

# Warner & Pank, LLC



*Governmental Relations & Legislative Advocacy*

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## **CALIFORNIA LAW ENFORCEMENT ASSOCIATION OF RECORDS SUPERVISORS, INC.**

**October 19, 2011**

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### **MAJOR ISSUES & POLITICAL UPDATE**

- Perfect storm of political, judicial, and legislative factors
- Rookie Legislature
- Current Legislative leadership
- 40% Legislative member turnover expected
- Republicans and Democrats not working together
- Erosion of Republican influence and willingness to engage
- VLF expiring and Republican opposition created leverage for Democrats to enact realignment
- Battle with cities over realignment funds
- Friction with Board of Supervisors on question of flexibility
- Cuts to courts, DOJ, and schools give context to counties

### **VLF PROGRAMS FOR LOCAL PUBLIC SAFETY**

- For the COPS/JJCPA portion, the amounts per city and county will not be calculated by DOF until September when they have the population data.
- For the Small/Rural Sheriffs program, the total allocation is \$18.5 million, so each of the 37 counties will receive \$500,000 based on the statute.
- For Booking Fees, the total amount allocated was \$35 million; the allocations will be distributed in the same manner as previous years.
- Below is a comparison of funding from the 2011-2012 state budget which provided \$489 million, and the 2010-2011 that provided \$408,910 million in the General Fund for our law enforcement programs:

Programs Within Local Government Funding	2010-2011 Funding	2011-2012 Funding
Citizens Option for Public Safety (COPS)	\$87,000	\$107, 100

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Juvenile Justice Crime Prevention Grants (JJCPA)	\$87,000	\$107,100
Booking Fees	\$26,000	\$35,000
Small and Rural Sheriffs; Grants	\$15,000	\$18,500
Total Local Government Funding	\$215,000	\$267,700
Programs Within CDCR		
Juvenile Probation Funding	\$123,450	\$151,840
Juvenile Camp Funding	\$23,921	\$29,430
Total CDCR Programs	\$147,371	\$181,270
Programs Within Cal EMA		
Cal-MMET	\$10,786	\$19,450
Vertical Prosecution Grants	\$8,016	\$0
Evidentiary Medical Training	\$322.6	\$0
Public Prosecutors and Public Defenders	\$9	\$0
California Gang Violence Suppression Program	\$885	\$1,600
CALGANG	\$148.6	\$0
Multi-Agency Gang Enforcement Consortium	\$47	\$80
Rural Crime Prevention	\$2,052	\$3,710
Sexual Assault Felony Enforcement	\$2,824	\$5,110
High Technology Theft Apprehension and Prosecution Program	\$6,590	\$10,980
Total Cal EMA Programs	\$46,697*	\$40,930
Total	\$408,910	\$489,900

\* \$46,697 is the total amount of moneys that came in for FY 2010-11; however, because Cal EMA was in arrears for FY 2009-2010, the first two quarters of FY 2010-11 moneys was used to pay the 2009-2010 arrears. The total moneys actually allocated to CalEMA programs for FY 2010-11 is \$31,636.

### **STATE REVENUE ESTIMATES**

Last month the State Controller announced that July revenues are down \$538.8 million (10.3 percent) below projections from the recently passed state budget. Income taxes were above projections by \$89 million (2.9 percent) in July. But sales taxes were down \$139.4 million (-12.5 percent), and corporate taxes were down \$69.5 million (-19.3 percent) in the same month. You can access the State Controller's press release as well as the financial analysis at:

[http://www.sco.ca.gov/eo\\_pressrel\\_10448.html](http://www.sco.ca.gov/eo_pressrel_10448.html)

As part of the 2011-12 budget, AB 121 directs the Director of the Department of Finance, by December 15, 2011, to develop an updated revenue forecast for 2011-12 general fund revenues and to compare the forecast to that prepared by the Legislative Analyst's Office in November 2011. If the higher of those two forecasts is less than \$87,452,500,000 (i.e., revenues are short of budget act estimates by more than \$1 billion), Section 3.94(b) becomes operative and triggers reductions totaling \$601 million to occur on or after January 1, 2012. Below are the potential triggers with public safety related items in bold.

