

San Diego District Attorney

D.A. LIAISON LEGAL UPDATE New and Amended Statutes Edition

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Vol. 12 January 1, 2007 No. 1
Subscribers: 2,164 www.sdsheriff.net/legalupdates/

Remember 9/11/01—Support our Troops

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Dedicated to, and in Memory of:

Officer Dan Bessant, Oceanside P.D., murdered 12/20/06

Officer Bryan Tuvera, San Francisco P.D., murdered 12/22/06

THIS EDITION’S WORDS OF WISDOM:

“I know that you believe you understand what you think I said, but I’m not sure you realize that what you heard is not what I meant.” (Robert McCloskey)

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ADMINISTRATIVE NOTES:

New and Amended Statutes; Disclaimer: The statutes listed here are not intended to cover the entire body of the Legislature's work for 2006. Only those statutes believed to be of interest to most law enforcement officers, with the concerns of prosecutors in mind, are included. Sentencing rules, typically covered better in other publications, have been avoided except when important to a new or amended offense. The statutes that are covered have been severely paraphrased, the degree of detail being dependent upon the newness, importance, and/or complexity of the statute. Although I have made a sincere effort to avoid taking any part of a statute out of context, it is *strongly* recommended that the unedited statute be consulted before attempting to use it either in the field or the courtroom. The effective date of each new or amended statute is January 1, 2007, unless otherwise indicated.

NEW AND AMENDED STATUTES:

Alcoholic Beverage Control Violations:

B&P §§ 24200 (Amended), 24200.1 (New): *Nuisances on Licensed Premises:*

The provisions for the Department of Alcoholic Beverage Control (ABC) to suspend or revoke the license of a licensee for failure to take reasonable steps to correct a nuisance on the licensed premises is moved from **subd. (e) of § 24200** to **subd. (a) of § 24200.1**. New **subd. (b) of § 24200.1** provides the same sanctions (i.e., license suspension) for failing to correct a nuisance on a public sidewalk abutting a licensed premises.

B&P § 25618 (Amended): *Penalties for ABC violations:*

Punishments for felony (wobbler) ABC violations (unless otherwise stated) is amended from the indeterminate sentence of one to five years in prison to 16 months, 2 or 3 years in prison, or one year in county jail.

B&P § 25652 (New): *Alcohol Vaporizing Devices:*

It is a misdemeanor to possess, sell, or offer for sale, an “*alcohol vaporizing device*,” or to sell or offer for sale any vaporized form of alcohol produced by an alcohol vaporizing device.

Misdemeanor: 6 months, \$1,000.

It is an infraction to purchase or use any vaporized form of alcohol produced by an alcohol vaporizing device.

Infraction: \$250.

An “*alcohol vaporizing device*” is defined as “any device, machine or process that mixes spirits, liquor, or other alcoholic product with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.”

Note: See www.awolusa.com for information on this device.

Animal Abuse:

H&S § 122335 (New): *Dog Tethering:*

It is illegal to tether, fasten, chain, tie, or restrain a dog to a dog house, tree, fence, or any other stationary object.

Misdemeanor/Infraction: 6 months, \$1,000, per dog, or \$250 per dog.

Note: The section specifically permits Animal Control officers to issue a correction warning in lieu of an infraction or misdemeanor, unless the violation endangers the health or safety of the dog, the dog has been wounded, or a correction warning was previously issued.

The section specifically exempts walking a dog with a hand-held leash; attaching a dog to a running line, pulley, or trolley system; tethering or restraining a dog pursuant to the requirements of a camping or recreational area; tethering or tying a dog no longer

than is necessary for the person to complete a temporary task that requires the dog to be restrained for a reasonable period (i.e., maximum of 3 hours within any 24-hour period); or tethering or tying a dog while engaged in shepherding or herding livestock.

P.C. § 597b (Amended): *Animal and Cock Fighting; Punishments:*

The punishments for violating **subd. (a)** (causing an animal to fight) is increased.

First offense: Misdemeanor; one year, \$5,000. Second offense: Felony; 16 months, 2 or 3 years, \$25,000.

Punishments for a second or subsequent conviction for **P.C. § 597b(b)** (cockfighting) is elevated from a misdemeanor to a felony.

Felony: 16 months, 2 or 3 years, \$25,000.

The reference to “*spectators*” is deleted from **subd. (a)** in order to place animal fighting crimes involving spectators in one section only; i.e. **P.C. § 597c** (below).

P.C. § 597c (Repealed and Added): *Spectators to a Fighting Exhibition:*

Provisions for prohibiting the owning, possessing, keeping, or training an animal or bird for an exhibition of fighting is deleted because they are duplicative of provisions in **P.C. § 597j**, leaving this section to deal with spectator crimes only.

Misdemeanor: 6 months, \$1,000.

P.C. § 597.7 (New): *Confining Animals in a Motor Vehicle:*

It is illegal to leave or confine an animal in an unattended motor vehicle under conditions that endanger the health or well-being of the animal due to heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to an animal.

First offense: Infraction; \$100 per animal. Second or subsequent offense, or if the animal suffers great bodily injury; Misdemeanor; 6 months, \$500 fine.

Authorizes a peace officer, humane officer, or animal control officer to break into a motor vehicle to remove the animal whose

safety appears to be in immediate danger, after making a reasonable effort to locate the vehicle's owner.

Requires the officer to leave a written notice on or in the vehicle informing the owner where the animal can be claimed.

Requires the owner to pay all charges for the animal's care, medical treatment, and impoundment.

Bribery of Public Officials:

P.C. §§ 85, 86 & 88 (Amended): *Bribery of Public Officials:*

Amendment expands the felony crimes of offering bribes to, or the accepting of bribes by, a member of the State Legislature, to apply to members of the legislative body of a city, county, school district, or other special district.

Felony: 2, 3 or 4 years, \$10,000.

Child Molest:

P.C. § 269 (Amended; Effective 9/20/06, and Prop. 83; Jessica's Law, Effective 11/8/06): *Aggravated Sexual Assault of a Child Under the Age of 14:*

Amendment reduces the necessary age difference between the offender and the victim from 10 to 7 years, and makes the following additional amendments:

Subd. (a)(1): Adds *rape accomplished by threat to use the authority of a public official*, per P.C. § 261(a)(6).

Subd. (a)(3): Limits *sodomy* to violations of P.C. § 286(c)(2), (3), or (d) (*force, future retaliation, or in concert*, respectively).

Subd. (a)(4): Expands *oral copulation* to violations of P.C. § 288a(c)(2), (3), or (d) (*force, future retaliation, or in concert*, respectively).

Felony: 15 years to life, \$10,000.

New subd. (c) adds a sentencing requirement of consecutive sentences for separate incidents.

P.C. § 288.3 (New; Effective 9/20/06): Luring:

Subd. (a)(1): Arranging a meeting with a minor, or a person the suspect believes to be a minor, for the purpose of exposing his or her, or to have the minor expose his or her, genital, pubic, or rectal area, or to engage in lewd or lascivious behavior, when motivated by an unnatural or abnormal sexual interest in children.

Misdemeanor: One year, \$5,000.

With a prior conviction for any registerable offense listed in **P.C. § 290(a)(2)**: Felony: 16 months, 2 or 3 years.

Subd. (b): Going to the arranged meeting place, at or about the arranged time.

Felony: 2, 3, or 4 years, \$10,000.

Note: With passage of **Proposition 83** (“*Jessica’s Law*”) on 11/8/06, there are now two separate versions of **P.C. § 288.3** (below).

P.C. § 288.3 (New; Prop. 83; Jessica’s Law, Effective 11/8/06): Luring:

Contacting or communicating with a minor, or attempting to contact or communicate with a minor, where the defendant knows or reasonably should know that the victim is a minor, with the intent to commit a specified crime involving kidnapping, sexual assault, child endangerment, or obscene matter; i.e., **P.C. §§ 207, 209, 261, 264.1, 273a, 286, 288, 288a, 288.2, 289, 311.1, 311.2, 311.4, or 311.11.**

Felony: Punishable by imprisonment in state prison for the term prescribed for an attempt to commit the intended offense.

With a prior **P.C. § 288.3** conviction; a 5-year prison enhancement.

“*Contacts or communicates with*” includes direct and indirect contact or communication, using any print medium, any postal service or common carrier, any electronic communications system, or any telecommunications system.

Note: With the enactment of **SB 1128**, 9/20/06, there are now two separate versions of **P.C. § 288.3** (above).

P.C. § 288.7 (New; Effective 9/20/06): *Sex Acts with Child 10 years or Younger:*

Subd. (a): An adult having sexual intercourse or committing sodomy with a child who is 10 years of age or younger.

Felony: 25 years to life, \$10,000.

Subd. (b): An adult committing oral copulation or rape by foreign object, per **P.C. § 289**, with a child who is 10 years of age or younger.

Felony: 15 years to life, \$10,000.

P.C. § 290.95 (Amended): *Sex Offender Disclosure Requirements:*

A sex offender who must register pursuant to **P.C. § 290** is required to disclose his or her status as a registrant when applying for or accepting a position in which the registrant will be working directly with minor children *and touching them* on more than an incidental basis, *even if the registrant is accompanied (i.e., not alone with the minor)*. (Amendments in italics)

This section continues to provide that a registrant must disclose his or her status when applying for or accepting a position working directly and in an unaccompanied setting with minor children.

Amendment also prohibits a registrant who was convicted of a crime involving a victim under the age of 16 from being *an employer or independent contractor* where the registrant would be working directly in an unaccompanied setting with minor children on more than an incidental and occasional basis, or have supervision or disciplinary power over minor children.

Previously, being an employee or volunteer under these circumstances was prohibited. Now, being an employee, volunteer, employer, or independent contractor is prohibited.

Misdemeanor: 6 months, \$1,000.

P.C. § 311.2 (Amended; Effective 9/20/06): *Child Pornography for Sale or Distribution:*

Amended subd. (c) increases the punishment for a first offense of *distribution, or possession with the intent to distribute*, child pornography to a felony (wobbler).

