NEW STATUTES AFFECTING THE CRIMINAL LAW

1990 General and Extraordinary Sessions of the California State Legislature

REPORT OF THE ASSEMBLY COMMITTEE ON PUBLIC SAFETY

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TABLE OF CONTENTS

Felony Offenses (continued)

Consecutive Sentences, Enhancements, Probation Eligibility

Misdemeanors and Infractions

Table of Contents (continued) Page

I. CRIMINAL OFFENSES AND PENALTIES

Felony Offenses

REPAIR FRAUD
AB 9x (Chapter 36 First Extraordinary Session), Epple

(Adds Sections 5536.5, 6788, and 7028.16 to the Business and Professions Code; adds Section 670 to the Penal Code)

Under current law it is a misdemeanor punishable by up to six months in the county jail and/or a fine of $100 to $1,000 to act as an architect, engineer, or contractor without an appropriate license. There are no provisions increasing penalties for acts committed as part of a plan to defraud owners of structures in connection with offers or performance of repairs for damage caused by a natural disaster.

This bill provides that it is an alternate felony/misdemeanor punishable by 16 months, two or three years in state prison and/or a fine up to $10,000 or by up to one year in county jail and/or a fine up to $1,000 to act as an architect, engineer or contractor without an appropriate license if the act is committed in connection with the offer or performance of services for repair of damage caused by natural disaster for which a state of emergency has been declared by the Governor or President.

The bill provides that persons violating specified sections of the Business and Professions Code or Penal Code under the same circumstances would receive the same punishment. Specified fines are doubled, and persons who have been previously convicted of specified felonies must receive a consecutive one-year enhancement to the sentence imposed for the felonies prescribed in this bill.

This bill also requires the court to order persons convicted under this bill to make full restitution to the victim, taking the defendant's ability to pay into consideration. If probation is granted, full restitution must be ordered, and the term of probation must be at least 5 years or until full restitution is made, whichever occurs first. The prosecuting agency is entitled to recover its costs of investigation and prosecution from any fine imposed.

This act is an urgency measure which became effective September 24, 1990.

FIREARM PROVISIONS
AB 497 (Chapter 9), Connelly*

(Amends Sections 11106, 12001, 12021, 12070, 12071, 12072, 12073, 12076, 12077, 12078, and 12082 of the Penal Code; amends the heading of Article 4 (commencing with Section 12070), Chapter 1, Title 2, Part 4 of the Penal Code; adds Section 12083 to the Penal Code; repeals Chapter 3 (commencing with Section 12350), Title 2, Part 4 of the Penal Code; repeals Article 2 (commencing with Section 12560) of Chapter 6, Title 2, Part 4 of the Penal Code; amends Sections 8100 and 8103 of the Welfare and Institutions Code)

Under current law, persons prohibited from possession of firearms include convicted felons, narcotics addicts, prior violent offenders, individuals with a record of mental health problems, juveniles tried as adults and convicted of specified offenses, and, in the case of pistols or revolvers (concealable weapons), deliveries to individuals under 21 years of age.

Under current law, it is a misdemeanor for any person or dealer to sell, deliver, or transfer a concealable weapon to any person whom he or she has "cause to believe" is prohibited from owning or possessing these firearms. A second offense is an alternate felony/misdemeanor.

This bill makes it a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000 for any person or dealer to sell, deliver or transfer any firearm to a person whom he or she has cause to believe is prohibited from possessing a firearm. The bill specifies that a subsequent conviction is punishable by up to one year in county jail and/or a fine up to $1,000 or by 16 months, two or three years in state prison and/or a fine up to $10,000. This bill prohibits probation except in unusual cases where the interest of justice would be served for second and subsequent violations.

This bill:

1) Provides that the "knowing" transfer of a firearm to anyone in a prohibited class is an alternate felony/misdemeanor, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000 or up to one year in county jail and/or a fine up to $1,000.

2) Creates an alternate felony/misdemeanor offense prohibiting a person within 10 years of conviction for a specified misdemeanor from owning, possessing, or having a firearm under his or her control.

3) Creates an alternate felony/misdemeanor offense for violating a condition of probation prohibiting ownership, possession, control, or receipt of a firearm.

4) Creates an alternate felony/misdemeanor offense for a juvenile adjudged a ward for a specified offense, to own, possess, or control any firearm until age 30.

Under current law, it is an alternate felony/misdemeanor to knowingly supply, sell, give or allow possession of any firearm or deadly weapon to a person who is a mental patient, as defined, or who is covered by the Lanterman-Petris-Short Act (LPS), as defined, punishable by 16 months, two or three years in state prison or by up to one year in county jail and/or a fine up to $1,000.

This bill creates a category of persons who by reason of mental infirmity are ineligible to purchase or possess firearms within five years of evaluation. This bill imposes a duty on a facility to submit a confidential report to the Department of Justice stating the identity and legal grounds for each person detained under specified provisions of the LPS.

* Provisions of this bill are incorporated into SB 830 (Chapter 177), SB 2050 (Chapter 1090) and AB 1753 (Chapter 1180).

WITNESS INTIMIDATION
AB 1265 (Chapter 80), D. Brown

(Amends Sections 139 and 140 of the Penal Code)

Under current law, with limited exceptions, any person who has been convicted of a specified felony who communicates to a victim or witness of the crime for which the person was convicted a credible threat to use force or violence upon that person or that person's immediate family is guilty of an alternate felony/misdemeanor punishable by 16 months, two or three years in state prison and/or a fine up to $10,000 or up to one year in county jail and/or a fine up to $1,000.

This bill changes the term of imprisonment for the felony aspect of the above crime to two, three, or four years in state prison.

Under current law, with limited exceptions, any person who threatens force or violence upon another who offered assistance or information to law enforcement officials in a criminal or juvenile proceeding is guilty of a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000. In addition, a person who commits a specified crime while violating these provisions, is guilty of an alternate felony/misdemeanor punishable by 16 months, two or three years in state prison and/or a fine up to $10,000 or up to one year in county jail and/or a fine up to $1,000.

This bill deletes the latter provision relating to a person who commits a specified crime while making a threat and changes the term of imprisonment for the felony aspect of the remaining crime to two, three, or four years in state prison.

ARSON: PREVIOUS CONVICTION
AB 1317 (Chapter 63), N. Waters

(Amends Section 451 of the Penal Code)

Existing law provides that a person who commits the crime of arson of a structure or forest land is guilty of a felony punishable by two, four, or six years in state prison and/or a fine up to $10,000.

Existing law also provides for an enhancement of one, two, or three years for a person who commits this offense who previously has been convicted of the same offense.

This bill provides in addition to the term of imprisonment and consecutive to a specified enhancement for habitual criminals, a person who commits arson, who previously was convicted of arson of a structure or forest land, is punishable by an additional term of one, two, or three years in state prison.

This act is an urgency measure which became effective May 1, 1990.

FORGING OR ALTERING PRESCRIPTIONS
AB 1577 (Chapter 43), Murray

(Amends Section 11368 of the Health and Safety Code; amends Section 1203.073 of the Penal Code)

Under current law it is an alternate felony/misdemeanor to forge or alter a prescription. Subsequent offenses are misdemeanors.

This bill provides that any violation of the prohibition against forging or altering a prescription is an alternate felony/misdemeanor punishable by 16 months, two or three years in state prison and/or a fine up to $10,000 or up to six months in county jail and/or a fine up to $1,000.

OBSTRUCTION OF JUSTICE
AB 1925 (Chapter 1181), Epple

(Amends Section 148 of the Penal Code)

Under current law, a prosecuting attorney is prohibited from simultaneously charging a person with a violation of resisting arrest and removing a weapon/firearm from a peace officer.

This bill removes the prohibition in current law against a prosecutor simultaneously charging a person with a violation of resisting arrest as well as removing a weapon/firearm from the person or immediate presence of a peace officer.

This bill provides that a person may not be convicted of resisting arrest in addition to being convicted of removing a weapon/firearm from the person or immediate presence of a peace officer when the resistance, delay, or obstruction has been committed against the same public officer, peace officer, or emergency medical technician.

This bill provides that multiple convictions may take place when more than one public officer, peace officer or emergency medical technician are victims.

UNSAFE BUSINESS PRACTICES AND WORKPLACES
AB 2249 (Chapter 1616), Friedman

(Adds Section 387 to the Penal Code)

Under current law it is not a crime to fail to warn employees of serious concealed dangers associated with a business product or practice.

This bill makes it an alternate felony/misdemeanor punishable by 16 months, two or three years in the state prison and or a fine up to $25,000 (or up to $1 million if the defendant is a corporation), or up to one year in county jail and/or a fine up to $10,000 for any corporation or person who is a manager with respect to a product, facility, equipment, process, place of employment, or business practice to do all of the following:

1) Have actual knowledge of a serious concealed danger that is subject to the regulatory authority of an appropriate agency and is associated with that product or business practice.

2) Knowingly fail during the period ending 15 days after the actual knowledge is acquired, or if there is an imminent risk of bodily harm or death, immediately to inform the Division of Occupational Safety and Health in the Department of Industrial Relations and the affected employees in writing.

This bill provides that the defendant need not make the above disclosures if it has actual knowledge that the department has been informed and the employees warned or if the hazard is abated during the reporting period. No penalty shall apply when the department was not notified, but the defendant reasonably and in good faith believed that it was complying with the notice requirement by notifying other specified governmental agencies.

TRAVEL PROMOTER LAW
AB 2997 (Chapter 551), Areias

(Amends Section 17540.13 of the Business and Professions Code)

The California Travel Promoter Law establishes a regulatory scheme which requires that travel promoters make certain disclosures to consumers from whom they take money and that 90% of all funds received are deposited into a trust account from which expenditures are restricted. A bond adequate in amount to cover consumer losses may be filed with the Secretary of State in lieu of establishing the trust account. In addition, travel agents must promptly deliver tickets to customers who have fully paid for them.

Under current law, in the event the transportation contracted for is canceled through no fault of the passenger, the travel promoter must return all moneys paid for services not performed and goods not delivered. Misrepresentations of departures or arrivals are deemed cancellations necessitating a refund. Apart from civil penalties, a violation of the Travel Promoter Law is a misdemeanor punishable up to six months in county jail and/or a fine up to $1,000.

This bill increases the penalty for violating the provision of the Travel Promoter Law regulating cancellation of transportation or misrepresentation of departures or arrivals from a misdemeanor to an alternate felony/misdemeanor punishable by 16 months, two or three years in state prison and/or a fine up to $10,000, or by up to one year in county jail and/or a fine up to $1,000.

This bill provides the alternate felony/misdemeanor penalty shall apply only where money or real personal property received by the travel promoter aggregates $1,000 or more in any consecutive 12-month period, or the payment made by or on behalf of one passenger exceeds $400.

CORDLESS TELEPHONES
AB 3457 (Chapter 696), Moore

(Amends Sections 632, 633, 633.5, 634 and 635 of the Penal Code; adds Section 632.6 to the Penal Code)

It is an alternate felony/misdemeanor to intentionally wiretap a confidential telephone or telegraph communication or to electronically eavesdrop or record a confidential communication without the consent of all parties. The same prohibition applies to communications transmitted between cellular radio telephones or between a cellular radio telephone and a landline telephone without the consent of all parties.

This bill makes it an alternate felony/misdemeanor to maliciously intercept a communication between cordless telephones or between a cordless telephone and a landline telephone or between a cordless telephone and a cellular radio telephone without the consent of all parties. Violation is punishable by up to one year in county jail or 16 months, two or three years in state prison and/or a fine up to $2,500. The potential fine is raised to $10,000 if the person has suffered a prior conviction for this or other specified privacy offenses.

The bill contains an exemption for specified governmental activities.

REMOVAL OF PROPERTY IDENTIFICATION MARKS
AB 3483 (Chapter 408), Epple

(Amends Section 537e of the Penal Code; adds Section 42002.4 to the Vehicle Code)

Under current law, it is generally a misdemeanor for any person to knowingly buy, sell receive, dispose of, conceal, or possess specified items, including an integrated chip or panel, printed circuit, or other parts of a computer, from which the manufacturer's nameplate, serial number, or other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed. A conviction of those offenses is punishable by up to six months in county jail and/or a fine up to $1,000. It is an alternate felony/misdemeanor for any person to engage in those unlawful acts where the crime involves an integrated chip exceeding a value of $400, punishable by up to one year in county jail and/or a fine up to $1,000 or for 16 months, two or three years in state prison and/or by a fine up to $10,000.

Under other provisions of law, it is a misdemeanor for any person to engage in those unlawful acts where the crime involves any vehicle, or component parts thereof, punishable by up to six months in county jail and/or by a fine up to $1,000.

This bill recasts those provisions and instead provides that it is a misdemeanor for any person to engage in those unlawful acts where the crime involves any personal property, including vehicles and vessels, punishable 1) by up to six months in county jail and/or a fine up to $1,000 where the crime involves property of a value not exceeding $400, or 2) by up to one year in county jail and/or a fine up to $1,000 where the crime involves property of a value exceeding $400. The bill further provides that it is an alternate felony/misdemeanor for any person to engage in those unlawful acts where the crime involves an integrated computer chip exceeding a value of $400, punishable by 16 months, two or three years in state prison, and/or a fine up to $10,000 or up to one year in county jail and/or a fine up to $1,000.

LOOTING
AB 3894 (Chapter 1126), Filante

(Adds Section 463 to the Penal Code)

This bill creates the crime of looting applicable to specified offenses committed during and within an affected county in a state of emergency or local emergency resulting from an earthquake or flood. The duration of the emergency exists from the time of the proclamation until three days thereafter. Entry into a commercial structure with the intent to commit violations such as forgery, fraudulent use of an access card, or writing a check with insufficient funds shall not constitute looting.

This bill provides that looting (second degree burglary or grand theft) is an alternate felony/misdemeanor punishable by up to on year in county jail and/or a fine up to $1,000 or 16 months, two or three years in state prison and/or a fine up to $10,000.

This bill requires a person to serve a minimum of 180 days in county jail as a condition of being placed on probation for looting (second degree burglary or grand theft), unless unusual circumstances exist.

COMMODITIES REGULATIONS
AB 4254 (Chapter 969), Johnston

(Adds Division 4.5 (commencing with Section 29500) to Title 4 of the Corporations Code)

Under current law there is no statutory scheme regulating commodity trading.

This bill enacts the "California Commodity Law of 1990" (CCL) which is a comprehensive scheme to regulate trading at the state level. Among other things it provides criminal penalties for violating the CCL. Fraudulent or misleading acts relating to the purchase, sale or offer to purchase or sell commodities is a felony punishable by two, three, or four years in state prison and/or a fine up to $250,000. Other criminal violations of the CCL are alternate felony/misdemeanors punishable by 16 months, two or three years in state prison and/or a fine up to $250,000, or up to one year in county jail and/or a fine up to $250,000.

UNLAWFUL ADOPTION PRACTICES
AB 4288 (Chapter 1492), Hill

(Amends Section 273 of the Penal Code)

Under current law, it is a misdemeanor for any birth parent intentionally to obtain monetary support with the intent not to complete the adoption or consent to the adoption. Violations are punishable by up to six months in county jail and/or a fine up to $1,000.

This bill increases the potential fine from $1,000 to $2,500 for a first offense for any birth parent who intentionally obtains monetary support with the intent not to consent to, or to complete, an adoption.

It makes the second offense an alternative felony/misdemeanor, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000, or up to six months in county jail and/or a fine up to $1,000.

This bill makes it a misdemeanor punishable by up to six months in the county jail or a fine up to $2,500 for any parent to obtain financial benefit, as specified, from two or more prospective adopting families or persons if either parent do both of the following:

1) Knowingly fail to disclose that there are others interested in adopting the child, with the knowledge that there is an obligation to disclose.

2) Knowingly accept financial benefits if the aggregate amount exceeds the reasonable maternity-connected medical or hospital and necessary living expenses of the mother before and during the pregnancy.

KIDNAPPING
SB 1564 (Chapter 55), Kopp*

(Amends Sections 207, 208, and 209 of the Penal Code)

Under current law, the following persons are guilty of kidnapping:

1) Every person who forcibly steals, takes or arrests any person and carries the person into another country, state, or county, or within the county, is guilty of kidnapping;

2) Every person who, for the purpose of committing a lewd or lascivious act upon a child, hires, persuades, entices, decoys, or seduces by false promise any child under the age of 14 years to go anywhere within or outside of the county is guilty of kidnapping; or

3) Every person who forcibly takes or arrests any person with a design to take the person outside of this state without legal claim, or who hires, persuades, entices, decoys, or seduces by false promise any person to go out of the state, for the purpose of selling that person into slavery or involuntary servitude.

This bill expands each of the above definitions of kidnapping to include situations where the kidnapping is accomplished by instilling fear in the victim in lieu of using force, and provides that the foregoing provisions do not apply to lawful arrests or any acts taken to protect the child from danger of imminent harm.

Under current law, the punishment for kidnapping varies with the circumstances as follows: 1) if the victim is 14 years of age or older, it is punishable by three, five, or eight years in state prison; 2) if the victim is under 14 years of age, it is punishable by five, eight, or 11 years in state prison; 3) if the victim is held for ransom or extortion or is carried away to commit robbery, it is punishable by imprisonment in state prison for life with or without the possibility of parole, depending on the circumstances.

This bill provides that in all cases in which probation is granted for any kidnapping offense, the court shall, except as specified, require as a condition of probation that the defendant be confined to county jail for 12 months.

* Provisions of this bill which amend Penal Code Section 208 are incorporated into SB 2079 (Chapter 1560).

MEDITERRANEAN FRUIT FLY
SB 1754 (Chapter 167), Ayala

(Adds Section 6306 to the Food and Agriculture Code)

Under current law, it is a misdemeanor, with specified exceptions, for any person to willfully import into, or ship or transport within, the state any live insect or any pest. A violation is punishable by up to six months in county jail and/or a fine up to $1,000.

This bill makes it a felony punishable by 16 months, two or three years in state prison and/or a fine up to $10,000 for any person to willfully and knowingly import into the state, or willfully and knowingly transport or ship a Mediterranean fruit fly within this state.

This act is an urgency measure which became effective June 22, 1990.

UNAUTHORIZED SIGNATURES ON CAMPAIGN ADVERTISEMENTS
SB 1865 (Chapter 1590), Craven

(Add Section 3344.5 to the Civil Code; adds Section 115.1 to the Penal Code)

Under current law to prove the crime of forgery the state must prove the signing of another person's name or a fictitious person's name without authorization, with knowledge that no authorization existed, and with the specific intent to defraud others.

Forgery is an alternate felony/misdemeanor, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000, or up to one year in county jail and/or a fine up to $1,000.

Under current case law, the knowing publication of a campaign advertisement with an unauthorized signature does not constitute the crime of forgery.

This bill makes it an alternate felony/misdemeanor punishable by 16 months, two or three years in state prison or up to six months in county jail and/or a fine up to $50,000 for a political candidate, or a proponent or opponent of a ballot measure, or any person acting on his or her behalf, to knowingly cause a false or unauthorized signature of another person to appear in a campaign advertisement or other printed political advertisement.

This bill authorizes any person whose signature was improperly used to bring a civil cause of action.

This act is an urgency measure which became effective September 30, 1990.

ARSON: COURTHOUSE, OR HOME, OR OFFICE OF A JUDICIAL OFFICER
SB 2023 (Chapter 643), Hart

(Amends Section 11413 of the Penal Code)

Under current law, any person who explodes, ignites, or attempts to explode or ignite any explosive, or who commits arson, in or about specified places, for the purposes of terrorism, is guilty of a felony, punishable by imprisonment in state prison for three, five, or seven years and/or a fine up to $10,000.

This bill expands the various locations where it is a felony to explode or ignite a destructive device, or to commit arson, to include a courthouse or the home or office of a judicial officer.

RECORDING PIRACY
SB 2073 (Chapter 942), Royce

(Amends Section 653w of the Penal Code)

Under current law, it is an alternate felony/misdemeanor for any person, for commercial advantage or private financial gain, to advertise, sell, or offer for sale or resale any records, tapes, films, or discs that do not have the manufacturer's and artist's true name clearly and conspicuously displayed on the outside cover box or jacket. A violation of those provisions is punishable as follows:

1) If the violation involves less than 1,000 audio or video recordings, (a) a first offense is punishable by up to one year in county jail and/or a fine up $25,000; or (b) a second or subsequent offense is punishable by up to one year in county jail and/or a fine up to $100,000.

2) If the violation involves 1,000 or more audio or video recordings, it is punishable by up to one year in county jail, or by two, three, or five years in state prison, and/or a fine up to $250,000.

This bill recasts those provisions to expressly provide for separate punishment for those crimes involving audio visual works as opposed to audio recordings, as defined in the bill. The bill provides that the above enhanced penalty that applies to the piracy of 1,000 audio or video recordings will instead apply only to audio recordings, and that when the crime involves audio-visual works, that penalty will apply when only 100 articles are sold or offered for sale. The bill also provides that the prohibitions on the sale or offer for sale of the audio or video recordings also apply to the manufacture and/or rental of those items.

KIDNAPPING TO COMMIT SEXUAL ASSAULT
SB 2079 (Chapter 1560*), Roberti

(Amends Section 208 of the Penal Code)

Under current law kidnapping is a felony punishable by three, five, or eight years in the state prison and/or a fine up to $10,000. The same crime committed against a person under the age of 14 years is punishable by five, eight, or 11 years in state prison and/or a fine up to $10,000.

This bill provides that kidnapping for the purpose of committing rape, oral copulation, sodomy, or rape by instrument is punishable by five, eight, or 11 years in the state prison and/or a fine up to $10,000.

* This chapter incorporates provisions of SB 1564 (Chapter 55).

OBSTRUCTING OFFICERS
SB 2172 (Chapter 1155), Kopp

(Adds Section 148.10 to the Penal Code)

Under current law, willfully resisting, delaying or obstructing any public officer, peace officer, or medical technician engaged in discharging or attempting to discharge the duties of office is a misdemeanor, punishable by up to one year in county jail and/or a fine up to $1,000.

Under current law, willfully fleeing or attempting to elude a pursuing peace officer's motor vehicle proximately causing death or serious bodily injury to any person is an alternate felony/misdemeanor, punishable by two, three, or four years in state prison and/or a fine of $1,000 to $10,000 or up to one year in county jail and/or a fine of $1,000 to $10,000.

This bill provides whenever the willful resistance of a person proximately causes death or serious bodily injury to a peace officer discharging his or her official duties, the violator shall be punished by two, three, or four years in state prison and/or a fine of $1,000 to $10,000, or by up to one year in county jail and/or a fine up to $1,000.

This bill provides that the above provisions would not apply to conduct which occurs during labor picketing, demonstrations or disturbing the peace.

STALKING
SB 2184 (Chapter 1527), Royce

(Amends Section 1270 of the Penal Code; adds Section 646.9 to the Penal Code)

Under current law, the crime of stalking does not exist. However, a person who has suffered harassment, a victim of domestic violence, and persons seeking marriage dissolution or who have obtained a divorce may obtain a stay-away order from the court under various provisions.

Under current law, willful disobedience of a civil injunction for harassment, as defined, is a misdemeanor, punishable by up to one year in the county jail and/or a fine up to $1,000. A subsequent conviction for a violation of this order within seven years of a prior conviction for a violation of such an order and involving an act of violence or a credible threat of violence, as defined, is punishable by up to one year in county jail and/or a fine up to $1,000 or in state prison for 16 months, two or three years and/or a fine up to $10,000.

This bill creates the crime of stalking, defined as willfully and repeatedly following or harassing another person and making a credible threat with the intent to place that person in reasonable fear of death or great bodily injury.

This bill provides that stalking in violation of a restraining order, as defined, is punishable by up to one year in county jail and/or a fine up to $1,000, or by 16 months, two or three years in state prison and/or a fine up to $10,000.

This bill specifies that a subsequent conviction within seven years of a prior conviction for stalking against the same victim and involving an act or a credible threat of violence is punishable by up to one year in county jail and/or a fine up to $1,000 or by 16 months, two or three years in state prison and/or a fine up to $10,000.

AUTO THEFT
SB 2522 (Chapter 1564), Davis

(Amends Section 487h of the Penal Code; amends Section 10851 of the Vehicle Code)

Under current law, grand theft auto and unlawful driving or taking of a vehicle are alternate felony/misdemeanors punishable by two, three, or four years in state prison and/or a fine up to $10,000 or by up to one year in county jail and/or a fine up to $1,000. A second or subsequent offense for felony grand theft auto or felony unlawful driving or taking of a vehicle is a felony punishable by three, four, or five years in state prison and/or a fine up to $10,000. Under current law, any person who, having been convicted of two previous violations of grand theft auto or unlawful driving or taking of a vehicle, or any combination, thereafter commits a felony for any subsequent incident involving these crimes is punishable by two, three, or four years in state prison and/or a fine up to $10,000.

This bill corrects the punishment scheme for recidivist auto thieves created by Chapter 930, Statutes of 1989, to avoid challenges on equal protection grounds by specifying the two prior convictions that elevate a subsequent violation to felony status are "misdemeanor," not "felony" prior convictions.

This bill adds the auto theft statute created by the Statutes of 1989 to the list of prior misdemeanor convictions that could elevate a subsequent offense to felony status.

This bill also makes technical clarifying amendments.

This act is an urgency measure which became effective September 30, 1990.

The provisions of this bill would be repealed and former law prior to Chapter 930, Statutes of 1989, re-enacted on January 1, 1993 unless a later enacted statute before that date extends or deletes that date.

ELEMENTS OF RAPE
SB 2586 (Chapter 630), Roberti

(Amends Section 261 of the Penal Code)

Under current law, rape is an act of sexual intercourse accomplished with a person, not the spouse of the perpetrator, where it is committed under

specified circumstances, including where it is accomplished against a person's will by means of force, violence, or fear of immediate and unlawful bodily injury on the person or another.

This bill expands the list of circumstances to include menace or duress, as defined.

FILING FALSE REPORTS
SB 2681 (Chapter 950), Boatwright

(Repeals Section 6204 of the Government Code; amends Section 118 of the Penal Code; adds Section 118.1 to the Penal Code)

Under current law it is a misdemeanor for a peace officer to knowingly and intentionally make any false statements in specified reports filed with his or her employing agency. A violation is punishable by up to one year in county jail and/or a fine up to $1,000.

This bill makes it an alternate felony/misdemeanor for a peace officer to file a false report with his or her employing agency regarding the commission of any crime or any investigation of any crime. The officer must knowingly and intentionally make any statement regarding any material matter in the report which the officer knows to be false, whether or not the statement is certified or otherwise expressly reported as true. A violation is punishable by one, two, or three years in state prison and/or a fine up to $10,000, or up to one year in county jail and/or a fine up to $1,000.

Consecutive Sentences, Enhancements, Probation Eligibility

VIOLENT FELONY: DESTRUCTIVE DEVICES
AB 662 (Chapter 18), Murray

(Amends Section 667.5 of the Penal Code)

Under current law the sentence for a "violent felony" may be increased by three years for a prior prison term where both the current and the prior crimes are "violent felonies." For crimes on the "violent felony" list, additional enhancement rules apply, including:

1) Sentence enhancements may be imposed on consecutive terms which are "violent felonies."

2) Consecutive terms for "violent felonies" are not subject to the five-year maximum cap.

3) "Violent felony" charges may be dismissed and refiled an additional time without losing jurisdiction.

4) Special bail provisions apply.

This bill adds exploding a destructive device with the intent to commit murder to the list of "violent felonies."

WEAPONS
AB 664 (Chapter 41*), Murray

(Amends Section 11370.1 of the Health and Safety Code; amends Sections 1170.1, 12022.5, and 12100 of the Penal Code)

Under current law, there are various misdemeanor and felony penalties relating to the transfer of firearms.

This bill adds the crime of transferring weapons to mental patients to the list of first offense crimes which trigger an increase in penalty when the subsequent conviction is for transferring a concealable firearm to a minor or is for transferring a concealable firearm to an ex-felon or a mental patient.

This bill adds the crime of transferring weapons to mental patients to the listed crimes for which probation is to be restricted for second and subsequent offenses.

Sentencing courts may not strike an enhancement for "use of a firearm" for all crimes except specified controlled substance offenses. The penalty for use of a firearm during listed controlled substance offenses is an enhancement term of three, four, or five years.

This bill repeals the specific statutory authority of sentencing courts to strike an enhancement for use of a firearm for specified drug crimes.

This bill adds the use of an assault weapon or machinegun to the enhancements which may be imposed without restriction when the underlying crime is one that is listed in Penal Code Section 1170.1e.

* Provisions of AB 2655 (Chapter 835) which amend Penal Code Section 1170.1 are incorporated into this chapter.

COMPUTER CRIMES: CLARIFICATION
AB 1858 (Chapter 22), Farr

(Amends Section 502.01 of the Penal Code; repeals Section 502.1 of the Penal Code)

Under current law there are conflicting provisions relating to probation eligibility for computer crimes and ambiguity relating to which telephone and telegraph offenses are included in the computer forfeiture provisions.

This bill resolves these ambiguities by repealing one probation eligibility section and broadening a cross-reference, thus making it clear that telephone and telegraph services are included in the forfeiture provisions.

CIRCUMSTANCE IN AGGRAVATION
AB 2554 (Chapter 1216), Quackenbush

(Adds Section 1170.84 to the Penal Code)

Under current law, plea bargaining is prohibited in any case in which the charging document in the superior court alleges commission of a "serious felony," unless there is insufficient evidence to prove the people's case, testimony of a witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.

Under current law, when a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court must order the middle term, unless there are circumstances in aggravation or mitigation of the crime.

This bill makes tying, binding, or confining of any person during the course of a serious felony a circumstance in aggravation for purposes of sentencing.

DOMESTIC VIOLENCE
AB 2632 (Chapter 680), Roybal-Allard

(Amends Section 273.5 of the Penal Code)

Current law provides that in any case in which a person convicted of inflicting corporal injury on a spouse, cohabitor, or parent of his or her

child is granted probation, the court may require supervised counseling as a condition of probation unless the court finds the counseling is inappropriate for the defendant.

