

San Diego District Attorney

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Remember 9/11/01—Support our Troops

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THIS EDITION’S WORDS OF WISDOM:

“Other than that, Mrs. Lincoln, how did you like the show?” (Anonymous)

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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 2009. 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, 2010, unless otherwise indicated.

NEW AND AMENDED STATUTES:

Bribery:

P.C. § 641.3 (Amended; Effective 1/25/10): *Commercial Bribery:*

Subd. (b): The amount solicited, accepted, or agreed to accept, in money or other thing of value that is required to be a violation of this section, is over \$250 (raised from \$100).

Note: There is no crime if the amount is \$250 or less.

“*Commercial Bribery*” is the crime of an employee soliciting, accepting, or agreeing to accept money or other thing of value exceeding \$250, without the consent of the employer, in return for the employee using or agreeing to use his or her position for the benefit of the other person.

Misdemeanor: One year in county jail, \$1,000 fine

Felony (wobber): If the amount involved is in excess of \$1,000; Sixteen months, two or three years in prison; one year in county jail.

Discovery:

P.C. § 1054.3 (Amended): *Discovery*.

Subd. (b): When a defendant in a criminal action, or a juvenile in a **W&I § 602** juvenile proceeding, places in issue his mental state through the proposed testimony of any mental health expert, a trial court may, upon a timely request by the prosecution, order the defendant or the juvenile to submit to an examination by a prosecution-retained mental health expert. The procedures and in-court hearing on this issue are delineated in the section.

Note: This discovery procedure, previously authorized under ***People v. Danis*** (1973) 31 Cal.App.3rd 782 (i.e., a “***Danis motion***”), was held to be in violation of **P.C. § 1054(e)** which mandates that **P.C. §§ 1054 et seq.**, enacted in 1990 as a part of **Proposition 115**, is the exclusive means of discovery that is allowed under California law. (See ***Verdin v. Superior Court [People]*** (2008) 43 Cal.4th 1096, 1116.) This amendment returns California to the pre-**Proposition 115** state of the law on this issue.

Elder Abuse:

P.C. § 368 (Amended; Effective 1/25/10): *Financial Elder Abuse*.

Subds. (d) & (e): The value of the money, labor, goods, services or property that must be exceeded for a felony violation of elder financial abuse has been increased to \$950 (raised from \$400).

See also **W&I § 15656**, to the same effect (Amended; Effective 1/25/10).

Felony: Two, three or four years, \$10,000 fine, with enhancements depending upon the age of the victim.

Misdemeanor: One year in county jail, \$6,000 fine.

Elections:

Elec. Code § 319.5 (New): *Electioneering*.

“*Electioneering*” is legally defined as the visible display or audible dissemination of information that advocates for or against any candidate or measure on the ballot, within 100 feet of a polling place, an election official’s office, or a satellite location. Prohibited information includes a display of a candidate’s name, likeness, or logo, the display of a measure’s

number, title, subject or logo, buttons, hats, pencils, pens, shirts, signs or stickers containing electioneering information, and dissemination of audible electioneering information.

Elec. Code § 18370 is the misdemeanor crime of “*electioneering*,” circulating a petition, or soliciting a vote within 100 feet of a polling place, an election official’s office, or a satellite location. This new section provides the definition of “*electioneering*.”

Misdemeanor: Six months, \$1,000 fine.

Elec. Code § 18370 (Amended): *Satellite Polling Location*.

Adds “*satellite polling locations*” to those places where electioneering, circulating a petition, or soliciting a vote is prohibited within 100 feet on election day.

Misdemeanor: Six months, \$1,000 fine.

Elec. Code § 18562.5 (New): *Illegal Actions by Election Observers*.

It is illegal, while observing the processing of vote-by-mail ballots, a semi-official or official canvass, or recount, to (1) attempt to ascertain the identity and ballot choices of a voter, or, knowing the voter’s identity, attempting to ascertain the ballot choices of that voter, (2) opening a provisional or vote-by-mail envelope in order to ascertain the voter’s ballot choices, and (3) making or placing a mark or device on a ballot or secrecy envelope in an effort to ascertain the voter’s ballot choices.

Misdemeanor: Six months in county jail \$1,000 fine.

Gambling:

P.C. § 336.9 (New): *Office Betting Pools*.

It is an infraction to participate in a non-commercial betting pool so long as no more than \$2,500 is at stake and the betting is not done over the Internet.

Note: This new section is intended to create a non-felony exception to the betting/wagering violations contained in **P.C. § 337a**, for an activity engaged in by many people; i.e., the “office betting pool.”

Infraction: \$50 fine.

