

## 18-01 - 2018 Legislative Update (Revised)

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Los Angeles County Sheriff's Department

### NEWSLETTER

Field Operations Support Services

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### 2018 LEGISLATIVE UPDATE

The following is a brief summary of selected law enforcement related legislative changes that may affect some divisions. These changes take effect January 1, 2018, unless otherwise noted. This summary is intended as a quick reference source and is, therefore, limited to changes that are of widespread interest and affect. It does not include every legislative change affecting law enforcement. Prior to initiating law enforcement activity based on the information in this newsletter, the text of the statute and the Department Manual of Policy and Procedures should be reviewed.

For further information, the complete text of statutes and California Codes can be found on the California Legislative Information website at <http://leginfo.legislature.ca.gov>.

#### **BUSINESS & PROFESSIONS CODE**

**§ 26070** Amended; requires any driver of a vehicle transporting or transferring cannabis or cannabis products for hire to have a valid motor carrier permit.

#### **CIVIL PROCEDURE CODE**

**§ 1279.5** Amended; to repeal section, and enact new provisions effective September 1, 2018. Establishes the right of a person under the jurisdiction of the Department of Corrections (DOC) or sentenced to county jail to petition the court to obtain a name or gender change. Requires the DOC or county jail to use the new name of a person who obtains a name change, and to list the prior name only as an alias. Certain prohibitions apply to persons required to register as sex offenders.

#### **GOVERNMENT CODE**

**§ 7282, 7282.5** Enacted; prohibits state and local law enforcement agencies, including school police and security departments, from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes. **Exemptions apply; separate newsletter to follow.**

**§ 12525.5** Amended; requires law enforcement agencies to report data regarding perceptions of the officer regarding the race and gender of citizens they encounter. This data is to include actions taken and outcome during any contact where that citizen has been detained, searched, arrested, when property has been seized, or during a consensual encounter. **Separate newsletter to follow.**

#### **HEALTH & SAFETY CODE**

**§ 11357** Amended; to allow the quantity of concentrated cannabis that may be lawfully possessed (as permitted) from not more than four grams to not more than eight grams.

**§ 11369** Repealed; had previously required law enforcement to report an arrest of a person for certain narcotics offenses to a federal immigration agency when there was reason to believe the person may not be a U.S. citizen.

## **PENAL CODE**

**§ 189.1** Enacted; declares that the unlawful killing of a peace officer, as defined, is deliberate, willful, and premeditated is murder of the **first degree**.

**§ 186.34** Repealed and added; now “Fair and Accurate Gang Database Act of 2017.” Requires law enforcement to notify any person, in writing, prior to entering the person in a shared gang database, that he or she will be identified as a member of a criminal street gang. Law Enforcement must provide the basis for the designation, unless it compromises an active criminal investigation.

**§§ 264.2, 679.04, 980, 13823.11 (Amended), 680.2 (Enacted):** Requires law enforcement to notify a sexual assault victim of his/her rights to request a person of the same or opposite gender to be present at time of interview. Prohibits law enforcement from discouraging the victim from receiving a medical evidentiary or physical exam. Requires law enforcement to develop and provide to the victim upon initial interaction, a “Sexual Assault Victim’s Rights” card, with specified language. **This is a current Department procedure and is directed by the Department Manual of Policy and Procedures, section 5-09/350.05. New language required by 2017 Legislative changes will be updated within the Department’s pamphlet entitled, “What Happens After Sexual Assault.”**

**§ 602.1** Amended, previous wobbler. Now a \$400 infraction to intentionally interfere with a lawful business establishment that is open to the public by obstructing or intimidating employees or patrons, and refusing to leave after being asked to leave by the owner, owner’s agent, or peace officer.

**§ 625.6** Enacted; It is **required** that a juvenile 15 years of age or younger consult with legal counsel in person, by telephone, or by video conference **prior** to a custodial interrogation and **before** waiving of the above specified rights.

**§§ 633.5, 633.6** Amended; Allows one party to a confidential communication to record the communication, for the purpose of obtaining evidence reasonably believed to relate to the commission by another party of any felony involving violence against the person. A recording of a confidential communication between parties can now be made and used as evidence in a domestic violence case. Phone calls can also be recorded and used in petitioning for a domestic violence restraining order.

**§ 679.015** Enacted; prohibits a peace officer from detaining an individual exclusively for any actual or suspected immigration violation. Law enforcement is prohibited from turning the individual over to federal immigration authorities, whenever an individual who is a victim of, or witness to a crime or otherwise, can give evidence in a criminal investigation. The prohibition is applied without regard to whether the crime is a hate crime.

**§§ 11106, 16520, 23910, 30105 (Amended) 29180 (Enacted)** California “Ghost Gun Law”, effective July 1, 2018, subject to exceptions, requires a person who manufactures or assembles a firearm to first apply to the

DOJ for a unique serial number or other identifying mark, as provided. A provision of the law, effective January 1, 2019, and subject to exceptions, requires any person who, as of July 1, 2018, owns a firearm that does not bear a serial number to likewise apply to the DOJ for a unique serial number or other mark of identification. The amended sections, except as provided, prohibit the sale or transfer of ownership of a firearm manufactured or assembled pursuant to these provisions. The act of aiding in the manufacture or assembly of a firearm by a person who is prohibited from possessing a firearm, or a violation of any of these provisions is a misdemeanor.