<b>Reduction</b>	<b>Description</b>
\$100 million to the University of California	Unallocated reduction
\$100 million to the California State University	Unallocated reduction
\$100 million to the Department of Developmental Services	Department is directed to convene stakeholder working groups to develop savings proposals
\$100 million to Department of Social Services In-Home Supportive Services	Across-the-board 20% service hour reduction
<b>\$72.1 million in increased county charges for youthful offender placements in Division of Juvenile Justice</b>	<b>Beginning January 2, 2011, counties would be charged an annual rate of \$125,000 for every youthful offender committed to a Division of Juvenile Justice facility; payments would be required for any youthful offender in DJJ's jurisdiction on or after January 1, 2012, regardless of commitment date.</b>
\$30 million to California Community Colleges	Results in a \$10 per unit fee increase
\$23 million to Department of Education Child Care	Across-the-board reduction of 4%
<b>\$20 million to the Department of Corrections and Rehabilitation</b>	<b>Unallocated reduction</b>
\$15.866 million to California State Library	Eliminates all state grant funding for local library services
<b>\$15 million to the California Emergency Management Agency Vertical Prosecution Grants</b>	<b>Eliminates funding for District Attorneys' Vertical Prosecution grants</b>
\$15 million to the Medi-Cal program	Extends provider cuts and copayments to the Medi-Cal Managed Care Plans
\$10 million to Department of Social Services In-Home Supportive Services	Eliminates funding for IHSS Anti-Fraud grants

### **LEGISLATIVE UPDATE**

Below is a list of bills that we have been actively engaged with throughout the year that reached the Governor's desk and were either chaptered or vetoed. We expect to see many of the bills that did not reach the Governor's desk or were vetoed reintroduced next year. Please don't hesitate to contact us if you have questions on other bills not included here.

**[AB 44\(Logue\)](#) Inmates: release: notification.**

**Introduced:** 12/06/2010

**Status:** 09/29/2011-Chaptered by the Secretary of State, Chapter Number 355, Statutes of 2011

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law requires the Department of Corrections and Rehabilitation, when releasing prisoners on parole who have been convicted of a violent felony, as defined, or certain other felonies, as specified, to notify the law enforcement agency and the district attorney having jurisdiction over the community in which the person was convicted and also the law enforcement agency and district attorney having jurisdiction over the community in which the person is scheduled to be released. This bill would require that notification be sent 60 days prior to the scheduled release date of an inmate. The bill would conform the timeline for local comments to the longer notification period, as specified. This bill contains other related provisions and other existing laws.

**[AB 353\(Cedillo\)](#) Vehicles: checkpoints.**

**Introduced:** 02/10/2011

**Status:** 10/09/2011-Signed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law authorizes the board of supervisors of a county to establish, by ordinance, a combined vehicle inspection and sobriety checkpoint program to check for violations of motor vehicle exhaust standards and driving-under-the-influence (DUI) offenses. This bill would require the driver of a motor vehicle to stop and submit to a sobriety checkpoint inspection conducted by a law enforcement agency when signs and displays are posted requiring that stop. This bill contains other related provisions and other existing laws.

**[AB 434\(Logue\)](#) County penalties: forensic laboratories.**

**Introduced:** 02/14/2011

**Status:** 08/31/2011-Chaptered by the Secretary of State, Chapter Number 195, Statutes of 2011

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law, the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, an initiative measure, requires an additional penalty of \$1 for every \$10 or part thereof to be levied in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, as specified. The act requires the county board of supervisors to establish in the county treasury a DNA Identification Fund, into which the collected penalties are to be deposited. The act specifies the purposes for which funds in the county's DNA Identification Fund may be used, including to reimburse local sheriff, police, district attorney, and regional state crime laboratories for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples, as specified. The act provides for its amendment by the Legislature if the amendments further the act and are consistent with its purposes to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime solving and exonerating the innocent. This bill would provide that, if authorized by a resolution of the board of supervisors, a local sheriff or police department, or the district attorney's office, may use funds remaining in the county's DNA Identification Fund, either independently or in combination with remaining funds from another county, to provide supplemental funding to a qualified local or regional state forensic laboratory, as defined, for expenditures and administrative costs made or incurred in connection with the processing, analysis, and comparison of

DNA crime scene samples and forensic identification samples, and testimony related to that analysis, as specified. The bill would declare that its provisions further the initiative act, and are consistent with its purposes.