P.C. § 337.4 (Amended; Effective 1/25/2010): *Touting*.

The threshold amount of money obtained that must be exceeded for the crime of “*touting*” has been increased to \$950 (raised from \$400), so that the person may be prosecuted for both this offense and grand theft, per **P.C. § 487**.

“*Touting*” is the crime of knowingly, and by false representation, persuading, procuring, or causing another person to bet on a horse in a race to be run in California or anywhere else, and upon which money is wagered in this state, and who asks or demands compensation for information or purported information.

Hate Crimes:

P.C. § 422.7 (Amended; Effective 1/25/10): *Hate Crimes*.

Subd. (b): The threshold amount of property damage that must be exceeded for a hate crime violation to be a felony (wobbler) was increased to \$950 (raised from \$400).

Felony (wobbler): Sixteen months, two or three years in prison, \$10,000, or one year in county jail, \$1,000 fine.

Identity Theft:

P.C. § 786 (Amended): *Jurisdiction of Crimes; Identity Theft*.

Subd. (b): Multiple offenses of the unauthorized use of personal identifying information (see **P.C. § 530.55**) involving the same defendant(s) and the same personal identifying information belonging to one person, or the same defendant(s) and the same scheme or substantially same activity, may all be tried in one county (i.e., the county where the theft of the personal identifying information occurred, the county in which the victim resided, or where the information was used for an illegal purpose). This jurisdiction further extends to all associated offenses connected together in their commission to the underlying identity theft offense(s).

Jails:

P.C. § 4600 (Amended): *Damage to Jail and Prison Property*:

Subd. (a): The amount of damage necessary to make the destroying or injuring a jail or a prison or public property in a jail or prison a felony is increased to \$950 (raised from \$400).

Felony: Sixteen months, two or three years in prison, \$10,000 fine.

Misdemeanor: Six month in county jail, \$1,000 fine.

Juveniles:

P.C. § 381c (New): *Furnishing Nitrous Oxide to Minors.*

Subd. (b): Selling, furnishing, administering, or giving away, or offering to do so, a device, canister, tank or receptacle exclusively containing nitrous oxide or exclusively a chemical compound mixed with nitrous oxide, to a minor, is illegal.

Subd. (c): It is a defense that the defendant honestly and reasonably believed that the minor was under the age of 18, but has the burden of proof on this issue by a preponderance of the evidence.

Subd. (d): Any person may refuse to sell, furnish, or give away nitrous oxide to anyone not able to produce adequate proof of majority.

Subd. (e): As of 7/1/10, a business owner may have his license suspended for violating this section with a prior.

Subd. (f) & (g): This section does not apply to nitrous oxide administered during medical or dental procedures, or when contained in food products as a propellant (e.g., whipped cream).

Subd. (a): “Nitrous Oxide” is N₂O, or dinitrogen monoxide, dinitrogen oxide, nitrogen oxide, or laughing gas.

Mortgages:

B&P § 10085.6 (New; Effective 10/11/09): *Mortgage Loan Modification Services by Real Estate Licensees: Fees.*

Real Estate Licensees negotiating or arranging mortgage loan modifications or forbearance for a fee may not demand nor receive a fee for such services until after performing such services.

Applies only to mortgages and deeds of trust secured by residential real property containing four or fewer dwelling units.

Misdemeanor: One year in county jail, \$10,000 fine (\$50,000 fine for a corporation).

B&P § 10147.6 (New; Effective 10/11/09): *Mortgage Loan Modification Services: Necessary Notifications.*

Real Estate Licensees negotiating or arranging mortgage loan modifications or forbearance for a fee must provide the borrower with written notification that such services may be arranged directly through the lender or any non-profit housing counseling agencies approved by the U.S. Department of Housing and Urban Development (HUD)

Applies only to mortgages and deeds of trust secured by residential real property containing four or fewer dwelling units.

Misdemeanor: One year in county jail, \$10,000 fine (\$50,000 fine for a corporation).

Civil Code § 2944.6 (New; Effective 10/11/09): *Mortgage Loan Modification Services: Necessary Notifications*

Persons negotiating or arranging mortgage loan modifications or forbearance for a fee must provide the borrower with written notification that such services may be arranged directly through the lender or any non-profit housing counseling agencies approved by the U.S. Department of Housing and Urban Development (HUD)

Misdemeanor: One year in county jail, \$10,000 fine (\$50,000 fine for a business entity).

B&P 6106.3 (New; Effective 10/11/09): It is cause for discipline for a lawyer to violate this section.

