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Crimes

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Crimes

Crimes; controlled substances—athletic ability

Health and Safety Code § 11153.5 (amended).
AB 890 (Condit); 1987 STAT. Ch. 181

Existing law prohibits the furnishing of a controlled substance¹ with knowledge of, or conscious disregard for, the fact that the controlled substance will be used for other than a legitimate medical purpose.² In determining whether a controlled substance has been provided for other than a legitimate medical purpose, the factors to be taken into consideration include: (1) The amount of controlled substance furnished; (2) the previous ordering pattern of the customer; (3) the type and size of the customer; and (4) where and to whom the customer distributes the product.³ Pursuant to Chapter 181, use of a controlled substance to increase athletic ability or performance is also a factor to be considered when determining an illegitimate medical purpose.⁴

JMA

1. CAL. HEALTH & SAFETY CODE §§ 11054-11058 (Schedules I-V: controlled substances).

2. *Id.* § 11153.5(a). See also *Review of Selected 1986 California Legislation*, 18 PAC. L.J. 558 (1986) (furnishing controlled substances for other than legitimate medical purposes).

3. CAL. HEALTH & SAFETY CODE § 11153.5(a).

4. *Id.* See *Review of Selected 1986 California Legislation*, 18 PAC. L.J. 555 (1986) (includes anabolic steroids on the list of controlled substances).

Crimes; fire protection systems

Penal Code § 386 (new); § 803 (amended).
SB 1107 (Mello); 1987 STAT. Ch. 246

Under existing law, fire alarm equipment and systems must conform to the applicable performance and construction standards specified in the Standard Test Procedures for Protective Signaling Systems.¹ Chapter 246 imposes criminal liability on any person who willfully or maliciously (1) constructs or maintains a fire protection system² that is known to be inoperable, or (2) impairs the effective operation of a system so as to threaten the safety of the user or occupant of a structure.³ Under Chapter 246, the statute of limitations is not tolled until discovery of the defective fire protection system.⁴

SKP

1. CAL. ADMIN. CODE tit. 24, § 2-7201 (1987) (list of specified performance and construction standards includes regulations on smoke detectors, signalling devices, and thermostats). See *id.* § 3-760 (regulations on installation of fire equipment).

2. CAL. PENAL CODE § 386(c) (fire protection system includes, but is not limited to, an automatic fire sprinkler system, standpipe system, automatic fixed fire extinguishing system, and fire alarm system); see also *id.* § 386(d) (definition of various fire protection systems).

3. *Id.* § 386(a) (a violation of Chapter 246 is punishable by a two, three, or four year prison sentence). An individual who causes great bodily harm by violating Chapter 246 is subject to a five, six, or seven year prison sentence. *Id.* § 386(b). See also *id.* § 386(d)(5) (definition of structure).

4. *Id.* § 803(e) (statute runs upon discovery or when offense reasonably could have been discovered).

Crimes; obstruction of emergency medical technicians

Health and Safety Code §§ 1797.120, 1797.174 (repealed); §§ 1797.171, 1797.172 (amended);

Penal Code § 409.3 (new); §§ 148, 409.3 (amended).

AB 462 (N. Waters); 1987 STAT. Ch. 257

AB 1123 (Zeltner); 1987 STAT. Ch. 1058

Existing law provides that any person who willfully resists, delays, or obstructs any public officer or peace officer¹ in the discharge of

1. CAL. GOV'T CODE § 50920 (definition of peace officer).

any official duty is guilty of a misdemeanor.² Chapter 257 expands existing law by prohibiting persons from willfully resisting, delaying, or obstructing the duties of an emergency medical technician.³ Existing law authorizes designated peace officers⁴ to close disaster areas⁵ and to prohibit unauthorized persons from entering the disaster area.⁶ Chapter 257 provides that when law enforcement officers and emergency medical technicians are at the scene of an accident, management of the scene⁷ must be vested with the appropriate law enforcement agency.⁸ Further, Chapter 257 requires the representatives of the law enforcement agencies to consult with representatives of other response agencies at the scene to ensure all resources are properly utilized.⁹

RMM

2. CAL. PENAL CODE § 148 (punishable by imprisonment in the county jail not exceeding one year, by fine not exceeding \$1000, or both if no other punishment is prescribed).

3. *Id.* (definition of emergency medical technician).

4. *Id.* § 409.5(a) (California Highway Patrol, California State Police, police departments, marshal's office, sheriff's office, or designated peace officers of the Department of Forestry).

5. *Id.* A disaster area is created whenever there is a menace to public health or safety such as flood, storm, fire, earthquake, explosion, accident, or other disaster. *Id.*

6. *Id.* Any person who willfully and knowingly enters a closed disaster area or any person who willfully remains within such area after receiving notice to evacuate or leave is guilty of a misdemeanor. *Id.* § 409.5(c). *But see id.* § 409.5(d) (duly authorized representatives of any news service, newspaper, radio, or television station may enter closed disaster areas).

7. *Id.* § 409.3 (coordination of operations which occur at the location of the accident).

8. *Id.* *But see* CAL. HEALTH & SAFETY CODE § 1798.6 (determining authority for patient care management at the scene of an accident).

9. CAL. PENAL CODE § 409.3.

Crimes; Vessels—alteration of hull identification numbers

Vehicle Code § 9872.1 (new).

AB 1529 (Mojonnier); 1987 STAT. Ch. 302

Existing law requires all vessels¹ to display a hull identification number.² Existing law also prohibits the intentional alteration or destruction of a hull identification number.³ Chapter 302 prohibits

1. CAL. VEH. CODE § 9840(a) (definition of vessel).

2. *Id.* § 9871 (the hull identification number must be permanently marked on an integral part of the hull which is accessible for inspection).

3. *Id.* § 9872.

anyone from knowingly buying, selling, or possessing, any vessel⁴ when the hull identification number of the vessel has been removed, defaced, altered, or destroyed.⁵ Further, under Chapter 302, a peace officer may seize a vessel found to have a hull identification number that has been removed, defaced, altered, or destroyed, and the seized⁶ vessel is then subject to impoundment.⁷ Chapter 302 requires a hearing on the disposition of the vessel within sixty days of seizure.⁸ If evidence at the hearing reveals that the hull identification number has been removed, altered, or destroyed but there is satisfactory evidence of ownership, the property must be released to the owner.⁹ If there is no satisfactory evidence of ownership presented, the property must be destroyed, sold, or disposed of by court order.¹⁰

MCK

4. *Id.* § 9872.1(a) (or component part of the vessel).