**AB 674(Bonilla) Vehicles: registration fees.**

**Introduced:** 02/17/2011

**Status:** 09/01/2011-Chaptered by the Secretary of State, Chapter Number 205, Statutes of 2011

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law authorizes, until January 1, 2012, the imposition of a \$1 fee, upon adoption of a resolution by a county board of supervisors, in addition to other specified vehicle registration fees, on certain vehicles. Existing law also imposes, until January 1, 2012, in addition to that fee, a \$2 service fee on all commercial vehicles, upon implementation of the permanent trailer identification plate program. Existing law provides that the money generated by these fees and paid to the Controller is continuously appropriated, without regard to fiscal years, for disbursement by the Controller to each county that has adopted a resolution as described above, and that the money so disbursed may only be used for programs that enhance the capacity of local law enforcement to provide fingerprint identification of individuals who may be involved in driving under the influence of alcohol or drugs, vehicular manslaughter, other vehicle-related crimes, and other crimes committed while operating a motor vehicle. This bill would extend that authorization indefinitely. By extending a law providing for disbursements from a continuously appropriated fund, this bill would make an appropriation.

**AB 1053(Gordon) Local government: penalties and fees.**

**Introduced:** 02/18/2011

**Status:** 10/02/2011-Chaptered by the Secretary of State, Chapter Number 402, Statutes of 2011

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law requires that a base fee of \$3 be paid by an applicant for a certified copy of a fetal death or death record and requires that a base fee of \$3 be paid by a public agency or private adoption agency applicant, and a base fee of \$9 be paid by any other applicant, for a certified copy of a birth certificate. Existing law authorizes the fee to be adjusted pursuant to a specified method, not to exceed the total increased cost of the program or service provided. This bill would raise each of those base fees by \$9, as prescribed. This bill would remove the authorization to adjust the fee pursuant to that specified method, and commencing January 1, 2014, would require the fee to be adjusted pursuant to that specified method. The bill would declare that the increased fee would more accurately reflect the true cost of providing those documents. This bill contains other related provisions and other existing laws.

**AB 1247(Fletcher) Public retirement systems: reporting.**

**Introduced:** 02/18/2011

**Status:** 10/09/2011-Signed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** The Public Employees' Retirement Law provides a defined benefit to members of the Public Employees' Retirement System (PERS) based on age at retirement, service credit, and final compensation, as those terms are defined. The management and control of PERS is vested in the Board of Administration of PERS, including the calculation of the contribution rates for specified state employees and state employers. Existing law requires the board to submit a report to the Legislature, the Governor,

and the Treasurer describing the investment return assumptions, discount rates, and amortization periods utilized by the board in the calculations of the contribution rates and to include recalculations of those rates based on specified adjustments of the investment return assumptions, amortization periods, and discount rates utilized by the board any time it calculates the contribution rates. Existing law requires the Treasurer, within 30 days following receipt of the report, to provide each house of the Legislature, at a publicly noticed floor session, with an explanation of the role played by the investment return assumption and amortization period in the calculation of the contribution rates and the consequences for future state budgets if the investment return assumptions are not realized, to report whether the board's amortization period exceeds the estimated average remaining service periods of employees covered by the contributions, and to express his or her opinion of the reasonableness of the board's calculation of the contribution rates. This bill would require the Board of Administration of PERS to submit that report annually to the Legislature, the Governor, and the Chair of the California Actuarial Advisory Panel, would limit the scope of the report to state employee retirement plans, and would revise the adjustments of the investment return assumptions and discount rates utilized by the board any time it calculates the contribution rates. The bill would delete the requirement that the Treasurer express his or her opinion of the reasonableness of the board's calculation of the contribution rates. The bill would require the Chair of the California Actuarial Advisory Panel, or his or her designee, instead of the Treasurer, within 30 days following receipt of the report, to provide the Senate Committee on Public Employment and Retirement and the Assembly Committee on Public Employees, Retirement and Social Security, at a publicly noticed joint hearing, with an explanation of the role played by the investment return assumption and amortization period in the calculation of the contribution rates, a description of the consequences for future state budgets if the investment return assumptions are not realized, and a report on whether the board's amortization period exceeds the estimated average remaining service periods of employees covered by the contributions. This bill contains other related provisions and other existing laws.

