



1971

Miscellaneous

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Miscellaneous

Miscellaneous; news media immunity from contempt for failure to disclose information sources

Evidence Code §1070 (amended).

AB 3022 (Sieroty); STATS 1971, Ch 1717

Section 1070, as amended, provides that a publisher, editor, reporter, or other person connected with or employed upon a newspaper, or by a press association or wire service, or any person who has been so connected or employed, cannot be adjudged in contempt by a court, the Legislature, or any administrative body, for refusing to disclose the source of any information procured while so employed or connected for publication in a newspaper.

Section 1070 further provides that a radio or television news reporter or other person connected with or employed by a radio or television station, or any person who has been so connected or employed, also may not be adjudged in contempt for refusing to disclose the source of any information procured while so connected or employed for news or news commentary purposes on radio or television.

Prior to this amendment, the information obtained had to be published in a newspaper or used on radio or television before immunity from contempt would attach. Also persons who *had been* connected with or employed by the news media were not expressly protected.

Miscellaneous; Lanterman-Petris-Short Act—chronic alcoholism

Welfare and Institutions Code §§5172, 5174, 5176 (amended).

AB 671 (Arnett); STATS 1971, Ch 1443

Revises the Lanterman-Petris-Short Act to include chronic alcoholics, and amends certain funding and regulatory provisions.

Section 5172 of the Welfare and Institutions Code pertains to detention of inebriates for evaluation and treatment in 72-hour facilities. Evaluations are to be conducted as soon as possible after detention starts and necessary care and treatment is to be administered during the detention. Section 5172 as amended provides that persons who have been detained are to be:

- 1) released, or
- 2) referred for further care and treatment on a voluntary basis, or
- 3) if the person, as a result of impairment by chronic alcoholism, is a danger to others or himself, or gravely disabled, he may be certified for intensive treatment, or a conservator or temporary conservator shall be appointed for him pursuant to this part as required.

Section 5174 provides for the funding of such 72-hour treatment facilities. Chapter 1443 amends §5174 to provide that services rendered to persons impaired by chronic alcoholism shall be subject to Short-Doyle financing and shall not be included as priority funding. However, such services may be considered new and expanded services for the purpose of funding.

Section 5176 pertains to counties to which Article 1.5 (Detention of Inebriates for Evaluation and Treatment, commencing with §5170) applies. Chapter 1443 amends §5176 to provide that Article 1.5 shall apply only to those counties wherein the board of supervisors has adopted a resolution stating that suitable facilities exist within the county for the care and treatment of inebriates and persons impaired by chronic alcoholism.

Section 5176 is further amended to provide that each Short-Doyle plan for a county to which Article 1.5 is applicable shall designate the specific facility for the 72-hour treatment for inebriates and persons impaired by chronic alcoholism. Each county shall also designate the facility for treatment of such persons on a voluntary basis and shall specify the maximum number of patients that can be served at any one time by each such facility.

Prior to the enactment of Chapter 1443, chronic alcoholics were not specifically covered by the above noted provisions.

Miscellaneous; campus disruptions

Education Code §22505 (amended).

AB 2768 (Campbell); STATS 1971, Ch 1513

Section 22505 of the Education Code is amended to provide that the chief administrative officer of a community college, state college, or state university "shall take appropriate disciplinary action against any student, member of the faculty, member of the support staff, or member of the administration of such college or university who, after a prompt hearing by a *campus body*, has been found to have willfully disrupted the orderly operation of the campus."

Prior to the enactment of Chapter 1513, §22505 required the chief administrative officer to *hold* a prompt hearing on the facts prior to taking disciplinary action pursuant to a finding by a campus body that a person has willfully disrupted the orderly operation of the campus.

Also, prior to the enactment of Chapter 1513, the chief administrative officer was required to take disciplinary action against a person who had been convicted of a crime arising out of a campus disturbance.

See Generally:

- 1) 2 WITKIN, CALIFORNIA CRIMES, *Crimes Against Public Peace and Welfare* §972 (1969); *Crimes Against Governmental Authority* §873 (1969).
- 2) REVIEW OF SELECTED 1969 CODE LEGISLATION, CONTINUING EDUCATION OF THE BAR 106.

Miscellaneous; methadone treatment during incarceration

Health and Safety Code §11396 (amended).

AB 2166 (Vasconcellos); STATS 1971, Ch 1454

Section 11396 of the Health and Safety Code provides that when a person is taken into custody and is lodged in a jail or other place of confinement, and there is reasonable cause to believe that such person is a narcotic addict, it is the duty of the person in charge of the place of confinement to provide the person so confined with medical aid as necessary to ease any symptoms of withdrawal from the use of narcotics.

