit is a misdemeanor or a felony." Any protection from prosecution under the controlled substance laws for the buyer would result from the licensing by DOJ of the manufacturer/distributor and tacit approval of a reported transaction.

AB 154 (La Suer), Chapter 13, authorizes the DOJ to delay the effective date for businesses to obtain permits to use specified restricted chemicals in cases where such chemicals were only placed on the restricted list on or after January 1, 2002.

Specifically, this new law provides that the DOJ may postpone for up to six months the permit requirements as to a substance added to the list in Health and Safety Code Section 11100 on or after January 1, 2002.

Weapons: Undetectable Knives

AB 1188 (Runner), Chapter 976, Statutes of 1999, prohibited the commercial manufacture, importation, or sale of "undetectable knives." Existing law defines an undetectable knife as any knife or other stabbing instrument commercially manufactured for use as a weapon and not detectable by a metal detector set at standard calibration.

AB 352 (Runner), Chapter 58, makes a technical change to the definition of an undetectable knife. Specifically, this new law provides that an undetectable knife includes specified weapons not detectable by a magnetometer set at a standard calibration.

Firearms: Illegal Trafficking

A federally licensed firearms dealer is prohibited, as specified, from delivering, selling, or transferring a firearm to a person who is also federally licensed and whose licensed premises are located in California unless the intended recipient presents proof of state licensure as a firearms dealer or presents proof of exemption from that licensure requirement.

In 1999, federal authorities arrested a California resident for using a falsified federal firearms licensee (FFL) to buy hundreds of guns from licensed wholesalers. In less than one year, the

person had transferred and sold more than 1,100 unsafe guns in California, the largest gun-trafficking case in California history.

AB 2080 (Steinberg), Chapter 909, establishes a process for the Department of Justice (DOJ) to verify that a FFL holder in California who accepts deliveries of guns is also a fully licensed California dealer. Specifically, this new law:

- Provides that the provisions of this new law will be known as the "Firearms Trafficking Prevention Act of 2002".
- Defines "gunsmith" as a FFL holder who primarily repairs, makes or fits special barrels, stocks or trigger mechanisms to firearms.
- Requires compliance with verification requirements as noted above as a condition of maintaining state dealer licensure status beginning January 1, 2005.
- Provides that DOJ shall immediately computerize its centralized list of state-licensed firearm dealers, wholesalers, and gunsmiths, as specified.
- Creates an infraction for a dealer, importer, or collector of firearms to fail to implement the verification procedure established by this new law.
- Requires, in addition to other applicable penalties provided by law, DOJ to immediately remove from the centralized list any wholesaler, as specified.
- Provides that a wholesaler whose licensed premises is within California comply with certain maintenance and inspection requirements.
- Establishes a DOJ procedure for verification inquiries, as specified.
- Requires that within 30 days of a person being federally licensed as a firearms dealer (whether initially or as a renewal) whose licensed premises are, or will be, located in California, that the FFL dealer shall submit to DOJ in a format prescribed by DOJ, under penalty of perjury, a report to DOJ indicating specified identifying information.
- Provides that any costs incurred by DOJ to implement the key sections of this new law, which cannot be absorbed by DOJ will be funded from the Dealer Record of Sale Account.

Dangerous Weapons: Inspections

A Department of Justice (DOJ) issued permit is required in order to manufacture, sell, purchase, or possess machineguns, short-barreled rifles, short-barreled shotguns, assault weapons, and destructive devices. The DOJ has issued approximately 900 permits to 300 persons for more than 20,000 weapons or devices. These persons or firms are only inspected at the point of initial issuance of the permit. Public safety would dictate that these persons

and locations with substantial inventories be reconciled.

AB 2580 (Simitian), Chapter 910, enables the DOJ to expand its regulation enforcement activities to include inspections of each firm or corporation permitted to possess or manufacture short-barreled rifles or shotguns, assault weapons, machine guns, and destructive devices. Specifically, this new law:

- Requires DOJ, for every person, firm, or corporation to whom a permit is issued to possess or manufacture short-barreled rifles or shotguns, assault weapons, machine guns, and destructive devices, to annually inspect for security, safe storage purposes, and to reconcile inventory.
- Provide that a person, firm, or corporation with an inventory of fewer than five devices that require a DOJ permit shall be subject to an inspection for security, safe storage purposes, and to reconcile inventory once every five years, or more frequently as determined by DOJ.
- Provides that the additional duties imposed by this act shall be funded from the Dealers Record of Sale Special Account and through inspection fees imposed on entities permitted to manufacture or possess destructive devices.
- Requires the DOJ to establish a schedule of fees to include the costs of the inspection duties imposed on the DOJ. The fees shall be equitable and not exceed the cost of providing the inspections.
- Exempts individuals possessing an assault weapon pursuant to a permit issued by DOJ for non-commercial purposes.
- Allows a licensed firearms dealer who does not sell, transfer or keep an inventory of handguns not to process the private party transfer of handguns.

Seizure of Firearms in Domestic Violence Cases

Domestic violence perpetrators are prohibited from possessing firearms. Yet, no consistent system has been developed in California for courts, prosecutors, and law enforcement to ensure that defendants have complied with the law. A law enforcement agency can petition the court for the permanent removal of a firearm seized at the scene of a domestic violence incident if there is reasonable cause to believe that the return of the weapon would likely result in danger to the victim or reporting witness. The agency must advise the owner of the weapon and initiate a petition to determine if the weapon should be returned within 30 days of the seizure. Including any extensions of time, a petition must be filed within 60 days of the seizure.

AB 2695 (Oropeza), Chapter 830, assists law enforcement agencies by extending the time for filing the petition to prevent the return of a firearm. Specifically, this new law:

- Requires a law enforcement agency to include information about applicable procedures for the return of a firearm on the receipt upon seizure.
- Increases the period for the return of a firearm or other deadly weapon seized by law enforcement, but not retained, from no later than 72 hours to no later than 5 business days after the seizure.
- Increases the period from 30 to 60 days from the date of seizure where a law enforcement agency must initiate a petition to determine if the return of a firearm or other deadly weapon would likely result in danger to the victim or reporting witness.
- Extends from 60 to 90 days the period where a law enforcement agency may seek an extension of the period for filing a petition for good cause.
- Provides that subject to available funding, the Attorney General, working with the Judicial Council, the California Alliance Against Domestic Violence, and specified law enforcement groups, will develop a protocol for the enforcement of specified restrictions on firearm ownership. The protocol is to be designed to facilitate the process for notice to defendants, disposal of firearms, and how defendants may obtain possession of seized firearms when legally permitted to do so. The protocol is to be completed on or before January 1, 2005.

