



California Association of Criminalists

Committee Report - April 8, 2022 Legislative Analysis Committee

Activities of the Committee are summarized as follows:

- ❖ Members include:
 - Jessica James (Chair, CA- DOJ), Kenton Wong (FARC, Forensic Analytical), Donnie Finley (Contra Costa County), and Melissa Beddow (Grand Canyon University)
- ❖ The California Assembly and Senate are starting their Spring Recess. They will reconvene April 18, and must pass a budget by June 15.
- ❖ The Federal House and Senate are in the second session of the 117th Congress.

Bills introduced, still in committee

Controlled Substances	
<p>SB-519 Controlled substances: decriminalization of certain hallucinogenic substances.</p>	<p>"This bill would make lawful the possession, obtaining, giving away, or transportation of, specified quantities of psilocybin, psilocyn, dimethyltryptamine (DMT), ibogaine, mescaline, lysergic acid diethylamide (LSD), and 3,4-methylenedioxymethamphetamine (MDMA) for personal use or facilitated or supported use, as defined, by and with persons 21 years of age or older. The bill would provide penalties for possession of these substance on school grounds, or possession by, or sharing with, persons under 21 years of age.</p> <p>The bill would also provide for the dismissal and sealing of pending and prior convictions for offenses that would be made lawful by the passage of this bill, as specified. The bill would require the Department of Justice to identify those records and provide them to local jurisdictions to initiate the required proceedings.</p> <p>This bill would require the State Department of Public Health to convene a working group, as specified, to research and make recommendations to the Legislature regarding, among other things, the regulation and therapeutic use of these substances, as specified."</p>

SB-1060 Controlled substances: fentanyl and oxycodone.	"This bill would impose an additional term upon a person who is convicted of a violation of, or of a conspiracy to violate, specified provisions of law with respect to a substance containing either fentanyl or oxycodone, if the substance exceeds a specified weight. By expanding the scope of an existing crime, the bill would impose a state-mandated local program. The bill would instead prohibit the court from imposing those additional penalties unless there are circumstances in aggravation to support that additional punishment."
AB-2246 Controlled substances: fentanyl.	"This bill would reclassify fentanyl analogs as Schedule I controlled substances. This bill would make possession of 2 or more grams of fentanyl punishable by imprisonment in a county jail for a period of 2, 3, or 4 years."
H.R.365 Marijuana 1-to-3 Act of 2021	"This bill moves marijuana to a lower schedule of the Controlled Substances Act."
H.R.679 Effective Drug Control Strategy Act of 2021	"This bill requires the Office of National Drug Control Policy to (1) evaluate the effectiveness of all federally funded activities aimed at reducing the demand for illegal drugs, and (2) publish annually a complete list of all drug control grant programs."
H.R.1303 Criminalizing Abused Substance Templates Act of 2021	"To amend the Controlled Substances Act to prohibit the knowing possession of a pill press mold with intent to manufacture in violation of such Act a counterfeit substance in schedule I or II in a capsule, tablet, and other form intended for distribution, and for other purposes."
H.R.1910, H.R.2041, H.R.3269, H.R.6713, H.R.6946, S. 339, S.1410 Federal Initiative to Guarantee Health by Targeting Fentanyl Act, SIFT Act of 2021, Protecting Americans from Fentanyl Trafficking Act of 2021, CEASE Overdose Act of 2022, and SAFE Act of 2022	"To amend the Controlled Substances Act to list fentanyl-related substances as schedule I controlled substances, and for other purposes."
H.R.2209, S.1006 Stopping Overdoses of Fentanyl Analogues Act	"This bill adds five fentanyl analogues and the entire category of fentanyl-related substances to schedule I of the Controlled Substances Act. A schedule I controlled substance is a drug, substance, or chemical that has a high potential for abuse; has no currently accepted medical value; and is subject to regulatory controls and administrative, civil, and criminal penalties under the Controlled Substances Act."
H.R.2405 Streamlining Research on Controlled Substances Act of 2021	"To amend the Controlled Substances Act to improve the process for conducting scientific research on schedule I controlled substances, and for other purposes."
H.R.3051 Ending Nicotine Dependence from Electronic Nicotine Delivery Systems Act of 2021; END ENDS Act of 2021	"To amend the Federal Food, Drug, and Cosmetic Act to establish a tobacco product standard prohibiting any e-liquid with a concentration of nicotine higher than 20 milligrams per milliliter, and for other purposes."

