



# Training Bulletin

Los Angeles Port Police

Thomas E. Gazsi, Chief of Police

## 2025 Legal Updates

### **PURPOSE:**

The purpose of this Training Bulletin is to provide updates to legislation.

### **BACKGROUND:**

There were many statutory legal updates effective in 2025.

Officers are required to enforce the law fairly, following current laws and regulations in order to protect the agency and themselves from liability. Lexipol Daily Training bulletins are a good start but there are other good resources listed at the end of this document as well. Use these summaries of new laws as a guide and starting point to stay up to date.

### **STATUTORY UPDATES:**

#### **PENAL CODE 241 and 243 (AB 977)**

Expands the scope of a crime by making an assault or battery committed against a physician, nurse, or other health-care worker of a hospital engaged in providing services within the emergency department punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both that fine and imprisonment.

#### **PENAL CODE 243.4 (SB 442)**

Specifies that the crime of sexual battery includes situations where a defendant, for the purpose of sexual gratification, abuse, or arousal, causes the victim to unwillingly masturbate or touch an intimate part of another person.

#### **PENAL CODE 273.76 (AB 2907)**

Requires the arresting officer in domestic violence cases to question the arrestee, the victim, and other household members about any firearms or ammunition owned or possessed by the arrestee, to query a specified database to find any firearms owned or possessed by the arrestee, and to ensure that any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search is taken into temporary custody. The bill would require the officer to document these actions and to provide the information, as specified, to the district attorney or prosecutor.

#### **PENAL CODE 311.11 (AB 1831)**

Expands child pornography and obscenity laws to cover specified material generated by artificial intelligence.

#### **PENAL CODE 465, 496.5 (SB 905)**

Makes it a crime to forcibly enter a vehicle with the intent to commit theft or a felony therein as defined. Also establishes a new crime of unlawfully possessing property acquired through theft from a vehicle

with intent to sell where the value of the property possessed exceeds \$950.

**PENAL CODE 487, 836, 853.6, 496.6, 1203g** (AB 2943)

Creates the new felony of unlawful deprivation of a retail business opportunity. To be guilty of such crime a person must possess property valued over \$950, and the property must have been originally acquired through larceny from a retail business and the possessor has the intent to sell the property. Authorizes peace officers to make a misdemeanor arrest without requiring the offense to have occurred in the officer's presence, as specified.

**PENAL CODE 490.4** (SB 982)

Removes the sunset date on Penal Code section 490.4, which criminalizes organized retail theft, thereby making the operation of the law permanent.

**PENAL CODE 629.52** (AB 1892)

Authorizes courts to issue warrants for the interception of communications related to specified felony violations of child pornography and obscenity laws.

**PENAL Code 647 (j)(3), 647 (k)(2)** (AB 1874)

Increases the penalty for a second or subsequent offense of secretly recording or photographing a minor in full or partial undress without their consent in prescribed locations from a misdemeanor to a felony wobbler.

**PENAL CODE 647 (j)(4); PENAL CODE 502** (AB 1962)

Amends the prohibition on distributing images that depict a person engaged in a sexual act or their intimate body part by including distribution of images obtained by exceeding authorized access from the person's property as well as instances in which the image was obtained without the consent of the depicted person, as specified.

This bill also punishes a person who distributed images that were obtained by exceeding authorized access from the property, accounts, messages, files, or resources of the person depicted. In addition, Penal Code section 502 makes unauthorized access to a computer network, which includes a phone or social media profile, a crime. Under Section 502, there is protection for traditional hacking, but the statute also protects individual users from unauthorized access, and the offense is chargeable as a misdemeanor or felony. (Pen. Code, § 502.)

**PENAL CODE 647 (j)(4)(a)** (SB 926)

States that the prohibition on distributing seemingly authentic intimate images of another person without their consent, as specified, includes images that are photo realistic, digital, electronic, computer images, or computer generated. As violations of the prohibition of such distribution are a crime, this bill expands the scope of an existing crime.

**PENAL CODE 647 and 290** (SB 1414)

Requires defendants, upon their second offense for the same crime, to register as a sex offender for solicitation of a minor if they were adults more than 10 years older than their victim. Makes solicitation of a minor a felony if the adult defendant solicited a minor under 16 years of age or if the victim was a minor and was a victim of human trafficking. (See attached LAPD notice re charges under this section)

**PENAL CODE 803.7** (SB 690)

Extends the statute of limitations to seven years for specified domestic violence offenses that occur

after January 1, 2025.

**PENAL CODE 12022.10** (SB 1416)

Sentencing enhancements: sale, exchange, or return of stolen property: Creates a sentence enhancement until January 1, 2030, for defendants who sell or otherwise exchange for value any property acquired through retail theft, by adding on an additional one to four or more years depending on the value of the property, as specified.

**PENAL CODE 13730** (AB 2822)

Requires a law enforcement officer to make a notation in a domestic violence incident report if they remove a firearm or other deadly weapon.

**PENAL CODE 16745 et seq.** (SB 53) (This act amended, repealed, and/or added Sections 17060, 25100, 25105, 25135, 25205, 27882, and 27883 of, and to add Sections 16745 and 25145 to, the Penal Code, relating to firearms.) Imposes several new firearm storage and handling laws including (1) requiring a firearm to be securely locked or disabled when not being used, (2) removing the reasonable expectation of no child on the premises defense to firearm storage violations, and (3) imposing new firearm storage requirements on persons with housemates who are prohibited from possessing a firearm.

**PENAL CODES 18000, 18005, add 26110 et seq., 26395 et seq.** (AB 2739)

Declares handguns that were possessed in violation of specified open-carry prohibitions as nuisances for surrender and destruction purposes. Clarifies that handguns possessed in violation of specified concealed-carry prohibitions are nuisances as well.

**PENAL CODE 27520 and 27590** (SB 758)

Expands the prohibition on selling or otherwise transferring a firearm with the intent to violate specified firearm transfer requirements. Expands specified prohibitions on transferring handguns to include centerfire semiautomatic rifles. As violations of firearm transfer requirements are a crime, this bill expands the scope of existing crimes.

**PENAL CODE 29805** (SB 902)

Prohibits defendants convicted of misdemeanor animal cruelty, as specified, from possessing a firearm for 10 years. As existing law makes it a crime to possess a firearm when prohibited, this bill expands the application of the law to a larger class of offenders, thereby expanding the scope of an existing crime.

**VEHICLE CODE 312.5** (SB 1271)

Electric bicycles: clarifies that an electric bicycle is a bike with fully operable pedals and an electric motor not exceeding 750 watts of power. Also provides greater detail, in terms of speed and propulsion, on what constitutes a "class 1 electric bicycle" and a "class 3 electric bicycle," among other things. As these provisions fall within the Vehicle Code, violations of which are a crime, this bill expands the scope of an existing crime.

**VEHICLE CODE 5201.1** (AB 2111)

Prohibits any alteration of a license plate's reflective coating to avoid detection from any entity, not just law enforcement. A violation is an infraction.

**VEHICLE CODE 14602.7 (AB 3085)**

Expands the list of offenses for which a peace officer may impound a vehicle for up to 30 days pursuant to a warrant or order issued by a magistrate to include off-street parking facilities. Authorizes the court to use electronic service for the notice of storage hearing and requires the court to provide the notice to the person or agency who executed the warrant or court order.

**VEHICLES CODE 22651 (AB 1978)**

Permits storing a vehicle when an individual is arrested but not taken into custody for obstructing or placing a barricade a highway or off-street parking facility for purposes of aiding a speed contest or exhibition of speed.

**VEHICLE CODE 23109 (AB 2807),**

Clarifies that a “sideshow” can also be referred to as a “street takeover.”

**VEHICLE CODE 23109.2 (AB 2186)**

Authorizes a peace officer to remove and seize a motor vehicle used in an exhibition of speed in an off-street parking facility for no more than 30 days, and provides that a peace officer may not remove and seize a vehicle of a person who aided and abetted a person engaged in an exhibition of speed.

**VEHICLE CODE 24016 (AB 1774)**

Prohibits modifying an electric bicycle’s speed capability to an extent it no longer meets the definition of an electric bicycle. Also, it prohibits selling a product or device that can modify the speed capability of an electric bicycle to an extent it no longer meets the definition of an electric bicycle.

**VEHICLE CODE 28155 et seq (SB 1313)**

Prohibits a vehicle from being equipped with, and a person from using, a device that is designed to neutralize or interfere with advanced driver assistance system technology. Violations are infractions and punishable with a fine based on first, second, or subsequent violations.

**STREETS AND HIGHWAYS CODE 31490 (AB 2645)**

Allows transportation agencies operating electronic toll collection systems to share real-time license plate data with law enforcement during active emergency alerts, such as AMBER, Ebony, or Feather Alerts. This legislation eliminates the need for a search warrant in such situations, enabling quicker responses to locate suspect vehicles linked to emergencies, such as child abductions.

**HEALTH AND SAFETY CODE 11370.1 (Prop 36)**

Unlawful possession of specified controlled substance while armed with firearm: Added Fentanyl to the list of drugs that are listed in this crime.

**RESOURCES TO STAY UP TO DATE ON THE LAW INCLUDE:**

The State of California Legislative Information site for California Codes (free to access):

<https://leginfo.legislature.ca.gov/>

The California Peace Officer’s Legal Sourcebook. Published by the California Department of Justice. The Port Police provides a subscription to all Port Police Officers which is available at:

<https://www.copware.com/>

Legalupdates.com is a subscription service that costs about \$7.50 a month. It provides a lot of resources on case law updates, an annual update on new laws, and POST approved CPT credit. <https://www.legalupdates.com/>

We work closely with LAPD and often need to know what their manual and orders are.

The LAPD manual It is available at: <https://www.lapdonline.org/lapd-manual/>

LAPD Orders and Directives: <https://www.lapdonline.org/office-of-the-chief-of-police-ocop/>

**ATTACHMENTS:**

**Information Bulletins issued by the California Department of Justice, Division of Law Enforcement**

**2024-DLE-07 02/4/2025:** New Law Prohibiting the Use of Certain Techniques When Interrogating Minors in Custody in a Fixed Place of Detention (Welf. & Inst. Code, § 625.7.)