This bill requires participation in a batterer treatment program, rather than supervised counseling, as a condition of probation in those cases. This bill also states that it does not constitute a change, but is declaratory of existing law.

LIMITATIONS ON ENHANCEMENTS
AB 2655 (Chapter 835*), Hunter

(Amends Section 1170.1 of the Penal Code)

Under current law, the "base term" is the determinate prison term selected from among the three possible terms prescribed by statute for each felony. The "double-the-base-term" limitation provides that the overall prison sentence may not exceed twice the term imposed as a "base term."

Persons not covered by this statutory cap include those who have been separately convicted of two serious felonies; those convicted of kidnap for sexual purposes; kidnap of a person under 14; use of a deadly or dangerous weapon or a firearm; accompanying one who is armed with a firearm; furnishing a firearm; anyone who takes, damages or destroys property in excess of $25,000; anyone who inflicts great bodily injury or injury resulting in termination of pregnancy; or anyone who forcibly administers a controlled substance.

A recent Supreme Court case held that the "double-the-base-term" limitation does not apply to any person who has served a prior prison term.

This bill codifies that Supreme Court case which adds all persons who have served a prior prison term to those who are excepted from application of the "double-the-base-term" limitation.

* This chapter incorporates provisions of AB 664 (Chapter 41).

PROPERTY DAMAGE: COMMISSION OF A FELONY
AB 3087 (Chapter 1571), Hayden

(Amends, repeals, and adds Section 12022.6 of the Penal Code)

Under current law, for any person who takes, damages, or destroys any property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, the court is required to impose a sentence enhancement, in addition and consecutive to the punishment prescribed for the underlying felony of which the defendant has been convicted, as follows:

1) If the loss exceeds $25,000, the court must impose an additional term of one year.

2) If the loss exceeds $100,000, the court must impose an additional term of two years.

This bill provides expressly that those enhancements may be imposed if the aggregate losses to the victims from all felonies exceed the $25,000 or $100,000 threshold, respectively.

The provisions of this bill would be repealed and former law re-enacted on July 1, 1992, unless a later enacted statute before that date extends or deletes that date.

CIRCUMSTANCE IN AGGRAVATION: ATTEMPTED MURDER -- PEACE OFFICERS
AB 3486 (Chapter 1031), Epple

(Adds Section 1170.81 to the Penal Code)

Under existing law, first degree murder is a felony punishable by death, or life in prison without the possibility of parole, or by life in prison with the possibility of parole. Unless the victim is a peace officer, as defined, second degree murder is punishable by 15 years to life in prison. In cases in which the victim is a peace officer, the penalty is 25 years to life in prison. Where the crime attempted is punishable by death or life imprisonment the punishment is five, seven, or nine years in state prison and/or a fine up to $10,000.

This bill creates a new statutory circumstance in aggravation for any attempted life-term crime (including attempted murder) in which the intended victim was a peace officer.

COMPULSORY EDUCATION
AB 43 (Chapter 391), Elder

(Amends Section 48293 of the Education Code)

Under existing law, any parent, guardian, or other person having control or charge of any pupil who fails to comply with provisions of law relating to compulsory education, unless excused or exempted, is guilty of an infraction. Upon a second or subsequent conviction, that person is subject to a fine of not more than $250.

This bill makes a third or subsequent conviction an infraction punishable by a fine of not more than $500.

FALSE REPORT
AB 389 (Chapter 675), Peace

(Amends Sections 3301, 20017.99, and 74368 of the Government Code; amends Sections 488.5, 557.5, 557.6 and 669.5 of the Insurance Code; amends Section 148.5 of the Penal Code)

Current law specifies that it is a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000 to knowingly convey a false report of a felony or misdemeanor being committed when that information is given to a peace officer engaged in his or her duties and the individual reporting knows or should have known of such status.

This bill makes it a misdemeanor to knowingly convey a false report of a felony or misdemeanor being committed when that information is given to a peace officer employed by the Departments of Mental and Developmental Services and the reporter knew or should have known of the officer's status.

[The provisions of this bill may not become operative. They have been superseded by a later-enacted measure, SB 1720 (Chapter 1700).]

FIREARMS SALES
AB 497 (Chapter 9), Connelly*

(Amends Sections 11106, 12001, 12021, 12070, 12071, 12072, 12073, 12076, 12077, 12078, and 12082 of the Penal Code; amends the heading of Article 4 (commencing with Section 12070), Chapter 1, Title 2, Part 4 of the Penal Code; adds Section 12083 to the Penal Code; repeals Chapter 3 (commencing with Section 12350), Title 2, Part 4 of the Penal Code; repeals Article 2 (commencing with Section 12560) of Chapter 6, Title 2, Part 4 of the Penal Code; amends Sections 8100 and 8103 of the Welfare and Institutions Code)

Under current law, it is a misdemeanor to engage in the business of advertising or offering or exposing for sale, lease or transfer, or actually leasing, selling or transferring pistols and revolvers (concealable firearms) without a license.

Under current law, unlicensed persons may engage in sale, lease or transfer of concealable firearms where it is done pursuant to a court order enforcing a civil court judgment, in order to liquidate a personal firearms collection to satisfy a court judgment, police officers or other authorized persons auctioning off seized firearms to licensed gun dealers, disposition of firearms in an estate proceeding and "infrequent" sales, leases or transfers of firearms.

Under current state law, licensed gun dealers may conduct business only at their licensed premises. Under current federal law, dealers may conduct business at certain gun shows which are "officially sponsored," as defined, and have a fixed location.

This bill makes it a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000 to engage in the business of selling, leasing, or transferring any firearm without a license.

Under current law, "infrequent" means occasional and without regularity and is further limited, in any event, to not exceed five transactions per calendar year. It is not clear that less than six transactions, per se, are exempt. Rather, the language provides that more than five transactions requires a license.

This bill also extends to long guns, the same exceptions as listed for concealable firearms. However, it revises the "infrequent" definition as follows: 1) for concealable firearms, "infrequent" means, per se, less than six transactions per year; 2) for long guns, sales, leases or transfers which are occasional and without regularity.

This bill requires the Department of Justice to issue statewide gun show licenses to state licensed gun dealers for purposes of initiating transactions at gun shows where federal firearms dealers may operate.

Under current law, it is a misdemeanor for any person or dealer to sell, deliver, or transfer a concealable firearms to any person whom he or she has "cause to believe" is prohibited from owning or possessing these firearms. A second offense is an alternate felony/misdemeanor.

This bill makes it a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000 for any person or dealer to sell, deliver or transfer any firearm to a person whom he or she has cause to believe is prohibited from possessing any firearm. The bill specifies that a subsequent conviction is punishable by up to one year in county jail and/or a fine up to $1,000 or by 16 months, two, or three years in state prison and/or a fine up to $10,000. The bill prohibits probation, except in unusual cases where the interest of justice would be served for second or subsequent violations.

* Provisions of this bill are incorporated into SB 830 (Chapter 177), SB 2050 (Chapter 1090) and AB 1753 (Chapter 1180).

REFUSING TO AID A PEACE OFFICER
AB 2692 (Chapter 273), O'Connell

(Amends Section 150 of the Penal Code)

Under current law, any person making an arrest may orally summon as many persons as he or she deems necessary to aid in making the arrest. Every able-bodied person over 18 years of age who neglects or refuses to aid in taking, retaking, arresting, or confining any person when lawfully required by a uniformed peace officer or judge, under specified conditions, is subject to a fine of $50 to $1,000.

This bill expands the provisions requiring every able-bodied person over 18 years of age, upon request, to aid a uniformed peace officer, to apply as well to a request by any specified nonuniformed peace officer who identifies himself or herself with a badge or identification card issued by the officer's employing agency.

TRESPASS: AIRPORT OPERATIONS AREA
AB 3147 (Chapter 424), Speier

(Amends Section 602 of the Penal Code)

Under current law, willful entry onto any land for the purpose of injuring any property or with the intent to interfere with, obstruct, or injure any lawful business is a misdemeanor punishable by up to six months in county jail and/or a fine not exceeding $1,000. Actual obstruction of lawful business is essential to commission of the offense.

This bill makes it a trespass for any unauthorized person to knowingly enter upon any airport operations area if the area has been posted with notices restricting access to authorized personnel only and the postings occur not greater than every 150 feet along the exterior boundary.

This bill provides that a first offense is a misdemeanor punishable by a fine up to $100.

This bill provides that if the person refuses to leave the airport operations area after being requested to leave by a peace officer the violation is punishable by up to six months in county jail and/or a fine up to $1,000. A second or subsequent offense is punishable by up to six months in county jail and/or a fine up to $1,000.

PROFIT FOR SERVICES RELATED TO EXTRADITION
AB 3194 (Chapter 222), Floyd

(Amends Section 1558 of the Penal Code)

Under current law, certain expenses may be reimbursed whenever the state, a city, a county or a city and county employs a person to travel outside this state for the express purpose of the extradition of a fugitive from justice upon the demand of the Governor or the laws of this state. This provision does not provide for a bonus or other form of compensation such as a set fee schedule.

Under current law, compensation in excess of expenses to a public officer or other person for the return of persons who are extradited to this state is prohibited. It is a misdemeanor for any public officer, or other person to be paid compensation, a fee or reward for certain services related to extradition, except as specified.

This bill provides that it is a misdemeanor, punishable by up to six months in county jail and/or a fine up to $1,000, to be paid or receive profit for services related to extradition. This bill includes a corporation or firm within the prohibition.

This bill declares that this bill does not constitute a change in but is declaratory of existing law.

PROHIBITED ADVERTISING ON VIDEO GAME SOFTWARE
AB 3280 (Chapter 639), Tanner

(Adds Section 308.5 to the Penal Code)

Under existing law, it is a misdemeanor for any person engaged in the sale of alcoholic beverages to employ upon the premises a person to procure or encourage the purchase or sale of such beverages. It is also unlawful to sell or give away tobacco products to a minor or for a minor to buy such products.

This bill makes it a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000 for any person or business to sell, lease, rent, or provide to the public in this state, or to offer to do so, any video game that contains paid commercial advertisements of alcoholic beverages, tobacco product containers, or other forms of consumer packaging, if the game is intended primarily for use by persons under 18 years of age.

ANNOYING TELEPHONE CALLS
AB 3437 (Chapter 383), Roybal-Allard

(Amends Section 653m of the Penal Code)

Under current law, any person who makes a telephone call with intent to annoy another and without disclosing his or her identity to the recipient of the call is guilty of a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000.

This bill revises the statute regulating the making of telephone calls with intent to annoy by providing that a person must repeatedly telephone another at his or her residence.

This bill deletes a current requirement that the caller fail to disclose identity to the person answering and specifies that the section does not apply to calls made in good faith.

VANDALISM: GRAFFITI
AB 3844 (Chapter 261), Murray

(Amends Section 640 of the Penal Code; adds Sections 640.5 to the Penal Code)

Under current law, acts of vandalism generally are punishable as an alternate felony/misdemeanor, depending upon the amount of damage caused. Punishment may be imprisonment in state prison or county jail and/or a range of fines. In addition, a defendant may be ordered to either clean up and repair the damaged property or to pay for someone else to do so, at the victim's option.

Under other provisions of law, it is an infraction for any person to commit various prohibited acts upon or in the facilities or vehicles of a public transportation system, punishable by a fine up to $250 and/or community service for a total time up to 48 hours over a period of 30 days, during times other than the person's hours of school attendance or employment. Those provisions expressly prohibit writing, spraying, scratching, or otherwise affixing of graffiti on or in system facilities or vehicles.

This bill provides that in addition to any fine or community service imposed upon a person for a violation of the graffiti infraction provisions relative to public transportation systems, the court may order the person to perform the necessary labor to clean up, repair, or replace the damaged property. However, the court may not order the defendant to pay any related costs incurred by the cleanup, repair, or replacement of the property. The bill provides expressly that those infraction provisions apply to facilities or vehicles rented or leased by a public transportation system for which the system is responsible for costs of cleanup, repair, or replacement, and expands the scope of those provisions to also apply to facilities and vehicles of any state or local public agency.

The bill also provides expressly that those infraction provisions for acts of graffiti committed on public property or vehicles do not preclude charges being filed under the felony/misdemeanor vandalism provisions.

LOOTING
AB 3894 (Chapter 1126), Filante

(Adds Section 463 to the Penal Code)

This bill creates the crime of looting applicable to specified offenses committed during and within an affected county in a state of emergency or

local emergency resulting from an earthquake or flood. The duration of the emergency exists from the time of the proclamation until three days thereafter. Entry into a commercial structure with the intent to commit violations such as forgery, fraudulent use of an access card, or writing a check with insufficient funds shall not constitute looting.

Under current law, if the value of the property taken is $400 or less, the crime is petty theft, punishable by up to six months in county jail and/or a fine up to $1,000.

This bill provides that looting (petty theft) is a misdemeanor, punishable by up to six months in county jail and/or a fine up to $1,000.

This bill requires a person to serve a minimum of 90 days as a condition of being placed on probation for looting (petty theft), unless unusual circumstances exist.

ENDURANCE CONTESTS
AB 3971 (Chapter 569), Floyd

(Repeals Article 5 (commencing with Section 11450) of Chapter 3, Title 1, Part 4 of the Penal Code)

Under current law it is a misdemeanor punishable by up to six months in county jail and/or a fine up to $500 for any person to conduct, carry on, manage, or maintain any marathon dance or human endurance contest.

This bill repeals this provision.

CARPOOLS AND RIDESHARING: PERSONAL INFORMATION
AB 3984 (Chapter 304), Moore

(Adds Section 637.6 to the Penal Code)

Under current law, in specified situations, the disclosure of information about an individual is prohibited.

This bill prohibits a person who acquires or has access to personal information received in the course of business while assisting private

entities in the establishment of carpooling or ridesharing programs from disclosing or using such information. Violation of this prohibition is a misdemeanor punishable by up to one year in county jail and/or a fine up to $1,000.

This bill allows disclosure upon the prior written consent of the individual.

HIGHWAY LITTERING
AB 4229 (Chapter 982), Quackenbush

(Amends Section 42001.7 of the Vehicle Code)

Under existing law, it is a misdemeanor to commit certain acts of littering on highways and highway rights-of-way, punishable by up to six months in county jail and/or a mandatory fine, as follows:

1) Upon a first offense, a fine of $100 to $1,000.

2) Upon a second offense, a fine of $500 to $1,000.

3) Upon a third or subsequent offense, a fine of $750 to $1,000.

If the court grants probation under the above provisions, it may, as a condition of probation, require that the offender pick up litter at a time and place within the jurisdiction of the court for not less than eight hours.

This bill instead requires the court to order offenders of those highway littering provisions, in addition to any fine imposed, to pick up litter or clean up graffiti at a time and place within the jurisdiction of the court for not less than 8, 16, or 24 hours for a first, second, or third or subsequent offense, respectively. The bill also expresses legislative intent that the fines and cleanup orders be mandatory, and provides that in no event, other than for contempt of court, is the court authorized to order imprisonment for a violation of those litter provisions.

FALSE REPORT TO GRAND JURY
SB 1720 (Chapter 1700), Presley

(Amends Section 148.5 of the Penal Code; adds Section 2933.5 to the Penal Code)

Under current law, it is a misdemeanor, punishable by up to six months in county jail and/or a fine up to $1,000 to report a misdemeanor or a felony to a peace officer or a district attorney knowing that the report is false.

This bill creates a new misdemeanor to knowingly make a false report to a grand jury that a felony or misdemeanor has been committed, punishable by up to six months in county jail and/or a fine up to $1,000.

METALLIC BALLOONS
SB 1990 (Chapter 1559), Ayala

(Adds Section 653.1 to the Penal Code)

Under current law there is no prohibition against selling, distributing, or releasing out of doors metallic balloons.

This bill makes it an infraction punishable by a fine up to $100 to:

1) Sell or distribute any balloon made of electrically conductive material which is filled with a gas lighter than air without countering its lift capacity, posting a statement on it which warns of the risk if it comes into contact with electrical power lines, and have a printed identification of the manufacturer on it.

2) Sell or distribute any balloon filled with a gas lighter than air which is attached to an electrically conductive string or other appurtenance.

3) Sell or distribute any balloon which is made of electrically conductive material and filled with a gas lighter than air which is attached to another balloon so attached and filled.

4) Release outdoors a balloon made of electrically conductive material and filled with gas lighter than air as part of an event, promotional activity, or product advertisement.

The bill provides that a third violation is a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000.

This bill also requires electrical corporations to report to the Public Utilities Commission (PUC) regarding electrical service disruptions caused by these balloons and mandates PUC to report specified information to the Legislature by December 31, 1993.

RELEASE OF CONFIDENTIAL INFORMATION REGARDING AIDS EXPOSURE
SB 2033 (Chapter 1138), Mello

(Adds and repeals Section 7554 to the Penal Code)

Existing law requires a law enforcement employee to report any instance in which he or she comes into contact with the bodily fluids of prison inmates, parolees, detainees, or probationers to the chief medical officer, of each correctional, custodial, or law enforcement agency, who would then make a determination, based primarily upon medical reasons, as to whether HIV testing will be required for the subject of the report.

This bill provides that any unauthorized release of information leading to the identity of either the law enforcement employee or the source patient is a misdemeanor, punishable by up to six months in county jail and/or a fine up to $5,000.

The provisions of this bill will remain operative until January 1, 1996 and as of that date are repealed.

REGISTRATION OF WEAPONS
SB 2050 (Chapter 1090*), Keene, [AB 497 (Chapter 9), Connelly and SB 830 (Chapter 177), Roberti]

(Amends Sections 12076 and 12077 of the Penal Code; amends the heading of Chapter 1 (commencing with Section 12000), Title 2, Part 4 of the Penal Code; amends Sections 8100, 8104, and 8105 of the Welfare and Institutions Code)

Under current law, the sale or transfer of a firearm generally must be conducted through a licensed dealer who keeps a register containing identifying information. Pistols and revolvers are registered at the time of retail sale or transfer by virtue of the DROS forms being compiled centrally. Recent statutes extended registration to all modern pistols and revolvers and to almost all transfers and sales (whether the dealer or private party is the seller/transferor of the firearm).

This bill requires the purchaser or transferee of any firearm to sign his or her current legal name to the register and also list all legal names and aliases ever used.

This bill provides that it is a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000 for a purchaser or transferee of a firearm to knowingly omit any required information for the register.

* This chapter incorporates provisions of AB 497 (Chapter 9) and SB 830 (Chapter 177).

ADVERTISING OF HARMFUL MATTER
SB 2475 (Chapter 877), Craven

(Amends Section 313.1 of the Penal Code)

Under current law, any person who sells or distributes video recordings of harmful matter is required to create an area for the placement of video recordings of harmful matter in a location labeled "adults only." Violation of this requirement is an infraction, punishable by a fine up to $100.

This bill requires any material advertising the sale or rental of video recordings of harmful matter to be limited to the "adults only" area.

This bill requires any person who sells or distributes video recordings of harmful matter to others for resale purposes to inform the purchaser of the requirement regarding the creation of the separate area.

RELIGIOUS MEETING DISTURBANCES
SB 2483 (Chapter 822), Russell

(Amends Section 302 of the Penal Code)

Under current law, a person who willfully disturbs or disquiets any assemblage of people met for religious worship, by profane discourse, rude or indecent behavior, or by any unnecessary noise, either within the place where such meeting is held, or so near to it as to disturb the order and solemnity of the meeting, is guilty of a misdemeanor, punishable by up to six months in county jail and/or a fine up to $1,000.

This bill requires the worship to take place at a tax exempt place of worship and provides that the court may require performance of community service of not less than 20 hours and not exceeding 40 hours as an alternative to imprisonment or a fine. It specifies that in addition to existing penalties, the court shall require an offender with a prior conviction, as defined, community service of not less than 40 hours and not exceeding 80 hours.

This bill specifies that in addition to existing penalties, the court must require an offender with two or more previous convictions, as defined, community service of not less than 80 hours and not exceeding 120 hours.

This bill authorizes the court to waive the mandatory minimum requirements for community service whenever it is in the interest of justice to do so.

LOITERING
SB 2656 (Chapter 631), Vuich

(Adds Section 602.6 to the Penal Code)

Under current law various forms of trespass are punishable as a misdemeanor or an infraction.

This bill makes it a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000 for any person to:

1) Enter or remain in, or upon, specified buildings or fairgrounds when they are not open to the general public; and

2) After having been ordered or directed by a peace officer or fair manager to leave, when the order is issued after determining that the person has no lawful business or other legitimate reason for remaining; and

3) Fail to identify himself or herself and account for his or her presence.

II. COURT HEARINGS AND PROCEDURES

Bail and Own Recognizance

CONTROLLED SUBSTANCES
AB 574 (Chapter 117), Harvey

(Amends Section 1275 of the Penal Code)

Under current law, generally, release on bail is a matter of right. However, no bail bond may be accepted unless the judge is convinced that the consideration for the bail was not feloniously obtained. The prosecution may make a motion to examine the source of the bail. Such motion may be made before the arrest or any time thereafter. Upon the filing of the motion, the court may deny release on bail until a hearing on the motion.

This bill establishes a procedure to follow between arrest and arraignment of a person arrested for specified controlled substance offenses while on probation for specified controlled offenses or if the offense involves an enhancement based on a large amount of specified controlled substances whenever a peace officer has reasonable cause to believe the source of bail was feloniously obtained.

This bill provides if a peace officer has reasonable cause to believe the source of the bail was feloniously obtained, a declaration under penalty of perjury shall be filed requesting an order denying bail. A defendant subject to these provisions may make application to a magistrate for release on bail. This bill authorizes the magistrate to deny release on bail pending a hearing. This bill provides if after the application is made, no order granting or denying bail is issued within eight hours after booking, the defendant shall be entitled to release on posting the amount of bail set forth in the applicable bail schedule.

FORFEITURE
AB 3914 (Chapter 1073), Wyman

(Amends Section 26521 of the Government Code; amends Sections 1305 and 1306 of the Penal Code)

Under current law, if a criminal defendant fails to appear in court when lawfully required to appear, the court must order that bail be forfeited. If

the amount of the forfeiture exceeds $200, the clerk of the court must mail notice of the forfeiture to the surety on the bond or depositor of money.

This bill increases from $200 to more than $300 the threshold amount of bail forfeiture before the court clerk is required to mail notice of forfeiture to the surety on the bond or the depositor.

Under current law, the district attorney (DA) must prosecute all recognizances forfeited and all actions for the recovery of debts, fines, penalties, and forfeitures. The county counsel must discharges all the duties vested by law in the DA other than those of a public prosecutor.

Under current law, unless waived by the prosecuting attorney, no order discharging the forfeiture may be made without notice to the prosecuting attorney who may request a hearing within 10 days after receipt of the notice.

This bill allows a board of supervisors to decide whether the DA, prosecuting attorney, or county counsel shall be given notice by the bail and represent the state in opposition to motions to vacate the forfeiture of bail.

This bill authorizes the DA or county counsel to demand payment of the judgment against a bondsperson within 30 days after the judgment becomes effective and to enforce the judgment.

This bill provides that the prosecuting attorney or county counsel recover costs incurred in successfully opposing a motion to discharge the forfeiture prior to the division of the bail monies between the cities and the county. This bill would require these costs to be recovered from the forfeited bail money.

STALKING
SB 2184 (Chapter 1527), Royce

(Amends Section 1270 of the Penal Code; adds 646.9 to the Penal Code)

Current law authorizes the release of any person who has been arrested for, or charged with, an offense other than a capital offense on his or her own recognizance by a court or magistrate who is authorized to release a defendant from custody upon the defendant giving bail, including a defendant arrested on an out-of-county warrant, under prescribed conditions.

This bill requires certain factors to be taken into consideration when deciding whether to order an own recognizance release for a defendant accused of a misdemeanor violation of stalking.

PLEA AND COUNSEL
AB 125 (Chapter 632), Floyd

(Amends Sections 987.2, 1017, 1018, 1035, and 4852.2 of the Penal Code)

Current law provides that a person who is unable to employ counsel to represent him or her in a criminal trial, proceeding, or appeal is assigned counsel, as specified. Existing law provides that in Los Angeles and Orange Counties, the court shall assign the public defender, responsible attorneys with whom the county has contracted, or private counsel, in that order, unless there is a finding of good cause.

This bill provides that notwithstanding these provisions, as to all counties, where an indigent defendant is first charged in one county and establishes an attorney-client relationship with an attorney, and where the defendant is then charged with an offense in a second or subsequent county, the court in the second or subsequent county may appoint the same counsel as was appointed in the first county to represent the defendant if specified conditions are met.

Under current law, in all cases where a felony is charged, the accused must be present at the arraignment and at the time of the plea. Criminal proceedings are conducted in the court in which the complaint is pending. A defendant cannot enter a guilty plea to a felony proceeding that is pending in another county.

This bill provides that a felony proceeding that is pending anywhere in the state be transferred to the county where the defendant is physically present for purposes of entry of a guilty or nolo contendere plea if the defendant submits a written statement expressing a desire to plead guilty or nolo contendere and the district attorney for each county approves.

Under current law, every person who solicits or accepts any fee, money, or anything of value for representing a petitioner in any proceeding undertaken pursuant to provisions regulating the granting of reprieves, pardons, and commutations of sentence is guilty of a misdemeanor.

This bill exempts lawyers from the provision prohibiting solicitation or accepting a fee for representing a petitioner in proceedings for restoration of rights and pardons.

TESTIMONY BY MINORS: CLOSED PROCEEDINGS
AB 1325 (Chapter 1276), N. Waters

(Adds Section 859.1 to the Penal Code)

Under current law, the defendant in a criminal action has the right to a public trial. At the preliminary examination, upon request of the defendant and a finding by the magistrate that exclusion of the public is necessary in order to protect the defendant's right to a fair and impartial trial, the magistrate must exclude everyone except specified court personnel. When the defendant is charged with specified sex offenses against a minor who is under the age of 11 years, at the preliminary examination proceedings the court must take special precautions to provide for the comfort and support of the minor to protect the minor from coercion, intimidation, or undue influence as a witness. In any case where public access to the courtroom is restricted during the examination of a witness, a transcript of the testimony of the witness must be available to the public as soon as is practicable.

This bill provides that in any criminal proceeding in which the defendant is charged with specified offenses on a minor under the age of 16 years, the court must, upon motion of the prosecuting attorney, conduct a hearing to determine whether the testimony of, or testimony concerning, the minor shall be closed to the public. The bill specifies certain criteria to be used in making such a determination.

JURISDICTION: CONTIGUOUS TERRITORY
AB 2551 (Chapter 156), Quackenbush

(Amends Section 786 of the Penal Code)

Under current law, trial jurisdiction for the offenses of burglary, robbery, theft, and embezzlement is in the jurisdictional territories where the property was taken or received.

This bill expands the number of jurisdictional territories which may try property crimes by conferring trial court jurisdiction upon any contiguous territory if the arrest is made in such contiguous territory and the defendant is charged with a property crime in the arresting territory.

This bill requires the prosecution to secure consent from the defendant on the record to waive the right to a trial by jury from the residents of the county

in which his or her crimes were committed. The waiver must be knowingly, voluntarily, and intelligently made.

This bill applies to the crimes of burglary, robbery, theft, or embezzlement.

JURY INSTRUCTION IN RAPE CASES
AB 2629 (Chapter 269), Roybal-Allard

(Amends Section 1127d of the Penal Code)

Under current law, in any criminal prosecution for rape, statutory rape, or an assault with intent to commit these crimes, the jury is precluded from being instructed that it may be inferred that a person who has previously consented to sexual intercourse with persons other than the defendant would therefore be more likely to consent to sexual intercourse again. Evidence of prior consensual intercourse between a victim and a defendant may be considered in evaluating whether the defendant held reasonable, good faith belief of consent.

This bill prohibits a jury instruction in a prosecution for rape that it may be inferred that a person who has consented previously to sexual intercourse with the defendant would be more likely to consent again.

This bill provides that where there is evidence of a good faith reasonable belief that the victim consented, the jury must be instructed to consider such evidence on the issue of consent.

DEFINITION OF CONSENT IN RAPE CASES
AB 2631 (Chapter 271), Roybal-Allard

(Amends Section 261.6 of the Penal Code)

Under current law in prosecutions for rape, sodomy, oral copulation, or penetration by any foreign object, in which consent is at issue, "consent" means positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

This bill modifies the definition of "consent" to provide that a current or previous dating relationship shall not be sufficient to constitute consent where it is at issue in the case being prosecuted.

This bill provides that the definition of consent shall not affect the admissibility of evidence or the burden of proof on the issue of consent.

PREPARATION OF TRANSCRIPTS
AB 2865 (Chapter 636), Burton

(Amends Section 269 of the Code of Civil Procedure)

Under current law upon filing of a notice of appeal, the clerk of the court prepares a clerk's transcript and notifies the court reporter to prepare a reporter's transcript.

This bill provides that in any case where a defendant is convicted of a felony after a trial on the merits, the record on appeal shall be prepared immediately unless the court determines that it is likely that no appeal from the decision will be made. The court's determination of the likelihood of appeal shall be based upon standards and rules adopted by the Judicial Council.

ELECTRONIC PLEADINGS
AB 3168 (Chapter 289), Frazee

(Amends Section 959.1 of the Penal Code)

Under current law, accusatory pleadings may be filed electronically by prosecutors and law enforcement agencies. Pleadings include the complaint, the information, the indictment, and any citation or notice to appear issued on a form approved by the Judicial Council.

Under current law, a notice of parking violation or a notice to appear may be received and filed by the court in electronic form.

This bill allows court clerks to electronically file complaints issued for the offenses of failure to appear, failure to pay a fine, or failure to comply with an order of the court.

ARRAIGNMENTS: TWO-WAY TELEVISION
AB 3678 (Chapter 427), Cortese

(Amends and repeals Section 977.2 of the Penal Code; repeals Section 977.3 of the Penal Code)

Existing law authorizes a four-year pilot project, in specified counties, for the use of a two-way television to be used in felony arraignments and requires annual reports to be submitted to the Legislative Analyst by each county conducting a pilot project containing specified data.

This bill authorizes any California county to participate in the pilot project and permits the use of two-way television to be used in misdemeanor arraignments.

