

Riverside County District Attorney's Office
K-12 School Crimes Guide

PAUL E. ZELLERBACH
District Attorney



*"There is always one moment in childhood when the door opens and lets the future in". –
Graham Greene*

A Message from the Riverside County District Attorney's Office

Thank you each for your dedication and efforts to ensure all of our children have a future. As we all accept, the environment in which our children learn is crucial. Violence or threats can greatly diminish any opportunities that we may provide.

To that end, the Riverside County District Attorney's Office has created the *K-12 School Crimes Guide* in order to better serve administrators and law enforcement in our schools. It provides a thorough understanding of our roles in the criminal justice system as it applies to crime prevention, school security, and school safety.

Eliminating school violence or threats cannot be achieved by an individual or agency alone. A safe learning environment, free from the dangers faced by so many of California's youth, can only be achieved through the dedication and collaboration of us all.

It is an honor to serve as your District Attorney.

Paul E. Zellerbach

INTRODUCTION

The Riverside County District Attorney’s Office is committed to safety and law enforcement in our schools. This guide is a resource for law enforcement and school personnel. It provides a summary of selected laws. The full text of California laws is available online at <http://www.leginfo.ca.gov/calaw.html>.

Please address questions about the prosecution of juvenile crimes to the Juvenile Division of the District Attorney’s Office, 951-358-4140; and questions or comments about this guide to the Staff Writer of the District Attorney’s Office, 951-955-5456.

PENALTY KEY

F	Felony
W	Wobbler (can be either felony or misdemeanor)
M	Misdemeanor
I	Infraction

STATUTE KEY

B&P	Business and Professions Code
EC	Education Code
H&S	Health and Safety Code
PC	Penal Code
VC	Vehicle Code
WIC	Welfare and Institutions Code

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PROSECUTION OF MINORS IN JUVENILE COURT

☀ *The juvenile justice system addresses most crimes committed by minors. Its purposes are public safety and the rehabilitation of juvenile offenders.*

These minors receive care, treatment, and guidance, including appropriate punishment that holds them accountable for their behavior. The goal is to enable them to become law-abiding and productive members of their families and communities. (WIC §202(b).)

Commitment to a juvenile facility is an available sanction for many crimes, depending on the severity of the minor’s current offense and criminal history.

Diversion programs, community service, payment of fines, and other sanctions are also available. Laws providing minimum fines and periods of imprisonment do not apply to minors.

**PROSECUTION OF MINORS IN ADULT COURT
(PROPOSITION 21)**

☀ *In March 2000, California voters passed Proposition 21, which allows specified crimes, committed by a minor age 16 or older, to be filed in adult court if deemed appropriate by the district attorney. (WIC §707(d)(1).)*

The age of eligibility for adult prosecution, as to these crimes, is 14 or older if 1) the minor has a prior finding for having committed one of these crimes; 2) the crime is committed as a gang crime; 3) the crime is committed as a hate crime; or 4) the victim is age 65 or older, or disabled (blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and the minor knew of the disability). (WIC §707(d)(2).)

These crimes include the following (described elsewhere in this guide), with adult penalties as indicated (for a complete list, see WIC §707(b)):

PC §211. Robbery

☐ Non-residential robbery: 2, 3, or 5 years in prison; or

☐ Robbery of public transportation operator/passenger (including school bus): 3, 4, or 6 years in prison.

PC §288(a). Lewd act with child under 14

F 3, 6, or 8 years in prison.

PC §245(a)(1). Assault with a deadly weapon or force likely to produce great bodily injury

☑ 2, 3, or 4 years in prison or up to 1 year in jail; and/or a fine of up to \$10,000.

PC §245.5(a). Assault with a deadly weapon or means likely to produce great bodily injury on a school employee

☑ 3, 4, or 5 years in prison or up to 1 year in jail.

PC §136.1(a)&(b). Victim/witness prevention/dissuasion

☑ 16 months, or 2 or 3 years in prison or up to 1 year in jail.

PC §136.1(c)(1). Victim/witness intimidation

☐ 2, 3, or 4 years in prison.

CITABLE INFRACTIONS

☼ *In Riverside County, infraction citations may be processed in traffic courts.*

➤ Indicates misdemeanors that can be reduced to infractions under PC §17(d), punishable by a fine of \$0-\$250.

➤B&P §25661. Possession of false ID under age 21

➤B&P §25662(a). Possession of alcoholic beverage under age 21

PC §308(b). Possession of tobacco products or smoking paraphernalia by minor

PC §374.4(a). Littering

➤PC §415. Disturbing the Peace

PC §417.27. Prohibited possession and use of laser pointer

➤PC §485. Keeping lost property

PC §490.1. Petty theft not over \$50

➤PC §602(m). Trespass

PC §640.5(a)(1). Graffiti on government facilities or vehicles

PC §640.6(a)(1). Graffiti on real or personal property not one's own

☼ *PC §§330 and 555, though sometimes mistakenly included on lists of school infractions, do not apply in schools. This is explained further elsewhere in this guide (see Table of Statutes above).*

FAILURE TO REPORT CHILD ABUSE OR NEGLECT

☼ *For details regarding this law, see the Child Abuse and Neglect Reporting Act, PC §§11164-11174.3.*

This law applies to observations made or information received in one's professional capacity or in the scope of one's employment.

Crimes of child abuse or neglect can be committed by one child against another, excluding mutual fights.

Mandated reporters do not have discretion to handle these crimes by means of school discipline alone. They must be reported. Failure to do so is a crime.

Crimes of child abuse or neglect include:

PC §243.2(a)(1). Battery on school grounds

PC §243.4(e)(1). Sexual battery

PC §245(a)(1). Assault with a deadly weapon or force likely to produce great bodily injury

PC §261.5. Unlawful sexual intercourse (statutory rape)

PC §273a(b). Child cruelty

PC §273d. Child injury

PC §288(a). Lewd act with child under 14

PC §288a(b)(1). Oral copulation with child

PC §422. Criminal threats

PC §646.9. Stalking

PC §647(a). Lewd conduct
PC §647.6(a)(1). Sexually motivated child annoyance or molestation

Definitions

PC §11165. “Child”

☞ A person under age 18.

PC §11165.6. “Child abuse or neglect”

☞ Includes non-accidental physical injury inflicted on a child by another person; sexual abuse under §11165.1; neglect under §11165.2; willful harming or endangering of a child under §11165.3; and unlawful corporal punishment or injury under §11165.4.

Does not include mutual affray between minors.

Does not include injury caused by a peace officer using reasonable and necessary force.

PC §11165.1. “Sexual abuse”

☞ Sexual assault (sexual contact of any kind with a child, including statutory rape, sexually motivated child annoyance or molestation, sexual battery, and lewd conduct) or sexual exploitation (involving a child in prostitution or producing pornography).