5. *Id.* (unless the vessel or component part has attached thereto a hull identification number assigned or approved by the department in lieu of the manufacturer's number).

6. *Id.* § 9872.1(c), (d). The notice must include: (1) Notification to all persons whose interest or title is on registration records at the Department of Motor Vehicles; and (2) notification of impoundment to the person from whom the property was seized. *Id.*

7. *Id.* § 22651 (circumstances permitting removal and impoundment of a vehicle); *id.* § 9872.1(b) (unless the vessel is used as evidence in a criminal action).

8. *Id.* § 9872.1(e) (the hearing must be held by the municipal or justice court without a jury).

9. *Id.* § 9872.1(e)(1).

10. *Id.* § 9872.1(e)(2).

Crimes; occupancy relating to burglary

Penal Code § 459 (amended).

AB 393 (Connelly); 1987 STAT. Ch. 344

Existing law defines first-degree¹ burglary² as entering an inhabited³

1. CAL. PENAL CODE § 460(1) (every burglary of an inhabited dwelling house, trailer coach, or the inhabited portion of any other building is first-degree burglary). *See id.* § 461(1) (first-degree burglary is punishable by confinement in the state prison for two, four, or six years).

2. *Id.* § 459 (definition of burglary).

3. *People v. Moreland*, 81 Cal. App. 3d 11, 20 n.5, 146 Cal. Rptr. 118, 123 n.5 (1978) (the word "inhabited" contained in the definition of burglary is applicable to and descriptive of "building" and "trailer coach" as well as dwelling house).

dwelling⁴ with the intent⁵ to steal or to commit a felony.⁶ Existing law defines an inhabited dwelling as a house or other specified structure⁷ currently being used for dwelling purposes, whether occupied or not.⁸ Chapter 344 clarifies existing law by providing that a house or specified structure is currently being used for dwelling purposes even if, at the time of the burglary, the building or structure was not occupied solely because a natural or other disaster caused the occupants to leave the premises.⁹

BAA

4. Inhabited dwelling as used in the burglary statute means a structure where people usually live if a person with possessory rights uses the place as sleeping quarters intending to continue doing so in the future. *People v. Fleetwood*, 171 Cal. App. 3d 982, 987, 217 Cal. Rptr. 612, 614 (1985).

5. *People v. Moody*, 59 Cal. App. 3d 357, 362, 131 Cal. Rptr. 923, 926 (1976) (in order to prove that the defendant committed burglary, the intent to commit theft or another felony following entry into the dwelling was required). *See also* *People v. Parker*, 175 Cal. App. 3d 818, 822, 223 Cal. Rptr. 284, 287 (1985) (in a first-degree burglary prosecution, defendant's belief that the building is not an inhabited dwelling house did not constitute an affirmative defense and is not the kind of ignorance that disproves criminal intent).

6. CAL. PENAL CODE § 459; *see also id.* § 17 (definition of felony).

7. *Id.* § 459 (including room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse, tent, vessel, railroad car, cargo container, trailer coach, housecar, inhabited camper, vehicle, aircraft, or mine).

8. *People v. Valdez*, 203 Cal. App. 2d 559, 563, 21 Cal. Rptr. 764, 767 (1962) (defines inhabited dwelling).

9. CAL. PENAL CODE § 459 (Chapter 344 does not represent a change in the law, but codifies existing case law). *See* *People v. Cardona*, 142 Cal. App. 3d 481, 484, 191 Cal. Rptr. 109, 111 (1983) (the dispositive element is whether the person with the possessory right to the house views it as their dwelling); *People v. Marquez*, 143 Cal. App. 3d 797, 802, 192 Cal. Rptr. 193, 196 (1983) (a home unoccupied for two-and-a-half years could still be considered inhabited if the owner intended to return to the house).

Crimes; wiretapping—airport law enforcement

Penal Code § 633.1 (new).

AB 116 (Moore); 1987 STAT. Ch. 467

Existing law prohibits the wiretapping or recording of a confidential communication without the consent of all parties to the communication,¹ and renders this evidence inadmissible.² Chapter 467 specifies

1. CAL. PENAL CODE §§ 631(a) (pertaining to wiretapping), 632(a) (pertaining to recording). Existing law also prohibits intercepting or receiving a cellular radio telephone communication without the consent of all parties to the communication. *Id.* § 632.5.

2. *Id.* §§ 631(c) (pertaining to wiretapping), 632(d) (pertaining to recording).

exemptions from these prohibitions by authorizing an airport law enforcement officer³ to record an incoming telephone call under specified circumstances.⁴ Evidence obtained in accord with Chapter 467 is admissible.⁵ The provisions of Chapter 467 apply only to airports that have regularly scheduled international service and maintain permanent United States Customs Service facilities.⁶

LJN

3. *Id.* § 830.4(k) (description of airport law enforcement officer).

4. *Id.* § 633.1(a) (airport law enforcement officer acting within scope of authority may record an incoming telephone call if electronic tones place the caller on notice that the call is being recorded, and if the caller uses a telephone number publicly known to be a means for contacting airport law enforcement officers).

5. *Id.* § 633.1(b).

6. *Id.* § 633.1(c).

Crimes; gross vehicular manslaughter—vessels

Penal Code §§ 191.5, 192.5 (amended).

AB 1341 (Mojonnier); 1987 STAT. Ch. 518

Existing law defines gross vehicular manslaughter while intoxicated as the unlawful killing of a human being, without malice¹ aforethought, when driving a vehicle while intoxicated² and with gross negligence.³ Chapter 518 expands the definition of gross vehicular manslaughter to include the operation of a vessel,⁴ while intoxicated,⁵ in the commission of an unlawful act⁶ with gross negligence.⁷ The commission of a lawful act with gross negligence that is the proximate cause of death is also gross vehicular manslaughter under Chapter 518.⁸

JMA

1. *See* CAL. PENAL CODE § 7(4) (definition of malice).

2. *See* CAL. VEH. CODE §§ 23152 (influence of alcohol or drugs), 23153 (influence of alcohol or drugs causing bodily injury to person other than driver).

3. CAL. PENAL CODE § 191.5(a).

4. *See id.* § 7(7) (definition of vessel); *see also* CAL. HARB. & NAV. CODE § 651(c) (definition of vessel).

5. *See* CAL. HARB. & NAV. CODE § 655(b)-(e) (operation of vessel while intoxicated).

6. *See* CAL. PENAL CODE § 191.5(b) (the unlawful act must not amount to a felony).

7. *Id.* *See also* *Review of Selected 1986 California Legislation*, 18 PAC. L.J. 735, 741 (1986) (vessels—operation and intoxication).

