

# 2023

California Peace Officers'

# **PENAL CODE**

Law Summaries

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Includes summaries of the most-commonly used  
Penal provisions from the following codes:

Business and Professions  
Education ▪ Family ▪ Fish and Game  
Health and Safety ▪ Penal ▪ Public Resources

**Includes enactments through the  
2022 Regular Legislative Session**

**CAUTION:**

This manual contains summaries of law which are not intended to be construed as complete or precise interpretations. For the complete text of a section, refer to QWIK-CODES' other respective codes.

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# PENAL CODE

## PRELIMINARY PROVISIONS

### 15. CRIME OR PUBLIC OFFENSE

An act committed or omitted in violation of a law forbidding or commanding it, to which is attached, on conviction, either:

1. Death.
2. Imprisonment.
3. Fine.
4. Removal from office.
5. Disqualification to hold and enjoy any office of honor, trust or profit in this state.

### 16. KINDS AND DEGREES OF CRIMES

Crimes and public offenses include:

1. Felonies.
2. Misdemeanors.
3. Infractions.

### 17. FELONY AND MISDEMEANOR DEFINED

(a) A felony is punishable by death or imprisonment in state prison or notwithstanding any other provision of law, by imprisonment in a county jail under provisions of 1170 (h). Every other crime or offense is a misdemeanor except those classified as infractions. [See (b), (c), and (d) in Code for other circumstances used to determine misdemeanor or infraction]

### 18. FELONY PUNISHMENT

(a) Except where a different punishment is prescribed by law, offenses declared a felony, or to be punished by state prison, are punishable by imprisonment for 16 months, or 2 or 3 years in the state prison unless the offense is punishable under 1170 (h).

### 18.5. MAXIMUM TERM OF COUNTY JAIL IMPRISONMENT

(a) Up to or not exceeding 1 year shall be punishable by imprisonment not to exceed 364 days.

### 19. MISDEMEANOR PUNISHMENT

Except where a different punishment is prescribed, every offense declared a misdemeanor is punishable by not over 6 months in county jail, or by fine not over \$1,000, or by both.

**19.2. COUNTY JAIL CONFINEMENT**

Not to exceed 1 year except upon conviction of a crime that specifies a felony punishment pursuant to 1170 (h) or more than one offense when consecutive sentences have been imposed, for a period in excess of 1 year. Time allowed on parole not considered. Includes all county adult detention facilities.

**19.4. PUBLIC OFFENSE**

Act or omission declared by statute to be a public offense and no penalty is prescribed, punishable as a misdemeanor.

**19.6. INFRACTION**

Not punishable by imprisonment and not entitled to a jury trial or counsel at public expense unless arrested and not released on written promise to appear, own recognizance, or bail.

**19.7. APPLICATION**

All provisions relating to misdemeanors apply to infractions including, but not limited to, peace officer powers, court jurisdiction, periods for commencing action and for bringing a case to trial and burden of proof, unless otherwise provided by law.

**20. CRIME OR PUBLIC OFFENSE**

Must have a union, or joint operation of act and intent, or criminal negligence.

**21a. ATTEMPTED CRIME**

Consists of specific intent to commit the crime, and direct but ineffectual act done toward its commission.

**PERSONS LIABLE TO PUNISHMENT FOR CRIME**

**26. PERSONS INCAPABLE OF COMMITTING CRIME**

R One—Children under age 14, in absence of clear proof that at time of the act charged against them, they knew its wrongfulness.

R Two—Mentally incapacitated persons.



- R Three—Ignorance or mistake of fact which disproves any criminal intent.
- R Four—Without being conscious thereof.
- R Five—Through misfortune or accident, with no evil design, intent, or culpable negligence.
- R Six—(Unless the crime be punishable with death) under threat or menace sufficient to show they had reasonable cause to and did believe their lives would be endangered if they refused.

## **PARTIES TO CRIME**

### **31. PRINCIPALS**

- R All persons involved in committing a crime, either a felony or misdemeanor, and whether they directly commit the act, or aid and abet in the act, or, not being present, advised and encouraged its commission, and all persons counseling, advising, or encouraging children under age 14, or mentally incapacitated persons, to commit any crime, or who, by fraud, contrivance, or force, occasion the drunkenness of another to cause him to commit any crime, or who, by threats, menace, command, or coercion, compel another to commit a crime, are principals in such crime.