**2024-DLE-08 08/09/2024:** Notice Regarding Permanent Injunction Enjoining Enforcement of California Penal Code Section 22210 as to a Billy

**2024-DLE-10 10/17/2024:** New and Amended Organized Retail Crime Laws


**2024-DLE-19 12/13/2024:** Proposition 36: The Homelessness, Drug Addiction, and Theft Reduction Act

**2025-DLE-04 01/17/2025:** California Laws That Prohibit Hate Crimes and/or Provide Enhanced Penalties for Specified Hate- related Acts

**LAPD NOTICE:**

**LAPD Notice 11.2:** SOLICITATION OF A MINOR & DISORDERLY CONDUCT, Dec 23, 2024

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<p>California Department of Justice DIVISION OF LAW ENFORCEMENT Stephen Woolery, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p><b>New Law Prohibiting the Use of Certain Techniques When Interrogating Minors in Custody in a Fixed Place of Detention (Welf. &amp; Inst. Code, § 625.7.)</b></p>	<p><i>No.</i></p> <p>2024-DLE-07</p>	<p><i>Contact for information:</i></p> <p>Rachelle Newcomb Deputy Attorney General Criminal Division 916-210-7657</p>
	<p><i>Date:</i></p> <p>2/4/2025</p>	

**TO: ALL CALIFORNIA LAW ENFORCEMENT AGENCIES**

This bulletin summarizes a new law, Welfare and Institutions Code section 625.7, that prohibits law enforcement from using certain techniques during “custodial interrogations,” as defined in Penal Code section 859.5, subdivision (g)(1), of minors under 18 years of age. (Stats. 2022, ch. 289, § 1.) As of July 1, 2024, during a “custodial interrogation” of a person 17 years of age or younger relating to the commission of a misdemeanor or felony, law enforcement officers shall not “employ threats, physical harm, deception, or psychologically manipulative interrogation tactics,” as defined. (Welf. & Inst. Code, § 625.7, subds. (a), (e).)

**Welfare and Institution Code Section 625.7 Applies to Law Enforcement Questioning of a Minor in Statutorily Defined Situations**

Welfare and Institution Code section 625.7 applies when a law enforcement officer interrogates a minor 17 years of age or younger if (1) the minor is in custody in a fixed place of detention and (2) the officer questions the minor regarding the commission of a misdemeanor or felony. (Welf. & Inst. Code, § 625.7, subd. (a).) Section 625.7, subdivision (f), defines “custodial interrogation” as having the same meaning as defined in Penal Code section 859.5. It is similar to the United States Supreme Court’s description of custodial interrogation in *Miranda v. Arizona* (1966) 384 U.S. 436. Penal Code section 859.5 provides the definition for “custodial interrogation” (subd. (g)(1)) by a “law enforcement officer” (subd. (g)(4)) in a “fixed place of detention” (subd. (g)(3)). (Welf. & Inst. Code, § 625.7, subd. (g)(1).)

Custody occurs when “a reasonable person in the subject’s position would consider himself or herself to be in custody” “in a fixed place of detention.” (Pen. Code, § 859.5, subd. (g)(1).) Custody begins when the person should have been advised of the constitutional right to remain silent, to have counsel present during an interrogation, and to have counsel appointed if the person cannot afford counsel. (*Ibid.*) Custody ends “when the questioning has completely finished.” (*Ibid.*) A fixed place of detention is a “fixed location under the control of a law enforcement agency where an individual is held in detention in connection with a criminal offense that has been, or may be, filed[.]” (Pen. Code, § 859.5, subd. (g)(3).) Fixed locations under law enforcement agency control include jails, police and sheriff’s stations, holding cells, correctional and detention facilities, juvenile halls, or Division of Juvenile Facilities. (*Ibid.*)

Interrogation occurs when a law enforcement officer asks questions that are “reasonably likely to elicit incriminating responses[.]” (Pen. Code, § 859.5, subd. (g)(1).)

## **Interrogation Techniques Prohibited by Law Enforcement Officers in Questioning Minors**

Under the circumstances set forth above, law enforcement officers shall not “employ threats, physical harm, deception, or psychologically manipulative interrogation tactics.” (Welf. & Inst. Code, § 625.7, subd. (a).) Both “deception” and “psychologically manipulative interrogation tactics” are defined. (Welf. & Inst. Code, § 625.7, subd. (b).) While not limited to the following situations, deception includes “the knowing communication of false facts about evidence, misrepresenting the accuracy of the facts, or false statements regarding leniency.” (Welf. & Inst. Code, § 625.7, subd. (b)(1).) Also not limited to the definition provided, psychologically manipulative interrogation tactics include minimization and maximization techniques and other interrogation practices that rely on a presumption of guilt or deceit, making direct or indirect promises of leniency, and employing a “false” or “forced” choice strategy. (Welf. & Inst. Code, § 625.7, subd. (b)(2).)

Maximization includes techniques used “to scare or intimidate the person by repetitively asserting the person is guilty despite their denials[.]” (Welf. & Inst. Code, § 625.7, subd. (b)(2)(A)(i).) It can also include “exaggerating the magnitude of the charges or the strength of the evidence, including suggesting the existence of evidence that does not exist.” (*Ibid.*) Minimization involves minimizing “the moral seriousness of the offense.” (Welf. & Inst. Code, § 625.7, subd. (b)(2)(A)(ii).) Minimization “falsely communicates that the conduct is justified, excusable, or accidental.” (*Ibid.*)

Direct and indirect promises of leniency are also prohibited as psychologically manipulative. (Welf. & Inst. Code, § 625.7, subds. (a), (b)(2)(B).) A promise of leniency includes “indicating the person will be released if the person cooperates.” (*Ibid.*) Immunity offered to a minor by a law enforcement officer in return for testifying truthfully is an example of a promise of leniency.


A law enforcement officer also may not use a strategy involving a “false” or “forced” choice. (Welf. & Inst. Code, § 625.7, subd. (b)(2)(C).) This strategy encourages a person “to select one of two options, both incriminatory, but one is characterized as morally or legally justified or excusable.” (*Ibid.*)

## **Exception for Imminent Threat to Life or Property**

There is one exception to the above prohibitions against custodial interrogations of a minor. (Welf. & Inst. Code, § 625.7, subd. (c).) The exception applies only when both criteria are met: (1) the questioning officer “reasonably believed” the information sought “was necessary to protect life or property from an imminent threat”; and (2) the officer limited questions to only those “reasonably necessary to obtain information related to the imminent threat.” (*Ibid.*)

## **Lie Detector Tests May Be Used in Certain Circumstances**

Welfare and Institutions Code section 625.7, subdivision (d), allows an officer to administer a lie detector test to a minor if the testing parameters meet certain requirements. First, the minor’s agreement to using a lie detector test must be voluntary and cannot be “obtained through the use of threats, physical harm, deception, or psychologically manipulative” techniques. (Welf. & Inst. Code, § 625.7, subd. (d).) Second, the officer cannot “suggest” the results of the test “are admissible in court or misrepresent the results of the test to the minor.” (*Ibid.*)

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT Stephen Woolery, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p><b>Notice Regarding Permanent Injunction Enjoining Enforcement of California Penal Code Section 22210 as to a Billy</b></p>	<p><i>No.</i></p> <p>2024-DLE-08</p>	<p><i>Contact for information:</i></p> <p>John Echeverria Supervising Deputy Attorney General Government Law Section John.Echeverria@doj.ca.gov</p>
	<p><i>Date:</i></p> <p>08/09/2024</p>	

**TO: ALL LAW ENFORCEMENT AGENCIES AND LOCAL PROSECUTORS IN THE STATE OF CALIFORNIA**

On February 23, 2024, the United States District Court for the Southern District of California issued a permanent injunction in the case of *Fouts v. Bonta*, No. 19-cv-01662-BEN-JLB.

The permanent injunction enjoins the enforcement of California Penal Code section 22210 as it applies to a “billy”<sup>1</sup> and binds Attorney General Rob Bonta, in his official capacity, as well as his officers, agents, servants, employees, and attorneys, those persons in active concert or participation with him, and duly sworn state peace officers and federal law enforcement officers who gain knowledge of the injunction.

California Penal Code section 22210 provides that “any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any leaded cane, or any instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot, is punishable by imprisonment in a county jail not exceeding one year or imprisonment pursuant to subdivision (h) of Section 1170.”

The permanent injunction applies only to California Penal Code section 22210 as it applies to a billy and does not affect any other provisions in Section 22210, which remain in effect.

The permanent injunction is attached hereto as “Attachment 1.”

<sup>1</sup> A “billy” is a “club or heavy stick; truncheon, esp. one carried by a policeman.” (*People v. Mercer* (1995) 42 Cal.App.4th Supp. 1, 5, citation omitted.) A “billy” is also informally referred to as a billy club. (*People v. Davis* (2013) 214 Cal.App.4th 1322, 1326.)

# Attachment 1



**United States District Court**  
**SOUTHERN DISTRICT OF CALIFORNIA**

Russell Fouts ; Tan Miguel Tolentino

**Plaintiff,**

**v.**

Rob Bonta, in his official capacity as  
Attorney General of the State of  
California

**Defendant.**

**Civil Action No.** 19-cv-01662-BEN-JLB

**JUDGMENT IN A CIVIL CASE**

**Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

**IT IS HEREBY ORDERED AND ADJUDGED:**


Summary judgment is entered for Plaintiffs. Defendant Attorney General Rob Bonta, and his officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with him, and those duly sworn state peace officers and federal law enforcement officers who gain knowledge of this injunction order or know of the existence of this injunction order, are enjoined from implementing or enforcing California Penal Code § 22210 as it applies to a billy. Case is closed.

**Date:** 2/23/24

**CLERK OF COURT**  
**JOHN MORRILL, Clerk of Court**

By: s/ D.Frank

D.Frank, Deputy

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT Stephen Woolery, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i> <b>New and Amended Organized Retail Crime Laws</b></p>	<p><i>No.</i> 2024-DLE-10</p>	<p><i>Contact for information:</i> Stephen Woolery, Chief Division of Law Enforcement 916-210-6300</p>
	<p><i>Date:</i> 10/17/2024</p>	

**TO: ALL CALIFORNIA LAW ENFORCEMENT AGENCIES**

This bulletin provides a brief summary of 10 new California Organized Retail Crime (ORC) bills that were signed into law by the Governor on August 16, 2024. All of these laws will take effect on January 1, 2025, except for AB 1972 (discussed below), which took effect immediately on August 16, 2024.