8. CAL. PENAL CODE § 191.5(b).

Crimes; flying an aircraft while under the influence

Public Utilities Code §§ 21407.2 (new); 21407.6, 21408 (amended); 21407.5 (amended and renumbered to 21407.1).
AB 933 (Eaves); 1987 STAT. Ch. 526

Existing law prohibits any person from operating¹ an aircraft,² on the ground or in the air, while under the influence of an intoxicating liquor³ or a controlled substance.⁴ Any person convicted may be imprisoned, fined, or prohibited from operating an aircraft for one year.⁵ Chapter 526 expands existing law by prohibiting the operation of an aircraft in the air, on the ground or on the water while under the influence of any alcoholic beverage or drug.⁶ Further, Chapter 526 prohibits a person from operating an aircraft with a blood alcohol level of 0.04% or more.⁷

Under Chapter 526, any person who operates an aircraft is deemed to have consented to have a blood,⁸ breath, or urine test to determine the alcohol or drug content of the blood when lawfully arrested.⁹ Chapter 526 requires the arresting officer to inform the arrested person that the arrested person has no right to have an attorney present before submitting to the test,¹⁰ but that the person may

1. CAL. PUB. UTIL. CODE § 21015 (definition of operating aircraft).

2. *Id.* § 21012 (definition of aircraft).

3. BLACK'S LAW DICTIONARY 738 (5th ed. 1979) (definition of intoxicating liquor).

4. 1984 Stat. ch. 1635, sec. 90, at 5871 (amending CAL. PUB. UTIL. CODE § 21407.5).

See CAL. HEALTH & SAFETY CODE § 11007 (definition of controlled substance).

5. CAL. PUB. UTIL. CODE §§ 21407.6, 21408.

6. *Id.* § 21407.1(a).

7. *Id.* § 21407.1(b) (percentage measured by weight of alcohol in the blood).

8. *Id.* § 21407.2(a). *But see id.* § 21407.2(b), (c) (persons afflicted with hemophilia or a heart condition requiring use of anticoagulants are exempt from the blood test).

9. *Id.* § 21407.2 (a person who is unconscious or dead is not deemed to have withdrawn consent to have a test done). *See also* *Bush v. Bright*, 264 Cal. App. 2d 788, 791, 71 Cal. Rptr. 123, 125 (1968) (person unconscious deemed not to have withdrawn consent). *Compare* CAL. PUB. UTIL. CODE § 21407.2 (consent deemed from operating an aircraft) *with* CAL. VEH. CODE § 23157 (any person driving a motor vehicle is deemed to have consented to a test to determine the alcohol content of their blood). *See also* *Westmoreland v. Chapman*, 268 Cal. App. 2d 1, 4, 74 Cal. Rptr. 363, 365-66 (1969) (implied consent law did not violate the driver's right against self-incrimination, to be free of illegal search and seizures, or the right to counsel). *See generally* Karakian, *California's Implied Consent Act: An Examination and Evaluation*, 1 LOYOLA L. REV. 23 (1968).

10. CAL. PUB. UTIL. CODE § 21407.2(a)(4) (before deciding which test to submit to). *See* *Lacy v. Orr*, 276 Cal. App. 2d 198, 203, 81 Cal. Rptr. 276, 279-80 (1968) (motorist not permitted to call counsel for advice on chemical test was not denied due process). *See also* *Schmerber v. California*, 384 U.S. 757, 760-61, 765-72 (1966) (taking of blood sample did not deprive accused of due process of law, privilege against self-incrimination, right to counsel, and was not an unconstitutional search or seizure).

choose which test is to be performed.¹¹ Any person refusing to submit to a test may be prohibited from operating an aircraft for up to one year.¹² Finally, a person arrested for operating an aircraft while under the influence of liquor or drugs may request to have a blood, breath, or urine test taken.¹³

MVY

11. CAL. PUB. UTIL. CODE § 21407.2(a)(2) (unless the officer has a reasonable belief that a person was operating the aircraft under the influence of a drug or combination of drugs and alcoholic beverages, then the officer may require a blood or urine test). If the person arrested is incapable of completing a chosen test, they must consent to one of the remaining tests. *Id.* § 21407.2(a)(2)(C).

12. *Id.* § 21407.2(a)(1)(B).

13. *Id.* § 21407.2(d).

Crimes; hostage taking

Penal Code § 210.5 (new).

SB 713 (Lockyer); 1987 STAT. Ch. 580

Existing law provides that any person who unlawfully violates the personal liberty of another is guilty of false imprisonment.¹ Chapter 580 provides that any person who takes another hostage, intending to use the victim as a shield or as a protection from arrest, resulting in a situation which substantially increases the risk of harm to the victim, is guilty of a felony.²

RWS

1. CAL. PENAL CODE § 236 (definition of false imprisonment). *See* *People v. Haney*, 75 Cal. App. 3d 308, 313, 142 Cal. Rptr. 186, 189 (1977) (the primary element of false imprisonment is the unlawful restraint of another's liberty). To make a charge of false imprisonment, individuals must be restrained of their liberty without any sufficient complaint or authority. *Id.* False imprisonment may be accomplished by words or acts that cause an individual to be fearful of restraint, together with requisite intent to confine. *Id.*

2. CAL. PENAL CODE § 210.5. *See also id.* § 207 (definition of kidnapping). The penalty for kidnapping is imprisonment for three, five, or eight years. *Id.* § 208. Hostage taking is punishable by imprisonment for three, five, or eight years. *Id.* § 210.5. *See generally* *People v. Stanworth*, 11 Cal. 3d 588, 604, 522 P.2d 1058, 1067-68, 114 Cal. Rptr. 250, 259-60 (1974) (holding that the determining factor of kidnapping is the actual distance of the movement of the victim; the minimum movements necessary for the commission of the crime are present where the victim is forcibly taken into another part of the same county); *People v. Brown*, 11 Cal. 3d 784, 788-89, 523 P.2d 226, 229, 114 Cal. Rptr. 426, 428-29 (1974) (holding that the movement of victim within a house and for a distance outside the house estimated to be not greater than 75 feet was regarded as trivial and did not constitute a forcible taking into another part of the same county); *People v. Cole*, 165 Cal. App. 3d 41, 50, 211 Cal. Rptr. 242, 247 (1985) (a victim's movements must be more than slight or trivial to constitute the crime of simple kidnapping; movement must be substantial in character, and movement within a single room is not asportation into another part of the same county).