Olympic-Style Competition Firearms: Exemptions

After the enactment of SB 23 (Perata), Chapter 129, Statutes of 1999, which further defined the scope of the ban on assault weapons, it became necessary to exempt pistols designed expressly for use in Olympic target shooting events. AB 2351 (Zettel), Chapter 967, Statutes of 2000, established a list of weapons used in competitive shooting sports that, while technically prohibited, were exempt from the assault weapon and unsafe handgun prohibitions.

Generally, existing law also prohibits a firearms dealer, as defined, from delivering a handgun on or after January 1, 2003 unless the recipient performs a safe handling demonstration, as specified. The required demonstration includes loading a dummy round, applying a firearm safety device, and operating the slide of a semiautomatic pistol.

AB 2793 (Pescetti), Chapter 911, allows the Department of Justice (DOJ) to exempt new models of competitive Olympic target shooting pistols from both the unsafe handgun and assault weapons laws and makes minor changes to the safe handling demonstration provisions. Specifically, this new law:

- Requires that DOJ create a program consistent with the existing stated purpose for the exemptions from the "unsafe handgun" and "assault weapons" laws for new models of competitive pistols that would otherwise fall under the purview of those laws.

- Provides that the exempt competitive pistols may be based on recommendations by USA Shooting consistent with the regulations contained in the USA Shooting Official Rules or may be based on the recommendation or rules of any other organization that the department deems relevant.
- Exempts an Olympic competition pistol from the firearms safety device law if no device exists other than a cable lock that DOJ has determined would damage the barrel of the pistol.
- Expands the type of dummy round that may be used in the loading and slide demonstrations and clarifies the other "dummy rounds" in addition to those that are "orange" may be used to meet the demonstration requirements of the new Handgun Safety Certificate law that becomes operative on January 1, 2003.

Unsafe Handguns: Re-Testing

It has been reported that certified laboratories conducting handgun safety tests have made modifications to tested handguns in order to ensure the handgun meets firing requirements. Additionally, concerns have been raised that manufacturers are supplying ammunition that enables the handgun to pass the test instead of ammunition recommended by the manufacturer or ammunition that the purchaser might use.

AB 2902 (Koretz), Chapter 912, authorizes the Department of Justice (DOJ) to annually retest up to five percent of the handgun models listed on the roster of approved "safe" firearms. Specifically, this new law:

- Specifies that handguns submitted for safety testing may not be refined or modified in any way from those made available for retail sale.
- States that the ammunition used to satisfy the "firing requirements for handguns" must be ammunition which is commercially available and certified by DOJ as suitable for testing purposes.
- Establishes a specific procedure for the re-testing of handguns.
- Makes the annual re-testing of approved "safe" firearms contingent upon an appropriation from the Dealers Record of Sale Special Account.

Airport Security: Prohibited Weapons

Existing law makes it an alternate felony/misdemeanor, punishable by imprisonment in the state prison for 16 months, 2 or 3 years, or by up to one year in the county jail, for any person to possess specified weapons within a state or local public building or at any meeting required to be open to the public.

Further, existing law provides that any unauthorized person who knowingly enters an airport operations area if the area has been posted with notices restricting access to authorized personnel shall be punished by a fine not exceeding \$100. If a person refuses to leave an airport operations area after being requested to by a peace officer, the offense is punishable by imprisonment in the county jail not exceeding six months; by a fine not exceeding \$1,000; or by both.

SB 510 (Scott), Chapter 608, makes it a misdemeanor to possess specified weapons, pieces of weapons, replica weapons and ammunition in a sterile area of an airport where access is controlled by screening of persons or property. Specifically, this new law:

- Makes it a misdemeanor punishable by up to six months in the county jail, a fine not exceeding \$1,000, or both for any person to knowingly possess within an airport in an area where access is controlled by inspection or in an area in which such inspections are conducted any of the following items:
 - ❑ Any firearm.
 - ❑ Any knife with a blade length in excess of four inches, the blade of which is fixed, or is capable of being fixed in an unguarded position by the use of one or two hands.
 - ❑ Any box cutter or straight razor.
 - ❑ Any military practice handgrenade.
 - ❑ Any metal replica handgrenade.
 - ❑ Any plastic replica handgrenade.
 - ❑ Any imitation firearm that is a replica of a firearm and is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
 - ❑ Any frame, receiver, barrel or magazine of a firearm.
 - ❑ Any unauthorized tear-gas weapon.
 - ❑ Any taser or stun gun, as defined.
 - ❑ Any instrument that expels a metallic projectile such as a BB or pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun or paint gun.
 - ❑ Any ammunition as defined.

- Allows persons who have written permission from a duly authorized official who is in charge of the airport or terminus to possess a specified weapon.
- Exempts peace officers, retired peace officers authorized to carry concealed weapons, full-time paid peace officers of another state or the Federal Government who are carrying out official duties while in California.
- Defines "airport" as an airport, with a secured area, that regularly serves an air carrier holding a certificate issued by the United States Secretary of Transportation.
- Defines "sterile area" as a portion of an airport where access is controlled by the screening of persons or property.
- States that the provisions of this section are cumulative, and shall not be construed as restricting the application of any other laws. However, an act or omission punishable in different ways under this provision and under other provisions of law shall not be punishable by more than one provision.
- Makes a refusal to leave an airport operations area after being requested by authorized personnel a misdemeanor.

Homeland Security: Emergency Public Radio Systems

The Federal Communications Commission authorizes public safety agencies to operate emergency radio communications systems on specified frequencies of the radio spectrum and directs states to oversee the operability of these systems.

SB 1312 (Peace), Chapter 1106, authorizes the distribution of up to \$15 million of federal Homeland Security funding to state and local law enforcement agencies to obtain emergency public radio systems. This new law allows the Department of Justice (DOJ) to use fees from the Dealers Record of Sale Special Account (DROS) to fund the inspections of dangerous weapons permit holders. Specifically, this new law:

- Allows up to \$15 million of the federal Homeland Security funding to be allocated to the Governor's security advisor for distribution to state and local law enforcement agencies to obtain emergency public radio systems.
- Requires agencies that receive funds to report to the Legislature beginning in January 1, 2004 and until all funds have been expended.
- Authorizes the use of DROS funds, if necessary, until January 1, 2006 for the costs associated with the inspections.