Felony (wobber): 16 months, 2 or 3 years, \$10,000 fine, or one year, \$2,000. A second or subsequent offense is a straight felony; 16 months, 2 or 3 years, \$10,000.

P.C. § 311.4 (Amended; Effective 9/20/06): *Child Pornography:*

Amended subd. (a) increases the punishment for a first offense for *employing a minor to assist in the distribution or importation of child pornography* to a felony (wobbler).

Felony (wobber): 16 months, 2 or 3, \$10,000, or one year, \$2,000. A second or subsequent offense is a straight felony; 16 months, 2 or 3 years, \$10,000.

P.C. § 801.2 (New; Effective 9/20/06): The Statute of Limitations for this section has been expanded from 6 years (**P.C. § 800**) to “within 10 years of the date of production of the pornographic material.”

P.C. § 311.11 (Amended; Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06): *Child Pornography:*

Amended Subd. (a): Increases the punishment for a first offense for *possession of child pornography* to a felony (wobbler).

Felony (wobber): 16 months, 2 or 3, \$10,000, or one year, \$2,500.

Amended Subd. (b): Makes all **P.C. § 290** sex registrants and persons previously adjudicated as a “*sexually violent predator*” liable for more severe felony punishment.

Felony: 2, 4 or 6 years, \$10,000.

P.C. § 626.81 (New; Effective 9/20/06): *Trespass on School Grounds by Sex Offender:*

Per **subd. (a)**, a registered sex offender (**per P.C. § 290**) who comes into any school building or upon any school ground without lawful business thereon *and* without written permission from the school’s chief administrative official is guilty of a misdemeanor.

Misdemeanor: First offense; 6 months, \$500. Second offense; minimum 10 days to 6 months. Third or subsequent offense; minimum 90 days to 6 months.

“School” is as defined in **P.C. § 626(a)(4)**; generally, grades K through 12.

Note: References to sex offenders trespassing on school grounds in **P.C. § 626.8 (Amended)** are deleted.

P.C. § 647.6 (Amended; Effective 9/20/06): *Misdemeanor Child Molest:*

Renumbers the misdemeanor child molest offense as **subd. (a)(1)** and adds a new offense under **subd. (a)(2)** of committing the same acts, when “*motivated by an unnatural or abnormal sexual interest in children,*” with an adult who the suspect believes is a child under the age of 18. The fine is increased from \$1,000 to \$5,000.

Misdemeanor: 1 year, \$5,000.

P.C. § 653b (Amended; Effective 9/20/06): *Loitering About Schools or Public Places:*

Former section **653g** is renumbered to **653b(a)** and adds, under **subd. (b)**, enhanced sentences for registered sex offenders (per **P.C. § 290**).

Misdemeanor: 6 months, \$1,000. For a registered sex offender, first offense; 6 months, \$2,000, with a minimum of 10 days for a second offense and 90 days for a third or subsequent offense.

Child Support:

Civ. Code §§ 1714.4 (New), 1714.41 (New): *Aiding Child Support Obligor to Evade Child Support Payments:*

Any person or business that knowingly assist a person who owes child support (i.e., the “*obligor*”) to evade or avoid paying child support is liable for three times the amount of the assistance provided, such as the fair market value of the obligor’s assets that are transferred or hidden, or the amount of the compensation paid to the obligor but not reported. The amount so hidden is to be paid to the child support obligee, but does not reduce the obligor’s child support obligation.

Child Welfare:

P.C. §§ 11166.05 et seq. (Amended): *Mandatory Reporting of Child Abuse:*

The procedures for the mandatory reporting and handling of child abuse and neglect are amended to apply to the reporting of “*emotional abuse.*”

Welf. & Inst. § 317 (Amended): *Children and Evidentiary Privileges:*

Amended section provides that a child over the age of 12 is presumed, subject to rebuttal by clear and convincing evidence, to be of sufficient maturity to invoke (1) the psychotherapist-client privilege (**Evid. Code §§ 1010 et seq.**), (2) the physician-patient privilege (**Evid. Code §§ 990 et seq.**), and (3) the clergyperson-penitent privilege (**Evid. Code §§ 1030 et seq.**).

Controlled Substances:

B&P § 725 (Amended): *Dispensing Prescription Drugs:*

It is “*unprofessional conduct*” and illegal for a physician, surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist, speech-language pathologists or audiologists to prescribe, administer, furnish or dispense clearly excessive amounts of prescription drugs.

Misdemeanor: 60 to 180 days, \$100 to \$600.

H&S § 11380.7 (New): *Enhancement for Trafficking Near Listed Shelters or Facilities:*

One year may be added as a felony sentencing enhancement for a person convicted of trafficking in heroin, cocaine, cocaine base, methamphetamine, or phencyclidine, or of conspiracy to commit trafficking, if the violation occurred on the grounds of, or within 1,000 feet of, a drug treatment center, a detoxification facility, or a homeless shelter.

“*Trafficking*” is defined as any of the activities specified in **H&S §§ 11351, 11351.5, 11352, 11353, 11354, 11378, 11379, 11379.6, or 11380** (i.e., possession for sale, sale, transportation, furnishing, use of a minor, manufacturing of the listed controlled substances). Trafficking does not include simple possession or drug use. The enhancement must be pled and proved, cannot be used if any additional punishment is imposed pursuant to **H&S §§ 11353.1, 11353.5, 11353.6, 11353.7, or 11380.1** (i.e., drug offenses involving minors), and is subject to being struck in the court’s discretion.

H&S § 11383 (Amended): *Possession of Chemicals with the Intent to Manufacture Phencyclidine:*

The section has been amended to move the crime of possessing chemicals with the intent to manufacture *methamphetamine* to **H&S § 11383.5** (below), and reordering the other subdivisions:

Subd. (a): Possession of a combination of specified chemicals with the intent to manufacture phencyclidine (PCP) or any of its analogs.

Subd. (b): Possession of the optical, positional, or geometric isomer of any compound listed in **H&S § 11383** with the intent to manufacture PCP or a PCP analog.

Subd. (c): Possession of piperidine, cyclohexanone, pyrrolidine, morpholine, 1-phenylcyclohexylamine (PCA), 1-piperidinocyclohexanecarbonitrile (PCC), or phenylmagnesium bromide (PMB), or mixture thereof, with the intent to manufacture PCP.

Subd. (d): Possession of immediate precursors sufficient for the manufacture of piperidine, cyclohexanone, pyrrolidine, morpholine, or phenylmagnesium bromide (PMB) with the intent to manufacture PCP.

Felony; two, four, or six years, \$10,000.

H&S § 11383.5 (New): *Possession of Chemicals with the Intent to Manufacture Methamphetamine:*

Subd. (a): Possession of methylamine and phenylacetone at the same time with the intent to manufacture methamphetamine, or possessing ethylamine and phenylacetone at the same time with the intent to manufacture N-ethylamphetamine.

Subd. (b)(1): Possession of ephedrine or pseudoephedrine, or any salts or isomers of either, with the intent to manufacture methamphetamine, or possessing a combination of specified chemicals with the intent to manufacture methamphetamine.

Subd. (b)(2): Possession of hydriodic acid or a reducing agent with the intent to manufacture methamphetamine or any of its analogs.

Subd. (c): Possession of the optical, positional, or geometric isomer of any compound listed in H&S 11383.5, with the intent to manufacture

methamphetamine, or an analog of methamphetamine, or N-ethylamphetamine.

Subd. (d): Possession of immediate precursors sufficient for the manufacture of various specified substances (e.g., methylamine, ephedrine), with the intent to manufacture methamphetamine.

Subd. (e): Possession of essential chemicals sufficient to manufacture hydriodic acid or a reducing agent, with the intent to manufacture methamphetamine.

Subd. (f): Possession of a compound or mixture containing a specified substance (e.g., ephedrine, pseudoephedrine), with the intent to manufacture methamphetamine.

Felony; two, four, or six years, \$10,000.

H&S § 11383.6 (New): *Possession of Listed Chemicals for Sale, to be Used in the Manufacture of Phencyclidine (PCP):*

Subd. (a): Possession of specified combinations of chemicals with the intent to sell, transfer, or furnish them to another person with the knowledge that they will be used to manufacture PCP or a PCP analog.

Subd. (b): Possession of the optical, positional, or geometric isomer of any compound listed in **H&S § 11383.6** with the intent to sell, transfer, or furnish the isomer to another person with the knowledge that it will be used to manufacture PCP or a PCP analog.

Subd. (c): Possession a compound or mixture containing piperidine, cyclohexanone, pyrrolidine, morpholine, 1-phenylcyclohexylamine (PCA), 1-piperidnocylohexanecarbonitrile (PCC), or phenylmagnesium bromide (PMB), with the intent to sell, transfer, or furnish it to another person with the knowledge that it will be used to manufacture PCP.

Subd. (d): Possession of the immediate precursors sufficient for the manufacture of piperidine, cyclohexanone, pyrrolidine, morpholine, or phenylmagnesium bromide (PMB) with the intent to sell, transfer, or furnish them to another person with the knowledge that they will be used to manufacture PCP.

Felony; 16 months, 2 or 3 years, \$10,000 fine.

H&S § 11383.7 (New): *Possession of Listed Chemicals for Sale, to be Used in the Manufacture of Methamphetamine:*

Subd. (a): Possession of both methylamine and phenylacetone at the same time with the intent to sell, transfer, or furnish them to another person with the knowledge that they will be used to manufacture methamphetamine; or possessing ethylamine and phenylacetone at the same time with the intent to sell, transfer, or furnish them to another person with the knowledge that they will be used to manufacture methamphetamine.

Subd. (b)(1): Possession of ephedrine or pseudoephedrine, or any salts or isomers of either, or possessing a combination of specified chemicals, with the intent to sell, transfer, or furnish them to another person with the knowledge that they will be used to manufacture methamphetamine or an analog of methamphetamine.

Subd. (b)(2): Possession of hydriodic acid or a reducing agent with the intent to sell, transfer, or furnish it to another person with the knowledge that it will be used to manufacture methamphetamine or an analog of methamphetamine.