☼ *Under §11166(a)(1), the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.*

This provision allows a minor to receive care or counseling without fear of a report being made based on the pregnancy alone.

PC §11165.2. “Neglect”

☞ Negligent treatment or maltreatment of a child, by act or omission, by a person responsible for the child’s welfare, involving harm or threatened harm to the child’s health or welfare.

PC §11165.3. “Willful harming or endangering of a child”

☞ Willfully causing or permitting a child to suffer, or inflicting on a child, unjustifiable physical pain or mental

suffering; or having care or custody of a child, willfully causing or permitting the child’s person or health to be endangered.

PC §11165.4. “Unlawful corporal punishment or injury”

☞ Willfully inflicting on a child cruel or inhuman corporal punishment; or physical injury, whether minor or serious.

Does not include reasonable and necessary force used by a school employee in self-defense, to take weapons or other dangerous objects from a pupil, or to maintain order, protect property, protect the health and safety of pupils, or maintain proper and appropriate conditions conducive to learning.

PC §11165.7. “Mandated reporter”

☞ (a) Includes, in the school setting:

(1) Teacher.

(2) Instructional aide.

(3) Teacher’s aide or teacher’s assistant employed by public or private school.

(4) Classified employee of public school.

(5) Administrative officer or supervisor of child welfare and attendance, or certificated pupil personnel employee of public or private school.

(8) Administrator or employee (but not volunteer) of public or private organization whose duties require direct contact with and supervision of children.

(9) Employee of county office of education or California Department of Education, whose duties bring employee into regular contact with children.

(15) Social worker, probation officer, or parole officer.

(16) Employee of school district police or security department.

(17) Administrator or presenter of, or counselor in, child abuse prevention program in public or private school.

(19) Peace officer.

(34) Employee of police department, county sheriff's department, county probation department, or county welfare department.

Reporting Duties and Instructions

PC §11165.9. Where to report

Reports may be made to any police department or sheriff's department (but not school district police or security department), county probation department, or county welfare department.

RIVERSIDE COUNTY CPS 24-HOUR HOTLINE 1-800-442-4918

☀ *Reports to CPS will not necessarily be forwarded to law enforcement. Crimes of child abuse or neglect should be (but are not legally required to be) separately reported to law enforcement.*

PC §11166. Duty to report child abuse or neglect; failure to report

(a) Mandated reporter shall make report whenever, in his professional capacity or within the scope of his employment, he knows of or observes a child whom he knows or reasonably suspects has been the victim of child abuse or neglect.

Mandated reporter shall make initial report as soon as possible by telephone, and shall send written report within 36 hours.

(c) Crime: As mandated reporter / fail to make mandated report.

Ⓜ Up to 6 months in jail and/or a fine of up to \$1,000.

☀ *When two or more mandated reporters share knowledge or reasonable suspicion of child abuse or neglect, all must ensure that a report is made by at least one of them.*

Making the report to anyone other than an agency specified in §11165.9 is insufficient.

PC §11166.01. Additional reporting crimes

(a) Crime: As supervisor or administrator / impede or inhibit or punish making of mandated report.

Ⓜ Up to 6 months in jail and/or a fine of up to \$1,000.

(b) Crime: As mandated reporter / willfully fail to make mandated report / where abuse or neglect results in death or great bodily injury; or

As supervisor or administrator / impede or inhibit making of mandated report / where abuse or neglect results in death or great bodily injury.

Ⓜ Up to 1 year in jail and/or a fine of up to \$5,000.

PC §11166.05. Voluntary reporting of serious emotional damage

Any mandated reporter who knows or reasonably suspects that a child is suffering, or at substantial risk of suffering, serious emotional damage, shown by states of being or behavior, such as severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, *may* make a report to an agency specified in §11165.9.

PC §11167. Report contents; confidentiality of reporter's identify

(a) Reports of suspected child abuse or neglect shall include:

- Reporter's name, business address, telephone number, and capacity that makes person mandated reporter;
- Information giving rise to reasonable suspicion of child abuse or neglect; and
- Sources of that information.

If known, the following information shall also be included:

- Child's name, address, present location, school, grade, and class;
- Names, addresses, and telephone numbers of child's parents or guardians; and
- Names, addresses, telephone numbers, and other relevant personal information about

persons who might have abused or neglected the child.

Mandated reporter shall make report even if some of this information is unknown or uncertain.

☼ *The identity of the reporter is confidential and may be disclosed only among those receiving and acting upon the report.*

PC §11167.5. Confidentiality of reports; violation of confidentiality

(a) Mandatory and voluntary reports, and resulting investigative reports, are confidential and may be disclosed only to specified agencies and persons, including those responsible for receiving, investigating, and acting upon reports.

Crime: Violate confidentiality of reports or reporter's identify.

☒ Up to 6 months in jail and/or a fine of \$500.

PC §11172. Immunity from liability

(a) No mandated reporter shall be civilly or criminally liable for any report required or authorized by law. This immunity applies even if mandated reporter acquired knowledge or reasonable suspicion of child abuse or neglect outside professional capacity or scope of employment.

No other person reporting known or suspected child abuse or neglect shall be civilly or criminally liable for any report authorized by law, unless report was false, and person knew report was false or made report with reckless disregard of its truth or falsity.

(b) No person who gives government investigator access to reported victim shall be civilly or criminally liable for providing access.

PC §11174.3. Interviewing victim at school

(a) Government investigator may interview, during school hours, on school premises, victim of child abuse or neglect suspected to have occurred in child's home or out-of-home care facility.

The child shall be informed of, and given, the option to be interviewed in private or to select any adult school staff member (including volunteer aide) to be present to lend support. Selected staff member shall not participate in interview or discuss case with child and is subject to confidentiality requirements of §§11167 and 11167.5. Selected staff member shall be informed of these requirements and may decline to be present.

FAILURE TO REPORT PHYSICAL AGGRESSION AGAINST SCHOOL EMPLOYEE BY STUDENT

☼ *School employees against whom crimes of physical aggression by a student are committed, and their supervisors, do not have discretion to handle these crimes by means of school discipline alone.*

These crimes must be reported to law enforcement. There is no option to report them to any public agency other than law enforcement. Failure to do so is a crime.

EC §44014. Failure to report attack, assault, or physical threat against school district employee by student

(a) Duty: When a school district employee is attacked, assaulted, or physically threatened by a student, the employee and any supervisor who knows of the incident must promptly report the incident to law enforcement authorities.

(a) Crime: Fail to make report.

☒ A fine of up to \$1,000.