This bulletin is for informational purposes only. Because it is a summary, it does not cover every aspect of the bills addressed below. The full text of the bills can be accessed at: <https://leginfo.legislature.ca.gov/>. The Department of Justice will hereinafter be referred to as “the Department.”

**Assembly Bills (AB)**

**AB 1779 (Stats. 2024, ch. 165) amends Penal Code section 786.5**

*Effective January 1, 2025*

- AB 1779 allows district attorneys to file specified theft charges and associated offenses in any county where the offense occurred, the merchandise was recovered, or a specified act was done by the defendant. Requires a hearing to confirm the district attorneys in all jurisdictions have agreed in writing to the prosecution of the case in the selected county.
- Prior to AB 1779, the Department was the only entity with jurisdiction to charge theft crimes that occurred in multiple counties in one charging document.

**AB 1802 (Stats. 2024, ch. 166) amends Penal Code section 490.4 and repeals section 13899.1**

*Effective January 1, 2025*

- Eliminates the sunset dates for the organized retail theft statute (PC § 490.4) and the California Highway Patrol/Department of Justice regional property crimes task force (PC § 13899), which were scheduled to be repealed on January 1, 2026.

**AB 1972 (Stats. 2024, ch. 167) amends Penal Code section 13899**

*Effective August 16, 2024*

- Expands the scope of the regional property crimes task force, which is convened by the California Highway Patrol in coordination with the Department of Justice to assist local law enforcement with elevated rates of property crime, so that the task force must assist railroad police and include cargo theft as part of its mandate.

**AB 2943 (Stats. 2024, ch. 168) amends Penal Code sections 487, 836, 853.6, and 1001.82 and adds sections 372.7, 496.6, and 1203g**

*Effective January 1, 2025*

- Clarifies that grand theft charges that are predicated on the theft value exceeding \$950 can be based on an aggregated value when the defendant commits related theft acts, including incidents against multiple victims or in multiple counties (PC § 487). The acts must have been motivated by one intention, one general impulse, and one plan—evidence of which may include that the acts involved the same perpetrators, were substantially similar in nature, or occurred within a 90-day period.
- Creates new crime of “unlawful deprivation of a retail business opportunity” (PC § 496.6) when a person possesses stolen property and the property is:
  - Not possessed for personal use;
  - Is intended to be sold; and
  - The value of the property exceeds \$950 (allowing aggregation with any other such property within the last two years, or any property possessed by a person acting in concert with the defendant).
  - This new crime is punishable as a misdemeanor for imprisonment for up to one year, or as a felony for a term of 16 months, two years, or three years.
- Prohibits local law enforcement or a local jurisdiction from bringing a nuisance action against a business solely for the act of reporting retail crime, unless the report is knowingly false (PC § 372.7).
- Authorizes warrantless arrests for misdemeanor shoplifting offenses not committed in the officer’s presence when the officer has probable cause, the arrest is made with undue delay, and any of the following conditions are met:
  - the officer obtains a sworn witness statement that the person to be arrested committed the alleged crime;
  - the officer observes surveillance video that shows the person to have committed the alleged crime;
  - the person possesses a quantity of goods inconsistent with personal use, and the goods are affixed with retail security devices; or
  - the person confesses to the alleged crime to the arresting officer (PC § 836, subd. (f)).
- Extends the sunset dates from 2026 to 2031 for laws authorizing arrest instead of citation and release of organized retail theft and repeat theft offenders, and authorizing local jurisdictions to create a diversion program for theft offenders (PC §§ 853.6, 1001.82).
- Extends the possible term of probation to two years for petty theft and shoplifting and encourages courts to refer defendants to collaborative courts or rehabilitation programs (PC § 1203g).

**AB 3209 (Stats. 2024, ch. 169) amends Family Code section 6380 and adds Penal Code section 490.8**

*Effective January 1, 2025*

- Authorizes a court, when sentencing a person for an offense involving shoplifting, theft from a retail establishment, organized retail theft, vandalism of a retail establishment, or battery of an employee of a retail establishment to issue a retail crime protective order barring the person from the retail establishment, including any parking lots or other franchise or chain locations within a specified area for up to two years.
- In determining whether to impose a retail crime protective order, courts must consider whether the retail establishment is the only place that sells food, pharmaceuticals, or other basic life necessities within one mile of whether the individual resides or creates undue hardship on the individual.
- Authorizes retail crime protective orders to be issued in two different ways:
  1. In the event of a specified retail-related conviction, the court may issue a protective order on its own accord (PC § 490.8, subd. (a).).
  2. Following an arrest, a prosecuting attorney, city or county attorneys, or an attorney representing a retail establishment may petition the court for a protective order. The petition may also include request for issuance of a citation in lieu of custodial arrest pursuant to PC § 853.6.) (PC § 490.8, subd. (e).).
    - This proceeding is subject to a hearing, and respondent is entitled to representation by court-appointed counsel. The party seeking the order bears the burden of proving, by a preponderance of the evidence, that the respondent, on two or more separate occasions, committed the retail-related offense within the certain retail establishment or grounds and that there is a substantial likelihood that they will return to the retail establishment.
- Makes violation of a retail crime protective order a misdemeanor (PC § 490.8, subd. (f).)

## **Senate Bills (SB)**

### **SB 905 (Stats. 2024, ch. 170) adds Penal Code sections 465 and 496.5**

*Effective January 1, 2025*

- Creates new wobbler crime of “unlawful entry of a vehicle,” when a person forcibly enters a vehicle with the intent to commit a theft or any other felony. Currently, this offense would be charged as vehicular “burglary” under PC § 459, which requires a finding that the vehicle door was locked at the time of entry.
- Creates new wobbler crime of “automotive property theft for resale,” when a person unlawfully possesses property that was acquired through vehicle theft, unlawful entry of a vehicle, burglary of a locked vehicle, or vehicle tampering regardless of whether the person committed the theft, burglary, or vehicle tampering. Property must be valued at over \$950, and possessed with the intent to sell or exchange for value (not for personal use).
  - For determining the value of property, courts can consider the value of similar property possessed within the last two years, including property possessed unlawfully by another person acting in concert.
- Both new crimes are punishable as a misdemeanor for imprisonment for up to one year, or as a felony for a term of 16 months, two years, or three years.

**SB 982 (Stats. 2024, ch. 171) amends Penal Code section 490.4**

*Effective January 1, 2025*

- Eliminates the sunset date for the organized retail theft statute (PC § 490.4).

**SB 1144 (Stats. 2024, ch. 172) amends, repeals, and adds Civil Code sections 1749.8 and 1749.8.4 and adds section 1749.8.9**

*Effective July 1, 2025*

- Closes an “offline loophole” by requiring online marketplaces to collect and verify certain information from high-volume third-party sellers on their platform. Prior to SB 1144, online marketplaces were only subject to these requirements if they had a contractual relationship with consumers and processed transactions through the platform. Utilization of an online marketplace, regardless of whether the transaction is processed by the marketplace, is now sufficient to trigger requirements.
- Expands definitions of “high-volume third-party seller” and “online marketplace.”
- Expands civil enforcement authority so that district attorneys, city attorneys, and county counsel can enforce the law, in addition to the Attorney General.
- Requires online marketplaces to alert law enforcement if they know or should know that a seller is selling or attempting to sell stolen goods.
- Requires online marketplaces to provide a mechanism to communicate with law enforcement in a timely and confidential manner.
- Requires online marketplaces to create policies to prohibit the online sale of stolen goods on their platforms and impose consequences for knowing violations.

**SB 1242 (Stats. 2024, ch. 173) amends Penal Code section 452**

*Effective January 1, 2025*


- Adds aggravating factor for reckless arson (PC § 452) sentencing purposes if the arson was carried out on a merchant’s premises to facilitate organized theft.

**SB 1416 (Stats. 2024, ch. 174) adds and repeals Penal Code section 12022.10**

*Effective January 1, 2025*

- Creates sentencing enhancements for selling or attempting to sell property acquired through retail theft valued at \$50,000 or more:
  - One year for property exceeding \$50,000;
  - Two years for property exceeding \$200,000;
  - Three years for property exceeding \$1,000,000;
  - Four years for property exceeding \$3,000,000; and

- One additional year for each additional \$3,000,000 in property value.
- Enhancements also apply to any person acting in concert with another to commit retail theft, even if that person did not themselves commit the theft.

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT Stephen Woolery, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p><b>Proposition 36: The Homelessness, Drug Addiction, and Theft Reduction Act</b></p>	<p><i>No.</i></p> <p>2024-DLE-19</p>	<p><i>Contact for information:</i></p> <p>Stephen Woolery, Chief Division of Law Enforcement (916) 210-6300</p>
	<p><i>Date:</i></p> <p>12/13/2024</p>	

**TO: ALL CALIFORNIA LAW ENFORCEMENT AGENCIES**

**PROPOSITION 36: “The Homelessness, Drug Addiction, and Theft Reduction Act”**

**Summary:** On November 5, 2024, California voters passed Proposition 36, known as “The Homelessness, Drug Addiction, and Theft Reduction Act.” Proposition 36 takes effect on December 18, 2024.

Proposition 36 modifies existing law and adds substantive charges and enhancements to areas of the Penal Code and Health and Safety Code regarding theft, property damage, and drug-related crimes. The changes include: (1) the creation of new felony theft and drug crimes targeting recidivist offenders; (2) removal of eligibility for the sentences of certain offenses to be served in county jail pursuant to Penal Code section 1170(h); and (3) alignment of the punishment for crimes involving fentanyl with that of other similar controlled substances.

The purpose of this bulletin is to highlight the statutory changes and additions made by Proposition 36.

**CHANGES UNDER PROPOSITION 36 RELATING TO THEFT AND PROPERTY DAMAGE**

**Penal Code section 490.3 (Aggregation of Losses in Multiple Thefts):** Proposition 36 creates a new Penal Code section 490.3 which permits aggregation of the value of property or merchandise stolen during multiple thefts to meet the \$950 threshold for a felony *without* having to prove that the various crimes were motivated by one intention, one general impulse, and one plan. This new section applies to theft or shoplifting, including, but not limited to, violations of Penal Code sections 459.5, 484, 488, and 490.2.

