

## 2016 SUMMARY OF NEW LAWS



DANIEL FELIZZATTO, DDA  
LEGISLATIVE ADVOCATE

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## 2016 LADA SPONSORED LEGISLATION



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AB 797 created the Right to Rescue Act which provides the framework for a Good Samaritan to follow in order to rescue an animal from a hot vehicle. If the Good Samaritan follows the guidelines established by AB 797 the individual would be immune from any civil or criminal liability.  
Chapter 554/Statutes of 2016



**District Attorney's Office  
co-sponsors 'Right to Rescue' bill**

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AB 1854 legislatively overturned the holding in *People v. U.S. Fire Ins. Co.* and allows prosecuting attorneys to recover attorney fees when they successfully oppose a bail forfeiture motion. Chapter 378/Statutes of 2016




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AB 1906 requires the Department of State Hospitals to submit a request for the filing of a SVP petition no fewer than 20 days prior to the release of a person determined to be an SVP. This provides prosecutors with time to meaningfully review and prepare a petition, and ensures no SVPs are released due to a last minute filing request. Chapter 878/Statutes of 2016

**VIOLENT CALIFORNIA SEX OFFENDER**  
ARRESTED IN LAS VEGAS




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AB 1924 provides the necessary statutory exemption in the California Electronic Communications Privacy Act (CalECPA) that ensures that court orders for the use of pen registers and trap/trace devices are valid for 60 days rather than 10 days as provided for in CalECPA. Chapter 511/Statutes of 2016

**Pens, Traps and Traces**



A Pen register refers to capturing call-identifying information with the content...who is calling who, but not what they are taking about. This is an device connected to a local junction box and retrieved later.

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SB 420 divides the crime of prostitution (Penal Code Section 647(b)) into three separate subsections:  
 (1) One subsection deals with the person who agreed to receive compensation for a lewd act;  
 (2) One subsection deals with the person who agreed to pay another person to engage in a lewd act;  
 (3) One subsection deals with a person who solicits a minor for a lewd act in exchange for compensation, or who agrees to engage in or engages in a lewd act in exchange for compensation paid to the minor.  
 Chapter 734/Statutes of 2016




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SB 1054 addresses legal ambiguities in the collection of victim restitution fines from inmates sentenced to county jail pursuant to Penal Code Section 1170(h) and inmates released on Post-Release Community Supervision (PRCS). SB 1054 ensures that counties that supervise criminal populations are able to collect restitution from criminal offenders to ensure that crime victims get their constitutionally-protected restitution. SB 1054 also ensures fairness in restitution collection from persons on PRCS, who had restitution fines double collected by both the state and the county. Chapter 718/Statutes of 2016




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SB 1137 clarifies California law to specifically provide that a defendant who infects computers, computer systems, or networks with ransomware can be prosecuted for extortion. Chapter 725/Statutes of 2016




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SB 1242 provides that the maximum period of punishment for a defendant convicted of a misdemeanor offense prior to 2015 is deemed to have been imprisonment in a county jail for a period not to exceed 364 days. SB 1242 also provides that an individual who was sentenced to 365 days in county jail prior to 2015 can file a petition and be resented to a sentence of 364 days in the county jail. Chapter 789/Statutes of 2016




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NEW LAWS OF INTEREST TO PROSECUTORS




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SB 1200 requires DOJ to include arrest information for violations of Penal Code Section 597 (Animal Cruelty) in their annual crime report. Chapter 237/Statutes of 2016




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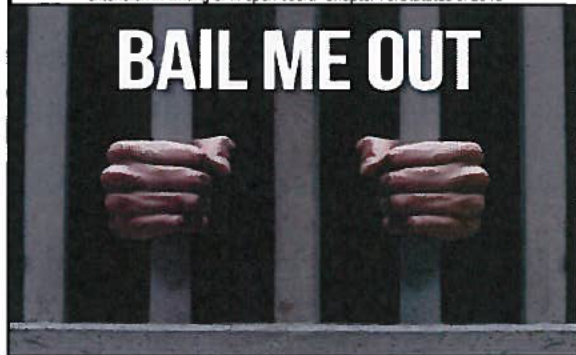
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AB 2655 authorizes a court to extend a defendant's bail for up to 90 days if the arraignment is continued to allow the prosecutor time to file the complaint. The extension may be granted if either the prosecutor or defendant requests the extension in writing or in open court. Chapter 79/Statutes of 2016

