



# California Association of Criminalists

## Committee Report – May 3, 2018 Legislative Analysis Committee

Activities of the Committee are summarized as follows:

❖ Members include:

- Jessica James (Chair, CA-DOJ), Kenton Wong (FARC, Forensic Analytical), Kathy Roberts (Cal State LA), Alan Keel (Forensic Analytical), and Donnie Finley (Contra Costa County)

❖ The California Assembly and Senate are in the second half of their 2017-2018 legislative sessions.

❖ The Federal House and Senate are in the second half of their 2017-2018 legislative sessions, the 115<sup>th</sup> Congress.

❖ Bills that have become Law

- Clarifying Lawful Overseas Use of Data Act (CLOUD Act) – “Amends the Stored Communications Act”
- SESTA Stop Enabling Sex Traffickers Act of 2017 – “It makes website providers just as guilty for hosting explicit content that is associated with sex traffickers. This act clarifies Section 230 of the Communications Decency Act that previously excluded web hosting providers.”

❖ Bills that have Died

- **AB-16** - Criminal law: DNA evidence
- **AB-1128** - Criminal cases: exhibits: retention
- **AB-1471** - Firearms: silencers
- **AB-2405** - Controlled substances: carfentanil
- **AB-2860** - Firearms: unsafe handguns
- **SB-22** - Firearms: law enforcement agencies: agency firearm accounting
- **SB-537** - Department of Justice: Bureau of Forensic Services
- **SB-655** - Public safety officers
- **SB-698** - Driving under the influence: alcohol and marijuana
- **SB-710** – Silencers
- **SB-781** - Criminal law: DNA evidence
- **SB-1103** - Controlled substances: fentanyl

❖ Introduced Bills

○ Controlled Substances

- **SB-1273 - Vehicles: marijuana** “This bill would make a person under 21 years of age who has any detectible amount of delta-9-tetrahydrocannabinol in his or her body subject to the same license suspension, except as specified. The purpose of this bill is to create a zero tolerance law for marijuana for people under 21 years of age and to recast DUI provisions to make several classifications of drugs separate offenses.”
- **AB-2783 - Controlled substances: hydrocodone combination products: schedules** “This bill would reclassify specified hydrocodone combination products as Schedule II controlled substances.”
- **AB-3105 - Fentanyl: penalties** “This bill would make sale of fentanyl punishable by a term of 10 years to life in a case involving 20 grams or more of a mixture or substance containing a detectable amount of fentanyl, as defined, or 5 grams or more of a mixture or substance containing an analogue.”
- **H.R.4922 - Stopping Overdoses of Fentanyl Analogues Act** “This bill amends the Controlled Substances Act to add certain fentanyl analogues to schedule I.”
- **H.R.5928 - Modernizing Drug Enforcement Act of 2018** “To amend the Controlled Substances Act to deem drugs or other substances that act as opioid mu receptor agonists to be in schedule I, subject to exceptions for substances intended for legitimate medical or research use, and for other purposes.”
- **H.R.5459 and S.2635** – “To amend the Controlled Substances Act and the Controlled Substances Import and Export Act to modify the offenses relating to fentanyl, and for other purposes.”

○ DNA

- **AB-3118 - Sexual assault: investigations** “This bill would require all law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store, or preserve sexual assault evidence kits to conduct an audit of all sexual assault evidence kits in their possession and report certain data to the Department of Justice by no later than July 1, 2019.”
- **SB-1449 - Rape kits: testing** “This bill would instead require a law enforcement agency to either submit sexual assault forensic evidence to a crime lab or ensure that a rapid turnaround DNA program is in place, as specified, and require a crime lab to either process the evidence or transmit the evidence to another crime lab for processing, as specified... The bill would appropriate \$2,000,000 from the General Fund to the Department of Justice to allocate to local law enforcement agencies to assist them with complying with that requirement.”

○ Firearms

- **AB-2382 - Firearms: firearm precursor parts** “This bill would, commencing July 1, 2020, require the sale of firearm precursor parts, as defined, to be conducted by or processed through a licensed firearm precursor part vendor.”
- **AB-2781 - Forensic ballistic and firearms procedures** “This bill requires law enforcement agencies to obtain and submit to the National Integrated Ballistic Identification Network (NIBIN) ballistic information from firearms, cartridge cases, and bullets obtained by the agencies and reasonably believed to be associated with a crime.”

- **SB-1346 - Firearms: multiburst trigger activators** “This bill would state that the existing definition of a multiburst trigger activator includes a bump fire stock or bump fire stock attachment.”