Penal Code section 490.3 applies “notwithstanding any other law,” and is therefore broader than other laws such as Penal Code section 487, subdivision (e) and the new Penal Code section 12022.10,<sup>1</sup> which would permit aggregation *only* in limited circumstances, such as if the acts were motivated by one intention, one general impulse, and one plan, or only if there was a common scheme or plan, respectively.

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<sup>1</sup> Penal Code section 12022.10 is a new enhancement created by Senate Bill 1416, effective January 1, 2025, for selling, exchanging, or returning for value, property acquired through one or more acts of shoplifting, theft, or burglary from a retail business. It also applies to *attempted* selling, exchanging, or returning, and has a sunset date of January 1, 2030. By contrast, Penal Code section 490.3 does not address the aggregation of *sales* of stolen property.

**Penal Code section 666.1 (*Felony Crime of Theft with Two Prior Thefts*):** Penal Code section 666.1 is a new, recidivist felony offense of committing petty theft or shoplifting while having two or more prior misdemeanor or felony convictions for specified theft-related crimes. A first conviction under Penal Code section 666.1, subdivision (a)(1) is punishable in county jail pursuant to Penal Code section 1170(h), second or subsequent convictions are punishable in county jail or state prison. Other notable aspects of Penal Code section 666.1 include:

- There is no “washout” timeframe on the prior convictions that qualify a defendant to be charged with a violation of Penal Code section 666.1(a)(1)—all prior convictions qualify, regardless of when they occurred.
- Although Penal Code section 666.1 does not mandate that the two or more specified prior convictions be alleged in the accusatory pleading, existing authority suggests that the prior convictions must be alleged and proved at preliminary hearing so a defendant can be held to answer on a Penal Code section 666.1 charge. (See *People v. Casillas* (2001) 92 Cal.App.4th 171.)
- Section 666.1 applies “notwithstanding any other law,” meaning that it will apply even if a defendant could alternatively have been prosecuted for a misdemeanor theft-related charge pursuant to another statute.
- Upon arrest on a Penal Code section 666.1 charge, subdivision (c) requires judicial review prior to release from custody to make an individualized determination of the arrestee’s risk to public safety and likelihood to return to court.

**Penal Code section 12022.6 (*Excessive Takings Enhancement*):** Proposition 36 re-enacts and modifies several aspects of the Penal Code section 12022.6 enhancement, which was repealed at the end of 2017 because of a sunset date. Penal Code section 12022.6 applies when an offender takes, damages, or destroys property in the commission or attempted commission of a felony, or commits a felony in violation of Penal Code section 496 (possessing/receiving/selling stolen property). This enhancement must be pled and proved. The enhancements are as follows:

- One-year enhancement – loss or property value over \$50,000
- Two-year enhancement – loss or property value over \$200,000
- Three-year enhancement – loss or property value over \$1 million
- Four-year enhancement – loss or property value over \$3 million
- One-year enhancement for every additional loss or property value of \$3 million (imposed in addition to the four-year, \$3 million enhancement)

The enhancements may be imposed if the combined losses to the victims or the combined property values from all felonies exceed the threshold amounts *and* arise from a common scheme or plan. The enhancement permits the court to impose a Penal Code section 12022.6 enhancement and another enhancement on a single count, including an enhancement pursuant to new Penal Code section 12022.65 (acting in concert to take, damage, or destroy property—see below). Thus, a defendant may be punished for both acting in concert (Pen. Code § 12022.65) and for taking or damaging property valued at more than \$50,000 (Pen. Code §

12022.6). The punishment specified in Penal Code sections 12022.6, subdivisions (a)(1) and (a)(2) will continue to apply where Penal Code section 186.11 has been charged, as it previously did.<sup>2</sup>

**Penal Code section 12022.65 (*Theft or Property Damage In-Concert Enhancement*):** Penal Code section 12022.65 is a new enhancement that applies when an offender acts in concert with two or more persons to take, attempt to take, damage, or destroy property, in the commission or attempted commission of a felony. This enhancement has a range of one, two, or three years and must be pled and proved.

### CHANGES UNDER PROPOSITION 36 RELATING TO CONTROLLED SUBSTANCES

**Health and Safety Code section 11369 (*Warning to Dealers of Hard Drugs*):** Proposition 36 creates a new section 11369 in the Health and Safety Code section 11369 which requires the trial court to advise anyone convicted of a violation of Health and Safety Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, or 11379.6 involving a hard drug,<sup>3</sup> that distributing, selling, furnishing, administering, giving away, or manufacturing any drug is extremely dangerous and deadly to human life, and if the conduct continues, the defendant can be charged with homicide, up to and including murder.<sup>4</sup> The admonishment must be given to the defendant in writing and the court record must reflect that the admonishment was given.

**Health and Safety Code section 11370.1 (*Possessing a Drug While Armed with a Firearm*):** Health and Safety Code section 11370.1 is modified by Proposition 36 to expand the felony crime of unlawfully possessing a specified substance while armed with a loaded, operable firearm to include any substance containing fentanyl. Health and Safety Code section 11370.1 continues to apply to substances containing cocaine, cocaine base, heroin, methamphetamine, or phencyclidine, and continues to provide punishment of two, three, or four years in state prison.

**Health and Safety Code section 11370.4 (*Controlled Substance Weight Enhancement*):** Health and Safety Code section 11370.4 is modified by Proposition 36 by adding a new subdivision (c), which provides a range of enhancements for a violation of Health and Safety Code sections 11351, 11352, or a conspiracy to violate either section, involving fentanyl.<sup>5</sup> The following chart breaks down the nine new weight enhancements for fentanyl in specific quantities:

WEIGHT	ENHANCEMENT
Over 28.35 grams	3 years
Over 100 grams	5 years

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<sup>2</sup> Assembly Bill 1960, effective on January 1, 2025, adds a Penal Code section 12022.6 excessive taking enhancement that is almost identical to that in Proposition 36. The non-substantive difference is that AB 1960 contains a sunset date of January 1, 2030, and Proposition 36 does not contain a sunset date.

<sup>3</sup> "Hard drug" means a controlled substance listed in Health and Safety Code section 11054 or 11055, except that it does not include substances listed in Health and Safety Code section 11054, subdivisions (d) and (e), or, with the exception of methamphetamine, any other substance listed in Health and Safety Code section 11055, subdivision (d). (Health & Saf. Code, § 11369, subd. (d).)

<sup>4</sup> Vehicle Code section 23593 similarly provides that, upon conviction of certain Vehicle Code provisions, courts are required to give an advisement about the dangers of drinking and driving, and warn that if someone is killed, the offender can be charged with murder.

<sup>5</sup> Health and Safety Code section 11370.4, subdivision (a)(1) removes fentanyl from the list of controlled substances. The modification to Health and Safety Code section 11370.4 puts fentanyl in its own subdivision (c)(1) and lowers the quantity thresholds because fentanyl is more lethal than other substances in small doses. Health and Safety Code section 11370.4, subdivision (a)(1) still applies to heroin, cocaine, and cocaine base and does not change the quantities or punishment for those substances.

Over 500 grams	7 years
Over 1 kilogram	10 years
Over 4 kilograms	13 years
Over 10 kilograms	16 years
Over 20 kilograms	19 years
Over 40 kilograms	22 years
Over 80 kilograms	25 years

New subdivision (e) provides that notwithstanding Penal Code section 1170, subdivision (h)(9), a defendant convicted of an underlying violation specified in Health and Safety Code section 11370.4 (e.g., Health & Saf. Code §§ 11351, 11351.5, 11352, 11378, 11378.5, 11379, and 11379.5) who admits a weight enhancement or for whom a weight enhancement is found true for any of the listed controlled substances, is punishable in state prison and *not* county jail pursuant to Penal Code section 1170, subdivision (h).

**Health and Safety Code section 11395 (“Treatment-Mandated Felony Act”):** Proposition 36 creates Health and Safety Code section 11395, a new, recidivist felony offense of possessing a “hard drug” and having two or more prior felony or misdemeanor convictions for specified drug-related crimes. A violation of Health and Safety Code section 11395 is punishable in county jail pursuant to Penal Code section 1170(h) for a first conviction. Subsequent convictions are punishable in state prison. Both first and subsequent convictions are wobblers and eligible for probation unless otherwise prohibited. Other notable aspects of Health and Safety Code section 11395 include:

- Section 11395 applies “notwithstanding any other law,” meaning that it will apply even if a defendant would have been eligible for a misdemeanor drug possession charge (e.g., Health & Saf. Code § 11350 or 11377), Penal Code section 1000 drug diversion, or probation for a non-violent drug possession offense pursuant to Penal Code section 1210.1.
- The two or more prior convictions of specified crimes within Health and Safety Code section 11395, subdivision (c) may be either misdemeanor or a felony convictions.
- There is no “washout” timeframe on the prior convictions that qualify a defendant to be charged with a violation of Health and Safety Code section 11395—all prior convictions qualify, regardless of when they occurred.
- Prior convictions must be pled and proven. (Health & Saf. Code, § 11395, subd. (c).)
- Upon booking for a violation of Health and Safety Code section 11395, subdivision (f) requires judicial review prior to release from custody to make an individual determination of the arrestee’s risk to public safety and likelihood to return to court.

Health and Safety Code section 11395 also provides an option for treatment in lieu of incarceration for its offenses. Health and Safety Code section 11395, subdivision (d) provides that a defendant may choose treatment instead of county jail, state prison, or a grant of probation with county jail as a condition of probation.<sup>6</sup> Upon successful completion of the treatment program, the positive recommendation of the

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<sup>6</sup> Section 11395 is a deferred entry of judgment program, in which the defendant must plead guilty or no contest before going into treatment; it is not a diversion program.


treatment program, and a motion by the defendant, the court shall dismiss the Health and Safety Code section 11395 charge. (Heath & Saf. Code, § 11395, subd. (d)(3).)