This bill repeals the provisions regarding a pilot project for the use of a two-way television in arraignments as of January 1, 1993.

This act is an urgency measure which became effective July 26, 1990.

COUNTY OF ARRAIGNMENT
AB 3784 (Chapter 259), Chandler

(Adds and repeals Section 976.5 of the Penal Code)

Existing law provides that in all cases in which a felony is charged, the accused must be present at the arraignment and at the time of the plea.

Current law also specifies that a demurrer to the charges may be entered by the defendant where 1) the court lacks jurisdiction over the charges, 2) the pleading does not conform to statutory rules of pleading, 3) more than one offense is charged except as provided by Penal Code Section 954, 4) the facts alleged do not state a public offense, or 5) the charges contain matter which, if true, would constitute a legal justification or bar to the prosecution. A demurrer must be entered in open court at the arraignment or prior to entry of any plea.

Further, a defendant may not enter a guilty plea to a felony proceeding that is pending in another county. And, specifically trial jurisdiction for the offenses of burglary, robbery, theft, and embezzlement is in the jurisdictional territories where the property was taken or received.

This bill provides that notwithstanding any other provision of law, a defendant may be arraigned in the county in which he or she is confined, if

the county in which the accusatory pleading is filed lacks jail facilities. Further, it provides an exception for late filing of demurrers for defendants arraigned out of county.

The provisions of the bill will remain operative until January 1, 1996 and as of that date are repealed.

PRONOUNCING OF JUDGMENT
AB 3964 (Chapter 570), Leslie

(Amends Section 1191 of the Penal Code)

Existing law provides that after a defendant is found guilty, the court is required to pronounce judgment within 28 calendar days and to order the probation department to prepare a presentence report if the defendant is eligible for probation.

This bill changes the number of days between conviction and sentencing from 28 calendar days to 20 judicial days after verdict, finding, or plea of guilty.

REMOVAL OF SPECTATORS
SB 1917 (Chapter 785), Ayala

(Adds Section 686.2 to the Penal Code)

Under current law there is no express statutory provision authorizing a court to remove a spectator from a criminal proceeding for intimidating a witness.

This bill provides that the court may order the removal of any spectator from a proceeding after holding a hearing and finding by clear and convincing evidence 1) that the spectator is actually engaging in intimidation of the witness; 2) that the witness will not be able to give full, free, and complete testimony unless the spectator is removed; and 3) removal is the only reasonable means of ensuring that the witness will give full, free, and complete testimony.

The bill exempts defendants and the press.

DELIVERY OF SUBPOENA
SB 2140 (Chapter 1695), Davis*

(Amends Section 25755 of the Business and Professions Code; amends Sections 14613.7 and 68097.1 of the Government Code; amends Section 12020 of the Health and Safety Code; amends Sections 488.5, 557.5, 557.6, and 669.5 of the Insurance Code; amends Sections 409.5, 830.1, 830.6, 830.8, 12028, and 12028.5 of the Penal Code; adds Section 13526.1 to the Penal Code; amends Section 25258 of the Vehicle Code)

Under current law, whenever specified employees are required as a witness before any court or other tribunal in any civil action or proceeding in connection with a matter regarding an event or transaction which he or she has perceived or investigated in the course of his or duties, a subpoena may be served by delivering a copy either to the person personally or to his or her immediate supervisor.

This bill provides that a copy of the subpoena be delivered either to the person personally or that two copies of the subpoena be delivered to the employee's immediate superior or agent.

* Provisions of AB 389 (Chapter 675) which amend Insurance Code Section 669.5, and provisions of SB 655 (Chapter 82) which amend Insurance Code Sections 557.5 and 557.6 are incorporated into this chapter.

  Provisions of AB 3474 (Chapter 900), and SB 655 (Chapter 82) which amend Penal Code Sections 409.5 and 830.8 are incorporated into this chapter.

  Provisions of SB 655 (Chapter 82) which amend Section 25258 of the Vehicle Code are incorporated into this chapter.

ARRAIGNMENTS: TWO-WAY TELEVISION
SB 2545 (Chapter 1271*), Vuich

(Amends Section 977.2 of the Penal Code)

Current law authorizes any California county to participate in a four-year pilot project for the use of two-way television in felony and misdemeanor arraignments.

Current law also provides that a judge may order a defendant's appearance in court for arraignment and shall not accept a plea of guilty or no contest from a defendant not physically in the courtroom.

This bill provides that a judge may accept a plea of guilty or no contest from a defendant charged with a misdemeanor who is not physically in the courtroom.

This act is an urgency measure which became effective September 25, 1990.

The provisions of this bill will remain in effect until January 1, 1993 and as of that date is repealed unless a later enacted statute deletes or extends that date.

* This chapter incorporates provisions of AB 3678 (Chapter 427).

JURY VERDICTS
SB 2572 (Chapter 800), Lockyer

(Amends Section 1164 of the Penal Code)

Under current law no jury shall be discharged until the court has verified on the record that it has either reached a verdict or has formally declared its inability to reach a verdict on all issues before it including, but not limited to, the truth of any alleged prior conviction.

This bill provides that no jury shall be discharged until the court has verified on the record that the jury has either reached a verdict or declared its inability to do so on all issues before it, including the degree of the crime or crimes charged.

Evidence

CHARACTER OF CRIME VICTIMS
AB 2615 (Chapter 268), Quackenbush

(Amends Section 1103 of the Evidence Code)

Under current law, except as otherwise provided by statute, evidence in the form of opinion, evidence of reputation, and evidence of specific acts, which is otherwise admissible, is admissible to prove a person's character. However, evidence of a person's character is inadmissible, except as otherwise provided, when offered to prove his or her conduct on a specified occasion.

One exception to that general rule is that evidence of the character of the victim of a crime is admissible if offered (1) by the defendant to prove conduct of the victim conforming to the character evidence or (2) by the prosecution to rebut such evidence offered by the defendant. That evidence may be in the form of an opinion, evidence of reputation, or evidence of specific acts.

This bill provides instead that when character evidence is offered by the defendant to prove conduct of the victim conforming to that character evidence, that evidence may only be offered in the form of opinion or evidence of reputation.

PSYCHOTHERAPIST-PATIENT PRIVILEGE
AB 3613 (Chapter 662), Hughes

(Amends Section 1010 of the Evidence Code)

Under current law, the Evidence Code creates a number of privileges which exclude relevant evidence for policy reasons. Generally, for the psychotherapist-patient privilege, the patient is the holder of the privilege when he or she has no guardian or conservator.

Under current law, the psychotherapist-patient privilege applies to communications between a psychotherapist, as defined, and his or her patient, but specifies there is no privilege in any criminal proceeding with respect to certain persons exempt from the psychology licensing law, a psychological intern, or a trainee.

This bill expands the psychotherapist-patient privilege by deleting the provision specifying that there is no psychotherapist-patient privilege in any criminal proceeding with respect to a person exempt from the Psychology Licensing Law, a psychological intern, or a trainee.

This bill requires such persons to be working under the supervision of a licensed or board-certified person.

Fees, Fines, and Forfeitures

SOCIAL SERVICES
AB 764 (Chapter 1275), Marston

(Adds and repeals Section 1465.5 to the Penal Code; adds and repeals 9394.5 to the Welfare and Institutions Code)

Under current law, counties are authorized to impose assessments on fines, penalties, and forfeitures imposed by the courts for various offenses, to be used for various purposes.

Existing law provides for institutionalization prevention services for the frail elderly and functionally impaired adults, commonly known as the Linkages Program, administered through the counties by the Department of Aging.

This bill authorizes counties to assess $2 for every $10 of fines imposed for violations of the disabled and veteran parking provisions upon adoption of a resolution by the board of supervisors. This money would be used for the support of services provided in the county under the Linkages Program, including county administrative costs not exceeding 10% of the funds.

This bill provides that a county would be authorized to jointly establish and fund a program of services with other counties, as specified. This bill specifies that these funds shall not supplant, be offset against, or in any way reduce funds otherwise appropriated for the program.

This bill is an urgency measure which became effective on September 25, 1990.

The provisions of this bill would be repealed on July 1, 1992 unless a later statute enacted before that date deletes or extends that date.

IMPERIAL COUNTY FORENSICS LABORATORY
AB 1621 (Chapter 415), Peace

(Amends Sections 76132 of the Government Code; adds Section 76134 the Government Code)

Under current law, upon passage of a resolution stating the need for additional funding sources by the board of supervisors, specified counties may levy a penalty assessment of $1 for every $10 collected from every fine, penalty, or forfeiture imposed for criminal offenses including violations of the Vehicle Code.

This bill authorizes Imperial County, upon a vote of its board of supervisors, to assess an additional penalty assessment in the amount of $1 for every $10 in fines, penalties and forfeitures for five years to fund a local criminal forensics laboratory.

TRIAL COURT FUNDING
AB 2115 (Chapter 96), Wright

(Adds Section 77202.5 to the Government Code)

Under current law, the Brown-Presley Trial Court Funding Act of 1988 established a program of state block grants for trial courts on a county option basis.

This bill restores provisions affecting the distribution of funding under the Brown-Presley Trial Court Funding Act pertaining to special funding for Ventura County which were inadvertently chaptered out last year.

This act is an urgency measure which became effective May 16, 1990.

DISTRIBUTION OF REVENUE
AB 4186 (Chapter 1037), Polanco

(Adds Section 1463.24 to the Penal Code; amends Section 21113 of the Vehicle Code)

Under current law, the court is required to transfer to the county treasurer all fines and forfeitures, including Vehicle Code fines and forfeitures collected upon conviction or upon forfeiture of bail, together with monies deposited as bail. These monies are distributed to the county general fund and specified city and county funds according to various schedules and provisions.

Under current law, the unit of local government employing the peace officer receives a specified percentage of the funds collected. Existing law does not include housing authorities as an agency that receives such funds.

This bill revises the distribution of revenue from fines and forfeitures related to Vehicle Code arrests and citations for moving violations by allocating:

1) 50% to the housing authority.

2) 42% to the general fund of the City of Los Angeles.

3) 8% to the general fund of the County of Los Angeles.

This bill limits application of this bill to a housing authority located within a county with a population of over six million people and exempts specified provisions of the Vehicle Code from the distribution formula.

ASSESSMENT FUND: NAME CHANGE
SB 1147 (Chapter 1293), Lockyer

(Amends Section 1464 of the Penal Code; adds Section 1464.05 to the Penal Code)

Under current law, an "assessment" of $7 generally is required to be added to every $10 of fine, penalty, or forfeiture of bail that is imposed for a criminal offense. The money is deposited in the State Treasury's Assessment Fund for further transfer to various special state funds.

This bill changes the name of the state Assessment Fund to the "State Penalty Fund" and makes other conforming changes.

ASSESSMENTS FOR PARKING VIOLATIONS
SB 1944 (Chapter 203), Lockyer

(Amends Section 40203.5 of the Vehicle Code)

Under current law, parking penalties imposed by local governments must reflect the bail schedule adopted by the county courts pursuant to Penal Code Section 1269(b) and the courthouse construction assessments authorized by the Government Code.

Under current law, judges in each county are required to prepare and annually review a uniform countywide schedule of bail for all bailable offenses.

This bill provides that bail, penalties, and surcharges for parking violations must be established by the courts under the bail schedule, with the only additional charge being the assessment authorized by statute for courthouse construction.

Mental Health Commitments

FIREARMS POSSESSION
AB 497 (Chapter 9), Connelly*

(Amends Sections 11106, 12001, 12021, 12070, 12071, 12072, 12073, 12076, 12077, 12078, and 12082 of the Penal Code; amends the heading

of Article 4 (commencing with Section 12070), Chapter 1, Title 2, Part 4 of the Penal Code; adds Section 12083 to the Penal Code; repeals Chapter 3 (commencing with Section 12350), Title 2, Part 4 of the Penal Code; repeals Article 2 (commencing with Section 12560) of Chapter 6, Title 2, Part 4 of the Penal Code; amends Sections 8100 and 8103 of the Welfare and Institutions Code)

Under current law, it is an alternate felony/misdemeanor to knowingly supply, sell, give or allow possession of any firearm or deadly weapon to a person who is a mental patient, as defined, or who is covered by the Lanterman-Petris-Short Act (LPS), as defined, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000 or up to one year in county jail and/or a fine up to $1,000.

This bill creates a category of individuals who by reason of mental infirmity are ineligible to purchase or possess firearms within five years of evaluation.

This bill imposes a duty on a facility to submit a confidential report to the Department of Justice stating the identity and legal grounds for each person detained under specified provisions of the LPS Act.

* Provisions of this bill are incorporated into SB 830 (Chapter 177), SB 2050 (Chapter 1090) and AB 1753 (Chapter 1180).

FIREARM PURCHASE
SB 830 (Chapter 177*), Roberti [AB 497 (Chapter 9), Connelly]**

(Amends Sections 11106, 12076, 12077, 12078, 12280, 12285, and 12290 of the Penal Code; amends Section 8103 of the Welfare and Institutions Code; amends Section 2, Chapter 1180, Statutes of 1988)

Under current law, it is an alternate felony/misdemeanor to knowingly supply, sell, give or allow possession of any firearm or deadly weapon to a person who is a mental patient, as defined, or who is covered by the Lanterman-Petris-Short Act (LPS), as defined, punishable by 16 months, two or three years in state prison or by up to one year in county jail and/or a fine up to $1,000, or by both.

Chapter 9, Statutes of 1990, creates a category of individuals who by reason of mental infirmity are ineligible to purchase or possess firearms within five years of evaluation. Notwithstanding, no person in this category shall be ineligible to own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if, prior to being released, the person is declared by the facility to be a person who is likely to use firearms in a safe and lawful manner.

This bill affirmatively recasts language from Chapter 9 authorizing a person who has been detained pursuant to LPS to purchase a firearm if a designated facility under LPS certifies that the person is "likely to use firearms in a safe and lawful manner."

This act is an urgency measure which became effective June 26, 1990; however, certain provisions in the bill will not become operative until January 1, 1991.

* This chapter incorporates provisions of AB 497 (Chapter 9).

** Provisions of this bill are incorporated into SB 2840 (Chapter 653), SB 2050 (Chapter 1090), and SB 2632 (Chapter 1257).

III. CONTROLLED SUBSTANCES

SENTENCE ENHANCEMENT
AB 1264 (Chapter 28), D. Brown

(Amends Section 11380.5 of the Health and Safety Code)

Under current law it is a felony, punishable by three, five, or seven years in state prison for a person 18 years of age or older to engage in specified acts with a minor with respect to phencyclidine, or any of its analogs or precursors.

This bill provides that any person 18 years of age or older who is convicted of a violation of the above offenses and is at least four years older than the minor, shall receive an additional punishment of one, two, or three years, at the court's discretion.

This bill provides that to impose this additional punishment, the allegation must be charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact. Notwithstanding any other provision of law, the court may strike the additional punishment if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

[The provisions of this bill may not become operative. They have been superseded by a later-enacted measure SB 2112 (Chapter 1665).]

GRANTING OF PROBATION: SALE OF COCAINE
AB 1577 (Chapter 43), Murray*

(Amends Section 11368 of the Health and Safety Code; amends Section 1203.073 of the Penal Code)

Under current law a person convicted of selling 28.5 grams or more of cocaine or a substance containing 28.5 grams or more of cocaine may be granted probation only in unusual cases where the interests of justice would be best served.

This bill deletes a redundancy by providing that a person convicted of selling 28.5 grams or more of a substance containing cocaine may be granted probation only in unusual cases where the interests of justice would be best served.

* Provisions of this bill are incorporated into SB 1334 (Chapter 1557).

JUVENILE DRUG TRAFFICKING
AB 2645 (Chapter 1664), Epple*

(Amends Sections 11353, 11353.1, 11353.5, 11364, and 11380 of the Health and Safety Code; adds Section 11380.1 to the Health and Safety Code; repeals Section 11380.5 of the Health and Safety Code; amends Section 729.8 of the Welfare and Institutions Code)

Under existing law, any person 18 years of age or over who prepares for sale, sells, or gives away any controlled substance to a minor who is at least five years younger than the perpetrator, where the act occurs on school grounds or a public playground during hours in which the school is open for classes or school programs are being conducted on the site, is punishable in state prison for five, seven, or nine years. Any person 18 years of age or over who is convicted of the sale, possession for sale, or manufacturing of cocaine base, where the violation occurs upon the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high school, or high school may be punished by a sentence enhancement of three, four, or five years. However, if the buyer or donee of those drugs is a minor who is at least four years younger than the perpetrator, the person may be punished by an additional, separate sentence enhancement of three, four, or five years.

This bill recasts and expands the juvenile drug trafficking provisions to provide that:

1) Certain crime provisions involving trafficking narcotic or dangerous drugs to minors on school grounds and other newly proscribed areas are punishable by multiple cumulative sentence enhancements.

2) The scope of those enhancements would apply to violations that occur upon the grounds of a church, synagogue, playground, public or private youth center, or public swimming pool, rather than only on or near school grounds.

3) The enhancements apply to offenses that occur during hours that those facilities are open for classes or school-related programs, or open for business, or at anytime minors are using the facility. The bill also provides that those provisions apply to offenses that occur in public areas or in business establishments where minors are legally authorized to conduct business.

Under existing law, if a minor is made a ward of the court for unlawfully possessing any controlled substance upon the grounds of, or within, any school during the hours in which the school is open for classes or school-related activities or programs, and the minor is granted probation, the court must,

except in unusual circumstances, require as a condition of probation that the minor perform no less than 40 hours of community service.

This bill provides that if a minor is made a ward of the court for the unlawful possession, use, sale, or other furnishing of controlled substances upon the grounds of any school, church, synagogue, playground, public or private youth center, or public swimming pool during the hours in which those facilities are open for business, classes, or school-related activities, or programs, and the minor is granted probation, the court must, except in unusual circumstances, require as a condition of probation that the minor perform no more than 100 hours of community service.

Under existing law, it is illegal to possess an opium pipe or other specified drug paraphernalia used for injecting or smoking controlled substances.

This bill prohibits the possession of specified drug paraphernalia used for injecting or smoking methamphetamines.

* Provisions of this bill which amend Health and Safety Code Sections 11353.1, 11353.5, and 11380 are incorporated into SB 2112 (Chapter 1665).

REHABILITATION AND MANDATORY MINIMUM SENTENCES
AB 3407 (Chapter 1096), Tucker

(Amends Section 11550 of the Health and Safety Code)

Under current law it is a misdemeanor, punishable by 90 days to one year in county jail and/or a fine up to $1,000 for any person to use or be under the influence of specified controlled substances, except when administered by or under the direction of a person licensed to dispense, prescribe, or administer controlled substances.

This bill provides that upon a third or subsequent offense of those misdemeanor provisions, the mandatory minimum jail term is increased from 90 days to 180 days if the offense occurred within seven years of the offender being convicted of two or more separate violations of those provisions, and the offender refuses to complete a licensed drug rehabilitation program. The bill authorizes the court to suspend part or all of the term of imprisonment in county jail if the offender completes the drug rehabilitation program, and authorizes the court to require the drug offender to pay all or a portion of the drug rehabilitation program costs. The bill also encourages counties to

include provisions to augment licensed drug rehabilitation programs in their substance abuse proposals and applications submitted to the state for federal and state drug abuse, and clarifies that the availability of such programs shall be determined on the basis of the offender's ability to pay.

The bill will not become operative until July 1, 1991.

JUVENILE DRUG TRAFFICKING
AB 3744 (Chapter 1663), Elder*

(Amends Sections 11353.1 and 11353.5 of the Health and Safety Code; adds Section 11380.1 to the Health and Safety Code)

Under existing law, any person 18 years of age or over who prepares for sale, sells, or gives away any controlled substance to a minor who is at least five years younger than the perpetrator, where the act occurs on school grounds or a public playground during hours in which the school is open for classes or school programs are being conducted on the site, is guilty of a felony punishable by five, seven, or nine years in state prison. Any person 18 years of age or over who is convicted of the sale, possession for sale, or manufacturing of cocaine base, where the violation occurs upon the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high school, or high school may be punished by a sentence enhancement of three, four, or five years. However, if the buyer or donee of those drugs is a minor who is at least four years younger than the perpetrator, the person may be punished by an additional, separate sentence enhancement of three, four, or five years.

This bill recasts and expands the juvenile drug trafficking provisions, as follows:

1) Provides that certain crime provisions involving trafficking narcotic or dangerous drugs to minors on school grounds and other newly proscribed areas are punishable by multiple cumulative sentence enhancements.

2) Provides that the scope of those enhancements would apply to violations that occur upon the grounds of a church, synagogue, playground, public or private youth center, or public swimming pool, rather than only on or near school grounds.

3) Provides that the enhancements apply to offenses that occur during hours that those facilities are open for classes or school-related programs, or open for business, or at anytime minors are using the facility. The bill

also provides that those provisions apply to offenses that occur in public areas or in business establishments where minors are legally authorized to conduct business.

* Provisions of this bill which amend Health and Safety Code Sections 11353.1 and 11353.5 are incorporated into SB 2112 (Chapter 1665).

ASSET FORFEITURE: PRECURSORS AND MANUFACTURING
AB 4251 (Chapter 1200), Clute

(Amends Sections 11470, 11488.1, 11488.2, 11488.4, 11488.5, 11488.6, and 11492 of the Health and Safety Code; repeals Section 11488.7 of the Health and Safety Code)

Under current law certain categories of property are subject to forfeiture to the state if they are connected with specified controlled substance offenses. Boats, airplanes, or any vehicles used to facilitate the violation of specified offenses are subject to forfeiture if the amount of controlled substance exceeds specified threshold quantities.

This bill adds the crimes of possession of specified quantities of chemical precursors with the intent to manufacture drugs and the illegal manufacturing of specified quantities of controlled substances to the list of offenses which could result in the forfeiture of boats, airplanes, or any vehicles. In addition, the bill makes numerous clarifying changes to asset forfeiture law.

DIVERSION PROGRAM: ELIGIBILITY
SB 1030 (Chapter 53), Presley

(Amends Section 1000 of the Penal Code)

Under current law, defendants charged with specified controlled substance violations may be eligible for the drug diversion program. A defendant may be referred to drug diversion any time prior to trial. The district attorney must file a declaration with the court indicating the grounds upon which a defendant is eligible or not eligible for diversion.

This bill revises the hearing procedure to specify that the eligibility hearing may be set, rather than held, on the date of arraignment.

This bill emphasizes the requirement that the probation department conduct an investigation and make a report to the court prior to the eligibility hearing.

This act is an urgency measure which became effective April 20, 1990.

METHAMPHETAMINES: DENIAL OF PROBATION
SB 1334 (Chapter 1557), Bergeson

(Amends Section 1203.073 of the Penal Code)

Under current law, any person who is convicted of specified felony controlled substance offenses may not, in any case, be granted probation or have his or her sentence suspended if that person previously has been convicted of specified controlled substance offenses. Those provisions do not include offenses involving methamphetamines. Under other provisions of law, there is a presumption against granting probation or suspending the sentence for any person convicted of specified felony offenses relating to controlled substances, except in the interest of justice in unusual cases.

This bill expands those provisions which create a presumption against granting probation or suspending the sentence to apply to offenses involving the sale, manufacture, or possession of certain controlled substances with the intent to manufacture methamphetamine if the offender has one or more prior convictions for a violation of those offenses involving the sale, possession for sale, or manufacture of methamphetamine.

PUNISHMENT: AGGRAVATED TERM
SB 1575 (Chapter 777), C. Green

(Adds Section 1170.73 to the Penal Code)

Under current law, various controlled substances offenses are punishable as follows:

1) It is an alternate felony/misdemeanor for any person to unlawfully possess certain controlled substances, including methamphetamines, PCP, and certain other stimulants, punishable by up to one year in county jail or for 16 months, two or three years in state prison and/or by a fine up to $10,000;

2) It is a felony for any person to unlawfully possess for sale certain controlled substances, including methamphetamines and certain other

stimulants, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000;

3) It is a felony for any person to unlawfully possess for sale PCP or any of its analogs or precursors, punishable by three, four, or five years in state prison, and/or a fine up to $10,000.

Under current law, in cases where the court sentences the defendant to state prison, the court generally is required to order imposition of the middle term of the tripartite sentence, unless there are mitigating or aggravating circumstances.

This bill requires the court to consider the quantity of controlled substance involved in the conviction of the above drug offenses in determining whether to impose an aggravated term of imprisonment.

PROHIBITED COMBINATIONS OF CHEMICALS
SB 1894 (Chapter 1591), Ayala

(Amends Section 11383 of the Health and Safety Code)

Under current law, it is a felony for any person to possess specified combinations of chemicals at the same time with the intent to manufacture specified controlled substances or their analogs, punishable by three, four, or five years in state prison and/or a fine up to $10,000.

This bill instead provides that those offenses are punishable by two, four, or six years in state prison and/or a fine up to $10,000.

DRUG PARAPHERNALIA: UNLAWFUL POSSESSION
SB 2028 (Chapter 544), Doolittle

(Amends Section 11364 of the Health and Safety Code)

Under current law, it is illegal to possess an opium pipe or other specified drug paraphernalia used for injecting or smoking certain specified controlled substances.

This bill prohibits the possession of specified drug paraphernalia used for injecting, ingesting, or smoking methamphetamines.

[The provisions of this bill which amend Health and Safety Code Section 11364 relating to ingesting methamphetamines will not become operative. They have been superseded by a later-enacted measure, AB 2645 (Chapter 1664).]

CRANK-UP TASK FORCE: DEPARTMENT OF JUSTICE CLANDESTINE LABORATORY ENFORCEMENT PROGRAM
SB 2031 (Chapter 1417), Presley

(Amends Section 11590 of the Health and Safety Code; adds Section 11648 to the Health and Safety Code; repeals and adds Section 11647 to the Health and Safety Code)

Under current law, the Department of Justice (DOJ) is required to establish a Clandestine Laboratory Enforcement Program (CLEP) to assist state and local law enforcement and prosecutorial agencies in apprehending and prosecuting persons involved in the unlawful manufacture of controlled substances.

This bill states certain legislative findings and declarations concerning clandestine methamphetamine laboratories in California, and it creates the Crank-Up Task Force Program as part of DOJ's CLEP to assist state and local law enforcement efforts to investigate, seize, and clean up clandestine methamphetamine laboratories. The bill also repeals certain obsolete provisions of law relating to DOJ reporting requirements under CLEP provisions and instead requires DOJ to make those reports annually, beginning on April 1, 1991. The bill re-appropriates $3 million to implement the Crank-Up Task Force Program.

This act is an urgency measure which became effective September 28, 1990.

JUVENILE DRUG TRAFFICKING
SB 2112 (Chapter 1665*), Boatwright

(Amends Sections 11353.1, 11353.5, 11353.7, and 11380 of the Health and Safety Code; adds Section 11380.1 to the Health and Safety Code; repeals Section 11380.5 of the Health and Safety Code)

Under existing law, any person 18 years of age or over who prepares for sale, sells, or gives away any controlled substance to a minor who is at least five years younger than the perpetrator, where the act occurs on school grounds or a public playground during hours in which the school is open for classes or school programs are being conducted on the site, is punishable in the state

prison for five, seven, or nine years. Any person 18 years of age or over who is convicted of the sale, possession for sale, or manufacturing of cocaine base, where the violation occurs upon the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high school, or high school may be punished by a sentence enhancement of three, four, or five years. However, if the buyer or donee of those drugs is a minor who is at least four years younger than the perpetrator, the person may be punished by an additional separate sentence enhancement of three, four, or five years.

This bill recasts and expands the juvenile drug trafficking provisions to provide that:

1) Certain crime provisions involving trafficking narcotic or dangerous drugs to minors on school grounds and other newly proscribed areas are punishable by multiple cumulative sentence enhancements.

2) The scope of those enhancements would apply to violations that occur upon the grounds of a church, synagogue, playground, public or private youth center, or public swimming pool, rather than only on or near school grounds.

3) The enhancements apply to offenses that occur during those hours that facilities are open for classes or school-related programs, or open for business, or at any time minors are using the facility. The bill also provides that those provisions apply to offenses that occur in public areas or in business establishments where minors are legally authorized to conduct business.

* Provisions of AB 2645 (Chapter 1664) and AB 3744 (Chapter 1663) which amend Health and Safety Code Sections 11353.1, 11353.5, and 11380 are incorporated into this chapter.

DOCUMENTATION OF PURCHASER IDENTIFICATION
SB 2329 (Chapter 352), Killea

(Amends Section 11107.1 of the Health and Safety Code)

Under current law, persons selling specified chemical substances must require proper purchaser identification and retain the bill of sale for three years. Those provisions include reference to the product "Freon" as one of the listed chemicals.

This bill deletes the word "Freon" from those provisions and replaces it with the more general term "refrigerant."

METHAMPHETAMINES: CRYSTALLINE FORM
SB 2730 (Chapter 952), Keene

(Adds Section 1170.74 to the Penal Code)

Under current law, it is an alternate felony/misdemeanor to possess certain controlled substances, including methamphetamine, punishable by up to one year in county jail and/or by a fine up to $1,000, or 16 months, two or three years in state prison and/or a fine up to $10,000. However, it is a felony to sell, furnish or administer, or possess for sale any of those controlled substances, including methamphetamine, punishable as follows:

1) Possession for sale of methamphetamine, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000.

2) Selling, furnishing, administering, or transporting methamphetamine, punishable by two, three, or four years, in state prison and/or a fine up to $10,000.

3) In cases where the court orders the defendant imprisoned, the court generally is required to order imposition of the middle term of the tripartite sentence, unless there are mitigating or aggravating circumstances.

This bill requires the court, for a conviction for specified offenses involving methamphetamine, to consider the fact that the controlled substance is in the crystalline form of methamphetamine as a circumstance in aggravation of the terms.

USE OF FEDERAL MONIES
SB 2739 (Chapter 674), Roberti

Under current law California receives federal money which is earmarked as part of the President's National Drug Control Strategy.

