21-01 - 2021 Legislative Update

Los Angeles County Sheriff's Department

NEWSLETTER

Field Operations Support Services, (323) 890-5411

2021 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, 2021, unless otherwise noted. This summary is intended as a quick reference source and is, therefore, limited to major changes. It does not include every legislative change affecting law enforcement. **The text of the statute and the Department Manual of Policy and Procedures should be reviewed prior to initiating law enforcement activity based on the information in this newsletter.**

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.

SEARCH WARRANTS

Penal Code Section 1534 (Amended): Provides that *if* law enforcement agencies utilize software to track a person's movement, whether in conjunction with a third party or by interacting directly with a person's electronic device, the provisions for obtaining a tracking device search warrant apply.

DOMESTIC VIOLENCE

Family Code Section 6320 (Amended): Codifies and elaborates on case law defining when a restraining order under Domestic Violence Prevention Act ([DVPA]) Fam. Code section 6200 et seq. [1]) may be issued because a person was "disturbing the peace of the other party" (section 6320), which includes coercive control.

FALSE REPORTS AND HARRASSMENT

Civil Code Sections 47 and 51.7 (Amended) and Penal Code Section 653y:

Makes it a “wobblette” to knowingly use the 911 emergency system for the purpose of harassing another, and increases the penalty for the crime by up to one year in county jail, or a fine of no more than $2,000.00 if the harassment is also an act defined to be a hate crime or is an offense committed against a person based on their perceived race, ethnicity, religion, nationality, country of origin, ancestry, disability, gender, gender identity, gender expression, or sexual orientation.

HYPODERMIC NEEDLES AND SYRINGES Enacted September 28, 2020

Business and Professions Code (Amends) section 4145.5(b): EXTENDING the sunset clause from January 1, 2021, to January 1, 2026, which maintains the legality for a person 18 years or older to possess a hypodermic needle or syringe for human use, with or without a prescription.

(Repeals) Section 4142: No hypodermic needle or syringe shall be sold at retail except upon the prescription of a physician, dentist, veterinarian, podiatrist, or naturopathic doctor pursuant to Section 3640.7; and **Section 4326:** Any person who obtains a hypodermic needle or hypodermic syringe by a false or fraudulent representation or design or by a forged or fictitious name, or contrary to, or in violation of, any of the provisions of this chapter, is guilty of a misdemeanor.

Health and Safety Code (Amends) Section 11364: To extend the sunset clause from January 1, 2021, to January 1, 2026, to align with **Section 4145.5 (b).**

Possible changes to case assignment manual.

CORRECTION FACILITY; CONFIDENTIAL CALLS

Penal Code Section 2605 and 2606 (Add): Requires CDCR to, during initial intake and classification, and in a private setting, ask each individual entering into the custody of the department to specify the individuals gender identity and sex assigned at birth, whether the individual identifies as transgender, nonbinary, or intersex, and their gender pronoun and honorific.

DISCRIMINATION/INVASION OF PRIVACY: FIRST RESPONDER

Penal Code Sections 1473 and 1473.7 (Amend) and 745 (Add): Prohibits the state from seeking or obtaining a conviction or sentence based on race, ethnicity, or national origin.

Penal Code Section 1524 (Amend) and 647.9 (Add): Makes it a misdemeanor for a first responder, as defined, operating under color of authority, to use any electronic device, at the scene of an accident or crime to capture the image of a deceased person for any purpose other than an official law enforcement purpose or for a genuine public interest.

FIREARMS: GUN VIOLENCE RESTRAINING ORDERS

Penal Code Sections 18140 and 18025 (Amend): Requires California to honor similar or equivalent Gun Violence Restraining Orders (GVRO), as specified, that are issued by states other than California. Clarifies time frame for a law enforcement officer to file a copy of a temporary emergency GVRO with the court.

Update to FOD 16-001 to reflect changes.

Penal Code Sections 29800 and 29805 (Amend) and 29851 (Repeal): Clarifies in both Penal Code sections that a person with an active arrest warrant for a prohibited offense must have knowledge of the warrant in order to be criminally liable as a person prohibited from possessing a firearm. The arresting officer must clearly state in their arrest report that the suspect had knowledge of the warrant.

JAIL OPERATIONS

Penal Code Sections 3405, 3406, 3409, 4023.5, 4023.6, and 4028 (Amend) and 3408 and 4023.8: Requires jails and prisons to offer inmates who are possibly pregnant, or capable of becoming pregnant, a pregnancy test and requires specified medical treatment and services for county jail and state prison inmates who are pregnant.

JUVENILES

Welfare and Institutions Code Section 625.6: Expands and extends protections for minors prior to custodial interrogation by a law enforcement officer. Requires that prior to custodial interrogation and before the waiver of any Miranda rights, a youth of 17 years or younger must consult with legal counsel, by telephone, or by video conference.