Subd. (c): Possession of the optical, positional, or geometric isomer of any compound listed in **H&S § 11383.7**, with the intent to sell, transfer, or furnish it to another person with the knowledge that it will be used to manufacture methamphetamine, or an analog of methamphetamine, or N-ethylamphetamine.

Subd. (d): Possession of the immediate precursors sufficient for the manufacture of various specified substances (e.g., methylamine, ephedrine), with the intent to sell, transfer, or furnish them to another person with the knowledge that they will be used to manufacture methamphetamine.

Subd (e): Possession of essential chemicals sufficient to manufacture hydriodic acid or a reducing agent, with the intent to sell, transfer, or furnish them to another person with the knowledge that they will be used to manufacture methamphetamine.

Subd. (f): Possession of a compound or mixture containing a specified substance (e.g., ephedrine, pseudoephedrine), with the intent to sell, transfer, or furnish it to another person with the knowledge that it will be used to manufacture methamphetamine.

Felony; 16 months, 2 or 3 years, \$10,000 fine.

H&S §§ 25400.11 et seq. (Amended), & 25400.47 (New): *The Methamphetamine Contaminated Property Cleanup Act of 2005:*

The measure which established procedures for the inspection and cleanup of property contaminated by methamphetamine is extended to include mobile homes, manufactured homes, special occupancy parks, and recreational vehicles sited in a mobile home park or special occupancy park.

P.C. § 12022.75 (Amended Effective 9/20/06): *Administration of Drugs to Commit Felony:*

New **subd. (b)** provides a 5-year enhancement for administering drugs to a victim for the purpose of committing a sexual assault; i.e., rape (**P.C. §§ 261(a)(3) or 261(a)(4)**); sodomy (**P.C. §§ 286(f) or 286(i)**); oral copulation (**P.C. §§ 288a(f) or 288a(i)**); sexual penetration (**P.C. §§ 289(d) or 289(e)**), and any offense specified in the one strike sex offender law (**P.C. § 667.61(c)**).

Note: A 3-year enhancement, per **subd. (a)**, applies to all other felonies.

Dumping, Illegal:

H&S § 117550 (Repealed and Added): *Illegal Dumping; Definitions:*

The definition of “*garbage*” is replaced by the definition of “*solid waste*,” defining it as “all solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, but excluding hazardous waste, radioactive waste, and medical waste.”

As defined in **Pub. Res. Code § 40191**.

H&S § 117555 (Amended): *Illegal Dumping:*

It is a misdemeanor to engage in illegal dumping of solid waste, replacing the term “*garbage*” with “*solid waste*.”

Misdemeanor; 6 months, \$1,000.

V.C. § 23112.7 (New): This new section provides authority for a sentencing court to order the impoundment of a motor vehicle used for the illegal dumping of waste matter and authorizes the

impoundment and forfeiture of a motor vehicle used for the illegal dumping of harmful waste matter (i.e., “*hazardous substances*”) (see below).

H&S § 117560 (Amended): *Illegal Dumping Enforcement Officer:*

“*Illegal Dumping Enforcement Officer*” (per **P.C. § 830.7**) is added to the list of those persons (state fish and game wardens, police officers, deputy sheriffs, peace officers) who are authorized to enforce **H&S § 117555** (see above).

P.C. § 830.7(j) defines an “*illegal dumping enforcement officer*” as a person regularly employed by a city or county whose duties include illegal dumping enforcement and is designated by local ordinance as a public officer.

Note: **H&S § 117560** contains an incorrect cross-reference to **subd. (i)** of **P.C. § 830.7**. The reference should be to **subd. (j)** of **P.C. § 830.7**.

P.C. § 374a (Amended): *Littering or Dumping Waste Matter:*

P.C. § 374.2 (dumping into public sewers), **P.C. § 374.4** (littering on public or private property), and **P.C. § 374.7** (littering or dumping into a body of water) is added to those offenses (i.e., **P.C. § 274.3** (dumping on private property) and **P.C. § 374c** (shooting on public highways)) for which a reward is offered to persons who give information leading to the arrest and conviction of another person for a violation of any of the listed crimes.

P.C. § 374.5 (New): *Improper Disposal of Grease:*

It is a misdemeanor for a “*grease waste hauler*” to improperly dispose of grease that the hauler has removed from a grease trap or grease interceptor.

Pub. Res. C. § 16050 (New) defines “*grease waste hauler*” as a transporter of inedible kitchen (brown) grease subject to the registration requirements in **Food & Agricultural Code § 19310**.

Misdemeanor: First offense; 6 months, \$10,000. Second or subsequent offense; one year, \$25,000.

See **Pub. Res. Code §§ 16050–16053 (New)**, for civil penalties.

V.C. § 23112.7 (New): Vehicles Used for Illegal Dumping as a Nuisance:

Provides authority for a sentencing court to declare a vehicle a nuisance when used for illegal dumping of waste matter or harmful waste matter and committed while driving a motor vehicle in violation of **P.C. § 374.3** (misdemeanor unlawful dumping) or **P.C. § 374.8** (the felony/misdemeanor crime of dumping a hazardous substance) when the defendant has one or more prior convictions for **P.C. § 374.3** or **P.C. § 374.8** that are not infractions, and to impound the vehicle for up to six months. If the defendant has two or more prior convictions for **P.C. § 374.3** or **P.C. § 374.8** that are not infractions, the court may declare the vehicle a nuisance and order it sold.

False Reports:

Gov't. Code § 53153.5 (New): *False Report of an Emergency:*

Any adult who is convicted of **P.C. § 148.3** (falsely reporting an emergency; see below) that causes an emergency response by a public agency, is liable for the cost of that emergency response. Victims and medical providers take priority over public agencies in being compensated.

P.C. § 148.3 (Amended): *False Report of an Emergency:*

Expands the definition of “*emergency*” to include any situation that results in or could result in the activation of the Emergency Alert System pursuant to **Gov't. Code § 8594**, alerting motorists about a child abduction by displaying information on electronic roadway signs (i.e.: “*Amber Alert*”). It is also provided that a report of a missing child made in good faith by a parent, guardian, or lawful custodian would *not* constitute a violation.

Misdemeanor: One year, \$1,000.

P.C. § 148.5 (Amended): *False Report of Criminal Offense:*

Adds a Deputy Attorney General and the Attorney General to the list of persons (peace officer, district attorney, or deputy district attorney) to whom it is unlawful to make a false report of a felony or misdemeanor crime.

Misdemeanor: 6 months, \$1,000.

Firearms and other Weapons:

Code of Civ. Proc. § 527.9 (Amended): *Firearms Surrender for Persons Subject to a Protective Order:*

The time from when a person is served with a protective order (pursuant to **C.C.P. § 527.6** (harassment), **C.C.P. § 527.8** (workplace violence), **P.C. § 136.2** (witness intimidation, dissuasion), and/or **W&I § 15657.03** (dependent or elder adult abuse)), in those instances where that person was not present in court when a protective order was issued, to when he or she has to surrender a firearm to a local law enforcement agency or sell it to a licensed gun dealer, is reduced from 48 hours to 24 hours. The time a receipt must be shown to the court has been reduced from 72 hours to 48 hours.

Note: The time limit for surrendering one's weapons has always been 24 hours when the person served was present in court when the order was made.

Fam. Code § 6389 (Amended): *Surrendering Firearms Upon Service of Domestic Violence Protective Order:*

A law enforcement officer is to request the immediate surrender of firearms when a person is served with a domestic violence protective order, rather than having to wait 24 hours for the person to self-surrender the firearms. When such request is made, the person who is the subject of a protective order is to immediately surrender all firearms. If no such request is made, the person must, within 24 (instead of 48) hours of being served with a protective order, surrender all firearms in his or her possession or control to local law enforcement officials or sell them to a licensed gun dealer. The law enforcement officer or the licensed gun dealer must issue a receipt to the person relinquishing the firearms, which must then be filed with the court within 48 (instead of 72) hours after being served with the protective order. Failure of the person served to timely file the receipt with the court is a violation of the protective order.

Law enforcement agencies are to develop written policies and standards for requesting the immediate relinquishment of firearms.

P.C. § 246.3 (Amended): *Discharging BB Device in a Grossly Negligent Manner:*

Subd. (b) (New): Willfully discharging a BB device in a grossly negligent manner, which could result in injury or death to a person.

Misdemeanor: One year, \$1,000.

Defines “*BB device*” as any instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action (i.e., BB guns and pellet guns).

The felony (wobbler) crime of discharging a *firearm* in a grossly negligent manner remains in this section as **subd. (a)**.

P.C. § 12076 (Amended): *Firearms Applications:*

Subd. (c)(1) (Amended): The crime of knowingly furnishing a fictitious name or address, or knowingly furnishing any incorrect information, or knowingly omitting any required information when attempting to purchase a firearm from a dealer, if the defendant is prohibited from obtaining a firearm pursuant to **P.C. §§ 12021 or 12021.1** (felon in possession) or **W&I §§ 8100 or 8103** (mental patient in possession), is elevated to a felony (wobbler).

Felony (wobbler): 8, 12, or 18 months, \$10,000; or one year, \$1,000.

Subd. (c)(5) (Amended): A firearms dealer conducting a private-party transfer of a firearm must redact all of the purchaser’s personal information from the seller’s copy of the transaction and all of the seller’s personal information from the purchaser’s copy.

See also amended provisions for the procedures in transferring firearms in **P.C. §§ 12078 (Amended), 12083 (Repealed and Added), 12131 (Amended), and 12276.5 (Amended)**.

P.C. § 12282 (New): *Assault Weapons and .50 BMG as a Nuisance:*

The illegal possession of any assault weapon or .50 BMG rifle is a public nuisance. A district attorney, a city attorney, or the Attorney General, in lieu of criminal prosecution, is authorized to bring a civil action or reach a civil compromise to enjoin the possession of the weapon.

A civil fine of up to \$300 for the first assault weapon or .50 BMG rifle, and up to \$100 for each additional weapon, may be imposed.