This bill makes legislative declarations and requires specified state agencies to submit a report to the Department of Finance (DOF) within 30 days after receiving the federal money on the proposed use of and goals to be achieved

with these funds. Each specified agency must also submit a report to DOF within 30 days after the end of each fiscal year specifying the actual use and level of attainment of the specified goals. DOF must analyze each submitted report and submit its findings to the Legislature no later than 30 days after receiving each report.

CORRECTIONAL INSTITUTIONS
SB 2863 (Chapter 1580), Presley

(Amends Sections 4573, 4573.5, and 4573.6 of the Penal Code; adds Sections 4573.8, 4573.9, and 5021 to the Penal Code)

Under current law, it is a felony to bring or send controlled substances, as defined, alcohol or paraphernalia intended for consumption of controlled substances or alcohol into any state or local detention facility, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000.

This bill increases the penalty for bringing or sending controlled substances, as defined, or paraphernalia intended for consumption of same into any state or local facility, as specified, to two, three, or four years in state prison and/or a fine up to $10,000.

Under current law, it is a felony to knowingly possess any controlled substances, drugs of any kind, alcoholic beverage, or paraphernalia in any state or local detention facility, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000.

This bill increases the penalty for knowing possession of any controlled substance or paraphernalia in any state or local detention facility, as specified, to two, three, or four years in state prison and/or a fine up to $10,000.

Current law provides no separate crime for sales of any of the above referenced contraband in state or local detention facilities. These offenses currently are prosecuted under one of the three sections described above.

The bill makes it a felony for a visitor, vendor, or employee to sell, furnish, give away, administer, or offer to do the same to any person held in custody in any state or local detention facility, as specified, punishable by two, four, or six years in state prison and/or a fine up to $10,000.

Under existing law, if a person who is incarcerated in a correctional institution dies, the authorities are required to make a written report to the Attorney General within 10 days.

This bill requires authorities of any state or local custodial facility for juveniles or adults, and authorities of the Department of Health to report, as specified, the death of a person in their care or control to the local law enforcement authorities, the district attorney, and to the county coroner, as specified, within two hours of the discovery of the death, or to the chief medical officers for state agencies involved, as specified, as soon as that person or their designated representative is on duty.

IV. CRIMINAL JUSTICE PROGRAMS

GANG VIOLENCE SUPPRESSION PROGRAM
AB 2853 (Chapter 280), Allen

(Adds Section 13826.15 to the Penal Code)

Under existing law, the Gang Violence Suppression Program, which is administered by the Office of Criminal Justice Planning (OCJP), provides financial and technical assistance for district attorney offices, local law enforcement agencies, county probation departments, school districts, county offices of education, and community-based organizations which are primarily engaged in the suppression of gang violence.

This bill includes legislative declarations and findings concerning funding of the Gang Violence Suppression Program, and specifies a priority system which OCJP may use in awarding new grants to applicants.

AFTER SCHOOL ALTERNATIVE PROGRAM
AB 3118 (Chapter 1625), Moore

(Amends Section 13826.6 of the Penal Code; adds Section 13826.11 to the Penal Code; adds and repeals Section 13826.12 of the Penal Code)

Under existing law, the Office of Criminal Justice Planning administers the Gang Violence Suppression Program. Current law requires community-based organizations that are grantees under the Gang Violence Suppression Program to implement certain alternative activities.

This bill adds the mobilization of the community to share joint responsibility with local criminal justice personnel to prevent and suppress gang violence to the list of alternative activities that community-based organizations must implement.

This bill creates the "After School Alternative Program" (ASAP), a pilot program established and implemented within a Los Angeles community that elects to participate in and develop an ASAP. The establishment of the program will be contingent upon the availability and receipt of federal funding. This bill provides that each community that elects to participate in the ASAP must meet specified criteria and fulfill specified duties with regard to the program.

The provisions of this bill will remain operative until June 30, 1993 and as of that date are repealed.

POLICE FOOT PATROLS
AB 4087 (Chapter 1320), Friedman

(Adds Section 13823.20 to the Penal Code)

Under current law, the Office of Criminal Justice Planning (OCJP) is required to, among other duties, receive and disburse federal funds and develop comprehensive and unified procedures to ensure that all local plans and all state and local projects are consistent with a comprehensive state plan developed by OCJP for the improvement of criminal justice and delinquency prevention activity throughout the state.

This bill requires OCJP to establish a demonstration project in Los Angeles to create police foot patrols in high intensity drug-related crime areas and to issue a request for proposal to select at least three additional cities for foot patrol demonstration projects.

This bill requires OCJP to conduct an evaluation of the foot patrol programs created by this act and to submit a report to the Legislature no later than August 31, 1991.

This act is an urgency measure which became effective September 25, 1990.

CAREER CRIMINAL PILOT PROJECT
AB 4152 (Chapter 1554), Cannella

(Adds and repeals Chapter 6.5 (commencing with Section 13855) to Title 6, Part 4 of the Penal Code)

Existing law establishes various projects to aid in the apprehension and prosecution of criminals.

This bill establishes the Armed Career Criminal Pilot Project, to be implemented by the Department of Justice (DOJ) in specified counties. The purpose of the program is to evaluate the propensity of armed career criminals to commit further offenses, to utilize information provided from other agencies to provide law enforcement officials with information on armed career

criminals, to assist in identifying suspects, to provide information for sentencing, and to develop a data processing system for information on armed career criminals.

This bill requires the Department of Corrections, the Department of Motor Vehicles, and law enforcement agencies, when requested by DOJ, to provide copies of existing information maintained in their files regarding armed career criminals.

The provisions of this bill will remain operative until January 1, 1996 and as of that date are repealed.

POLICE CORPS
AB 1720 (Chapter 634), Hayden

Under current law the Office of Criminal Justice Planning (OCJP) administers various programs.

This bill requires OCJP, after conferring with specified representatives, to study the police corps scholarship concept and determine what steps should be taken to receive federal funding which may be available for a police corps scholarship program and other programs which may serve as alternatives for increasing law enforcement staffing levels.

This bill requires OCJP to report its findings to the Governor and to the Legislature by January 1, 1992.

JUVENILE SEX OFFENDER TREATMENT ACT
SB 1895 (Chapter 1344), Seymour

(Amends Sections 13827, 13827.1, 13827.3, 13827.4, 13827.6, and 13827.7 of the Penal Code; repeals Section 13827.5 of the Penal Code; amends Section 2, Chapter 637, Statutes of 1985)

Under current law the Juvenile Sex Offender Treatment Act of 1985 established a three-county pilot program, supervised by the Office of Criminal Justice Planning (OCJP) due to sunset in July 1990. The program provides nondetention, intensive therapy and case management treatment to all juvenile sex offenders, as defined, in selected counties who are not committed to the Department of the Youth Authority. The selected counties (Fresno, San Joaquin, and Ventura) are required to use any funds available from public and private sources prior to using state funds. The state reimburses counties for all costs incurred in conducting the pilot program.

This bill extends the pilot program for two years, with a new sunset date of July 1, 1992. It extends the supervision of the program by OCJP until January 1, 1993. It repeals the provision that the counties will be reimbursed by the state for costs incurred.

The bill requires OCJP to submit a report to the Legislature by January 1, 1991 containing information about the program, as specified.

This act is an urgency measure which became effective September 26, 1990.

CRANK-UP TASK FORCE: DEPARTMENT OF JUSTICE CLANDESTINE LABORATORY ENFORCEMENT PROGRAM
SB 2031 (Chapter 1417), Presley

(Amends Section 11590 of the Health and Safety Code; adds Section 11648 to the Health and Safety Code; repeals and adds Section 11647 to the Health and Safety Code)

Under current law, the Department of Justice (DOJ) is required to establish a Clandestine Laboratory Enforcement Program (CLEP) to assist state and local law enforcement and prosecutorial agencies in apprehending and prosecuting persons involved in the unlawful manufacture of controlled substances.

This bill states certain legislative findings and declarations concerning clandestine methamphetamine laboratories in California, and it creates the Crank-Up Task Force Program as part of DOJ's CLEP to assist state and local law enforcement efforts to investigate, seize, and clean up clandestine methamphetamine laboratories. The bill also repeals certain obsolete provisions of law relating to DOJ reporting requirements under CLEP provisions and instead requires DOJ to make those reports annually, beginning on April 1, 1991. The bill re-appropriates $3 million to implement the Crank-Up Task Force Program.

This act is an urgency measure which became effective September 28, 1990.

COMMUNITY CRIME RESISTANCE PROGRAM
SB 2607 (Chapter 1419), Seymour

(Amends Sections 13841, 13843, 13844, and 13846 of the Penal Code; adds Section 13845.5 to the Penal Code)

Under current law there is the California Community Crime Resistance Program within the Office of Criminal Justice Planning which allocates and awards

funds to communities developing and providing ongoing citizen involvement and crime resistance programs in compliance with established policies and criteria. The program establishes criteria for the selection of communities to receive funding of up to $250,000 for a 12-month period.

This bill establishes a community policing program in targeted neighborhoods in order to combat illegal drug activity. This bill exempts an alternative community policing program from the $250,000 maximum award restriction.

VICTIM RESTITUTION PROGRAM
SB 2685 (Chapter 1264), Russell

Current law contains numerous crime-victim restitution provisions.

This bill creates within the Office of Criminal Justice Planning a one-year pilot program in Sacramento, Orange, and Shasta Counties which would study the effectiveness of collecting restitution which is ordered paid to crime victims. The program, which will be implemented in conjunction with the Board of Control, will monitor restitution orders and their collections and prepare a final accounting comparing the amount of victim restitution defendants are ordered to pay upon sentencing with the actual amount paid by the defendants.

V. JUVENILES

Child Abuse Reporting

REPORTING REQUIREMENTS
AB 3521 (Chapter 931), Bentley

(Amends Section 11166.5 of the Penal Code)

Under current law any child care custodian, health practitioner, or employee of a child protective agency is required to report known or suspected instances of child abuse.

This bill includes administrators and employees of public or private youth centers, youth recreation programs, and youth organizations who have been trained in the reporting of child abuse. This bill exempts from the reporting requirement persons employed by public or private youth centers, youth recreation programs, and youth organizations as members of the support staff or maintenance staff who do not work with, observe, or have knowledge of children as part of their official duties.

CHILD ABUSE REPORTING LAWS
SB 2423 (Chapter 650), Royce

(Amends Section 11166.2 of the Penal Code)

Under current law, child protective agencies are required to report to the appropriate licensing agency every known or suspected instance of child abuse involving certain cared-for children, except specified acts of general neglect which shall only be reported to the county welfare department.

This bill deletes the exception of reporting acts of general neglect only to the county welfare department, thereby requiring a child care protective agency to report to the appropriate licensing agency every known or suspected instance of child abuse, including general neglect involving certain cared-for children.

DEFINITION OF TERMS
SB 2788 (Chapter 1330), Russell*

(Amends Sections 11165.12 and 11170 of the Penal Code)

Current law requires the Department of Justice (DOJ) to maintain an updated index of all reports of child abuse reported to it and prohibits the index from containing reports which are determined to be unfounded.

This bill defines the terms "substantiated report" and "unsubstantiated report" for purposes of the child abuse and neglect reporting laws.

Current law requires DOJ to notify parents or legal guardians requesting a background examination of a professional child care provider of the fact that a substantiated report of child abuse either exists or does not exist regarding that person.

This bill provides that specified persons or agencies to whom disclosure of child abuse reports are authorized, are responsible for obtaining the original investigative report from the reporting agency and from drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

* Provisions of AB 3532 (Chapter 1363) which amend Penal Code Section 11170 are incorporated into this chapter.

Juvenile Court

WARD OF COURT: FIREARM OFFENSES
AB 497 (Chapter 9), Connelly*

(Amends Sections 11106, 12001, 12021, 12070, 12071, 12072, 12073, 12076, 12077, 12078, and 12082 of the Penal Code; amends the heading of Article 4 (commencing with Section 12070), Chapter 1, Title 2, Part 4 of the Penal Code; adds Section 12083 to the Penal Code; repeals Chapter 3 (commencing with Section 12350), Title 2, Part 4 of the Penal Code; repeals Article 2 (commencing with Section 12560) of Chapter 6, Title 2, Part 4 of the Penal Code; amends Sections 8100 and 8103 of the Welfare and Institutions Code)

Under current law, persons prohibited from possession of firearms include convicted felons, narcotics addicts, prior violent offenders, individuals with a record of mental health problems, juveniles tried as adults and convicted of specified offenses, and, in the case of individuals under 21 years of age, deliveries by dealers of pistols and revolvers.

This bill creates an alternate felony/misdemeanor offense punishable by 16 months, two or three years in state prison and/or a fine up to $10,000 or up to one year in county jail and/or a fine up to $1,000 for a juvenile adjudged a ward for a specified offense, to own, possess, or control any firearm until age 30.

* Provisions of this bill are incorporated into SB 830 (Chapter 177), SB 2050 (Chapter 1090), and AB 1753 (Chapter 1180).

FITNESS CRITERIA
AB 2601 (Chapter 249), Tucker

(Amends Section 707 of the Welfare and Institutions Code)

Under current law, 16 or 17 year-olds charged with any crime may be found to be unfit for juvenile court and, after a hearing, be remanded to adult court. If these juveniles are charged with specified offenses, upon motion of the district attorney, they are presumed to be unfit for juvenile court.

This bill adds to the list of crimes where the juvenile is presumed unfit escape by use of force or violence from any county juvenile hall, ranch, camp, or forestry camp where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the escape.

OPEN HEARINGS AND RECORDS
AB 2638 (Chapter 246), Tucker

(Amends Sections 676 of the Welfare and Institutions Code; amends and repeals Section 827 of the Welfare and Institutions Code)

Under current law, the public may not attend most juvenile court hearings unless the minor and any parent, guardian, or adult representative so requests. However, when the petition charges the minor with a violation of specified criminal offenses, the public may attend all hearings on the

petition in the same manner as it may attend criminal trials. Exceptions exist for specified sex offenses to protect the privacy of the complaining witness.

This bill adds specified drug and gang-related offenses to the list of crimes resulting in public hearings on the petition.

Under current law the petition, reports of the probation officer, and all other documents filed or retained in a case may be inspected only by court personnel, the minor and his or her parents, attorneys for the parties, and such other persons as may be designated by the court. In addition, the district attorney and child protective agencies are entitled to inspect upon filing a petition under penalty of perjury that access is necessary and relevant to an investigation or proceeding.

The bill creates a new exception to the general rule of confidentiality of juvenile court records by providing that enumerated portion of the court file of any case subject to a public hearing are available for public inspection. The probation officer or any party may petition the court to prohibit disclosure. In addition, the bill provides that the district attorney may inspect the records without filing a declaration under penalty of perjury.

Under current law if the minor is enrolled in grades one through 12 of a public school and has been the subject of a sustained petition for controlled substance offenses or fitness crimes, written notice of the sustained petition must be transmitted to the superintendent of the school of attendance for confidential use by the minor's counselors and teachers. This provision sunsets on December 31, 1990.

This bill deletes the sunset on the school reporting requirement.

CONTINUANCES
AB 3216 (Chapter 1508), McClintock

(Amends Section 682 of the Welfare and Institutions Code; repeals Section 700.5 of the Welfare and Institutions Code)

Under current law upon request of counsel for the minor, the court may continue any juvenile court hearing beyond the time limit within which the hearing is to be held.

This bill provides that juvenile status offender and delinquency cases can only be continued if the moving party demonstrates good cause. The continuance can be only for the period of time shown to be necessary.

The bill requires that the moving party file and serve written notice on all other parties at least two court days before the hearing on the motion. Declarations or affidavits detailing specific facts showing good cause must accompany the notice. The written notice procedure need not be followed if good cause is shown. If it is not, the motion must be denied.

This bill requires the court to enter into the minutes the facts which require the continuance.

TRAFFIC OFFENSES: PUNISHMENT
AB 3325 (Chapter 292), Johnston

(Amends Section 258 of the Welfare and Institutions Code)

Under current law, a judge, referee, or traffic hearing officer of the juvenile court may order a minor to perform work in a park or recreational facility for having committed a traffic offense or certain other specified criminal offenses. An order to perform work made pursuant to those provisions is limited to a maximum of 25 hours over a period not to exceed 30 days, during times other than the minor's hours of school attendance or employment.

This bill provides instead that those minors may be ordered to perform work in any public entity or any private nonprofit entity, rather than only in a park or recreational facility, for not more than 50 hours over a period of 60 days, during times other than his or her hours of school attendance or employment. Work performed pursuant to these provisions must not exceed 30 hours during any 30-day period. The bill further provides that those time frames shall not be modified except in unusual cases where the interests of justice would be best served, and that the court shall not, without the minors consent, order the minor to work with a private nonprofit entity that is affiliated with any religion.

DESTRUCTION OF RECORDS
AB 3466 (Chapter 698), Frazee

(Amends Section 826 of the Welfare and Institutions Code)

Under current law, the juvenile court is required to order destruction of juvenile court records when the person who is the subject of the record

reaches the age of 28. However, if the person was alleged or adjudged to have committed criminal acts, the court is required to order destruction of those records when the person reaches the age of 38. Juvenile court records relating to traffic matters may be ordered destroyed after five years from the date on which the jurisdiction of the juvenile court over the minor is terminated.

This bill provides that the juvenile court is required to order destruction of juvenile court records when the person who is the subject of the record reaches the age of 21, excluding records of persons alleged to have committed criminal acts or persons alleged or adjudged to be a dependent child of the juvenile court. The bill also provides that juvenile court records relating to traffic matters may be ordered destroyed five years after the date on which the jurisdiction of the juvenile court over the person is terminated, or when the person reaches the age of 21. Finally, the bill provides that the juvenile court, upon appropriate written request, is required to order release of those records to the person who is the subject of the record, five years after the jurisdiction of the juvenile court over the person has terminated or, in certain cases, when he or she reaches the age of 21.

PROGRAM OF SUPERVISION
AB 3741 (Chapter 258), McClintock

(Amends Section 652.5 of the Welfare and Institutions Code; adds Section 654.6 to the Welfare and Institutions Code)

Under current law, a peace officer may, without warrant, take into temporary custody any minor who the officer believes has committed a criminal act or has escaped from any commitment ordered by the juvenile court. The officer may deliver the minor to a specified public or private agency for purposes of shelter care, counseling, or diversion services. In addition, under specified circumstances, a probation officer may, in lieu of filing a petition against a minor who is, or likely will be, a ward of the juvenile court for committing alleged criminal acts, delineate specific programs of supervision for the minor for a period up to six months.

This bill provides that any minor who is required to participate in a service program or a probation office program of supervision pursuant to any of those provisions may be required to perform at least 10 hours of community service,

repair damaged property or make other appropriate restitution, or participate in a program of counseling or education. The bill also provides that the minor or his or her parent or guardian may be required to reimburse the agency for the cost of those programs if any of those persons have the financial ability to pay all or part of the costs of the programs.

DETERMINING AGE
AB 3877 (Chapter 749), Woodruff

(Adds Section 608 to the Welfare and Institutions Code)

Under current law, various ages are of jurisdictional and procedural importance in juvenile and adult court proceedings.

This bill provides that when a person's age is at issue in a juvenile wardship proceeding or when it appears that the person being prosecuted in adult court was under the age of 18 years when the offense was committed, and the court finds that a scientific or medical test would be of assistance in determining the age of the minor, the court may consider ordering an examination of the minor using a specified method involving dental X-rays.

DISCLOSURE OF RECORDS
SB 1429 (Chapter 776), C. Green

(Amends Section 828 of the Welfare and Institutions Code; adds Section 828.1 to the Welfare and Institutions Code)

Under current law, information that is gathered by a law enforcement agency relating to the taking of a minor into custody may be disclosed to another law enforcement agency or to any person or agency which has a legitimate need for the information for purposes of official disposition of a case, but those provisions do not apply to juvenile records ordered sealed by the juvenile court. The juvenile court is required to provide certain information relating to specified controlled substance violations or violent crimes committed by minors to school superintendents for dissemination to appropriate school personnel. It is a misdemeanor, punishable by a fine up to $500, for any of those school personnel to violate that confidentiality. These provisions are due to sunset on January 1, 1991.

Under other provisions of current law, a school district is required to inform the teacher of every student who caused or has attempted to cause serious

bodily injury to another person, based on records the school maintains or receives from law enforcement agencies.

This bill expressly provides that a school district police or security department is authorized to receive from other law enforcement agencies any information relating to the taking of a minor into custody, except information contained in records ordered sealed by the juvenile court. The bill also authorizes a school district police or security department that receives that criminal information relating to minors to disseminate certain specified matters to school administrators, teachers, and counselors for specified purposes. As under current law, the bill provides that it is a misdemeanor, punishable by a fine up to $500, for any of those school personnel who receive that information to further disseminate that information to unauthorized persons.

VI. PEACE OFFICERS

OFFICERS SERVING AT STATE MENTAL HOSPITALS
AB 389 (Chapter 675), Peace

(Amends Sections 3301, 20017.99, and 74368 of the Government Code; amends Sections 488.5, 557.5, 557.6, and 669.5 of the Insurance Code; amends Section 148.5 of the Penal Code)

Existing law provides for the "Public Safety Officer Procedural Bill of Rights" which permits peace officers to enjoy certain privileges and immunities conveyed by statute.

This bill provides that various rights and privileges normally enjoyed by peace officers be restored to the officers serving at state hospitals under the Departments of Mental Health and Developmental Services.

POST TRAINING: GANG AND DRUG LAW ENFORCEMENT
AB 2306 (Chapter 333), Calderon*

(Amends Sections 13510, 13522, and 13525 of the Penal Code; adds Section 13519.5 to the Penal Code)

Under existing law, the Commission on Peace Officer Standards and Training (POST) is required to develop courses for the training of peace officers of specified public agencies.

This bill requires POST to implement, on or before July 1, 1991, a course of instruction for continuing training on methods of gang and drug law enforcement. The bill includes joint power agencies among the agencies whose peace officers the commission is required to provide training.

* The provisions of this bill which amend Penal Code Section 13510 to extend POST training to peace officers under the jurisdiction of joint power agencies are incorporated into SB 2457 (Chapter 477).

CUSTODIAL OFFICERS FOR COMMUNITY CORRECTIONAL INSTITUTIONS
AB 3401 (Chapter 1285), N. Waters

(Amends, repeals, and adds Section 2910.5 to the Penal Code; adds and repeals Sections 830.55 and 6257 of the Penal Code)

Current law defines peace officers as various categories of individuals with powers, including but not limited to, the power of arrest, the execution of warrants, the carrying of firearms, and the general enforcement of the law.

Under current law custodial officers are public officers employed by the city or county, having custody of prisoners and responsibilities for operation of local detention facilities. They are not peace officers.

This bill creates a new category of peace officer, called correctional officers, employed by cities that operate facilities under contract with the the Department of Corrections (CDC) or the Department of the Youth Authority, as defined, to provide for the custody of state prisoners and parolees. It limits the right of newly created correctional officers to carry firearms only under the direction of the superintendent of the facility and while engaged in 1) transporting prisoners, 2) guarding hospitalized prisoners, 3) suppressing riots or lynchings, and 4) making rescues in or about a detention facility, as defined.

This bill permits persons convicted of violent felonies and persons with histories of escapes to be placed in community facilities if CDC has reviewed each case individually to make certain that the placement is in keeping with the need to protect society.

The provisions of this bill will remain operative until January 1, 1992 and as of that date are repealed.

This act is an urgency measure which became effective September 25, 1990.

NATIONAL PARK RANGERS
AB 3474 (Chapter 900), Peace*

(Amends Section 830.8 of the Penal Code)

Under current law, duly authorized federal employees who comply with designated training requirements are peace officers when they are engaged in enforcing applicable state or local laws on property owned or possessed by the

United States Government and with the written consent of the sheriff or the chief of police in whose jurisdiction the property is situated.

Under current law, federal criminal investigators and law enforcement officers are not California peace officers, but may exercise the powers of arrest of a peace officer for violations of state or local laws provided the investigators and law enforcement officers are engaged in the enforcement of federal criminal laws and exercise the arrest powers only incidental to the performance of their federal duties. These investigators and law enforcement officers must have been certified as having satisfied specified training requirements.

This bill provides that national park rangers may exercise designated powers of arrest of a peace officer when acting upon the request of state park rangers to assist in specified law enforcement activities if they have satisfactorily completed specified training, or its equivalent.

* Provisions of this bill are incorporated into SB 2140 (Chapter 1695).

CITIZENSHIP REQUIREMENT
AB 3816 (Chapter 1473), Roos

(Amends Sections 1031 and 1031.5 of the Government Code)

Under current law public officers or employees declared by law to be peace officers are required to be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship.

This bill creates an exception to these provisions by requiring that a member of the California Highway Patrol either be a United states citizen, or if appointed prior to September 13, 1982, that he or she become a citizen at the earliest time possible, and that failure to attain citizenship within the specified time will result in termination of employment.

Current law provides that a permanent resident alien who applies for employment as a peace officer must have applied for citizenship at least one year prior to his or her application for employment.

This bill deletes the requirement that any permanent resident alien who applies for employment as a peace officer must have applied for citizenship at least one year prior to his or her application to be a peace officer.

FIREARMS QUALIFICATIONS
AB 3905 (Chapter 1194), Quackenbush

(Amends Section 830.5 of the Penal Code)

Under current law specified persons employed by state corrections departments may carry firearms under certain conditions. Current law also provides that those persons must meet specified training requirements and that it is the responsibility of the officer to maintain his or her eligibility to carry firearms off duty.

This bill provides that failure to maintain quarterly qualifications by an officer or designee with any concealable firearms carried off duty shall constitute good cause to suspend or revoke that person's right to carry firearms off duty.

This bill provides that the Department of Corrections (CDC) allow reasonable access to its ranges for officers and designees of CDC or the Department of the Youth Authority to qualify to carry concealable firearms off duty. The time spent on the range for purposes of meeting the qualification requirements must be done on the person's own time during off-duty hours. The bill provides that the Director of Corrections promulgate regulations consistent with these provisions.

CLASSIFICATION
SB 655 (Chapter 82), Presley*

(Amends Section 14613 of the Government Code; amends Section 12020 of the Health and Safety Code; amends Sections 488.5, 557.5, and 557.6 of the Insurance Code; amends Sections 409.5, 830.2, 830.3, 830.33, 830.36, 830.7, 830.8, 830.9, 13540, and 13542 of the Penal Code; amends Section 10334 of the Public Contract Code; amends Sections 8226 and 8227 of the Public Utilities Code; amends Section 25258 of the Vehicle Code)

Under existing law, various code sections assign specific duties, privileges, and powers to specified peace officers.

This bill makes various technical and clarifying revisions relating to peace officers classification, training, duties and privileges.

Existing law specifies when an authorized emergency vehicle may display a flashing blue warning light.

This bill includes authorized emergency vehicles used by peace officers of the California State University Police Departments and marshals and police appointed by the Board of Directors of the California Exposition and State Fair in the performance of their duties.

This act is an urgency measure which became effective May 3, 1990.

* Provisions of this bill which amend 1) Insurance Code Sections 557.5 and 557.6 are incorporated into SB 2140 (Chapter 1695); 2) Penal Code Sections 830.36 and 830.7 are incorporated into AB 878 (Chapter 187) and AB 1506 (Chapter 518), respectively; 3) Penal Code Sections 409.5 and 830.8 and Vehicle Code Section 25258 are incorporated into SB 2140 (Chapter 1695).

RESERVE COUNTY FISH AND GAME WARDENS
SB 1896 (Chapter 325), Davis

(Adds and repeals Sections 875.1 and 878.1 of the Fish and Game Code)

Under current law the board of supervisors of each county is authorized to appoint a county fish and game warden and deputy wardens, who have the powers and authority of peace officers.

This bill authorizes the Los Angeles County Board of Supervisors to appoint not more than three ocean lifeguards employed by the county as reserve county fish and game wardens for not more than four months. The bill grants the reserve wardens the powers and authority of peace officers if certain conditions are met.

The provisions of the bill will remain operative until January 1,1993 and as of that date are repealed.

PERSONNEL RECORDS: HOME ADDRESSES
SB 1985 (Chapter 264), C. Green

(Amends Section 832.8 of the Penal Code)

Under current law, it is unlawful to disclose the home addresses of specified peace officers contained in records maintained by the Department of Motor Vehicles as well as those in voter registration records. The home address is

considered confidential if the peace officer requests confidentiality of that information.

Under current law, peace officer personnel records and citizen complaint records are confidential and shall not be disclosed in any civil or criminal proceeding, except by discovery pursuant to the Evidence Code.

This bill adds home addresses to the definition of "personnel records" relative to unauthorized disclosure.

REPORTING OF EXPOSURE TO AIDS
SB 2033 (Chapter 1138), Hello

(Adds and repeals Section 7554 to the Penal Code)

Existing law requires a law enforcement employee to report any instance in which he or she comes into contact with the bodily fluids of prison inmates, parolees, detainees, or probationers to the chief medical officer, of each correctional, custodial, or law enforcement agency, who would then make a determination, based primarily upon medical reasons, as to whether HIV testing will be required for the subject of the report.

This bill requires the specified agency or the chief medical officer of each correctional, custodial, or law enforcement agency, which includes local law enforcement agencies, to report each reportable incident together with its disposition to the State Department of Health Services (DHS). This bill specifies that under no circumstances shall the name of the law enforcement employee be transmitted by the local law enforcement agency or the chief medical officer of the local agency to DHS.

The bill additionally requires DHS to release the data upon written request to any law enforcement agency or to any nonprofit law enforcement research entity, with the provision that all identities related to the report remain anonymous.

The bill requires DHS to report to the Legislature on or before July 1 of each year.

The provisions of this bill will remain operative until January 1, 1996 and as of that date are repealed.

RESERVE OFFICERS
SB 2140 (Chapter 1695), Davis*

(Amends Section 25755 of the Business and Professions Code; amends Sections 14613.7 and 68097.1 of the Government Code; amends Section 12020 of the Health and Safety Code; amends Sections 488.5, 557.5, 557.6, and 669.5 of the Insurance Code; amends Sections 409.5, 830.1, 830.6, 830.8, 12028, and 12028.5 of the Penal Code; adds Section 13526.1 to the Penal Code; amends Section 25258 of the Vehicle Code)

Under current law, whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city police officer, a deputy sheriff, a reserve police officer of a regional park district or of a transit district, or a deputy of the Department of Fish and Game, or a special agent of the Department of Justice, and is assigned specific police functions by that authority, the person is a peace officer. The authority of the person as a peace officer applies only for the duration of the person's specific assignment.