### **32. ACCESSORIES**

- M/F After a felony has been committed, harbor, conceal, or aid a principal in such felony to avoid or escape arrest, trial, conviction or punishment, knowing said principal has committed, been charged with or convicted of the felony.

## **CRIMES BY AND AGAINST THE EXECUTIVE POWER OF THE STATE**

### **67. BRIBERY OF POLICE OR EXECUTIVE OFFICER**

- F Includes any public entity with the duty to require laws to be obeyed or performed. Offer or give to influence any act, decision, or proceedings.

### **67.5. BRIBERY OF MINISTERIAL OFFICER**

M (a) Give or offer bribe to ministerial officer, employee, or appointee of State of California, county, city, or political subdivision, anything the theft of which would be petty theft.

F (b) Felony if the theft of the thing would be grand theft.

**68. ASK, AGREE OR RECEIVE BRIBE**

F (a) Executive or ministerial officer to influence his/her vote, decision, or action. [*See 86 and 93 in Code for Legislators and judicial officers*]

**69. RESIST OR DETER POLICE OR EXECUTIVE OFFICER**

F (a) By threat or violence, attempt, or knowingly resist, an officer performing duties.

F (b) Photographing or recording not a violation if recording of executive officer in a public place or person taking or making is in a place they have the right to be.

**70. GRATUITY RECEIVED BY PUBLIC OFFICIAL**

M (a) Executive or ministerial officer, employee, or appointee, of state or political subdivision, ask, receive, or agree to receive gratuity, or promise thereof, except authorized by law.

**71. THREATEN SCHOOL OFFICIAL OR PUBLIC OFFICER**

F Direct threat to such person to injure any person or property with intent to cause commission or omission of any act in performance of his/her duties, and it reasonably appears the threat could be carried out.

**76. THREAT TO PUBLIC OFFICIAL**

F With intent to be taken as a threat, threaten the life of, or serious bodily harm to, specified official. [*See Code for enumerated officials*]

**CRIMES AGAINST PUBLIC JUSTICE**

**95. ATTEMPT TO INFLUENCE VERDICT OR DECISION**

Brought before a juror, judge, or arbitrator, by any of the following:

F (a) Written or oral communication except in the regular course of

proceedings.

F (b) Book, paper, or instrument exhibited, otherwise than in the regular course of proceedings.

F (c) Threat by persuasion, or begging.

F (d) Promise money or other reward.

**95.1. THREATEN JUROR**

M With criminal proceeding after a verdict has been rendered, who has intent and apparent ability, causing juror to reasonably fear for person's own or immediate family's safety.

**102. TAKE PROPERTY FROM LAWFUL CUSTODY**

M Damage, destroy, attempt or assist to take from an officer or person in legal charge of same.

**Escapes and Aiding Therein**

**107. ESCAPE OR ATTEMPT**

F Felony inmate of public training school, reformatory, or county hospital.

**109. AIDING INMATE ESCAPE**

F Assist inmate of public training school or reformatory to escape, or attempt to escape.

**110. ITEM USEFUL FOR ESCAPE FROM TRAINING SCHOOL OR REFORMATORY**

F Carry or send into a public training school, or reformatory anything useful into the facility.

**Forging, Stealing, Mutilating, and Falsifying Documents**

**112. CONCEAL TRUE CITIZENSHIP**

M (a) Manufacture or sell false government document to conceal true citizenship or resident status for immigration purposes. May charge for each document. [*See VC 13004 for ID violations and VC 14610 for driver's license violations*]

**114. FALSE DOCUMENTS**

F Use to conceal true citizenship or resident status for immigration purposes.

**115. FALSE OR FORGED INSTRUMENT**

F (a) Procure or offer to file, register, or record in a public office in this state.

**116.5. JURY TAMPERING**

(a) Prior to, or within 90 days of discharge of jury in criminal case:

M (1) Give, offer or agree to give, benefit upon a juror or person acting on juror's behalf for information related to action or proceeding.

M (2) On juror's behalf, accept or agree to accept payment or benefit for him/herself or the juror for information.

M (3) On behalf of him/herself, agree to accept, directly or indirectly, payment or benefit for such information.

## Perjury and Subornation of Perjury

**118. PERJURY DEFINED**

F (a) Knowingly give false statement, under oath or under penalty of perjury, regarding material matter in any legal proceedings.