**SB 24(Simitian) Personal information: privacy.**

**Introduced:** 12/06/2010

**Status:** 08/31/2011-Chaptered by the Secretary of State, Chapter Number 197, Statutes of 2011

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law requires any agency, and any person or business conducting business in California, that owns or licenses computerized data that includes personal information, as defined, to disclose in specified ways, any breach of the security of the system or data, as defined, following discovery or notification of the security breach, to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. This bill would require any agency, person, or business that is required to issue a security breach notification pursuant to existing law to fulfill certain additional requirements pertaining to the security breach notification, as specified. This bill contains other related provisions.

**SB 26(Padilla) Prisons: wireless communication devices.**

**Introduced:** 12/06/2010

**Status:** 10/06/2011-Chaptered by the Secretary of State, Chapter Number 500, Statutes of 2011

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law prohibits unauthorized communication with inmates in state prison. A person who violates that provision is guilty of a misdemeanor. Existing law further prohibits a person in a local correctional facility from possessing a wireless communication device, except as specified. This bill would provide, with exceptions, that a person who possesses with the intent to deliver, or delivers, to an inmate or ward in the custody of the department any cellular telephone or other wireless communication

device or any component thereof, including, but not limited to, a subscriber identity module or memory storage device, is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding 6 months, a fine not to exceed \$5,000 for each device, or both that fine and imprisonment. This bill contains other related provisions and other existing laws.

**SB 41(Yee) Hypodermic needles and syringes.**

**Introduced:** 12/07/2010

**Status:** 10/09/2011-Signed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law regulates the sale, possession, and disposal of hypodermic needles and syringes, and requires, with certain exceptions, a prescription to purchase a hypodermic needle or syringe for human use. Existing law prohibits any person from possessing or having under his or her control any hypodermic needle or syringe, except in accordance with those regulatory provisions. This bill would delete the prohibition against any person possessing or having under his or her control any hypodermic needle or syringe, except in accordance with the aforementioned regulatory provisions. This bill contains other related provisions and other existing laws.

**SB 179(Pavley) Sex offenders: parole.**

**Introduced:** 02/07/2011

**Status:** 09/29/2011-Chaptered by the Secretary of State, Chapter Number 359, Statutes of 2011

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Under existing law, as amended by Proposition 83 of the November 7, 2006, statewide general election, the parole period of any person found to be a sexually violent predator is tolled until that person is found to no longer be a sexually violent predator, as specified. This bill instead would provide that for any person subject to a sexually violent predator proceeding, as specified, an order issued by a judge pursuant to specified provisions, finding that the petition supports a finding of probable cause to believe that the person is likely to engage in sexually violent criminal behavior upon his or her release, shall toll the period of parole of that person, if the person is committed to the State Department of Mental Health as a sexually violent predator, from the date that person is released until a specified court order is entered. The bill would provide that if the person is not committed to the State Department of Mental Health as a sexually violent predator, the tolling of the parole period shall be abrogated and the parole period shall be deemed to have commenced on the date of release from the Department of Corrections and Rehabilitation. This bill contains other related provisions and other existing laws.

**SB 610(Wright) Firearms: license to carry concealed firearm.**

**Introduced:** 02/17/2011

**Status:** 10/09/2011-Signed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law establishes an application process, including a determination of good cause and completion of a training course, for persons seeking a license to carry a concealed firearm. Existing law authorizes the licensing authority of any city, city and county, or county to charge a fee in addition to the application fee in an amount equal to the actual costs for processing the application for a new license, excluding fingerprint and training costs, but in no case to exceed \$100. Existing law provides that no requirement, charge, assessment, fee, or condition that requires the payment of any additional funds by

the applicant, other than those costs already specified in those provisions, may be imposed by any licensing authority as a condition of the application for a license. This bill would provide that the applicant would not be required to pay for any training courses prior to a determination of good cause being made, as specified. The bill would clarify that the application fee for a new license includes the costs of required notices. The bill would also provide that no applicant would be required to obtain liability insurance as a condition of the license. This bill contains other related provisions and other existing laws.

**SB 622(Corbett) Sex offenders: registration.**

**Introduced:** 02/18/2011

**Status:** 09/29/2011-Chaptered by the Secretary of State, Chapter Number 362, Statutes of 2011

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law, the Sex Offender Registration Act, requires persons who have been convicted of specified crimes to register as sex offenders, including persons who have been convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more specified sex crimes. This bill would instead require registration for any person who has been convicted in any other court, including any state, federal, or military court, of any offense that, based on the elements of the convicted offense or facts admitted by the person or found true by the trier of fact or stipulated facts in the record of military proceedings, as specified, would have been punishable as one or more of the above-referenced specified sex crimes. This bill contains other related provisions and other existing laws.