Crimes; exhibition of a replica firearm

Penal Code § 417.2 (new).
AB 295 (Tucker); 1987 STAT. Ch. 597

Under existing law, any person who exhibits a weapon in an angry or rude manner is guilty of a misdemeanor unless that person is acting in self-defense.¹ Under Chapter 597, any person who exhibits a replica of a firearm² in a threatening manner³ is guilty of a misdemeanor unless that person is acting in self-defense.⁴

SKP

1. CAL. PENAL CODE § 417(a)(2). *See* People v. McKenzie, 179 Cal. App. 3d 789, 793, 224 Cal. Rptr. 891, 894 (1986) (the victim's awareness of the gun is not an element of the crime).

2. *Id.* § 417.2(b) (replica of a firearm means any device, including starter pistols and air guns, that appears to be capable of expelling a projectile and which is reasonably perceived to be an actual firearm by the person upon whom the replica is drawn or exhibited).

3. The replica must be drawn in such a way as to cause a reasonable person apprehension or fear of bodily harm. *Id.* § 417.2(a).

4. *Id.*

Crimes; controlled substances—fine and sentence enhancements

Health and Safety Code § 11007 (new); §§ 11054, 11055, 11351.5, 11366.5, 11366.6, 11370.4, 11372 (amended); Penal Code §§ 1203.07, 1203.073 (amended).

AB 1972 (Condit); 1987 STAT. Ch. 971
AB 2574 (O'Connell); 1987 STAT. Ch. 656
SB 943 (Seymour); 1987 STAT. Ch. 1174

Existing law provides that any person convicted of possessing or transporting opiates, opiate derivatives, cocaine, or a cocaine base¹ must receive, in addition to the base term,² a term of three years if

1. *See* CAL. HEALTH & SAFETY CODE §§ 11054 (Schedule I), 11055 (Schedule II) (lists of chemical compounds which are classified as opiates, opiate derivatives, cocaine, or cocaine base). Chapter 1174 redefines Schedule I to include only cocaine base and Schedule II to include all other types of cocaine. *Id.*

2. These terms are in addition to a base term of two, three, or four years for sale of designated controlled substances and three, four, or five years for possession of cocaine for sale or transportation of designated controlled substances. *See id.* §§ 11351-11352.

the substance exceeds three pounds, five years if the substance exceeds ten pounds, or ten years if the substance exceeds twenty-five pounds.³ With the enactment of Chapter 1174, if the controlled substance⁴ exceeds one hundred pounds, the convicted person must receive an additional term of fifteen years.⁵ Furthermore, Chapter 656 permits a trial court to impose a fine up to one million dollars if the controlled substance exceeds three pounds, four million dollars if the controlled substance exceeds ten pounds, and eight million dollars if the controlled substance exceeds twenty-five pounds.⁶

PSS

3. *Id.* § 11370.4(a)(1)-(3).

4. Controlled substance is a drug, substance, or immediate precursor listed in any schedule of California Health and Safety Code sections 11054-11058. *Id.* § 11007.

5. *Id.* § 11370.4(a)(4).

6. *Id.* § 11372(b)-(d). Prior to imposing such a fine, the court must determine that there is a reasonable expectation that a substantial portion of the fine can be collected within a reasonable period of time by taking into consideration: (1) The defendant's income, (2) the defendant's earning capacity, and (3) the defendant's financial resources. *Id.* § 11372(e). Compare *id.* § 11372 (fines up to eight million dollars for crimes involving large quantities of specified controlled substances) with *id.* § 11470 (forfeiture of property used in connection with proceeds from the sale of specified drugs).

Crimes; missing person reports

Penal Code §§ 11114.3, 13519.1 (new); § 11114 (amended).
AB 1073 (Stirling); 1987 STAT. Ch. 705

Existing law requires all local police and sheriff departments to accept a report¹ of missing persons, including runaways, without delay.² While California Highway Patrol (CHP) officers are not required to take missing persons reports, Chapter 705 authorizes the CHP to do so, and further requires the CHP, when taking a missing person report, to immediately advise the person making the report of: (1) The name and telephone number of the police or sheriff's department having jurisdiction over the residence of the missing person, and (2) the name and phone number of the police or sheriff's department having jurisdiction of the place where the person was

1. CAL. PENAL CODE § 11114(a) (includes telephonic reports).

2. *Id.*

last seen.³ Furthermore, Chapter 705 requires any law enforcement agency receiving a missing person report to give that report priority over any report involving a property loss.⁴

Existing law sets forth procedures that local police and sheriff offices must follow when reporting missing person reports to federal agencies.⁵ Chapter 705 further requires the CHP to follow the procedures and to develop and implement written policies.⁶ In accordance with Chapter 705, the Commission on Peace Officer Standards and Training must implement courses of instruction for the training of law enforcement⁷ officers and dispatchers in the handling of missing person and runaway cases.⁸

RWS

3. *Id.*

4. *Id.*

5. *Id.* The report is transmitted in a format established by the State Department of Justice to the National Crime Information Center Missing Person System (NCICMPS) or directly to federal agencies. *Id.* If the missing person is under 12 years of age the report must be transmitted to NCICMPS within 4 hours of accepting the report. *Id.* The police or sheriff's department having jurisdiction of the place in which the person reported was last seen may initiate the investigation, irrespective of the area of jurisdiction of the department taking the report. *Id.*

6. *Id.* (reporting and investigative procedures). The California Highway Patrol (CHP) must develop, adopt, and implement a written policy for coordinating each CHP division with the police and sheriff's departments in taking, transmitting, and investigating missing person reports by June 30, 1988. *Id.* § 11114.3(b).

7. *Id.* § 13519.1(a) (law enforcement includes any officers or employees of a local police or sheriff's office or the CHP).

8. *Id.* The course of instruction and guidelines must include timeliness, priority of response, and assisting persons who make missing person reports in contacting appropriate law enforcement in the proper jurisdictions. *Id.* The courses must be implemented by July 1, 1988. *Id.* Beginning January 1, 1989 courses in basic training for law enforcement officers and dispatchers must include handling of missing person reports. *Id.* § 13519.1(b). All other law enforcement officers and dispatchers who have received basic training before January 1, 1989 must participate in supplementary training. *Id.* § 13519.1(c).

Crimes; controlled substance—minors and enhancement of punishment

Penal Code § 667.75 (new).

