



2022 California Legislative Update

Key: Bill # (Author) **Short title** (Code sections affected) *Effective date if not 1/1/23*

IP = incarcerated person; H&S = Health & Safety Code; WIC = Welfare & Institutions Code;

GC = Gov't Code ; VC = Vehicle Code ; PUC = Public Utilities Code; PC = Penal Code ;

EC = Evidence Code ; IC = Insurance Code ; FC = Family Code

All laws are effective January 1, 2023, unless otherwise indicated.

Prison and Jail Conditions

LSPC Policy Platform: *Formerly/Currently Incarcerated Civil Rights; Prison Conditions*

AB 960 (Ting) **Compassionate release** (PC 1170.02)

- Allows courts to consider and resentence individuals to time served if doing so would not pose a threat to public safety;
- Codifies timelines to ensure timely responses to applications for compassionate release; and
- Allows additionally designated, licensed health care professionals to begin the compassionate release process and requires a health care professional to be available to attend the individual's court hearing.

AB 2657 – Stone – **IP's competence** (PC 3700, et seq.)

- Authorizes incarcerated people on death row to file petitions regarding their permanent incompetence any time after their conviction becomes final; and
- A psychiatrist or licensed psychologist must provide a declaration attesting to their permanent incompetence.

SB 903 - Hertzberg – **Prisons: California Rehabilitation Oversight Board** (PC 6141)

- Requires the California Rehabilitation Oversight Board to examine the Department of Corrections and Rehabilitation's efforts to address the housing needs of IPs, including those having severe mental health needs, released to the community as parolees, and to include specified data on homelessness in its reports.

SB 1008 – Becker – **Corrections: communications** (PC 2084.5 ; PUC 2899 ; WIC 208.1)

- Eliminates the charges and connection fees for IPs to stay in touch with their loved ones.

SB 1139 - Kamlager (D-Los Angeles) – **Prisons: visitation** (PC 5007.6, 6401, 6401.5, 6401.8)

- Requires the department to allow persons outside of a department facility to initiate a telephone call with an IP when the person has been admitted to the hospital for a severe or critical medical condition.
- The persons must inform the department when a family member or designated person has become critically ill or dies during the IP's hospitalization.

Release and Resentencing

LSPC Policy Platform: Probation, Parole, Pardons Formerly/Currently Incarcerated Civil Rights; Criminal Law and Sentencing

SB 567 – Bradford – **Criminal Procedure: sentencing** (PC 1170, et seq.)

- Requires the court to impose the middle term of imprisonment unless aggravating circumstances have been (1) stipulated by the defendant or (2) found true beyond a reasonable doubt at trial by the judge or jury.

SB 990 - Hueso – **Corrections: county of release** (PC 3003)

- Effective January 1, 2024
- Requires an IP to be released in the county in the location of a verified existence of a postsecondary educational or vocational training program of their choice or a confirmed existence of a work offer, the individual's family, outpatient treatment, or housing, absent evidence that the parole transfer would present a threat to public safety.
- Requires a person on parole to be granted a permit to travel outside the county of commitment to a location where the person has postsecondary educational or vocational training program opportunities, an employment opportunity, or inpatient or outpatient treatment, absent that it would present a threat to public safety.
- Requires a person on parole to be approved an application to transfer residency and parole to another county where the person has a verified existence of a postsecondary educational or vocational training program chosen by the individual or a confirmed existence of a work offer, the person's family, inpatient or outpatient treatment, or housing, absent that it would present a threat to public safety,
- Requires a parole agent to provide a written response to these requests within 14 days and, if they deny the request, to include in writing why granting the request would threaten public safety.

Record Clearing

LSPC Policy Platform: Probation, Parole, Pardons Formerly/Currently Incarcerated Civil Rights; Criminal Law and Sentencing

SB 731 - Durazo - **Clearing criminal records** (PC 11105, 851.93, 1203.41, et seq.)

- Expands discretionary criminal record relief, pursuant to a petition to the court, for all felonies if an individual is no longer serving a probationary sentence, is not currently serving a sentence, on parole or mandatory supervision, or facing criminal charges, and one or two years (depending on original sentence) has elapsed.
- Excludes crimes requiring the offender to register as a sex offender.
- Criminal records must be disclosed to school districts, which can use those records for deciding teacher credentialing or employment.
- Requires the Dept of Justice to conduct a monthly review of the statewide criminal justice database and provides *automatic* criminal record relief for arrests not resulting in convictions, after specified periods of time, and for completed probation or for infraction or misdemeanor sentences after a year has elapsed since the judgment.
- Beginning in July of 2023, this automatic record relief will expand to include so-called non-serious, nonviolent, and non-sexual felonies when four years have elapsed without a new felony since completion of any probation or supervision required.