**SB 756(Price) Sex offender registration.**

**Introduced:** 02/18/2011

**Status:** 09/29/2011-Chaptered by the Secretary of State, Chapter Number 363, Statutes of 2011

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law requires persons who are subject to the Sex Offender Registration Act to, upon release from incarceration, placement, commitment, or release on probation, register or reregister with the chief of police of the city in which he or she is residing, or in which he or she is present if a transient, or the sheriff of the county if he or she is residing or is present in an unincorporated area or city that has no police department, as specified. A violation of the registration requirement is an offense that may be punished as a misdemeanor, or as a felony if additional circumstances exist. The bill would provide that if a person fails to so register after release, the district attorney in the jurisdiction where the person was to be paroled or to be on probation, or the district attorney in another specified jurisdiction if the person was not released on parole or probation, may request that a warrant be issued for the person's arrest and shall have authority to prosecute that person as specified.

**SB 819(Leno) Firearms.**

**Introduced:** 02/18/2011

**Status:** 10/09/2011-Signed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law authorizes the Department of Justice to require a firearms dealer to charge each firearm purchaser a fee, as specified, to fund various specified costs in connection with, among other things, a background check of the purchaser, and to fund the costs associated with the department's

firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms. The bill would make related legislative findings and declarations. This bill would also authorize using those charges to fund the department's firearms-related regulatory and enforcement activities related to the possession of firearms, as specified.

**Position:** No Position

**[SB 852\(Harman\)](#) Corrections: victim notification.**

**Introduced:** 02/18/2011

**Status:** 09/29/2011-Chaptered by the Secretary of State, Chapter Number 364, Statutes of 2011

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law requires the Department of Corrections and Rehabilitation, county sheriff, and director of the local department of corrections, upon request, to give notice, as specified, prior to the release from state prison or county jail, of any person convicted of specified offenses, or of any change in parole status or relevant change in parole location, or if the person absconds from supervision while on parole, to a victim of the offense and others, as specified. Existing law provides for this notice by telephone and certified mail, and requires those persons requesting notice to provide current address and telephone numbers, as specified. This bill would authorize providing that notice by telephone, certified mail, or electronic mail, as selected by the requesting party, if that method is available. This bill contains other related provisions and other existing laws.

**Vetoed Legislation**

**[AB 142\(Fuentes\)](#) Criminal procedure: pleas.**

**Introduced:** 01/13/2011

**Status:** 09/07/2011-Vetoed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law requires the court, prior to the acceptance of a plea of guilty or nolo contendere, to advise the defendant that if he or she is not a citizen, conviction of the crime charged may result in deportation, exclusion from admission to the United States, or denial of naturalization. This bill would additionally require the court to advise the defendant that, if he or she is deported from the United States and returns illegally, he or she could be charged with a separate federal offense. The bill would make other conforming changes.

**Governor's Message:** I am returning Assembly Bill 142 without my signature. This measure would require a court to advise a defendant prior to the entry of a guilty plea or plea of nolo contendere of possible federal penalties associated with a future prosecution if the person is deported and if the person subsequently reenters the country illegally. While a criminal defendant must be correctly informed about the direct consequences of a plea, including potential immigration consequences, this measure goes beyond what is necessary by advising a criminal defendant about the consequences of future criminality. Sincerely, Edmund G. Brown Jr.

**[AB 322\(Portantino\)](#) Forensic evidence: rape kits.**

**Introduced:** 02/09/2011

**Status:** 10/09/2011-Vetoed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law, the Sexual Assault Victims' DNA Bill of Rights, authorizes a law enforcement agency investigating certain felony sex offenses, upon the request of the victim, and subject to the commitment of resources, to inform the victim whether or not a DNA profile was obtained from the testing of the rape kit evidence or other crime scene evidence from the case, whether or not that information has been entered into the Department of Justice Data Bank of case evidence, and whether or not there is a match between the DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Data Base, as specified. Existing law also requires that the victim be given written notification by the law enforcement agency if the law enforcement agency elects not to perform DNA testing of the rape kit evidence or other crime scene evidence, or intends to destroy or dispose of the rape kit evidence or other crime scene evidence prior to the expiration of the statute of limitations, as specified. The bill would establish a pilot program in 10 counties, commencing July 1, 2012, in which all rape kits collected in those counties after that date will be processed by the Department of Justice in department laboratories. The pilot program would be operative until July 1, 2015, or the date when all rape kits collected in the counties participating in the pilot project, during the period of July 1, 2012, through December 31, 2014, are counted, whichever comes first. The department would be required to test every rape kit collected by a pilot project county during the period of the pilot project. The bill would provide that these provisions would be repealed on January 1, 2016. This bill contains other related provisions and other existing laws.

