

**NEW LEGISLATION TAKING EFFECT JANUARY 1, 2022  
QUICK REFERENCE GUIDE**

| Bill   | Summary   | Amended/ Added/<br>Repealed Statute(s)                    | Retroactive?   |
|--|---|---|--|
| <b>CRIMINAL PROCEDURE</b>  |   |   |  |
| <p><b>Assembly Bill No. 124</b><br/>Criminal procedure</p>   | <p>Expands coercion defense for human trafficking victims and extends it to victims of intimate partner violence and sexual violence. Requires prosecutors to consider certain mitigating factors during plea bargaining.</p>   | <p>Pen. Code, §§ 236.15, 236.23, 236.24, &amp; 1016.7</p> | <p>Likely retroactive to nonfinal cases under <i>Estrada</i>.</p>                |
| <p><b>Assembly Bill No. 1259</b><br/>Criminal procedure:<br/>motion to vacate</p>                      | <p>Allows a person who is no longer in criminal custody to file a motion to vacate a conviction or sentence based on a prejudicial error damaging to the moving party’s ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences regardless of whether the conviction was obtained by plea <i>or through trial</i>.</p>             | <p>Pen. Code, § 1473.7</p>                                | <p>N/A</p>   |
| <p><b>Senate Bill No. 317</b><br/>Competence to stand trial</p>  | <p>Amends Pen. Code, § 4019 to ensure that a person receives day-for-day presentence conduct credits for time spent confined in a state hospital or other mental health treatment facility while proceedings were suspended on competency grounds under Pen. Code, § 1368, et seq. when restored and sentenced to state prison or county jail.</p>  | <p>Pen. Code, §§ 1370.01 &amp; 4019</p>                   | <p>Unlikely retroactive. (See <i>People v. Brown</i> (2012) 54 Cal.4th 314.)</p> |
| <b>ENHANCEMENTS</b>  |   |   |  |
| <p><b>Assembly Bill No. 333</b><br/>Participation in a criminal street gang:<br/>enhanced sentence</p> | <p>In addition to redefining some key terms in a defense-friendly manner, AB 333 makes it more difficult for the prosecution to establish a pattern of gang activity by eliminating the use of certain prior offenses as well as the currently charged offense to establish a pattern of gang activity and mandates, upon a defense request, the bifurcation of any trial on charged gang enhancements.</p> | <p>Pen. Code, § 186.22</p>                                | <p>Likely retroactive to nonfinal cases under <i>Estrada</i>.</p>                |

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| <p><b>Senate Bill No. 483</b><br/>Sentencing: resentencing to remove sentencing enhancements</p>       | <p>Retroactively applies SB 180, which repealed the three-year sentence enhancement for most prior drug convictions, and SB 136, which limited the mandatory one-year prior prison term enhancement to only certain sex offenses, to all inmates currently incarcerated for these repealed sentence enhancements.</p>  | <p>Pen. Code, §§ 1171 &amp; 1171.1</p>                  | <p>Expressly retroactive, both to final and nonfinal judgments.</p>  |
| <p><b>Senate Bill No. 81</b><br/>Sentencing: dismissal of enhancements</p>                             | <p>Encourages courts to dismiss an enhancement if it is in the furtherance of justice to do so, except if dismissal is prohibited by an initiative statute or doing so would create a likelihood that the defendant would cause physical injury or serious danger to others.</p>   | <p>Pen. Code, § 1385</p>                                | <p>Expressly not retroactive. (See Pen. Code, § 1385(c)(7).)</p>   |
| <b>JUVENILES</b>   |  |   |  |
| <p><b>Senate Bill No. 383</b><br/>Juveniles: informal supervision: deferred entry of judgment</p>      | <p>Authorizes a juvenile court receiving a delinquency case transferred from another county to determine whether an eligible minor is suitable for deferred entry of judgment if the transferring court did not do so, and expands the circumstances under which a minor is eligible for informal supervision.</p>   | <p>Welf. &amp; Inst. Code, §§ 654.3, 790, &amp; 791</p> | <p>Likely retroactive to nonfinal cases under <i>Estrada</i> and <i>People v. Superior Court</i> (2018) 4 Cal.5th 299 (<i>Lara</i>).</p> |
| <p><b>Assembly Bill No. 624</b><br/>Juveniles: transfer to court of criminal jurisdiction: appeals</p> | <p>Makes an order transferring a minor from the juvenile court to a court of criminal jurisdiction (adult criminal court) an appealable order – subject to immediate review through an interlocutory appeal filed thirty days after the transfer order. It also requires that such appeals have precedence in the Court of Appeal, and, upon request of the minor, that criminal court proceedings be stayed pending the appeal.</p> | <p>Welf. &amp; Inst. Code, § 801</p>                    | <p>No.</p>   |