# BAIL ME OUT




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SB 139 expands the list of substances prohibited as synthetic cannabinoids by listing additional chemical categories as synthetic cannabinoids and raises penalties for possession of synthetic cannabinoids and synthetic stimulants. Chapter 624/Statutes of 2016




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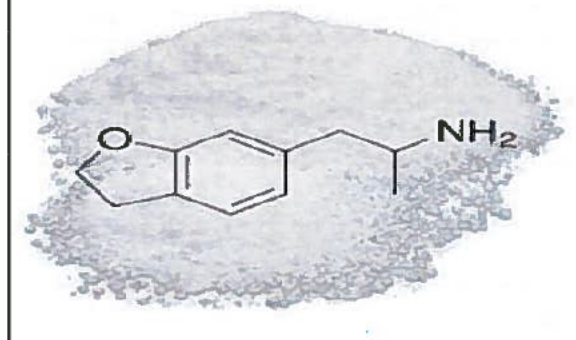
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SB 1036 makes it a crime to possess, sell, transport or manufacture an analog of a synthetic cannabinoid. Chapter 627/Statutes of 2016


CC(C)CNc1ccc2c(c1)OCO2


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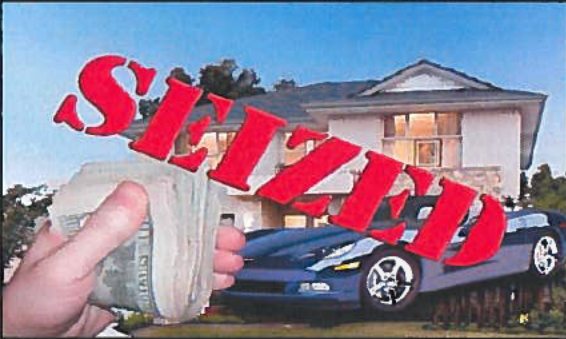
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SB 443 requires a conviction before a California law enforcement agency can share in the proceeds of drug asset forfeiture in joint Federal-State drug task force cases; except for seizures of cash in excess of \$40,000. Chapter 627/Statutes of 2016




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SB 6 prohibits an inmate convicted after January 1, 2016 of first degree murder of a peace officer or a former peace officer who was intentionally murdered in retaliation for the performance of their duties from applying for compassionate release or medical parole. Chapter 886/Statutes of 2016




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SB 1134 permits a writ of habeas corpus to be prosecuted on the basis of new evidence, which would have more likely than not changed the outcome of the trial. However, this new evidence must be evidence that was discovered after the trial and could not have been discovered prior to trial. Chapter 785/Statutes of 2016




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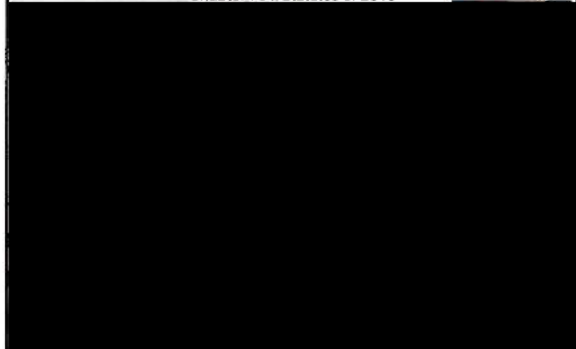
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SB 1389 requires the electronic recording of the custodial interrogation of any person suspected of murder. Chapter 791/Statutes of 2016




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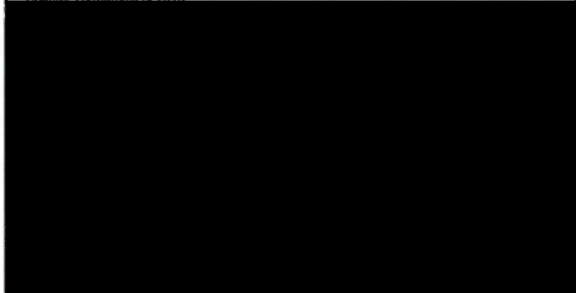
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AB 813 permits a person who has served their entire sentence to file a motion to vacate their conviction for either of the following reasons:  
 (1) The conviction or sentence is legally invalid due to a prejudicial error damaging defendant's ability to meaningfully understand the actual or potential adverse immigration consequences of a plea of guilty or nolo contendere; or,  
 (2) Newly discovered evidence of actual innocence exists which requires vacation of the conviction or sentence as a matter of law or in the interests of justice. Chapter 72/Statutes of 2016