H.R.3757, S.1999 Multiple Substance Impaired Driving Prevention Act of 2021	"To amend title 23, United States Code, to authorize the use of certain Federal funds for multiple substance impaired driving countermeasures"
H.R.5977 States Reform Act	"To amend the Controlled Substances Act regarding marihuana, and for other purposes." "DECriminalIZATION OF MARIJUANA AND DEFERENCE TO STATE POWERS OF PROHIBITION"
Digital Forensics	
SB-1081 Disorderly conduct: peeping, recording, and distribution of intimate images.	"Under existing law, it is disorderly conduct to distribute, or cause to distribute, intimate images of another identifiable person without their consent, as specified. This bill would define 'distribute' to include dissemination, presentation, displaying, exhibition, or otherwise sharing. The bill would also define 'identifiable.'"
AB-1262 Information privacy: other connected device with a voice recognition feature.	"This bill would include smart speaker devices, as defined, within the scope of those provisions. The bill would prohibit any actual recordings or transcriptions collected or retained through the operation of a voice recognition feature by the manufacturer of a connected television or smart speaker device, that qualify as personal information or that are not deidentified, from being used for any advertising purpose, or being shared with, or sold to, a third party, unless the user has provided affirmative written consent, as defined. The bill would also prohibit the manufacturer from retaining the recordings or transcripts, as specified, unless the user opts in. The bill provide certain exemptions, and would define related terms."
AB-2066 Communication: telegraph corporations, telegraphy, and telegrams.	"This bill would delete references to telegraphs and telegrams in the Penal Code. By deleting those references, the bill would decriminalize conduct committed by way of telegraphs and telegrams. The bill would no longer require a telegraph company to report to the Department of Justice currency transactions that exceed \$10,000. The bill also would no longer authorize the transmission of a warrant or abstract of warrant via telegraph."
H.R.3520 Ensuring National Constitutional Rights for Your Private Telecommunications Act of 2021; ENCRYPT Act of 2021	"To preempt State data security vulnerability mandates and decryption requirements."
S.1265 Fourth Amendment Is Not For Sale Act	"To amend section 2702 of title 18, United States Code, to prevent law enforcement and intelligence agencies from obtaining subscriber or customer records in exchange for anything of value, to address communications and records in the possession of intermediary internet service providers, and for other purposes. "
S.2122 Cell-Site Simulator Warrant Act of 2021	"To amend title 18, United States Code, to regulate the use of cell-site simulators, and for other purposes." "the term 'cell-site simulator' means any device that functions as or simulates a base station for commercial mobile services or private mobile services in order to identify,

	locate, or intercept transmissions from cellular devices for purposes other than providing ordinary commercial mobile services or private mobile services; "
DNA	
SB-916 Sexual assault: victim's rights.	"This bill would, instead, give the a victim of sexual assault the right to access the Department of Justice's SAFE-T database involving their own forensic evidence kit and the status of the kit, including the information relating to the testing of evidence and DNA in state and federal databases. This bill would require the card to also include a notification that a court may not imprison or otherwise confine or place in custody a victim of sexual assault or domestic violence for contempt if the contempt consists of refusing to testify concerning the crime."
SB-1228 Criminal procedure: DNA samples.	"This bill would create procedures for reference samples of DNA from a victim of or witness to a crime or alleged crime, and to reference samples of DNA from intimate partners or family members of a victim or witness voluntarily provided for the purpose of exclusion, as defined. The bill would require those procedures to include, among other things, requiring that law enforcement agencies use these samples only for purposes directly related to the incident being investigated, prohibiting law enforcement agencies from comparing these samples with samples that do not relate to the incident being investigated, and prohibiting law enforcement agencies from including these samples in databases that allow the samples to be compared to or matched with profiles derived from DNA evidence obtained from crime scenes. By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program. This bill would require the Committee on Revision of the Penal Code to study whether additional steps are needed to protect the privacy of Californians who have submitted DNA samples and related profiles to law enforcement. The bill would require the committee to report its findings to the Legislature by December 31, 2023."
AB-2185 Forensic examinations: domestic violence.	"This bill would require that victims of domestic violence have access to medical evidentiary examinations, free of charge, by Local Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners. This bill would make specified changes to the forms, including requiring the forms to include information regarding history and evidence of strangulation. This bill would require that victims of domestic violence have access to medical evidentiary examinations, free of charge, by Local Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners. This bill would make specified changes to the forms, including requiring the forms to include information