Department of Justice Handgun Registry: Access by City Attorneys

The Attorney General has the responsibility of permanently keeping, properly filing and maintaining all information reported to DOJ pertaining to pistols, revolvers, or other firearms capable of being concealed upon the person and maintaining a registry of that information. Registry information can be furnished to the owner or lawful possessor of the firearm and specified officers.

The Attorney General is also required to keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry concealable loaded firearms in public and information from the licensing agency; dealers' records of sales of firearms and other information from licensed firearms dealers (and sheriffs who effect the lawful transfer of firearms in smaller counties) pertaining to handguns; and other reports as to specified firearms which are submitted pursuant to law. That information is to be maintained in order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property. Numerous persons are statutorily permitted access to that summary information if needed in the course of their duties. The persons with access to summary criminal history information include prosecuting city attorneys of any city within the state, but the use is limited to criminal law purposes.

SB 1490 (Perata), Chapter 916, permits a city attorney prosecuting a civil action to have access to information in the handgun registry maintained by the Attorney General, solely for use in prosecuting that action. Specifically, this new law:

- Expressly adds to those who may have access to Penal Code Section 11106 handgun registry information "a city attorney prosecuting a civil action."
- Provides that DOJ's DNA Laboratory will be known as the Jan Bashinski DNA Laboratory.

Firearms Safety Devices

Not all gun locks are effective, and the same is true of lock boxes. AB 106 (Scott), Chapter 246, Statutes of 1999, required - effective January 1, 2002 - all firearms sold or transferred in California to be accompanied by a firearms safety device approved by the Department of Justice (DOJ). However, under AB 106, firearms safety devices that do not comply with DOJ standards can still be sold by retailers. Consumers may not realize that these locks could be unsafe and ineffective. Additionally, a firearms safety device accompanying the sale of a firearm may be totally inappropriate for use with that particular model of firearm.

SB 1670 (Scott), Chapter 917, prohibits the sale or distribution of any firearms safety device not listed on the DOJ roster of approved safety devices, or the sale of a long gun safe that does not meet specified standards unless the gun safe is labeled with a warning, as specified. Specifically, this new law:

- Prohibits a person from selling any firearms safety device not listed on the DOJ roster of approved safety devices, or that does not comply with specified standards.
- Prohibits a person from distributing a firearms safety device as part of an organized firearm safety program not listed on the DOJ roster of approved safety devices or does not comply with specified standards.
- Requires that all long gun safes manufactured or sold in California that do not comply with DOJ published standards for gun safes conspicuously display a warning that the safe does not meet minimum specified safety standards.
- Makes the sale or distribution of any firearms safety device not listed on the DOJ roster of approved safety devices, or the sale of a long gun safe that does not meet the required safety standards, punishable by a civil fine of up to \$500. A second violation within five years of a previous conviction is punishable by a fine of up to \$1,000; if the violation is committed by a licensed firearms dealer, the dealer shall be ineligible to sell firearms in California for 30 days. A violation within five years of two or more violations is punishable by a civil fine of up to \$5,000; if the violation is committed by a licensed dealer, the firearms dealer shall be permanently ineligible to sell firearms in California.
- Allows the DOJ to randomly retest approved firearms safety devices from a source other than the manufacturer to ensure compliance with specified standards; and requires that such firearms safety devices be in new, unused condition, and still in the manufacturer's original and unopened package.
- Clarifies that a firearms safety device accompanying the sale of a firearm must be appropriate for that firearm by reference to either the manufacturer and model of the firearm, or to the physical characteristics of the firearm that match those listed on the DOJ roster for use with

the device.

- Defines "firearms safety device" as a device that locks and is designed to prevent children and unauthorized users from firing a firearm. The device may be installed on the firearm, incorporated in the design of the firearm, or prevent access to the firearm.
- Defines "gun safe" as a locking container that fully contains and secures one or more firearms and meets specified standards.
- Defines "long-gun safes" as a locking container designed to fully contain and secure a rifle or shotgun.

Seizure of Firearms in Domestic Violence Cases: Standard of Proof

In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would likely result in danger to a domestic violence victim or reporting witness, the agency may petition to the court to retain the weapon. Unless it is shown by clear and convincing evidence that the return of the weapon would endanger the victim or witness, the court must order it returned to the owner and award reasonable attorney's fees to the prevailing party. Data compiled by the Department of Justice shows that women are much more likely to be killed by their husbands and boyfriends than by other persons. Yet, when county counsels and city attorneys file petitions in civil courts to remove weapons from dangerous households, they must meet the highest standard of evidence.

SB 1807 (Chesbro), Chapter 833, lowers the standard of proof required to establish that returning a firearm or other deadly weapon would endanger the victim of a domestic violence incident. Specifically, this new law:

- Lowers the standard of proof required for a law enforcement agency to retain firearms or other deadly weapons in court actions brought by owners for the return of those items from "clear and convincing" to a "preponderance" of the evidence.
- Specifies that if the owner petitions for a second hearing within 12 months of the initial hearing, the court shall order the return of the weapon and award reasonable attorney's fees to the prevailing party unless it is shown by clear and convincing evidence that the return of the weapon would endanger the victim or the person reporting the assault or threat.
- Adds any "lawful" search to the existing "consensual" search required in domestic violence circumstances for the mandated seizure of firearms and weapons.

MISCELLEANOUS

Weapons: Undetectable Knives

AB 1188 (Runner), Chapter 976, Statutes of 1999, prohibited the commercial manufacture, importation, or sale of "undetectable knives." Existing law defines an undetectable knife as any knife or other stabbing instrument commercially manufactured for use as a weapon and not detectable by a metal detector set at standard calibration.

AB 352 (Runner), Chapter 58, makes a technical change to the definition of an undetectable knife. Specifically, this new law provides that an undetectable knife includes specified weapons not detectable by a magnetometer set at a standard calibration.

Reports of Animal Abuse, Cruelty or Neglect

There have been numerous studies over the years documenting the connection between cruelty to animals and human violence. Animal cruelty is often a precursor to violence committed against humans and is associated with more serious problems such as child or spousal abuse, and mental health issues.

