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References

CCP – Code of Civil Procedure

FAM – Family Code

GC – Government Code

PROB – Probate Code

PC – Penal Code

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• 6-02/010.00 Acting Without Lawful Authority

PC 146. Arrests, seizures, levies, or dispositions without process or authority Every public officer, or person pretending to be a public officer, who, under the pretense or color of any process or other legal authority, does any of the following, without a regular process or other lawful authority, is guilty of a misdemeanor:

(a) Arrests any person or detains that person against his or her will. (b) Seizes or levies upon any property.

(c) Dispossesses any one of any lands or tenements

• 6-02/020.00 Arrest, Refusal to

PC 142. Officer refusing to receive or arrest person charged with offense; punishment; designation of facilities and classes of prisoners by sheriff

(a) Any peace officer who has the authority to receive or arrest a person charged with a criminal offense and willfully refuses to receive or arrest that person shall be punished by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.

(b) Notwithstanding subdivision (a), the sheriff may determine whether any jail, institution, or facility under his or her direction shall be designated as a reception, holding, or confinement facility, or shall be used for several of those purposes, and may designate the class of prisoners for which any facility shall be used.

(c) This section shall not apply to arrests made pursuant to Section 837.

• 6-02/030.00 Arrestee, Delay in Taking Before Magistrate

PC 145. DELAYING TO TAKE PERSON ARRESTED BEFORE A MAGISTRATE.

Every public officer or other person, having arrested any person upon a criminal charge, who willfully delays to take such person before a magistrate having jurisdiction, to take his examination, is guilty of a misdemeanor.

• 6-02/040.00 Falsification of Public Records

• • 6-02/040.10 Custodial officers; theft, destruction, alteration, falsification

GC 6200. Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his or her hands for any purpose, is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:

(a) Steal, remove, or secrete.

(b) Destroy, mutilate, or deface.

(c) Alter or falsify.

• • 6-02/040.20 Noncustodial officers; theft, destruction, alteration, falsification

GC 6201. Every person not an officer referred to in Section 6200, who is guilty of any of the acts specified in that section, is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment.

• • 6-02/040.30 False certificate or writing by officer

GC 6203. (a) Every officer authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if he or she makes and delivers as true any certificate or writing containing statements which he or she knows to be false.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

(c) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

• • 6-02/040.40 Altered certified copy of official record

PC 115.3 Any person who alters a certified copy of an official record, or knowingly furnishes an altered certified copy of an official record, of this state, including the executive, legislative, and judicial branches thereof, or of any city, county, city and county, district, or political subdivision thereof, is guilty of a misdemeanor.

• 6-02/050.00 Force, Excessive

PC 149. Officer unnecessarily assaulting or beating any person; punishment

Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.

• 6-02/060.00 Gratuities, Accepting

PC 70. (a) Every executive or ministerial officer, employee, or appointee of the State of California, or any county or city therein, or any political subdivision thereof, who knowingly asks, receives, or agrees to receive any emolument, gratuity, or reward, or any promise thereof excepting such as may be authorized by law for doing an official act, is guilty of a misdemeanor.

(b) This section does not prohibit deputy registrars of voters from receiving compensation when authorized by local ordinance from any candidate, political committee, or statewide political organization for securing the registration of voters.

(c) (1) Nothing in this section precludes a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from engaging in, or being employed in, casual or part-time employment as a private security guard or patrolman for a public entity while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency, and exercising the powers of a peace officer concurrently with that employment, provided that the peace office is in a police uniform and is subject to reasonable rules and regulations of the agency for which he or she i a peace officer. Notwithstanding the above provisions, any and all civil and criminal liability arising out of the secondary employment of any peace officer pursuant to this subdivision shall be borne by the officer's secondary employer.

(2) It is the intent of the Legislature by this subdivision to abrogate the holdings in People v. Corey, 21 Cal.3d 738, and Cervantez v. J.C. Penney Co., 24 Cal.3d 579, to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, by a public entity, while wearing a police uniform as private security guards or

patrolmen, and to allow the exercise of peace officer powers concurrently with that employment.