Civil Code § 2944.7 (New; Effective 10/11/09): *Mortgage Loan Modification Services: Fees*

Persons negotiating or arranging mortgage loan modifications or forbearance for a fee may not demand nor receive a fee for such services until after performing such services.

Misdemeanor: One year in county jail, \$10,000 fine (\$50,000 fine for a business entity).

B&P 6106.3 (New; Effective 10/11/09): It is cause for discipline for a lawyer to violate this section.

P.C. § 532f (New): *Mortgage Fraud.*

Subd. (a): Intentionally using a misrepresentation, misstatement, or omission, in the mortgage lending process, or facilitating its use, with the intent that it be relied upon by the lender, or receiving the funds as a result of the above, or filing with the county recorder any document in connection with a mortgage loan transaction knowing it contains a misrepresentation, misstatement, or omission (with a loss of over \$400, per **subd. (j)**).

Subd. (c): Provisions are included for a peace officer investigating mortgage fraud to obtain relevant real estate records via a court order, obtained upon the officer submitting an ex parte court application made under penalty of perjury, alleging that there is reasonable cause to believe that the records sought are material to an on-going investigation. Provisions are made for the sealing of such application and other procedures for obtaining the necessary records.

Subd. (g): Provides for an affidavit from the custodian of records authenticating the records, laying the foundation to meet any hearsay objections to admission of the records into evidence.

Subd. (h): Felony (wobbler): Sixteen months, two or three years, \$10,000 fine, or one year in county jail, \$1,000 fine

Peace Officers' Rights:

Gov't. Code § 3304 (Amended): *Statute of Limitations for Officers' Discipline.*

Requires that *notification*, rather than actual *imposition*, of discipline intended to be imposed by a public agency on a peace officer for the officer's misconduct, must be made within one year of the discovery of the misconduct.

Gov't. Code §§ 3410, 3411, & 3412 (New): *The California Golden Shield Act.*

Provides for the Governor to present a "Golden Shield" award to the next-of-kin or immediate family of every public service officer killed in the line of duty that year.

H&S Code § 121060 (Amended): *HIV Testing of Inmates.*

Custodial officers (per **P.C. §§ 831(a) & 831.5(a)**), custody assistants (per **P.C. § 831.7(a)**), and non-sworn uniformed employees of a law enforcement agency whose job includes the care and control of inmates in

a detention facility are added to the list of persons who may petition the court to have an arrestee's blood tested for HIV, Hepatitis B, or Hepatitis C, when exposed to the arrestee's blood or other bodily fluids, within the scope of their duties.

P.C. § 12027.1 (Amended): *Retired Peace Officers Right to Carry Firearms.*

Subd. (a)(1)(C): The section was amended to provide for an immediate, although temporary, suspension of a retired officer's right to carry a concealed and loaded firearm when the conduct of the retired officer compromises public safety. The retiree has 15 days to respond to a notice of suspension and request a hearing or the suspension will become permanent. The hearing must be held within 120 days where, if "good cause" for the suspension is found, the suspension will become permanent.

Restraining Orders:

Code Civ. Proc. 527.85 (New): *Restraining Orders & Injunctions Protecting Students on Private, Postsecondary Schools.*

Subd. (a): Authorizes a private, postsecondary educational institution to seek a temporary restraining order and injunction on behalf of a student or, at the discretion of the court, any number of other students, when a student has suffered a credible threat of violence off campus which can reasonably be construed to be carried out, or to have been carried out, at the campus.

Subd. (b): Provides relevant definitions, including:

(3): "*Credible Threat of Violence:*" A knowing or willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(4): "*Postsecondary Educational Institution:*" A private institution of vocational, professional, or postsecondary education.

(5): "*Student:*" An adult currently enrolled in, or applying for admission to, a postsecondary educational institution.

Subd. (c): Restricts the use of the section from prohibiting constitutionally protected activities.

Subd. (d): Provides for the issuing of a temporary restraining order in accordance with **CCP § 527(c)** and an affidavit showing reasonable proof that a student has suffered a credible threat of violence off campus by the listed defendant, and that great or irreparable harm would result to the

student. The order may also restrain other named family or household members or other students. A 15-day temporary restraining order may then issue.

Subd. (e): Provides for an evidentiary hearing within 15 days, and, upon a showing of clear and convincing evidence, an injunction lasting up to three years may issue, and may be extended upon the filing for a new injunction.

Subd. (f): Representation by counsel allowed, but not required.

Subd. (g): Provides for the service of notice to the defendant of the filing of a petition, and of a hearing, with at least five days notice.