AB 670 (Strom-Martin), Chapter 134, permits employees of child or adult protective services agencies to report suspected instances of animal cruelty, abuse, or neglect to the entity or entities that investigate animal abuse or neglect. Specifically, this new law:

- Permits any employee of a county child protective services agency, while acting in the scope of his or her employment, who had knowledge of or observed an animal whom he or she reasonably suspected had been the victim of cruelty, abuse, or neglect, to report the cruelty, abuse, or neglect to the county animal control agency.
- Permits a written report of animal cruelty, abuse, or neglect, as specified, to be made within two working days of receiving the information concerning the animal, and if an immediate response was necessary the report may be made by telephone as soon as possible.
- States that this permissive reporting requirement creates a duty to investigate suspected animal cruelty, abuse, or neglect.
- Provides that reports of animal cruelty, abuse, and neglect, may be made on a preprinted form containing each of the following:
 - His or her name and title;
 - His or her business address and telephone number;

- ❑ The name, if known, of the animal owner or custodian;
- ❑ The location of the animal and the premises on which the suspected animal abuse took place;
- ❑ A description of the location of the animal and the premises; and,
- ❑ The type and numbers of animals involved.

Identity Theft: Procedural Remedies

A victim of identity theft may petition the court for a determination of his or her factual innocence. Specified procedures for initiating a law enforcement investigation and/or for petitioning the court for an expedited judicial determination in cases where a person reasonably believes, learns, or suspects that his or her personal identifying information has been unlawfully used by another are set forth in the Penal Code.

AB 1219 (Simitian), Chapter 851, establishes procedures and sources for a victim of identity theft to initiate an investigation by a law enforcement agency or to move for an expedited judicial determination where an identity theft has occurred. Specifically, this new law:

- Authorizes a court, on its own motion or upon application of the prosecuting attorney, to move for an expedited judicial determination if the perpetrator was cited for a crime under the victim's identity or where a criminal complaint has been filed against the perpetrator in the victim's name.
- Provides that after a court has issued a determination of factual innocence pursuant to this new law, the court may order the name and associated personal identifying information contained in court records, files, and indexes accessible by the public deleted, sealed, or labeled to show that the data is impersonated and does not reflect the defendant's identity.
- Provides that a court that has issued a determination of factual innocence pursuant to this new law may at any time vacate that determination if the petition, or any information submitted in support of the petition, is found to contain any material misrepresentation or fraud.
- Requires the Judicial Council of California to develop a form for use in issuing an order pursuant to the provision of this bill.

Identity Theft: Prosecution

Generally, two or more offenses connected together in their commission or in the same class of crimes may be joined in one accusatory pleading. For other crimes, such as burglary, carjacking, robbery, theft, or embezzlement, that occur in one jurisdiction and the property is brought into another jurisdiction, or a person receives the property in another jurisdiction, the district attorney (DA) can prosecute in any of the jurisdictions. A DA can also prosecute in a

contiguous jurisdiction if the defendant is arrested in that jurisdiction; the prosecution secures on the record the defendant's knowing, voluntary, and intelligent waiver of the right of vicinage; and the defendant is charged with one or more property crimes in the arresting territory. Often times when a person commits the crime of identity theft, he or she obtains the personal identifying information in one jurisdiction and uses the wrongfully obtained information (e.g., credit information) in another jurisdiction.

AB 1773 (Wayne), Chapter 908, provides that a DA can prosecute a person for the unauthorized use of personal identifying information in the county where the information was taken or the county where the information was used for an illegal purpose. Specifically, this new law:

- Includes the county where the defendant took the personal identifying information or the county where the defendant used the personal identifying information for an illegal purpose as the proper jurisdiction for prosecution of unauthorized use of personal identifying information.
- Provides that if the same defendant or defendants used the same personal identifying information belonging to one person in multiple jurisdictions, all of the offenses may be prosecuted in any one of the jurisdictions where the same defendant or defendants used the information for an illegal purpose or the jurisdiction where the personal identifying information was taken.
- Requires the court to conduct a hearing to consider whether the matter should proceed in the county of filing or whether one or more counts should be severed.
- Requires the DA filing the complaint to present evidence to show the DA in each county where charges could have been filed have agreed that the matter should proceed in the county of filing.
- Clarifies that this new law does not alter victim rights, as specified.
- Provides that no state reimbursement is required as the provisions of this act will produce cost savings to local government and the courts.

Halal Food

It is a misdemeanor for any person with the intent to defraud, to sell, or to expose for sale food falsely represented as being kosher. In addition, it is a misdemeanor to fail to post signs notifying the public if both kosher and non-kosher food is sold or served. There is no similar law to ensure that people of the Islamic faith can be confident that the products they purchase or consume are halal.

AB 1828 (Bill Campbell), Chapter 102, creates a misdemeanor for falsely representing food as being halal. Specifically, this new law:

- Makes it a misdemeanor for any person who:
 - ❑ With the intent to defraud, sells or exposes for sale, meat, meat products, or any food product falsely represented as being halal, or as having been prepared according to Islamic religious requirements;
 - ❑ Sells or exposes for sale both halal and non-halal meat or meat preparations in the same place of business without indicating on window signs "halal and non-halal meats sold here";
 - ❑ Sells or exposes for sale both halal and non-halal meat or meat preparations in the same place of business, without labeling which meat is halal and which meat is non-halal;
 - ❑ Sells food in a restaurant or other eating establishment falsely represented as being halal, or as having been prepared according to Islamic religious requirements; and,
 - ❑ Sells both halal and non-halal food in a restaurant or other eating establishment without indicating on window signs "halal and non-halal food served here".
- Provides that a person guilty of the above misdemeanor pay a fine of not less than \$100, nor more than \$600, or by imprisonment in the county jail for not less than 30 days, nor more than 90 days, or both.
- Defines "halal" as being prepared in strict compliance with every Islamic law and custom pertaining to killing an animal or fowl from which meat is extracted; the dressing, treatment and preparation of the meat; and the manufacture, production, treatment and preparation of other foods. This new law includes compliance with Islamic law and custom pertaining to the use of tools, implements, vessels, utensils, dishes and containers for meat and other food preparation.

Weapons of Mass Destruction

The Hertzberg-Alarcon California Prevention of Terrorism Act defines "chemical warfare agents", "weaponized biological or biological warfare agents", "nuclear agents", "radiological agents", or the "intentional release of industrial agents" as weapons of mass destruction (WMD). When the law was written two years ago, airplanes and non-weaponized biological agents were not seen as likely threats and therefore not included in the original legislation.