AB 194 (Peace); 1987 STAT. Ch. 729

Existing law prohibits any person¹ from soliciting a minor² to commit a controlled substance offense.³ Existing law also prohibits the selling or giving away of a controlled substance to a minor on playground or school grounds.⁴ Further, existing law prohibits a person from employing a minor to transport or sell marijuana, or inducing a minor to violate specific controlled substance offenses.⁵ Under Chapter 729 the court is allowed to impose a life sentence⁶ on any person convicted of any controlled substance offense⁷ who has served two or more prior prison terms for violation of specific Health and Safety Code Sections.⁸

MVY

1. CAL. HEALTH & SAFETY CODE §§ 11353, 11353.5, 11361, 11380, 11380.5 (controlled substance offenses requiring the person to be 18 years of age or over).

2. CAL. CIV. CODE § 25 (definition of minor).

3. CAL. HEALTH & SAFETY CODE § 11353. *See id.* §§ 11054-11058 (Schedules I-V of controlled substances).

4. *Id.* § 11353.5.

5. *Id.* §§ 11361, 11380, 11380.5 (person can be punished by three, five, or seven years imprisonment).

6. CAL. PENAL CODE § 667.75 (without possibility of parole for 17 years). The term of imprisonment may be determined by the court pursuant to California Penal Code section 1170 for the underlying conviction, including any enhancements. *Id.*

7. CAL. HEALTH & SAFETY CODE §§ 11353 (inducing minor to violate provisions or employment of minors), 11353.5 (sale or gift to minor upon school grounds), 11361 (employing or selling to minor), 11380 (using minor as agent, furnishing to minor, inducing minor to violate), 11380.5 (inducing minor to violate provisions, furnishing to minor).

8. CAL. PENAL CODE § 667.75. *See id.* § 667.5(d)-(k) (definition of prison term). Commitment to the Department of the Youth Authority for a felony conviction constitutes a prior prison term. *Id.* § 667.75. No prison term served prior to a period of 10 years in which the person remained free of custody and the commission of an offense may be used as a prior conviction. *Id.*

Crimes; firearms and firearm containers—camouflage and surrender

Penal Code §§ 12020, 12028, 12029 (amended); Public Resources Code § 5008.6 (new).

AB 1680 (Johnston); 1987 STAT. Ch. 761

SB 1301 (Campbell); 1987 STAT. Ch. 1461

Under existing law, any person who possesses, manufactures, imports, sells, or lends certain weapons and ammunition is guilty of a felony.¹ Chapter 1461 adds camouflaging firearm containers² to the list of prohibited weapons and ammunition.³ Under existing law, unlawful weapons that have been confiscated for use as evidence are subject to sale or destruction.⁴ Chapter 1461 adds cane or wallet guns, unrecognizable firearms, camouflaging firearm containers, and certain ammunition,⁵ bullets, and explosive devices to the list of weapons that must be destroyed.⁶ Under Chapter 761, any devices capable of injuring or killing a person or animal, or capable of capturing any animal, may be forfeited if the device is used within a state park.⁷

AGA & SKP

1. CAL. PENAL CODE § 12020(a) (list of prohibited weapons and ammunition).

2. A camouflaging firearm container means a container which is: (1) Designed and intended to enclose a firearm; (2) designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container; and (3) not readily recognizable as containing a firearm. *Id.* § 12020(d)(8). The definition of a camouflaging firearm container does not include any containers used to carry weapons in the course of hunting expeditions or any knives carried in sheaths that are not concealed. *Id.*

3. *Id.* § 12020(a).

4. *Id.* § 12028(b)-(d). Weapons that are deemed unlawful may either be sold or destroyed, depending on whether the weapon is of a type commonly sold to the public. *Id.* § 12028(d). The weapons may not be destroyed if they are needed as evidence. *Id.* § 12028(c), (d). The weapon is forfeited if used to commit a violation of the California Penal Code or the California Fish and Game Code. *Id.* § 12028; CAL. FISH & GAME CODE § 12157.

5. CAL. PENAL CODE § 12020(a) (any ammunition that consists of any flechette dart, any bullet containing or carrying an explosive agent, and any explosive substance other than fixed ammunition).

6. *Id.* § 12029 (weapons must be destroyed when no longer needed as evidence).

7. CAL. PUB. RES. CODE § 5008.6.

Crimes; aggravated mayhem

Penal Code § 205 (new).

SB 589 (Maddy); 1987 STAT. Ch. 785

Under existing law, mayhem is defined as unlawfully and maliciously¹ depriving a human² of a body member,³ disabling, disfiguring,⁴ or causing a body member to be useless, and cutting or disabling the tongue, putting out an eye, or slitting a nose, ear, or lip.⁵ Chapter 785 creates the crime of aggravated mayhem.⁶ According to Chapter 785, aggravated mayhem is the intentional causing of permanent disability or disfigurement and deprivation of a limb, organ, or member of the body under circumstances manifesting extreme indifference⁷ to the physical or psychological well-being of the victim.⁸ Further, intent to kill is not an element of aggravated mayhem.⁹ Under Chapter 785, aggravated mayhem is punishable as a felony¹⁰ by life in prison with the possibility of parole.¹¹

BAA

1. CAL. PENAL CODE § 7(4) (maliciously means a wish to vex, annoy, or injure another person, or an intent to do a wrongful act). *See* *People v. Bryan*, 190 Cal. App. 2d 781, 787, 12 Cal. Rptr. 361, 364 (1961) (the act must be done with an unlawful and malicious state of mind to be mayhem).

2. *People v. Jentry*, 69 Cal. App. 3d 615, 628, 138 Cal. Rptr. 250, 257 (1977) (the crime of mayhem must be committed on a living human being).

3. Although the mayhem statute sets forth ears, eyes, tongue, nose, and lips as being included within the scope of mayhem, the head is also considered a member of the body. Thus, the mutilation of any part of the head may constitute mayhem. *People v. Neeble*, 120 Cal. App. 3d 444, 450, 174 Cal. Rptr. 637, 639 (1981).

4. *Goodman v. Superior Court*, 84 Cal. App. 3d 621, 625, 148 Cal. Rptr. 799, 801 (1978) (intentional disfigurement of a person's face permitted prosecution for the crime of mayhem even though there was no functional impairment, but rather a scar considered a permanent disfigurement). *See also* *People v. Page*, 104 Cal. App. 3d 569, 577, 163 Cal. Rptr. 839, 843 (1980) (permanent scarring is disfigurement within the meaning of the mayhem statute).

5. CAL. PENAL CODE § 203. *See infra* note 3 and accompanying text.

6. CAL. PENAL CODE § 205.

7. *See* *People v. Singleton*, 112 Cal. App. 3d 418, 422, 169 Cal. Rptr. 333, 335 (1980) (after kidnapping and raping a young victim the defendant chopped off both of the victim's arms below the elbows with an axe).