(c) Crime: As school district employee / directly or indirectly inhibit or impede / making of report required by this section / by person under duty to report.

☒ A fine of \$500-\$1,000.

☼ *School district reporting procedures inconsistent with this law do not exempt employees from following this law.*

No school district employee may punish a person under a duty to report for making the report.

CONTRIBUTING TO DELINQUENCY

PC §272(a)(1). Contributing to the delinquency of a minor

(a)(1) By any act or omission, or by threats, commands, or persuasion / cause or tend to cause or encourage, or induce or try to induce / any person under age 18 / to do anything or follow any course of conduct or so live / as would bring or tend to bring that person / within the provisions of WIC §§300 (child welfare), 601 (incurability/truancy), or 602 (criminal conduct).

M 0-1 year in juvenile facility and/or \$0-\$2,500 fine.

☀ *Under §272(a)(2), “a parent or legal guardian to any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection, and control over their minor child.”*

This crime can be committed by one minor against another. Juvenile partners in crime contribute to each other’s delinquency.

SCOPE OF POSSESSION

☀ *CALCRIM jury instruction no. 2304 states: “Two or more people may possess something at the same time. A person does not have to actually hold or touch something, to possess it. It is enough if the person has control over it or the right to control it, either personally or through another person.”*

AIDING AND ABETTING

☀ *Under PC §31, not only people who directly commit a crime, but also people who aid, abet, advise, encourage, or compel the commission of the crime, are all guilty of that crime.*

CONSPIRACY

PC §182. Criminal conspiracy

(a) Conspire / with one or more other persons:

(1) To commit any crime.

(5) To commit any act injurious to public health or morals / or to pervert or obstruct justice or due administration of laws.

F/W Conspiracy to commit felony: Punished in same manner as that felony.

M Conspiracy to commit misdemeanor or do other act described in this section: 0-3 years in juvenile facility and/or \$0-\$10,000 fine.

☀ *To have a criminal conspiracy, the conspirators must do something more than agree and plan to commit a crime. They must take some action toward committing the crime, including making preparations.*

Normally, it is needlessly complicated to charge conspiracy. When a crime is committed, everyone who aided and abetted can simply be charged with the crime itself. Charging conspiracy can be useful when:

1) *The conspirators are caught in the preparation stage, before they have actually committed or attempted to commit the crime.*

2) *The conspiracy results in a failed attempt. The penalty for an attempt is usually only half the penalty for the completed crime, but conspiracy to commit most felonies is punishable in the same manner as the completed crime. If a more severe penalty would serve the interests of justice, charging conspiracy may be appropriate.*

3) *The crime committed is a misdemeanor. Conspiracy to commit a misdemeanor is a felony. If prosecuting the conspirators for a felony would serve the interests of justice, charging conspiracy may be appropriate.*

ATTEMPTS

PC §21a. “Attempt” defined

☞ *Direct but ineffective act done toward commission of a crime / with intent to commit that crime.*

PC §664. Penalty for attempts

M *A crime attempted, but not completed, is punishable (unless otherwise stated) by up to one-half the maximum*

punishment (commitment to a juvenile facility and/or a fine) provided for the completed crime.

☐ Attempted robbery exception: 0-3 years in juvenile facility.

GANG CRIMES

☼ For details regarding prosecution and punishment of gang crimes, see the *Street Terrorism Enforcement and Prevention Act, PC §§186.20-186.33*.

PC §186.22. Gang crimes

☼ A gang crime is committed for the benefit of, at the direction of, or in association with a criminal street gang, with the intent to promote, further, or assist in criminal conduct by gang members.

An allegation that a crime is a gang crime is made in addition to charging the underlying crime.

In addition and consecutive to the punishment for the underlying crime, a felony gang crime is punishable under §186.22(b)(1) as follows:

☐ Ordinary felony (such as vandalism over \$400 or possession of a knife on school grounds): 0-4 more years in juvenile facility.

☐ Serious felony, as defined in PC §1192.7(c) (such as assault with a deadly weapon, victim/witness intimidation, and criminal threats): 0-5 more years in juvenile facility.

☐ Violent felony, as defined in PC §667.5(c) (such as robbery and any felony in which the perpetrator personally inflicts great bodily injury on any person other than an accomplice): 0-10 more years in juvenile facility.

☼ Instead of the punishment for the underlying crime, a misdemeanor gang crime (such as vandalism under \$400 or battery) is increased to a felony/misdemeanor “wobbler” punishable under §186.22(d) as follows:

☐ 0-3 years in juvenile facility.

☼ Proving a gang allegation requires information not only about the present crime and perpetrator but about the gang and its criminal history.

Because of these requirements, a gang allegation generally cannot be added without the involvement of specialized gang investigators.

HATE CRIMES

PC §422.55(a). “Hate crime” defined

☐ (a) A crime committed, in whole or in part, because of one or more of the following characteristics of the victim (as perceived by the perpetrator, whether that perception is accurate or not):

- (1) Disability.
- (2) Gender.
- (3) Nationality.
- (4) Race or ethnicity.
- (5) Religion.
- (6) Sexual orientation.

(7) Association with a person or group with one or more of these actual or perceived characteristics.

PC §422.56. Related definitions

☐ (b) Disability: Includes mental disability and physical disability.

☐ (c) Gender: Sex; includes gender identity and related appearance and behavior, whether or not stereotypically associated with assigned sex at birth.

☐ (d) In whole or in part because of: The prohibited bias need not be the only motive for the crime, but it must be a substantial factor in choosing to commit this crime against this victim.

☐ (e) Nationality: Includes citizenship, country of origin, and national origin.

☐ (f) Race or ethnicity: Includes ancestry, color, and ethnic background.

☐ (g) Religion: Includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

☐ (h) Sexual orientation: Heterosexuality, homosexuality, or bisexuality.

☀ *An allegation that a crime is a hate crime is made in addition to charging the underlying crime.*

In addition and consecutive to the punishment for the underlying crime, a felony hate crime is punishable under PC §422.75 as follows:

☰ Ordinary felony (such as vandalism over \$400): 0-3 more years in juvenile facility.

☰ Felony committed by voluntarily acting in concert with another person, either personally or by aiding and abetting another person: 0-4 more years in juvenile facility.

☀ *Instead of the punishment for the underlying crime, a misdemeanor, violent hate crime (such as battery on school grounds), committed to interfere with the victim's free enjoyment of any legal right (such as attending school), is increased to a felony/misdemeanor "wobbler" punishable under PC §422.7 as follows:*

☒ 0-3 years in juvenile facility and/or \$0-\$10,000 fine.