**Penal Code section 12022, subdivision (c) (*Drug Crimes While Personally Armed with a Firearm*)**: Proposition 36 amends Penal Code section 12022, subdivision (c) to provide that the enhancement for individuals convicted of specified drug offenses and who are personally armed with a firearm, must serve the additional term in state prison instead of county jail. Subdivision (c) is further amended to provide that, notwithstanding Penal Code section 1170, subdivision (h)(9), a defendant convicted of a specified underlying violation who admits a Penal Code section 12022, subdivision (c) firearm enhancement or has such an enhancement found true, is punishable in state prison even if the underlying offense is a section 1170, subdivision (h) county jail offense.

**Penal Code section 12022.7 (*Great Bodily Injury (GBI) Enhancement For Drug-Related Injury*)**: Proposition 36 amends Penal Code section 12022.7 to add subdivision (f)(2), which explicitly provides that “a person who sells, furnishes, administers, or gives away a controlled substance is deemed to have personally inflicted great bodily injury when the person to whom the substance was sold, furnished, administered, or given suffers a significant or substantial physical injury from using the substance.” This creates a great bodily injury enhancement that can be charged when the person to whom an offender supplies a drug suffers a serious injury from using the drug, including death.<sup>7</sup>

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<sup>7</sup> This new language abrogates the California Supreme Court’s decision in *People v. Olló* (2021) 11 Cal.5th 682, which held that furnishing a drug that causes death does not necessarily qualify as personal infliction of great bodily injury.

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT Stephen Woolery, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p><b>California Laws That Prohibit Hate Crimes and/or Provide Enhanced Penalties for Specified Hate-related Acts</b></p>	<p><i>No.</i></p> <p>2025-DLE-04</p>	<p><i>Contact for information:</i></p> <p>Stephen Woolery, Chief Division of Law Enforcement (916) 210-6300</p>
	<p><i>Date:</i></p> <p>01/17/2025</p>	

**TO: ALL DISTRICT ATTORNEYS, CHIEFS OF POLICE, SHERIFFS, AND STATE LAW ENFORCEMENT AGENCIES**

This bulletin is designed to ensure that state and local law enforcement officials across California have the necessary information and tools to continue to respond appropriately and swiftly to hate crime activity. Such events are damaging to the residents and communities we are entrusted to serve, particularly when they involve threats of violence.

Hate crimes are serious crimes that may result in imprisonment or jail time for offenders. The California Department of Justice provides this updated summary to local law enforcement agencies about the multiple California criminal laws that prohibit hate crimes and/or provide enhanced penalties for specified hate-related acts against anyone, regardless of actual or perceived disability, religion, race or ethnicity, gender, sexual orientation, or nationality, including immigration status, citizenship status, and place of birth. This bulletin also briefly summarizes the Ralph Civil Rights Act and the Tom Bane Civil Rights Act, which provide civil remedies for certain hate crime activity in California. Further, this bulletin provides an overview of the statutory requirements for agency hate crime policies and best practices for hate crime investigations. Finally, this bulletin identifies experts in civil rights enforcement and hate crime investigation and prosecution at the California Department of Justice who are available to provide technical assistance in your effort to enforce these laws in your jurisdiction.

For more information about hate crime statistics and trends in California, please visit the California Attorney General's OpenJustice website at <https://openjustice.doj.ca.gov/data>.

Thank you for your efforts to report hate crimes in your jurisdiction to DOJ, and all that you are doing to protect public safety.

**California Penal Code Sections on Hate Crimes**

California law recognizes that certain crimes are more serious where a victim is singled out because of their actual or perceived disability, gender, including gender identity and gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. These offenses are referred to as hate crimes and can serve as a **stand-alone crime** under California Penal Code section 422.6, as an **aggravating factor** under section 422.7, or as an **enhancement** under section 422.75.

**§ 422.55 Definition of a Hate Crime** – Defines “hate crime” as a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim: disability, gender, nationality including immigration and citizenship status, race or ethnicity, religion, sexual orientation; or because of the person’s association with a person or group with one or more of these actual or perceived characteristics.

**§ 422.56 Relevant Hate Crime Terms** – Provides relevant statutory definitions, including that “gender” is defined as including “gender identity and gender expression;” “nationality” is defined as meaning “country of origin, immigration status, including citizenship, and national origin;” and “in whole or in part because of” is defined so that the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that the crime would not have been committed but for the actual or perceived characteristic. “Association with a person or group with one or more of these actual or perceived characteristics” is defined as advocacy for, identification with, or being on the premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of the protected characteristics.

**§ 422.6 Threats and Vandalism to Interfere with Civil Rights** – Makes it a **stand-alone crime** to willfully injure, intimidate, interfere with, oppress, or threaten, by force or threat of force, another person’s free exercise or enjoyment of their civil rights (§ 422.6, subds. (a), (c)), or knowingly deface, damage, or destroy their property (§ 422.6, subd. (b)), because of that person’s actual or perceived protected characteristic(s).

To prove interference with another’s civil rights *by force* (§ 422.6, subd. (a)), a prosecutor must establish the following **elements**:

1. The defendant, *by force*, injured, intimidated, interfered with, oppressed, or threatened another person in the free exercise or enjoyment of any legally protected right or privilege.
2. The defendant did so in whole or in part because of the other person’s actual or perceived protected characteristic(s), or because of the other person’s association with a person or group having one or more of these characteristics.
3. The defendant did so with the specific intent to deprive the other person of the free exercise or enjoyment of the legally protected right or privilege.

To prove interference with another’s civil rights *by threat of force* (§ 422.6, subds. (a), (c)), a prosecutor must establish the following **elements**:

1. The defendant, *by threat of force*, injured, intimidated, interfered with, oppressed, or threatened another person in the free exercise or enjoyment of any legally protected right or privilege.
2. The threat of force, if consisting of speech alone, threatened violence against a specific person or group.

3. The defendant had the apparent ability to carry out the threat (the threat must be one that would reasonably tend to induce fear in the alleged victim).
4. The defendant did so in whole or in part because of the other person's actual or perceived protected characteristic(s), or because of the other person's association with a person or group having one or more of these characteristics.
5. The defendant did so with the specific intent to deprive the other person of the free exercise or enjoyment of the legally protected right or privilege.

To prove interference with another's civil rights by *defacing, damaging, or destroying their property* (§ 422.6, subd. (b)), a prosecutor must establish the following **elements**:

1. The defendant knowingly defaced, damaged, or destroyed another person's real or personal property.
2. The defendant did so in whole or in part because of the other person's actual or perceived protected characteristic(s), or because of the other person's association with a person or group having one or more of these characteristics.
3. The defendant did so with the specific intent to intimidate or interfere with the other person's free exercise or enjoyment of a legally protected right or privilege.

A conviction under section 422.6 can be punished as a **misdemeanor** by up to a year in county jail and/or up to a \$5,000 fine or as **felony** by a term of imprisonment in a county jail for 16 months, or two or three years (pursuant to Section 1170, subd. (h)). In addition to that punishment, the court shall order up to 400 hours of community service (Pen. Code, § 422.6, subd. (c).)

**§§ 422.7 and 422.75 Allegations to Elevate Misdemeanors to a Wobbler** – Provide that if a person commits a crime and is motivated in part by the fact that the victim has one or more of the protected characteristics in section 422.55, the criminal offense will be considered a “hate crime.”

**§ 422.7 (penalty enhancement)** – If the defendant is convicted of a misdemeanor that was motivated by bias, the prosecution may use this in aggravation and seek an enhanced punishment beyond those imposed for misdemeanors. The penalty enhancement shall be charged in the accusatory pleading, and may not be used in the case of a person being punished under Penal Code section 422.6. (Felony wobbler: 16 months, or two or three years in county jail and/or fine up to \$10,000; or one year in jail.)

A prosecutor must establish the following **elements**:

1. The defendant committed the underlying crime intending to intimidate or interfere with another person's legally protected right or privilege.
2. The defendant did so in whole or in part because of the other person's actual or perceived protected characteristic(s).

3. The defendant either:
  - i. caused physical injury or had the ability at that time to cause a violent injury; OR
  - ii. caused property damage in excess of \$950; OR
  - iii. has been convicted *previously* under section 422.6, subdivision (a) or (b); OR
  - iv. has been convicted *previously* of a conspiracy to commit a crime described in section 422.6, subdivision (a) or (b).

**§ 422.75 (felony enhancement)** – Provides for an enhanced sentence for any felony if the prosecutor can establish that it was committed as a hate crime.

A prosecutor must establish the following **element**:

1. The defendant committed the underlying crime in whole or in part because of the alleged victim’s actual or perceived protected characteristic(s), or association with a person or group having one or more of these actual or perceived characteristics.

A felony hate crime sentence enhancement can add an additional one, two, or three years in state prison on top of any other sentence the defendant receives for the underlying felony. (§ 422.75, subd. (a).) If convicted of acting in concert with another person to commit the felony hate crime, the felony hate crime sentence enhancement increases to two, three, or four years in prison. (§ 422.75, subd. (b).) If convicted of committing a felony hate crime while using a firearm, the court may lengthen the sentence at its discretion. (§ 422.75, subd. (c).) Prior felony hate crime convictions can add an additional one year in state prison for each prior conviction. (§ 422.75, subd. (d).)

### **Additional Crimes and Enhancements that Fall within the Hate Crimes Umbrella**

In addition to sections 422.7 and 422.75, other hate crime-related statutes prohibit or provide enhanced penalties for specified hate-related acts.

**§ 190.2, subd. (a)(16) Special Circumstances** – Provides a death penalty or sentence of life in prison without possibility of parole for first-degree murder motivated by a victim’s race, color, religion, nationality, or country of origin. A prosecutor must establish that the defendant intended to kill because of the deceased person’s real or perceived protected characteristic(s).

**§ 190.03, subs. (a), (c) Relevant Factors for Determination of Penalty** – Provides for life in prison without possibility of parole for first-degree murder motivated by a victim’s actual or perceived protected characteristic(s), or association with a person or group with one or more of these actual or perceived characteristics. These protected characteristics are listed in Section 422.55 and include: disability, gender, nationality, race or ethnicity, religion, and sexual orientation. The prosecutor must prove the defendant committed the murder, in whole or in part, because of the deceased person’s actual or perceived protected characteristic(s) or association with a person or group with one or more of these actual or perceived characteristics.

**§ 302 Disturbing Religious Meetings** – Establishes that it is a misdemeanor to intentionally disturb a group of people who have met to worship, whether such disturbance occurs within the place where the meeting is

held, or so near it as to disturb the order and solemnity of the meeting. (Penalty: up to one year in county jail and/or up to a \$1,000 fine.)