An assault weapon or .50 BMG rifle that is deemed a public nuisance is to be destroyed, unless the court finds, or a declaration is submitted by a district attorney, city attorney, or the Attorney General, stating that the preservation of the assault weapon or rifle is in the interest of justice.

An assault weapon is to be destroyed when a defendant is convicted of a misdemeanor or felony involving the illegal possession or use of the assault weapon.

Forgery:

Gov't. Code § 7480 (Amended): *Forgery Evidence Required to be Produced at the Request of Law Enforcement:*

Amended section adds the following to the list of items a bank, credit union, or savings association must furnish upon the request of a police department, sheriff's department or district attorney when a crime report has been filed alleging the fraudulent use of checks, access cards or bank drafts, as certified to the institution in writing: Surveillance photographs and video recordings of persons accessing the victim's account via an automated teller machine or inside the bank, for dates on which the illegal acts were alleged to have occurred.

Note: The section continues to require banks to furnish copies of signature cards, the opening and closing date of accounts, the number of items dishonored and their value, and other financial information.

Gambling:

B&P §§ 19985, 19986 & 19987 (New): *Controlled Fundraising Games for Nonprofit Organizations:*

New sections authorize certain nonprofit organizations (See **Rev. & Tax. Code, §§ 23701a et seq.**) to conduct one fundraiser per year using controlled games (i.e., gambling). Along with other requirements, the sections require the organization to register with, and that the event be pre-approved by, the Division of Gambling Control, and that 90% of the gross revenue from the fundraiser go directly to the nonprofit organization. Slot machines are prohibited. It is required that participants at such a fundraiser be at least 21 years old and that prizes not be for over \$500 for any one person, or over \$5,000 per event. Fundraisers are prohibited over the Internet.

Subject to administrative action by the Division of Gambling Control, and/or criminal (e.g., see **P.C. §§ 330 et seq.**) or civil sanctions.

P.C. § 337f (New): *Horse Race Wagering:*

New section makes illegal the advertising of non-parimutuel wagering on horse races.

Infraction; \$500 fine; with a second or subsequent offense being a misdemeanor; \$10,000 fine.

Gangs:

P.C. § 186.22 (Amended): *Participation in a Criminal Street Gang:*

Adds the following to the list of crimes that may be used to establish a “*pattern of criminal gang activity*”: (1) Unlawful possession of a firearm (**P.C. § 12021**); (2) carrying a concealed firearm (**P.C. § 12025**); and (3) carrying a loaded firearm (**P.C. § 12031**).

Homicide; Manslaughter:

P.C. §§ 191.5 to 193.5 (Amended): *Manslaughter; Voluntary, Involuntary, Vessel and Vehicular:*

The manslaughter statutes have been shifted all around without any substantive changes to the elements or punishments for each offense. With these amendments, the manslaughter violations can be found at:

P.C. § 191.5(a): Gross vehicular manslaughter while intoxicated. (Unchanged)

Felony: 4, 6 or 10 years; \$10,000.

P.C. § 191.5(b): Vehicular manslaughters while intoxicated but without gross negligence, and in the commission of an unlawful act. (formerly **P.C. § 192(c)(3)**)

Felony: 16 months, 2 or 4 years; \$10,000.

P.C. § 192(c)(3): Vehicular manslaughter by causing a collision for insurance fraud purposes. (formerly **P.C. § 192(c)(4)**)

Felony: 4, 6 or 10 years; \$10,000.

P.C. § 192.5(a): Gross vehicular manslaughter while intoxicated and operating a vessel and with gross negligence. (formerly **P.C. § 191.5(b)**)

Felony: 4, 6 or 10 years; \$10,000.

P.C. § 192.5(b): Vessel manslaughter while intoxicated but without gross negligence. (formerly **P.C. § 192.5(c)**)

Felony: 16 months, 2 or 4 years; \$10,000.

P.C. § 192.5(c): Vessel manslaughter with gross negligence. (formerly **P.C. § 192.5(a)**)

Felony: 2, 4 or 6 years; \$10,000.

P.C. § 192.5(d): Misdemeanor vessel manslaughter without gross negligence. (formerly **P.C. § 192.5(b)**)

Misdemeanor: 1 year in county jail; \$1,000.

P.C. §§ 193, 193.5: Punishment provisions for vehicular manslaughter while intoxicated moved to **P.C. § 191.5(b)**, and for vessel manslaughter moved to **P.C. § 192.5(a)**.

Identity Theft:

P.C. § 530.5 (Amended, Effective 2/25/06): *Identity Theft:*

Subd. (b): The definition of “*personal identifying information*” is expanded by adding “*or an equivalent form of identification*” to the list of items (e.g., social security numbers, PINs, addresses, telephone numbers) that constitute personal identifying information.

Effective 1/1/07 (see below), this definition of “*personal identifying information*” is expanded again to include professional and occupational numbers, and is moved to **P.C. § 530.55 (New)**, below.

Subd. (g): Amendment specifies the definition of “*person*” for purposes of identity theft to include a natural person, firm, association, organization, partnership, business trust, company, corporation, limited liability company, or public entity.

Effective 1/1/07 (see below), this definition is expanded again to include deceased persons and “*any other legal entity,*” and is moved to **P.C. § 530.55 (New)**, below.

P.C. § 530.5 (Amended): *Identity Theft*:

The potential fine for felony violations is raised from \$1,000 to \$10,000 (per **P.C. § 672**). The obtaining of real property (not just personal property) is now included. The reference to acquiring, transferring, or retaining possession of the personal identifying information of a person serving in the military outside of California was deleted in that this misdemeanor offense is covered by the language as contained in **subd. (c)(1)**.

Also, other specific additions to the statute:

Subd. (c)(2) (New): Acquiring or retaining possession of personal identifying information with the intent to defraud, with a prior conviction for **P.C. 530.5**.

Subd. (c)(3) (New): Acquiring or retaining possession of the personal identifying information of 10 or more people, with the intent to defraud.

Subd. (d)(1) (New): Selling, transferring, or conveying personal identifying information, with the intent to defraud.

Subd. (d)(2) (New): Selling, transferring, or conveying personal identifying information, with actual knowledge that the information will be used to commit identity theft.

All the above; Felony (wobbler): 16 months, 2 or 3 years, \$10,000; or one year, \$1,000.

Subd. (e) (New): Committing “*mail theft*,” as defined by **18 U.S.C. § 1705**.

Misdemeanor; 6 months, \$1,000 fine.

Note: **18 U.S.C. § 1705** does not prohibit the theft of mail, per se, but rather deals with the destruction of mail boxes and “willfully or maliciously injuring, defacing or destroying any mail deposited therein.” So it is unknown what was intended by this new subdivision in **P.C. § 530.5**.

P.C. § 530.55 (New): *Identity Theft Definitions*:

The definition of “*person*,” for identity theft purposes is moved from **P.C. § 530.5(g)** to this new section and expanded to include deceased persons and “*any other legal entity*.”

The definition of “*personal identifying information*” for identity theft purposes is moved from **P.C. § 530.5(b)** to this new section and expanded to include professional or occupational numbers.

P.C. § 530.6 (Amended): *Identity Theft Reporting:*

Amendment adds a victim’s “*place of business*” in specifying the locations (i.e., added to the victim’s place of residence) where an identity theft victim may report a violation, requiring the local law enforcement agency to take a report and initiate the investigation. The section also defines “*person*” for purposes of identity theft as a natural person, firm, association, organization, partnership, business trust, company, corporation, limited liability company, or public entity, thus addressing the crime of the identity theft as it relates to a business.

P.C. § 530.8 (Amended): *Right of a Victim of Identity Theft to Receive Information:*

Amendment expands the definition of “*person*” for purposes of identity theft as a natural person, firm, association, organization, partnership, business trust, company, corporation, limited liability company, or public entity, thus addressing the crime of the identity theft as it relates to a business.

Kidnapping; Aggravated:

P.C. § 209(b)(1) (Amended; Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06): *Aggravated Kidnapping:*

The aggravated kidnapping section is amended to add kidnapping for the purpose of committing a lewd act on a child (per **P.C. §§ 288, 288(b)(1), or 288(c)(1)**), kidnapping by a caretaker to commit a lewd act on a dependent person (**P.C. §§ 288(b)(2) or 288(c)(2)**), and for the purpose of committing a listed *sex offense in concert* (per **P.C. § 264.1**), to the list of offenses constituting an “*aggravated kidnapping*.”

Felony: Life, with the possibility of parole; \$10,000.

Peace Officers’ and Public Officers’ Rights, Duties and Protections:

Elec. Code § 2166.7 (New): *Confidentiality of Personal Voter Registration Information:*

New section specifies that a “*peace officer*” and other listed “*public safety officers*” may apply under penalty of perjury to the County Board of Supervisors to have the officer’s residence address, telephone number, and

e-mail address on his or her voter registration to be confidential for a period of two years (renewable every two years) if there exists a “*life threatening circumstance*” to the officer or a member of the officer’s family. This section applies to active and retired peace officers; attorneys employed by a district attorney, public defender, the Department of Justice, the State Public Defender, the United States Attorney, or the Federal Public Defender; a city attorney; employees of the Department of Corrections and Rehabilitation who supervise inmates; and state and federal judges and court commissioners.

Gov’t. Code § 6254.24 (Amended): “*Public Safety Official*” Defined:

Amendment adds several more categories of persons to the definition of a “*public safety official*” whose personal information is protected from unlawful disclosure per **P.C. § 146e**. Added to the list are state and federal judges and court commissioners; probation officers; attorneys employed by the United States Attorney or the Federal Public Defender; an employee of the Attorney General, a district attorney, or a public defender who submits verification that he or she handles matters that routinely place him or her in personal contact with persons under investigation for, charged with, or convicted of, criminal acts; a non-sworn employee of the Department of Justice or a police department or sheriff’s office who is responsible for collecting, documenting, and preserving physical evidence at crime scenes, testifying in court as an expert witness, and other technical duties; and a non-sworn employee of the Department of Justice or a police department or sheriff’s office who performs laboratory procedures on physical crime evidence, determines their results, and testifies in court.