Subd. (h): Provides for the necessary service of notice of issuance of a temporary restraining order or injunction upon the defendant. When a law enforcement officer determines that an order has been issued, but not served, the officer shall immediately notify the defendant of the terms of the order and obtain the defendant's address, after which the plaintiff shall mail an endorsed copy of the order within one business day to the address supplied. Verbal notice of the terms of the order shall constitute service of the order. While the order may be enforced, no arrest shall be made for incidents occurring prior to the provided notice.

Subd. (i): Prohibits a person who is the subject of such a protective order from owning, possessing, purchasing or receiving, or attempting to do so, a firearm. Any firearms owned or possessed must be relinquished, per CCP § 527.9, with violations punishable per P.C. § 12021(g).

P.C. § 12021(g): Felony (wobbler): Sixteen months, two or three years in prison, \$10,000 fine, or one year in county jail, \$1,000 fine.

Subd. (j): Violations of a temporary restraining order or injunction issued per this section is punishable per P.C. § 273.6.

P.C. § 273.6(a), (b): Misdemeanor: One year in county jail, \$1,000 fine (30 days to one year, \$2,000 fine, if victim injured).

Subd. (k): Duty of school administrators to provide a safe school environment.

Subd. (l)-(m): Necessary forms to be developed by the Judicial Council.

Subd.: (n): Information to be transmitted to the Dept. of Justice.

Subd. (o)-(p): Fees.

P.C. § 836 (Amended): *Mutual Restraining Orders*:

Subd. (c)(3): Authorizes a peace officer to arrest the “*dominant aggressor*” (as opposed to the “*primary aggressor*”) where there are mutual restraining orders in effect.

Note: Per the legislative history, the “*dominant aggressor*” is the person determined to be the most significant, rather than necessarily the first, aggressor.

Schools:

Ed. Code § 48902 (Amended): *Reporting School Crimes*.

The principal of a school must report any act described in **Ed. Code, § 48915(c)(1)-(5)** committed by anyone on school grounds, to the local law enforcement agency with jurisdiction over the school, and to the school’s security department, if any.

Ed. Code, § 48915(c)(1)-(5) describes the acts of possessing, selling, or furnishing a firearm, brandishing a knife, unlawfully selling a controlled substance, committing or attempting to commit a sexual assault or sexual battery, or possessing an explosive.

Infraction: \$500 fine.

P.C. § 626.10 (Amended): *Weapons on School Grounds*.

New **subd. (a)(2)** adds razor blades and box cutters which it is illegal to bring onto, or possess while on, a public or private school campus, grades K through 12, with listed exceptions.

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

See also **Code Civ. Proc. 527.85**, under “*Restraining Orders*,” above.

Search Warrants:

P.C. § 1524 (Amended): *Grounds for Issuance of a Search Warrant*:

The grounds for issuance of a search warrant, under **subd. (a)**, were expanded to include:

Sub. Para. (9): When the property or things to be seized include a firearm or any other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in **P.C. § 12028.5(b)**. This section does not affect warrantless seizures already authorized under the statute.

Sub. Para. (10): When the property or things to be seized include a firearm or any other deadly weapon that is owned by, or in possession of, or in the custody or control of, a person described in **W&I § 8102(a)**.

W&I § 8102(a) lists any person who:

- Has been detained or apprehended for examination of his or her mental condition (e.g., per **W&I § 5150**); *or*
- Is a person described in **W&I § 8100 ((a) mental patients receiving inpatient treatment, *or* (b) mental patients after having communicated a threat to a psychotherapist.)**
- Is a person described in **W&I § 8103 ((a) persons adjudicated to be a danger to others or as a mentally disordered sex offender, *or* (b) persons found to be not guilty by reason of insanity in serious cases, *or* (c) persons found to be not guilty by reason of insanity in other cases, *or* (d) persons found mentally incompetent to stand trial, *or* (e) persons placed under conservatorship, *or* (f) persons taken into custody as a danger to themselves or others, *or* (g) persons certified for intensive treatment.)**

Sub. Para. (11): When the property or things to be seized include a firearm that is owned by, or in possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to **Fam. Code § 6389**, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to **Fam. Code § 6218**, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

Sex Offenses:

P.C. § 290.011 (Amended): *Sex Offenders.*

Subd. (a): Amendment clarifies that a transient sex offender who is convicted in another jurisdiction and enters California must register within five working days with the chief law enforcement officer (police chief or sheriff) with jurisdiction over the area where the offender is present.

P.C. § 290.95 (Amended): *Sex Offenders Working with Children.*

Subd. (d): “*Working directly and in an unaccompanied setting*” with children includes, but is not limited to, providing goods or services to minors.