8. CAL. PENAL CODE § 205.

9. *Id.*

10. *Id.* § 17 (a felony is a crime punishable by death or confinement in the state prison).

11. *Id.* § 205.

Crimes; drugs and minors—nonmedical use

Penal Code § 310.2 (new).

SB 286 (Robbins); 1987 STAT. Ch. 999

Existing law imposes criminal sanctions upon any person who, having care or custody of any child, willfully causes or permits injury to the person or health of the child.¹ Chapter 999 provides that any adult supervisor² of an athletic team consisting of minors³ is guilty of a misdemeanor if that supervisor sells or furnishes a diuretic, diet pill, or laxative to a minor for any nonmedical purpose⁴ related to team or league participation.⁵ Chapter 999, however, does not apply to a physician, parent, or guardian⁶ of a minor, or to any person acting at the written direction of the parent or guardian.⁷

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1. CAL. PENAL CODE § 273a (or willfully causes or permits such child to be placed in such situation that the person or health of the child is endangered). A violation is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, four, or six years. *Id.*

2. *Id.* § 310.2(a) including any coach or trainer acting in official or nonofficial capacity).

3. CAL. CIV. CODE § 25 (definition of minor).

4. CAL. PENAL CODE § 310.2(a) (such as loss of weight, or altering the body in any way).

5. *Id.* See *id.* § 17 (definition of a misdemeanor).

6. CAL. PROB. CODE § 2350 (definition of guardian).

7. CAL. PENAL CODE § 310.2(b).

Crimes; solicitation of minors

Penal Code §§ 653, 1203.046 (new).

SB 1053 (Seymour); 1987 STAT. Ch. 1087

Under existing law, any person who solicits another person to commit a specified offense¹ is subject to criminal sanctions.² Chapter

1. CAL. PENAL CODE § 653f(a)-(c) (specified offenses include burglary, grand theft, receiving stolen property, extortion, perjury, subornation of perjury, forgery, kidnapping, arson, assault with a deadly weapon or instrument, preventing or dissuading a witness from testifying by threat or force, murder, and rape-related offenses).

2. *Id.* § 653f. A violation punishable by imprisonment in the county jail of not more than one year or in the state prison, by a fine of not more than \$10,000, or by the amount

1087 expands existing law by imposing criminal sanctions on any person who solicits, induces, or intimidates a minor³ to commit a specified felony.⁴ Pursuant to Chapter 1087, probation is denied to any person convicted of soliciting, inducing, or intimidating a minor to commit a specified felony, unless the interests of justice would be best served by granting probation.⁵

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which could have been assessed for the commission of the offense, whichever is greater, or by both fine and imprisonment. *Id.* § 653f(a). *But see id.* §§ 653f(b) (solicitation for murder punishable by imprisonment in the state prison for two, four, or six years), 653f(c) (solicitation for rape-related offenses punishable by two, three, or four years).

3. CAL. CIV. CODE § 25 (definition of a minor).

4. CAL. PENAL CODE § 6531(a). Specified felonies include preventing a witness from testifying by force, murder, robbery, assault with a deadly weapon, discharge of a firearm at an inhabited dwelling or inhabited building or vehicle, arson, burglary, extortion of property, and taking of vehicle without consent of the owner. *Id.* *See id.* §§ 136.1(c)(1) (definition of preventing a witness from testifying by force), 187 (definition of murder), 211 (definition of robbery), 245 (definition of assault with a deadly weapon), 246 (definition of discharge of a firearm at an inhabited dwelling or inhabited building or vehicle), 451 (definition of arson), 459 (definition of burglary), 518 (definition of extortion of property). *See also* CAL. VEH. CODE § 1085 (definition of taking of a vehicle without the consent of the owner). *See also* CAL. PENAL CODE §§ 6531(a) (violation punishable by imprisonment for a period of three, five, or seven years), 6531(c) (whenever a sentence is imposed, the court must consider the severity of the underlying crime as an aggravating circumstance). *But see id.* § 6531(b) (the court must not impose a sentence which would exceed the maximum penalty prescribed for the felony offense for which the minor was solicited, induced, or intimidated to commit). *Id.* § 6531 (if the minor is 16 years of age or older at the time of the offense, this provision shall only apply if the adult is at least 5 years older than the minor at the time the offense is committed).

5. CAL. PENAL CODE § 1203.046(a). If probation is granted, the court must specify on the record and enter in the minutes the circumstances indicating that the interests of justice would best be served by that disposition. *Id.* § 1203.046(b).

Crimes; distribution of obscene matter—telephone information-access service providers

Penal Code § 311.8 (amended); Public Utilities Code § 2884 (amended).

AB 976 (Peace); 1987 STAT. Ch. 1101

Existing law provides a defense for any person¹ who knowingly²

1. CAL. PENAL CODE § 311(c) (definition of person).

2. *Id.* § 311(e) (definition of knowingly).

distributes³ obscene matter⁴ when the act is committed in the aid of a legitimate scientific or educational purpose.⁵ Chapter 1101 creates a defense for a telephone information-access service provider charged with providing obscene matter to a person under eighteen years of age, when the provider requires the use of an access code⁶ or a credit card payment prior to transmission.⁷ Chapter 1101 also provides that any customer list compiled or maintained by a telephone information-access service distributing obscene matter is confidential.⁸

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3. *Id.* § 311(d) (definition of distribute).

4. *Id.* § 311(a) (definition of obscene matter).

5. *Id.* § 311.8.

6. *Id.* (where the defendant has previously issued the code by mailing the code to the applicant after taking reasonable measures to ascertain that the applicant was 18 years of age or older).

7. *Id.*

8. *Id.* The customer list must not be sold or otherwise disseminated except upon a court order. *Id.*

Crimes; Tom Bane Civil Rights Act

Civil Code § 52.1 (new); § 51.7 (amended); Penal Code §§ 422.6, 422.7, 422.8, 422.9 (new); § 1170.75 (amended).
AB 63 (Bane); 1987 STAT. Ch. 1277

The Ralph Civil Rights Act of 1976¹ provides that all persons have the right to be free from any violence, intimidation, or threat of violence against their person or property based on race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation,² age, disability, or position in a labor dispute.³ Under existing law, this provision gives rise to a cause of action in favor of a person against whom violence, or intimidation based on discrimination,⁴ has been committed or threatened, and allows the

1. See CAL. CIV. CODE § 51.7. See generally 1985 REVIEW OF SELECTED CALIFORNIA LEGISLATION, 16 PAC. L.J. 735 (1985) (discusses provisions of Ralph Civil Rights Act).