(d) (1) Nothing in this section precludes a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from engaging in, or being employed in, casual or part-time employment as a private security guard or patrolman by a private employer while off duty from his or her principal employment and outside his or her regular employment as a peace officer, and exercising the powers of a peace officer concurrently with that employment, provided that all of the following are true:

(A) The peace officer is in his or her police uniform.

(B) The casual or part-time employment as a private security guard or patrolman is approved by the county board of supervisors with jurisdiction over the principal employer or by the board's designee or by the city council with jurisdiction over the principal employer or by the council's designee.

(C) The wearing of uniforms and equipment is approved by the principal employer.

(D) The peace officer is subject to reasonable rules and regulations of the agency for which he or she is a peace officer.

(2) Notwithstanding the above provisions, a peace officer while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency shall not exercise the powers of a police officer if employed by a private employer as a

security guard during a strike, lockout, picketing, or other physical demonstration of a labor dispute at the site of the strike, lockout, picketing, or other physical demonstration of a labor dispute. The issue of whether or not casual or part-time employment as a private security guard or patrolman pursuant to this subdivision is to be approved shall not be a subject for collective bargaining. Any and all civil and criminal liability arising out of the secondary employment of any peace officer pursuant to this subdivision shall be borne by the officer's principal employer. The principal employer shall require the secondary employer to enter into an indemnity agreement as a condition of approving casual or part-time employment pursuant to this subdivision.

(3) It is the intent of the Legislature by this subdivision to abrogate the holdings in People v. Corey, 21 Cal. 3d 738, and Cervantez v. J. C. Penney Co., 24 Cal. 3d 579, to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, while wearing a police uniform approved by the principal employer, as private security guards or patrolmen, and to allow the exercise of peace officer powers concurrently with that employment.

(e) (1) Nothing in this section precludes a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from engaging in, or being employed in, other employment while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency.

(2) Subject to subdivisions (c) and (d), and except as provided by written regulations or policies adopted by the employing state or local agency, or pursuant to an agreement between the employing state or local agency and a recognized employee organization representing the peace officer, no peace officer shall be prohibited from engaging in, or being employed in, other employment while off duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency.

(3) If an employer withholds consent to allow a peace officer to engage in or be employed in other employment while off duty, the employer shall, at the time of denial, provide the reasons for denial in writing to the peace officer.

• 6-02/070.00 Levy or Sale, Neglect or Refusal to

GC 26664. Neglect or failure to perform duties under writs

Any sheriff who neglects or refuses to perform the duties under a writ of attachment, execution, possession, or sale, after being required by the creditor's attorney of record or, if the creditor does not have any attorney of record, by the creditor and after the sheriff's fees have been paid or tendered, is liable to the creditor for all actual damages sustained by the creditor.

• 6-02/080.00 Paying or Receiving Unauthorized Fee

CG 68097.7. Offer or payment of other consideration; asking or receiving other payment; offense

Any person who pays or offers to pay any money or other form of consideration for the services of any employee of the Department of Justice who is a peace officer or an analyst in a technical field, peace officer of the Department of the California Highway Patrol, peace officer member of the State Fire Marshal's office, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer as a witness in any action or proceeding in connection with a matter regarding an event or transaction which he or she has perceived or investigated in the course of his or her duties in any manner other than as provided in Sections 68097.1, 68097.2, 68097.3, 68097.4, 68097.5, and 68097.6 is guilty of a misdemeanor, and any employee of the Department of Justice who is a peace officer or an analyst in a technical field, peace officer of the Department of the California Highway Patrol, peace officer member of the State Fire Marshal's office, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer who asks or receives a payment except as provided in Sections 68097.2 and 68097.4 is likewise guilty of a misdemeanor.