This bill makes various technical changes in the powers and duties of reserve officers, officers of the Department of Fish Game and the California Highway Patrol.

* Provisions of AB 389 (Chapter 675) which amend Insurance Code Section 669.5, and provisions of SB 655 (Chapter 82) which amend Insurance Code Sections 557.5 and 557.6 are incorporated into this chapter.

  Provisions of AB 3474 (Chapter 900) and SB 655 (Chapter 82) which amend Penal Code Sections 409.5 and 830.8 are incorporated into this chapter.

  Provisions of SB 655 (Chapter 82) which amend Section 25258 of the Vehicle Code are incorporated into this chapter.

TRAINING REQUIREMENT
SB 2457 (Chapter 477), Boatwright

(Amends Section 13510 of the Penal Code)

Under current law the Commission on Peace Officer Standards and Training is required to establish and enforce minimum standards relating to the training of peace officers and public safety dispatchers.

This bill applies the training requirement to peace officers and public safety dispatchers employed by a joint powers agency.

RACIAL AND CULTURAL DIVERSITY TRAINING
SB 2680 (Chapter 480), Boatwright

(Adds Section 13519.4 to the Penal Code)

Under current law the commission on Peace Officer Standards and Training (POST) develops and implements programs to increase the effectiveness of law enforcement through training, education, and investigation.

This bill requires POST, by January 1, 1991, to develop and disseminate guidelines and training for California peace officers on the racial and cultural differences among the residents of this state.

VII. STATE AND LOCAL CORRECTIONAL FACILITIES

Department of the Youth Authority

LOCAL INCARCERATION OF JUVENILES
SB 549 (Chapter 981), Presley*

(Adds Sections 15819.23 and 15819.24 to the Government Code; adds Chapter 3.3 (commencing with Section 15819.40 to Government Code; amends Section 5003 of the Penal Code; repeals Section 2, Chapter 1413, Statutes of 1989; amends Section 207.1 of the Welfare and Institutions Code)

Current law provides that minors may not, with certain exceptions, be detained in a jail or lockup in which adults are held. The Department of the Youth Authority (CYA) is required to assist law enforcement agencies, probation departments, and the courts with the implementation of this prohibition and exceptions. CYA may exempt a county that does not have a juvenile hall or an off-shore law enforcement facility from compliance with the prohibition for a reasonable period of time, until December 31, 1990, for the purpose of allowing the county to develop alternatives to the use of jails and lockups for the confinement of minors if specified conditions are met.

This bill extends the exemption period which permits juvenile incarceration in facilities in which adults are detained for a reasonable period of time until July 1, 1991.

This bill is an urgency measure which became effective September 17, 1990.

* Provisions of this bill are incorporated into SB 786 (Chapter 1078).

County Facilities

WORK RELEASE PROGRAM
AB 2555 (Chapter 146), Quackenbush

(Amends Section 4024.2 of the Penal Code)

Existing law permits a board of supervisors of a county to authorize the sheriff or head of a county correctional facility to offer a voluntary program

in which a person committed to that correctional facility performs labor on levees, public works, and ways in lieu of confinement in a county facility.

This bill authorizes the sheriff or head of a county correctional facility to offer persons committed to that facility participation in education, vocational training, or substance abuse programs in lieu of time in the work release program. The participants will be given credit on an hour-for-hour basis up to one-half of the maximum hours of the work release program established by that facility.

This act is an urgency measure which became effective June 19, 1990.

COUNTY CORRECTIONAL AND YOUTH FACILITY BOND ACTS: USE OF FUNDS
AB 3609 (Chapter 1057), Chandler

(Amends Section 4497.12 of the Penal Code)

Under existing law, in the County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988, a fund of $410 million is available for the construction, reconstruction, remodeling, and replacement of county correctional facilities. An additional $65 million is available for the construction, reconstruction, remodeling, and replacement of county juvenile facilities. However, expenditure of monies in the fund shall be made only if county matching funds of 25% are provided as determined by the Legislature. The requirement of 25% matching funds may be modified or waived by the Legislature where it determines that it is necessary for the expeditious and equitable construction of state and local facilities.

This bill permits counties to qualify for the use of state funds to construct local detention facilities by matching 25% of the funds, and provides that counties may calculate the match without requiring it to be made on a pro-rata basis.

USE OF FUNDS
AB 3915 (Chapter 1056), W. Brown

(Amends Section 4497.12 of the Penal Code; amends Section 7, Chapter 1519, Statutes of 1986)

Existing law provides funds are for the construction, reconstruction, remodeling, and replacement of county correctional and juvenile facilities. in the County Correctional Facility Capital Expenditure and Youth Facility

Bond Act of 1988 and the County Correctional Facility Capital Expenditure Bond Act of 1986. The expenditure of monies in the fund shall be made only if county matching funds of 25% are provided as determined by the Legislature. Further, the requirement of 25% matching funds may be modified or waived by the Legislature where it determines that it is necessary for the expeditious and equitable construction of state and local facilities.

This bill permits specified earthquake distressed counties to qualify for the use of state funds to construct, reconstruct, remodel, and replace county correctional and juvenile facilities by providing that the county match requirements need not be on a pro rata basis for the counties of San Francisco, Alameda, San Benito, Santa Clara, and Santa Cruz.

JUVENILE FACILITIES
SB 786 (Chapter 1078), Presley*

(Amends Sections 207.1 and 209 of the Welfare and Institutions Code)

Under current law the circumstances under which minor may be detained in a jail or other secure facility for the confinement of adults is limited. The Department of the Youth Authority (CYA) is required to assist law enforcement agencies, probation departments, and the courts with implementing these restrictions. However, CYA may exempt a county that does not have a juvenile hall or an off-shore law enforcement facility from compliance with these requirements for a reasonable period of time until December 31, 1990 to allow for the development of alternatives to the use of jails and lockups for the confinement of minors.

This bill extends the period of time CYA may exempt a county or off-shore law enforcement facility to a reasonable period of time until July 1, 1991.

This bill also makes technical changes to the law relating to the inspection of juvenile facilities.

* Provisions of this bill which amend Penal Code Section 207.1 are incorporated into SB 549 (Chapter 981).

SUBSTANCE ABUSE COMMUNITY CORRECTIONAL TREATMENT ACT
SB 2000 (Chapter 1594), Presley

(Adds Chapter 9.4 (commencing with Section 6240) to Title 7, Part 3 of the Penal Code)

Under current law, the Department of Corrections and the Department of the Youth Authority (CYA) are authorized to operate controlled substance treatment control units in state prisons and CYA institutions for the study, research, and treatment of addiction to controlled substances of persons committed therein.

This bill authorizes construction of Substance Abuse Community Correctional Detention Centers for the management of specified nonviolent offenders. It requires the Board of Corrections (BOC) to manage the fund created by the bill, authorizing release of construction funds only upon satisfaction of specified criteria as developed by BOC.

COUNTY CORRECTIONAL AND YOUTH FACILITY BOND ACTS: FUND DISTRIBUTION
SB 2549 (Chapter 619), Keene

(Adds Section 4497.05 to the Penal Code)

Existing law includes several state general obligation bond acts to fund county jail construction, including acts approved by the voters in 1986 and 1988.

This bill specifies that money from the 1986 and 1988 bond acts may be used on the same project, as long as the project is consistent with the purposes of both bond acts. The statute which allocates funds from the 1988 bond act includes some application deadlines. This bill makes those deadlines apply to any project funded jointly from the two bond acts.

CONSTRUCTION AND INSPECTION OF LOCAL FACILITIES
SB 2663 (Chapter 976), Presley

(Amends Section 459 of the Health and Safety Code; amends Section 4329 of the Penal Code; amends Section 20134 of the Public Contract Code; amends Section 6.5, Chapter 1519, Statutes of 1986)

Existing law requires county health officers to conduct investigations of all publicly operated detention facilities.

This bill requires county health officers annually to investigate health and sanitary conditions at all privately operated detention facilities, particularly work furlough facilities. The bill authorizes county health officers to collect an annual fee to pay the cost of conducting the inspections.

The bill also makes various changes related to the operation and construction of county jails. Specifically, the bill 1) extends the pilot project for the Jail Industry Commission from two to four years, 2) eliminates the requirement to award contracts to the lowest bidder in counties with overpopulated jails, under specified conditions, and 3) provides that the placement of detention facilities by a county board of supervisors is not subject to initiative override.

This act is an urgency measure which became effective September 18, 1990.

Prison and Courtroom Construction

NEW PRISON CONSTRUCTION BOND ACT OF 1990-B
AB 524 (Chapter 576), Murray

(Adds Chapter 17 (commencing with Section 7440) to Title 7, Part 3 of the Penal Code)

Under current law, voters have approved various bond acts for local and state correctional facilities. Bond acts for state correctional facilities have been passed by the Legislature as follows: The New Prison Construction Bond Act of 1981 ($495 million), the New Prison Construction Bond Act of 1984 ($300 million), the New Prison Construction Bond Act of 1986 ($500 million), the Prison and Youth Authority Construction Bond Act of 1988 ($817 million), and the New Prison Construction Bond Act of June 1990 ($450 million).

This bill authorizes placement on the November 1990 ballot of the New Prison Construction Bond Act ($450 million) and further provides that $30 million of those funds will be dedicated to construction of community correctional facilities.

This act is an urgency measure which became effective September 4, 1990.

REAPPROPRIATION OF FUNDING
AB 2814 (Chapter 454), Kelley

(Adds Section 16304.2 to the Government Code)

Under current law, since 1981 voters have approved various correctional facility bond acts. Appropriations are available for encumbrances for a period of three years unless another period of time is specified.

In 1987, two correctional facilities were authorized for construction in Los Angeles County. Approximately $300 million from various correctional facility bond acts was appropriated to construct these facilities. These funds were available for encumbrancing until July 20, 1990. Construction has not begun on these facilities due to litigation.

This bill reappropriates funding for appropriations enacted on or after July 1, 1987 from any project fund created by a general obligation bond approved by the voters which was, or is subsequently delayed as a result of litigation, for three additional years or the expiration of the original period of encumbrance, whichever is later. This bill is not limited to prisons, nor to the prisons proposed for Los Angeles County.

PRISON CONSTRUCTION AND APPROPRIATION
SB 549 (Chapter 981), Presley

(Adds Sections 15819.23 and 15819.24 to the Government Code; adds Chapter 3.3 (commencing with Section 15819.40) to the Government Code; amends Section 5003 of the Penal Code; repeals Section 2, Chapter 1413, Statutes of 1989; amends Section 207.1 of the Welfare and Institutions Code)

Under current law voters have approved correctional facility bond acts since 1981 totaling $4.062 billion. The Legislature has approved approximately $1 billion for prison construction through the sale of revenue bonds.

This bill implements the Governor's Omnibus Prison Construction Program of 1990 which authorizes the following:

1) Construction of a 2,000-bed, Level III prison, together with a 200-bed Level I support services facility in the vicinity of Coalinga, Fresno County, and allocation of $207,300,000 to be financed through revenue bonds.

2) Construction of a 2,000-bed, Level III prison, together with a 200-bed service facility, in Southern Imperial County, and allocates $214,400,000 to be financed through revenue bonds.

3) Construction of 1,000 Level I beds in work-based camp facilities and a $50 million allocation from the (June) 1990 prison construction fund for site acquisition, design, construction, and four positions to supervise the budget.

4) Construction of a 2,000-bed Level III prison with a 400-bed support facility on the existing grounds of Chuckawalla Valley State Prison, and allocation of $214,200,000 from the (June) 1990 prison construction fund for site acquisition, design, and construction.

5) Construction of a 1,900-bed Level II prison and a 100-bed reception center together with a 200-bed support facility on the grounds of the California Correctional Center at Susanville, and allocation of $45 million from the (June) 1990 prison construction fund and $150,400,000 from the November 1990 prison construction fund for site acquisition, design and construction.

6) Construction of a women's prison of up to 2,000 beds, and allocation of $45 million from the (June) 1990 prison construction fund and $130,400,000 from the November 1990 prison construction fund for site acquisition, design, and construction.

7) Replacement, as necessary, of modulars used for support services and housing at a prison camp in Riverside County, and allocation of $2,500,000 from the (June) 1990 prison construction fund for this project.

8) Application of all requirements, except the alternative sites and alternative uses provisions, of the Environmental Protection Act to the construction of the prisons authorized for construction.

9) Conversion of the current financing for construction of Imperial-North prison from general obligation bond funds to revenue bonds.

This bill requires the general obligation bond prison construction authorized in Proposition 129, if passed in November, to be used before resorting to revenue bond financing for the construction of prisons authorized in this bill.

This bill is an urgency measure which became effective September 17, 1990.

NEW PRISON CONSTRUCTION: BOND ACT
SB 842 (Chapter 5), Presley

(Adds Chapter 16 (commencing with Section 7420) to Title 7, Part 3 of the Penal Code)

Under current law, voters have approved various bond acts for local and state correctional facilities. Bond acts for state correctional facilities have been passed by the Legislature as follows: the New Prison Construction Bond Act of 1981 ($495 million), the New Prison Construction Bond Act of 1984 ($300 million), the New Prison Construction Bond Act of 1986 ($500 million), the Prison and Youth Authority Construction Bond Act of 1988 ($817 million).

This bill authorizes placement on the June 1990 ballot of the New Prison Construction Bond Act ($450 million).

This act is an urgency measure which became effective February 22, 1990.

COUNTY CORRECTIONAL FACILITY CAPITAL EXPENDITURE
AND JUVENILE FACILITY BOND ACT OF 1990
SB 1094 (Chapter 579), Presley

(Adds Title 4.9 (commencing with Section 4496.50) to Part 3 of the Penal Code)

Existing law contains various bond acts to finance the construction of county correctional facilities.

This bill authorizes placement on the November 1990 ballot of the County Correctional Facility Capital Expenditure and Juvenile Facility Bond Act of 1990 which authorizes the issuance of bonds in the amount of $225 million as follows:

1) $150 million for the construction, reconstruction, remodeling, replacement, and deferred maintenance of county correctional facilities.

2) $50 million for the construction, reconstruction, remodeling, replacement, and deferred maintenance of county juvenile facilities.

3) $25 million to the Department of the Youth Authority for awards to public or private nonprofit agencies or joint ventures for purchasing equipment

and for acquiring, renovating or constructing youth centers or youth shelters, as defined: $15 million for youth centers and $10 million for youth shelters.

This act is an urgency measure which became effective September 5, 1990.

ANNEXATION OF TERRITORY
SB 2786 (Chapter 980), Presley

(Amends Section 5003 of the Penal Code; adds Sections 56111.6 and 56111.7 to the Government Code)

Current law permits a city to annex noncontiguous territory within the county in which the city is located, under specified conditions.

This bill authorizes annexation of noncontiguous land which constitutes the state correctional facilities to the communities of Blythe and Susanville, as provided.

Prisons and Prisoners

COUNTY OF COMMITMENT
AB 2748 (Chapter 148), Seastrand

(Amends Section 3003 of the Penal Code)

Existing law requires the Board of Prison Terms or the Department of Corrections, when releasing an inmate on parole, to return the inmate to the county from which he or she was committed, as defined.

This bill provides that the term "county from which he or she was committed" shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison facility or while confined for treatment in a state hospital.

[The provisions of this bill may not become operative. They have been superseded by a later-enacted measure AB 4237 (Chapter 1692).]

MEDICAL TREATMENT OF PRISONERS: HEARINGS
AB 2952 (Chapter 1353), Sher

(Amends Section 4007 of the Penal Code)

Under existing law, when there are reasonable grounds to believe that there is a prisoner in county jail who is likely to be a threat to other persons in the facility or who is likely to cause substantial damage to the facility, under certain circumstances the court may order the prisoner to be confined in the nearest state prison on a space-available basis. In such cases the court is required to hold a hearing on the matter within 48 hours to determine whether the order should be continued or rescinded. Similarly, when a county prisoner requires medical treatment that necessitates hospitalization which cannot be provided at the county jail or county hospital because of inadequate detention facilities, the court may order the prisoner to be confined to the nearest state prison or correctional facility which would be able to provide the necessary medical treatment and secure confinement of the prisoner. However, in such cases there is no requirement that a hearing on the matter be provided to the prisoner.

This bill provides that county prisoners who are ordered to be hospitalized in state prison or correctional facilities under the above provisions shall be provided with a hearing on the matter within 48 hours to determine whether the order should be continued or rescinded, unless the prisoner waives that right, in which case his or her attorney must be notified of the transfer within 48 hours. The bill prohibits transfer of the prisoner prior to that hearing except in medical emergency situations.

DENIAL OF CREDITS
SB 1720 (Chapter 1700), Presley

(Amends Section 148.5 of the Penal Code; adds Section 2933.5 to the Penal Code)

Under current law, for every six months of full-time performance in a credit qualifying program, as defined, an indeterminate term prisoner may be awarded conduct credit reductions of four months, and a determinate term prisoner is awarded worktime credit reductions from his term of confinement of six months. And every prisoner who voluntarily accepts a half-time credit qualifying assignment in lieu of a full-time assignment shall be awarded worktime credit

reductions from his or her term of confinement of three months for each six-month period of continued performance.

This bill makes legislative findings and denies worktime or good-time credits to any individual convicted of committing one of a list of serious felonies, as defined, on three or more separate occasions in which the charges were separately brought and tried and for which the offender has served two separate prior prison terms.

ESCAPES: MEDIA REPORTS
SB 2077 (Chapter 819), Ayala

(Amends Section 4537 of the Penal Code)

Under existing law, the person in charge of a correctional facility is required to notify the law enforcement agencies within which the facility is located of any escape by an individual in his or her custody. Additionally, the name and description of the individual is to be provided to other law enforcement agencies or appropriate persons if necessary to assist in recapture and for protection of the public.

This bill requires, in cases of escape by persons in the custody of the Department of Corrections who have been convicted of specified felonies or who have perpetrated an escape by force or violence, that notification of an escape is to be provided to newspapers of general circulation in the county which it occurred and to television stations broadcasting within or into that county, along with a photograph and description of the escapee.

SCHEDULING OF PAROLE HEARINGS
SB 2516 (Chapter 1053), Presley

(Amends Section 3041.5 of the Penal Code)

Current law guarantees procedural protections for indeterminately sentenced prisoners whose eligibility for parole is to be considered by the Board of Prison Terms including the right to an annual hearing which may be extended at two-year intervals for most such prisoners, and at three-year intervals for prisoners who have been convicted of more than one offense that involves the taking of a life.

This bill permits the parole board to delay a parole hearing from three years to five years after the last hearing for prisoners convicted of more than two murders.

This bill applies to offenses committed before July 1, 1977 or on or after January 1, 1991.

CONTROLLED SUBSTANCES
SB 2863 (Chapter 1580), Presley

(Amends Sections 4573, 4573.5, 4573.6 of the Penal Code; adds Sections 4573.8, 4573.9, and 5021 to the Penal Code)

Under current law, it is a felony to bring or send controlled substances, as defined, alcohol, or paraphernalia intended for consumption of controlled substances or alcohol into any state or local detention facility, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000.

This bill increases the penalty for bringing or sending controlled substances, as defined, or paraphernalia intended for consumption of same into any state or local facility, as specified, to two, three, or four years in state prison and/or a fine of $10,000.

Under current law, it is a felony to knowingly possess any controlled substances, drugs of any kind, alcoholic beverage, or paraphernalia in any state or local detention facility, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000.

This bill increases the penalty for knowing possession of any controlled substance or paraphernalia in any state or local detention facility, as specified, to two, three, or four years in state prison and/or a fine up to $10,000.

Current law provides no separate crime for sales of any of the above referenced contraband in state or local detention facilities. These offenses currently are prosecuted under one of the three sections described above.

The bill makes it a felony for a visitor, vendor, or employee to sell, furnish, give away, administer, or offer to do the same to any person held in custody in any state or local detention facility, as specified,

punishable by two, four, or six years in state prison and/or a fine up to $10,000.

Under existing law, if a person who is incarcerated in a correctional institution dies, the authorities are required to make a written report to the Attorney General within 10 days.

This bill requires authorities of any state or local custodial facility for juveniles or adults, and authorities of the Department of Health to report, as specified, the death of a person in their care or control to the local law enforcement authorities, the district attorney, and to the county coroner, as specified, within two hours of the discovery of the death, or to the chief medical officers for state agencies involved, as specified, as soon as that person or their designated representative is on duty.

VIII. VEHICLES AND VEHICLE OFFENSES

Driving Under the Influence

HABITUAL TRAFFIC OFFENDER
AB 1648 (Chapter 44), Leslie

(Adds Section 193.7 to the Penal Code; amends Sections 13350, 13550, 14601.3, 14610, 23175, and 23190 of the Vehicle Code)

Under current law, persons convicted of third and subsequent driving under the influence (DUI) offenses within seven years are designated habitual traffic offenders for three years.

This bill designates as "habitual traffic offenders" for a period of three years persons convicted of:

1) Vehicular manslaughter while intoxicated if the offense occurred within seven years of two or more convictions for DUI.

2) Felony driving under the influence causing bodily injury occurring within seven years of two or more convictions for DUI.

Under current law, habitual traffic offenders who drive when their licenses have been revoked or suspended are subject to a mandatory county jail term and fine consecutive to any other penalty imposed for the violation of any other law.

This bill provides that any offender described above who is convicted of driving with a revoked or suspended license will face a mandatory county jail sentence of 180 days and a fine of $2,000 consecutive to a penalty imposed for violation of any other law.

Under current law, a peace officer is authorized to take possession of a driver's license and to issue a temporary permit upon arresting a person for specified offenses and a court is required to order the surrender of a driver's license upon conviction of designated offenses.

This bill requires the court to order the surrender of a temporary permit if a person is convicted of any offense for which the code makes mandatory the revocation and suspension of a license. This bill also includes a temporary permit within the prohibitions pertaining to misuse of a driver's license.

IGNITION INTERLOCK DEVICE
AB 2040 (Chapter 1403), Farr

(Adds Section 9882.14 to the Business and Professions Code; amends Section 11837.1 of the Health and Safety Code; adds Section 1203.1bb to the Penal Code; amends Section 13352 of the Vehicle Code; adds Sections 13202.7 and 40000.65 to the Vehicle Code; adds Article 4 (commencing with Section 23235), Chapter 12, Division 11 of the Vehicle Code)

Prior to January 1, 1990 specified pilot counties were allowed to require certain driving under the influence offenders, who were granted probation, to install an ignition interlock device (IID) in their vehicles. The device requires the driver to pass an alcohol blood percentage test before the vehicle will operate. The Office of Traffic Safety (OTS) oversaw the program and the Bureau of Automotive Repair (BAR) was required to designate stations where IIDs could be installed according to BAR installation standards. This provision was repealed on January 1, 1990.

This bill:

1) Provides that courts throughout the state may require, as a condition of probation, the installation of an IID in any vehicle owned or operated by a person convicted of driving under the influence or driving under the influence causing bodily injury and order that this requirement be noted on the driver's license of that person. The probationer must provide proof to the court of the IID installation within 30 days of the order unless there is a finding by the court of good cause for that failure.

2) Makes it a misdemeanor punishable by up to six months in county jail and/or a fine up to $5,000 to knowingly rent, lease, or lend a motor vehicle to a person known to have had his driving privilege restricted under a condition of probation unless the vehicle is equipped with a functioning certified IID.

3) Makes it a misdemeanor punishable by up to six months in county jail and/or a fine up to $5,000 for any person whose driving privilege is restricted under a condition of probation not to notify a person who rents, leases, or loans a vehicle to him or her of the driving restriction.

4) Makes it a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000 for any person whose driving privilege is restricted to request or solicit another person to blow into an IID or to start a motor vehicle equipped with an IID.

5) Provides that upon a violation of probation relating to IIDs, the court must order the probation revoked and notify the Department of Motor Vehicles who will revoke the person's driving privilege for one year from the date of the probation revocation.

Under current law in any case in which a defendant is convicted of an offense and granted probation, the court may after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable cost of probation.

This bill specifies that a reasonable cost of probation includes the cost of purchasing and installing an IID. The probationer must pay the manufacturer of the IID directly for the cost of its purchase and installation, in accordance with the payment schedule ordered by the court. The OTS shall consult with the presiding judge to determine an appropriate means to provide for installation of the IID in cases in which the defendant has no ability to pay.

Under current law, the BAR is required to administer and enforce the Automotive Repair Act.

This bill requires BAR to cooperate with OTS to adopt standards for the installation of and designate stations for the installation of IIDs. The manufacturers of the IID are required to comply with standards established by BAR for the installation of the IID.

This bill creates specified duties for OTS relating to certification, education, and training of the IID.

This act is an urgency measure which became effective September 28, 1990.

CONTINUOUS JAIL TIME
AB 3009 (Chapter 286), McClintock

(Amends Section 23160 of the Vehicle Code)

Under current law, a person who is convicted of driving under the influence (DUI) with no allegation of bodily injury or prior convictions commits a misdemeanor. If the offender is not placed on probation, the offense is punishable by 96 hours to six months in county jail and a fine of $390 to $1,000. The court must order the Department of Motor Vehicles to suspend the privilege to drive for six months.

This bill requires at least 48 hours of the required county jail time for a first offense DUI to be served continuously when probation is not granted.

This bill provides if the continuous jail time would interfere with the person's work schedule, the court shall allow the person to serve the jail time whenever the person is normally scheduled to have time off work.

BOATING SAFETY
AB 3137 (Chapter 1698), Hansen

(Adds and repeals Section 668.1 of the Harbors and Navigation Code; amends, repeals, and adds Sections 191.5 and 192.5 to the Penal Code; and amends Section 1803 of the Vehicle Code)

Under current law, there is no requirement that persons who operate specified vessels or devices complete and pass a boating safety course. Under current law, specified conduct is prohibited relating to the operation of a vessel, water skis, an aquaplane, or similar devices in a reckless or negligent manner or under the influence of alcohol or drugs including a prohibition against operation of certain vessels by persons under 12 years.

This bill authorizes a court to order a person convicted of specified offenses relating to the operation of a vessel to complete and pass a boating safety course. The Department of Boating and Waterways is required to adopt regulations to carry out these two boating safety education provisions.

Under current law, the clerk of a court is required to send the Department of Motor Vehicles (DMV) an abstract of the record of conviction of certain offenses including, on or after January 1, 1992, certain offenses relating to the operation of a vessel or devices, as defined, while under the influence of alcohol or drugs.

This bill requires the court clerk to send an abstract of conviction to DMV for speeding in specified areas, improper operation of a vessel towing a skier, and gross vessel manslaughter while intoxicated.

RECKLESS DRIVING
AB 3289 (Chapter 568), Friedman

(Adds Section 23208 to the Vehicle Code)

Under current law, every person who drives a vehicle upon a street or highway in willful or wanton disregard for the safety of persons or property commits a

misdemeanor punishable by five to 90 days in county jail and/or a fine of $145 to $1,000. The penalties for driving under the influence (DUI) of alcohol and/or drugs vary according to the number of prior convictions, whether the person is granted probation, and the length of enrollment in a treatment program.

This bill imposes an additional and consecutive sentence of 60 days upon any person found to have driven a vehicle 30 or more miles per hour over the maximum, prima facie, or posted speed limit on a freeway, or 20 or more miles per hour over the maximum, prima facie, or posted speed limit on any other street or highway and in a reckless manner while driving under the influence of alcohol and/or drugs.

This bill requires the facts of driving recklessly to be charged in the accusatory pleading and admitted or found to be true.

This bill specifies the additional and consecutive sentence shall be imposed except in unusual cases where the interests of justice would be served.

Under current law, the State Department of Alcohol and Drug Programs licenses alcohol service programs to which are referred persons convicted of second or subsequent offenses of DUI. The court may refer DUI offenders only to licensed programs. The programs are of 18-month (formerly one year) or 30-month durations.

This bill requires the court to order a first offender upon conviction of this new offense to participate in an alcohol or drug education and counseling program, or both.

BREATH ANALYSIS
AB 4318 (Chapter 708), Leslie

(Amends and repeals Sections 23152 and 23153 of the Vehicle Code)

Under current law, it is unlawful to drive a vehicle while having .08% or more, by weight, of alcohol in the blood. Until 1992, the percent, by weight, of alcohol is based upon grams of alcohol per 100 milliliters of blood.

Starting January 1, 1992, percent, by weight, of alcohol in a person's blood shall be based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

This bill eliminates the need for conversion of a breath quantity to a blood concentration of alcohol by statutorily defining driving under the influence

of alcohol in terms of the concentration of alcohol found in the breath when breath analysis is used. It bases breath analysis results on grams of alcohol per 210 liters of breath and advances the operative date of the definition of alcohol concentration added by Chapter 1114, Statutes of 1989.

ADMINISTRATIVE LICENSE SUSPENSION/REVOCATION
SB 1150 (Chapter 431), Lockyer

(Amends Sections 1808.22, 1808.46, 13353, 13353.2, 13353.3, 13353.4, 13353.6, 13353.7, 13551, 13557, 13558, 13559, 14100, 14905, 23157, 23158.2, 23158.5, 23206.5, and 23210 of the Vehicle Code; adds Section 23199 to the Vehicle Code)

Under current law, on July 1, 1990, the Department of Motor Vehicles (DMV) implemented a new administrative license suspension process for driving under the influence (DUI) offenders that will be independent of criminal adjudication of the offense. The current applicable blood alcohol content (BAC) limit for the purposes of administrative license suspension is .08%.

This bill:

1) Lowers the applicable BAC limit from .10% to .08% for the purposes of administrative license suspension/revocation.

2) Lengthens the period of time that individuals lose their licenses administratively for refusing to take or complete a chemical test.

3) Provides that if any person is convicted of DUI and he or she is sentenced to one year in county jail or over one year in state prison under specified sentencing statutes, the court may postpone the suspension of the person's driving privilege until the term of imprisonment is served.