F (b) Proof of perjury requires corroboration of more than one person, or a person and verifying direct or indirect evidence.

**118.1. FALSE REPORT BY PEACE OFFICER**

F (a) Who, in their capacity as a peace officer, knowingly and intentionally makes, or causes to be made, any material statement in a peace officer report, or to another peace officer and the statement is included in a peace officer report, regarding the commission or investigation of any crime, knowing the statement to be false.

F (b) Does not apply to peace officer writing or making peace officer report, with regard to a false statement that peace officer included in the report that is attributed to any other person, unless peace officer writing or making the report knows the statement to

be false and is including the statement to present the statement as being true.

**118a. FALSE AFFIDAVIT**

F Swear, depose, or certify a false statement under oath regarding a material fact in an affidavit for present or pending case.

**Evidence, Witness, Victim**

**132.5. CRIME WITNESS**

M (a) Not to accept or receive, directly or indirectly, money or equivalent payment for providing such information by witness or person with personal knowledge of facts that may require testimony in a criminal trial. [*See Code for exceptions*]

**135. DESTROY OR CONCEAL EVIDENCE**

M With intent to prevent it from being introduced for a pending trial, inquiry, or investigation.

**135.5. TAMPER WITH EVIDENCE**

M Alter, conceal, destroy, relevant evidence to harm officer in disciplinary hearing.

**136.1. DISSUADE WITNESS OR VICTIM**

(a) Except as provided in subdivision (c), any person who does any of the following:

M/F (1) Prevent or dissuade from attending or giving testimony at a legal proceeding, except for (c).

M/F (2) Attempt to intimidate, prevent or dissuade witness or victim from attending or testifying at any legal proceeding, except for (c).

M/F (3) Act without malice presumed with evidence that defendant was family member who interceded in an effort to protect witness or victim.

(b) Except for (c), attempt to prevent or dissuade a crime victim or witness from doing any of the following:

M/F (1) Report victimization to proper authorities.

M/F (2) Cause complaint, indictment information, probation or parole

violation to be sought and prosecuted, and assisting in prosecution.

M/F (3) Arrest, cause, or seek arrest of a person in connection with victimization.

(c) Felony if (a) or (b) done knowingly and maliciously under any of the following circumstances:

F (1) Use force or express or implied threat of force or violence on victim, witness or third person or their property.

F (2) Act to further a conspiracy. [*See 653f (a) for soliciting others*]

F (3) Prior conviction of this section, predecessor law hereto, or federal or equivalent out-of-state law.

F (4) For pecuniary gain, or for any other consideration, acting on the request of a person. Includes all parties to the transaction.

F (5) Attempt act described in (a), (b) and (c) is guilty of the offense without regard to success or failure of the attempt.

**136.5. CARRY DEADLY WEAPON**

M Carry with intent to violate 136.1.

**137. INFLUENCE INFORMATION TO LAW ENFORCEMENT**

M/F (a) Give, offer or promise to give, bribe to witness, person about to be called as a witness, or person about to give material information to a law enforcement official pertaining to a crime.

M/F (b) Felony if attempt to induce false testimony, false material information, or withhold true testimony, or withhold true material information pertaining to a crime, by force, threat of force or fraud.

M/F (c) Induce false testimony or withhold true testimony (not privileged), or give false material information, or withhold true material information pertaining to a crime from law enforcement.

**138. WITNESS BRIBERY**

F (a) Give, offer or promise to give bribe, or attempt same, for the person not to attend a trial or other judicial proceeding.

F (b) Witness or person about to be called as such, receive, or offer to receive, a bribe, with the understanding that his/her testimony

to be influenced, or that the person will absent him/herself from the proceeding.

**139. THREATEN WITNESS OR VICTIM**

F Except as provided in 71 and 136.1, felon convicted of prior violent offense, willfully and maliciously communicate to victim or witness of crime for which the person was convicted, credible threat to use force or violence on person or person's immediate family.

**140. THREATEN WITNESS OR VICTIM**

M/F (a) Except as provided in 139, threaten force or violence on the person of, or to take, damage, destroy property of a crime victim, witness, other person, for any assistance or information to law enforcement or public prosecutor in criminal or juvenile court proceeding, except as in 139.

**141. EVIDENCE TAMPERING**

M/F (a) Alter, place, make, conceal, or move an object, with specific intent to have a person charged with a crime or an object to be wrongfully produced as genuine or true in a trial, proceeding, or inquiry.