Note: **P.C. § 146e** is the felony/misdemeanor crime of maliciously, or with the threat to inflict imminent physical harm, disclosing the residence address or telephone number of a peace officer, police dispatcher, or public safety official or the spouse or children of such a person. **Gov’t. Code § 6254.24** defines “*public safety official*” for the purposes of **P.C. § 146e**.

P.C. § 664 (Amended): *Attempts*:

Amendment adds “*custody assistants*,” as defined in **P.C. § 831.7 (New)** (in L.A. County only), and non-sworn uniformed employees of a sheriff’s department whose job entails the care or control of inmates in a detention facility, to the list of persons for whom an attempt to murder is subject to enhanced punishments.

Felony: Life (i.e., 7 years minimum) to life with the possibility of parole. With premeditation and deliberation; 15 years to life, \$10,000.

P.C. § 830.3 (Amended; Effective 7/12/06): *Peace Officers, Authority:*

Amendment adds the following to the list of persons who are “*peace officers*” whose authority extends to any place in the state for the purpose of performing their primary duty: The chief, deputy chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services, provided that the primary duty of each of these persons is the enforcement of the law relating to the duties of his or her department or office.

P.C. § 830.7 (Amended): *Person Who are Not Peace Officers but Have the Powers of Arrest:*

Amendment adds the following persons to the list of those who are *not* “*peace officers*,” but who may exercise peace officer powers of arrest pursuant to **P.C. § 836** while acting within the scope of their employment if they successfully complete a course in the exercise of those powers: (1) Persons employed by the City of Los Angeles as security officers who enforce laws related to the preservation of peace on city property (e.g., city hall, city libraries) (**subd. (i)**); and (2) “*illegal dumping enforcement officers*” (**subd. (j)**), defined as persons regularly employed by a city or county whose duties include illegal dumping enforcement and are designated by local ordinance as public officers (see “*Dumping, Illegal*,” above).

P.C. §§ 7500 et seq. (Amended): *HIV Testing of Defendants for the Benefit of Law Enforcement Personnel:*

The sections dealing with the testing of inmates for HIV are amended and expanded to add tests for hepatitis B and C, to add the testing of a person charged with any crime whether or not in custody, and to add to the list of persons authorized to request that an inmate or defendant be tested. The authority of a law enforcement employee to request a confidential medical test of an inmate is expanded to when there is contact with the inmate’s bodily fluids or contact in a way that could result in infection. The definition of a “*law enforcement employee*” is expanded to include prosecutors and their staff, public defenders and their staff, and, arguably, a court employee or judge who comes into contact with an inmate’s or out-of-custody defendant’s bodily fluids. A “*court facility*” is included in the definition of a “*correctional institution*.” The law enforcement employee shall be notified of the results of the test.

Plea Bargaining:

P.C. § 1192.7 (Amended; Effective 9/20/06): *Restrictions on Plea Bargaining:*

It is the intent of the Legislature that district attorneys prosecute violent sex crimes under “*one strike*,” “*three strikes*,” and “*habitual sex offender*” statutes instead of engaging in plea bargaining. As amended, this section prohibits plea bargaining in any case where the information or indictment charges a sex crime:

- As listed in **P.C. § 667.61(c)** (i.e., **P.C. §§ 261(a)(2), 261(a)(6), 262(a)(1), 262(a)(4), 264.1, 286(c)(2), 286(c)(3), 286(d), 288(a), 288(b), 288a(c)(2), 288a(c)(3), 288a(d), 288.5, or 289(a)**);
- That could be prosecuted under **P.C. § 269** (i.e., 15 years to life for the aggravated sexual assault of a child];
- That could be prosecuted under **P.C. § 288.7** (25 years to life or 15 years to life for an adult engaging in specified sex acts with a child age 10 or younger); *or*
- That could be prosecuted under **P.C. § 667(b)–(i)** (Three Strikes Law), **P.C. § 667.61** (One Strike Sex Offender Law), *or* **P.C. § 667.71** (Habitual Sex Offender Law);

. . . *unless* (1) there is insufficient evidence to prove the people’s case, (2) the testimony of a material witness cannot be obtained, *or* (3) a reduction or dismissal would not result in a substantial change in sentence.

When a case is plea bargained, the prosecutor must state on the record why a sentence under one of those sections was not sought.

Privacy Rights:

P.C. § 638 (New): *Pretexting:*

Prohibits the purchasing, selling, offering to purchase or sell, or conspiring to purchase or sell, a telephone calling pattern record or list, without the written consent of the subscriber. It is also illegal to obtain through fraud or deceit, or attempt to obtain through fraud or deceit, a telephone calling pattern record or list (i.e.; “*pretexting*”).

Misdemeanor: One year, \$2,500, or \$10,000 with a prior conviction for same.

Property Crimes:

P.C. § 591.5 (Amended): *Damaging Wireless Communication Devices:*

The crime of injuring, destroying, or damaging a wireless communication device (e.g., cell phone) with the intent to prevent its use to summon law enforcement, is expanded to apply to “*obstructing the use of any wireless communication device.*”

Misdemeanor: 6 months, \$1,000.

V.C. § 17300 (Amended): *Damaging Memorial Signs:*

Willfully damaging or destroying a memorial sign placed by the Department of Transportation, including a sign memorializing a drunk driving victim pursuant to **Str. & Hwy. Code § 101.10**, is liable for that damage or destruction in the amount of \$1,500 or the actual repair or replacement cost, whichever is highest.

Protective Orders:

Code of Civ. Proc. § 527.8 (Amended): *Workplace Protective Orders:*

Amendment to the provisions for an employer obtaining a protective order for the benefit of an employee now includes as employees who are to be protected any number of employees at the workplace and/or to employees at any other workplace of the employer, at the court’s discretion.

Code of Civ. Proc. § 527.9 (Amended): *Firearms Surrender for Persons Subject to a Protective Order:*

The time from when a person is served with a protective order (pursuant to **C.C.P. § 527.6** (harassment), **C.C.P. § 527.8** (workplace violence), **P.C. § 136.2** (witness intimidation, dissuasion), and/or **W&I § 15657.03** (dependent or elder adult abuse)), in those instances where that person was not present in court when a protective order was issued, to when he or she has to surrender a firearm to a local law enforcement agency or sell it to a licensed gun dealer, is reduced from 48 hours to 24 hours. The time a receipt must be shown to the court has been reduced from 72 hours to 48 hours.

Note: The time limit for surrendering one’s weapons has always been 24 hours when the person served was present in court when the order was made.

Fam. Code § 6250.3 (New): *Emergency Protective Orders; Issued by a Judge:*

An “*emergency protective order*” is valid only if it is issued by a judicial officer after making the findings required by **Fam. Code § 6251** (i.e., that there is an immediate and present danger of domestic violence, child abuse, child abduction, or elder abuse, and that an emergency protective order is necessary to prevent the violence or abuse), and pursuant to a specific request by a law enforcement officer.

Fam. Code § 6275 (New): *Emergency Protective Orders; Duties of Law Enforcement Officer:*

A law enforcement officer who responds to a situation in which he or she believes there may be grounds for the issuance of an emergency protective order pursuant to **Fam. Code § 6250** (domestic violence, child abuse, child abduction, or elder or dependent adult abuse), or **P.C. § 646.91** (stalking), must tell the person who may need protection that he or she may ask the officer to request an emergency protective order. The officer must then request the emergency protective order if the officer believes the person requesting the order is in immediate and present danger.

Fam. Code § 6389 (Amended): *Surrendering Firearms Upon Service of Domestic Violence Protective Order:*

A law enforcement officer is to request the immediate surrender of firearms when a person is served with a domestic violence protective order, rather than having to wait 24 hours for the person to self-surrender the firearms. When such request is made, the person who is the subject of a protective order is to immediately surrender all firearms. If no such request is made, the person must, within 24 (instead of 48) hours of being served with a protective order, surrender all firearms in his or her possession or control to local law enforcement officials or sell them to a licensed gun dealer. The law enforcement officer or the licensed gun dealer must issue a receipt to the person relinquishing the firearms, which must then be filed with the court within 48 (instead of 72) hours after being served with the protective order. Failure of the person served to timely file the receipt with the court is a violation of the protective order. Law enforcement agencies are to develop written policies and standards for requesting the immediate relinquishment of firearms.

Welf. & Inst. Code § 15657.03 (Amended): *Elder or Dependent Adult Protective Order; Service on Respondent:*

Amendment requires that the respondent be served with a notice of a pending hearing on an Elder or Dependent Adult Abuse protective order with 5 days notice instead of 2.

Sex Offenses:

Code of Civ. Proc. § 1002 (New): *Civil Compromise in Sex Cases:*

New section prohibits the fact of a confidential settlement agreement to be kept secret in any civil action that involves behavior that could be prosecuted as a felony sex offense. The amount paid may be kept confidential.

Code of Civ. Proc. § 1277 (Amended): *Confidentiality of Victims' Name Change:*

Amendment adds sexual assault victims to those (domestic violence and stalking victims) who, if participating in the Secretary of State's address confidentiality program and who are seeking a name change, will not have their proposed new name recited in the court's order. Publication of the victim's name in the newspaper is not required.

See also **Gov't. Code §§ 6206 (Amended), 6205.5 (Amended), and 6206 (Amended)**, extending the address confidentiality program to victims of sexual assault, and providing that "*sexual assault*" means a violation of **P.C. §§ 220, 261, 261.5, 262, 264.1, 266c, 269, 285, 286, 288, 288.5, 288a, 289, or 647.6**.

Evid. Code § 782 (Amended): *Character evidence of Sexual Assault Victim:*

Amended section makes applicable the evidence admissibility procedures in sexual assault cases (requiring the defense to establish the relevancy of a sexual assault victim's prior sexual conduct in a written motion with a sworn affidavit that must be filed under seal as a prerequisite to admitting such evidence) to victims who testify about uncharged offenses pursuant to **Evid. Code §§ 1101(b)** (other crimes committed by a defendant that are relevant to prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or consent) or **1108** (evidence of a defendant's other sex offenses).