- Forensics

- **SB-1163 - Postmortem examination or autopsy: unidentified body or human remains: medical examiner: attending physician and surgeon** “This bill would require a postmortem examination or autopsy upon an unidentified body or human remains to only be conducted by an attending physician and surgeon or chief medical examiner who is a board-certified forensic pathologist.”
- **SB-1303 - Coroner: county office of the medical examiner** “This bill would, for counties with a population of 500,000 or greater, require that the office of the coroner or the sheriff’s coroner’s office, as applicable, be replaced with an office of the medical examiner without a public vote or election. By requiring that counties comply with these requirements, this bill would impose a state-mandated local program. The bill would require that the office of medical examiner operate independently from any other county agency or official in the conduct of autopsies.”
- **AB-2988 - Criminal procedure: disposition of evidence** “This bill would declare the intent of the Legislature to ensure that exhibits are preserved by the court in cases that may be reviewed in a post-conviction, judicial, or extrajudicial process, and that biological evidence is retained for potential testing and retesting. This bill would require the governmental entity, when notifying a person who is serving a term of imprisonment and who remains incarcerated of the intention to dispose of any object or material that contains or includes biological material while the person remains incarcerated, to obtain proof of service of that notice. The bill would authorize the governmental entity to dispose of any object or material that contains or includes biological material if that entity does not receive a response, as specified, within one year of sending the notification.”

- ❖ Bills Still In Committee

- Blood Alcohol

- **AB-702 - Driving under the influence: chemical tests**

- Controlled Substances

- Cannabidiol and Marijuana

- **AB-710 – Cannabidiol**
- **AB-845 – Cannabidiol**
- **S.1689 – Marijuana Justice Act**
- **S.1764 - CARERS Act of 2017**
- **H.R.3534 - State Marijuana And Regulatory Tolerance Enforcement Act**
- **H.R.4815 – Marijuana Justice Act of 2018**
- **H.R.714 - LUMMA**
- **H.R.715 - Compassionate Access Act**
- **H.R.975 - Respect State Marijuana Laws Act of 2017**
- **H.R.1227 - Ending Federal Marijuana Prohibition Act of 2017**
- **S.1276 - Cannabidiol Research Expansion Act**
- **H.R.1841 - Regulate Marijuana Like Alcohol Act**

- **H.R.2020** - To provide for the rescheduling of marijuana into schedule III of the Controlled Substances Act
  - **H.R.2273** and **S.1008** - Therapeutic Hemp Medical Access Act of 2017
  - **H.R.2920** and **S.1374** - CARERS Act of 2017
- Analogues, Synthetics, Fentanyl, and others
  - **SB-631** - Nitrous oxide: retail sales
  - **H.R.1354** - Stop Trafficking in Fentanyl Act of 2017
  - **H.R.1781** - Comprehensive Fentanyl Control Act
  - **H.R.1732** - Synthetic Drug Control Act of 2017
  - **H.R.2528** - Respect States' and Citizens' Rights Act of 2017
  - **H.R.3800** - Mandatory Minimum Reform Act of 2017
  - **H.R.3883** – HELP Act of 2017
  - **H.R.4090** - Fentanyl and Heroin Task Force Act
  - **H.R.2851** and **S.1327** - Stop the Importation and Trafficking of Synthetic Analogues Act of 2017
  - **S.207** - Synthetic Abuse and Labeling of Toxic Substances Act of 2017
  - **S.658** - Illegal Synthetic Drug Safety Act of 2017
  - **S.1355** - Combating the Heroin Epidemic Through Forensic Drug Testing Act of 2017
  - **S.1553** - A bill to amend the Controlled Substances Act to list fentanyl analogues as schedule I controlled substances
  - **S.2008** – Combating the Opioid Epidemic Through Forensic Drug Testing Act of 2017
- Digital Forensics
  - **H.R.387** - Email Privacy Act
  - **H.R.3067** - Online Safety Modernization Act of 2017
- DNA
  - **AB-334** - Sexual assault
  - **SB-757** - Criminal law: DNA evidence
  - **AB-1033** - Sexual battery: condoms
  - **H.Res.550** – “Expressing the sense of the House of Representatives regarding the need for State legislatures to pass comprehensive sexual assault kit reforms by 2020.”
- ❖ Decided Litigation
  - DNA
    - **People v. Buza** - Reversed the judgment of the California Court of Appeal in this case; Felony Arrestees can be continue to be collected.
  - Digital Evidence
    - **People v. Guzman** – Dismissed
    - **United States v. Microsoft Corporation** - Vacated

- ❖ Pending Litigation
  - Digital Evidence
    - **Dahda v. United States**
  - Firearms
    - **Duncan v. Becerra**