M/F (b) Felony if evidence tampering by peace officer.

**Other Offenses Against Public Justice**

**142. PEACE OFFICER REFUSE TO RECEIVE OR ARREST**

F (a) Offender charged with a criminal offense when officer has the authority.

R (c) Not applicable to arrests per 837 by a private person.

**146. PUBLIC OFFICER OR IMPERSONATOR**

Pretense as public officer under color of authority or pretense of legal process, do any of the following:

M (a) Arrest or detain a person against his or her will.

M (b) Seize or levy any property.

M (c) Dispossesses any on lands or tenements.

**146a. IMPERSONATING OFFICER**

(a) Falsely represent himself or herself as deputy or clerk in any state department and does any of the following:

M (1) Arrest, detain, or threaten person.

M (2) Intimidate person.

M (3) Search person, building or other property of person.

M (4) Obtain money, property, or other valuable thing.

M (b) Falsely represent self as public officer, investigator or inspector in any state department, and do any act as in (a)(1) - (4).

**146e. DISCLOSE PUBLIC SAFETY PERSON RESIDENCE ADDRESS OR PHONE**

M (a) Maliciously, disclose residence address or phone number of peace officer, police dispatcher, police or sheriff employee, public safety official, or immediate family of these persons who reside with them, identifying them as such, without authorization. [*See GC 6254.24 for "public safety official" defined*]

F (b) Violation of (a) results in bodily injury to listed person.

**147. PRISONER BRUTALITY**

M Inhumane treatment or oppression by officer to prisoner under his care or custody. [*Fine or removal from office*]

**148. RESIST, DELAY OR OBSTRUCT OFFICER OR EMT**

M (a)(1) Willfully, in the discharge of his/her duties.

M (2) Maliciously interfere with radio communication, except as in 653t (d).

F (b) Remove or take weapon other than firearm during (a) from officer's person or immediate presence.

F (c) Remove or take firearm during (a) from officer's person or immediate presence.

F (d) Except for (c) and notwithstanding 489 (a), remove or take firearm without intent to permanently deprive, or attempt same from an officer's person or immediate presence while engaged in lawful duties.

To prove violation of this subdivision, establish defendant's



intent by any of the following:

- R (1) Officer's holster strap unfastened by defendant.
- R (2) Defendant partially removed firearm from the officer's holster.
- R (3) Firearm safety released by defendant.
- R (4) Independent witness confirmed the defendant stated that s/he intended to remove the firearm and actually touched the firearm.
- R (5) Independent witness saw the defendant's hand on the firearm and trying to take it from the officer holding it.
- R (6) Defendant's fingerprint found on the firearm or holster.
- R (7) Physical evidence verified by scientific means that the defendant touched the firearm.
- R (8) During a struggle, the officer's firearm fell and the defendant attempted to pick it up.
- R (g) Not a violation of (a) when photograph or recording of public or peace officer in public place, or person photographing or recording is in a place they have the right to be.

**148.1. FALSE REPORT OF BOMB OR EXPLOSIVE**

- F (a) Placed or to be placed, to peace officer listed in 830.1, 830.2, and 830.33, fire department, media, airline, airport, railroad, bus line, telephone company or occupants of a building.
- F (b) False report to other 830 peace officer (1) while such officer performing duties and (2) informant should have known such person is a peace officer.
- F (c) To any other person.
- F (d) Give, mail, send, or cause to be sent false or facsimile bomb to another person; place, cause to be placed or maliciously possess same with intent to cause fear of personal safety to anyone.

**148.2. INTERFERE WITH FIREFIGHTER OR RESCUE PERSONNEL**

At a time and place where personnel are performing their duty or attempting same:

- M 1 Resist or interfere with lawful efforts.

- M 2 Disobey lawful order of a fireman or public officer.
- M 3 Disorderly conduct which delays or prevents a fire from being timely extinguished.
- M 4 Prevent others from helping to extinguish fire.

**148.3. FALSE REPORT OF EMERGENCY**

- M (a) To government department or agency.
- F (b) Felony if likely to cause great bodily injury or death. [*See (c) in Code for "Emergency" defined*]

**148.4. FIRE PROTECTION EQUIPMENT**

- M (a)(1) Willfully and maliciously tamper with or break.
- M (2) Willfully and maliciously sound false alarm.
- (b) Send false alarm of fire resulting in:
  - F (1) Great bodily injury.
  - F (2) Death.