DISTURBING THE PEACE

PC §415. Disturbing the peace

(1) Unlawfully fight or challenge another person to fight / in public place; or

(2) Maliciously and willfully disturb another person / by loud and unreasonable noise; or

(3) Use offensive words / inherently likely to provoke immediate, violent reaction / in public place.

☒ 0-90 days in juvenile facility and/or \$0-\$400 fine; or

☒ \$0-\$250 fine.

☀ *Freedom of speech does not include offensive words likely to provoke people to violence in a public place. It is also against the law to falsely report a bomb, an emergency, a fire, or a crime. It is illegal to lie under oath. It is illegal to verbally aid and abet crimes. Not all speech is protected by the First Amendment.*

PC §415.5. Disturbing the peace on school grounds (omitted)

☀ *This section is omitted here because it does not apply to registered students. Section 415 covers the same conduct, applies to everyone, and provides the same penalties for a first conviction.*

EC §32210. Disturbing public school

Willfully disturb public school or public school meeting.

☒ \$0-\$500 fine.

EC §44810(a). Interference with school class or activity by non-student

(a) As non-student over age 16 / willfully interfere with school class or activity / on school grounds / with intent to disrupt, obstruct, or inflict property damage or bodily injury.

☒ 0-1 year in juvenile facility and/or \$0-\$1,000 fine.

EC §44811(a). Disrupting class work or extracurricular activities by non-student

(a) As non-student / engage in conduct that materially disrupts class work or extracurricular activities or involves substantial disorder / where school employee is required to be in course of duties.

☒ 0-1 year in juvenile facility and/or \$0-\$1,000 fine.

TRESPASS ON SCHOOL GROUNDS

PC §626.2. Trespass on school grounds

Entry by student or employee / suspended or dismissed and denied access to campus / after a hearing / having been served with written notice by certified mail.

☒ 0-6 months in juvenile facility and/or \$0-\$500 fine.

PC §626.4. Trespass on school grounds

Remaining or re-entry / by person notified of withdrawn consent to remain on campus / for disrupting orderly operation of school.

☒ 0-6 months in juvenile facility and/or \$0-\$500 fine.

PC §626.7. Trespass on school grounds

Remaining, or re-entry without contacting administrative offices / by non-student, non-employee / directed to leave / for interfering, or intending to interfere, with peaceful conduct of school.

M 0-6 months in juvenile facility and/or \$0-\$500 fine.

PC §626.8. Trespass on school grounds

Remaining, or re-entry within seven days, or continued pattern of unauthorized entry / by person asked to leave / for interfering with peaceful conduct of school.

M 0-6 months in juvenile facility and/or \$0-\$500 fine.

PC §602(m). Trespass

☼ This section applies to trespass on school grounds when the school is closed (but if a school building is entered with intent to commit theft or a felony, then the crime is burglary).

(m) Enter and occupy real property or structures / without consent of owner or lawful possessor.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine; or **V** \$0-\$250 fine.

PC §555. Trespass on posted property (omitted)

☼ Though sometimes mistakenly included on lists of school infractions, this section is omitted here because it applies only to industrial properties specified in PC §554. It does not apply to schools.

ASSAULT

☞ Assault: Unlawful attempt to commit violent injury on person of another, having present ability to do so.

☼ The difference between assault and battery is that an assault is a “swing and a miss.” If the blow lands, it’s still an assault, but it’s also a battery.

PC §241.2(a)(1). Assault on school grounds

(a)(1) Commit assault / on school or park property.

M 0-1 year in juvenile facility and/or \$0-\$2,000 fine.

☼ Assault off school grounds is punishable under PC §241(a) by 0-6 months in a juvenile facility and/or a fine of \$0-\$1,000.

PC §241.6. Assault against school employee

Commit assault / against school employee / performing duties or in retaliation for performing duties / anywhere, anytime / knowing victim is school employee.

M 0-1 year in juvenile facility and/or \$0-\$2,000 fine.

BATTERY

☞ Battery: Willful and unlawful use of force or violence upon person of another.

PC §243.2(a)(1). Battery on school grounds

(a)(1) Commit battery / on school or park property.

M 0-1 year in juvenile facility and/or \$0-\$2,000 fine.

☼ Battery off school grounds is punishable under PC §243(a) by 0-6 months in a juvenile facility and/or a fine of \$0-\$2,000.

PC §243.35. Battery on school bus

(a) Commit battery / on school bus or public transportation.

M 0-1 year in juvenile facility and/or \$0-\$2,000 fine.

☼ For battery against a school bus driver, see PC §243.3 (not included here).

PC §243.6. Battery against school employee

Commit battery / against school employee / performing duties or in retaliation for performing duties / anywhere, anytime / knowing victim is school employee.

M 0-1 year in juvenile facility and/or \$0-\$2,000 fine; or

V If injury to victim: 0-3 years in juvenile facility and/or \$0-\$2,000 fine.

PC §273d. Child injury

(a) Willfully inflict upon a child / cruel or inhuman corporal punishment / or physical injury, whether minor or serious.

W 0-6 years in juvenile facility and/or \$0-\$6,000 fine.

☀ *This crime can be committed by one child against another. A battery causing injury to a child may be charged as battery (a misdemeanor not requiring any injury) or as child injury (a more serious felony/misdemeanor “wobbler”).*

Factors such as severity of injuries, history between perpetrator and victim, their relative ages, mutual combat, lying in wait, luring the victim to the scene, acting in concert, prior violent conduct, truthfulness, and remorse should be considered.

PC §243(d). Battery inflicting serious bodily injury

(d) Commit battery / inflicting serious bodily injury.

W 0-4 years in juvenile facility.

☞ Serious bodily injury: Serious impairment of physical condition, including, but not limited to: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

ASSAULT WITH A DEADLY WEAPON AND BRANDISHING

PC §245(a)(1). Assault with a deadly weapon or force likely to produce great bodily injury

☀ *For assault with a firearm, see PC §§245(a)(2), 245(a)(3), and 245(b) (not included here).*

(a)(1) Commit assault / with anything used as a deadly weapon (other than a firearm) / or by force likely to produce great bodily injury.

W 0-4 years in juvenile facility and/or \$0-\$10,000 fine.

PC §245.5(a). Assault with a deadly weapon or means likely to produce great bodily injury on a school employee

☀ *For assault with a firearm on a school employee, see PC §245.5(b) (not included here).*

(a) Commit assault / with anything used as a deadly weapon (other than a firearm) / or by means likely to produce great bodily injury / on school employee / when performing duties / knowing victim is school employee performing duties.

W 0-5 years in juvenile facility.

PC §12022.7(a). Inflicting great bodily injury

(a) Personally inflict great bodily injury / on person other than accomplice / in commission of felony or attempted felony.

W 0-3 additional, consecutive years in juvenile facility.