Gov't. Code § 68152 (Amended; Effective 9/20/06): *Misdemeanor Sex Offender Registration Records:*

A court must retain the records of a misdemeanor case for which the defendant is required to register as a sex offender pursuant to **P.C. § 290** for 75 years (increased from 5 years), if convicted on or after September 20, 2006.

P.C. § 209(b)(1) (Amended; Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06): *Aggravated Kidnapping*:

The aggravated kidnapping section is amended to add kidnapping for the purpose of committing a lewd act on a child (per **P.C. §§ 288, 288(b)(1), or 288(c)(1)**), kidnapping by a caretaker to commit a lewd act on a dependent person (**P.C. §§ 288(b)(2) or 288(c)(2)**), and for the purpose of committing a listed *sex offense in concert* (per **P.C. § 264.1**), to the list of offenses constituting an “*aggravated kidnapping*.”

Felony: Life, with the possibility of parole; \$10,000.

P.C. § 220 (Amended, Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06): *First Degree Burglary with Intent to Commit Sex Offense*:

New subd. (b) adds the new crime of first degree burglary (per **P.C. § 460(a)**) with the intent to commit *rape, sodomy, oral copulation* or any violation of **P.C. §§ 264.1** (*sex offense in concert*), **288** (*felony child molest*) or **289** (*sexual penetration with foreign object*).

Felony: Life, with the possibility of parole, \$10,000.

P.C. § 262 (Amended): *Spousal Rape*:

Amendment eliminates the requirements that a spousal rape be reported within a year of the commission of the offense or that the rape allegation be corroborated by other admissible evidence (**subd. (b)**).

Felony: 3, 6 or 8 years (per **P.C. § 264(a)**), \$10,000.

P.C. § 290(a)(2) (Amended; Effective 9/20/06): *Sex Registration Offenses*:

Offenses for which a person must register as a convicted sex offender have been amended to add **P.C. § 187** (*Murder*) when committed in the perpetration or attempt to perpetrate a *rape*, or any offense punishable under **P.C. §§ 286, 288, 288a, or 289** (*Sodomy, felony child molest, oral copulation, or rape by foreign object*, respectively), **P.C. § 288.3** (*Luring*), **P.C. § 288.7** (*Sex Acts with Child 10 years or Younger Than Suspect*), or a *conspiracy* to commit any of the above, and any such listed offense in which the person was a principal, per **P.C. § 31**.

P.C. §§ 290.03 to 290.07 (New; Effective 7/1/08): “*The Sex Offender Punishment, Control, and Containment Act of 2006*.”

§ 290.03: Legislative “*findings and declarations*” justifying “a comprehensive system of risk assessment, supervision, monitoring and

containment for registered sex offenders residing in California communities . . . ,” effective 7/1/08.

§ 290.04: Establishment of the State-Authorized Risk Assessment Tool for Sex Offenders (“SARATSO”) and the SARATSO review committee.

§ 290.05: Establishment of training relative to SARATSO.

§ 290.06: Effective date of SARATSO, on or before July 1, 2008, and the procedures for administering the program.

See **P.C. §§ 1203 (Amended), 1203c (Amended), 1203e (New), and 1203f (New)**, for Probation’s Department’s risk assessment responsibilities.

§ 290.07: Right of “any person authorized by statute to administer” SARATSO to have access to the necessary records in order to administer the program.

P.C. § 1202.8 (Amended): Beginning 1/1/09, every sex offender who has been assessed as high risk using SARATSO) is to be continuously electronically monitored while on probation, unless the court determines that the monitoring is not necessary for that particular probationer.

P.C. § 290.08 (New; Effective 9/20/06): *Retention of Records:*

Requires District Attorney’s Offices and the Department of Justice to retain sex offender (registerable offenses, per **P.C. § 290**) records for 75 years.

A Court is required to retain records on all felonies for 75 years (**Gov’t. Code § 68152(e)(2)**) and, by amendment effective with this new legislation, for misdemeanor sex offender (registerable) cases, for 75 years. (**Gov’t. Code § 68152(e)(12)**)

P.C. § 290.46 (Amended; Effective 9/20/06): *Megan’s Law:*

New **subd. (b)(1), (b)(2)(I), and (b)(2)(K)**: The fact of a prior adjudication as a “*Sexually Violent Predator*,” and prior convictions for **P.C. § 288.3 (Luring)**, and **P.C. § 288.7 (Sex Acts with Child 10 years or Younger Than Suspect)**, respectively, added to the information to be released to the public.

Note: Effective 7/1/10, even more information relative to the registrant’s incarceration, as listed in what will be new **subd. (a)(2)**, will be made available to the public.)

P.C. § 626.81 (New): *Trespass on School Grounds by Sex Offenders:*

A person required to register as a sex offender pursuant to **P.C. § 290** is prohibited from coming into a school building or onto school grounds without lawful business and without the written permission of the chief administrative official of the school.

Misdemeanor: First offense; 6 months, \$500. Second offense; between 10 days and 6 months, \$500. A third or subsequent offense; between 90 days and 6 months, \$500.

P.C. § 653b (Renumbered from P.C. § 653g and Amended; Effective 9/20/06): *Loitering Near a School or Other Public Place Where Children Congregate:*

Any person who loiters about any school or public place at or near which children attend or normally congregate and who reminds or who reenters or comes upon such school or place within 72 hours after being asked to leave by one of the persons described in the section, is a vagrant.

Misdemeanor: 6 months, \$1,000 fine.
For a registered sex offender: First offense; 6 months, \$2,000.
Second offense; 10 days to 6 months, \$2,000. Third or subsequent offense; 90 days to 6 months, \$2,000.

P.C. § 653c (New; Effective 9/20/06): *Trespass on Day Care or Residential Facility for Elder or Dependent Adults by Sex Offenders:*

Subd. (a): A registered sex offender (per **P.C. § 290**; other than a resident of the facility), whose registerable offense was committed against an elder or dependent adult (per **P.C. § 368**), is prohibited from entering or remaining on the grounds of a day care or residential facility where elders or dependent adults are regularly present or living, without having registered with the facility administrator or his or her designees, except to proceed expeditiously to the office of the facility administrator or designee for the purpose of registering.

Subd. (b): Registration includes the fact that the person is a registered sex offender, his or her name, address, purpose for entering the facility, and proof of identity.

Subd. (c): Grounds for refusing to register, or to impose restrictions on, or revoke registration: A reasonable basis for concluding that the person's presence or acts would (1) disrupt, or have disrupted, the facility, any resident, employee, volunteer, or visitor; (2) result, or has resulted, in

damage to property; (3) interfere, or has interfered, with the peaceful conduct of the activities of the facility; *or* (4) otherwise place at risk the facility, or any employee, volunteer or visitor.

Subd. (d): Misdemeanor: First offense; 6 months, \$2,000, with a minimum of 10 days for a second offense and 90 days for a third or subsequent offense.

P.C. § 667.5 (Amended; Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06): *Violent Felonies:*

The list of “*violent felonies*,” important for sentence enhancement purposes, has been expanded to include a number of serious sex offenses:

P.C. § 286(c)(1): Sodomy on a child under age 14 and more than 10 years younger than the defendant.

P.C. § 286(c)(3): Sodomy by threat to retaliate.

P.C. § 286(d): Sodomy in concert by threat to retaliate.

P.C. § 288a(c)(1): Oral copulation on a child under age 14 and more than 10 years younger than the defendant.

P.C. § 288a(c)(3): Oral copulation by threat to retaliate.

P.C. § 288a(d): Oral copulation in concert by threat to retaliate, and oral copulation in concert where the victim is incapable of giving legal consent.

P.C. § 288(b)(2): Lewd act on a dependent person by a caretaker.

P.C. § 289(a)(2): Sexual penetration by threat to retaliate.

P.C. § 289(j): Sexual penetration of a child under age 14 and more than 10 years younger than the defendant.

P.C. § 12022.3(a) sex offenses: Use of a firearm during.

P.C. § 12022.8 sex offenses: During which great bodily injury is inflicted.

P.C. § 220: Clarifying that all § 220 offenses are included.

P.C. § 3000 (Amended; Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06): *Parole:*

When a person is found to be a “*sexually violent predator*,” parole is tolled until that person is found to no longer be a sexually violent predator. Parole is increased from five years (with the possibility of a five-year extension) to a full 10 years for defendants serving life sentences pursuant to **P.C. § 667.61** (one strike sex offender) or **P.C. § 667.71** (habitual sex offender). A parolee subject to a 10-year period of parole may not be retained on parole or in custody for more than 15 years from the date of initial parole.

See also **W&I § 6601 (Amended)** for a similar tolling of the parole period while being treated at as a sexually violent predator.

P.C. § 3000.07 (New; Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06): *Parolees and GPS Monitoring:*

Requires all parolees whose conviction was for a felony offense specified in **P.C. § 290(a)(2)(A)** (i.e., sex registration required) to be monitored by a “*global positioning system*” (GPS) while on parole. The parolee is to pay the GPS costs unless the Department of Corrections and Rehabilitation waives all or a part of the payment upon a finding of inability to pay.

P.C. § 3004 (Amended; Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06), provides the same thing, but specifies that the monitoring is for life.

P.C. § 3001 (Amended; Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06): *Presumptive Parole Periods for One Strike Sex Offenders and Habitual Sex Offenders:*

The presumptive parole period for **P.C. § 667.61** parolees (one strike sex offenders) and **P.C. § 667.71** parolees (habitual sex offenders) is increased from 3 to 6 years.

P.C. § 3003.5 (Amended; Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06): *Sex Offenders Living Within 2,000 Feet of School or Park:*

Amendment prohibits any person for whom **P.C. § 290** sex offender registration is required (i.e., *all sex registrants*) from residing within 2,000 feet of any public or private school, or park where children regularly gather. The section provides that a municipal jurisdiction may enact a stricter local ordinance.

Note: Enforcement of this section is stayed pending litigation.

P.C. § 3003(g)(1) and (2), prohibiting *sex-offender parolees* from living within a quarter of a mile, or half a mile, from schools, is deleted with enactment of this section.