Under current law, the residence addresses in DMV records are confidential and the release of mailing addresses is restricted. Those addresses may be released only to a court, law enforcement agency, or other governmental agency, as defined, or a financial institution and insurance company under certain conditions.

This bill allows the release of residential addresses on file with DMV to an attorney who states under penalty of perjury that the motor vehicle or motorcycle registered owner or driver residential address information is

necessary to represent his or her client in a criminal or civil action which relates directly to the use of the motor vehicle or motorcycle.

This bill provides that all provisions are severable.

This act is an urgency measure which became effective July 26, 1990.

FINGERPRINT PILOT PROJECT
SB 1647 (Chapter 1243), Rosenthal

(Adds Chapter 10.3 (commencing with Section 13894.5) to Title 6 of Part 4 of the Penal Code)

Under current law, any person who is arrested for driving a motor vehicle while under the influence of alcohol or drugs (DUI), driving with an excessive blood-alcohol concentration, or driving when addicted to any drug is required to be taken without unnecessary delay before a magistrate. If the magistrate is unavailable, the officer is required to take the person before the clerk of the magistrate to be admitted to bail or to the most accessible jail, where the officer in charge is required to release the person on bail or on the person's written promise to appear.

This bill makes legislative declarations and findings that there is a need for a reporting system that can identify, in a timely fashion, the prior arrest histories of persons arrested for DUI offenses so that sentences for those offenders may be based on the person's complete driving history. The bill requires the Department of Justice (DOJ) to implement, in a designated consenting county, an 18-month pilot project to obtain fingerprints of persons arrested for certain DUI offenses by use of a livescan fingerprint computer system. The bill also requires DOJ to advise on the study's design, and to review the findings and assist in the preparation of a report to the Legislature to be submitted on or before November 1, 1992. The bill appropriates $145,000 from the General Fund for purposes of designing and equipping the pilot project.

SUSPENSION OR DELAY OF DRIVING PRIVILEGE
SB 1756 (Chapter 1696), Lockyer*

(Amends Sections 1803 and 13202.5 of the Vehicle Code)

Under current law, a court is required to suspend, restrict, or delay for one year the driving privilege of persons under age 21 but 13 years of age or older convicted of offenses relating to alcohol or controlled substances.

This bill requires a court to suspend or delay for one year the driving privilege of persons under age 21 but 13 years of age or older who are convicted of offenses relating to alcohol and controlled substances while operating a vehicle or vessel.

* The provisions of this bill did not become operative. They have been superseded by two later enacted measures, SB 2635 (Chapter 1697) and AB 3137 (Chapter 1698).

BOATING: BLOOD ALCOHOL CONTENT
SB 1808 (Chapter 588), Leonard

(Amends Section 655 of and adds Section 655.6 to the Harbors and Navigation Code)

Under current law, any person who operates any vessel or manipulates any water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or both, is guilty of a misdemeanor, punishable by up to six months in county jail and/or a fine up to $1,000.

Under current law, any person who operates any vessel or manipulates water skis, an aquaplane, or a similar device with a blood alcohol content (BAC) of .10% or more is guilty of a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000. The BAC level will drop to .04% in 1992 for any nonrecreational vessel.

This bill prohibits anyone with a BAC of .08% from legally operating a vessel or manipulating water skis, an aquaplane, or similar devices.

Under current law, it is unlawful for a person under the age of 18 to drive a motor vehicle with a BAC of .05% or more. Violation is an infraction, punishable by a fine up to $100 for a first offense and by a fine up to $200 for a second offense. A third offense within a 12-month period is punishable as a misdemeanor.

This bill provides that it is an infraction for a minor with a BAC of .05% or more to operate any motorboat (after 1992 any motorized recreational vessel) with a penalty of alcohol education or community service and graduated fine penalties.

CHEMICAL TESTING
SB 2305 (Chapter 1303), Ayala

(Amends Section 1463.14 of the Penal Code; adds Section 1463.01 to the Penal Code; adds Chapter 2.81 (commencing with Section 1001.40) to Title 6, Part 2 of the Penal Code)

Under current law, all fines and forfeitures for convictions of Vehicle Code violations generally are allocated to cities and counties for their traffic safety fund, special road fund, or general fund, according to an established formula. However, the first $50 of fines imposed for violations involving reckless driving and driving under the influence (DUI) is required to be deposited in a special account of a city or county, to be used for chemical testing for alcohol or drugs. In addition, Contra Costa County is authorized to impose a $50 assessment for convictions of DUI offenses, which essentially reimburses that county for the $50 diverted for chemical testing purposes.

This bill authorizes any county, other than Contra Costa County, to impose an additional assessment up to $50 for convictions of DUI offenses, to be used for chemical testing purposes. In addition, the bill authorizes fines and assessments allocated for drug and alcohol testing to be deposited with a special district as well as with a city or county.

The bill also authorizes, upon approval of the State Controller, the distribution of specified fines, forfeitures, and penalties imposed for reckless driving or DUI convictions to be made on the basis of probability sampling.

Under current law in those counties where, prior to 1985, one or more individual courts, or the county acting on behalf of such a court, contracted for the provision of traffic violator instruction upon court referral pursuant to a pretrial diversion program, the court may restrict referrals to certain licensed schools.

This bill authorizes a county acting on behalf of one or more individual courts to, by ordinance, establish a program that provides for pretrial diversion of any person issued a notice to appear for a traffic violation to attend any licensed traffic violator school.

MINORS: SUSPENSION OR DELAY OF DRIVING PRIVILEGE
SB 2635 (Chapter 1697), Mello

(Amends Section 25662 of the Business and Professions Code; amends Section 48902 of the Education Code; amends Section 19.8 of the Penal

Code; amends Sections 13202.5, 21200.5, and 23224 of the Vehicle Code; and amends Sections 256 and 257 of the Welfare and Institutions Code)

Under current law, a school principal or designee is allowed to notify the appropriate law enforcement authority prior to expulsion or suspension of any pupil who commits specified offenses.

This bill requires a school principal to notify law enforcement within one school day of the expulsion or suspension of any pupil who commits specified offenses.

Under current law, the court is required to suspend or delay for one year the driving privilege of persons under age 21 but 13 years of age or older who are convicted of enumerated offenses relating to alcohol or controlled substances. The court may restrict the privilege based on the person's critical need to drive.

Under current law, the driver's license of any person under 21 years of age convicted of possessing alcohol in a vehicle while unaccompanied by a parent or legal guardian or employed by a licensee under the Alcoholic Beverage Control Act must be suspended for not less than 15 days nor more than 30 days.

This bill requires a court to suspend or delay for one year the driving privilege of persons under age 21 but 13 years of age or older who are convicted of attempting to purchase an alcoholic beverage, alcohol-related reckless driving, driving with a blood alcohol content of .05% or more and possession of alcohol by a person under 21 in a vehicle, under specified circumstances. This bill also defines the term "critical need to drive."

This bill expands the list of offenses which traffic hearing officers are permitted to adjudicate.

DESIGNATED DRIVER WEEK
SCR 95 (Resolution Chapter 17), Ayala

This resolution designates the fourth week of April of this year and every year thereafter as Designated Driver Week.

Miscellaneous

NOTIFICATION OF RECOVERED VEHICLE
AB 2717 (Chapter 337), Pringle

(Amends Sections 10500 and 22852 of the Vehicle Code)

Under existing law, a peace officer, upon receiving information that a vehicle previously reported as stolen has been recovered, is required to notify the Department of Justice and the police agency which had originally reported the vehicle stolen of the location and condition of the recovered vehicle.

This bill requires the original reporting police agency, within 48 hours of being notified of the vehicle's recovery, to notify the reporting party of the location and condition of the recovered vehicle.

TOWING EXPENSE: PUBLIC STORAGE
AB 3410 (Chapter 1515), Polanco

(Amends, repeals, and adds Section 22655.5 of the Vehicle Code)

Under existing law, a peace officer may remove a motor vehicle from the highway or from public or private property under specified circumstances including, but not limited to, when there is probable cause to believe that the vehicle was used in the commission of a public offense or that the vehicle itself is evidence in a criminal case. No lien attaches to a vehicle removed under those provisions unless the vehicle was used by the alleged perpetrator of the crime with the express or implied permission of the owner of the vehicle. If the perpetrator is convicted, the court may order him or her to pay the resulting towing and storage costs.

This bill provides expressly that if any vehicle is held by a law enforcement agency for investigatory purposes or for use as an exhibit in a judicial proceeding, the owner shall not be liable for any resulting towing or storage fees for the return of the vehicle. The bill also clarifies the continued duty of the appropriate public agency to notify the owner where the vehicle has been stored.

The bill requires the Legislative Analyst to report to the Legislature the aggregate amount of claims submitted to the Commission on State Mandates under these provisions during the 1991 calendar year.

The provisions of the bill would be repealed and former law re-enacted on January 1, 1993, unless a later enacted statute before that date extends or deletes that date.

MISDEMEANOR AND TRAFFIC VIOLATION PILOT PROJECT
SB 2671 (Chapter 1367), Presley

(Repeals and Adds Section 1214.3 to the Penal Code)

Under current law, for minor violations and traffic offenses, arresting officers may cite and release offenders if they promise to appear in court. If a defendant fails to honor the promise to appear, an arrest warrant is issued for the defendant; it is a misdemeanor to fail to appear in court. Alternatively, the court may impose a civil assessment up to $250 for a failure to appear, which becomes effective 10 days after the mailing of a warning notice specifying a new time of appearance. If the defendant appears as scheduled, the assessment is vacated. If the defendant again fails to appear, the assessment is collectible as a civil judgment absent a showing of good cause.

This bill provides counties the opportunity to participate in a two-year pilot project in which the following procedure may be used at court option in response to a defendant's failure to appear:

1) At the time the citation is issued, the citing officer must obtain a current mailing address of the defendant and advise the defendant of the nature of the violation and of procedures to be followed. This notice must be mailed to the defendant.

2) In the mailed notice, the defendant must be informed of the right to appear in court to contest the charges, the date and time of the court date, and the amount of the fine or bail. The notice shall be accompanied by a form declaration of indigency to be completed and signed under penalty of perjury if the defendant is unable to pay the fine within 30 days.

3) Within 30 days the defendant must return the notice requesting a hearing, pay the fine or bail, or mail in the statement of indigency.

4) Failure to respond as specified above results in the imposition of a civil assessment of $500; notice thereof must be mailed to the defendant.

5) The assessment becomes effective 10 days after the notice is mailed and is vacated upon subsequent timely appearance by the defendant. However, even if the assessment is vacated, the defendant is liable for an

administrative fee equal to 14% of the fine or forfeiture imposed for the underlying crime.

6) The assessment imposed upon a continuing failure to appear would be enforced through a writ of execution to attach the assets of the defendant, including the amount of the fine imposed for the underlying offense. An arrest warrant would be issued only when it is determined that there are insufficient attachable assets to cover the amount owed.

7) Distribution of the monies collected is as follows:

   a) 20% to the agency issuing the citation.

   b) 5% to the county for automated warrant check system.

   c) 25% to court administration.

   d) 25% to county general fund.

   e) 25% to the agency levying or collecting the assets.

The provisions of this bill will remain operative until January 1, 1993 and as of that date are repealed.

IMPOUNDMENT: POST SEIZURE HEARING
SB 2809 (Chapter 481), Robbins

(Amends Section 10751 of the Vehicle Code)

Under current law, procedures exist for the impoundment and disposition of vehicles or component parts obtained by law enforcement officials which have had their manufacturer serial or identification numbers removed, altered, defaced, or destroyed.

Under current law, a hearing on the disposition of such property must be held by the court within 60 days of the seizure. The purpose of this hearing is to determine whether a rightful owner of the property has been identified and is entitled to repossession, or whether the vehicle should be otherwise destroyed, sold, or disposed of as provided by court order.

This bill requires a post seizure hearing within 90 days, rather than 60 days, concerning the disposition of a vehicle or component part seized due to the identifying number having been altered, defaced, or obliterated.

IX. VICTIMS

RESTITUTION ENFORCEMENT
AB 1893 (Chapter 45), Areias

(Amends Section 13967 of the Government Code; adds Section 13967.2 to the Government Code; amends Sections 1202.4, 1203.04, 1203.055, 1203.1g, and 1203.1j of the Penal Code)

Under current law the court is required to impose a penalty assessment for any person convicted of any crime and is required to impose a separate additional restitution fine of not less than $100 or more than $10,000 for persons convicted of a felony offense. The court is required, in cases where the defendant is denied probation, to order a defendant to pay restitution to a victim in the amount of economic losses incurred by the victim as a result of the defendant's criminal conduct, and the restitution order shall be enforceable as a civil judgment. In every case where a defendant is granted probation, the court is required, except as specified, to order the defendant, as a condition of probation, to pay restitution to the victim.

This bill provides that in cases where the defendant is denied probation, the court must order full restitution to the victim for economic losses unless it finds clear and compelling reasons for not doing so. In cases where the defendant is ordered to pay restitution and is denied probation, and in cases where a defendant is ordered to pay restitution to a victim as a condition of probation, the bill requires the court to order payors to garnish income of the defendant if the defendant fails to comply with the order to pay restitution, and to stay that order as specified. The bill also provides that payors are liable for the restitution payment if they fail to comply with the order, and are otherwise subject to specified civil penalties for noncompliance with that order. The bill requires the agency responsible for collecting restitution in each county to report to the court if the defendant fails to make restitution payments without good cause, as defined, for the failure.

Under current law, in addition to ordering the above mandatory restitution, the court may order a defendant, as a condition of probation, to make restitution for the costs of medical or psychological treatment incurred by minor victims of sexual assault and/or elderly victims of specified assault crimes.

This bill requires the court to order a defendant, as a condition of probation, to make restitution for such costs for medical or psychological treatment.

PAROLE HEARINGS
AB 2803 (Chapter 278), Hauser

(Amends Section 3043 of the Penal Code; adds Sections 3043.1, 3043.2, and 3043.3 to the Penal Code)

Under current law the Board of Prison Terms (BPT) must notify the victim or the next of kin of a victim 30 days prior to any hearing to determine parole suitability or the date of release on parole. The victim or the next of kin has the right to be notified of scheduled parole hearings, to appear personally or by counsel at the hearing, to express his or her views, to have BPT consider those views in its determination, and to have BPT state in its report whether the person would pose a threat to public safety. In addition, BPT may permit the attendance of visitors and observers at parole consideration hearings.

Existing law permits support persons of the victim's choosing to attend preliminary hearings, trials, and juvenile court proceedings during the victim's testimony in cases alleging specified crimes.

This bill extends the right to appear at a parole suitability or a parole date setting hearing (parole hearing) to two or more members of the victim's immediate family, within the discretion of BPT in a specified order of presence. It requires BPT to consider input from the victim's immediate family in reaching its decision. Further, it entitles the victim, or the next of kin, or immediate family member of the victim who appears at the parole hearing to the presence of one person of his or her choosing for support. The person may not participate in the hearing or make any comments.

The bill grants discretion to BPT to permit the victim, next of kin, or immediate family members to file a written, audiotaped or videotaped statement, accompanied by a written transcript of the statement, in lieu of a personal appearance at the hearing. Receipt of such a statement would not limit the prosecutor from representing the views of the victim and family to BPT. The bill requires BPT to consider any written or taped statement prior to reaching its decision.

RELEASE OF PAROLEES
AB 4237 (Chapter 1692), Nolan

(Amends Sections 3003, 11155, 13701, and 13710 of the Penal Code; adds Sections 13702 and 13711 to the Penal Code)

Under current law parolees are returned to the county in which the crime occurred unless the paroling agency decides to return the parolee to another

county and lists its reasons in writing. In cases in which the paroling agency finds there is a need to protect the safety of a victim or witness, parolees who have been convicted of a violent felony, as defined, may not be returned to within 20 miles of the actual residence of the victim or witness.

This bill prohibits the paroling agency from releasing a person convicted of a violent crime against the person, as specified, within 35 miles of the residence of the victim or witness, upon request of a victim or witness, and concurrence by the paroling agency.

Current law requires the Department of Corrections (CDC) to send written notice, if requested, to the police chief, the sheriff, and the victim or next of kin 30 days prior to placement of an inmate in a reentry or work furlough program. It is the responsibility of the requesting party to provide CDC with a current address; the duty of CDC is satisfied by sending the notice to the last address on file.

This bill requires CDC to notify requesting parties no later than 60 days prior to placement of an inmate in a reentry or work furlough program. CDC would be required to send the notice return-receipt requested, and to make diligent, good-faith efforts to locate the victim in order to deliver notice of the impending change in custody status.

Current law further provides that for purposes of law enforcement response and duties, domestic violence is abuse, as defined, committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or has had a dating or engagement relationship. Local law enforcement agencies are required to adopt and implement written policies for officers responses to domestic violence calls.

This bill requires the policies to reflect that 1) domestic violence is alleged criminal conduct and 2) requests for assistance are as important as any other call for help where violence is reported.

Currently, local law enforcement agencies must maintain complete and systematic records of all domestic violence incidents, including orders to prohibit intimidation of a witness, restraining orders, and proofs of service in effect.

This bill adds to the list of records of protection orders to be maintained those protection orders that have not yet been served.

Current law requires every law enforcement agency to have written policies and standards for officer response to domestic violence calls.

This bill requires law enforcement to develop, adopt, and implement written policies and standards for dispatcher response to domestic violence calls,

ranking calls reporting domestic violence and the existence of a protection order, as specified, among the highest priority calls.

Current law requires peace officers to advise victims of abuse of the availability of a shelter or other community services and give each victim a notice of his or her legal rights and remedies.

This bill requires law enforcement to include in the information distributed at the scene of domestic violence, notice regarding 1) the enforceability of specified protection orders and 2) the availability of their assistance in service of process of the protection order.

This bill requires county clerks to distribute information regarding the availability of shelters, legal recourse, and assistance in enforcement of protection orders to persons applying for and receiving protection orders. And, it permits dispatchers to respond to requests for assistance without verifying the validity of the protective order.

HEARINGS: PERMISSION TO EXCLUDE PERSONS
SB 2433 (Chapter 245), Davis

(Adds and repeals Section 13963.1 of the Government Code)

Under current law, the State Board of Control (BOC) is authorized to indemnify victims of crime for specified expenses, pursuant to specified procedures. The Bagley-Keene Open Meeting Act generally requires meetings of a state body, which includes BOC, to be open to the public, except where exempted by law.

This bill authorizes BOC to exclude from a hearing on an application for victim assistance which is the result of a crime against a minor or a sexual assault all persons other than board members, BOC staff, the victim, the parents, guardian or representative of the victim, witnesses, and other persons of the victims choosing. The bill provides that the hearing would remain open to the public if the victim or his or her representative so requests. The bill provides a sunset date of January 1, 1994 for those provisions.

The provisions of this bill will remain operative until January 1, 1994 and as of that date are repealed.

VICTIM-COUNSELOR PRIVILEGE
SB 2501 (Chapter 1342), Presley

(Amends Sections 1035.2 and 1037.1 of the Evidence Code; amends Sections 13835.2 and 13835.10 of the Penal Code; adds and repeals Section 632.2 of the Penal Code)

Under current law, communications between victims of domestic violence or victims of sexual assault and qualified counselors in victim assistance centers established to assist and counsel those particular kinds of victims of crime, are privileged and immune from discovery without a court order compelling disclosure. For purposes of that privilege, the counselor must be a psychotherapist, have a master's degree in counseling, or have other specified training or experience in their particular area of counseling.

This bill extends that privilege to communications made by victims of sexual assault or victims of domestic violence to qualified counselors in general victims assistance centers who have the requisite training and experience to counsel victims of sexual assault or victims of domestic violence. The bill also provides that in order for the communication to be privileged under those circumstances, the counselor must have had the minimum training required for counseling victims of sexual assault or victims of domestic violence, as established by the employing agency pursuant to specified provisions of law. In addition, the bill provides that any person who willfully obtains or knowingly discloses, except as specified, that privileged information is guilty of a misdemeanor, punishable by up to six months in county jail and/or a fine up to $1,000.

The provisions of Penal Code Section 632.2 contained in this bill will remain operative until January 1, 1994, and as of that date are repealed.

VICTIM RESTITUTION PROGRAM
SB 2685 (Chapter 1264), Russell

Current law contains numerous crime-victim restitution provisions.

This bill creates within the Office of Criminal Justice Planning a one-year pilot program in Sacramento, Orange, and Shasta Counties which would study the effectiveness of collecting restitution which is ordered paid to crime victims. The program, which will be implemented in conjunction with the Board

of Control, will monitor restitution orders and their collections and prepare a final accounting comparing the amount of victim restitution defendants are ordered to pay upon sentencing with the actual amount paid by the defendants.

VICTIM OF CRIME PROGRAM
SB 2904 (Chapter 1254), Calderon

(Amends Sections 13961.1 and 13965 of the Government Code; adds Section 13965.2 to the Government Code)

Under current law, the State Board of Control (BOC) is authorized to provide assistance to victims of crime for the pecuniary losses that they suffer as a direct result of criminal acts. This assistance may be in the form of direct cash payments to a provider of psychological or psychiatric treatment or mental health counseling, or direct payments to the victim for medical or medical-related expenses resulting from injury. Pursuant to those provisions, BOC may make emergency awards up to $1,000 to a victim of crime if the victim has a loss of income or support and/or the victim requires emergency medical treatment.

This bill states legislative declarations regarding the need for improved procedures for processing victim claims and reimbursement payments to providers, and increases from $1,000 to $2,000 the authorized level of emergency awards that may be made to a victim. The bill also requires, in cases where the board determines that the victim's pecuniary loss is expected to continue more than six months, that BOC commence payments to victims and continue monthly for the period that loss is expected to continue.

Under current law, BOC is required to review all claims for those medical services to victims to determine that they are indeed medically necessary. Those provisions authorize BOC to require additional documentation, information, or medical review of cases of continuing treatment which is projected to exceed $5,000 in order to determine the need to continue such a treatment in excess of that amount.

This bill requires that reimbursement for services provided to a victim whose application has been approved generally must be paid by BOC within an average of 90 days from the date the claim was received for payment, and requires subsequent payments to certain mental health providers to be made within one month of receipt of the claim. The bill also provides that in cases where the victim has requested a reevaluation of his or her need for services, BOC shall not discontinue payments to a medical or mental health provider prior to completion of the reevaluation.

Under current law, BOC is required to submit certain monthly reports to the Joint Legislative Budget Committee pursuant to the 1989 Budget Act.

This bill instead requires BOC to report, as specified, to the Joint Legislative Budget Committee on the status of the Victims of Crime Program.

X. WEAPONS

MACHINEGUNS AND MULTIBURST TRIGGER ACTIVATOR
AB 376 (Chapter 1690*), Klehs

(Amends Section 12020 of the Penal Code)

Under current law, the manufacture, importation, sale, lending, or possession of specified weapons, such as zip guns, short barreled rifles and shotguns, and nuchakus, ammunition and other devices is an alternate felony/misdemeanor punishable by 16 months, two or three years in state prison and/or a fine up to $10,000 or up to one year in county jail and/or a fine up to $1,000. These items are deemed to be nuisances and are seized by law enforcement for sale or destruction.

Under current law, the possession, transportation, sale, and offer for sale of a machinegun is a felony punishable by 16 months, two or three years in state prison and/or a fine up to $10,000.

Effective January 1, 1991, the knowing manufacture of a machinegun, as well as the intentional conversion of a firearm into a machinegun, will be illegal (AB 2046, Chapter 81, Statutes of 1990).

This bill provides that it will be an alternate felony/misdemeanor to manufacture, import, sell, lend or possess a "multiburst trigger activator" as of January 1, 1991. These weapons will be subject to seizure as nuisances.

This bill provides that prior to January 1, 1992, provisions prohibiting the possession of a multiburst trigger activator shall not apply to persons who are not within the category of persons who are prohibited from owning or possessing firearms.

This bill defines a "multiburst trigger activator" as a device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

Under current law, specified persons are prohibited from owning, having custody or control over, or possessing firearms. However, certain categories of these persons who obtain title to these items by bequest or intestate succession may retain title of certain firearms for not more than one year without violating the prohibited persons statutes, but actual possession of these items at any time is a violation of the various sections prohibiting actual possession. Within one year of taking title the person must transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who fails to do so is in violation of a specified code section.

Under current law (and effective January 1, 1991) the following persons come within the proceeding paragraph: minors, ex-felons, persons who as a condition of probation may not possess firearms, persons subject to the Lanterman-Petris-Short Act, certain persons subject to domestic violence restraining orders, and until age 30, certain individuals adjudged wards of the Juvenile Court.

This bill adds to the list of specified persons those who are mental patients in any hospital or institution or who are on leaves of absence from any hospital or institution or who have been convicted of specified violent offenses.

Under current law, the sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by various law enforcement agencies is permitted, as well as by members of these agencies while on duty and the use is authorized by the agency and is within the course and scope of the member's duties.

This bill clarifies that marshal's offices and members of marshal's offices are within the exemption set forth in the preceding paragraph.

* Provisions of SB 2084 (Chapter 350) which amend Penal Code Section 12020 are incorporated into this chapter.

DEFINITION OF FIREARM
AB 497 (Chapter 9), Connelly*

(Amends Sections 11106, 12001, 12021, 12070, 12071, 12072, 12073, 12076, 12077, 12078, and 12082 of the Penal Code; amends the heading of Article 4 (commencing with Section 12070), Chapter 1, Title 2, Part 4 of the Penal Code; adds Section 12083 to the Penal Code; repeals Chapter 3 (commencing with Section 12350), Title 2, Part 4 of the Penal Code; repeals Article 2 (commencing with Section 12560) of Chapter 6, Title 2, Part 4 of the Penal Code; amends Sections 8100 and 8103 of the Welfare and Institutions Code)

Under current law, pistols, revolvers, and firearms capable of being concealed upon the person are defined as any device, designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. This term also includes any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

Under current law, in various circumstances the definition of pistol, revolver, and firearm capable of being concealed upon the person also includes the weapon's frame or receiver.

Under current law, the term "firearm" is defined to include any instrument which expels a metallic projectile, such as a BB or a pellet through the force of air pressure, CO2 pressure, or spring action or any spot marker gun. However, no device defined as a "firearm" under this particular section may be considered a pistol, revolver, or firearm capable of being concealed upon the person" for any purpose. This definition of "firearm" is specifically excluded from applying to prohibitions and restrictions pertaining to carrying loaded firearms, carrying concealed weapons, almost all rules applying to the sale and transfer of firearms, and prohibitions prohibiting person from possessing firearms.

This bill provides that for purposes of the waiting period, transfer and sale of firearms (including recordkeeping), engaging in the unlicensed sale, lease or transfer of firearms, and prohibitions on various categories of persons possessing or acquiring firearms, the term "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

This bill also provides that in the same circumstances where a pistol or revolver's frame or receiver is considered the weapon itself, those same restrictions and controls shall apply to the frame or receiver of any device defined as a "firearm" under this bill.

* Provisions of this bill are incorporated into SB 830 (Chapter 177), SB 2050 (Chapter 1090) and AB 1753 (Chapter 1180).

WAITING PERIOD
AB 497 (Chapter 9), Connelly*

(Amends Sections 11106, 12001, 12021, 12070, 12071, 12072, 12073, 12076, 12077, 12078, and 12082 of the Penal Code; amends the heading of Article 4 (commencing with Section 12070), Chapter 1, Title 2, Part 4 of the Penal Code; adds Section 12083 to the Penal Code; repeals Chapter 3 (commencing with Section 12350), Title 2, Part 4 of the Penal Code; repeals Article 2 (commencing with Section 12560) of Chapter 6, Title 2, Part 4 of the Penal Code; amends Sections 8100 and 8103 of the Welfare and Institutions Code)

Under current law, the sale or transfer of a pistol or revolver (concealable firearm) generally must be conducted through a dealer who is licensed by the city or county. The dealer must keep a register containing identifying

information. At the time of purchase, the "dealer's record of sale" (DROS) is completed and signed in the presence of the dealer.

Under current law, a 15-day waiting period is required before a purchaser or transferee can take possession of a concealable firearm, but the same requirement is not extended to rifles and shotguns (long guns). The dealer forwards copies of the DROS to the Department of Justice (DOJ) and the chief of police for review during the required 15-day waiting period.

Under current law, concealable firearms are registered at the time of retail sale or transfer by virtue of the DROS forms being compiled centrally. If DOJ determines that the purchaser is ineligible to complete the transaction by virtue of his or her record, the dealer must be notified.

This bill:

1) Extends the 15-day waiting period on the purchase or transfer of concealable weapons to all firearms. The waiting period for long guns will be shortened to 10 days beginning January 1, 1996.

2) Requires every person in the business of selling, leasing or transferring any firearm to keep a register DROS.

3) Requires that all long gun DROS forms be destroyed within 30 days of clearance and no record be retained therefrom or information compiled therefrom. SB 830 (Chapter 177) requires destruction to take place within five days, not 30.

4) Exempts from the requirement to conduct transfer of firearms through a licensed dealer, sales among importers and manufacturers, gifts, bequest or inheritance between immediate family members, as defined, the sale or transfer of curios or relics, as defined, deliveries of firearms to a gunsmith for repair, long gun transactions involving auctions conducted by nonprofit mutual or public benefit corporations, and the infrequent and temporary loan of firearms not to exceed 30 days between persons who are personally known to each other.

5) Exempts from the waiting period and the DROS process any firearm which is defined as an antique, curio or relic under federal law.

6) Requires DOJ to undertake a feasibility study and report to the Legislature on or before July 1, 1991 on a number of changes to firearms statutes.

* Provisions of this bill are incorporated into SB 830 (Chapter 177), SB 2050 (Chapter 1090) and AB 1753 (Chapter 1180).

DOMESTIC VIOLENCE RESTRAINING ORDERS
AB 1753 (Chapter 1180*), Friedman

(Amends Sections 547 and 550 of the Code of Civil Procedure; amends Section 12021 of the Penal Code; adds Section 12076.1 to the Penal Code)

Under current law, in specified domestic relations cases, after notice and hearing, a court may grant restraining orders which restrain a party a) from contacting, assaulting, battering, etc., the other party or other household member; b) from disposing of community or separate property; c) by excluding a party from the dwelling; and d) by specifying custody of a child to a party. The restraining order remains in effect, at the court's discretion, for up to three years.

