

## 2019 Legislative Update

### 1200.1 PURPOSE

The Professional Standards Bureau has prepared this legislative update for the 2019 calendar year. It is intended to serve as a general summary of legal changes that pertain to law enforcement and is not meant to cover every legislative change enacted in 2018. The 2019 Legislative Update Manual published by the California Peace Officers' Association is the main source used for this summary. All personnel are invited to click on the links within this document and read these various codes in their entirety for a more detailed explanation. The changes outlined below go into effect January 1, 2019, unless otherwise indicated.

### 1200.2 BUSINESS AND PROFESSIONS CODE

CANNABIS IN ALCOHOLIC BEVERAGES [AB 2914 \(Cooley\)](#) - BP §§ 25621.5 and 26070.2: Prohibits an alcoholic beverage licensee from selling, offering, or providing cannabis or cannabis products, including the sale of an alcoholic beverage that contains cannabis, and clarifies existing laws banning alcoholic beverages containing tetrahydrocannabinol or cannabinoids, regardless of source.

PAWN SHOPS - [AB 1993 \(Gipson\)](#) - BP §§ 21636 and 21636.1: Revises the current requirement for secondhand dealers to hold (and not sell) property from 30 days to seven days, with the exception of firearms. In addition, it authorizes the dealer to sell the property after 5 days, if specified information is collected.

### 1200.3 CIVIL CODE

HUMAN TRAFFICKING - BUSINESSES - [AB 2034 \(Kalra\)](#) - CC § 52.6: Requires businesses and establishments that operate in transportation or handle high volumes of traffic to train their employees in recognizing the signs of human trafficking and reporting suspected human trafficking.

HUMAN TRAFFICKING - EMPLOYEES - [SB 970 \(Atkins\)](#) - GC § 12950.3: Requires, by January 1, 2020, hotels and motels to provide at least 20 minutes of classroom or other effective interactive training and education regarding human trafficking awareness to each employee who is likely to interact or come into contact with victims of human trafficking and who is employed as of July 1, 2019.

### 1200.4 GOVERNMENT CODE

BODY CAMERAS - FOOTAGE DISCLOSURE - [AB 748 \(Ting\)](#) - GC § 6254: Commencing July 1, 2019, an audio or video recording that relates to a critical incident, as defined, may only be withheld during an active criminal or administrative investigation for 45 days. Agencies will need to show cause for non-release after the 45 days. If not released, the agency will need to continue to show cause and notify the requesting party every 30 days thereafter.

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#### **1200.5 LABOR CODE**

WORKERS COMP - OFF DUTY POLICE - [AB 1749 \(Daly\)](#) - Labor Code Section 3600.2 (Amend): Clarifies that certain peace officers injured out of state while performing defined law enforcement duties are eligible to receive workers' compensation benefits, in the discretion of the employing agency.

#### **1200.6 PENAL CODE**

FELONY MURDER - ACCOMPLICE - [SB 1437 \(Skinner\)](#) - PC §§ 188 and 189: Limits liability for individuals based on a theory of first- or second-degree felony murder. Specifies that in order for an accomplice to be convicted of murder, he/she must have had the mental state described as malice, unless certain criteria are met. States that malice shall not be imputed to a person based solely on his or her participation in a crime. It's a retroactive bill which will allow those in custody for murder, based on the felony murder rule, to be released or receive a reduced sentence.

FIREARMS - DOMESTIC VIOLENCE - [AB 3129 \(Rubio\)](#) - PC § 29805: Prohibits a person who is convicted of a misdemeanor domestic violence offense, which currently results in a 10-year prohibition against possessing a firearm, from possessing a firearm for life.

FIREARMS - RETIRED PEACE OFFICERS - [AB 1192 \(Lackey\)](#) - PC § 16690: Exempts retired Level I reserve peace officers who meet specified length of service requirements from the ban on possessing high-capacity magazines.

FIREARMS - VEHICLE STORAGE - [SB 1382 \(Vidak\)](#) - PC § 25140: Permits the leaving of a handgun in an unattended vehicle if the handgun is locked in a tool box or utility box and defines a locked tool box or utility box as: “.”

GUN VIOLENCE RESTRAINING ORDERS - [SB 1200 \(Skinner\)](#) - PC §§ 11106, et al.: Makes various changes to existing laws related to gun violence restraining orders (GVROs). States that for purposes of the GVRO law, "ammunition" includes a "magazine," as defined in existing law. Requires an officer serving a GVRO to verbally ask the restrained person if he or she has any firearms, firearm parts or components, ammunition, or magazines in his or her possession or under his or her custody or control.

RECORDS - POST ON INTERNET - [SB 978 \(Bradford\)](#) - PC Title 4.7 §13650: Requires, commencing January 1, 2020, POST and each local law enforcement agency to conspicuously post on their Internet websites all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available if a request was made pursuant California Public Records (CPRA), and makes Legislative findings and declarations.

RECORDS - POLICE OFFICERS - [SB 1421 \(Skinner\)](#) - PC §§ 832.7 and 832.8: Provides the public with access, through the CPRA, to records related to reports, investigation, or findings of incidents involving:

- The discharge of a firearm at a person by an officer
- The use of force by an officer which results in death or serious bodily injury.