	<p>regarding history and evidence of strangulation. This bill, instead, would require a SART, SAFE team, or other qualified medical evidentiary examiner performing medical evidentiary exams for domestic violence to develop and implement written policies and procedures for maintaining the confidentiality of domestic violence forensic reports, subject to the confidentiality laws pertaining to the release of medical forensic examination records. This bill would require each county to designate their approved SART, SAFE teams, or other qualified medical evidentiary examiners to receive reimbursement, within 60 days, through the Office of Emergency Services for the performance of medical evidentiary examinations for victims of domestic violence. The bill would prohibit the costs incurred for the medical evidentiary portion of the examination from being charged directly or indirectly to the victim. The bill would also permit victims to have a qualified social worker, victim advocate, or a support person of the victim's choosing be present during the examination. The bill would require that the costs associated with these medical evidentiary exams be funded by the state, subject to appropriation by the Legislature, and would require the Office of Emergency Services to negotiate with each county a maximum reimbursement rate that is reviewed every 5 years."</p>
<p>AB-2850 California Sexual Assault Response Team (SART) Advisory Council.</p>	<p>"This bill would create the California Sexual Assault Response Team (SART) Advisory Council to promote swift, coordinated, competent, and efficient sexual assault intervention in every county, whose work shall be directed by a lead agency or department to be specified by the Governor. The bill would require the council to consist of representatives from specified entities, including sexual assault forensic examination teams, law enforcement agencies, county district attorneys' offices, crime laboratories, rape crisis centers, and hospitals. The bill would establish procedures for the council and require the council to, among other things, review statewide sexual assault intervention, advise county sexual assault response team programs, and submit, beginning on November 30, 2024, a biennial report to the Governor, Legislature, relevant legislative committees, and specified state agencies."</p>
<p>H.R.1620 Violence Against Women Act Reauthorization Act of 2021</p>	<p>"To reauthorize the Violence Against Women Act of 1994, and for other purposes."</p>
<p>H. R. 1764 National Child Identification Act of 2021</p>	<p>"To authorize the Attorney General to make grants to State attorneys general to provide identification kits for missing children, and for other purposes."</p>
<p>Firearms</p>	
<p>AB-1621, AB-1869 Firearms: unserialized firearms.</p>	<p>"It is the intent of the Legislature to enact legislation to further prohibit unserialized firearms in the state." "This bill would make the possession of an unserialized firearm or possession of a firearm with an altered, removed, or obliterated serial number punishable as a felony."</p>

AB-1688 Firearms.	"This bill would remove the microstamping requirement for a firearm to be included on the handgun roster and would remove the requirement for the department to remove 3 firearms from the roster for each new firearm added."
AB-2156 Firearms: manufacturers.	"This bill would expand this prohibition to prohibit any person, regardless of federal licensure, from manufacturing firearms in the state without being licensed by the state. The bill would also decrease the manufacturing threshold requiring state licensure from 50 or more firearms in a calendar year to 4 or more firearms in a calendar year. The bill would also prohibit any person, unless licensed as a firearm manufacturer, from manufacturing any firearm or precursor part by means of a 3D printer, as defined."
H.R.1006 Gun Show Loophole Closing Act of 2021	"To require criminal background checks on all firearms transactions occurring at gun shows."
H.R.1008 Handgun Trigger Safety Act of 2021	"To provide for the development and use of technology for personalized handguns, to require that all handguns manufactured or sold in, or imported into, the United States incorporate such technology, and for other purposes."
H.R.1454 To amend title 18, United States Code	"To amend title 18, United States Code, to require firearm assembly kits to be considered to be firearms."
H.R.4312 remove short-barreled shotguns from the definition of firearms; NFA SBS Act	"To amend the Internal Revenue Code of 1986 to remove short-barreled shotguns from the definition of firearms for purposes of the National Firearms Act, and for other purposes."
H.R.6646 Trafficking Reduction And Criminal Enforcement (TRACE) Act	"Regulatory requirement to mark firearms with second, hidden serial number...each firearm manufactured in the United States on or after the effective date of the regulation, to be marked with a serial number that is located inside the receiver of the firearm or that is visible only in infrared light, in addition to the serial number with which the firearm is otherwise required by law to be marked."
ATF Proposed Rule 2021R-05 Definition of "Frame or Receiver" and Identification of Firearms	"The goal of the proposed rule is to ensure the proper marking, recordkeeping, and traceability of all firearms manufactured, imported, acquired and disposed by federal firearms licensees."
Others	
SB-467 Trial testimony: expert witnesses: writ of habeas corpus.	"This bill would additionally allow a person to prosecute a writ of habeas corpus if expert opinion testimony that was material or probative on the issue of guilt or punishment was introduced and a reasonable dispute within the relevant scientific community as to the validity of the methods, theories, research, or studies upon which the expert based their opinion has developed or further developed after the person's trial. The bill would also expand the definition of false evidence to include the opinions of experts that are undermined by scientific research that existed at the time of the expert's testimony and opinions."