**148.5. FALSE CRIME REPORT**

- M (a) To peace officer listed in 830.1, 830.2, or 830.33 (a), the AG, deputy A.G., D.A. or deputy D.A. [*See 148.1 for false bomb report*]
- M (b) To peace officer (1) while performing duties, and (2) person knows or should know such.
- M (c) Except as provided in (a) and (b), to employee assigned to accept reports from citizens, and employed by designated agency, (1) while performing duties, and (2) person knows or should know such.
- M (d) To grand jury.
- R (e) Not applicable to persons required to report known or suspected instances of child, dependent adult or elder abuse.
- M (f) Applies to a person who reports to person described in subdivision (a), (b), or (c), that a firearm, as defined in subdivision (a) or (b) of 16520, has been lost or stolen, knowing the report to be false. [*See (c) in Code for enumerated agencies*]

**148.6. FALSE REPORT OF PEACE OFFICER MISCONDUCT**

- M (a)(1) Knowingly file false allegation of misconduct against an officer.

R (2) Complainant to read and sign information advisory specified in this section.

M (b) False civil claim or property lien to harass or dissuade an officer from performing official duties.

**148.7. FALSE IMPERSONATION TO SERVE CONFINEMENT**

M To serve term of confinement of another person as condition of probation.

**148.9. FALSE REPRESENTATION OF IDENTITY**

M (a) To peace officer listed in 830.1, 830.2, and 830.33(a), upon lawful detention or arrest. [*See VC 20 for false name*]

M (b) To peace officer listed in 830 (1) while performing duties and (2) person knows or should have known such.

**148.10. RESIST PEACE OFFICER CAUSING SERIOUS INJURY OR DEATH**

F (a) While officer performing his/her duties.

**149. ASSAULT UNDER COLOR OF AUTHORITY**

F Public officer assaults or beats person without lawful necessity.

**151. INCITE TO KILL OR INJURE PEACE OFFICER**

M/F (a) With specific intent done under circumstances likely to cause such killing or injury. Felony if causes officer's death or injury.

**152. ACCIDENTAL DEATH**

M (a) Actively conceal or attempt to conceal with knowledge of the death.

(b) "Actively conceal" means:

R (1) Overt act that conceals the body or directly delays the discovery.

R (2) Destroy or hide evidence of the body.

R (3) Destroy or suppress instrumentality of death.

**152.3. CRIME REPORT WHERE VICTIM IS UNDER AGE 14**

(a) Person who believes they have observed following offenses where victim is under age 14 shall notify a PC 830 peace officer:

M (1) Murder.

M (2) Rape.

M (3) Sex crime as in 288 (b)(1).

(e) Not applicable to:

R (1) Related to victim or offender.

R (2) Fail to report based on a reasonable mistake of fact.

R (3) Fear for person's own or immediate family's safety.

**153. COMPOUND OR CONCEAL CRIME**

M/F Have knowledge of actual crime, takes money or property of another, gratuity, reward, engagement, or promise thereof, upon agreement or understanding to compound or conceal that crime or abstain from prosecuting, or withhold evidence, excluding legal or court exceptions.

**154. DEFRAUD CREDITORS**

M (a) Debtor move his/her property or effects from state, or fraudulently sell, convey, or conceal property with intent to defraud, hinder, or delay creditors of rights, claims, or demands.

F (b) Felony if property or value of stock in trade exceeds \$250.

**165. BRIBERY**

F Give or offer to councilman, supervisor, or trustee of county, city, or public corporation to corruptly influence a matter or subject pending or to be considered by the member body of such, or who receive, offer or agree to accept a bribe to influence their official vote, opinion, or action.

**166. CONTEMPT OF COURT**

M (a)(1) Disorderly, contemptuous, or insolent behavior committed during the sitting of a court of justice, in immediate view and presence of the court, and directly tending to interrupt proceedings or impair respect due to its authority.

M (2) Behavior specified in (a)(1) committed in presence of a referee, while actually engaged in a trial or hearing, pursuant to the order of a court, or in the presence of a jury while actually sitting for the trial of a cause, or upon an inquest or other proceeding authorized by law.

M (3) Breach of peace, noise, or other disturbance directly tending to interrupt the proceedings of the court.

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