AB 1838 (Hertzberg), Chapter 606, makes numerous changes regarding terrorism and WMD offenses. Specifically, this new law:

- Adds murder perpetrated by means of a WMD as an act that constitutes first-degree murder.
- Adds offenses perpetrated by means of a WMD to the list of crimes that constitute a violent or serious felony.
- Expands the definition of "WMD" to include restricted biological agents and an aircraft, vessel or vehicle used as a destructive weapon.
- Increases penalties for possessing, developing, manufacturing, producing, transferring, acquiring, or retaining a WMD from 3, 6, or 9 years to 4, 8, or 12 years in state prison.
- Increases penalties for various repeat offenses relating to WMD from 4, 8, or 12 years to 5, 10, or 15 years in state prison and adds to the list of crimes that can be tried as a repeat offense.
- Provides that any person who uses, or directly employs against another person a WMD in a form that may cause widespread great bodily injury (GBI) or death that results in GBI or death is punishable by imprisonment in the state prison for life without the possibility of parole.
- Increases penalties for using a WMD and causing widespread damage to or disruption of the food supply or drinking water from 4, 8, or 12 years to 5, 8, or 12 years in state prison.
- Increases penalties for maliciously using a WMD against animals, crops or seed and seed stock in a form that may cause widespread damage from an alternate felony/misdemeanor to a straight felony.
- Increases penalties for using biological advances to create new pathogens or more virulent forms of existing pathogens for the purpose of engaging them as

a WMD from an alternate felony/misdemeanor to a straight felony punishable by 4, 8, or 12 years in state prison.

- Creates a new crime to send or give a false or facsimile of a WMD to another person or place or caused to be placed a WMD with the intent to cause fear, punishable by imprisonment in a county jail for not more than one year or in the state prison for 16 months, 2 or 3 years and a fine of not more than \$250,000.

Burglary Tools: Ceramic Spark Plug Pieces

Automobile burglary results in annual costs of millions of dollars to California's citizens in the form of personal property loss and increased insurance rates. Thieves and street gangs commonly use spark plugs or spark plug chips to break the window of an automobile in order to steal the automobile or its contents.

AB 2015 (Corbett), Chapter 335, makes the possession of ceramic or porcelain spark plug clips or pieces with the intent to commit burglary a misdemeanor punishable by up to six months in county jail, or a fine not to exceed \$1,000, or both. Additionally, this new law clarifies that it is not the intent of the Legislature to make other common objects, such as rocks or pieces of metal, burglary tools.

Probation Costs: Reimbursement by the Defendant

A probation officer is required to make a determination of a defendant's ability to pay the costs of any pre-plea or pre-sentence investigation and report when the defendant is convicted of an offense. In addition, a defendant may be obligated to pay for the costs of probation supervision. A defendant is entitled to a hearing by the court on his or her ability to pay for probation department activities, and the payment amount.

AB 2075 (Chavez), Chapter 919, requires a defendant convicted of specified crimes to pay for the cost of pretrial monitoring or any pretrial or post-sentence report if the defendant has the ability to pay. Specifically, this new law:

- Limits its application to defendants convicted of "white-collar" crimes, drug sales, or financially motivated gang crimes.
- Provides that this section shall remain in effect until January 1, 2006.
- Declares it is the intent of the Legislature to increase local revenues by permitting courts to order defendants to repay specified local costs that are not currently subject to reimbursement.

Forensic Testing of Terrorist-Related Evidence

The American Society of Crime Laboratory Directors, Laboratory Accreditation Board (ASCLD/LAB) certifies that laboratories meet specified standards. Currently, there are 28 ASCLD/LAB laboratories in California, including 13 Department of Justice (DOJ) laboratories.

Existing law states it is the intent of the Legislature to review the needs of local forensic laboratories before providing additional funding for increased services or capital improvements.

AB 2114 (La Suer), Chapter 125, requires DOJ to adopt standards and guidelines to be used by laboratories operated by or contracting with the DOJ for handling potential evidence resulting from testing of substances suspected to be terrorist-related material. This new law requires the standards and guidelines to include information on issues relating to the chain of custody and the employment of controls suitable for preserving evidence for use in a criminal prosecution.

Rewards for Information

Rewards offered to citizens have long been an important method for helping law enforcement obtain key information about criminals. The Governor may offer a reward of up to \$50,000 for information leading to the arrest and conviction of persons who commit certain crimes. Police chiefs and sheriffs rely on the public to provide critical information that helps solve crimes. Current law requires the arrest and conviction of a suspect before a reward can be authorized.

AB 2339 (Steinberg), Chapter 529, provides that an individual who gives information leading to the arrest and conviction of a person may receive a Governor's reward even if the arrest or conviction becomes impossible due to an intervening event. Specifically, this new law:

- Provides that a Governor's reward for information leading to the arrest and conviction of a person may be paid if:
 - ❑ The arrest and conviction of the person is impossible due to an intervening event, such as the death of the person; and,
 - ❑ Law enforcement officials determine that the person did commit the crime and the information would have lead to the arrest and conviction of that person.
- Provides that a reward will only be paid if the person gave the information voluntarily, and not as part of a plea bargain.

- Allows the Governor to apportion reward money among multiple informants as he deems appropriate.

Destructive Devices

Each year, hundreds of destructive devices are found throughout California. Under current law, each of these devices must be delivered to the Department of Justice (DOJ) for destruction. Many police and sheriff's departments maintain a full-time bomb squad to deal with these devices and render them safe. These officers should be allowed to destroy these destructive devices rather than transport them to the DOJ.

AB 2359 (La Suer), Chapter 996, allows any destructive device seized or surrendered to the sheriff or chief of police to be destroyed so as to render that device unusable and unrepairable if the sheriff or chief of police has elected to perform these duties.

Victims of Crime: Services

The Victims of Crime Program (VCP) reimburses victims of crime for the pecuniary losses they suffer as a direct result of criminal acts. The VCP provides for reimbursement to eligible victims - for outpatient psychiatric, psychological, or other mental health counseling related expenses that became necessary as a direct result of the crime.

AB 2435 (Jackson), Chapter 139, requires that the Secretary of the State and Consumer Services Agency to submit a report to the Legislature no later than January 1, 2004 on crime victims services in California, as specified. Specifically this new law:

- Makes legislative findings and declarations and provides the State and Consumer Services Agency Secretary shall submit a report to the Legislature no later than January 1, 2004 that includes the following:
 - A review of the location, effectiveness, and appropriateness of services for victims of crime in California in comparison to services in other states, federal standards outlined in publications of the federal Office for Victim Services, and comprehensive programs for services to crime victims.
 - An examination of, and recommendations on revisions to, state law germane to crime victim services, with the goal of improving and integrating the services.
 - A survey of existing training for providers of services to crime victims to identify gaps or inadequacies.
 - A review of expenditures and revenues, including out-year projections of the cost of current services, and recommendations for increased services and revenues.