2. See CAL. CIV. CODE § 51.7(b) (sexual orientation includes heterosexuality, homosexuality, or bisexuality).

3. *Id.* § 51.7(a). Particular bases of discrimination listed in this provision are illustrative rather than restrictive. *Id.*

4. See *id.* (includes any discrimination based on race, color, religion, ancestry, sex,

person to recover actual damages for each offense.⁵ Chapter 1277, however, exempts statements concerning positions in a labor dispute made during an otherwise lawful labor picketing from this provision.⁶

Existing law authorizes the Attorney General, a district attorney, a city attorney, or a victim⁷ to bring a civil action for injunctive relief for specified acts of discrimination.⁸ Chapter 1277 expands the bases for which an action for injunctive relief may be brought.⁹ Chapter 1277 authorizes a civil action for injunctive relief against an individual who interfered or attempted to interfere by threats, intimidation, or coercion with a person's exercise of constitutional¹⁰ or statutory¹¹ rights.¹² Temporary restraining orders and preliminary and permanent injunctions issued to the defendant must contain specific information.¹³ Further, Chapter 1277 provides that willful and knowing violations of injunctive orders are misdemeanors.¹⁴ Chapter 1277 requires that any person who is convicted of acts of intimidation or violence, threats of violence, or interference with a person in the free exercise or enjoyment of a constitutional or statutory right based on discrimination¹⁵ be punished.¹⁶ In addition, Chapter 1277 provides

national origin, political affiliation, sexual orientation, age, disability, or position in a labor dispute).

5. *Id.* § 52(b). In addition to actual damages, the victim may recover a maximum of three times the amount of actual damages from the jury, a civil penalty of \$10,000, and attorney's fees. *Id.*

6. CAL. CIV. CODE § 51.7(a).

7. *Id.* § 52(c) (applies to any person aggrieved by a practice intended to deny the full exercise of the person's rights).

8. *Id.* Specified acts consist of any pattern or practice of resistance intended to deny the full exercise or enjoyment of rights by a person. *Id.*

9. *Id.* § 52.1(b) (protects rights secured by the United States Constitution, federal law, the state constitution, and state law).

10. *See id.* § 52.1(a) (includes rights secured by both the United States and the California Constitution).

11. *See id.* (includes federal and state laws).

12. *Id.* § 52.1(a), (b). A conviction, however, may not be based on speech alone unless there is a showing that the speech threatened violence against a specific person or group of persons and the defendant had the apparent ability to carry out the threat. *Id.* § 52.1(j).

13. *Id.* § 52.1(d). The order issued must include the following statement: "VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.9 OF THE PENAL CODE." *Id.*

14. *Id.* § 52.1(i) (punishable by a maximum fine of not more than \$1000, by imprisonment in the county jail for not more than six months, or by both). *See* CAL. PENAL CODE § 17(b) (definition of misdemeanor).

15. *See id.* § 422.6(a), (b) (discrimination based on the person's race, color, religion, ancestry, national origin, or sexual orientation).

16. *Id.* § 422.6(c) (punishment may be by imprisonment in the county jail not to exceed six months, by a maximum fine of \$5000, or by both). Knowingly defacing, damaging, or destroying the real or personal property of any other person for the purpose of intimidating

that commission of a crime against a person or property for the purpose of intimidating, interfering with, or threatening a person in the exercise or enjoyment of constitutional or statutory rights based on discrimination¹⁷ is punishable as a separate crime.¹⁸ Existing law also provides, with specified exceptions,¹⁹ that an attempt²⁰ or commission of a felony²¹ because of the victim's race, color, religion, nationality, or country of origin is considered an aggravating circumstance in sentencing.²² Chapter 1277 expands the aggravating circumstances to include attempts or commissions of felonies based on ancestry or sexual orientation.²³

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or interfering with the person's free exercise or enjoyment of constitutional or statutory rights based on discrimination is subject to the same penalty. *Id.* § 422.6(b).

17. *See id.* § 422.7 (includes discrimination based on the other person's race, color, religion, ancestry, national origin, or sexual orientation).

18. *Id.* A person convicted of this crime is subject to confinement in the prison or county jail for a period not exceeding one year, by a maximum fine of \$10,000, or by both. *Id.*

19. *See id.* § 1170.75 (exceptions include a case in which the person has been convicted of arson, robbery, or assault in a place of worship); *id.* § 1170.8.

20. *See id.* § 664 (provisions governing attempts).

21. *See id.* § 17(a) (definition of felony).

22. *Id.* § 1170.75.

23. *Id.*

Crimes; spiking of trees

Penal Code § 593a (amended); Public Resources Code § 4417 (amended).

AB 952 (Hansen); 1987 STAT. Ch. 1414

Under existing law, any person who maliciously places a metal spike¹ in wood,² knowing that the wood is intended to be used for the manufacture of lumber, is guilty of a felony.³ Chapter 1414 broadens the scope of criminal liability to include the spiking of any tree that is intended to be harvested or manufactured into any other wood product.⁴ Additionally, Chapter 1414 provides that an individ-

1. CAL. PENAL CODE § 593a(a) (metal spike includes iron, steel, or any other substance sufficiently hard to injure saws).

2. *Id.* (includes any saw-log, shingle-bolt, or other wood).

3. *Id.*

4. *Id.*

ual possessing any substance⁵ that can injure wood manufacturing equipment is subject to criminal liability if that person has the intent to drive the substance into lumber.⁶ Chapter 1414 also provides for additional criminal penalties if a tree spike causes bodily harm to another person.⁷ Existing law provides that a reward shall be provided to any individual, other than a regularly paid firefighter, peace officer, or agent or employer of the Department of Forestry, who provides information leading to the conviction of any person who maliciously sets or attempts to set a fire in any area under state responsibility.⁸ Under Chapter 1414, the reward is enhanced to \$10,000 if the individual setting the fire has caused death or great bodily injury or if the fire has caused serious structural damage.⁹

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5. *Id.* § 593a(b) (iron, steel, or any other sufficiently hard substance).

6. *Id.* A violation of Chapter 1414 is punishable by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison. *Id.*

7. *Id.* § 593a(c) (if the person injured is not an accomplice, the individual found guilty under Chapter 1414 is subject to an additional three year prison term).

8. CAL. PUB. RES. CODE § 4417(a).

9. *Id.* § 4417(b), (c).