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AB 1272 requires a court to make reasonable efforts to avoid scheduling a case involving a crime committed against a person with a developmental disability if the prosecutor has another trial set. Chapter 91/Statutes of 2016




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AB 1909 provides that a prosecuting attorney who intentionally and in bad faith alters, modifies, or withholds any physical matter, digital image, video recording, or relevant exculpatory material or information, knowing that it is relevant and material to the outcome of the case, with the specific intent that the physical matter, digital image, video recording, or relevant exculpatory material or information will be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry, is guilty of a jail felony. Chapter 876/Statutes of 2016




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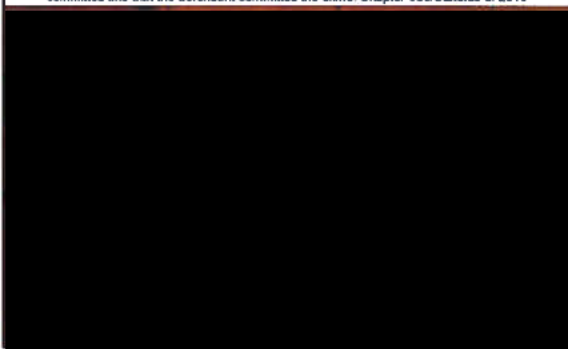
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AB 2013 established a three-year pilot project in three counties that would require a court, upon request by an out of custody misdemeanor, to make a finding at the arraignment as to whether probable cause exists to believe that a crime has been committed and that the defendant committed the crime. Chapter 689/Statutes of 2016




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SB 883 makes the punishment for a violation of a post-conviction domestic violence restraining order consistent with that for other post-conviction restraining orders against defendants convicted of abuse. Chapter 342 Statutes of 2016




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SB 614 creates a presumption that a defendant sentenced to more than 364 days in county jail does not have the future financial ability to reimburse the costs of his or her public defender or alternate public defender. Chapter 534/Statutes of 2016




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AB 2839 prohibits the term of imprisonment for nonpayment of a non-restitution fine from exceeding one day for each \$125 of the base fine not to the fine enhanced by penalties and assessments. Chapter 769/Statutes of 2016




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SB 1446 provides that, except as specified, commencing July 1, 2017, any person who possesses any large-capacity magazine (10 or more rounds), regardless of the date the magazine was acquired, is guilty of an infraction. Chapter 58/Statutes of 2016




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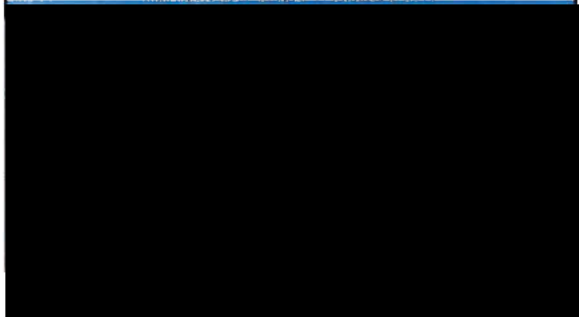
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AB 1511 limits California's infrequent firearm-loan law to a loan to a spouse, registered domestic partner, or any of the following relations: (1) Parent, (2) Child, (3) Sibling, (4) Grandparent, (5) Grandchild. Requires that if the firearm being loaned is a handgun, the handgun must be registered to the person making the loan. Chapter 41/Statutes of 2016