Chapter 1454 adds the provision to §11396 that in any case in which a person, who is participating in a methadone maintenance program, is incarcerated in a jail or other place of confinement, he shall, in the discretion of the director of such program, be entitled to continue in such program until conviction.

COMMENT

Section 3102 of the Welfare and Institutions Code also requires a person in charge of a place of confinement to provide a person confined under §§3100 *et seq.* of the Welfare and Institutions Code with medical aid as necessary to ease symptoms of withdrawal from the use of narcotics. Section 3102 has not been modified to permit the continuance of participation in a methadone maintenance program by a person so confined.

Miscellaneous; methadone treatment

Welfare and Institutions Code §3154 (new); §3200 (amended).
AB 563 (Vasconcellos); STATS 1971, Ch 1486

Section 3154 is added to the Welfare and Institutions Code to provide that a person released in an outpatient status from the California Rehabilitation Center, may with the approval of the Department of Corrections and the Narcotic Addict Evaluation Authority, participate in a methadone maintenance project approved under §§11655.6 and 11655.7 of the Health and Safety Code.

Section 3154 further provides that participation in a methadone maintenance project shall not be construed to break the abstinence from the use of narcotics for the purpose of §3200.

Section 3200 of the Welfare and Institutions Code provides that a person may be discharged from a program if he abstains from the use of narcotics for at least two consecutive years and otherwise complies with the conditions of his release.

Chapter 1486 amends §3200 to provide that outpatients from the California Rehabilitation Center participating in a methadone program pursuant to §3154 of the Health and Safety Code, who have abstained from the use of narcotics for at least three consecutive years while on such program and have otherwise complied with the conditions of their release, may be discharged from a program.

See Generally:

- 1) 2 WITKIN, CALIFORNIA CRIMES, *Crimes Against Public Peace and Welfare* §682 (Supp. 1969).

Miscellaneous; marriage licenses

Civil Code §4213 (amended); Government Code §26840.1 (new).
AB 931 (McAlister); STATS 1971, Ch 1244

Section 4213 of the Civil Code allows unmarried persons, other than minors, who have been living together as man and wife, to be married by any clergyman, without the necessity of first obtaining a marriage license.

Chapter 1244 amends §4213 to provide that within 4 days after the performance of the ceremony, a certificate of marriage shall be filled out by the parties to the marriage. It shall be authenticated and filed by the clergyman with the office of the county clerk in the county in which the ceremony took place.

Section 4213 is further amended to provide that the county clerk shall maintain the certificate as a permanent record and it shall not be open to public inspection except upon order of the superior court. The State Department of Public Health shall prescribe the form of the certificate and the county clerk shall furnish it to any clergyman without charge.

Section 4213 is also amended to require a periodic report to the Department on the number of marriage certificates filed pursuant to this section.

Chapter 1244 adds §26840 to the Government Code to provide that the fee for filing a marriage certificate pursuant to §4213 of the Civil Code shall be \$5 dollars payable to the county clerk at the time of filing.

Prior to the enactment of Chapter 1244, when a marriage was performed pursuant to §4213, the clergyman issued a marriage certificate and recorded the certificate upon the records of his church. No other record was required.

See Generally:

- 1) REVIEW OF SELECTED 1969 CODE LEGISLATION, CONTINUING EDUCATION OF THE BAR 42.

Miscellaneous; compulsory education

Education Code §12459 (amended).

AB 404 (Chappie); STATS 1971, Ch 197

Section 12459 of the Education Code is amended to provide that any judge of a municipal or justice court in which the school district is located, or in which the offense is committed, has jurisdiction over offenses committed under *Article 8* (Violations), rather than Chapter 6 (Compulsory Education) as previously provided for in this section.

COMMENT

Prior to the enactment of Chapter 197, §12459 gave jurisdiction over all offenses committed under the compulsory education laws to municipal or justice courts, but at the same time §12404 provided for jurisdiction over juvenile offenders (truants and disorderly children) with the juvenile courts. Since no juvenile offenses are contained in Article 8, Chapter 197 eliminates this conflict by limiting the jurisdiction of municipal or justice courts to this article which regulates violation of the compulsory education laws by parents or guardians.

See Generally:

- 1) CAL. EDUC. CODE §§12101-12501.

Miscellaneous; veterans

Military and Veterans Code §987.30 (new).
SB 170 (Grunsky); STATS 1971, Ch 600

Chapter 600 defines the rights of a veteran purchaser and the Department of Veterans Affairs with respect to damages by a third party to property being purchased under the Veterans' Farm and Home Purchase Act (§§984 *et seq.*).

Under §987.30, the department is given the right to recover for amounts paid (indemnification), or obligated to pay, to the veteran purchaser for such damages in an action against such third parties. The veteran purchaser may also bring an action against the third party or any party other than the department.