Terrorism:

P.C. § 11411 (Amended): *Hanging a Noose with Intent to Terrorize.*

Subd. (a): Adds the new crime of hanging a noose, knowing it to be a symbol representing a threat of life, on the private property of another without authorization for the purpose of terrorizing the owner or occupant of private property or in reckless disregard of the risk of terrorizing the owner or occupant of that private property, or hanging a noose on the property of a primary school, junior high school, high school, college campus, public park, or place of employment, for the purpose of terrorizing any person who attends, works at, or is otherwise associated with, the above listed schools, park or place of employment.

Former **subds. (a)-(c)** are renumbered to **(b)-(d)**.

Misdemeanor: One year in county jail, \$5,000 fine for first offense. One year in county jail, \$15,000 fine for each subsequent offense.

Theft Offenses:

P.C. § 476a (Amended; Effective 1/25/10): *Non-Sufficient Fund Checks.*

The aggregate amount of worthless or non-sufficient fund checks that must be exceeded for a felony (wobbler) violation has been increased from \$200 to \$450 (except for with specified prior convictions).

Felony (wobbler): Sixteen months, two or three years, \$10,000 fine, or one year in county jail, \$1,000 fine.

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

P.C. § 484b (Amended; Effective 1/25/10): *Diverted Construction Funds.*

The amount of diverted construction funds that must be exceeded for a felony (wobbler) violation has been increased from \$1,000 to \$2,350.

Felony (wobbler): Sixteen months, two or three years, \$10,000 fine, or one year in county jail, \$1,000 fine.

Misdemeanor: Six months in county jail, \$1,000 fine.

P.C. § 484g (Amended; Effective 1/25/10): *Fraudulent Use of an Access Card.*

The value of fraudulently obtained money, services or goods with an access card that must be exceeded in a consecutive six-month period in order to constitute grand theft, a felony (wobbler) violation, has been increased from \$400 to \$950.

Felony (wobbler): Sixteen months, two or three years, \$10,000 fine, or one year in county jail, \$1,000 fine.

Misdemeanor: Six months in county jail, \$1,000 fine.

P.C. § 484h (Amended; Effective 1/25/10): *Fraudulent Acceptance of an Access Card by a Merchant.*

The value of fraudulently obtained money, services or goods with an access card by a merchant or other person upon the presentation of an access card known to be stolen, counterfeit, forged or expired, that must be exceeded in a consecutive six-month period in order to constitute grand theft, a felony (wobbler) violation, has been increased from \$400 to \$950.

Felony (wobbler): Sixteen months, two or three years, \$10,000 fine, or one year in county jail, \$1,000 fine.

Misdemeanor: Six months in county jail, \$1,000 fine.

P.C. § 487 (Amended; Effective 1/25/10): *Grand Theft.*

Subd. (b)(1)(A): The theft of domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops is a grand theft when the value exceeds \$250 (raised from \$100).

Subd. (b)(2): The theft of fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products, taken from a commercial or research

operation which is producing that product, is a grand theft when the value exceeds \$250 (raised from \$100).

Subd. (b)(3): The theft of money, labor, or real or personal property, when taken by a servant, agent or employee, from his or her principal or employer, and aggregates \$950 (raised from \$400) or more in any 12-month consecutive period, is a grand theft.

Felony (wobbler): Sixteen months, two or three years, \$10,000 fine, or one year in county jail, \$1,000 fine.

Misdemeanor: Six months in county jail, \$1,000 fine.

Note: The theft of any other money, labor, real or personal property (i.e., **Subd. (a)**), not described in the above listed subdivisions, remains a grand theft when the value exceeds \$400. Also, theft from the person (**subds. (c)**), and when certain listed animals or items are stolen (**subd. (d)**), remain felonies despite the value of the thing taken.

P.C. § 487b (Amended; Effective 1/25/10): *Grand Theft of Real Property by Conversion to Personal Property.*

The conversion of real property into personal property by severing the property from real estate with a fraudulent intent is a grand theft when the value of the property is \$250 or more (raised from \$100).

Felony: Sixteen months, two or three years, \$10,000 fine.

P.C. § 487c (Amended; Effective 1/25/10): *Petty Theft of Real Property by Conversion to Personal Property.*

The conversion of real property into personal property by severing the property from real estate with a fraudulent intent is a petty theft when the value of the property is less than \$250 (raised from \$100).

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

P.C. § 487e (Amended; Effective 1/25/10): *Grand Theft of a Dog.*

Feloniously stealing, taking, or carrying away a dog of another is a grand theft when the value of the dog exceeds \$950 (raised from \$400).

Felony (wobbler): Sixteen months, two or three years, \$10,000 fine, or one year in county jail, \$1,000 fine.