**§§ 13701, 13730** Amended; requiring law enforcement to furnish written notice to domestic violence victims at the scene, informing the victim that strangulation may cause internal injuries and encouraging the victim to seek medical attention. Additionally requires law enforcement to include within their incident report if there were indications the incident involved strangulation or suffocation.

**§ 1546.2** Amended; changing provisions of warrant requirements and notification to cell phone subscriber. Law enforcement is now not required to obtain a warrant or notify subscriber of making access to electronic information when responding to a 9-1-1 call made by that device.

**§ 25140** Amended; permitting a peace officer, as defined, to store a handgun in the **locked** center utility console of an unattended vehicle that does not have a trunk, under specified circumstances. Additionally defines the terms “trunk” and “plain view” for purposes of these provisions.

**§ 26400** Amended; prohibiting the carrying of, and makes it a crime to carry, an unloaded firearm other than a handgun while in or upon a public place, or public street within a prohibited area, located within the unincorporated area of a county.

**§ 26625, 27970** Enacted; allows exceptions to sections 26500 PC and 27545 PC, with regards to the loan of a firearm to an unlicensed person, which does not apply if the loan of the firearm is to a person enrolled in the course of basic training prescribed by the Commission on Peace Officer Standards and Training. Applies to Deputy Sheriff Trainees, and Sheriff's Security Officers with regard to Department weapons.

**§ 30312** Amended; requiring the sale of ammunition by any party shall be conducted by, or processed through, a licensed ammunition vendor.

**§§ 30515, 30900 (Amended) 30680 (Enacted)** The “Bullet Button Law” has revised the definition of an “assault weapon” to mean: A semiautomatic centerfire rifle or semiautomatic pistol that does not have a fixed magazine, but does have at least one of the following specified characteristics: 1) A rifle that has at least one of the following: pistol grip; thumbhole stock; folding/telescoping stock; grenade/flare launcher; flash suppressor; forward pistol grip; 2) A pistol that has at least one of the following: threaded barrel; second handgrip; shroud attached to the barrel to protect the bearer's hand; ability to accept the magazine outside the pistol grip.

Persons who possessed an assault weapon prior to January 1, 2017, are exempt from punishment if the person lawfully possessed an assault weapon that does not have a fixed magazine, including weapons with a feeding device that can be removed with a tool, from January 1, 2001 to December 31, 2016. The exemption also requires the assault rifle owner to register the assault weapon with the DOJ by June 30, 2018.

**§ 32455** Enacted; allows exceptions to section 32310 PC, which does not apply to the sale, gift, or loan of a large-capacity magazine to a person enrolled in the course of basic training prescribed by

**the Commission on Peace Officer Standards and Training. Applies to Deputy Sheriff Trainees and Sheriff's Security Officers with regard to Department weapons.**

## **WELFARE & INSTITUTIONS CODE**

**§ 210.6** Enacted; prohibits “mechanical restraints” (cuffs, shackles, strait jackets, etc.) from being used on a juvenile during transportation to or from a secure facility commitment, unless it is determined that those restraints are necessary to prevent physical harm, or there is a substantial risk of flight.

## **VEHICLE CODE**

**§§ 12800, 13005** Amended; repealed, enacted; effective January 1, 2019, “The Gender Recognition Act” provides for a third gender option; “non-binary”, on a state driver license, identification card, and birth certificate.

**§ 23123.5** Amended; to remove a specialized mobile radio device and a two-way messaging device, from the list of devices specifically included as electronic wireless communications devices which are prohibited from use while operating a motor vehicle.

**§ 21456** Amended; to authorize a pedestrian facing a flashing “DON’T WALK,” “WAIT,” or approved “Upraised Hand” symbol with a “countdown” signal to proceed so long as he or she completes the crossing before the display of the steady “DON’T WALK,” “WAIT,” or approved “Upraised Hand” symbol.

**§§ 23152(e), 23153(e)** Amended; effective July 1, 2018, it shall be unlawful for a person to drive a motor vehicle, with a blood alcohol count of more than 0.04%, when a passenger for hire is a passenger in the vehicle at the time of the offense. For purposes of this subdivision, “passenger for hire” means a passenger for whom consideration is contributed or expected as a condition of carriage in the vehicle, whether directly or indirectly flowing to the owner, operator, agent, or any other person having an interest in the vehicle. Applicable to Uber, Lyft, limousine and taxicab drivers, bus drivers, or any drivers transporting passengers in or on a motor vehicle for a fare.

**§§ 23220, 23221** Amended; it is an infraction to smoke or ingest marijuana or any marijuana product while driving, or while riding as a passenger in a motor vehicle being driven upon a highway, or upon specified lands.

**§ 23222** Amended; prohibits any person, except authorized by law, from possessing more than one ounce of marijuana while driving a motor vehicle upon a public highway.

**§ 26708** Amended; to exempt from the prohibition, the application of a clear, colorless, and transparent film material that meets specified standards to the windshield, side, or rear windows of a motor vehicle. The driver must have in his or her possession, or within the vehicle, a certificate signed by a dermatologist certifying that the person should not be exposed to ultraviolet rays, as specified to be exempt.

If you have any questions, please call or email Field Operations Support Services, at [REDACTED TEXT]

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