**Governor's Message:** I am returning Assembly Bill 322 without my signature. This measure would establish a new pilot program and require the Department of Justice to test all rape kits collected from 10 specified counties. These counties, however, don't wish to participate in the program. I don't see why we would mandate counties to participate in a program they don't want, especially when the state is cutting back on so many programs that are needed and wanted. Local officials are in the best position to determine whether to participate in such a program. Sincerely, Edmund G. Brown Jr.

**Position:** Neutral

**AB 446(Carter) Juveniles: restorative justice program.**

**Introduced:** 02/15/2011

**Status:** 09/07/2011-Vetoed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law sets forth the purpose of juvenile court law, and provides that a minor under the jurisdiction of the juvenile court who is in need of protective services shall receive care, treatment, and guidance consistent with his or her best interest and the best interest of the public. Existing law provides that a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with his or her best interest, that holds the minor accountable for his or her behavior, and that is appropriate for his or her circumstances. This bill would authorize a county to adopt a restorative justice program to address the needs of minors, victims, and the community. The bill would require the restorative justice program to be implemented through a restorative justice protocol developed by the juvenile court in conjunction with the prosecutor, public defender, and other interested groups. The bill would prohibit the use of General Fund moneys to fund the program. The bill would include related findings and declarations.

**Governor's Message:** I am returning Assembly Bill 446 without my signature. This measure would authorize the use of restorative justice programs, but the courts already have the authority to create such programs. While the provisions of this bill are well-intended, they create a clear expectation that our courts--already struggling with painful budget cuts--will establish a new program. Given current budgetary constraints, the decision to adopt this kind of program is better left to the sound discretion of judges. Sincerely, Edmund G. Brown Jr.

**AB 1281(Garrick) Parole hearings: audioconferencing.**

**Introduced:** 02/18/2011

**Status:** 07/12/2011-Vetoed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law requires the Board of Parole Hearings to give notice of a parole suitability hearing for a prisoner, upon request, to a victim or next of kin, if the victim has died. Under existing law, the victim, members of the victim's immediate family, representatives designated by the victim, and specified prosecutors have a right to appear at the hearing in person, and may appear at the hearing by means of videoconferencing, as defined, if videoconferencing is available at the hearing site. This bill would provide that these individuals may also appear at any parole suitability hearing by means of audioconferencing, as defined, if audioconferencing is available at the hearing site.

**Governor's Message:** I am returning Assembly Bill 1281 without my signature. This measure would allow the use of audioconferencing equipment at Board of Parole hearings, if the equipment is available. This measure is unnecessary. The Board already allows hearing participation through the use of audioconferencing equipment and there is nothing in law that prohibits its use. I will direct the Board to continue to accommodate those wishing to participate in hearings using audioconferencing. There is no need to codify this practice in law. For these reasons I am unable to sign this bill. Sincerely, Edmund G. Brown Jr.

**SB 296(Wright) Criminal street gangs: injunction: petition for exemption.**

**Introduced:** 02/14/2011

**Status:** 09/29/2011-Vetoed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law provides for injunctive relief from the unlawful activities of criminal street gangs, the duration of which is within the court's discretion. Existing law provides for injunctive relief from a person who engages in harassment, as specified, of a duration of not more than 3 years, and provides that, at any time within the 3 months before the expiration of the injunction prohibiting harassment, the plaintiff may apply for a renewal of that injunction by filing a new petition. This bill would provide that, in addition to any other administrative or judicial remedies, in an action relating to an injunction pursuant to specified provisions to enjoin criminal street gang activity, an individual may file with the court a petition on a form developed by the Judicial Council to exempt him or her from the injunction or portions of the injunction. The bill would require the petitioner to state that he or she meets specified conditions. The bill would allow the court to hold an evidentiary hearing and receive any relevant evidence in order to rule on any petition filed pursuant to these provisions. The bill would permit the court to require the petitioner to testify at this hearing. The bill would require the petitioner to notify any prosecuting agency that filed the action for injunction of the filing of the petition. The bill would permit the court to charge the petitioner for the reasonable costs of filing the petition. The bill would provide that its provisions pertaining to the petition process become operative on July 1, 2012. The bill would express legislative findings, declarations, and intent regarding the enactment of the above provisions.