P.C. § 487f (Amended; Effective 1/25/10): *Petty Theft of a Dog*.

Feloniously stealing, taking, or carrying away a dog of another is a petty theft when the value of the dog does not exceed \$950 (raised from \$400).

Misdemeanor: Six months in county jail, \$1,000 fine.

P.C. § 487h (Amended): *Grand Theft of Cargo*.

Subd. (a): Feloniously stealing, taking, or carrying away cargo of another is a grand theft when the value of the cargo exceeds \$950 (raised from \$400), except as provided in **P.C. §§ 487** (grand theft, above), **487a** (theft of an animal carcass), and **487d** (theft of gold dust, etc.).

Subd. (b): “*Cargo*” is defined as “any goods, wares, products, or manufactured merchandise that has been loaded into a trailer, railcar, or cargo container, awaiting or in transit.

Felony (wobbler): Sixteen months, two or three years, \$10,000 fine, or one year in county jail, \$1,000 fine.

Misdemeanor: Six months in county jail, \$1,000 fine.

P.C. § 496 (Amended; Effective 1/25/10): *Possession of Stolen Property*.

Subd. (a): The felony (wobbler) offense of possession, buying or receiving stolen property is amended to allow the district attorney or the grand jury the option, in the interests of justice, to file the offense as a misdemeanor if the value of the possessed stolen property does not exceed \$950 (raised from \$400).

Subd. (b): A swap meet vendor or other person whose principle business is dealing in, or collecting merchandise or personal property, or agent, employee or representative of that person, receives property of a value in excess of \$950 (raised from \$400) that has been stolen or obtained in a manner constituting theft or extortion, under circumstances that should have caused that person to make reasonable inquiry as to the person’s right to possess such property, without making such inquiry, is guilty of a felony (wobbler). If involving property of a value of \$950 or less, the offense is a misdemeanor.

Felony (wobber): Sixteen months, two or three years in prison, or one year in county jail.

Misdemeanor: Six months in county jail, \$1,000 fine.

P.C. § 498 (Amended; Effective 1/25/10): *Theft of Utility Services*.

Subd. (d): Theft of utility services of a total value in excess of \$950 (raised from \$400) is a felony (wobbler).

The offense may also be a felony (wobbler) with any of the specified prior convictions.

Felony (wobber): Sixteen months, two or three years in prison, or one year in county jail.

P.C. § 500 (Amended; Effective 1/25/10): *Failure to Transmit Money to Foreign Countries*.

Subd. (b): Receiving money for the purpose of transmitting such money to a foreign country and failing to do so within 10 days is a felony if the amount of money involved is \$950 (raised from \$400) or more, from one victim, or the total money is from more than one victim but part of a common scheme or plan. The crime is a misdemeanor if less than \$950.

Felony: Sixteen months, two or three years in prison, \$10,000 fine.

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

P.C. § 502 (Amended; Effective 1/25/10): *Theft of Computer Services*.

Subd. (d)(2): A violation of **subd. (c)(3)**, knowingly and without permission using or causing to be used computer services, is a felony (wobbler) offense if the value of the services used exceeds \$950 (raised from \$400), or if the victim has to expend more than \$5,000 as a result, or where there is an injury, or for a second or subsequent conviction. Otherwise, the offense is a misdemeanor.

Felony (wobbler): Sixteen months, two or three years in prison, \$10,000 fine, or one year in county jail, \$5,000 fine.

Misdemeanor: One year in county jail, \$5,000 fine.

P.C. § 537 (Amended; Effective 1/25/10): *Defrauding the Innkeeper*.

Subd. (a): The value of credit, food, fuel, services, or accommodations unlawfully obtained is increased to over \$950 (raised from \$400) for a felony (wobbler) violation. For \$950 or less, the offense is a misdemeanor.

Felony (wobbler): Sixteen months, two or three years in prison, or one year in county jail.

Misdemeanor: Six months in county jail, \$1,000 fine.

P.C. § 537e (Amended; Effective 1/25/10): *Possession of Property with the Serial Number, Etc., Removed.*

Subd. (a): A person who knowingly buys, sells, receives, disposes of, conceals, or has possession of personal property from which the manufacturer's serial number, identification number, electronic serial number, or any other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed, is guilty of a public offense with the following potential punishments:

With the value of the property being \$950 (raised from \$400) or less; a misdemeanor, six months in county jail, \$1,000 fine.

With the value of the property being over \$950 (raised from \$400); a misdemeanor, one year in county jail, \$1,000 fine.