**§ 594.3, subd. (b) Vandalism of a Place of Worship** – Provides that it is a felony to knowingly vandalize a place of worship or a cemetery for the purpose of intimidating and deterring free exercise of religion as a hate crime. (Penalty: 16 months, or two or three years in county jail.)

**§ 1170.8 – Place of Worship Aggravating Circumstance** – Provides as an aggravating factor the fact that a robbery, arson, or assault with a deadly weapon or by means of any force likely to produce great bodily injury was committed upon a place of worship, or against a person while that person was within a place of worship.

**§ 1170.85, subd. (b) Particularly Vulnerable Victim Aggravating Circumstance** – Provides that age or disability of a victim may be considered circumstances in aggravation if those characteristics render the victim particularly vulnerable or unable to defend himself or herself.

**§ 11411, subs. (b), (c) Terrorizing Private Property, Property of School, or Public Place** – Subdivision (b) provides that it is a felony or misdemeanor to hang a noose, knowing it to be a symbol representing a threat to life, on the private property of another, without authorization, for the purpose of terrorizing the owner or occupant of that private property or in reckless disregard of the risk of terrorizing them, or to hang a noose, knowing it to be a symbol representing a threat to life, on the property of a school, college campus, public place, place of worship, cemetery, or place of employment, for the purpose of terrorizing any person who attends or works at, or is otherwise associated with, the school, college campus, public place, place of worship, cemetery, or place of employment. Subdivision (c) provides that it is a felony or misdemeanor to place or display a sign, mark, symbol, emblem, or other physical impression, including, but not limited to, a Nazi swastika, on the private property of another, without authorization, for the purpose of terrorizing the owner or occupant of that private property or in reckless disregard of the risk of terrorizing them, or who places or displays a sign, mark, symbol, emblem, or other physical impression, including, but not limited to, a Nazi swastika, on the property of a school, college campus, public place, place of worship, cemetery, or place of employment, for the purpose of terrorizing a person who attends, works at, or is otherwise associated with the school, college campus, public place, place of worship, cemetery, or place of employment. (Felony wobbler: 16 months, or two or three years in county jail, and/or a fine up to \$10,000, or up to one year in jail and/or a fine of up to \$5,000, with increased fine for subsequent convictions.)

A prosecutor must establish the following **elements**:

1. The defendant placed or displayed a sign, mark, symbol, emblem, or physical impression on the private property of another person, or on the property of a school, college campus, public place, place of worship, cemetery, or place of employment.
2. The defendant did not have authorization to place or display that sign, mark, symbol, emblem, or physical impression on the property.
3. The defendant intended to terrorize the owner or occupant of the property (or acted with reckless disregard of the risk of terrorizing the owner or occupant of the property) or intended to terrorize a person who attends, works at, or is otherwise associated with the school, college campus, public place,

place of worship, cemetery, or place of employment.

**§ 11411, subd. (d) Desecration of a Religious Symbol** – Provides that any person who burns or desecrates a cross or other religious symbol, knowing it to be a religious symbol, on the private property of another without authorization for the purpose of terrorizing the owner or occupant or in reckless disregard of terrorizing them, or who burns, desecrates or destroys a cross or other religious symbol, knowing it to be a religious symbol, on the property of a school, college campus, public place, place of worship, cemetery, or place of employment for the purpose of terrorizing any person who attends, works at, or is otherwise associated with the school, college campus, public place, place of worship, cemetery, or place of employment shall be guilty of a felony or misdemeanor. (Felony wobbler: 16 months, or two or three years in county jail, and/or up to a \$10,000 fine; or one year in jail and/or up to a \$5,000 fine, as well as increased fines for subsequent convictions.)

A prosecutor must establish the following **elements**:

1. The defendant burned or desecrated a religious symbol on the private property of another; OR on the property of a school, college campus, public place, place of worship, cemetery, or place of employment.
2. The defendant knew the object that they burned or desecrated was a religious symbol.
3. The defendant did not have authorization to burn or desecrate the religious symbol on the property.
4. The defendant intended (or acted with reckless disregard) to terrorize the owner or occupant of the property; OR intended to terrorize someone who attends, works at, or is associated with the school, college campus, public place, place of worship, cemetery, or place of employment.

**§ 11412 Religious Terrorism** – Provides that it is a felony to attempt to discourage religious activities by threats of violence. (Penalty: 16 months, or two or three years in state prison.)

A prosecutor must establish the following **elements**:

1. The defendant caused or attempted to cause a person to refrain from exercising their religion (OR refrain from engaging in a religious service) by threatening injury upon any person or property.
2. The defendant directly communicated the threat to that person.
3. The person reasonably believed the threat could be carried out.
4. At the time the defendant made the threat, the defendant intended to cause the person to refrain from exercising their religion (OR refrain from engaging in a religious service).

**§ 11413, subds. (a), (b)(2), (b)(9) Religious Terrorism by Destructive Device** – Provides that it is a felony to explode, ignite, or attempt to explode or ignite any destructive device or any explosive in or about, or to set on fire, a place of worship or any private property if the property was targeted because of the actual or perceived protected characteristic(s) of the owner or occupant of the property and the purpose was to

terrorize another or was in reckless disregard of terrorizing another. (Penalty: three, five, or seven years in county jail, and a fine of up to \$10,000.)

A prosecutor must establish the following **elements**:

1. The defendant exploded or ignited (or attempted to explode or ignite) a destructive device or explosive, or committed arson, in or about a place of worship or private property if the property was targeted because of an actual or perceived characteristic.
2. The defendant committed the act with the intent to terrorize or with reckless disregard of terrorizing someone else.

### **Miscellaneous Penal Code Provisions Relating to Hate Crimes**

**§ 136.2 Protective Orders** – Provides protection against further harm. Once criminal charges are filed under any criminal statute, hate crimes victims have the right to a court order prohibiting any additional harassment during the pendency of the criminal proceeding.

**§ 422.85** – Provides victims of actual or perceived race, color, ethnicity, religion, nationality, country of origin, ancestry, disability, gender, gender identity, gender expression, or sexual orientation or victims of hate crimes the right for a court order protecting the victim, known immediate family member or domestic partner of the victim, from further acts of violence, threats, stalking, or harassment by the defendant.

**§ 422.87 Law Enforcement Agency Hate Crimes Policy** – Requires any local law enforcement agency that updates an existing hate crime policy, or adopts a new hate crime policy, to include, among other things, the content of the model policy framework developed by the Commission on Peace Officer Standards and Training (POST), information regarding bias motivation, a requirement that all officers be familiar with and carry out the hate crime policy, and information regarding the general underreporting of hate crimes, as well as a plan to remedy this underreporting.

**§ 422.865(a)** – Gives the court discretion to order a defendant in any case of a person who is committed to a state hospital or other treatment facility under the provisions of section 2016 for any offense involving a hate crime to complete a class or program on racial or ethnic sensitivity or other similar training in the area of civil rights.

**§ 422.865(b)** – Provides victims of actual or perceived race, color, ethnicity, religion, nationality, country of origin, ancestry, disability, gender, gender identity, gender expression, or sexual orientation or victims of hate crimes the right for a court order protecting the victim, known immediate family member or domestic partner of the victim, from further acts of violence, threats, stalking, or harassment by the defendant who is released on a condition of the defendant's outpatient status or conditional release.

**§ 422.88** – requires the court in which a criminal proceeding stemming from a hate crime or alleged hate crime is filed to take actions reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of the alleged victim, or person who is a victim of, or at risk of becoming a victim of, a hate crime.

**§ 13519.6 POST Hate Crimes Policy Guidelines** – Requires POST to develop guidelines and training, in consultation with subject-matter experts, including, but not limited to, law enforcement agencies, civil rights groups, academic experts, and the California Department of Justice, addressing hate crimes. The guidelines must include a model policy framework that all state law enforcement agencies must adopt and that the commission shall encourage all local law enforcement agencies to adopt. Requires each peace officer to complete the training course within one year of it being made available and must then be taken by in-service peace officers every six years.

**§ 422.92 Law Enforcement Agency Hate Crimes Brochure** – Requires every state and local law enforcement agency to make available a brochure on hate crimes to victims of these crimes and the public. In complying with this requirement, local law enforcement agencies may utilize the California Department of Justice’s standardized brochure, which is available at <https://oag.ca.gov/hatecrimes> in fourteen languages, and which allows for agencies to insert their own seal or graphic.

**§ 422.94 Hate Crimes Vertical Prosecution Pilot Grant Program** – Subject to funding, requires the California Department of Justice to award grants to prosecutorial agencies for the purpose of creating, supporting, or expanding vertical prosecution units for the prosecution of hate crimes, meaning having the same individual prosecutor assigned to a case from the initial criminal investigation through the sentencing of the offender. These units shall be primarily focused on better serving hate crime victims and achieving just, equitable, and appropriate resolutions to hate crime cases.

**§ 1547, subds. (a)(12) & (13) Possible Reward for Hate Crime Information** – Authorizes the Governor to offer a reward for information leading to the arrest and conviction of any person who has committed certain hate crimes.

**§ 3053.4 Parole Conditions** – Requires that as a condition of parole following a hate crime sentence, defendant must refrain from further acts of violence, threats, stalking, or harassment of the victim or victim’s family. “Stay away” conditions may also be imposed (additional requirement that you maintain a certain physical distance from victim).

**§ 11410 Unprotected Activity Under the California Constitution** – States that the urging of violence where death or great bodily injury is likely to result in conduct is not protected by the California Constitution; in this section the Legislature finds and declares that it is the right of every person, regardless of actual or perceived race or ethnicity, religion, gender, gender identity, gender expression, nationality, disability, sexual orientation, or association with a person or group with these actual or perceived characteristics, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals.

**§ 13023 Reporting to the Attorney General** – Subject to funding, requires the Attorney General to direct state and local law enforcement agencies to report to the California Department of Justice information relative to hate crimes, and state and local law enforcement agencies must post the information they report to the California Department of Justice on their internet websites on a monthly basis. It also requires the DOJ to review submitted materials, instruct agencies that did not submit materials or submitted noncompliant materials to submit compliant materials, and post the names of compliant agencies on its website.