- ❑ An exploration of a variety of funding options to ensure seamless, integrated service delivery.
- This new law also specifies that the Secretary may convene a task force comprised of representatives of public and private agencies, business, media, criminal justice systems, education, human service providers, medical service providers, insurance providers, communities of faith, funding sources, and victims, to advise him or her on the report described in this section.
- This new law contains the following legislative findings and declarations:
 - ❑ Victims of violent crime are a special needs population requiring timely, coordinated responses to their physical and mental injuries.
 - ❑ Current services for victims of violent crime are fragmented and not easily accessed on a statewide basis.
 - ❑ Victims of crime should receive seamless, integrated responses and high-quality service delivery as a critical part of the justice system.

Cheating in Gambling Games or Wagering Events

The use of any game, device, sleight of hand, pretension to fortune tell, trick, or other means whatever, by use of cards or other implements or instruments, or while betting on sides or hands of any play or game, to fraudulently obtain from another person money or property of like value is unlawful.

AB 2965 (Wiggins), Chapter 624, creates a misdemeanor and an alternate misdemeanor/felony for cheating in gambling games or wagering events. Specifically, this new law:

- Defines the word "cheat" as any means to alter the elements of chance, method of selection, or criteria which determine the result of a gambling game, amount or frequency of payment in a gambling game, value of a wagering instrument and the value of a wagering credit.
- Makes it unlawful for any person to commit various acts of cheating while playing gambling games, including the following:
 - ❑ Alter or misrepresent the outcome of a gambling game in which lawful wagers have been made as described.
 - ❑ Increase or decrease a wager, or to determine the course of play after acquiring knowledge, not available to all players as specified.

- ❑ Claim, collect, take, or attempt to claim, collect, or take money or something of value from a gambling game with the intent to defraud as described.
- ❑ Knowingly entice or induce another to go to any place where a gambling game is operated in violation of these or other current statutes.
- ❑ Place or increase a wager after acquiring knowledge of the outcome of the gambling game subject to the wager, as described.
- ❑ Reduce the amount wagered or cancel the wager after acquiring knowledge of the outcome of the game.
- ❑ Manipulate with the intent to cheat any component of a gambling game device in a manner contrary to the designed and normal operational purpose of the component, as specified.
- Makes it unlawful for any person at a gambling establishment to use, or possess with the intent to use a device to project the outcome of a game, keep track of the cards played, analyze the probability of the occurrence of an event relating to a gambling game, analyze the strategy for playing or wagering a gambling game.
- Makes it unlawful to counterfeit chips, equipment or other instruments in a gambling game, associated equipment, or cashless wagering system.
- Makes it illegal to possess any key or device that opens or affects the operation of a gambling game or paraphernalia for manufacturing slugs (e.g., gaming tokens) unless the person is an employee of a gambling establishment and is acting in furtherance of his or her employment.
- Makes it unlawful for any person to instruct another in cheating, as specified.
- Makes a first violation of this act a misdemeanor and punishable by imprisonment in a county jail for a term not to exceed one year, by a fine of not more than \$5,000, or by both fine and imprisonment. A second or subsequent violation of this act will also be a misdemeanor punishable by imprisonment in either a county jail or state prison and a fine of not more than \$15,000.

Mexicali/Calexico Border Crossing

Since the September 11, 2001 terrorist attacks, federal officials have successfully implemented reduced border crossing times for persons qualifying for use of the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program, which provides access to a dedicated commuter lane and uses automated vehicle identification technology at a limited number of United States international border crossings, including the Otay Mesa crossing near Tijuana/San Diego.

AJR 35 (Kelley), Chapter 51, memorializes the President and Vice-President of the United States, the United States Congress, and certain federal agencies, including the Immigration and Naturalization Service and the United States Customs Service, to take the necessary steps to implement the SENTRI program at the Mexicali-Calexico border crossing. Specifically, this resolution:

- Finds it would be beneficial to commerce and tourism on both sides of the border to implement the SENTRI program at the Mexicali/Calexico border crossing in order to decrease the border wait times for both United States and Mexican citizens.
- Further resolves that the Legislature memorializes the United States Congress and federal agencies, including the Immigration and Naturalization Service and the United States Customs Service, to take the necessary steps to implement the SENTRI program at the Mexicali/Calexico border crossing.

Cemeteries, Human Remains and Vital Records

The Cemetery and Funeral Bureau (Bureau) is authorized to conduct annual inspections of regulated crematories. Existing law does not, however, provide the Bureau the authority to annually inspect cemeteries. Additionally, existing law does not allow the Bureau to monitor the conduct of cemetery and crematory managers.

SB 17 (Figueroa), Chapter 819, expands the Cemetery and Funeral Bureau's regulatory and enforcement powers over the funeral and cemetery industry, and increases the penalties for violations of the regulations. Specifically, this new law:

- Specifies that cemeteries requiring a certificate of authority (i.e., license) from the Bureau shall be operated under the supervision of a cemetery manager qualified pursuant to existing regulations adopted by the Bureau.
- Requires cemetery managers to successfully pass a written examination to be administered by the Bureau evidencing an understanding of the provisions of this bill and other specified provisions of existing law.
- Specifies that no person shall engage in the business practices of a crematory manager without obtaining a license from the Bureau.

- Specifies that the Bureau shall have complete access to official books, records, and designated premises of cemeteries requiring a certificate of authority from the Bureau during regular office hours for inspections.
- Specifies that the Bureau is not required to give the holder (i.e., a cemetery corporation) of a certificate of authority prior notice of the Bureau's scheduled inspections.
- Specifies that the Bureau shall conduct at least one unannounced inspection annually of every cemetery requiring a certificate of authority.
- Specifies that if any certificate holder fails to allow an inspection, the Bureau may file a disciplinary action against that certificate holder, including revocation or suspension of the certificate of authority.
- Provides that the burial of human remains in areas other than designated cemeteries is a misdemeanor punishable by up to one year in the county jail; a \$10,000 fine; or by both.
- Provides that a person who is legally obligated by existing law to bury a body within a reasonable period of time and fails to do so is guilty of a misdemeanor, punishable by up to one year in the county jail; a \$10,000 fine; or by both.
- Specifies that every licensee of the Bureau who refuses or fails to furnish accurate information that is in his or her possession, or furnishes false information affecting a death certificate or record, is guilty of a misdemeanor, punishable by up to one year in the county jail; a \$10,000 fine; or by both.
- Specifies that every licensee of the Bureau who willfully alters legal documents or knowingly possesses altered documents, certificates or records, or who falsifies a death certificate is guilty of a misdemeanor, punishable by up to one year in the county jail; a \$10,000 fine; or by both.
- Specifies that the provisions of this new law shall become effective July 1, 2003.