If the property is an integrated computer chip or panel of a value of \$950 (raised from \$400) or more; a felony (wobbler), sixteen months, two or three years in prison, \$10,000 fine, or one year in county jail, \$1,000 fine.

P.C. § 550 (Amended; Effective 1/25/10): *Insurance Fraud.*

Subd. (c)(2): The amount required to elevate a misdemeanor healthcare insurance fraud, as described in **subd. (a)(6)-(9)**, to a felony (wobbler) is over \$950 (raised from \$400). \$950 or less is a misdemeanor.

Felony (wobbler): Two, three or five years, \$50,000 fine, or one year in county jail, \$10,000 fine

Misdemeanor: One year in county jail, \$10,000.

Vehicle Impounds:

B&P § 7502.1 (Amended): *Impounding Tow Vehicles.*

A tow vehicle used in violation of the **Collateral Recovery Act (B&P §§ 7500-7511)** is subject to impoundment per **V.C. § 22850**.

Note: The “**Collateral Recovery Act**” regulates the activities of repossession agencies and their employees. Violating the “**Collateral Recovery Act**” is a misdemeanor.

VC § 23118 (New): *Warrants for Vehicles Violating B&P § 7502.1.*

A magistrate may issue a warrant or order authorizing a peace officer to seize and remove a vehicle upon reasonable cause to believe that the vehicle is being used in violation of **B&P § 7502.1** (above).

Vehicle Code Violations:

V.C. §§ 4461, 4463 (New): *Disabled Persons Placards.*

Provides that violations for the unauthorized use, lending or display of a disabled person placard may be handled by a city or county issuing a notice of a parking violation and to impose a civil penalty of from \$250 to \$1,000 in lieu of having these misdemeanor crimes prosecuted by a city or county prosecutor.

Enforcement of civil parking violations is governed by the procedures applicable to all other parking citations in **V.C. §§ 40200-40230**.

V.C. § 10851.5 (Amended; Effective 1/25/10): *Theft of Binder Chains.*

The value required for a misdemeanor violation of the theft of binder chains is increased to \$950 or less (raised from \$400 or less).

Misdemeanor: Six month, \$1,000 fine.

Note: The section makes no reference to a felony violation.

VC § 23118 (New): *Warrants for Vehicles Violating B&P § 7502.1.*

A magistrate may issue a warrant or order authorizing a peace officer to seize and remove a vehicle upon reasonable cause to believe that the vehicle is being used in violation of **B&P § 7502.1** (see “*Vehicle Impounds,*” above).

V.C. § 38304.1 (New): *Child Under 14 Operating Off-Road Vehicles.*

A parent or guardian, or adult authorized by a parent or guardian to supervise a child, allowing a child under the age of 14 to operate an off-highway motor vehicle when the child is unable to reach and operate all controls necessary to safely operate the vehicle (see **V.C. § 38304**).

Infraction: \$35 fine. \$35 to \$50 fine for a second conviction. \$50 to \$75 fine for a third or subsequent conviction.

Weapons & Ammunition:

Code Civ. Proc. 527.85 (New): *Restraining Orders & Injunctions Protecting Students on Private, Postsecondary Schools.*

Subd. (a): Authorizes a private, postsecondary educational institution to seek a temporary restraining order and injunction on behalf of a student or, at the discretion of the court, any number of other students, when a student has suffered a credible threat of violence off campus which can reasonably be construed to be carried out, or to have been carried out, at the campus.

Subd. (i): Prohibits a person who is the subject of such a protective order from owning, possessing, purchasing or receiving, or attempting to do so, a firearm. Any firearms owned or possessed must be relinquished, per CCP § 527.9, with violations punishable per P.C. § 12021(g).

P.C. § 12021(g): Felony (wobbler): Sixteen months, two or three years in prison, \$10,000 fine, or one year in county jail, \$1,000 fine.

See “*Restraining Orders,*” above.

Ed. Code § 48902 (Amended): *Reporting School Crimes.*

The principal of a school must report any act described in **Ed. Code, § 48915(c)(1)-(5)** committed by anyone on school grounds, to the local law enforcement agency with jurisdiction over the school, and to the school’s security department, if any.

Ed. Code, § 48915(c)(1)-(5) describes the acts of possessing, selling, or furnishing a firearm, brandishing a knife, unlawfully selling a controlled substance, committing or attempting to commit a sexual assault or sexual battery, or possessing an explosive.

Infraction: \$500 fine.

See “*Schools,*” above.

P.C. § 626.10 (Amended): *Weapons on School Grounds.*

New **subd. (a)(2)** adds razor blades and box cutters which it is illegal to bring onto, or possess while on, a public or private school campus, grades K through 12, with listed exceptions.