If either the veteran purchaser or the department brings an action against such third party, the purchaser or the department shall give written notice to the other, by personal service or registered mail. Proof of such service shall be filed in such action. If the action is brought by either the purchaser or the department, the other may be joined as a party plaintiff. If actions are brought independently, they shall be consolidated. If the department has not been joined or has not brought an action, or if the action has not been consolidated, the court, on the department's application, shall allow as a first lien on a purchaser's judgment, the amount of the department's expenditures for indemnification.

Miscellaneous; abortions

Health and Safety Code §25955 (new).
AB 2054 (Hayes); STATS 1971, Ch 1159

This chapter makes it a misdemeanor, except in a medical emergency, for an employer to:

- 1) Require a registered nurse, a licensed vocational nurse, or any other person employed to furnish direct personal health service to a patient to directly participate in the induction or performance of an abortion, if such employee has filed a written statement with the employer indicating a moral, ethical, or religious basis for refusal to participate in an abortion.

- 2) Penalize or discipline any of the above noted employees for declining to directly participate in an abortion.

The above provision is added to the Therapeutic Abortion Act (§§25950-25955).

Miscellaneous; autopsies

Health & Safety Code §7113 (amended).
AB 534 (Brathwaite); STATS 1971, Ch 99

As amended, §7113 of the Health & Safety Code now provides that an authorized person may give permission by means of a *telegram* for an autopsy to be performed. Prior to this amendment, permission for an autopsy could only be given by the decedent in his will or other written instrument, or by an authorized person by means of "written authorization, or a verbal authorization obtained by telephone and recorded on tape or other recording device."

See Generally:

- 1) REVIEW OF SELECTED 1969 CODE LEGISLATION, CONTINUING EDUCATION OF THE BAR 130.

Miscellaneous; proof and acknowledgement of instruments

Civil Code §1181 (amended).
SB 82 (Nejedley); STATS 1971, Ch 27

As amended, §1181 of the Civil Code allows proof or acknowledgement of instruments to be made before a county counsel or city attorney in addition to the persons already authorized by this section, in those cases where an instrument is not acknowledged before a notary public.

Miscellaneous; filing testimony from coroner's inquest

Government Code §27503 (amended).
AB 905 (Brathwaite); STATS 1971, Ch 1175

Under the provisions of §27503 of the Government Code, the transcript of the testimony of the witnesses examined in a coroner's inquest shall be completed and filed within 10 days following the inquest with either the coroner's office or the county clerk as determined by the board of supervisors.

Prior to this amendment, testimony was required to be filed by the coroner with the county clerk only.

Miscellaneous; employment of illegal aliens

Labor Code §2805 (new).

AB 528 (Arnett); STATS 1971, Ch 1442

Section 2805 is added to the Labor Code to prohibit an employer from knowingly hiring an alien who is not entitled to lawful residence in the United States if such employment would have an adverse effect on lawful resident workers. A person found guilty of a violation of this section is punishable by a fine of not less than \$200 nor more than \$500 for each offense.

The imposition of this fine shall not be a bar to a civil action against the employer based on violation of this section which results in damages to lawful resident workers.

COMMENT

The apparent intent of the Legislature in adopting this provision was to provide an enforcement tool to aid in the elimination or reduction of the large number of illegal aliens annually employed in California.

AB 528 appears to be rather vague in its reference to an "adverse effect on lawful resident workers." This bill does not provide any standards or guidelines to aid in this determination, and because of the indefiniteness, it is arguable that Section 2805 lends itself to discriminatory enforcement.

See Generally:

- 1) 1 WITKIN, SUMMARY OF CALIFORNIA LAW, *Agency and Employment* §12 (7th ed. 1960), (Supp. 1969).
- 2) 2 PAC. L.J., REVIEW OF SELECTED 1970 CALIFORNIA LEGISLATION 468 (1971).

Miscellaneous; coroner's inquest

Government Code §27504 (amended).

AB 390 (Hayes); STATS 1971, Ch. 1573

Section 27504 of the Government Code is amended to provide that the jury, or the coroner if the inquest is without a jury, shall indicate in its verdict or decision whether death was by: 1) natural causes, 2) suicide, 3) accident, or 4) the hands of another person *other than by accident*. This section continues to provide that the findings shall not include nor make any reference to civil or criminal responsibility on the part of the deceased or any other person.

Prior to amendment, the jury or coroner determined whether death

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was by natural causes, suicide, accident, or at the hands of another person.

COMMENT

The intent of the Legislature in enacting this measure was apparently to avoid split or confusing verdicts wherein death could be by accident and still at the hands of another person.