

# **New Laws for 2018**

**The most important new  
statutes, rules, regulations, and forms  
for  
California Criminal Law**

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## Jurisdiction and Venue

Jurisdiction for PC 288.7 in multiple counties.

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB368](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB368)

Stats 2017, Ch. 379 (AB 368)

Amends PC 784.7, subd. (a).

From the Legislative Counsel's Digest:

[Before this bill] when more than one violation of [PC 273a, 273.5, or 646.9] occurs in more than one [county], jurisdiction [i.e., venue] for any of those offenses and any other properly joinable offenses may be in any jurisdiction where at least one of the offenses occurred if all district attorneys in the counties with jurisdiction over any of the offenses agree to the venue.

This bill ... add[s] ... sexual intercourse, sodomy, oral copulation or sexual penetration with a child [under age 11] [PC 288.7] to [that list].

## Jury

Permitted voir dire expanded and liberalized

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB1541](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1541)

Stats 2017, Ch. 302 (AB 1541)

This bill rewrites CCP 223, as follows:

(a) .... [The] trial judge shall conduct an initial examination of prospective jurors.... [Prior] to voir dire, the trial judge shall consider the form and subject matter of voir dire questions.... [The] parties may submit questions to the trial judge .... [who] may [ask them] as the trial judge deems proper.

(b) (1) ... [C]ounsel ... have the right to examine, by oral and direct questioning, any ... prospective jurors. The scope of the examination ... shall be within reasonable limits prescribed by the trial judge ... subject to the provisions of this chapter.... [The] trial judge shall permit liberal and probing examination calculated to discover bias or prejudice with regard to the circumstances of the particular case or the parties.... The fact that a topic has been included

in the trial judge's examination shall not preclude appropriate followup questioning in the same area by counsel. The trial judge should permit counsel to conduct voir dire examination without requiring prior submission of the questions unless a particular counsel engages in improper questioning.

(2) The trial judge shall not impose specific unreasonable or arbitrary time limits or establish an inflexible time limit policy for voir dire. As voir dire proceeds, the trial judge shall permit supplemental time for questioning based on individual responses or conduct of jurors that may evince attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case.

(3) ... [An] "improper question" is any question that, as its dominant purpose, attempts to precondition the prospective jurors to a particular result or indoctrinate the jury.

(c) In exercising ... discretion, the trial judge shall consider ...:

(1) The amount of time requested by trial counsel.

(2) Any unique or complex legal or factual elements ...

(3) The length of the trial.

(4) The number of parties.

(5) The number of witnesses.

(d) Voir dire of any prospective jurors shall, where practicable, take place in the presence of the other jurors in all criminal cases, including death penalty cases. Examination of prospective jurors shall be conducted only in aid of the exercise of challenges for cause.

(e) The trial judge shall ... consider reasonable written questionnaires when requested by counsel. If a questionnaire is utilized, the parties shall be given reasonable time to evaluate the responses to the questionnaires before oral questioning commences.

(f) ... [At] the earliest practical time, the trial judge in a criminal trial shall provide the parties with the list of prospective jurors in the order in which they will be called.

(g) The trial judge's exercise of discretion ..., including any limitation on the time ... allowed for direct questioning of prospective jurors by counsel and any determination that a question is not in aid of the exercise of challenges for cause, is not cause for a conviction to be reversed, unless [that] results in a miscarriage of justice....

### **Juvenile Justice**

Under 15s "shall consult with legal counsel" before custodial questioning

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB395](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB395)

Stats 2017, Ch. 681 (SB 395)

Adds WI 625.6.

*Sunsets Jan. 1, 2025.*

Here is an extended excerpt from new WI 625.6:

(a) Prior to a custodial interrogation, and before the waiver of any *Miranda* rights, a youth 15 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived.

(b) The court shall, in adjudicating the admissibility of statements ... consider the effect of failure to comply with subdivision (a).

(c) This section does not apply to the admissibility of statements of a youth 15 years of age or younger if ...

(1) The officer who questioned the youth reasonably believed the information ... sought was necessary to protect life or property from an imminent threat. [and]

(2) The officer's questions were limited to those ... reasonably necessary to obtain that information.

(d) This section does not require a probation officer to comply ... in the normal performance of ... under [WI] 625, 627.5, or 628.

(e) [The Governor must convene a panel of at least seven experts to study this statute and make reports.]

(f) This section [sunsets on] January 1, 2025.