Criminal Background Checks: Revised Criteria

The Department of Justice (DOJ) maintains state summary criminal history information and may release that information to specified persons and entities. Existing law allows criminal background checks for various employment, licensing and certification purposes. The criteria for what criminal history information DOJ can release depends on the type of employment, license or certification being sought.

SB 900 (Ortiz), Chapter 627, consolidates background check criteria for specified agencies for use for employment, licensing or certification purposes. Specifically, this new law:

- Makes legislative findings and declarations relative to state criminal history information.
- Provides that whenever criminal history information is released for the purposes of peace officer employment or certification, DOJ will disseminate information, as specified.
- Provides that whenever criminal history information is released for the purposes of employment, licensing or certification at a criminal justice agency, as defined in Penal Code Section 13101, DOJ will disseminate information, as specified.
- Provides that whenever criminal history information is released for the purpose of licensing a community care, residential, elder care or day-care facility, DOJ will disseminate information, as specified.
- Provides that a human resource agency that is not a transportation agency or an employer of an in-home supportive care person that requests a background check will receive specified sexual offense information.
- Establishes a procedure for financial institutions to obtain criminal background information.
- Provides that whenever criminal history information is released for any purpose other than those already mentioned, DOJ will disseminate information regarding every conviction and every arrest for which the employee or applicant is awaiting trial.
- Provides that agencies or individuals may contract for subsequent arrest information.
- Expands the information released to cities, counties, or districts to include arrests for which the concessionaire or affiliate is awaiting trial.
- Requires an agency or employer of a prospective employee or volunteer who would have supervisory or disciplinary power over a minor who has been convicted of a violation or attempted violation of specified sexual or child endangerment offenses to advise the parents or guardians of the minors.

Identity Theft: Personal Identifying Information

This new law makes it an alternate felony/misdemeanor to willfully obtain the personal identifying information of another person and to use such information to obtain, or attempt to obtain, credit, goods, or services in the name of the other person without consent. Personal identifying information is defined as the name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, maiden name, demand deposit account number, savings account number, mother's maiden name or credit card number of an individual person.

SB 1254 (Alpert), Chapter 254, creates a new misdemeanor for the acquisition and possession of specified identifying information and expands the definition of identity theft.

Specifically, this new law:

- Expands the list of items and data constituting "personal identifying information" for purposes of identity theft.
- Makes it a misdemeanor for the acquisition, possession, retention, or transfer of identifying information with the intent to defraud, and without an element of use of the information.
- Requires wireless communication providers, in addition to financial institutions and utilities covered by existing law, to give identity theft victims information about fraudulent accounts opened in their names.
- Places provisions requiring 10-day compliance with a victim's request in the Penal Code, in addition to such requirements in existing Financial and Civil Code sections.

Terrorist Threats: Restitution for Costs of Emergency Response

Existing law provides that a person who falsely makes a bomb report to police, fire officials, the media, or transportation agents is guilty of an alternate felony-misdemeanor. Existing law also provides that any person who sends, gives or places a false or facsimile bomb, with intent to cause fear, is guilty of an alternate felony-misdemeanor.

SB 1267 (Battin), Chapter 281, requires a defendant to pay the costs of a responding police, fire or other government entity, or any private entity to a false bomb or false weapon of mass destruction (WMD). Specifically, this new law provides that a defendant who is convicted of a felony false report of a bomb or WMD under circumstances in which the defendant knew any underlying report was false must pay full restitution to any private or governmental entity.

Weapons of Mass Destruction

The Hertzberg-Alarcon California Prevention of Terrorism Act defines "weapons of mass destruction" (WMD) as including chemical warfare agents, weaponized biological or biologic warfare agents, nuclear agents, radiological agents, or the intentional release of industrial agents as a weapon.

Existing law provides that a person shall be punished in state prison for three, six, or nine years for possessing, developing, manufacturing, producing, transferring, acquiring, or retaining any WMD.

SB 1287 (Alarcon), Chapter 611, makes numerous changes regarding terrorism and WMD offenses. Specifically, this new law:

- Expands the definition of a "WMD" to include restricted biological agents and an aircraft, vessel or vehicle used as a destructive weapon.

Defines "used as a destructive weapon" as the use with the intent of causing widespread great bodily injury or death by causing a fire or explosion or the release of a chemical, biological, or radioactive agent.

- Increases penalties for making threatening statements which place a person in sustained fear for his or her safety through the use of a WMD to one year in county jail or three, four, or six years in state prison and a fine of not more than \$250,000.

Homeland Security: Emergency Public Radio Systems

The Federal Communications Commission authorizes public safety agencies to operate emergency radio communications systems on specified frequencies of the radio spectrum and directs states to oversee the operability of these systems.

SB 1312 (Peace), Chapter 1106, authorizes the distribution of up to \$15 million of federal Homeland Security funding to state and local law enforcement agencies to obtain emergency public radio systems. This new law allows the Department of Justice (DOJ) to use fees from the Dealers Record of Sale Special Account (DROS) to fund the inspections of dangerous weapons permit holders. Specifically, this news law:

- Allows up to \$15 million of the federal Homeland Security funding to be allocated to the Governor's security advisor for distribution to state and local law enforcement agencies to obtain emergency public radio systems.
- Requires agencies that receive funds to report to the Legislature beginning in January 1, 2004 and until all funds have been expended.

- Authorizes the use of DROS funds, if necessary, until January 1, 2006 for the costs associated with the inspections.

Fleeing California to Avoid Paying Spousal Support

A court is generally authorized to order spousal support for a period of time in judgments of dissolution of marriage, legal separation or nullity, as specified. Contempt is one remedy available to enforce any judgment or order made under the Family Code. Each month for which payment has not been made in full may be punishable as a separate count of contempt. The period of limitations for commencing a contempt action is three years from the date that the payment was due. If the action before the court is enforcement of another order under the Family Code, the period of limitations for commencing a contempt action is two years from the time that the alleged contempt occurred. A parent's willful failure to support a minor child "without lawful excuse" is a misdemeanor, punishable by a fine and/or imprisonment for up to one year in county jail.