P.C. § 3072 (New; Effective 9/20/06): *High Risk Sex Offenders; Treatment:*

New section establishes of a pilot treatment program for high risk sex offender inmates.

P.C. § 3053.6 (New): *Registered Sex Offender/Parolee to Have No Contact with Victim:*

A parolee whose crime is one for which registration as a sex offender is required (per **P.C. § 290**) may be prohibited as a condition of parole, in an “*appropriate case*,” from contacting or communicating with the victim of the crime or any of the victim’s family members. Such a condition *must* be imposed if the victim or an immediate family member requests it. If there is a dispute between the parents or guardians of a minor victim as to whether there should be no contact or no communication, the Board of Parole Hearings must hold a hearing to litigate the issue.

P.C. § 12022.75 (Amended Effective 9/20/06): *Administration of Drugs to Commit Felony:*

New **subd. (b)** provides a 5-year enhancement for administering drugs to a victim for the purpose of committing a sexual assault; i.e., rape (**P.C. §§ 261(a)(3)** or **261(a)(4)**); sodomy (**P.C. §§ 286(f)** or **286(i)**); oral copulation (**P.C. §§ 288a(f)** or **288a(i)**); sexual penetration (**P.C. §§ 289(d)** or **289(e)**), and any offense specified in the one strike sex offender law (**P.C. § 667.61(c)**).

Note: A 3-year enhancement, per **subd. (a)**, applies to all other felonies.

Welf. & Inst. Code § 6600 (Amended; Effective 9/20/06): *Sexually Violent Predators; Qualifying Convictions:*

The list of qualifying convictions for the purpose of determining whether a person is a “*sexually violent predator*” is expanded by adding (1) a prior conviction for a sexually violent offense for which the person was committed to the Department of the Youth Authority pursuant to **W&I § 1731.5**, and (2) a prior conviction for a sexually violent offense that resulted in an indeterminate prison sentence.

Expands the list of sexually violent offenses (i.e., **P.C. §§ 261, 262, 286, 288a, and 289**) beyond those committed by force or violence to add offenses committed by “*a threat to retaliate*.” Also added are **P.C. §§ 207 and 209** (kidnappings, if committed with the intent to commit a sex crime), **P.C. § 220** (assault with intent to commit a sex crime), **P.C. § 269** (aggravated sexual assault of a child), and **P.C. § 288.5** (continuous sexual abuse of a child).

Effective via Prop. 83; Jessica’s Law, Effective 11/8/06: The number of qualifying sexually violent offenses that are required in order for a person to be found to be a sexually violent predator is reduced from 2 to 1.

Welf. & Inst. Code § 6600.1 (Amended; Effective via Prop. 83; Jessica’s Law, Effective 11/8/06): *Sexually Violent Predators; “Substantial Sexual Contact:”*

Amendment eliminates the requirement that a sex act perpetrated on a child under the age 14 involve “*substantial sexual conduct*” in order for the prior conviction to qualify as a sexually violent offense.

Welf. & Inst. Code § 6600.1 (Amended; Effective 9/20/06, and Prop. 83; Jessica’s Law, Effective 11/8/06): *Sexually Violent Predators; Indeterminate Sentence:*

Amendment increases the term for a person found to be a sexually violent predator from 2 years to an indeterminate term.

See also “*Child Molest,*” above.

Smoking:

Labor Code § 6404.5 (Amended): *Smoking in Enclosed Places:*

The section that prohibits smoking in an enclosed place at a place of employment is amended to add a definition of “*enclosed place,*” to include a lobby, lounge, waiting area, elevator, stairwell, or restroom that is a structural part of a building,

Infraction: First offense, \$100. Second offense within a year, \$200. Third or subsequent offense within a year, \$500.

P.C. § 308 (Amended): *Tobacco; Furnishing to Minors:*

The crime of selling, giving, or furnishing any tobacco, cigarette, or cigarette papers to a minor has been expanded to include “*blunts wraps.*” A “*blunts wrap*” is defined as cigar papers or cigar wrappers of all types that are designed for smoking or ingestion of tobacco products and contain less than 50% tobacco.

Misdemeanor: First offense; \$200. Second offense; \$500. Third offense; \$1,000.

Students:

Ed. Code § 67362 (New): *Intercollegiate Athletics Eligibility for Persons Convicted of Listed Crimes:*

New section provides that University of California, California State University, or Community College students convicted as an adult and while a student, of any of the below listed crimes, until after completion of probation or parole, are ineligible to participate in any intercollegiate athletic event. This restriction applies to students convicted of murder (P.C. § 187), attempted murder (P.C. §§ 664/187), aggravated kidnapping (P.C. § 209), posing as a kidnapper (P.C. § 210), robbery (P.C. § 211), assault with intent to commit mayhem or a listed sex crime (P.C. § 220), battery on a sports official (P.C. § 243.8), assault with a deadly weapon or by force likely to produce great bodily injury (P.C. § 245), a listed sexual assault (per P.C. §§ 261, 262, 264.1, 286, 288, 288a, 288.5, or 289), or burglary (P.C. § 459).

P.C. § 245.6 (New): *Hazing:*

Commission of “hazing” by anyone (not limited to a student) is illegal.

“Hazing” is defined in the section as any method of initiation or pre-initiation into a student organization, whether or not the organization is officially recognized by a school, which is likely to cause serious bodily injury to any former, current, or prospective student of any school.

Felony (wobbler): Personally engaging in hazing that results in death or serious bodily injury as defined in P.C. § 243(f)(4); 16 months, 2 or 3 years, \$10,000, or one year, \$1,000.

P.C. § 243(f)(4) defines “*serious bodily injury*” as including, but not limited to, loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; or serious disfigurement.

Misdemeanor: Hazing that does not result in serious bodily injury; one year, from \$100 to \$5,000.

A hazing victim also has a civil cause of action for injury or damages against any participant in the hazing, or any organization to which the student is seeking membership whose agents or

officers authorized, requested, commanded, or participated in, the hazing.

Note: Also provides that this bill is known as “*Matt’s Law*,” in memory of Matthew William Carrington, who died on February 2, 2005, as a result of hazing.

Replaces the misdemeanor crime of Hazing by a student, formerly in **Ed. Code §§ 32050 and 32051 (Repealed)**.

Theft:

P.C. § 490.7 (New): *Taking Free Newspapers Without Permission:*

Taking more than 25 copies of the current issue of a free newspaper, without permission and with the intent to recycle the newspapers for payment, to sell or barter the newspapers, to deprive others of the opportunity to read the newspapers, or to harm a business competitor.

Infraction: \$250 fine. A second or subsequent offense is a misdemeanor/infraction; 10 days, \$500 fine, with community service (20 hours for an infraction, 40 days for a misdemeanor) in lieu of punishment in the court’s discretion.

A conviction *does not* constitute a petty theft conviction. (Thus, it does *not* make a subsequent theft a felony, per **P.C. § 666**.)

Defines an issue as “*current*” if no more than half of the period of time until distribution of the next issue has passed.

Note: Someone in Sacramento has *way* too much time on their hands.

P.C. § 530.5(e) (New): *Mail Theft:*

Committing “*mail theft*,” as defined by **18 U.S.C. § 1705**.

Misdemeanor; 6 months, \$1,000.

Note: **18 U.S.C. § 1705** does not prohibit the theft of mail, per se, but rather deals with the destruction of mail boxes and “willfully or maliciously injuring, defacing or destroying any mail deposited therein.” So it is unknown what was intended by this new subdivision to **P.C. § 530.5**.

Vehicle Code Violations:

V.C. § 2800 (Amended): *Refusing to Comply with an Order of a Law Enforcement Officer:*

New subd. (d) adds authorized employees of the California Highway Patrol to those persons (uniformed peace officers) whose lawful out-of-service orders to motor carriers must be obeyed. It is unlawful to fail or refuse to comply with a lawful out-of-service order issued by a peace officer or commercial vehicle inspector of any state or any Province of Canada, or the Federal Government of the United States, Canada, or Mexico, when the officer or inspector is in uniform and the out-of-service order complies with the Code of Federal Regulations.

Misdemeanor: 6 months, \$1,000.

V.C. § 40303 (Amended) provides that an arresting officer may give the defendant a 10-day notice to appear for a violation of this section (as well as for **V.C. § 2800(c)**) and requires the defendant to provide a thumbprint on the notice, rather than take the defendant before a magistrate.

V.C. § 2800.4 (New): *Evading:*

It is illegal to willfully flee or attempt to elude a pursuing peace officer in violation of **V.C. § 2800.1**, while driving the vehicle in a direction opposite to that in which the traffic lawfully moves (i.e., driving on the wrong side of the road).

Felony (wobbler): 16 months, 2 or 3, \$10,000; or from six months and one year, \$1,000 to \$10,000.

V.C. § 13202.6 (Amended): *Suspension of the Privilege to Drive for Persons Convicted of Vandalism:*

A court must suspend the driving privilege from one to “not more than two years” when a person 13 years of age or older commits specified vandalism or graffiti crimes. If the violator has not yet obtained the privilege to drive, the delay in the privilege to drive is increased from one year to a range of one to three years.

V.C. § 13352.1 (Amended): *Driver’s License Suspensions for DUI Defendants:*

Amendment increases the driver’s license suspension period from 6 to 10 months for a first violation of **V.C. § 23152** (driving under the influence

without injury) where the defendant had a blood alcohol level of 0.20% or more, or refused to take a chemical test.

V.C. § 13353.2 (Amended): *Driver's License Suspensions for DUI Defendants Driving Commercial Vehicles:*

Amendment requires the Department of Motor Vehicles to immediately suspend the commercial driver's license of a person who drives a commercial vehicle with a blood alcohol level of 0.04% or more.

V.C. § 13390 (Repealed): *Persons under 21 Driving with .01% or Higher as a Civil Offense Only:*

The provision providing that a violation of **V.C. § 23136** (driving a vehicle with a blood alcohol concentration of 0.01% or greater while under age 21) was not an infraction or a public offense, but rather a civil offense only, is repealed.