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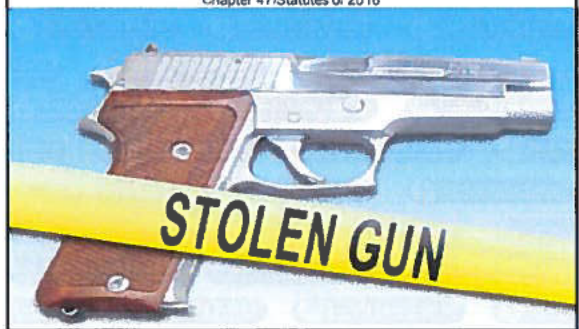
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AB 1695 specifies that existing laws relating to filing a false police report apply to a person who reports that a firearm has been lost or stolen, knowing the report to be false and adds a 10-year prohibition on possession of a firearm to a defendant convicted of falsely reporting that a firearm has been stolen. Chapter 47/Statutes of 2016




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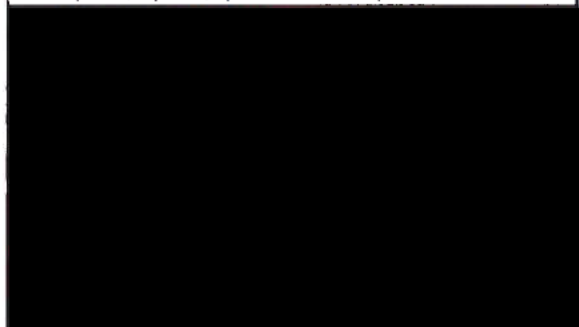
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AB 1962 requires the Department of State Hospitals to adopt guidelines for training and education standards for psychiatrists or psychologists appointed to evaluate a defendant who may be incompetent to stand trial (IST); and provides that the court shall only appoint IST experts who meet the guidelines, or experts with equivalent experience and skills. Chapter 405/Statutes of 2016




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SB 1295 allows documentary and other specified hearsay evidence to prove that an alleged mentally disordered offender's (MDO) crime of commitment to prison qualified as a violent crime under the MDO law.  
Chapter 430/Statutes of 2016




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SB 1221 directs the Commission on Peace Officers Standards and Training to make the existing continuing education classroom training course related to law enforcement interaction with persons with mental disabilities available to the State Fire Marshal, who may revise the course as appropriate for firefighters. Chapter 367/Statutes of 2016




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AB 2298 requires adult gang members to be notified prior to their inclusion in a gang database (CaGang); requires CaGang to comply with federal privacy and data accuracy rules; established a civil court procedure for adults seeking removal from CaGang; requires CaGang participate agencies to report annually to DOJ the numbers of persons added to CaGang, the numbers of persons who sought removal, the numbers of persons who were granted removal and the numbers of persons automatically removed from CaGang; and it requires the DOJ to publish all of this information on its Web site annually. Chapter 752/Statutes of 2016




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SB 823 allows a person who was the victim of human trafficking to petition for dismissal of a conviction or juvenile adjudication for any non-violent offense committed as a direct result of being a human trafficking victim and to have the arrest and court records sealed. Chapter 650/Statutes of 2016

**Children don't wake up one morning and decide they'll be prostitutes...**




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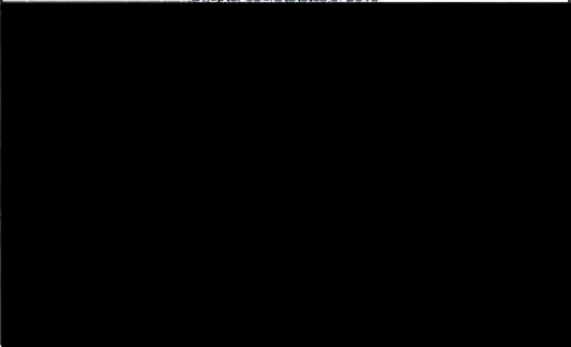
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AB 1761 states that, in addition to any other affirmative defense, it is a defense to a crime that a defendant was coerced to commit the offense as a direct result of being a human trafficking victim at the time of the offense. Chapter 636/Statutes of 2016




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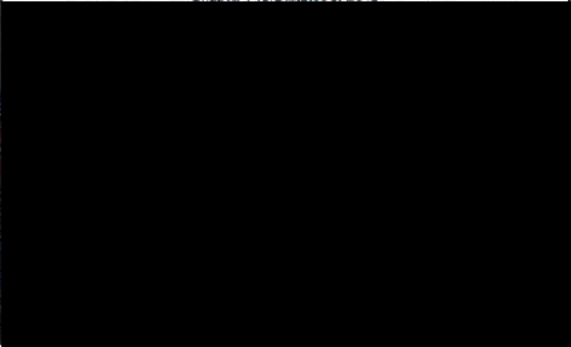
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AB 2027 requires, upon the request of an immigrant victim of human trafficking, a certifying agency to confirm victim cooperation on the applicable form so the victim may apply for a T-Visa to temporarily live and work in the United States. Chapter 749/Statutes of 2016