☞ Great bodily injury: Significant or substantial physical injury.

☀ *The above allegation is made in addition to charging the underlying crime.*

PC §417(a)(1). Brandishing a deadly weapon

☀ *For brandishing a firearm on school grounds, see PC §417(b) (not included here).*

(a)(1) Draw or exhibit / deadly weapon (other than a firearm) / in rude, angry, or threatening manner / in the presence of another person / except in self-defense.

W 0-6 months in juvenile facility.

SEXUAL OFFENSES

☀ *All of the sexual offenses in this guide can be committed by one child against another and, unless otherwise stated, consensually with each other.*

PC §243.4(e)(1). Sexual battery

☀ *If the victim is under age 14, see also PC §288(a).*

(e)(1) Touch intimate part of another person / against that person’s will / for sexual gratification or sexual abuse.

- ☑ 0-6 months in juvenile facility and/or \$0-\$2,000 fine.
- ☞ Touch: Physical contact, directly or through clothing.
- ☞ Intimate part: Sexual organ, anus, groin, or buttocks of any person, and breast of female.

PC §288(a). Lewd act with child under 14

(a) Commit lewd act (including sexual battery, lewd conduct, and any other sexual offense) / upon or with body of child under age 14 / to arouse, appeal to, or gratify sexual desires of perpetrator or child.

- ☑ 0-8 years in juvenile facility.

PC §261.5. Unlawful sexual intercourse (statutory rape)

☼ *If one or both participants are under age 14, see also PC §288(a).*

(b) Have unlawful sexual intercourse / with minor not more than 3 years older or younger than perpetrator.

- ☑ 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

(c) Have unlawful sexual intercourse / with minor more than 3 years younger than perpetrator.

- ☑ 0-3 years in juvenile facility.

☞ Unlawful sexual intercourse: Sexual intercourse with minor who is not spouse of perpetrator.

☞ Minor: Person under age 18.

PC §288a(b)(1). Oral copulation with child

☼ *If one or both participants are under age 14, see also PC §288(a).*

(b)(1) Participate in act of oral copulation / with person under age 18.

- ☑ 0-3 years in juvenile facility.

☞ Oral copulation: Act of copulating mouth of one person with sexual organ or anus of another person.

PC §647.6(a)(1). Sexually motivated child annoyance or molestation

(a)(1) Annoy or molest child under age 18.

- ☑ 0-1 year in juvenile facility and/or \$0-\$5,000 fine.

☼ *Appellate court cases interpreting this law are reflected in CALCRIM jury instruction no. 1122, which defines the elements of this crime as follows:*

1. The defendant engaged in conduct directed at a child;

2. A normal person, without hesitation, would have been disturbed, irritated, offended, or injured by the defendant's conduct;

3. The defendant's conduct was motivated by an unnatural or abnormal sexual interest in the child;

AND

4. The child was under the age of 18 years at the time of the conduct.

It is not necessary that the child actually be irritated or disturbed. It is also not necessary that the child actually be touched.

It is not a defense that the child may have consented to the act.

☼ *This crime can be committed by one child sexually harassing another, especially if the victim is considerably younger than the perpetrator.*

If the conduct appears to be "motivated by an unnatural or abnormal sexual interest" in the victim, charging this crime may be appropriate.

PC §647(a). Lewd conduct

☼ *If one or both participants in mutual touching are under age 14, see also PC §288(a).*

(a) Engage in or solicit lewd conduct / in public place or place exposed to public view

- ☑ 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

☼ *Appellate court cases interpreting this law are reflected in CALCRIM jury instruction no. 1161, which defines the elements of this crime as follows:*

1. The defendant willfully engaged in the touching [directly or through clothing] of his/her own or another person's genitals, buttocks, or female breast;

2. The defendant did so with the intent to sexually arouse or gratify himself/herself or another person, or to [sexually] annoy or offend another person;

3. At the time the defendant engaged in the conduct, he/she was in a public place or a place open to the public or to public view;

4. At the time the defendant engaged in the conduct, someone else who might have been offended was present;

AND

5. The defendant knew or reasonably should have known that another person who might have been offended by his/her conduct was present.

PC §314(1). Indecent exposure

(1) Expose one's genitals / where others are present to be offended or annoyed

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

☀ *Appellate court cases interpreting this law are reflected in CALCRIM jury instruction no. 1160, which defines the elements of this crime as follows:*

1. The defendant willfully exposed his/her genitals in the presence of another person or persons who might be offended or annoyed by the defendant's actions;

AND

2. When the defendant exposed himself/herself, he/she acted lewdly by intending to direct public attention to his/her genitals for the purpose of sexually arousing or gratifying himself/herself or another person, or sexually offending another person.

☀ *Merely exposing one's buttocks ("mooning") or female breasts ("flashing" à la Mardi Gras), without lewdly touching them, is neither lewd conduct (which requires touching), nor indecent exposure (which applies only to genitals).*

See instead EC §32210, disturbing public school; or use school discipline.

PC §647(k). Invasion of privacy

(k)(1) Look with naked eye or any device / into private area (such as bathroom or locker room) / with intent to invade privacy of person(s) inside; or

(k)(3)(A) Use concealed camera of any kind / to secretly record / identifiable person / who may be (but need not be) fully or partially undressed / for purpose of viewing that person's body or undergarments / without that person's consent / in private area (such as bathroom or locker room) / with intent to invade that person's privacy.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

PC §311.11(a). Possession of child pornography

(a) Possess visual image (such as photo or video on cell phone) / knowing that it depicts person under age 18 / engaging in sex act or showing genitals or pubic or rectal area (even clothed if focus is on pubic or rectal area) / for sexual stimulation of viewer.

M 0-3 years in juvenile facility and/or \$0-\$2,500 fine.

CRIMINAL THREATS AND STALKING

☀ *A verbal or written threat may be communicated by means of an electronic device, such as a telephone or computer.*

Unless a crime requires that a threat be made directly to the person threatened, it may be made indirectly, such as by telling someone else or posting it on a Web site, intending that the target of the threat will receive it.

PC §422. Criminal threats

Willfully threaten to commit crime which will result in death or great bodily injury / intending statement, made verbally or in writing, to be taken as a threat (even if no intent to carry it out) / so unequivocal, unconditional, immediate, and specific / as to convey serious purpose and immediate prospect of fulfillment / causing person threatened reasonably to be in sustained fear / for safety of self or immediate family.

M 0-3 years in juvenile facility.

☞ Immediate family: Spouse, parent, child, grandparent, grandchild, or sibling, by blood or marriage, or regular household resident within past six months.

PC §71. Coercing school employee

Cause or attempt to cause / with intent to cause / school or public officer or employee / to do or not do any act in course of duties / by threat made directly to that person by any means / to inflict unlawful injury on any person or property / it reasonably appearing to person threatened that threat could be carried out.