**§ 13519.41 POST Hate Crimes Training** – Requires POST to develop and implement a course of training for law enforcement officers and dispatchers regarding sexual orientation and gender identity minority groups in the state.

### **California Ralph Civil Rights Act and the Tom Bane Civil Rights Act**

The Ralph Civil Rights Act, Civil Code section 51.7, provides that it is the right of every person in California to be free from violence or the threat of violence against their person or property because of their actual or perceived sex, race, color, ancestry, national origin, religion, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, immigration status, political affiliation, or position in a labor dispute. These listed characteristics are merely examples, and other bases for a discrimination claim exist under the Act. Assembly Bill 3024 amended the Ralph Act to make unlawful intimidations by threats of violence including the purposeful terrorizing of an owner or occupant of a private property with the distribution of hate materials on private property without authorization. The Tom Bane Civil Rights Act, Civil Code section 52.1, provides protection against interference or attempts to interfere by threat, intimidation, or coercion with a person’s exercise or enjoyment of any constitutional or statutory rights. Remedies for violations of the Ralph Civil Rights Act or the Tom Bane Civil Rights Act include restraining orders, injunctive relief, equitable relief to secure constitutional and statutory rights, actual damages, exemplary or punitive damages, a civil penalty of \$25,000, and attorney’s fees. An action may be brought by the Attorney General, or any district attorney or city attorney, or by the individual harmed.

### **Statutory Requirements for Department Hate Crimes Policies and Investigative Best Practices**

As discussed above, pursuant to Penal Code sections 13519.6 and 422.87, all state law enforcement agencies must adopt a hate crimes policy, and all local law enforcement agencies that choose to adopt or update a hate crimes policy must include certain statutory elements.<sup>1</sup> The statutes require POST to create a model policy including the required statutory elements.<sup>2</sup>

### **Statutory Requirements**

#### **Penal Code § 13519.6**

Penal Code section 13519.6, subdivision (c) sets out the required elements for a hate crimes policy for state law enforcement agencies and encourages local law enforcement agencies to adopt such policies. This includes, but it is not limited to, the following general elements: (1) a message from the law enforcement agency's chief executive officer concerning the importance of hate crime laws and the agency's commitment to enforcement; (2) the definition of “hate crime” in Section 422.55; and (3) references to hate crime statutes

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<sup>1</sup> The “Khalid Jabara and Heather Heyer National Opposition to Hate, Assault, and Threats to Equality Act of 2021” (part of the larger “COVID-19 Hate Crimes Act,” Senate Bill 937, and known as the “Jabara-Heyer NO HATE Act”) directs the U.S. Attorney General to create grants for state and local agencies to fund the creation of hate crime policies, the development of a standardized system of collecting, analyzing, and reporting the incidence of hate crimes, the establishment a unit specialized in identifying, investigating, and reporting hate crimes, trainings for agency personnel, and the engagement in community relations functions related to hate crime prevention and education. 34 U.S.C. § 30507(f)(2).

<sup>2</sup> The POST Hate Crimes Model Policy provides a detailed overview of policy purposes, the full model policy, and sample forms. It can be found at [https://post.ca.gov/Portals/0/post\\_docs/publications/Hate\\_Crimes.pdf](https://post.ca.gov/Portals/0/post_docs/publications/Hate_Crimes.pdf).

including Section 422.6.

The statute also sets out a title-by-title specific protocol that agency personnel are required to follow. This includes, but is not limited to, the following specific elements: (A) preventing and preparing for likely hate crimes by establishing contact with persons and communities who are likely targets, and forming and cooperating with community hate crime prevention and response networks; (B) responding to reports of hate crimes; (C) accessing assistance, including activating the Department of Justice hate crime rapid response protocol when necessary;<sup>3</sup> (D) providing victim assistance and follow-up, including community follow-up; and (E) reporting.

#### Penal Code § 422.87

Penal Code section 422.87 expands upon the requirements of section 13519.6. It requires that each local and state law enforcement agency adopt a hate crimes policy that includes certain specific elements. Some of these are duplicative of the requirements above but include further specific requirements.

The policy must include specific definitions and information, including the definitions in Sections 422.55 and 422.56 and the content of the POST model policy framework developed pursuant to section 13519.6.

The policy must also include information regarding bias motivation, which is defined as “a preexisting negative attitude toward actual or perceived characteristics referenced in section 422.55.” Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, discriminatory selection of victims, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one’s “own kind,” or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.

The statute specifically addresses the situation of suspected disability-bias hate crimes. The policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, the policy also shall instruct officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

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<sup>3</sup> For information on the DOJ hate crime rapid response protocol, see the California Department of Justice webpage or use the following link: <https://oag.ca.gov/system/files/media/ag-rapid-response-team-protocol-21.pdf>.

The statute also specifically addresses the situation of suspected religious-bias hate crimes. The policy shall advise officers to consider whether there were targeted attacks on, or biased references to, symbols of importance to a particular religion or articles considered of spiritual significance to a particular religion.

Examples of religions and such symbols and articles include, but are not limited to: (i) in Buddhism, statues of the Buddha; (ii) in Christianity, crosses; (iii) in Hinduism, forehead markings, known as bindis and tilaks, Aum/Om symbols, and images of deities known as murtis; (iv) in Islam, hijabs; (v) in Judaism, Stars of David, menorahs, and yarmulkes; (vi) in Sikhism, turbans, head coverings, and unshorn hair, including beards.

The policy must include information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes and a plan for the agency to remedy this underreporting, including a protocol for reporting suspected hate crimes to the Department of Justice pursuant to section 13023.

The agency protocol must include a checklist of first responder responsibilities, including, but not limited to, being sensitive to effects of the crime on the victim, determining whether any additional resources are needed on the scene to assist the victim or whether to refer the victim to appropriate community and legal services, and giving the victims and any interested persons the agency's hate crimes brochure, as required by Penal Code section 422.92.

The policy must include a specific procedure for transmitting and periodically retransmitting the policy and related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed. Additionally, all officers must be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency.

Finally, the policy must include the title or titles of the officer or officers responsible for ensuring that the department has a hate crime brochure as required by Penal Code section 422.92 and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.

### **Investigative Best Practices**

The Penal Code requires POST to create a model hate crimes policy, which, along with other model policies including from the International Association of Chiefs of Police, provide examples of agency best practices for investigating potential hate or bias crimes. The below is a summary of best practices from these model policies for successful law enforcement agency work on suspected hate or bias crimes.

#### *Initial response*

The success of an agency's initial response to a suspected hate crime depends on officers evaluating the need for additional assistance, ensuring the crime scene is properly protected, preserved and processed, and providing support and information to victims.

Officers arriving at the scene of a suspected hate or bias crime should:

- Secure the crime scene and ensure the safety of victim(s), witnesses, and suspected perpetrator(s).

Issue a Temporary Restraining Order, if applicable.

- Use agency Supplemental Hate Crimes Report (per Penal Code section 422.87) to assist in the investigation of any suspected hate crime.
- Stabilize the victim(s) and request medical attention if needed.
- Ensure that the crime scene is properly protected, preserved, and processed, such that the nature and evidence is thoroughly documented. Collect and photograph physical evidence or indicators of hate crimes such as: hate literature, offensive graffiti, spray paint cans, threatening letters, symbols used by hate groups, other bias symbols. Only after complete documentation of the scene, so as to support future hate crime prosecution, should any physical evidence of the incident be removed. Evidence of an inflammatory nature that cannot be physically removed should be covered up and then removed when possible.
- Notify other appropriate personnel in the chain of command, including the supervisor on duty, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- Identify and photograph criminal evidence on the victim(s).
- Request the assistance of translators or interpreters when needed to establish effective communication with the victim(s), witnesses, or others as appropriate.
- Conduct a preliminary investigation, recording information on the identity of the victim(s), the suspected perpetrator(s), and witnesses, as well as prior occurrences in the area or with the victim(s) or others who share protected characteristic(s) with the victim(s) or other protected characteristic(s).
- Ensure that the victim(s) receive an offer of victim confidentiality per Government Code section 7923.615, subd. (b)(1).
- Record statements made by suspected perpetrator(s) (exact wording is critical), as well as their gestures and any physical markings such as tattoos that could indicate a bias motivation.
- Consider assigning one officer with specialized training to interview and help victim(s) in order to minimize trauma.
- Investigate whether bias was a motivation “in whole or in part” in the commission of the crime based on protected characteristics described in Penal Code section 422.55, discussed in detail above.
- Pursuant to Penal Code section 422.92, provide the agency’s Hate Crimes Brochure.
- Adhere to Penal Code section 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
- Provide information regarding immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.).
- Use proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
- Explaining the likely sequence of events to the victim(s), including contact with investigators, prosecutors, and the media.<sup>4</sup>
- Referring victim(s) to support and outreach services in the community.
- Giving victim(s) the best possible contact information for those handling the law enforcement investigation so that they are able obtain further information as the case develops.
- If necessary, and if the incident qualifies as a triggering event, contact the California Department of

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<sup>4</sup> For further information regarding state and federal laws protecting immigrant victims of crime, refer to Law Enforcement Bulletin No. 2024-DLE-05, available at <https://oag.ca.gov/system/files/media/2024-dle-05.pdf>.

Justice and seek to have the Attorney General invoke the Department's Hate Crime Rapid Response Protocol to provide aid to your jurisdiction.

- Report any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer (TLO), or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.
- Consider whether a Gun Violence Restraining Order may be necessary (in the event that an involved party owns, possesses, or expressed an intent to acquire a firearm) to prevent future violence involving a firearm.