Under current law, the sale of firearms is generally prohibited to individuals who have been convicted of a felony or specified misdemeanor offenses, or who have a record of mental illness or drug addiction, or who are minors. A record of such characteristics is revealed through the background check, required for sale or transfer by a dealer of any firearm, conducted through the Department of Justice (DOJ). Possession of weapons by such individuals generally constitutes a felony, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000.

This bill makes it an alternate felony/misdemeanor to obtain a firearm or to attempt to obtain a firearm while knowing that he or she is under a restraining order of the court, punishable by 16 months, two, or three years in state prison and/or a fine up to $10,000, or by up to a year in county jail and/or a fine up to $1,000.

This bill requires law enforcement to notify DOJ regarding the name, race, and date of birth of the person who is restrained, and the duration of the restraining order. It requires the court to notify DOJ if a modification, extension, or termination of the restraining order is issued. DOJ is permitted to augment firearm dealer's fees to reimburse local law enforcement for the costs related to increased notification requirements.

This bill exempts from civil liability members of local law enforcement and personnel of DOJ, acting within the scope of employment, if a restrained person wrongfully obtains a firearm and injures another with it, or if a nonrestrained person is wrongfully denied permission to purchase a firearm.

The bill requires the Judicial Council to revise forms and instructions for applications for restraining orders and for restraining orders to include the race and date of birth of the person restrained.

* This chapter incorporates provisions of AB 497 (Chapter 9).

SALES, CONVERSION, MANUFACTURE OF MACHINEGUNS
AB 2046 (Chapter 81), Murray

(Amends Sections 12020.5, 12220, 12230, and 12520 of the Penal Code; adds Section 12583 of the Penal Code; repeals and adds Section 12501 of the Penal Code)

Current law provides that while the possession, sale, or transportation of machineguns without a permit is proscribed, the advertising for sale of such weapons is not prohibited. However, it is a misdemeanor to advertise the sale of assault weapons and other unlawful weapons, as specified, punishable by up to six months in county jail and/or a fine up to $1,000.

This bill makes it a misdemeanor to advertise the sale of machineguns.

Under current law converting a firearm into a machinegun is not prohibited.

This bill makes it a felony to sell or offer for sale a machinegun, to intentionally convert a firearm into a machinegun, or to knowingly manufacture a machinegun, punishable by four, six, or eight years in state prison and/or a fine up to $10,000.

Current law restricts possession of a firearm "silencer," as defined, making it an alternate felony/misdemeanor, punishable by 16 months, two or three years in state prison and/or a fine up to $10,000, or by up to six months in county jail and/or a fine up to $1,000, respectively.

This bill deletes the qualifying phrase requiring that the silencer be for firearms. In addition, the bill exempts from the silencer prohibition:

1) The sale to, purchase by, or possession of silencers by enforcement agencies, or the sale to or purchase of silencers by military or naval forces of this state or of the United States for use in the discharge of their official duties.

2) The manufacture, possession, transportation or sale, or other transfer of silencers to an entity described in above, by persons registered as dealers or manufacturers under federal law, as specified.

Current law exempts peace officers, as defined, and the military or naval forces of California and the United States from the prohibition against possession of firearms when used in the discharge of their duties.

Under current law the Department of Justice (DOJ) may issue permits for the possession and/or transportation of machineguns.

This bill also authorizes DOJ to issue permits for the manufacture of machineguns.

Under current law it is a misdemeanor to knowingly manufacture, sell, offer to sell, possess, or use a blowgun or blowgun ammunition, punishable by up to one year in county jail and/or a fine up to $1,000.

This bill provides that nothing in the blowgun prohibition shall prohibit the sale to, purchase by, possession of, or use of blowguns or blowgun ammunition by zookeepers, animal control officers, Department of Fish and Game personnel, specified humane officers, or veterinarians in the course and scope of their business in order to administer medicine to animals.

ASSAULT WEAPONS: REGISTRATION
SB 830 (Chapter 177*), Roberti [AB 497 (Chapter 9), Connelly]**

(Amends Sections 11106, 12076, 12077, 12078, 12280, 12285, and 12290 of the Penal Code; amends Section 8103 of the Welfare and Institutions Code; amends Section 2, Chapter 1180, Statutes of 1988)

Under current law, it is a felony to possess an assault weapon with specified exceptions. People who were in lawful possession of an assault weapon prior to June 1, 1989 may register it with the Department of Justice (DOJ) and possess it under specified circumstances.

This bill clarifies that the Roberti-Roos Assault Weapons Control Act does not prohibit possession of an assault weapon during 1990 if the possessor is eligible to register such weapon by January 1, 1991 and lawfully possessed such weapon prior to June 1, 1989.

Under current law, DOJ may issue a permit for the possession and/or transportation of an assault weapon upon a satisfactory showing of good cause to any person 18 years or older. The restrictions on possession and use of a registered assault weapon do not apply to those in possession pursuant to a permit.

This bill allows persons in lawful possession of a registered assault weapon to transport it to a licensed gun dealer for service or repair.

This bill allows licensed gun dealers to take possession of an assault weapon to service or repair it from any person to whom it is legally registered or who has been issued a permit to possess it.

This bill authorizes licensed gun dealers to transfer possession of assault weapons obtained for service or repair to gunsmiths who hold a dealer's license, as defined, to accomplish that servicing or repair.

Under current law, the sale or transfer of a pistol or revolver ("concealable firearm") generally must be conducted through a licensed dealer who must keep a register. The information contained in the register includes identifying information. Two copies of the register are sent to DOJ and another copy is sent to the chief of police where the sale is made.

Effective January 1, 1991, the 15-day waiting period on the purchase of concealable weapons will be extended to all firearms. The waiting period for long guns will be shortened to 10 days beginning January 1, 1996. Every person in the business of selling or transferring a firearm must keep a register. All copies of dealer record of sale (DROS) forms for long guns must be destroyed within 30 days of clearance by the Attorney General (AG). The copy in the possession of the police or sheriff also must be destroyed within 30 days of receipt.

This bill requires DOJ to create a second and separate DROS form for long guns excluding information relating to long gun identification and requires destruction of the DROS form for long guns in the possession of the AG and local police or sheriff within 5 days, not 30 days as set forth in AB 497, Chapter 9.

Effective January 1, 1991, generally, all sales, deliveries, and transfers of all firearms must be completed through a licensed dealer. Several exceptions exist, two of which involve deliveries of firearms to a gunsmith for repair not exceeding three months duration, and certain transactions involving auctions conducted by nonprofit mutual or public benefit corporations.

This bill exempts the infrequent sale or transfer of a long gun, at auctions or "similar events," conducted by a nonprofit or public benefit corporation, from the requirement to conduct transfer of firearms through a licensed dealer.

This bill eliminates the three-month restriction on transfers to gunsmiths for repair which is in AB 497 (Chapter 9).

This bill makes minor technical changes to laws regarding firearms, affecting provisions of Chapter 9, Statutes of 1989 (AB 497, Connelly).

Under current law, a person who transfers a concealable weapon through a licensed dealer in accordance with statutes does not incur civil liability for subsequent misuse of the firearm by the transferee of that firearm if he or she had no knowledge of the misuse prior to the transfer.

This bill amends an uncodified public policy provision of the Penal Code by exempting a transferor of any firearm conducted through a licensed dealer from civil liability for subsequent misuse of the firearm by the transferee if he or she had no knowledge of the misuse prior to the transfer.

The provisions of this chapter relating to assault weapons went into effect on June 27, 1990.

* This chapter incorporates provisions of AB 497 (Chapter 9).

** Provisions of this chapter are incorporated into SB 2840 (Chapter 653), SB 2050 (Chapter 1090), and SB 2632 (Chapter 1257).

RECORDS
SB 2030 (Chapter 1090*), Keene [AB 497 (Chapter 9), Connelly and SB 830 (Chapter 177), Roberti]

(Amends Sections 12076 and 12077 of the Penal Code; amends the heading of Chapter 1 (commencing with Section 12000) Title 2, Part 4 of the Penal Code; amends Sections 8100, 8104, and 8105 of the Welfare and Institutions Code)

Under current law:

1) Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the entity is liable for an injury proximately caused by its failure to discharge the duty unless the entity establishes that it exercised reasonable diligence to discharge the duty.

2) Specified persons are prohibited from possessing firearms.

3) The sale or transfer of a pistol or revolver generally must be conducted through a licensed dealer who keeps a register containing identifying information.

4) At the time of purchase, the "dealer record of sale" (DROS) is completed and signed in the presence of the dealer who forwards two copies to the Department of Justice (DOJ) and another copy is sent to the chief of police for review during the waiting period. If DOJ determines that the

purchaser is ineligible to complete the transaction by virtue of his or her record, the dealer must be notified.

5) Pistols and revolvers are registered at the time of retail sale or transfer by virtue of the DROS forms being compiled centrally. Recently registration was expanded to all modern pistols and revolvers and to almost all transfers and sales (whether the dealer or private party is the seller/transferor of the firearm).

Effective January 1, 1991:

1) Individuals seeking to purchase or be transferred any firearm will be subject to a 15-day waiting period prior to delivery. The waiting period on delivery of long guns will be shortened to 10 days beginning January 1, 1996.

2) DOJ may charge the dealer a fee sufficient to reimburse local mental health facilities for state-mandated local costs resulting from reporting requirements.

3) Copies of DROS forms for long guns must be destroyed within five days of clearance by the Attorney General.

This bill:

1) Allows DOJ to have access to Department of Mental Health (DMH) records for purposes of the assault weapon registration program.

2) Imposes a mandatory duty upon DOJ to examine its criminal history records as well as the mental health records it is authorized to request from the DMH in order to determine if a prospective firearms purchaser or transferee is within a prohibited class.

3) Provides that DOJ's record check on eligibility prior to delivery or transfer of a long gun shall be deemed to be a discretionary duty within the meaning of the California Tort Claims Act.

4) Requires DMH to maintain its records in a convenient central location.

5) Expressly requires DOJ to request each public and private mental health facility to submit to DOJ such information as is necessary for identification of present and former mental patients falling within the prohibited class.

6) Requires the purchaser or transferee of any firearm to sign his or her current legal name to the register and also list all legal names and aliases ever used.

7) Provides that it is a misdemeanor punishable by up to six months in county jail and/or a fine up to $1,000 for a purchaser or transferee of a firearm to knowingly omit any required information for the register.

8) Authorizes DOJ to charge the dealer for the costs which would result from the reporting requirements imposed by this bill on DMH and on local mental health facilities for state-mandated local costs.

9) Deletes a cross-reference to a prohibited class which was included in another section with an identical penalty provision.

* This bill incorporates provisions of AB 497 (Chapter 9) and SB 830 (Chapter 177).

CONCEALED OR LOADED FIREARM: JUSTIFICATION
SB 2065 (Chapter 1249), Davis

(Amends Section 12031 of the Penal Code; adds Section 12025.5 to the Penal Code)

Under current law possession of any loaded firearm on the person or in a vehicle while in any public place or on any public street is a misdemeanor, punishable by up to six months in county jail and/or a fine up to $1,000. Subsequent convictions are misdemeanors, punishable by a mandatory minimum term of at least three months in county jail. In addition, possession of a concealable firearm on one's person or vehicle without a license is a misdemeanor, punishable by up to six months in county jail and/or a fine up to $1,000. Subsequent commission of this offense, or commission of this offense by a person previously convicted of a felony, is a felony punishable by 16 months, two or three years in state prison and/or a fine up to $10,000.

Several statutes protect the right of any person to use deadly force in self-defense. However, the use of a concealable firearm in self-defense is neither a crime nor an unlawful purpose.

This bill codifies a defense to the above crimes in cases in which the accused reasonably believes that he or she is in grave danger due to circumstances involving a person who is the subject of a temporary restraining order because that person poses a threat to the life or safety of the accused.

ASSAULT WEAPONS: REPAIR
SB 2632 (Chapter 1257*), Roberti

(Amends Section 12290 of the Penal Code)

Under current law it is a felony to possess an assault weapon unless certain exceptions apply. One exception pertains to the ability of licensed gun dealers to take possession of assault weapons to service or repair them.

This bill clarifies that the gun dealer may transfer an assault weapon for service or repair to a gunsmith who is either in the dealer's employ or with whom the dealer is contracting to accomplish the service or repair.

* This chapter incorporates provisions of SB 830 (Chapter 177).

X. MISCELLANEOUS

NOTARIES PUBLIC: CERTIFICATES OF AUTHORIZATION
AB 1593 (Chapter 828), Tucker

(Amends, repeals, and adds Section 8207 to the Government Code; adds Sections 8207.1, 8207.2, 8207.3, and 8207.4 to the Government Code)

Under existing law, notaries public are required to provide and keep an official seal to emboss, stamp, impress, or affix to documents. This bill requires the Secretary of State to assign a sequential identification number to each notary and to each vendor of notary stamps and to develop a certificate of authorization for those vendors.

This bill creates a civil cause of action providing that any person who willfully violates these provisions shall be subject to a civil penalty up to $1,500 for each violation which may be recovered in a civil action brought by the Attorney General, a district attorney, or city attorney. The penalty is not an exclusive remedy and does not affect any other relief or remedy provided by law.

The provisions of this bill will become effective January 1, 1992.

PAWNBROKERS AND SECONDHAND DEALERS: ALLEGED STOLEN PROPERTY
AB 1671 (Chapter 14), Bentley

(Amends Sections 21628 and 21647 of the Business and Professions Code; adds Section 71603.6 to the Government Code)

Under current law secondhand dealers are required to report, on a daily basis, specified transactions involving tangible personal property to the Department of Justice (DOJ). A violation of this requirement is a misdemeanor. Under existing law, a peace officer is authorized to place a hold, for a period not exceeding 90 days, on property in possession of a pawnbroker, a secondhand dealer, or a coin dealer whenever he or she has probable cause to believe that it is stolen. Currently DOJ is not required by statute to purge certain information from its automated stolen property system.

This bill provides that a law enforcement agency must cause the listing of identified property to be purged from the DOJ automated property system or automated firearms system after 60 days following delivery of the notice to the owner as to the location of the property. The bill also provides that a

law enforcement agency must respond within 30 days to a request by a pawnbroker or secondhand dealer to delete the listing, and authorizes the pawnbroker or secondhand dealer "to presume" that the property listing has been deleted from the DOJ automated property or firearms system if no law enforcement agency takes any further action within 45 days after mailing the request. Thereafter, the pawnbroker or secondhand dealer will be authorized to deal with the property as if it were not reported as lost or stolen, without any liability arising from failure of the removal of the property listing from the DOJ automated property or firearms system.

The bill also added coin dealers to the provisions requiring secondhand dealers to report, on a daily basis, specified transactions involving tangible personal property to the DOJ, and provides that property in possession of a pawnbroker, secondhand dealer, or coin dealer which is subject to a 90-day hold by a peace officer does not include coins, monetized bullion, and commercial grade ingots.

Existing law specifies the duties of marshals with respect to municipal courts and the duties of constables with respect to justice courts.

This bill provides that the Board of Supervisors of Santa Barbara County by ordinance or resolution may designate the marshal of the Santa Maria Judicial District as ex officio constable of the Solvang Judicial District.

This act is an urgency measure which became effective March 9, 1990.

CRIMINAL HISTORY INFORMATION: ADOPTIONS, FOSTER HOMES, AND HEALTH CARE AGENCIES
AB 2617 (Chapter 1570), Felando

(Amends Section 1522 of the Health and Safety Code; amends Sections 11105 and 11105.3 of the Penal Code; adds Section 11105.4 to the Penal Code)

Under current law, the Department of Justice (DOJ) may release full state summary criminal history information, including all prior arrests not resulting in convictions, only to specified persons and entities under specified circumstances, including public and private adoption agencies. However, DOJ may release only limited criminal history information, including only prior convictions and currently pending arrests, to various private enterprises for purposes of screening prospective employees, including financial institutions, child care providers, public utility companies and the State Lottery. Criminal history information used for employee screening generally is subject to the provisions of the Labor Code which permit

employers to use only convictions and/or arrests for which the employee or applicant is pending trial.

This bill provides that, before issuing a license, special permit, or certificate of approval to operate or manage a foster family home or certified family home, the state department or approving authority shall secure full criminal history information to determine if the applicant or any adult residing in the home has ever been convicted or arrested for a crime other than a minor traffic violation. The bill also provides that DOJ may furnish to human resource agencies, as defined, criminal history records involving sex crimes, drug crimes, or crimes of violence as follows:

1) Full criminal history records concerning persons who apply to adopt a child or become a foster parent.

2) Criminal records of convictions or arrests currently pending trial concerning persons who apply for a license, employment, or as a volunteer for a position which involves supervisory or disciplinary power over people in the field of care of children, the elderly, the handicapped, or the mentally impaired.

This bill further provides that DOJ may also furnish criminal history records of convictions and arrests currently pending trial concerning prospective employees of contract or proprietary security organizations. That information is limited to information that may be obtained by banks or human resource agencies.

HOMICIDE TRIAL: REIMBURSEMENT OF COSTS
AB 3234 (Chapter 1204), O'Connell

This bill appropriates $74,500 from the General Fund to the Controller for allocation and distribution to reimburse the Santa Barbara County District Attorney's Office for reasonable and necessary costs involved in investigating and prosecuting a murder case in Israel which originated in Santa Barbara County.

The bill makes legislative findings declaring that the circumstances in the case are unique and that the bill shall not serve as a precedent warranting state assistance in the financing of any future criminal cases.

REHABILITATION PROGRAMS
AB 3467 (Chapter 398), Burton

(Adds Title 9 (commencing with Section 8000) to Part 3 of the Penal Code)

Existing law does not regulate the relationship between the providers of long-term, live-in, rehabilitation programs and the program participants.

This bill expresses a legislative finding that live-in, rehabilitative programs save tax dollars, provide beneficial alternatives to incarceration, and promote resumption of useful lives by persons impaired by drug or alcohol abuse or by criminal records, who cannot be absorbed into the competitive labor market or who otherwise have little or no chance of rehabilitation.

This bill defines a live-in, rehabilitation program as a program that is not operated with any public funds, of at least a two-year duration, in which the recipient lives full time at the program site and receives room and board and all necessary support, as specified, at no cost to the participant. It restricts application of the statute by narrowing the definition of programs that qualify to those requiring long-term (two-year minimum) treatment of participants by a private, nonprofit program that has complied with extensive conditions for at least five years prior to the effective date of this legislation.

The bill also exempts participants and staff of live-in, rehabilitation programs, as defined, from wage and hour, and alcohol or drug rehabilitation provisions of the Labor Code, and from the requirement that employers of 25 or more employees accommodate those employees who want to participate in an alcohol or drug rehabilitation program.

NUISANCE ABATEMENT
AB 3485 (Chapter 223), Epple

(Amends Section 186.22a of the Penal Code)

Under current law the Street Terrorism Enforcement and Prevention Act (Act) contains nuisance abatement provisions which are not applicable to residential buildings in which there are three or fewer dwelling units.

This bill makes the Act's nuisance abatement provisions applicable to residential buildings in which there are three or fewer dwelling units.

SWAP MEETS: SIGN REQUIREMENTS
AB 4260 (Chapter 538), Epple

(Amends Section 21666 of the Business and Professions Code)

Under current law, every swap meet vendor is required, upon request, to issue to a purchaser a written receipt for items having a selling price greater than $15 disclosing the vendor's name and address. Moreover, every swap meet vendor is required to post or display a sign at a prominent place at the swap meet, or give written notice to every vendor prior to the swap meet of the the kinds of merchandise which may not be offered for sale. A violation of that posting requirement is an infraction, punishable by a fine up to $250.

This bill expands those posting requirements by requiring the swap meet owner or operator to post a sign at the main entrance of the swap meet which states that vendors are required to issue receipts in accordance with existing provisions.

CLEAN UP OF PENAL CODE
SB 2084 (Chapter 350), Maddy*

(Amends Sections 119, 2795, and 4390 of the Business and Professions Code; amends Section 6200 of the Government Code; amends Sections 11140, 11366.7, and 12702 of the Health and Safety Code; amends Sections 67.5, 95, 136.1, 146, 146a, 148.4, 154, 155, 171b, 12020, 12322 and 12403 of the Penal Code)

Existing law specifies activities in various code provisions which are crimes.

This bill makes certain technical clarifying changes and would correct or delete erroneous and obsolete cross-references in certain of these provisions in the codes specified above.

* Provisions of this bill are incorporated into AB 376 (Chapter 1690).

ROBERT PRESLEY INSTITUTE OF CORRECTIONS RESEARCH AND TRAINING
SB 2235 (Chapter 548), Presley

(Amends Sections 5087 and 5088 of the Penal Code; amends Section 2.5, of Chapter 1549, Statutes of 1982)

Existing law establishes the Robert Presley Institute of Corrections Research and Training for purposes of supporting and enhancing research, education, and training for corrections personnel.

This bill provides that the chancellor of the campus affiliated with the institute is authorized to serve either as an ex officio voting member or as a gubernatorial appointee of the board.

This bill expands the duties of the Joint Legislative Committee on Prison Construction and Operation to include investigating and making recommendations on inmate population management issues. This section will remain in effect until January 1, 1993 and as of that date is repealed.

This act is an urgency measure which became effective August 27, 1990.

MONEY LAUNDERING
SB 2735 (Chapter 1484), Calderon*

(Amends, repeals, and adds Section 18802.6 of the Revenue and Tax Code; adds Section 26135 to the Revenue and Taxation Code; amends Section 11713 of the Vehicle Code)

Under current law financial institutions must make, keep, and file a report with the state Department of Justice (DOJ) of every transaction involving currency or an exchange of instruments of more than $10,000. A federal information return (Form 8300) must, with exceptions, be filed with the Internal Revenue Service (IRS) by every trader business that receives cash payments of more than $10,000. This filing is available to the Franchise Tax Board (FTB) but not state or local law enforcement. A Cash Transaction Report (CTR) must, with exceptions, be filed with the U.S. Department of Treasury by financial institutions and certain other trades, and businesses that receive cash transactions of more than $10,000. This filing is available to state and local law enforcement purposes.

This bill requires every trade or business that must file a Form 8300 with the IRS to also file it with FTB. The FTB must provide the Attorney General (AG) with a copy of the Form 8300 if the AG requests it and has obtained a court

order based upon an ex parte showing of an articulable suspicion that the report relates to a felony. The AG may make a return or information obtained available to a district attorney upon written request stating the reasons for believing that a felony has been committed to which the return or information is related. The information obtained from the Form 8300 is confidential and can be used only for investigative or prosecutorial purposes.

* Provisions of this bill chapter out a portion of Vehicle Code Section 11713, AB 1314 (Chapter 89, Statutes of 1990), which required automobile dealers to report cash transactions of $10,000 or more to the AG.

The provisions of this bill will remain operative until January 1, 1994 and as of that date are repealed.

INDEX BY BILL NUMBER

BILL	AUTHOR	CHAPTER	PAGE
AB 1893	Areias	45	108
AB 1925	Epple	1181	5
AB 2040	Farr	1403	96
AB 2046	Murray	81	120
AB 2115	Wright	96	44
AB 2249	Friedman	1616	5
AB 2306	Calderon	333	74
AB 2554	Quackenbush	1216	18
AB 2555	Quackenbush	146	82
AB 2551	Quackenbush	156	36,82
AB 2601	Tucker	249	68
AB 2615	Quackenbush	268	42
AB 2617	Felando	1570	128
AB 2629	Roybal-Allard	269	37
AB 2631	Roybal-Allard	271	37
AB 2632	Roybal-Allard	680	18
AB 2638	Tucker	246	68
AB 2645	Epple	1664	50
AB 2655	Hunter	835	19
AB 2692	O'Connell	273	23
AB 2717	Pringle	337	105
AB 2748	Seastrand	148	90
AB 2803	Hauser	278	109
AB 2814	Kelley	454	87
AB 2853	Allen	280	61
AB 2865	Burton	636	38

BILL	AUTHOR	CHAPTER	PAGE
AB 2952	Sher	1353	91
AB 2997	Areias	551	6
AB 3009	McClintock	286	97
AB 3087	Hayden	1571	20
AB 3118	Moore	1625	61
AB 3137	Hansen	1698	98
AB 3147	Speier	424	24
AB 3168	Frazee	289	38
AB 3194	Floyd	222	24
AB 3216	McClintock	1508	69
AB 3234	O'Connell	1204	129
AB 3280	Tanner	639	25
AB 3289	Friedman	568	98
AB 3325	Johnston	292	70
AB 3401	Waters, N.	1285	75
AB 3407	Tucker	1096	51
AB 3410	Polanco	1515	105
AB 3437	Roybal-Allard	383	25
AB 3457	Moore	696	7
AB 3466	Frazee	698	70
AB 3467	Burton	398	130
AB 3474	Peace	900	75
AB 3483	Epple	408	7
AB 3485	Epple	223	130
AB 3486	Epple	1031	20
AB 3521	Bentley	931	66

BILL	AUTHOR	CHAPTER	PAGE
AB 3609	Chandler	1057	83
AB 3613	Hughes	662	43
AB 3678	Cortese	427	39
AB 3741	McClintock	258	71
AB 3744	Elder	1663	52
AB 3784	Chandler	259	39
AB 3816	Roos	1473	76
AB 3844	Murray	261	26
AB 3877	Woodruff	749	72
AB 3894	Filante	1126	8,26
AB 3905	Quackenbush	1194	77
AB 3914	Wyman	1073	33
AB 3915	Brown, W.	1056	83
AB 3964	Leslie	570	40
AB 3971	Floyd	569	27
AB 3984	Moore	304	27
AB 4087	Friedman	1320	62
AB 4152	Cannella	1554	62
AB 4186	Polanco	1037	45
AB 4229	Quackenbush	982	28
AB 4237	Nolan	1692	109
AB 4251	Clute	1200	53
AB 4254	Johnston	969	9
AB 4260	Epple	538	131
AB 4288	Hill	1492	9
AB 4318	Leslie	708	99

BILL	AUTHOR	CHAPTER	PAGE
SB 549	Presley	981	82,87
SB 655	Presley	82	77
SB 786	Presley	1078	84
SB 830	Roberti	177	47,121
SB 842	Presley	5	89
SB 1030	Presley	53	53
SB 1094	Presley	579	89
SB 1147	Lockyer	1293	46
SB 1150	Lockyer	431	100
SB 1334	Bergeson	1557	54
SB 1429	Green, C.	776	72
SB 1564	Kopp	55	10
SB 1575	Green, C.	777	54
SB 1647	Rosenthal	1243	101
SB 1720	Presley	1700	28,91
SB 1754	Ayala	167	11
SB 1756	Lockyer	1696	101
SB 1808	Leonard	588	102
SB 1865	Craven	1590	11
SB 1894	Ayala	1591	55
SB 1895	Seymour	1344	63
SB 1896	Davis	325	78
SB 1917	Ayala	785	40
SB 1944	Lockyer	203	46
SB 1985	Green, C.	264	78
SB 1990	Ayala	1559	29

BILL	AUTHOR	CHAPTER	PAGE
SB 2000	Presley	1594	85
SB 2023	Hart	643	12
SB 2028	Doolittle	544	55
SB 2031	Presley	1417	56,64
SB 2033	Mello	1138	30,79
SB 2050	Keene	1090	30,123
SB 2065	Davis	1249	125
SB 2073	Royce	942	12
SB 2077	Ayala	819	92
SB 2079	Roberti	1560	13
SB 2084	Maddy	350	131
SB 2112	Boatwright	1665	56
SB 2140	Davis	1695	41,80
SB 2172	Kopp	1155	13
SB 2184	Royce	1527	14,34
SB 2235	Presley	548	132
SB 2305	Ayala	1303	103
SB 2329	Killea	352	57
SB 2423	Royce	650	66
SB 2433	Davis	245	111
SB 2457	Boatwright	477	80
SB 2475	Craven	877	31
SB 2483	Russell	822	31
SB 2501	Presley	1342	112
SB 2516	Presley	1053	92
SB 2522	Davis	1564	15

BILL	AUTHOR	CHAPTER	PAGE
SB 2545	Vuich	1271	41
SB 2549	Keene	619	85
SB 2572	Lockyer	800	42
SB 2586	Roberti	630	15
SB 2607	Seymour	1419	64
SB 2632	Roberti	1257	126
SB 2635	Mello	1697	103
SB 2656	Vuich	631	32
SB 2663	Presley	976	85
SB 2671	Presley	1367	106
SB 2680	Boatwright	480	81
SB 2681	Boatwright	950	16
SB 2685	Russell	1264	65,112
SB 2730	Keene	952	58
SB 2735	Calderon	1484	132
SB 2739	Roberti	674	58
SB 2786	Presley	980	90
SB 2788	Russell	1330	67
SB 2809	Robbins	481	107
SB 2863	Presley	1580	59,93
SB 2904	Presley	1254	113
SCR 95	Ayala	R17	104

INDEX BY CHAPTER NUMBER

CHAPTER	BILL	AUTHOR	PAGE
632	AB 125	Floyd	35
634	AB 1720	Hayden	63
636	AB 2865	Burton	38
639	AB 3280	Tanner	25
643	SB 2023	Hart	12
650	SB 2423	Royce	66
662	AB 3613	Hughes	43
674	SB 2739	Roberti	58
675	AB 389	Peace	21,74
680	AB 2632	Roybal-Allard	18
696	AB 3457	Moore	7
698	AB 3466	Frazee	70
708	AB 4318	Leslie	99
749	AB 3877	Woodruff	72
776	SB 1429	Green, C.	72
777	SB 1575	Green, C.	54
785	SB 1917	Ayala	40
800	SB 2572	Lockyer	42
819	SB 2077	Ayala	92
822	SB 2483	Russell	31
828	AB 1593	Tucker	127
835	AB 2655	Hunter	19
877	SB 2475	Craven	31
900	AB 3474	Peace	75
931	AB 3521	Bentley	66
942	SB 2073	Royce	12