☑ 0-3 years in juvenile facility and/or \$0-\$10,000 fine.

PC §136.1. Victim/witness prevention/dissuasion/intimidation

Prevent or dissuade; or attempt to prevent or dissuade / crime victim or witness from:

(a) Going to court or testifying; or

(b) Reporting crime to law enforcement, having perpetrator arrested or prosecuted, or assisting in prosecution.

☑ 0-3 years in juvenile facility.

(c)(1) Do any of above / by force; or by express or implied threat of force or violence / against person or property of witness, victim, or anyone else.

☑ 0-4 years in juvenile facility.

☼ *It does not matter whether the attempted prevention, dissuasion, or intimidation succeeded or failed.*

PC §646.9. Stalking

(a) Willfully, maliciously, and repeatedly follow or willfully and maliciously harass another person / and make credible threat / with intent to place that person in reasonable fear / for safety of self or immediate family.

☑ 0-3 years in juvenile facility and/or \$0-\$1,000 fine.

☞ Harass: Engage in knowing and willful course of conduct directed at specific person that seriously alarms, annoys, torments, or terrorizes that person, and serves no legitimate purpose.

☞ Course of conduct: Two or more acts occurring over a period of time, however short, showing continuity of purpose.

☞ Credible threat: Verbal or written threat and/or threat implied by pattern of conduct, made with intent to place person threatened in reasonable fear for safety of self or family, and made with apparent ability to carry out threat (even if no intent to carry it out), so as to cause person threatened to reasonably fear for safety of self or family.

☞ Immediate family: Spouse, parent, child, grandparent, grandchild, or sibling, by blood or marriage, or regular household resident within past six months.

BULLYING AND CRUELTY

PC §273a(b). Child cruelty

(b) Under circumstances not likely to produce great bodily harm or death / willfully cause or permit child to suffer, or inflict on child, unjustifiable physical pain or mental suffering.

☑ 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

☼ *This crime can be committed by one child against another. Bullying or cruelty that does not constitute a battery or criminal threat may nevertheless meet the elements of child cruelty.*

This crime is not meant to encompass every hurtful remark, but in cases of severe emotional mistreatment, such as deliberate campaigns to destroy the emotional well-being of a child, charging child cruelty may be appropriate.

CRIMES AGAINST PEACE OFFICERS

PC §148(a)(1). Resisting a peace officer

(a)(1) Willfully resist, delay, or obstruct peace officer / in discharge of duty.

☑ 0-1 year in juvenile facility and/or \$0-\$1,000 fine.

PC §69. Violently resisting a peace officer

Attempt by threat or violence to deter or prevent peace officer / from performing duty; or

Resist by force or violence peace officer / in performance of duty.

M 0-3 years in juvenile facility and/or \$0-\$10,000 fine.

☼ *See also the following (not included here):*

PC §241(b). Assault against peace officer

PC §243(b). Battery against peace officer

PC §243(c)(2). Battery against peace officer inflicting injury

PC §245(c). Assault with a deadly weapon or means likely to produce great bodily injury on a peace officer

PC §245(d). Assault with a firearm on a peace officer

PC §417(c). Brandishing a firearm in immediate presence of a peace officer

CRIMES AGAINST SCHOOL EMPLOYEES

PC §245.5(d). “School employee” defined

☼ *This definition applies to PC §§241.6, 243.6, and 245.5.*

☞ Any person employed as a permanent or probationary certificated or classified employee of a school district on a part-time or full-time basis, including a substitute teacher; also a student teacher or school board member.

☼ *Crimes against school employees include the following:*

PC §71. Coercing school employee (see Criminal Threats and Stalking)

PC §241.6. Assault against school employee (see Assault)

PC §243.6. Battery against school employee (see Battery)

PC §245.5(a). Assault with a deadly weapon or means likely to produce great bodily injury on a school employee (see Assault with a Deadly Weapon and Brandishing)

PC §245.5(b). Assault with a firearm on a school employee (not included here)

POSSESSION OF WEAPONS

PC §626.9(b). Possession of firearm in school zone

(b) Possess firearm / in a place one knows, or reasonably should know, is a school zone.

F On school grounds: 0-5 years in juvenile facility; or

M Within 1,000 feet from school grounds: 0-5 years in juvenile facility.

☞ School zone: On grounds, or within 1,000 feet from grounds, of K-12 public or private school.

☼ *This section does not apply to otherwise lawful possession of a firearm in a residence or place of business or on private property, not part of school grounds.*

This section does not apply to active or honorably retired peace officers; armed security guards; military members performing duties; and persons licensed to carry concealable firearms.

PC §12316(c). Possession of ammunition on school grounds

(c) Carry live ammunition / onto school grounds.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

☼ *This section does not apply to active or honorably retired peace officers; armed security guards; military members performing duties; and persons licensed to carry concealable firearms.*

PC §626.10(a). Possession of knife, BB gun, etc. on school grounds

(a) Bring or possess / on K-12 public or private school grounds / dirk or dagger; ice pick; knife with blade longer than 2½ inches; folding knife with blade that locks into place; razor with unguarded blade; taser; stun gun; anything that expels a metallic projectile such as a BB or pellet by air pressure, CO₂ pressure, or spring action; or spot marker gun.

M 0-3 years in juvenile facility.

☞ Dirk or dagger: Knife or other instrument capable of ready use as a stabbing weapon that may inflict great bodily injury or death.

PC §12020(a). Possession of metal knuckles, nunchaku, or billy club

(a) Possess / metal knuckles; nunchaku; or any object of the kind commonly known as a slung shot, sandbag, blackjack, or billy club.

☑ 0-3 years in juvenile facility.

☼ *Other unlawful weapons, uncommon on school grounds, are omitted from the above list.*

If the object has lawful uses, it must be proven that it was possessed as a weapon.

PC §12420. Unlawful possession of tear gas

Knowingly possess tear gas or tear gas weapon, except as permitted by law.

☑ 0-1 year in juvenile facility and/or \$0-\$2,000 fine.

☼ *Under PC §§12403.7(d) and 12403.8(a), no minor shall purchase, possess, or use tear gas or tear gas weapons unless age 16 or older with the written consent or accompaniment of a parent or guardian.*

EXPLOSIVES

PC §12303.2. Possession of destructive device or explosive in or near school

Recklessly or maliciously possess / destructive device or explosive / in or near any school (among other places).

☑ 0-6 years in juvenile facility.

☼ *PC §12301 defines “destructive device,” which includes bombs and Molotov cocktails.*

H&S §§12000 and 12001 define “explosive,” which does not include fireworks (as defined in H&S §§12511, 12505, 12508, and 12529).