**Governor's Message:** I am returning Senate Bill 296 without my signature. This measure would require that a special form be given to gang members when they are served with an injunction to make it easier to petition the court for an exclusion from the injunction. Under current law, people who are served with a gang injunction are given the full panoply of legal rights to contest an injunction against them. Prosecutors believe that this bill will increase meritless litigation in our courts which are already laboring under severe cut backs. I agree. Sincerely, Edmund G. Brown Jr.

**SB 350(Negrete McLeod) Public Employees' Retirement System: preretirement death benefits.**

**Introduced:** 02/15/2011

**Status:** 09/07/2011-Vetoed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** The Public Employees' Retirement Law provides preretirement death benefits for the surviving spouse or children, or both, as specified, of state members and specified school members not covered by the federal Social Security Act. That law prescribes various allowances for preretirement death benefits, as specified. That law specifies certain benefits known as the 1959 survivor allowance. This bill would require assets and liabilities of contracting agencies subject to those provisions to be pooled, as specified, after June 30, 2012. The bill would also provide that on and after July 1, 2012, certain members employed by a contracting agency entitled to receive benefits under the 1959 survivor allowance provisions instead receive increased benefits, as specified. This bill contains other related provisions and other existing laws.

**Governor's Message:** I am returning Senate Bill 350 without my signature. This bill allows CalPERS, for certain local government members, to combine three survivor benefit levels into the level with the highest benefit and to suspend employee premiums. Although the benefits increased by this bill are funded by substantial excess reserves, the changes this bill makes should be part of a more comprehensive pension reform. Sincerely, Edmund G. Brown Jr.

**SB 601(Hancock) Corrections: prisons: accountability report.**

**Introduced:** 02/17/2011

**Status:** 10/09/2011-Vetoed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law provides that the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the Department of Corrections and Rehabilitation. This bill would require the Secretary of the Department of Corrections and Rehabilitation to develop a Corrections Accountability Report on January 10, March 15, and a fiscal year-end report, containing specified information regarding each institution, including, among other information, the total budget, including actual expenditures, staff vacancies and the number of authorized staff positions, overtime, sick leave, and the average length of lockdowns, and to post those reports on the department's Internet Web site, as provided.

**Governor's Message:** I am returning Senate Bill 601 without my signature. This measure would require the Department of Corrections and Rehabilitation to post on its website prescribed information and reports and to update them every four months. This measure is unnecessary and redundant; existing law already requires the Department to provide this information. I am happy to work with the author on ways the Department could better organize its website, but I don't think this takes a law. Sincerely, Edmund G. Brown Jr.

**SB 914(Leno) Search warrants: portable electronic devices.**

**Introduced:** 02/18/2011

**Status:** 10/09/2011-Vetoed by the Governor

2YR/Dead	1st	1st	1st	1st	2nd	2nd	2nd	2nd	Conf./Conc.	Enrolled	Vetoed	Chaptered
	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor				

**Summary:** Existing law provides that a search warrant cannot be issued but upon probable cause supported by affidavit, naming or describing the person to be searched or searched for, and particularly describing the property, thing, or things and place to be searched. Existing case law authorizes arresting officers, without a warrant, to conduct a search incident to a lawful arrest, including to search the contents of a cellular telephone taken from a suspect during an arrest. This bill would prohibit the search of information contained in a portable electronic device, as defined, by a law enforcement officer incident to a lawful custodial arrest except pursuant to a warrant issued by a duly authorized magistrate using established procedures.

**Governor's Message:** I am returning Senate Bill 914 without my signature. This measure would overturn a California Supreme Court decision that held that police officers can lawfully search the cell phones of people who they arrest. The courts are better suited to resolve the complex and case-specific issues relating to constitutional search-and-seizures protections. Sincerely, Edmund G. Brown Jr.

## **WHAT'S NEXT**

- Revenue projections could lead to trigger cuts
- Education cuts could be a problem for public safety
- November 2012 election
  - ✓ Constitutional amends for realignment
  - ✓ Pension reforms
  - ✓ Revenue for schools and counties