<p>AB-501 Reduction of human remains and the disposition of reduced human remains.</p>	<p>"This bill, commencing July 1, 2023 would require the bureau to license and regulate reduction facilities, as defined, and would enact requirements applicable to reduction facilities substantially similar to those applicable to crematoria and hydrolysis facilities and would enact provisions relating to the disposition of reduced human remains by integration into the soil."</p>
<p>AB-925 Sexual assault forensic examinations: reimbursement.</p>	<p>"This bill would authorize the appropriate local law enforcement agency to seek reimbursement from OES, using the specified federal funds, for the cost of conducting the medical evidentiary examination of a sexual assault victim who has decided not to report the assault to law enforcement at the time of the examination. The bill would also authorize local law enforcement to seek, and would require OES to pay at an established rate, reimbursement for the cost of conducting the medical evidentiary examination of a sexual assault victim who has determined, at the time of the examination, to report the assault to law enforcement."</p>
<p>AB-2588 Crimes: obstruction of justice.</p>	<p>"Existing law makes it a crime to maliciously, and with the intent to obstruct justice or the due administration of laws, or with the intent or threat to inflict imminent bodily harm in retaliation for the due administration of the laws, to publish, disseminate, or otherwise disclose the residence address or telephone number of any peace officer, nonsworn police dispatcher, employee of a city police department or county sheriff's office, or public safety official, or that of the spouse or children of those persons, as specified. This bill would broaden this crime to include taking those actions with the intent to cause intimidation, harassment, as defined, or a threat to inflict bodily harm in retaliation for the due administration of laws. The bill would also make this crime apply to those actions taken against an elected or appointed official, or the immediate family, as defined, of any of the officials listed above, and would make the crime apply to the release of a license plate or description of the vehicle of any of those individuals. By expanding the scope of a crime, this bill would create a state-mandated local program."</p>
<p>H.R.2438 Justice in Forensic Algorithms Act of 2021</p>	<p>"To prohibit the use of trade secrets privileges to prevent defense access to evidence in criminal proceedings, provide for the establishment of Computational Forensic Algorithm Testing Standards and a Computational Forensic Algorithm Testing Program, and for other purposes."</p>
<p>H.R.2695 Combating Sexual Harassment in Science Act</p>	<p>"This bill addresses sexual harassment and gender harassment in the science, technology, engineering, and mathematics (STEM) fields by supporting research regarding such harassment and efforts to prevent and respond to such harassment."</p>

S.2052 Facial Recognition and Biometric Technology Moratorium Act of 2021	"To prohibit biometric surveillance by the Federal Government without explicit statutory authorization and to withhold certain Federal public safety grants from State and local governments that engage in biometric surveillance."
Records	
AB-268 Courts: sealing records: autopsy reports.	"This bill would require the court, upon the request of a qualifying family member, to seal the autopsy report and any evidence associated with the examination of a person who was killed as a result of a criminal act when the above conditions apply or when a prosecutorial agency has concluded all persons who could have been prosecuted for the criminal act have died. The bill would also include within the definition of "qualifying family member" the victim's next of kin, personal representative, child, grandparent, grandchild, sibling, or domestic partner."
SB-1000 Law enforcement agencies: radio communications.	"This bill would require a law enforcement agency, including the California Highway Patrol, municipal police departments, county sheriff's departments, specified local law enforcement agencies, and specified university and college police departments, to ensure public access to the radio communications of that agency, as specified. This bill would also require those law enforcement agencies to ensure that any criminal justice information or personally identifiable information obtained through CLETS is not broadcast in a manner that is accessible to the public, as specified."

Passed Bills/Rules

Firearms	
ATF Rule 87 FR 182 Secure Gun Storage and Definition of "Antique Firearm"	"Conforms the regulatory definitions of certain terms to the statutory language, including the definition of "antique firearm," which is amended to include certain modern muzzle loading firearms."

Litigation

DNA	
Center for Genetics and Society v. Bonta	"State constitutional privacy interests arguably may require more protections than are presently required by the current expungement provisions" - 6/10/2021 Pending

Respectfully submitted,

Jessica Alana James, Committee Chair