Crimes; defenseless victims—punishment

Penal Code §§ 1203.1j, 13823.2 (new); §§ 667.9, 13844, 13845 (amended).

SB 1371 (Seymour); 1987 STAT. Ch. 485

With the enactment of Chapter 485, the legislature finds that the frequency of violent and serious crimes committed against the elderly is on the rise.¹ Though the elderly may not be the most frequent targets of crime, they often suffer long-lasting effects when victimized.² In addition, the victim may be left physically impaired, and the victim's stolen or damaged property often cannot be replaced.³

1. CAL. PENAL CODE § 13823.2(1).

2. *Id.* § 13823.2(4).

3. *Id.* Physical injuries, such as broken bones, may never heal properly, leaving the victim permanently impaired. *Id.* Moreover, because the elderly are often on a fixed income, the loss of money used for food and other living expenses may indeed be life-threatening. *Id.*

Under existing law, a person who has been previously convicted of a specified offense,⁴ and who then commits one of those specified offenses against a person sixty-five years of age or older,⁵ may receive a two-year enhancement for each violation in addition to the sentence normally prescribed by law.⁶ Chapter 485 expands the list of specified offenses to include first-degree burglary.⁷

Under existing law, a court has authority to order restitution to a victim of a crime.⁸ Chapter 485 further allows a court, as a condition of probation,⁹ specifically to require a defendant convicted of assault¹⁰ or battery,¹¹ who knew or should have known that the victim's age was sixty-five or older, to make restitution for the cost of the victim's medical or psychological treatment caused by the crime.¹² Moreover, Chapter 485 allows a court to order the defendant to seek and maintain employment and to apply a portion of those earnings toward those expenses.¹³

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4. *See id.* § 667.9(b)(1)-(7). Specified offenses include mayhem, kidnapping, kidnapping for robbery, extortion, or ransom, rape, sodomy or oral copulation by force. *See id.* §§ 203 (definition of mayhem), 207 (definition of kidnapping), 209 (definition of kidnapping for ransom, extortion, or robbery), 211 (definition of robbery), 261(2) (definition of rape), 286(a) (definition of sodomy), 288(a) (definition of oral copulation by force).

5. *Id.* § 667.9(a). In addition to those 65 years of age or older, persons who are blind, paraplegic, quadriplegic, or under 14 years of age are also considered defenseless. *Id.*

6. *Id.*

7. *Id.* § 667.9(b)(7). *Id.* § 460 (definition of first-degree burglary).

8. CAL. GOV'T CODE § 13967(a).

9. *Id.* (definition of probation).

10. *Id.* § 240 (definition of assault).

11. *Id.* § 242 (definition of battery).

12. *Id.* § 1203.1j.

13. *Id.*

Crimes; Comprehensive Computer Data Access and Fraud Act

Penal Code § 502 (repealed); § 502 (new); Welfare & Institutions Code § 653.1 (new); § 653.5 (amended).
SB 255 (Davis); 1987 STAT. Ch. 1499

Under prior law, a person who maliciously accessed,¹ altered, deleted, damaged, destroyed, or disrupted a computer system² or network,³ or who intentionally accessed a computer system for the purpose of defrauding, extorting, or obtaining money, property, or services was guilty of a public offense.⁴ With the enactment of Chapter 1499, the legislature intends to expand the protections afforded individuals, businesses, and government agencies from tampering, interference, damage, and unauthorized access to computer systems and data.⁵ Under Chapter 1499, anyone who knowingly accesses a computer system without permission and damages, deletes, destroys, or uses the computer system or data⁶ to defraud, extort, or wrongfully obtain money, property, or data is guilty of a public offense.⁷ Chapter 1499 also prohibits the disruption of computer services to any authorized user of a computer.⁸ In addition, Chapter 1499 prohibits any person who knowingly, and without permission,

1. 1979 Cal. Stat. ch. 858, sec. 1, at 2968 (enacting CAL. PENAL CODE § 502(a)(1)) (to gain entry to or communicate with a computer system or network).

2. *Id.* (enacting CAL. PENAL CODE § 502(a)(2)) (device which contains computer programs, electronic instructions, data, which performs functions).

3. *Id.* (enacting CAL. PENAL CODE § 502(a)(3)) (two or more computer systems connected by telecommunication facilities).

4. *Id.* (enacting CAL. PENAL CODE § 502); see *Review of Selected 1979 California Legislation*, 11 PAC. L.J. 259, 417 (1979) (discussion of section 502). See 18 U.S.C.A. § 1030 (federal statute dealing with computer crimes). See generally Tompkins, Jr. & Mar, *The 1984 Federal Computer Crime Statute: A Partial Answer to a Pervasive Problem*, 6 COMPUTER L.J. 459 (1986) (review of federal legislation making certain computer crimes federal criminal offenses).

5. CAL. PENAL CODE § 502(a).

6. *Id.* § 502(b)(6) (definition of data).

7. *Id.* § 502(c)(1). See also *id.* §§ 502(c)(2) (unlawful to make copies or use data without permission), 502(c)(4) (unlawful to access and add, alter, damage, delete, or destroy any data). But see *Mahru v. Superior Court*, 191 Cal. App. 3d 545, 549, 237 Cal. Rptr. 298, 300 (1987) (not a public offense for an employee, with the employer's approval, in the course of business, to operate employer's computer in a way that inconveniences, annoys, or inflicts expense on another person). See generally Sokolik, *Computer Crime-Need for Deterrent Legislation*, 2 COMPUTER L.J. 353 (1980) (problems and opportunity for computer crimes).

8. CAL. PENAL CODE § 502(c)(5). This section becomes effective January 1, 1988 and is not retroactive. *Id.* § 502(g).

provides or assists in providing a means of accessing a computer system.⁹

Chapter 1499 permits the lawful seizure of any computer equipment used in commission of a public offense.¹⁰ Further, under Chapter 1499 a person convicted of a computer offense is subject to civil liability for compensatory damages¹¹ and reasonable attorney's fees.¹²

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9. *Id.* § 502(c)(6). A person who knowingly and without permission accesses or causes to be accessed any computer system is guilty of a public offense. *Id.* § 502(c)(7). None of the above offenses apply to an employee acting outside the scope of his employment who accesses the employer's computer system so long as the activities do not cause an injury and the value does not exceed one hundred dollars. *Id.* § 502(i)(2).

10. *Id.* § 502(h).

11. *Id.* § 502(e)(1) (damages include expenses necessary to verify that there was no alteration, damage, or deletion by the access).

12. *Id.* § 502(e)(2) (an unemancipated minor's conduct is imputed to the parent or legal guardian).