### Investigation

Investigators at the scene of or while performing follow-up investigation on a suspected hate or bias crimes are a critical next step in a successful investigation. Best practices for continued investigation include the following elements:

- Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission.
- Use investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
- Fully investigate any report of hate crime committed under the color of authority pursuant to Penal Code sections 422.6 and 13519.6.
- Provide victim assistance and follow-up.
- Canvas the area for additional witnesses, making use of bilingual officers or translators where necessary based on primary language(s) of individuals in the relevant geographic area.
- Document the circumstances and apparent motives surrounding the event.
- Review other law enforcement records and reach out to local non-law enforcement officials and organizations to find out if other bias motivated incidents have occurred in that area.
- Identify if the victim(s) engaged in activities that advocated for a certain racial, religious, ethnic/national, sexual orientation, gender group, or other issue.
- Determine whether the incident coincided with a holiday that could be linked to a bias motivation, such as a religious holiday or commemoration of a previous event or individual's death or birth.
- Determine if the suspected perpetrator(s) were previously involved with a bias crime or organized hate group.
- Examine suspected perpetrator(s) social media activity for potential evidence of bias motivation.
- Seek search warrants to examine contents of the suspected perpetrator(s) computer hard drive (if applicable) in order to determine if they are involved with hate groups.
- Appeal to witnesses to come forward with any information regarding the incident.
- Consider offering rewards for information leading to the capture and arrest of suspected perpetrator(s).
- Coordinate the investigation with agency, state, and regional intelligence operations. These sources can provide the investigating officer with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
- Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

### Services for Victims of Hate Crimes

In addition to the victim-facing protocols discussed above, agencies should consider providing the following support and services for victims of hate crimes or incidents:

- Allow the victim(s) to express the intense feelings aroused by the hate crime or incident at the scene and during any follow-up investigation.
- Provide information to the victim(s) concerning the investigation and prosecution of their case, both about their case in particular and the system in general.
- Provide the victim(s) with a Marsy's Law card detailing their rights as a victim of crime.<sup>5</sup> Under Marsy's Law, California Constitution Article I, § 28, Section (b), every victim of crime has the right to receive a Marsy's Law card, setting forth their rights as a victim of crime. Encourage victim(s) to seek out more information about these rights through the local systems-based victim services agency for further follow-up and next steps in the criminal justice process.
- If available, request the assistance of a systems-based or community-based victim advocate including individuals or organizations that provide services to vulnerable populations including immigrant communities. Certain victim advocates provide on-scene response to provide victims in-crisis with warm support, translation services, advocacy, crisis intervention, resources, and accompaniment during the initial crime scene response including the entire criminal justice process. Most system and community-based victim advocates function under the direction of the local District Attorney's Office, Law Enforcement Agencies, Probation Department, and in few instances under local non-profit agencies.
- Provide referrals for cross-cultural counseling for victims of hate crimes. Consider partnering with community organizations to provide such resources.
- Recognize the bias-motivated crime for the serious crime it is to the victim(s).
- Address the crisis of victimization as well as confront the obvious hate and prejudice exhibited in the crime.
- Assist the victim(s) in completing and filing an application to the state's victim compensation fund, if applicable.

### Training

All staff, including dispatch, desk personnel, volunteers, records, support staff, officers, supervisors, and managers should be properly trained on the department's hate crimes policy. The agency should follow all legislatively mandated training requirements.

Pursuant to Penal Code section 13519.6, POST offers training and video courses to assist law enforcement in the identification, investigation, documentation, and reporting of hate crimes.<sup>6</sup> Trainers may also use other state and federal agencies that offer training courses, such as the U.S. Department of Justice, or community groups with expertise in hate crimes response.<sup>7</sup> The California Department of Justice lists hate crimes

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<sup>5</sup> The Attorney General's Marsy's Law card is available at [https://oag.ca.gov/sites/all/files/agweb/pdfs/victimservices/marsy\\_pocket\\_en\\_res.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/victimservices/marsy_pocket_en_res.pdf).

<sup>6</sup> For more information on POST training opportunities and available videos, visit the POST website at [www.post.ca.gov](http://www.post.ca.gov).

<sup>7</sup> The current list of resources available from the U.S. Attorney General is available at <https://www.justice.gov/hatecrimes/resources>. In California, the Museum of Tolerance, for example, provides law enforcement agency training regarding responding to hate crimes,

education and training resources on its website.<sup>8</sup>

### Reporting

Data collection, documentation, and reporting are critical to an agency's response to hate crimes. Best practices for reporting include the following:

- Ensure that hate crimes are properly investigated, documented, and reported to the California Department of Justice, pursuant to Penal Code section 13023, so that they may be reported by the State to the federal government.<sup>9</sup>
- When documenting incidents, ensure hate crimes are clearly flagged to allow for required reporting. This can be indicated by the title/penal code section identifying the report as a hate crime. Some agencies have added a check box specifically indicating a hate crime that could, if required by the agency policy, require a secondary review by an investigator, supervisor, or other identified party.
- The agency head or their designee should make a final determination as to whether the incident should be classified as a hate crime by the agency.
- Agencies shall develop procedures to preserve hate crime reports, ensure timely communication of crimes to prosecutors' offices, and comply with legally mandated reporting.

### Contact Information

The California Department of Justice takes great pride in assisting local law enforcement agencies in enforcing criminal and civil rights laws and protections. Should your agency or individual officers require technical assistance, please contact Division of Law Enforcement Chief Stephen Woolery at (916) 210-6300 or Senior Assistant Attorney General Michael Newman in the Department's Civil Rights Enforcement Section at [Michael.Newman@doj.ca.gov](mailto:Michael.Newman@doj.ca.gov) or (213) 269-6280.

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with information available at <https://www.museumoftolerance.com/for-professionals/programs-workshops/tools-for-tolerance-for-law-enforcement-and-criminal-justice/hate-crimes/hate-crimes-courses-for-ca-agencies/>.

<sup>8</sup> The current list of resources is available at <https://oag.ca.gov/civil/preeduc>.

<sup>9</sup> See 34 U.S.C. § 41305 ("Hate Crime Statistics Act" gives the U.S. Attorney General authority to collect hate crime statistics but does not explicitly require reporting by state and local agencies).

## OFFICE OF THE CHIEF OF POLICE

**NOTICE**  
11.2

December 23, 2024

**TO:** All Department Personnel

**FROM:** Chief of Police

**SUBJECT:** SENATE BILL 1414 – CRIMES: SOLICITATION OF A MINOR & DISORDERLY CONDUCT

The purpose of this Notice is to provide awareness to Department personnel about California Senate Bill (SB) 1414, *Crimes: Solicitation of a Minor*, which amends California Penal Code (PC) Sections 290 - *Sex Offenders* and 647 - *Disorderly Conduct*. On September 26, 2024, Governor Gavin Newsom signed SB 1414 into law, and the changes will take effect January 1, 2025.

The SB 1414 implements changes to 647 PC - *Disorderly Conduct* (incorporated from SB 926), expands the definition of disorderly conduct, increases penalties for soliciting minors, and implements new registration requirements under 290 PC - *Sex Offenders*. It also makes certain existing sections of 647 PC - *Disorderly Conduct* offenses that can be charged as either felonies or misdemeanors (“wobblers”), if they involve a minor under specific conditions. These changes are intended to enhance public safety and improve the management of sex offenders within the state.

### **California Penal Code 647: Disorderly Conduct**

647(1)(2)(A) - Solicitation of a minor is a wobbler if:

- The solicited minor is 16 years old or younger at the time of the offense; or,
- The solicited minor is under 18 years of age and a victim of human trafficking at the time of the offense.

647(1)(2)(B) - Solicitation of a minor is a felony if:

- The person charged has a prior conviction for soliciting a minor as described in 647(1)(2)(A).

647(i)(4)(A)(i) subclauses (I-III) - Establishes elements for illegal distribution of sexual images. Subclauses I-III must be met:

- (I) - The person distributing the image knows or should know that the distribution of the image will cause serious emotional distress; **and**,
- (II) - The person depicted suffers serious emotional distress; **and**,

- (III) - **One** of the following has occurred:
  - (ia) - The person depicted in the image and the person distributing the image had agreed or had an understanding that the image shall remain private; or,
  - (ib) - The image was knowingly recorded, captured, or otherwise obtained by the person distributing the image without the authorization of the person depicted, and the image was recorded or captured when the person depicted had a reasonable expectation of privacy; or,
  - (ic) - The image is knowingly obtained by the person distributing the image by exceeding authorized access from the property, accounts, messages, files, or resources of the person depicted.

647(j)(4)(A)(ii) – Establishes the crime of intentionally creating **and** distributing, or causing to be distributed, any photo realistic image, digital images, or representations of another identifiable person’s intimate body parts or performance of sexual acts in such a manner that would cause a reasonable person to believe that the image is an authentic image of the person depicted, if:

- The perpetrator knows or should know that such distribution is likely to cause serious emotional distress to the depicted individual; and,
- The person depicted suffers that distress.

**Note:** This section only applies if the perpetrator is 18 years of age or older at the time the offense occurs. This section cannot be used to arrest juveniles.

647(k)(3) - Establishes 647(j)(3) PC as a wobbler under the following conditions:

- The victim was a minor at the time of the offense;
- The person being charged was over 18 years of age at the time of the offense; and,
- The person being charged has a previous conviction for 647(j)(3) PC.

### **California Penal Code 290: Sex Offenders**

290(c)(2)(A) - Requires a person to register if all of the following apply:

- They have been convicted of 647(1)(2) PC - *Soliciting a Minor*;
- They have a prior conviction for 647(1)(2)(A) PC - *Soliciting a Minor*;
- They were 10 years older than the solicited minor at the time of the offense; and,
- This conviction is the only one requiring the person to register.

**Note:** The requirement to register under 290 (c)(2)(A) after multiple convictions of soliciting a minor shall only occur if the convicted person has no other more serious conviction that requires them to register under 290 PC.

Per the Department Manual Section (DMS) 4/216.01, *Advice/Approval on Felony Bookings*, and DMS 4/216.02, *Advice/ Approval on Misdemeanor Bookings*, final authority over the booking

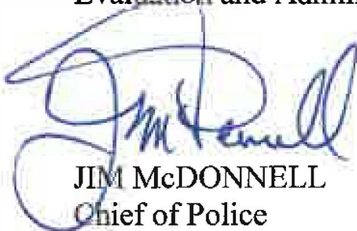
All Department Personnel

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charge remains with the geographic Area watch commander or watch commander, Metropolitan Jail Section, Custody Services Division.

If you have any questions regarding this Notice, please contact the Office of Operations, Evaluation and Administration Unit, at (213) 486-6050.

A handwritten signature in blue ink, appearing to read "Jim McDonnell". The signature is stylized with large, overlapping loops and a prominent initial "J".

JIM McDONNELL  
Chief of Police

DISTRIBUTION "D"