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| <b>PROBATION</b>   |   |   |   |
| <b>Senate Bill No. 73</b><br>Probation: eligibility:<br>crimes relating to<br>controlled substances                            | Expands trial courts' discretion to grant probation in a range of felony drug cases.  | Pen. Code, §§ 1203.07 & 1203.073<br>Health & Saf. Code, § 11370 | Likely retroactive to nonfinal cases under <i>Estrada</i> . |
| <b>Assembly Bill No. 1228</b><br>Supervised persons:<br>release  | Restricts trial courts' ability to detain probationers alleged to have violated conditions of probation pending a formal hearing on the alleged violation.  | Pen. Code, §§ 1203.2 & 1203.25                                  | N/A   |
| <b>SENTENCING</b>  |   |   |   |
| <b>Assembly Bill No. 1540</b><br>Criminal procedure:<br>resentencing<br><br><b>Assembly Bill No. 124</b><br>Criminal procedure | Adds procedural requirements to the recall/resentencing mechanism currently set out at Pen. Code, § 1170(d)(1), including mandatory appointment of counsel and a presumption in favor of relief where the recall/resentencing recommendation is submitted by the CDCR, DA, or other authorized party. Moves the recall/resentencing mechanism to a new statute, Pen. Code, § 1170.03. | Pen. Code, §§ 1170 & 1170.03                                    | Likely retroactive to nonfinal cases under <i>Estrada</i> . |
| <b>Senate Bill No. 567</b><br>Criminal procedure:<br>sentencing<br><br><b>Assembly Bill No. 124</b><br>Criminal procedure      | Overhauls the determinate sentencing framework by allowing imposition of upper-term sentences only where aggravating circumstances justifying such a sentence are proven BARD at trial, and by requiring the imposition of lower-term sentences in specified cases.   | Pen. Code, §§ 1170 & 1170.1                                     | Likely retroactive to nonfinal cases under <i>Estrada</i> . |
| <b>Assembly Bill No. 518</b><br>Criminal law: violations<br>punishable in multiple<br>ways                                     | Amends Pen. Code, § 654 to allow criminal conduct punishable in different ways by different provisions of law to be punished under any of those provisions, rather than only the provision providing for the longest potential term of imprisonment.  | Pen. Code, § 654  | Likely retroactive to nonfinal cases under <i>Estrada</i> . |

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| <b>SEX OFFENSES</b>  |  |   |   |
| <b>Assembly Bill No. 1171</b><br>Rape of a spouse                      | Includes spousal rape in the broader definition of rape, and makes someone convicted of the crime subject to mandatory imprisonment and the sex offender registry list.  | Pen. Code, §§ 261 & (repeals) 262   | Likely retroactive as to the sex offender registry list. (See <i>People v. Castellanos</i> (1999) 21 Cal.App.4th 785.)  |
| <b>Assembly Bill No. 939</b><br>Sex offenses: evidence                 | Removes an existing provision of law that allows the manner in which a survivor was dressed to be admitted as evidence of consent in a sexual assault case.  | Evid. Code, § 939   | No.   |
| <b>MISCELLANEOUS</b>   |  |   |   |
| <b>Assembly Bill No. 177</b><br>Public safety                          | Eliminates 17 fees/costs, makes associated outstanding debt unenforceable, and requires that any portion of a judgment imposing such fees/costs be vacated.  | In addition to statutes concerning the 17 eliminated fees/costs, Pen. Code, § 1465.9 & Veh. Code, § 42240 | Likely retroactive to both nonfinal and final cases.  |
| <b>Assembly Bill No. 764</b><br>Contempt of court; victim intimidation | In misdemeanor contempt cases under Pen. Code § 166(a)(4)/166(b)(1) where the defendant violates a stay-away order by willfully contacting the complaining witness and has a prior conviction for stalking, clarifies that violation of the stay-away order may occur by electronic communication (not merely by mail or telephone, or in-person), and authorizes trial courts to impose fine of less than \$5,000 (not only \$5,000). | Pen. Code, § 166  | Likely retroactive to nonfinal cases under <i>Estrada</i> with respect to new discretion to impose fine of less than \$5,000, but not with respect to expansion of liability to include electronic communication. |