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

See “*Schools*,” above.

P.C. § 12020.1 (Amended): *Composite or Hard Wooden Knuckles.*

The mere *possession* of “*composite knuckles*” is added to the manufacturing, importing, or offering for sale of such an instrument (and, as already contained in the section, “*hard wooden knuckles*”), as a misdemeanor. The term “*composite knuckles*” replaces “*hard plastic knuckles*.” The definition of “*Composite knuckles*” is added, and is defined as any device or instrument made wholly or partially of composite materials other than a medically prescribed prosthetic, that is *not* a metal knuckle as defined in **P.C. § 12020(c)(7)**, that is worn for purpose of offense or defense in or on the hand, and that either protects the wearer’s hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow.

Misdemeanor: Six month in county jail, \$1,000 fine.

P.C. § 12316 (Amended): *Possession of Ammunition by Prohibited Persons.*

Subd. (a)(1)(C): Supplying, delivering or giving ammunition to a minor who it is known, or should be known, is prohibited from possessing the ammunition pursuant to **P.C. § 12101**.

P.C. § 12101 prohibits minors from possessing live ammunition and handguns.

Subd. (a)(1)(A) & (B) involve “*selling*” ammunition.

Misdemeanor: Six months in country jail, \$1,000 fine.

Subd. (b)(4): A person who is *not* prohibited by **subd. (b)(1)** from owning, possessing, or having under his or her custody or control any ammunition or reloaded ammunition, but who is enjoined from engaging in activity pursuant to an injunction issued pursuant to **CC § 3479** against that person as a member of a criminal street gang per **P.C. § 186.22**, may not own, possess, or have under his custody or control any ammunition or reloaded ammunition.

P.C. § 12316(b)(1) is the felony (wobbler) prohibiting a person from owning a firearm per **P.C. §§ 12021** or **12021.1** (felons), and **W&I §§ 8100** or **8103** (mental patients).

Civ. Code § 3479 declares as a nuisance anything injurious to public health, including illegal drug sales, anything indecent or offensive to the senses, anything that is an obstruction to the free use of property, or anything that unlawfully obstructs the free passage or use of a lake, park, street or highway.

Misdemeanor: Six months in country jail, \$1,000 fine.

P.C. § 12317 (New): *Possession of Ammunition by Prohibited Persons.*

Supplying, delivering, selling or giving possession or control of ammunition to a person who it is known, or who it should be known, is prohibited from owning, possessing, or controlling ammunition pursuant to **P.C. § 12316(b)(1)** or **(b)(4)**.

P.C. § 12316(b)(1) is the felony (wobbler) prohibiting a person from owning a firearm per **P.C. §§ 12021** or **12021.1** (felons), and **W&I §§ 8100** or **8103** (mental patients).

P.C. § 12316(b)(1); see above.

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

P.C. § 12650 (Amended): *Stun Guns.*

The definition of a “*stun gun*” has been amended by deleting the reference to a “*Taser*,” and now reads as any item, except a less lethal weapon as defined in **P.C. § 12601**, used or intended to be used as either an offensive or defensive weapon that is capable of temporarily immobilizing a person by the infliction of an electrical charge.

Welfare Fraud:

W&I § 10980 (Amended; Effective 1/25/10): *Welfare Fraud and Food Stamp Violations.*

Subd. (c): The amount necessary to constitute a felony (wobbler) welfare fraud is increased to over \$950 (raised from \$400).

Felony (wobber): Sixteen months, two or three years in prison, \$5,000 fine, or one year in county jail, \$1,000 fine.

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

Subd. (g): The amount necessary to constitute a felony (wobbler) violation of the fraudulent use, transfer, sale, purchase or possession of food stamps is increased to over \$950 (raised from \$400).

Felony (wobber): Sixteen months, two or three years in prison, \$5,000 fine, or one year in county jail, \$1,000 fine.

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

Witnesses:

P.C. § 14029.5 (New): *Witness Relocation and Assistance Program.*

Posting on the Internet the home address, telephone number, or personal identifying information that discloses the location of a witness or a family member of a witness who is participating in the “*Witness Relocation and Assistance Program*” (“*WRAP*,” **P.C. §§ 14020-14033**).

Misdemeanor: Six months in county jail, \$2,500 fine. With bodily injury to the witness or family member; one year in county jail, \$5,000 fine.

A prosecutor must provide a witness who enters WRAP an “*opt-out*” form to submit to the Internet search engine companies. Procedures for deleting such information from such search engines are described with civil penalties provided of up to \$5,000 for failing to do so, per each violation.