CHAPTER	BILL	AUTHOR	PAGE
950	SB 2681	Boatwright	16
952	SB 2730	Keene	58
969	AB 4254	Johnston	9
976	SB 2663	Presley	85
980	SB 2786	Presley	90
981	SB 549	Presley	82,87
982	AB 4229	Quackenbush	28
1031	AB 3486	Epple	20
1037	AB 4186	Polanco	45
1053	SB 2516	Presley	92
1056	AB 3915	Brown, W.	83
1057	AB 3609	Chandler	83
1073	AB 3914	Wyman	33
1078	SB 786	Presley	84
1090	SB 2050	Keene	30,123
1096	AB 3407	Tucker	51
1126	AB 3894	Filante	8,26
1138	SB 2033	Mello	30,79
1155	SB 2172	Kopp	13
1180	AB 1753	Friedman	119
1181	AB 1925	Epple	5
1194	AB 3905	Quackenbush	77
1200	AB 4251	Clute	53
1204	AB 3234	O'Connell	129
1216	AB 2554	Quackenbush	18
1243	SB 1647	Rosenthal	101

CHAPTER	BILL	AUTHOR	PAGE
1249	SB 2065	Davis	125
1254	SB 2904	Calderon	113
1257	SB 2632	Roberti	126
1264	SB 2685	Russell	65,112
1271	SB 2545	Vuich	41
1275	AB 764	Marston	43
1276	AB 1325	Waters, N.	36
1285	AB 3401	Waters, N.	75
1293	SB 1147	Lockyer	46
1303	SB 2305	Ayala	103
1320	AB 4087	Friedman	62
1330	SB 2788	Russell	67
1342	SB 2501	Presley	112
1344	SB 1895	Seymour	63
1353	AB 2952	Sher	91
1367	SB 2671	Presley	106
1403	AB 2040	Farr	96
1417	SB 2031	Presley	56,64
1419	SB 2607	Seymour	64
1473	AB 3816	Roos	76
1484	SB 2735	Calderon	132
1492	AB 4288	Hill	9
1508	AB 3216	McClintock	69
1515	AB 3410	Polanco	105
1527	SB 2184	Royce	14,34
1554	AB 4152	Cannella	62

CHAPTER	BILL	AUTHOR	PAGE
1557	SB 1334	Bergeson	54
1559	SB 1990	Ayala	29
1560	SB 2079	Roberti	13
1564	SB 2522	Davis	15
1570	AB 2617	Felando	128
1571	AB 3087	Hayden	20
1580	SB 2863	Presley	59,93
1590	SB 1865	Craven	11
1591	SB 1894	Ayala	55
1594	SB 2000	Presley	85
1616	AB 2249	Friedman	5
1625	AB 3118	Moore	61
1663	AB 3744	Elder	52
1664	AB 2645	Epple	50
1665	SB 2112	Boatwright	56
1690	AB 376	Klehs	115
1692	AB 4237	Nolan	109
1695	SB 2140	Davis	41,80
1696	SB 1756	Lockyer	101
1697	SB 2635	Mello	103
1698	AB 3137	Hansen	98
1700	SB 1720	Presley	28,91

INDEX BY AUTHOR

AUTHOR	BILL	CHAPTER	PAGE
Calderon	AB 2306	333	74
Calderon	SB 2735	1484	132
Calderon	SB 2904	1254	113
Cannella	AB 4152	1554	62
Chandler	AB 3609	1057	83
Chandler	AB 3784	259	39
Clute	AB 4251	1200	53
Connelly	AB 497	9	2,22,46,67,116,117
Cortese	AB 3678	427	39
Craven	SB 1865	1590	11
Craven	SB 2475	877	31
Davis	SB 1896	325	78
Davis	SB 2065	1249	125
Davis	SB 2140	1695	41,80
Davis	SB 2433	245	111
Davis	SB 2522	1564	15
Doolittle	SB 2028	544	55
Elder	AB 43	391	21
Elder	AB 3744	1663	52
Epple	AB 9x	36	1
Epple	AB 1925	1181	5
Epple	AB 2645	1664	50
Epple	AB 3483	408	7
Epple	AB 3485	223	130
Epple	AB 3486	1031	20
Epple	AB 4260	538	131

AUTHOR	BILL	CHAPTER	PAGE
Farr	AB 1858	22	18
Farr	AB 2040	1403	96
Felando	AB 2617	1570	128
Filante	AB 3894	1126	8,26
Floyd	AB 125	632	35
Floyd	AB 3194	222	24
Floyd	AB 3971	569	27
Frazee	AB 3168	289	38
Frazee	AB 3466	698	70
Friedman	AB 1753	1180	119
Friedman	AB 2249	1616	5
Friedman	AB 3289	568	98
Friedman	AB 4087	1320	62
Green, C.	SB 1429	776	72
Green, C.	SB 1575	777	54
Green, C.	SB 1985	264	78
Hansen	AB 3137	1698	98
Hart	SB 2023	643	12
Harvey	AB 574	117	33
Hauser	AB 2803	278	109
Hayden	AB 1720	634	63
Hayden	AB 3087	1571	20
Hill	AB 4288	1492	9
Hughes	AB 3613	662	43
Hunter	AB 2655	835	19
Johnston	AB 3325	292	70

AUTHOR	BILL	CHAPTER	PAGE
Johnston	AB 4254	969	9
Keene	SB 2050	1090	30,123
Keene	SB 2549	619	85
Keene	SB 2730	952	58
Kelley	AB 2814	454	87
Killea	SB 2329	352	57
Klehs	AB 376	1690	115
Kopp	SB 1564	55	10
Kopp	SB 2172	1155	13
Leonard	SB 1808	588	102
Leslie	AB 1648	44	95
Leslie	AB 3964	570	40
Leslie	AB 4318	708	99
Lockyer	SB 1147	1293	46
Lockyer	SB 1150	431	100
Lockyer	SB 1756	1696	101
Lockyer	SB 1944	203	46
Lockyer	SB 2572	800	42
Maddy	SB 2084	350	131
Marston	AB 764	1275	43
McClintock	AB 3009	286	97
McClintock	AB 3216	1508	69
McClintock	AB 3741	258	71
Mello	SB 2033	1138	30,79
Mello	SB 2635	1697	103
Moore	AB 3118	1625	61

AUTHOR	BILL	CHAPTER	PAGE
Moore	AB 3457	696	7
Moore	AB 3984	304	27
Murray	AB 524	576	86
Murray	AB 662	18	16
Murray	AB 664	41	17
Murray	AB 1577	43	4,49
Murray	AB 2046	81	120
Murray	AB 3844	261	26
Nolan	AB 4237	1692	109
O'Connell	AB 2692	273	23
O'Connell	AB 3234	1204	129
Peace	AB 389	675	21,74
Peace	AB 1621	415	44
Peace	AB 3474	900	75
Polanco	AB 3410	1515	105
Polanco	AB 4186	1037	45
Presley	SB 549	981	82,87
Presley	SB 655	82	77
Presley	SB 786	1078	84
Presley	SB 842	5	89
Presley	SB 1030	53	53
Presley	SB 1094	579	89
Presley	SB 1720	1700	28,91
Presley	SB 2000	1594	85
Presley	SB 2031	1417	56,64
Presley	SB 2235	548	132

AUTHOR	BILL	CHAPTER	PAGE
Presley	SB 2501	1342	112
Presley	SB 2516	1053	92
Presley	SB 2663	976	85
Presley	SB 2671	1367	106
Presley	SB 2786	980	90
Presley	SB 2863	1580	59,93
Pringle	AB 2717	337	105
Quackenbush	AB 2551	156	36
Quackenbush	AB 2554	1216	18
Quackenbush	AB 2555	146	82
Quackenbush	AB 2615	268	42
Quackenbush	AB 3905	1194	77
Quackenbush	AB 4229	982	28
Robbins	SB 2809	481	107
Roberti	SB 830	177	47,121
Roberti	SB 2079	1560	13
Roberti	SB 2586	630	15
Roberti	SB 2632	1257	126
Roberti	SB 2739	674	58
Roos	AB 3816	1473	76
Rosenthal	SB 1647	1243	101
Roybal-Allard	AB 2629	269	37
Roybal-Allard	AB 2631	271	37
Roybal-Allard	AB 2632	680	18
Roybal-Allard	AB 3437	383	25
Royce	SB 2073	942	12

AUTHOR	BILL	CHAPTER	PAGE
Royce	SB 2184	1527	14,34
Royce	SB 2423	650	66
Russell	SB 2483	822	31
Russell	SB 2685	1264	65,112
Russell	SB 2788	1330	67
Seastrand	AB 2748	148	90
Seymour	SB 1895	1344	63
Seymour	SB 2607	1419	64
Sher	AB 2952	1353	91
Speier	AB 3147	424	24
Tanner	AB 3280	639	25
Tucker	AB 1593	828	127
Tucker	AB 2601	249	68
Tucker	AB 2638	246	68
Tucker	AB 3407	1096	51
Vuich	SB 2545	1271	41
Vuich	SB 2656	631	32
Waters, N.	AB 1317	63	4
Waters, N.	AB 1325	1276	36
Waters, N.	AB 3401	1285	75
Woodruff	AB 3877	749	72
Wright	AB 2115	96	44
Wyman	AB 3914	1073	33

TABLE OF SECTIONS AFFECTED

SECTION	BILL	CHAPTER	EFFECT	PAGE
BUSINESS AND PROFESSIONS CODE				
119	SB 2084	350	Am	131
2795	SB 2084	350	Am	131
4390	SB 2084	350	Am	131
5536.5	AB 9x	36	Ad	1
6788	AB 9x	36	Ad	1
7028.16	AB 9x	36	Ad	1
9882.14	AB 2040	1403	Ad	96
17540.13	AB 2997	551	Am	6
21628	AB 1671	14	Am	127
21647	AB 1671	14	Am	127
21666	AB 4260	538	Am	131
25662	SB 2635	1697	Am	103
25755	SB 2140	1695	Am	41,80
CIVIL CODE				
3344.5	SB 1865	1590	Ad	11
CODE OF CIVIL PROCEDURE				
269	AB 2865	636	Am	38
547	AB 1753	1180	Am	119
550	AB 1753	1180	Am	119
CORPORATIONS CODE				
29500	AB 4254	969	Ad	9
EDUCATION CODE				
48293	AB 43	391	Am	21
48902	SB 2635	1697	Am	103
EVIDENCE CODE				
1010	AB 3613	662	Am	43
1103	AB 2615	268	Am	42
1035.2	SB 2501	1342	Am	112
1037.1	SB 2501	1342	Am	112

SECTION	BILL	CHAPTER	EFFECT	PAGE
FISH AND GAME CODE				
875.1	SB 1896	325	Ad,R	78
878.1	SB 1896	325	Ad,R	78
FOOD AND AGRICULTURE CODE				
6306	SB 1754	167	Ad	11
GOVERNMENT CODE				
3301	AB 389	675	Am	21,74
6200	SB 2084	350	Am	131
6204	SB 2681	950	R	16
8207	AB 1593	828	Am,R,Ad	127
8207.1	AB 1593	828	Ad	127
8207.2	AB 1593	828	Ad	127
8207.3	AB 1593	828	Ad	127
8207.4	AB 1593	828	Ad	127
1031	AB 3816	1473	Am	76
1031.5	AB 3816	1473	Am	76
13961.1	SB 2904	1254	Am	113
13963.1	SB 2433	245	Ad,R	111
13965	SB 2904	1254	Am	113
13965.2	SB 2904	1254	Ad	113
13967	AB 1893	45	Am	108
13967.2	AB 1893	45	Ad	108
14613	SB 655	82	Am	77
14613.7	SB 2140	1695	Am	41,80
15819.23	SB 549	981	Ad	82,87
15819.24	SB 549	981	Ad	82,87
15819.40	SB 549	981	Ad	82,87
16304.2	AB 2814	454	Ad	87
20017.99	AB 389	675	Am	21,74
26521	AB 3914	1073	Am	33
56111.6	SB 2786	980	Ad	90
56111.7	SB 2786	980	Ad	90
68097.1	SB 2140	1695	Am	41,80
71603.6	AB 1671	14	Ad	127
74368	AB 389	675	Am	21,74
76132	AB 1621	415	Am	44
76134	AB 1621	415	Ad	44
77202.5	AB 2115	96	Ad	44

SECTION	BILL	CHAPTER	EFFECT	PAGE
HARBORS AND NAVIGATION CODE				
655	SB 1808	588	Am	102
655.6	SB 1808	588	Ad	102
668.1	AB 3137	1698	Ad,R	98
HEALTH AND SAFETY CODE				
459	SB 2663	976	Am	85
1522	AB 2617	1570	Am	128
11107.1	SB 2329	352	Am	57
11140	SB 2084	350	Am	131
11353	AB 2645	1664	Am	50
11353.1	AB 3744	1663	Am	52
11353.1	AB 2645	1664	Am	50
11353.1	SB 2112	1665	Am	56
11353.5	AB 3744	1663	Am	52
11353.5	SB 2112	1665	Am	56
11353.5	AB 2645	1664	Am	50
11353.7	SB 2112	1665	Am	56
11364	SB 2028	544	Am	55
11364	AB 2645	1664	Am	50
11366.7	SB 2084	350	Am	131
11368	AB 1577	43	Am	4,49
11370.1	AB 664	41	Am	17
11380	SB 2112	1665	Am	56
11380	AB 2645	1664	Am	50
11380.1	AB 3744	1663	Ad	52
11380.1	AB 2645	1664	Ad	50
11380.1	SB 2112	1665	Ad	56
11380.5	AB 2645	1664	R	50
11380.5	AB 1264	28	Am	49
11380.5	SB 2112	1665	R	56
11383	SB 1894	1591	Am	55
11470	AB 4251	1200	Am	53
11488.1	AB 4251	1200	Am	53
11488.2	AB 4251	1200	Am	53
11488.4	AB 4251	1200	Am	53
11488.5	AB 4251	1200	Am	53
11488.6	AB 4251	1200	Am	53
11488.7	AB 4251	1200	R	53
11492	AB 4251	1200	Am	53
11550	AB 3407	1096	Am	51
11590	SB 2031	1417	Am	56,64
11647	SB 2031	1417	R,Ad	56,64
11648	SB 2031	1417	Ad	56,64
11837.1	AB 2040	1403	Am	96
12020	SB 2140	1695	Am	41,80

SECTION	BILL	CHAPTER	EFFECT	PAGE
HEALTH AND SAFETY CODE (continued)				
12020	SB 655	82	Am	77
12702	SB 2084	350	Am	131
INSURANCE CODE				
448.5	SB 655	82	Am	77
488.5	SB 2140	1695	Am	41,80
488.5	AB 389	675	Am	21,74
557.5	SB 655	82	Am	77
557.5	SB 2140	1695	Am	41,80
557.5	AB 389	675	Am	21,74
557.6	SB 655	82	Am	77
557.6	SB 2140	1695	Am	41,80
557.6	AB 389	675	Am	21,74
669.5	AB 389	675	Am	21,74
669.5	SB 2140	1695	Am	41,80
PENAL CODE				
19.8	SB 2635	1697	Am	103
67.5	SB 2084	350	Am	131
95	SB 2084	350	Am	131
115.1	SB 1865	1590	Ad	11
118	SB 2681	950	Am	16
118.1	SB 2681	950	Ad	16
136.1	SB 2084	350	Am	131
139	AB 1265	80	Am	3
140	AB 1265	80	Am	3
146	SB 2084	350	Am	131
146a	SB 2084	350	Am	131
148	AB 1925	1181	Am	5
148.10	SB 2172	1155	Ad	13
148.4	SB 2084	350	Am	131
148.5	SB 1720	1700	Am	28,91
148.5	AB 389	675	Am	21,74
150	AB 2692	273	Am	23
154	SB 2084	350	Am	131
155	SB 2084	350	Am	131
171b	SB 2084	350	Am	131
186.22a	AB 3485	223	Am	130
191.5	AB 3137	1698	Am,R,Ad	98
192.5	AB 3137	1698	Am,R,Ad	98
193.7	AB 1648	44	Ad	95
207	SB 1564	55	Am	10
208	SB 1564	55	Am	10
208	SB 2079	1560	Am	13
209	SB 1564	55	Am	10
261	SB 2586	630	Am	15

SECTION	BILL	CHAPTER	EFFECT	PAGE
PENAL CODE (continued)				
261.6	AB 2631	271	Am	37
273	AB 4288	1492	Am	9
273.5	AB 2632	680	Am	18
302	SB 2483	822	Am	31
308.5	AB 3280	639	Ad	25
313.1	SB 2475	877	Am	31
387	AB 2249	1616	Ad	5
409.5	SB 665	82	Am	77
409.5	SB 2140	1695	Am	41,80
451	AB 1317	63	Am	4
463	AB 3894	1126	Ad	8,26
487h	SB 2522	1564	Am	15
502.01	AB 1858	22	Am	18
502.1	AB 1858	22	R	18
537e	AB 3483	408	Am	7
602	AB 3147	424	Am	24
602.6	SB 2656	631	Ad	32
632	AB 3457	696	Am	7
632.2	SB 2501	1342	Ad,R	112
632.6	AB 3457	696	Ad	7
633	AB 3457	696	Am	7
633.5	AB 3457	696	Am	7
634	AB 3457	696	Am	7
635	AB 3457	696	Am	7
637.6	AB 3984	304	Ad	27
640	AB 3844	261	Am	26
640.5	AB 3844	261	Ad	26
646.9	SB 2184	1527	Ad	14,34
653w	SB 2073	942	Am	12
653.1	SB 1990	1559	Ad	29
653m	AB 3437	383	Am	25
667.5	AB 662	18	Am	16
670	AB 9x	36	Ad	1
686.2	SB 1917	785	Ad	40
786	AB 2551	156	Am	36
830.1	SB 2140	1695	Am	41,80
830.2	SB 655	82	Am	77
830.3	SB 655	82	Am	77
830.33	SB 655	82	Am	77
830.36	SB 655	82	Am	77
830.5	AB 3905	1194	Am	77
830.55	AB 3401	1285	Ad,R	75
830.6	SB 2140	1695	Am	41,80
830.7	SB 655	82	Am	77
830.8	SB 655	82	Am	77
830.8	SB 2140	1695	Am	41,80
830.8	AB 3474	900	Am	75
830.9	SB 655	82	Am	77

SECTION	BILL	CHAPTER	EFFECT	PAGE
PENAL CODE (continued)				
832.8	SB 1985	264	Am	78
859.1	AB 1325	1276	Ad	36
959.1	AB 3168	289	Am	38
976.5	AB 3784	259	Ad,R	39
977.2	AB 3678	427	Am,R	39
977.2	SB 2545	1271	Am	41
977.3	AB 3678	427	R	39
987.2	AB 125	632	Am	35
1000	SB 1030	53	Am	53
1001.40	SB 2305	1303	Ad	103
1017	AB 125	632	Am	35
1018	AB 125	632	Am	35
1035	AB 125	632	Am	35
1127d	AB 2629	269	Am	37
1164	SB 2572	800	Am	42
1170.1	AB 2655	835	Am	19
1170.1	AB 664	41	Am	17
1170.73	SB 1575	777	Ad	54
1170.74	SB 2730	952	Ad	58
1170.81	AB 3486	1031	Ad	20
1170.84	AB 2554	1216	Ad	18
1191	AB 3964	570	Am	40
1202.4	AB 1893	45	Am	108
1203.04	AB 1893	45	Am	108
1203.055	AB 1893	45	Am	108
1203.073	AB 1577	43	Am	4,49
1203.073	SB 1334	1557	Am	54
1203.1bb	AB 2040	1403	Ad	96
1203.1g	AB 1893	45	Am	108
1203.1j	AB 1893	45	Am	108
1214.3	SB 2671	1367	R,Ad	106
1227d	AB 2629	269	Am	37
1270	SB 2184	1527	Am	14,34
1275	AB 574	117	Am	33
1305	AB 3914	1073	Am	33
1306	AB 3914	1073	Am	33
1463.01	SB 2305	1303	Ad	103
1463.14	SB 2305	1303	Am	103
1463.24	AB 4186	1037	Ad	45
1464	SB 1147	1293	Am	46
1464.05	SB 1147	1293	Ad	46
1465.5	AB 764	1275	Ad,R	43
1558	AB 3194	222	Am	24
2910.5	AB 3401	1285	Am,R,Ad	75
2933.5	SB 1720	1700	Ad	28,91
3003	AB 2748	148	Am	90
3003	AB 4237	1692	Am	109
3041.5	SB 2516	1053	Am	92

SECTION	BILL	CHAPTER	EFFECT	PAGE
PENAL CODE (continued)				
3043	AB 2803	278	Am	109
3043.1	AB 2803	278	Ad	109
3043.2	AB 2803	278	Ad	109
3043.3	AB 2803	278	Ad	109
4007	AB 2952	1353	Am	91
4024.2	AB 2555	146	Am	82
4329	SB 2663	976	Am	85
4496.50	SB 1094	579	Ad	89
4497.05	SB 2549	619	Ad	85
4497.12	AB 3609	1057	Am	83
4497.12	AB 3915	1056	Am	83
4537	SB 2077	819	Am	92
4573	SB 2863	1580	Am	59,93
4573.5	SB 2863	1580	Am	59,93
4573.6	SB 2863	1580	Am	59,93
4573.8	SB 2863	1580	Ad	59,93
4573.9	SB 2863	1580	Ad	59,93
4852.2	AB 125	632	Am	35
5003	SB 549	981	Am	82,87
5003	SB 2786	980	Am	90
5021	SB 2863	1580	Ad	59,93
5087	SB 2235	548	Am	132
5088	SB 2235	548	Am	132
6240	SB 2000	1594	Ad	85
6257	AB 3401	1285	Ad,R	75
7420	SB 842	5	Ad	89
7440	AB 524	576	Ad	86
7554	SB 2033	1138	Ad,R	30,79
8000	AB 3467	398	Ad	130
11105	AB 2617	1570	Am	128
11105.3	AB 2617	1570	Am	128
11105.4	AB 2617	1570	Ad	128
11106	AB 497	9	Am	2,22,46,67,116,117
11106	SB 830	177	Am	47,121
11155	AB 4237	1692	Am	109
11165.12	SB 2788	1330	Am	67
11166.2	SB 2423	650	Am	66
11166.5	AB 3521	931	Am	66
11170	SB 2788	1330	Am	67
11413	SB 2023	643	Am	12
11450	AB 3971	569	R	27
12000	SB 2050	1090	Am	30,123
12001	AB 497	9	Am	2,22,46,67,116,117
12020	AB 376	1690	Am	115
12020	SB 2084	350	Am	131
12020.5	AB 2046	81	Am	120
12021	AB 1753	1180	Am	119
12021	AB 497	9	Am	2,22,46,67,116,117

SECTION	BILL	CHAPTER	EFFECT	PAGE
PENAL CODE (continued)				
12022.5	AB 664	41	Am	17
12022.6	AB 3087	1571	Am,R,Ad	20
12025.5	SB 2065	1249	Ad	125
12028	SB 2140	1695	Am	41,80
12028.5	SB 2140	1695	Am	41,80
12031	SB 2065	1249	Am	125
12070	AB 497	9	Am	2,22,46,67,116,117
12071	AB 497	9	Am	2,22,46,67,116,117
12072	AB 497	9	Am	2,22,46,67,116,117
12073	AB 497	9	Am	2,22,46,67,116,117
12076	AB 497	9	Am	2,22,46,67,116,117
12076	SB 830	177	Am	47,121
12076	SB 2050	1090	Am	30,123
12076.1	AB 1753	1180	Ad	119
12077	AB 497	9	Am	2,22,46,67,116,117
12077	SB 830	177	Am	47,121
12077	SB 2050	1090	Am	30,123
12078	AB 497	9	Am	2,22,46,67,116,117
12078	SB 830	177	Am	47,121
12082	AB 497	9	Am	2,22,46,67,116,117
12083	AB 497	9	Ad	2,22,46,67,116,117
12100	AB 664	41	Am	17
12220	AB 2046	81	Am	120
12230	AB 2046	81	Am	120
12280	SB 830	177	Am	47,121
12285	SB 830	177	Am	47,121
12290	SB 830	177	Am	47,121
12290	SB 2632	1257	Am	126
12322	SB 2084	350	Am	131
12350	AB 497	9	R	2,22,46,67,116,117
12403	SB 2084	350	Am	131
12501	AB 2046	81	R,Ad	120
12520	AB 2046	81	Am	120
12560	AB 497	9	R	2,22,46,67,116,117
12583	AB 2046	81	Ad	120
13510	SB 2457	477	Am	80
13510	AB 2306	333	Am	74
13519.4	SB 2680	480	Ad	81
13519.5	AB 2306	333	Ad	74
13522	AB 2306	333	Am	74
13525	AB 2306	333	Am	74
13526.1	SB 2140	1695	Ad	41,80
13540	SB 655	82	Am	77
13542	SB 655	82	Am	77
13701	AB 4237	1692	Am	109
13702	AB 4237	1692	Ad	109
13710	AB 4237	1692	Am	109
13711	AB 4237	1692	Ad	109

SECTION	BILL	CHAPTER	EFFECT	PAGE
PENAL CODE (continued)				
13823.20	AB 4087	1320	Ad	62
13826.11	AB 3118	1625	Ad	61
13826.12	AB 3118	1625	Ad,R	61
13826.15	AB 2853	280	Ad	61
13826.6	AB 3118	1625	Am	61
13827	SB 1895	1344	Am	63
13827.1	SB 1895	1344	Am	63
13827.3	SB 1895	1344	Am	63
13827.4	SB 1895	1344	Am	63
13827.5	SB 1895	1344	R	63
13827.6	SB 1895	1344	Am	63
13827.7	SB 1895	1344	Am	63
13835.10	SB 2501	1342	Am	112
13835.2	SB 2501	1342	Am	112
13841	SB 2607	1419	Am	64
13843	SB 2607	1419	Am	64
13844	SB 2607	1419	Am	64
13845.5	SB 2607	1419	Ad	64
13846	SB 2607	1419	Am	64
13855	AB 4152	1554	Ad,R	62
13894.5	SB 1647	1243	Ad	101
PUBLIC CONTRACT CODE				
10334	SB 655	82	Am	77
20134	SB 2663	976	Am	85
PUBLIC UTILITIES CODE				
8226	SB 655	82	Am	77
8227	SB 655	82	Am	77
REVENUE AND TAXATION CODE				
18802.6	SB 2735	1484	Am,R,Ad	132
26135	SB 2735	1484	Ad	132
VEHICLE CODE				
537e	AB 3483	408	Am	7
1803	AB 3137	1698	Am	98
1803	SB 1756	1696	Am	101
1808.22	SB 1150	431	Am	100
1808.46	SB 1150	431	Am	100
10500	AB 2717	337	Am	105
10751	SB 2809	481	Am	107
10851	SB 2522	1564	Am	15
11713	SB 2735	1484	Am	132

SECTION	BILL	CHAPTER	EFFECT	PAGE
VEHICLE CODE (continued)				
13202.5	SB 1756	1696	Am	101
13202.5	SB 2635	1697	Am	104
13202.7	AB 2040	1403	Ad	96
13350	AB 1648	44	Am	95
13352	AB 2040	1403	Am	96
13353	SB 1150	431	Am	100
13353.2	SB 1150	431	Am	100
13353.3	SB 1150	431	Am	100
13353.4	SB 1150	431	Am	100
13353.6	SB 1150	431	Am	100
13353.7	SB 1150	431	Am	100
13550	AB 1648	44	Am	95
13551	SB 1150	431	Am	100
13557	SB 1150	431	Am	100
13558	SB 1150	431	Am	100
13559	SB 1150	431	Am	100
14100	SB 1150	431	Am	100
14601.3	AB 1648	44	Am	95
14610	AB 1648	44	Am	95
14905	SB 1150	431	Am	100
21113	AB 4186	1037	Am	45
21200.5	SB 2635	1697	Am	104
22655.5	AB 3410	1515	Am,R,Ad	105
22852	AB 2717	337	Am	105
23152	AB 4318	708	Am,R	99
23153	AB 4318	708	Am,R	99
23157	SB 1150	431	Am	100
23158.2	SB 1150	431	Am	100
23158.5	SB 1150	431	Am	100
23160	AB 3009	286	Am	97
23175	AB 1648	44	Am	95
23190	AB 1648	44	Am	95
23199	SB 1150	431	Ad	100
23206.5	SB 1150	431	Am	100
23208	AB 3289	568	Ad	98
23210	SB 1150	431	Am	100
23224	SB 2635	1697	Am	104
23235	AB 2040	1403	Ad	96
25258	SB 655	82	Am	77
25258	SB 2140	1695	Am	41,80
40000.65	AB 2040	1403	Ad	96
40203.5	SB 1944	203	Am	46
42001.7	AB 4229	982	Am	28
42002.4	AB 3483	408	Ad	7

SECTION	BILL	CHAPTER	EFFECT	PAGE
WELFARE AND INSTITUTIONS CODE				
207.1	SB 549	981	Am	82,87
207.1	SB 786	1078	Am	84
209	SB 786	1078	Am	84
256	SB 2635	1697	Am	104
257	SB 2635	1697	Am	104
258	AB 3325	292	Am	70
608	AB 3877	749	Ad	72
652.5	AB 3741	258	Am	71
654.6	AB 3741	258	Ad	71
676	AB 2638	246	Am	68
682	AB 3216	1508	Am	69
700.5	AB 3216	1508	R	69
707	AB 2601	249	Am	68
729.8	AB 2645	1664	Am	50
826	AB 3466	698	Am	70
827	AB 2638	246	Am,R	68
828	SB 1429	776	Am	72
828.1	SB 1429	776	Ad	72
8100	SB 2050	1090	Am	30,123
8100	AB 497	9	Am	2,22,46,67,116,117
8103	AB 497	9	Am	2,22,46,67,116,117
8103	SB 830	177	Am	47,121
8104	SB 2050	1090	Am	30,123
8105	SB 2050	1090	Am	30,123
9394.5	AB 764	1275	Ad,R	43

Abbreviations: Ad -- Adds
Am -- Amends
R -- Repeals