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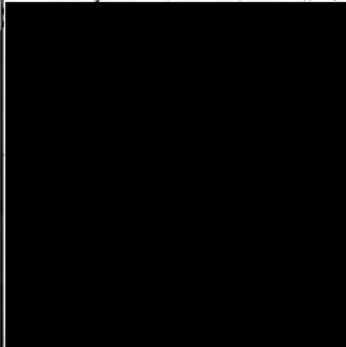
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AB 2221 provides that in a human trafficking prosecution, a minor who is a victim of human trafficking shall be provided with assistance from the local county Victim Witness Assistance Center. Chapter 641/Statutes of 2016



**STOP  
CHILD  
AFFICKING  
TODAY!**

Trafficking children into the sex industry  
is done because there is a demand.  
UNICEF values the global market of child  
trafficking at over \$12 billion a year with  
over 2 million child victims

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AB 1276 authorizes a minor, 15 years of age or younger, to testify at trial out of the presence of the defendant and jury by way of closed-circuit television in human trafficking cases. Chapter 653/Statutes of 2016




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SB 882 states that a minor shall not be charged with an infraction or a misdemeanor for evading a transit fee. Chapter 176/Statutes of 2016




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SB 1343 authorizes a school district to transfer a pupil convicted of a violent felony or a specified misdemeanor to another school in the school district if the pupil and the victim of the crime are enrolled at the same school.  
Chapter 154/Statutes of 2016

# SCHOOL VIOLENCE

By Kayleen Weaver



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AB 2141 requires a sentencing court to impose a mandatory minimum fine of at least \$1,000 for a second or subsequent conviction of audio or video piracy.  
Chapter 657/Statutes of 2016



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AB 1769 expands existing law which makes a "nuisance telephone call" to the 911 system a misdemeanor applicable to other forms of electronic communication. Chapter 95/Statutes of 2016



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SB 266 would, until January 1, 2021, allow a court to authorize the use of flash incarceration to detain an offender in county jail for not more than 10 days for a violation of his or her conditions of probation or mandatory supervision. Chapter 706/Statutes of 2016




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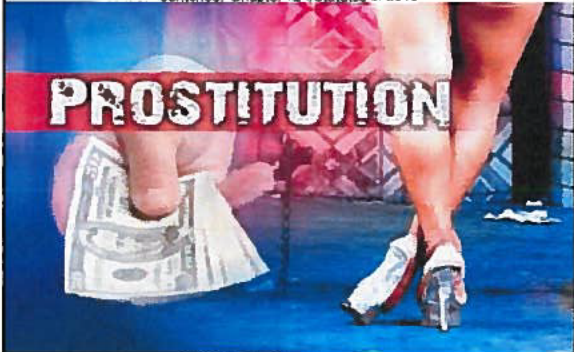
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SB 1129 repeals the mandatory minimum terms of incarceration for repeated prostitution offenses, leaving discretion with the court to impose an appropriate sentence. Chapter 724/Statutes of 2016




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SB 1322 provides that a minor engaged in commercial sexual activity cannot be arrested for a prostitution offense, and instead directs a law enforcement officer who comes upon a minor engaged in commercial sexual activity to report the conduct or situation to county social services. SB 1322 also provides that a commercially sexually exploited child may be adjudged a dependent child of the juvenile court and taken into temporary custody to protect the minor's health or safety. Chapter 654/Statutes of 2016