The repeal of this section means that **V.C. § 23136** is now punishable as an infraction pursuant to **V.C. § 42001**; i.e., by a fine of up to \$100 for a first violation, \$200 for a second violation within one year, and \$250 for a third or subsequent violation within one year. (See below)

V.C. § 16502 (Amended): *Proof of Insurance:*

Amended section requires that a motor vehicle from another country be denied entry into California if there is no evidence of financial responsibility.

V.C. § 17300 (Amended): *Damaging Memorial Signs:*

Willfully damaging or destroying a memorial sign placed by the Department of Transportation, including a sign memorializing a drunk driving victim pursuant to **Str. & Hwy. Code § 101.10**, is liable for that damage or destruction in the amount of \$1,500 or the actual repair or replacement cost, whichever is highest.

V.C. § 21070 (New): *Unsafe Operation of a Motor Vehicle Resulting in Injury:*

The unsafe operation of a motor vehicle, violating any infraction provision of Division 11 of the Vehicle Code (Rules of the Road: **V.C. §§ 21000–23336**), and proximately causing bodily injury or great bodily injury, is an infraction.

Infraction: Causing bodily injury; \$70. Causing great bodily injury per **P.C. § 12022.7**; \$95. (**V.C. § 42001.19 (New)**)

V.C. § 21706.5 (New): *Unsafe Operation of a Motor Vehicle in an Emergency Incident Zone:*

Operating a vehicle in an unsafe manner within an “*emergency incident zone*” constitutes an infraction. (**Subd. (b)**)

Subd. (a)(1): Defines an “*emergency incident zone*” as an area on a freeway that is within 500 feet of, and in the direction of travel of, a stationary emergency vehicle that has its emergency lights activated.

Subd. (a)(2): “*Operate a vehicle in an unsafe manner*” means operating a motor vehicle in violation of a provision in **V.C. §§ 21000 to 23336**, except a violation of **V.C. § 21809** (see below).

Infraction: First offense; \$100. Second offense within one year; \$200. Third or subsequent offense within one year; \$250.

V.C. § 21712 (Amended): “*Trunking.*”

Adding to the existing provision prohibiting the riding in a motor vehicle in locations not intended for passengers, **new subd. (c)** prohibits a person from driving a vehicle while knowingly permitting a person to ride in the trunk (commonly known as “*trunking*”). **New subd. (d)** prohibits anyone from riding in the trunk of a vehicle.

Infraction: First offense; \$100. Second offense within one year; \$200. Third or subsequent offense within one year; \$250.

V.C. § 21809 (New): *Move Over or Slow Down When Approaching Emergency Vehicle or Tow Truck:*

When approaching a stationary emergency vehicle on a freeway displaying emergency lights, or a stationary tow truck that is displaying flashing amber warning lights, a driver of a motor vehicle is required to approach with due caution and either change into an available lane that is not immediately adjacent to the emergency vehicle or tow truck, or, if a lane change is not safe, slow to a reasonable and prudent speed that is safe for existing conditions.

Infraction: First offense; \$100. Second offense within one year; \$200. Third or subsequent offense within one year; \$250.

V.C. § 22658 (Amended): *Towing from Private Property:*

Amendments to this section add some new misdemeanor crimes and other requirements, intended to curb unfair and predatory towing practices from private property (i.e., “*patrol towing*”) and the resulting unfair fees to vehicle owners:

Subd. (a)(1): The owner or person in possession of private property must add the name and telephone number of each towing company that is a party to a written towing authorization agreement with the property owner or possessor to the sign which is posted warning that vehicles will be removed at the vehicle owner’s expense.

Subd. (g): A tow truck driver or towing company failing to release a vehicle not yet removed from private property, upon the request of the vehicle’s owner or agent, is guilty of a misdemeanor.

Subd. (j): It is a misdemeanor to (1) knowingly charge an excessive rate for towing or storage; or (2) for a tow operator to fail to make available his or her tow rate within 24 hours of a request by law enforcement, the Attorney General, a district attorney, or a city attorney.

Subd. (k): It is a misdemeanor for a vehicle storage operator to (1) refuse to accept a valid credit card or (2) fail to post the required notice that all valid credit cards and cash are acceptable means of payment.

Subd. (l): It is a misdemeanor for a towing company to remove a vehicle without first obtaining written authorization from the property owner. It is also required for a tow company to provide to the vehicle owner a photocopy of the written authorization and a notice that includes the telephone numbers of the local law enforcement agency and prosecuting agency so the vehicle owner knows who to contact if he or she believes the vehicle was wrongfully towed.

Subd. (m): It is a misdemeanor for a towing company to fail to notify the local law enforcement agency within 60 minutes of removing a vehicle from private property, or within 15 minutes after arriving at a vehicle storage facility, whichever time is less. Also, a towing company is civilly liable to the vehicle owner for three times the amount of the towing and storage charges if it fails to notify the local law enforcement agency within 30 minutes of removing a vehicle from private property.

Misdemeanor: 3 months in county jail, \$2,500 fine.

V.C. § 40000.14 (Amended) elevates **subds. (g), (j), (k), (l) and (m)** of **V.C. 22658** to misdemeanors instead of infractions.

V.C. § 22658.2; *Removal from Common Interest Development*, is repealed.

V.C. § 22953 (Amended): *Towing from Private Property When Blocking an Entrance/Exit:*

Amendment allows for a vehicle to be removed immediately from private property if it is parked in a manner that interferes with an entrance to, or exit from, the private property.

V.C. § 23105 (New): *Reckless Driving Causing Serious Injury:*

Reckless driving in violation of **V.C. § 23103** and proximately causing a specified injury to another person.

Felony (wobbler): 16 months, 2 or 3, \$10,000; or 30 days to 6 months, \$220 to \$1,000 fine.

The specified injuries are; “loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of a bodily member or organ, a wound requiring extensive suturing, serious disfigurement, brain injury, or paralysis.”

V.C. § 23109.1 (New): *Speed Contest Causing Serious Injury:*

Engaging in a motor vehicle speed contest in violation of **V.C. § 23109(a)** and proximately causing a specified injury to another person.

Felony (wobbler): 6 months, 2 or 3 years, \$10,000; or 30 days to 6 months, \$500 and \$1,000 fine.

The specified injuries are; “loss of consciousness, a concussion, a bone fracture, a protracted loss or impairment of function of a bodily member or organ, a wound requiring extensive suturing, a serious disfigurement, a brain injury, or paralysis.”

V.C. § 23123 (New; Effective 7/1/08): *Driving While Talking on Cell Phones:*

It will be an infraction (beginning 7/1/08) to drive a motor vehicle while using a wireless telephone unless the telephone is designed for hands-free listening and talking, and is used in that way while driving. Excepted from the section's restrictions are emergency calls, calls made by emergency services professionals while operating an emergency vehicle, or when driving a vehicle on private property.

Infraction: First offense; \$20. Second or subsequent offense; \$50.

Until 7/1/11, this new crime does *not* apply to a person using a digital two-way radio that uses a wireless telephone operated by depressing a push-to-talk feature and does not require immediate proximity to the user's ear, if the person is driving a commercial vehicle, a farm vehicle, or a tow truck.

V.C. § 23136 (Amended): *Person under the Age of 21 Driving with a .01% Blood/Alcohol:*

This offense is raised from a civil violation to an infraction.

Infraction: First offense; \$100. Second offense within one year; \$200. Third or subsequent offense within one year; \$250.

See **V.C. § 13390 (Repealed)**, above.

V.C. § 24400 (Amended): *Use of Headlights in Inclement Weather or Darkness:*

The section was clarified to reflect the legislative intent that a motor vehicle be operated with at least two headlights "*during darkness, or inclement weather, or both.*"

The definition of "*inclement weather*" remains the same: A condition that prevents a driver from seeing a person or another motor vehicle from a distance of 1,000 feet, or a condition requiring windshield wipers to be in continuous use because of rain, mist, snow, fog, or moisture.

Infraction: First offense; \$100. Second offense within one year; \$200. Third or subsequent offense within one year; \$250.

V.C. § 38504.1 (New): *Allowing a Child to Illegally Operate an All-Terrain Vehicle:*

A parent, guardian, or other adult authorized to supervise a child under the age of 14, permitting or knowingly allowing such child to operate an all-terrain vehicle in violation of **V.C. § 38504**, is guilty of an infraction.

Infraction: First offense; \$125 (or take an all-terrain vehicle safety course). Second offense; \$250. Third or subsequent offense; \$500.

V.C. § 38504 requires a child under the age of 14 years who operates an all-terrain vehicle on public land (1) to be accompanied by and under the direct supervision of a parent or guardian or be accompanied by and under the direct supervision of an adult who is authorized by the parent or guardian; and (2) to have in his or her possession an appropriate safety certificate, or be taking a safety training course under the direct supervision of a certified all-terrain vehicle safety instructor, or be under the direct supervision of an adult who has in his or her possession an appropriate safety certificate.

V.C. § 38504.2 (New) authorizes a court to order a child under the age of 14 who has violated **V.C. § 38504**, and a parent, guardian, or authorized adult who has violated **V.C. § 38504.1**, to attend an all-terrain vehicle safety course together.

Victims:

P.C. § 679.08 (New): *Victim's Rights Card:*

New section authorizes a law enforcement officer assigned to a case to provide a crime victim with a "*Victim's Rights Card.*" This section is operative in a city or county only if the city council or Board of Supervisors adopts a resolution to make this section operative. Requires that the Victim's Rights Cards notify victims that they may be entitled to the assistance of a victim advocate and provide the phone numbers of all victim advocate agencies in the local jurisdiction.

P.C. § 1127h (New): *The Gwen Araujo Justice for Victims Act; Jury Instructions:*

If requested by a party, a trial court must instruct the jury in a criminal trial substantially as follows: "Do not let bias, sympathy, prejudice, or public opinion influence your decision. Bias includes bias against the victim or victims, witnesses, or defendant based upon his or her disability,

gender, nationality, race or ethnicity, religion, gender identity, or sexual orientation.”