Applying §12511, if a device is commonly known as a firework, used for entertainment, such as a firecracker

or M-80, even though dangerous and prohibited, it is not an explosive.

FIREWORKS

H&S §12677. Possession of dangerous fireworks without permit

Possess / dangerous fireworks / without valid permit.

☑ 0-1 year in juvenile facility and/or \$0-\$1,000 fine.

H&S §12689. Distribution of dangerous fireworks to minor

(a) Sell, give, or deliver / dangerous fireworks / to person under age 18.

☑ 0-1 year in juvenile facility and/or \$0-\$1,000 fine.

☼ *H&S §12505 defines “dangerous fireworks” to include firecrackers, skyrocket, Roman candles, chasers (devices that dart about the ground), sparklers over 10 inches long, trick/surprise fireworks, and do-it-yourself fireworks kits.*

Under H&S §12529, “safe and sane fireworks” are those not classified as dangerous.

Local ordinances in many places, such as Riverside County Code §9.22.030, prohibit possession even of safe and sane fireworks.

LASER POINTERS

PC §417.27. Prohibited possession and use of laser pointer

(b) As student / possess laser pointer / on K-12 school grounds / unless for valid school purpose.

(c) Direct laser pointer beam / into person’s eye or moving vehicle / with intent to harass or annoy.

☑ \$0-\$50 fine or 0-4 hours of community service.

ARSON

PC §451(d). Arson of property

Willfully and maliciously set fire to or burn / property / not one’s own.

- ☐ 0-3 years in juvenile facility.
- ☞ Property: Real property or personal property (including contents of trash can on school grounds) other than a structure or forest land.

VANDALISM

PC §594. Vandalism

(a) Maliciously deface with graffiti or other inscribed material; or damage or destroy / real or personal property / not one's own.

(b)(1) Cost to restore or replace \$400 or more.

☐ 0-3 years in juvenile facility and/or \$0-\$10,000 fine.

(b)(2)(A) Cost to restore or replace under \$400.

☐ 0-1 year in juvenile facility and/or \$0-\$1,000 fine.

If a minor is personally unable to pay a fine for vandalism, his parent is liable for payment. A court may waive payment by the parent for good cause.

☞ The court may also order the defendant to clean up, repair, or replace property defaced by graffiti himself; or order the defendant, and his parents or guardians if he is a minor, to keep the property or another specified property in the community free of graffiti for up to one year.

☞ Under VC §13202.6(a)(1), for vandalism committed by a person age 13 or older, the court shall suspend the person's driving privilege for up to 2 years or delay issuing the privilege for 1-3 years, plus an additional 1-year suspension or delay for each subsequent offense.

☞ Graffiti or other inscribed material: Any unauthorized inscription, word, figure, mark, or design, that is written, marked, etched, scratched, drawn, or painted on real or personal property (whether washable or permanent).

PC §640.5(a)(1). Graffiti on government facilities or vehicles

☼ *This section is a lenient (infraction rather than misdemeanor) alternative to charging vandalism under PC §594, which would also apply.*

(a)(1) Deface with graffiti or other inscribed material / facilities or vehicles of governmental entity (including public school) / cost to restore or replace under \$250.

☐ \$0-\$1,000 fine and 0-200 hours of community service.

PC §640.6(a)(1). Graffiti on real or personal property not one's own

☼ *This section is a lenient (infraction rather than misdemeanor) alternative to charging vandalism under PC §594, which would also apply.*

(a)(1) Deface with graffiti or other inscribed material / real or personal property / not one's own / cost to restore or replace under \$250.

☐ \$0-\$1,000 fine and 0-200 hours of community service.

PC §594.2(a). Possession of tool or marking substance with intent to commit vandalism

(a) Possess / masonry or glass drill bit, carbide drill bit, glass cutter, grinding stone, awl, chisel, carbide scribe, aerosol paint container, felt tip marker, or other marking substance / with intent to commit vandalism.

☐ 0-6 months in juvenile facility and/or \$0-\$1,000 fine; and up to 90 hours of community service as condition of probation.

☞ Felt tip marker: Broad-tipped marker pen with tip over 3/8 inch wide, or similar implement containing ink not water soluble.

☞ Marking substance: Substance or implement, other than aerosol paint containers and felt tip markers that can be used to draw, spray, paint, etch, or mark.

LITTERING

PC §374.4(a). Littering

(a) Litter / on public or private property.

☐ \$0-\$1,000 fine.

☞ Litter: Discard personal waste items, such as beverage containers and closures, packaging, wrappers, wastepaper, and reading material, other than in a proper waste container.

BURGLARY, ROBBERY, AND THEFT

PC §459. Burglary

Enter building or locked vehicle / with intent to commit theft or any felony.

W Non-residential burglary: 0-3 years in juvenile facility.

PC §211. Robbery

Unlawfully take personal property / in possession of another / from his person or immediate presence / against his will / by force or fear.

F Non-residential robbery: 0-5 years in juvenile facility; or

F Robbery of public transportation operator/passenger (including school bus): 0-6 years in juvenile facility.

PC §487. Grand theft

(a) Value over \$400; or

(c) Property taken from the person of another.

W 0-3 years in juvenile facility.

☼ *The difference between robbery and “grand theft person” is this: If a backpack snatcher makes a surprise grab and getaway, using only the minimal force needed to remove the backpack from the victim’s shoulder without resistance, its grand theft person. If there is any sort of confrontation, verbal or physical, in which the backpack is taken by means of force or fear, its robbery.*

PC §488. Petty theft

Theft other than grand theft.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

PC §490.1. Petty theft not over \$50

☼ *This section is a lenient (infraction rather than misdemeanor) alternative to charging petty theft under PC §488, which would also apply.*

(a) Petty theft / value \$50 or less / with no prior theft-related conviction.

I \$0-\$250 fine.

PC §496(a). Receiving stolen property

Buy, receive, conceal, sell, or withhold from owner / stolen property / knowing property to be stolen.

W 0-3 years in juvenile facility.

PC §485. Keeping found property

Find lost property / and keep it / knowing who the owner is or having a way to identify him / without making reasonable efforts to find the owner and restore property to him.

W Value over \$400: 0-3 years in juvenile facility; or

M Value \$400 or less: 0-6 months in juvenile facility and/or \$0-\$1,000 fine; or

I Any value: \$0-\$250 fine.