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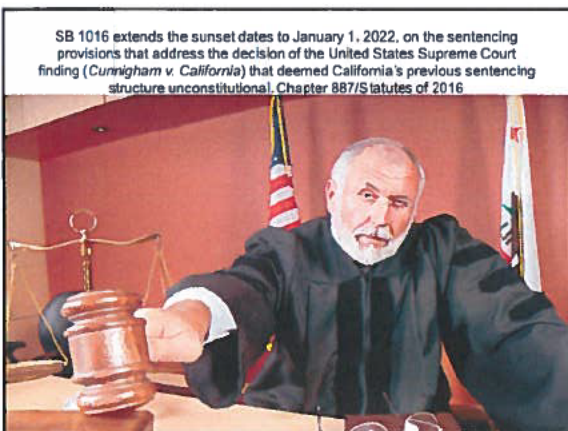
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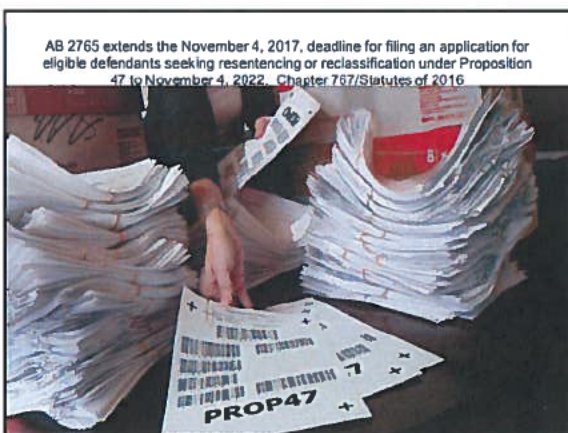
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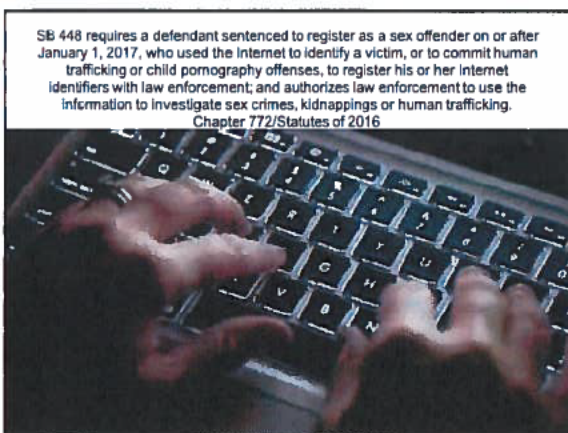
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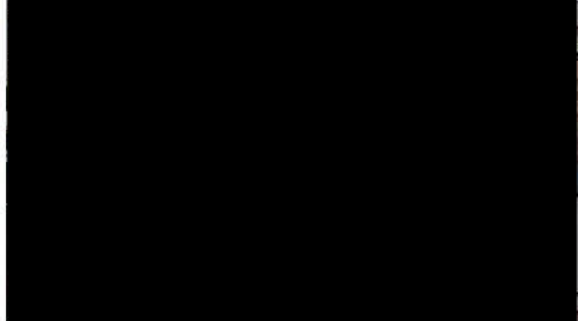
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SB 813 would eliminate the statute of limitations for violent and forcible felony sex crimes, and felony sex crimes committed against an intoxicated or unconscious victim. SB 813 applies to crimes that were committed on or after January 1, 2017, and to any crimes where the existing statute of limitations has not run as of January 1, 2017. Chapter 777/Statutes of 2016




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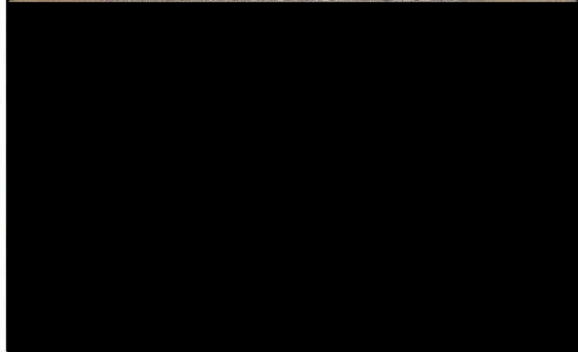
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AB 701 declares that all nonconsensual sexual assault crimes may be considered rape for the purpose of the gravity of the offense and for the support of survivors of these offenses. Chapter 701/Statutes of 2016




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AB 2888 prohibits a court from granting probation or suspending the execution or imposition of a sentence if a person is convicted of rape, sodomy, penetration with a foreign object, or oral copulation if the victim was either unconscious or incapable of giving consent due to intoxication. Chapter 863/ Statutes of 2016