SB 1106 - Wiener – **Criminal resentencing: restitution** (PC 17, 11177.2, 1203.4, et seq.)

- Prohibits a petition for expungement from being denied due to an unfulfilled order of restitution or restitution fine.
- Removes the prohibition of a parolee or an IP from being released on parole to reside in another receiving state if the parolee or individual is subject to an unsatisfied order for restitution to a victim or a restitution fine with the sending state.

Other Reentry

LSPC Policy Platform: Formerly/Currently Incarcerated Civil Rights; Economic Justice;

SB 1260 - Durazo – **State summary criminal history information** (PC 11105, 1203.41, et seq.)

- Specifies that a Defendant who has petitioned to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty after the completion of their sentence is not eligible to provide, or receive payment for providing, in-home supportive services or waiver personal care services, if they are otherwise ineligible under federal law or regulation.

Juvenile Justice

LSPC Policy Platform: Criminal Law and Sentencing; Youth Justice

AB 2417 – Ting – **Juveniles: Youth Bill of Rights** (WIC 224.70, et seq.)

- Provides incarcerated youth with a youth Bill of Rights, ensuring that they understand their basic human rights that already exist in law, and that they know how to reach the right contact person if something is wrong.

AB 2658 - Bauer-Kahan – **Juveniles: electronic monitoring** (PC 13012.4; WIC 628.2)

- Allows youth to earn custody credits when wearing an electric monitoring device and requires a review every 30 days to determine if a less restrictive option is possible.

Policing

LSPC Policy Platform: Policing Equity

AB 2761 – McCarty – **Deaths while in law enforcement custody: reporting** (PC 10008)

- When someone dies while in the custody of a police officer or while in the custody of state or local law enforcement including a city or county jail or state prison, the death certificate is required to state whether the death was caused by use of force, if the death was precipitated by law enforcement conduct.
- Requires a state or local Correctional Facility to post the following information on its website 10 days after the death of a person who died while in custody:
 - the full name of the agency,
 - the county in which the death occurred,
 - the facility in which the death occurred and the location within that facility where the death occurred,
 - the race, gender, and age of the decedent,
 - the date on which the death occurred,
 - the custodial status of the decedent, including, but not limited to, whether the person was awaiting arraignment, awaiting trial, or incarcerated, and
 - the manner and means of death.

AB 2773 - Holden – **Stops: notification by peace officers** (GC 12525.5; VC 1656.3, 2806.5)

- Effective January 1, 2024
- Requires an officer, before engaging in questioning related to a criminal investigation or traffic violation, to state the reason for the stop.
- The officer must also document the reason for the stop on any citation or police report resulting from the stop.
- The exception to this rule is when the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from an imminent threat.

Criminal Law

*LSPC Policy Platform: **Pretrial Release; Criminal Law and Sentencing***

AB 2147 (Ting) **Limit enforcement of jaywalking** (VC 21451, et seq.)

- Limits a police officer from stopping a pedestrian crossing the street in an area other than a sidewalk unless “a reasonably careful person would realize there is an immediate danger of a collision.”

AB 2799 (Jones-Sawyer) **Introducing rap lyrics at trial** (EC 352.2)

- Requires prosecutors to hold a pretrial hearing away from the jury to prove that rap lyrics or other artistic expression are relevant prior to entering it into evidence in a case.
- Requires judges to balance the value of the evidence with the “undue prejudice” and racial bias possible when that evidence is presented to a jury.

SB 1338 (Umberg & Eggman) **Courts compelling mentally ill people into treatment** (H&S 1374.723; IC 10144.54; PC 1370.01, WIC 5801, 5813.5, 5970)

- Creates a court framework in every county to compel people with serious mental illness, many of whom are homeless, into housing and medical treatment.
- Participants would be ushered to the front of the line for supportive services during the year-long program, after which they could either graduate or be referred to another year of treatment.
- If a person refuses to comply, or “fails out,” they could be considered by the court for conservatorship .
- If a county fails to provide the necessary services, they could face fines of up to \$1,000 per day.

- Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne Counties will have to start the program by October 1, 2023. The rest of the state will have until December 1, 2024.

AB 2746 - Friedman – **Driving privilege: suspension** - (Government Code 12419.10, 68645.1; Vehicle Code 1803.3, 4760.1, 11104, 11104.3, et seq., 14910, et seq., 40000.11, 40508.6, 41500, et seq., 13365, et seq., 12807, et seq., 13364, 40000.10, 40509, et seq.)

- Effective January 1, 2027.
- Repeals the requirement that the DMV suspend a person's driving privilege if that person fails to appear in court.
- Terminates any suspension issued by the DMV pursuant to those provisions prior to January 1, 2027.

AB 256 - Kalra - **Criminal procedure: discrimination** (PC 1473)

- Extends justice for people incarcerated due to racial bias.
- Allows courts to completely vacate sentences that were influenced by the race, ethnicity, or national origin of the defendant.

AB 1744 - Levine - **Probation and mandatory supervision: flash incarceration** (PC 1203, 1203.35, 4019)

- Extends the Court’s authorization to use flash incarceration until January 1, 2028.

AB 1924 - Gipson - **Criminal law: certificate of rehabilitation** (PC 4852.01)

- Allows a person convicted of a felony, other than a registrable sex offense, to file a petition for a certificate of rehabilitation without certain requirements including, but not limited to, the dismissal of the accusatory pleading and that the person has not been incarcerated since the dismissal.

AB 2043 - Jones-Sawyer, Sr. - **Bail bonds** (IC 1800, et seq. PC 1299.01, et seq.)

- Bounty hunters will have to be licensed, trained and registered in California.

AB 2085 – Holden – **Crimes: mandated reporters** – (PC 11165.2, et seq.)

- Limits the definition of “general neglect” to only include circumstances where the child is at substantial risk of suffering serious physical harm or illness and would provide that general neglect does **not** include a parent’s economic disadvantage.

AB 2167 – Kalra – Crimes: alternatives to incarceration – (PC 17.2)

- Requires a court to consider alternatives to incarceration, including collaborative justice court programs, diversion, restorative justice, and probation.

AB 2169 – Gipson – Criminal procedure (PC 236.14, 236.15)

- Allows a person who was arrested or convicted of a nonviolent offense to petition set aside the judgment if they can show by clear and convincing evidence, that the arrest or conviction was the direct result of (1) being a victim of human trafficking, (2) intimate partner violence, or (3) sexual violence, which demonstrates that the person lacked the requisite intent to commit the offense.
- Removes the requirements that (1) the petitioner engaged in good faith efforts to distance themselves from the perpetrator of the harm, and that (2) it be in the best interest of the petitioner.

AB 2778 - McCarty– Crimes: race-blind charging – (PC 741)

- Effective January 1, 2024;
- Requires the Department of Justice to develop and publish “Race-Blind Charging” guidelines, whereby all prosecuting agencies implement a process to review a case for charging based on information, from which all means of identifying the race of the suspect, victim, or witness have been removed or redacted.

SB 1223 – Becker – Criminal procedure: mental health diversion – (PC 1001.36, 1370, and 1370.01)

- Changes the eligibility of a Defendant to receive pretrial diversion to include those diagnosed with a mental disorder within the last five years.
- Requires the court to find that the mental disorder was a significant factor in the commission of the crime UNLESS there is clear and convincing evidence to show that it was not a “motivating factor, causal factor, or contributing factor to the alleged offense.”
- Limits the period of diversion for Defendants charged with misdemeanors to one year.

Juvenile Dependency and Family Law

*LSPC Policy Platform: **Family Unity***

SB 384 - Cortese – Juveniles: relative placement: family finding – (WIC 309 and 628)

- Effective January 1, 2024.
- Defines family finding as “conducting an investigation to identify relatives and kin and to connect a child or youth, who may be disconnected from their

parents, with those relatives and kin in an effort to provide family support and possible placement.”

- Requires County welfare and probation departments to notify the state as to whether it has adapted and implemented the practice of family finding.

SB 1055 – Kamlager – **Child support enforcement: license suspensions** (FC 17520.5)

- Effective January 1, 2025.
- Prohibits Dept from providing the information of a child support debtor who has defaulted to the DMV if their annual household income is at or below 70% of the median income for the County.