• 6-02/090.00 Pay Over Money, Neglect or Refusal to

• • 6-02/090.10 Failure to pay over money

GC 26680 If on demand the sheriff neglects or refuses to pay over to the person entitled any money which comes into his hands by virtue of his office, after deducting all legal fees, the person may recover the

amount thereof and 25 percent damages and interest at the rate of 10 percent a month from the time of demand.

• • 6-02/090.20 Distribution or deposit; time for payment; receipt of noncash payment; officerâ€™s liability

CCP 701.820. (a) Promptly after a sale or collection under this title, the levying officer shall distribute the proceeds to the persons entitled thereto or, in cases covered by Section 701.830, deposit the proceeds with the court.

(b) Except as otherwise provided by statute, the proceeds shall be paid to the persons entitled thereto within 30 days after the proceeds are received by the levying officer.

(c) If the proceeds are not received by the levying officer in one payment, the levying officer may accumulate proceeds received during a 30-day period and the accumulated proceeds shall be paid to the persons entitled thereto not later than 10 days after the expiration of the 30-day period.

(d) When proceeds are received by the levying officer in the form of a check or other form of noncash payment that is to be honored upon presentation by the levying officer for payment, the proceeds are not received for the purposes of this section until the check or other form of noncash payment has actually been honored upon presentation for payment.

(e) The provisions of Section 26680 of the Government Code apply to the levying officer only if all of the following conditions are satisfied:

(1) The levying officer has failed to pay the proceeds or deposit them with the court as provided in this article within the time provided in this section.

(2) Upon such failure, a person entitled to any of the proceeds has filed, in person or by certified mail, with the levying officer a written demand for the payment of the proceeds to the persons entitled thereto.

(3) The levying officer has failed within 10 days after the demand is filed to pay to the person filing the demand the proceeds to which that person is entitled.

(f) If all proceeds have not been received within 10 days after the filing of the demand specified by paragraph (3) of subdivision (e), a judgment creditor may file an ex parte application for an order directing the levying officer to show cause why relief should not be granted pursuant to Section 26680 of the Government Code. The order shall name a date and time for the levying officer to appear not less than 20 and not more than 30 days after filing of the application. If the levying officer pays all proceeds as provided in subdivision (e) of Section 701.810 to the judgment creditor no later than 10 days prior to the hearing, the judgment creditor shall notify the court of full payment no later than three days prior to the hearing and the court shall withdraw the order and vacate the hearing.

(g) An ex parte application filed pursuant to subdivision (f) shall state the date and manner of all of the following:

(1) Delivery of the writ of execution to the levying officer.

(2) Remittance of the proceeds to the levying officer.

(3) Filing of the 10-day demand pursuant to subdivision (e).

(h) If the court finds that the facts alleged in the ex parte application filed pursuant to subdivision (f) to be knowingly false, or made in bad faith, the court may award costs and reasonable attorney fees to the levying officer.

• 6-02/100.00 Prisoners, Inhumanity to

PC 147. Every officer who is guilty of willful inhumanity or oppression toward any prisoner under his care or in his custody, is punishable by fine not exceeding four thousand dollars ($4,000), and by removal from office.

• 6-02/110.00 Publish Notice, Failure to

GC 24052. Whenever notice is required by law to be published in a newspaper by any officer of a county or judicial district, the person for whom the notice is to be given shall pay to the officer, if required, the fees for the publication, in advance. Failure of any officer to publish any notice required by law pertaining to the duties of his office is a misdemeanor.

• 6-02/120.00 Return Process, Failure to

GC 26663. Any sheriff who does not return a process or notice in his or her possession, with the necessary endorsement thereon, without delay is liable to the person aggrieved for all actual damages sustained by him or her.

• 6-02/130.00 Sale Without Notice

CCP 701.560. (a) Failure to give notice of sale as required by this article does not invalidate the sale.

(b) A levying officer who sells property without giving the required notice is liable to the judgment creditor and the judgment debtor for actual damages caused by failure to give notice.