LOCAL OPERATIONS AND POLICIES

Government Code Section 25303.7: Authorizes a county to create a sheriff oversight board and an inspector general's office with subpoena power to examine any person or witness upon any subject matter within the jurisdiction of the board, any officer of the county in relation to the discharge of their official duties on behalf of the Sheriff's Department, or any materials relating to the affairs of the Sheriff's Department.

Penal Code Section 368.5: Requires law enforcement agencies to update their policy manuals with the new definition of elder and dependent adult abuse. Elder and dependent adult abuse means any of the following: Physical abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering

MISCELLANEOUS

PC 290: Allows a tier one or two offender to file petition for registry termination on or after next birthday after

July 1, 2021, following the expiration of mandated minimum registration period. Allows courts to summarily deny petitions that are statutorily ineligible and require law enforcement agencies to report receipt of a filed petition in the manner prescribed by the department of justice.

PC 851.93 and 1203.425: Pushes back the date of commencement from January 1, 2021, to July 1, 2022, DOJ's monthly review of all criminal records for determination of arrest record relief or expungement.

PC 3000.01: Requires a parolee released on or after July 1, 2020, and supervised by CDCR to serve a parole term of two years for a determinate term and a parole term of three years for a life term.

PC 30515: Expands the definition of an assault weapon to include a semiautomatic firearm that is not a rifle, pistol, or shotgun, that does not have a fixed magazine, but that has any one of the following:

a. A pistol grip that protrudes conspicuously beneath the action of the weapon.
b. A thumbhole stock.
c. A folding or telescoping stock.
d. A grenade launcher or flare launcher.
e. A flash suppressor.
f. A forward pistol grip.
g. A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.
h. A second handgrip.
a. A shroud that is attached to or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer's hand, except a slide that encloses the barrel.
j. The capacity to accept a detachable magazine at some location outside of the pistol grip.

Penal Code Section 13655: Prohibits law enforcement agencies from authorizing employees to wear a uniform that is made from camouflage material or a uniform that is substantially similar to a uniform of the U.S. Armed Forces or state active militia.

PROSTITION, SEX CRIMES, AND HUMAN TRAFFICKING

Penal code section 11165.1 PC (Amend): To exclude voluntary conduct by minors 16 years of age or older, pertaining to PC sections 286, 287, 289, as reportable sexual assault by mandated reporters, if there are no

indicators of abuse, unless the conduct is between person over 21 and minor under 16.

Penal Code Sections 290 and 290.006 (Amend): This bill would exempt a person from mandatory registration when a person convicted of certain offenses (e.g., non-forcible voluntary sodomy, oral copulation, or sexual penetration) involving minors if the person is not more than 10 years older than the minor and if that offense is the only one requiring the person to register.

TRANSPORTATION

Vehicle Code Section 2189 (Amend): Changes the word "freeway" to "highway" (thus: on ALL highways, not just on the freeway) in regards to approaching a stationary authorized emergency vehicle that is displaying emergency lights, a stationary tow truck that is displaying flashing amber warning lights, or a stationary marked Department of Transportation (CalTrans) vehicle that is displaying flashing amber warning lights, shall approach with due caution and, before passing in a lane immediately adjacent to the authorized emergency vehicle, tow truck, or CalTrans workers. Also known as "slow for the cone zone" or "move over, slow down."

Vehicle Code Section 4853 (Amend): Extends DMV pilot program to evaluate the use of alternatives to the stickers, tabs, and license plates through January 1, 2023. So you will continue to see alternative plates and stickers till then.

Civil Code Section 43.102 and Health and Safety Code Section 1799.101 (Add): Existing law provides that a person who in good faith, and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency is not liable for civil damages resulting from any act or omission other than an act or omission constituting gross negligence or willful or wanton misconduct.

This bill would exempt a person from civil liability and criminal liability for property damage or trespass to a motor vehicle if the property damage or trespass occurs while the person is rescuing a child who is 6 years of age or younger from a motor vehicle under circumstances that reasonably could cause suffering, disability, or death to the child, if certain steps are taken during the removal. The bill would establish procedures that apply to a peace officer, firefighter, or emergency responder under those circumstances, including, but not limited to, arranging for the treatment and transportation. You must also leave a note in a secure location for the parents advising name, office, and address where child is being treated.

USE OF FORCE

Government Code Section 7286.5 (Add): This bill would prohibit a law enforcement agency from authorizing the use of a carotid restraint or a choke hold, as defined.

If you have any questions, please call or email Field Operations Support Services at (323) 890-5411 or foss@lasd.org.