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- A sustained finding that an officer engaged in the sexual assault of a member of the public.
- A sustained finding that an officer was dishonest relating to the reporting, investigation, or prosecution of a crime, or relating to the misconduct of another peace officer, including but not limited to perjury, false statements, filing false reports, destruction/falsifying/or concealing evidence, or any other dishonesty that undermines the integrity of the criminal justice system.

WOBBLERS - [AB 1941 \(Jones-Sawyer\)](#) - PC § 17: Allows the court to reduce an offense punishable as a felony or a misdemeanor to a misdemeanor upon successful completion of probation, regardless of whether the court had previously imposed a sentence.

WARRANTS - [AB 2710 \(Obernolte\)](#) - PC §§ 817 and 1526: Eliminates the requirement that a judge take the oath over the telephone when an officer makes an application for a search warrant or arrest warrant. "The magistrate shall verify that all the pages sent have been received, that all pages are legible, and that the declarant's signature, digital signature, or electronic signature is genuine."

#### **1200.7 VEHICLE CODE**

BICYCLES - HELMETS - [AB 3077 \(Caballero\)](#) - VC §§ 21212 and 40303.5: Requires a citation issued to a person under the age of 18 for not wearing a helmet when riding a bicycle, scooter, skateboard, or roller or in-line skates to be non-punitive and correctable if the minor's parent or legal guardian shows proof of correction within 120 days to the issuing law enforcement agency. It requires the officer to keep the citation for 120 days to allow for the parent or guardian to show proof of correction. If proof is shown, the citation may not be turned in to the court.

BICYCLES - HIT AND RUN - [AB 1755 \(Steinorth\)](#) - VC § 21200: Extends the provisions of Vehicle Code Section 20001 to persons operating bicycles on Class I bikeways. A bicyclist, if involved in an accident on a Class I bikeway which results in injury to another involved person, is required to stop, provide identifying information, and render assistance as necessary. A bicyclist who fails to follow these requirements is in violation of the "hit and run" law to the same extent as a vehicle or a bicyclist on a roadway.

DRIVER'S HANDBOOK - [AB 2918 \(Holden\)](#) - VC § 1656.3: The Department of Motor Vehicles Driver's Handbook will include information addressing the extent and limitations of a peace officer's authority during a traffic stop and the legal rights of drivers and passengers. The information will be developed by the civil rights section of the Department of Justice in consultation with the Department of Motor Vehicles, California Highway Patrol, Commission on Peace Officer Standards and Training, and civil rights organizations.

DUI - BLOOD TESTS - [AB 2717 \(Lackey\)](#) - VC §§ 23577, 23578, 23612: Modifies California law regarding the refusal to submit to a test of blood alcohol when a person is suspected of driving under the influence (DUI) to attempt to comply with the United States (U.S.) Supreme Court's ruling in *Birchfield v. North Dakota*, (2016) 136 S. Ct. 2160, by deleting the criminal penalty for refusing to submit to a blood test.

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INSURANCE AT COLLISION SCENE - [AB 3246](#) - VC § 16028: Clarifies that Section 16028(a) of the Vehicle Code (not 16028(c)) is the appropriate section for officers to cite if a driver fails to provide proof of financial responsibility at the scene of a traffic collision.

MOTORIZED SCOOTER - HELMET - [AB 2989 \(Flora\)](#) - VC § 21235: Removes the bicycle helmet requirement for riders of motorized scooters who are 18 years of age or older. It is still illegal to operate a motorized scooter upon a sidewalk, except as necessary to enter or leave adjacent property.

VEHICLES - TOWING AND STORAGE - [AB 2392 \(Santiago\)](#) - VC §§ 10652.5, et al.: Provides additional consumer protections when a vehicle is towed or stored for any reason. There have been instances where towing and storage operators capitalize on consumer confusion by charging excessive fees. This law aims to curb these practices by ensuring that fees are reasonable and do not exceed those that are approved by the California Highway Patrol or local law enforcement's Tow Service Agreements.

#### **1200.8 WELFARE AND INSTITUTIONS CODE**

JUVENILES - DNA COLLECTION - [AB 1584 \(Gonzalez Fletcher\)](#) - W&I § 625.4: Law enforcement shall not request a voluntary DNA sample be collected directly from a minor, without first obtaining written consent from the minor and the minor's parent or legal guardian, or attorney representing the minor.

JUVENILES - 12 YEAR OLDS - [SB 439 \(Mitchell\)](#) - W&I §§ 601, et al.: Establishes that a minor under the age of 12 who has committed a minor crime may not be adjudged a ward of the court and should be released to their parent or guardian. However, a minor under 12 who is alleged to have committed specified violent felonies, including murder and rape by force, remains within the jurisdiction of the juvenile court.

JUVENILES - TRIED AS ADULTS - [SB 1391 \(Lara\)](#) - W&I § 707: Repeals the authority of a prosecutor to make a motion to transfer a minor from juvenile court to adult criminal court if the minor was alleged to have committed certain serious offenses when he or she was 14 or 15 years old.

MENTAL HEALTH - FORMS - [AB 2099 \(Gloria\)](#) - W&I § 5150: Allows copies of the 5150 application to be treated as the original by hospitals and mental health facilities.

MENTAL HEALTH - FIREARMS - [AB 1968 \(Low\)](#) - W&I § 8103: Beginning January 1, 2020, requires that a person placed on a W&I 5150 hold more than once within a one-year period be prohibited from owning a firearm for the remainder of his or her life.