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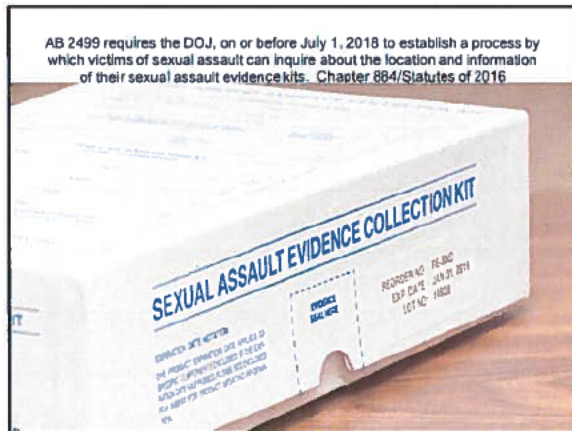
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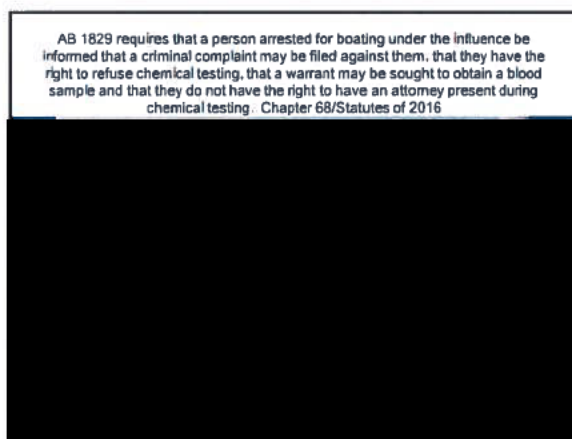
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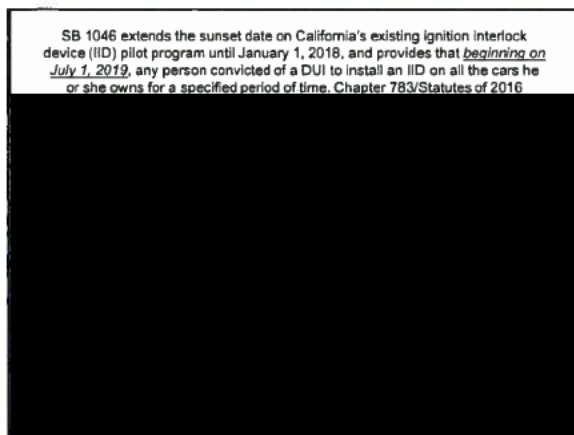
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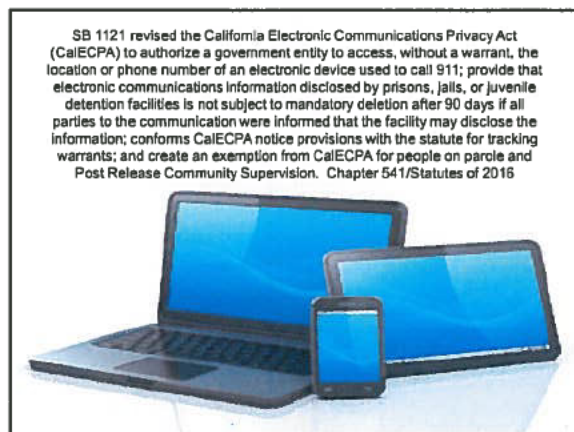
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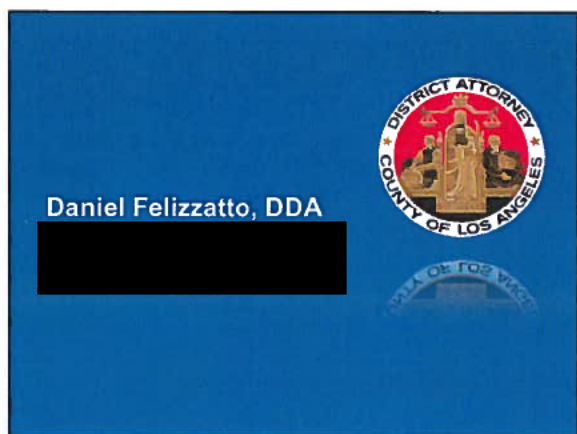
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