SB 1399 (Romero), Chapter 410, makes it a misdemeanor, punishable by up to one year in county jail and/or a fine of up to \$2,000, to flee California with the intent to avoid paying court-ordered spousal support. Specifically, this new law:

- Provides that if a court has made an order for the temporary or permanent award of spousal support, that a person must pay and the person has notice of that order, as specified, he or she is punishable by imprisonment in a county jail for a period not exceeding one year, a fine not exceeding \$2,000, or both that imprisonment and fine.
- Limits the application of this new crime to cases where a person flees California with the intent to willfully omit, without lawful purpose, to furnish the spousal support.

Narcotic Treatment Programs: Methadone and Levoalphacetylmethadol Dosage

In the early 1970's, the Legislature set dosage limits for physicians prescribing methadone and Levoalphacetylmethadol (LAAM) as part of a course of drug treatment. Research over the last 30 years has shown that individuals vary enormously in their metabolism of methadone. Additionally, there are well-documented drug interactions between methadone and other medications that interfere with the metabolism of methadone. The result is that some patients may require higher doses of methadone than what is permissible under existing law.

SB 1447 (Chesbro), Chapter 543, deletes methadone and LAAM treatment limitations on physicians providing drug abuse treatment. Specifically, this new law:

- Repeals the limits on the amount of methadone and LAAM that a physician treating a patient for addiction may lawfully prescribe during each day of treatment.
- Provides that the uniform statewide monthly reimbursement rate for narcotic replacement therapy dosing and ancillary services shall be based upon the following:
 - The outpatient rates for the same or similar services under the fee-for-service Medi-Cal program;
 - Cost report data; and,
 - Other data deemed reliable and relevant by the Department of Health Services.
- Provides that the uniform statewide monthly reimbursement rate for ancillary services shall not exceed the outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.
- Provides that reimbursement paid by a county to a narcotic treatment program provider for Proposition 36 services, and for which the individual client is not liable to pay, does not constitute a usual and customary charge to the general public for the purposes of this section.
- Requires certified narcotic treatment program providers to submit performance reports, as specified.

Not Guilty by Reason of Insanity: Evaluation of Court Procedures

If a person pleads not guilty by reason of insanity, the defendant is entitled to a separate trial by a jury to decide whether the defendant was sane or insane at the time the offense was committed. If the jury decides that the defendant was sane at the time of the offense, the court will sentence the defendant according to existing law. If the jury finds the defendant was insane at the time of the offense, the court, unless it appears that the defendant has recovered fully, shall direct that the defendant be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private treatment facility.

SB 1690 (Margett), Chapter 677, requires a study by the Department of Mental Health (DMH) on the process of judicially restoring to sanity persons who have been found not guilty by reason of insanity. Specifically, this new law:

- Requires DMH to study the following:
 - ❑ The number, disposition, cost, and frequency of applications to be judicially restored to sanity by persons who have been found not guilty by reason of insanity;
 - ❑ The incidence of frivolous applications;
 - ❑ The advantages and disadvantages of increasing the minimum required time for inpatient status from 180 days to 365 days;
 - ❑ Whether the local mental health director should be required to concur in the restoration of sanity;
 - ❑ Whether the patients should be required to cooperate in their treatment plans;
 - ❑ Whether the period of time for filing an application after being denied should be increased from one year to up to five years; and,
 - ❑ The amount of cost avoidance in cases when the applicant does not spend a significant amount of time in the conditional release program.
- Requires DMH to complete a written report of the study and provide a copy to the Legislature by January 1, 2004.

Bench Warrant Assessments

Existing law provides that a county may, by resolution of the board of supervisors, require the courts to impose an assessment of \$7 upon every person who violates his or her written promise to appear, or who fails to comply with any valid court order. Money collected under these provisions must be used to develop and operate an automated warrant system.

SB 1754 (McPherson), Chapter 148, increases to \$15 the fee courts assess upon every person who fails to appear in court or fails to comply with a valid court order. Specifically, this new law:

- Increases from \$7 to \$15 the fee the county may require the courts to assess upon every person who fails to appear in court or fails to comply with a valid court order.
- Allows a county, if sufficient funds are available after expenditures for the development and operation of an automated warrant system, to use the balance to fund a warrant service task force for the purpose of serving all bench warrants in the county.
- Makes a conforming cross-reference to provisions relating to failing to appear when charged with Vehicle Code violations.

Code Maintenance

Periodically, it is necessary to amend code provisions which are obsolete, outdated, or in need of clarification or correction.

SB 1798 (Ackerman), Chapter 787, makes numerous non-substantive technical changes to the Family, Health and Safety, Labor, Penal, Vehicle, and Welfare and Institutions Codes.

Omnibus Penal Code Revisions

The Senate Public Safety Committee's annual omnibus bill is introduced to make only technical or minor changes to the Health and Safety, Penal, Vehicle, and Welfare and Institutions Codes.

SB 1852 (Senate Committee on Public Safety), Chapter 545, makes technical, corrective changes to various sections of the Health and Safety, Penal, Vehicle, and Welfare and Institutions Codes. Specifically, this new law:

- Removes provisions that require the county superintendent of schools to conduct an annual evaluation of drug abuse programs.
- Makes a technical change that provides that federal criminal investigators and law enforcement officers can arrest when probable cause exists to believe that there has just been, or is being committed, a public offense that involves immediate danger to persons or property.
- Adds possession of marijuana while driving a motor vehicle to the list of violations that are eligible for deferred entry of judgment.
- Requires the Department of Motor Vehicles (DMV) to disclose to courts and law enforcement agencies all convictions for felony gross vehicular manslaughter while

intoxicated for the purpose of imposing penalties.

- Adds the DMV to the list of entities permitted to receive juvenile police record information from Los Angeles law enforcement agencies without petitioning the court.
- Provides that a state agency issuing licenses pursuant to the Chiropractic Initiative Act may appear in court to furnish pertinent information or make recommendations of probation if the crime charged is substantially related to the qualifications of a licensee.
- Requires the California Law Enforcement Telecommunications System advisory committee to include a representative from the California Police Chiefs Association.
- Makes cross-referencing and conforming changes to the Vehicle Code.