PC §640a(1). Theft from vending machine

(1) Knowingly operate or attempt to operate / coin-operated machine / using false or foreign coin or other means of non-payment; or

Obtain / from coin-operated machine / anything of value / without payment.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

PC §469. Possession of key to school building or area

Knowingly possess / key to school or other public building or area / without authorization.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

ILLEGAL GAMING

PC §330. Illegal gaming (omitted)

☼ *Though sometimes mistakenly included on lists of school infractions, this section is omitted here because it applies only to specified games (such as roulette and twenty-one), banking games (in which players play against the house), and percentage games (in which the house collects a percentage).*

This section does not apply to gaming commonly conducted on K-12 school grounds, such as pitching pennies.

If gaming is a disturbance, see Disturbing the Peace, particularly EC §322.10. If gaming is against school rules, use school discipline.

VEHICLE THEFT AND TAMPERING

VC §10851. Vehicle theft or unauthorized use (joyriding)

(a) Drive or take / vehicle not one's own / without owner's consent / with intent to permanently or temporarily deprive owner of vehicle.

M 0-3 years in juvenile facility and/or \$0-\$5,000 fine.

☼ *This crime includes both vehicle theft intended to be permanent and joyriding intended to be temporary.*

This crime can be committed by driving a vehicle taken by someone else or, as a passenger, by assisting, advising, or encouraging the driver, knowing the vehicle to be stolen.

VC §10852. Vehicle tampering

Willfully injure or tamper with vehicle or its contents / or break or remove any part of vehicle / without owner's consent.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

☼ *Some of this conduct could also be punished as felony vandalism or grand theft if the value is \$400 or more.*

If a locked vehicle is entered with intent to commit theft or a felony, the crime is burglary.

VC §10853. Vehicle mischief

Climb into or upon vehicle in motion or at rest / or attempt to manipulate any mechanism of vehicle at rest and unattended / or set in motion any vehicle at rest and unattended / with intent to commit any malicious mischief, injury, or other crime.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

RECKLESS DRIVING IN PARKING LOT

VC §23103(b). Reckless driving in parking lot

(b) Drive any vehicle / in off-street parking facility (including school parking lot) / in willful or wanton disregard for safety of persons or property.

M 0-90 days in juvenile facility and/or \$0-\$1,000 fine.

FALSE REPORTS

PC §148.1. False report of bomb.

Report to anyone / that bomb or other explosive has been or will be placed in any public or private place / knowing report to be false.

M 0-3 years in juvenile facility.

PC §148.3. False report of emergency

Report to city, county, or state agency (but not school district) / that emergency exists / knowing report to be false.

M 0-1 year in juvenile facility and/or \$0-\$1,000 fine.

☞ **Emergency:** Condition that does or could result in response of public official in emergency vehicle, or jeopardize public safety and result in evacuation of any person.

PC §148.4. False report of fire

Maliciously tamper with fire alarm or fire protection equipment or give false fire alarm.

M 0-1 year in juvenile facility and/or \$0-\$1,000 fine.

PC §148.5. False report of crime

Report to peace officer or law enforcement employee assigned to accept reports / that felony or misdemeanor has been committed / knowing report to be false.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

ALCOHOL, TOBACCO, AND MARIJUANA

PC §647(f). Public intoxication with alcohol or any drug or controlled substance

(f) Be in any public place / under the influence of alcohol or any drug or controlled substance (including marijuana) / in a condition unable to care for safety of self or others / or obstructing street, sidewalk, or other public way.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

B&P §25661. Possession of false ID under age 21

Possess / false or fraudulent identification document / under age 21.

M \$0-\$250 fine and/or 0-32 hours of community service at an alcohol or drug treatment program or facility or county coroner's office, if available, in area where violation occurred or where person resides; or

I \$0-\$250 fine.

B&P §25608(a). Possession of alcoholic beverage on school grounds

(a) Possess, consume, or distribute / alcoholic beverage / on public school grounds.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

B&P §25662(a). Possession of alcoholic beverage under age 21

(a) Possess / alcoholic beverage / on street or highway, or in public place or place open to public / under age 21.

M \$0-\$250 fine and/or 0-32 hours of community service at an alcohol or drug treatment program or facility or county coroner's office, if available, in area where violation occurred or where person resides; or

I \$0-\$250 fine.

PC §308(b). Possession of tobacco products or smoking paraphernalia by minor

(b) Purchase, receive, or possess / tobacco products or paraphernalia for smoking tobacco products or any

controlled substance (including marijuana) / under age 18.

I \$0-\$75 fine or 0-30 hours of community service.

H&S §11357(e). Possession of marijuana by minor on school grounds

(e) Possess / not more than 28.5 grams marijuana (other than concentrated cannabis) / on K-12 school grounds open for school classes or programs / under age 18.

M First conviction: \$0-\$250 fine.

M Second or subsequent conviction: 0-10 days in juvenile facility and/or \$0-\$500 fine.

☀ *Possession of not more than 28.5 grams of marijuana off school grounds is punishable under H&S §11357(b) by a fine of \$0-\$100.*

For possession of concentrated cannabis, see H&S §11357(a) (not included here).

H&S §11359. Possession of marijuana for sale

Possess for sale / marijuana.

F 0-3 years in juvenile facility.

H&S §11360(a). Sale of marijuana

(a) Sell or offer to sell / marijuana.

F 0-4 years in juvenile facility.

OTHER CONTROLLED SUBSTANCES: POSSESSION AND DISTRIBUTION

H&S §11377. Possession of methamphetamine, Ecstasy, Ritalin, Rohypnol, anabolic steroids, ketamine, etc.

(a) Possess / without valid prescription / specified controlled substance, including methamphetamine, Ecstasy (MDMA), Ritalin (methylphenidate), Adderall (amphetamine/dextroamphetamine), PCP (phencyclidine), LSD (lysergic acid diethylamide), psilocybin (found in psilocybin mushrooms, commonly called "magic mushrooms" or "shrooms"), Valium (diazepam), and Rohypnol (flunitrazepam).

0-3 years in juvenile facility.

(b)(1) Possess / anabolic steroids / with no prior conviction involving anabolic steroids.

0-6 months in juvenile facility and/or \$0-\$1,000 fine.

(b)(2) Possess / ketamine.

0-6 months in juvenile facility and/or \$0-\$1,000 fine.

☼ *The club/party drug Ecstasy (methylenedioxymethamphetamine/MDMA), though not specifically listed on Schedules I-V (H&S §§11054-11058), is included on Schedule II (§11055(d)(2)) as an analog of methamphetamine under H&S §§11400 and 11401.*

Adderall (a combination of amphetamine and dextroamphetamine used to treat ADHD) is included on Schedule II (§11055(d)(1)) as amphetamine.

H&S §11378. Possession for sale of methamphetamine, etc.

Possess for sale / specified controlled substance, including methamphetamine, Ecstasy (MDMA) , Ritalin (methylphenidate), Adderall, LSD, psilocybin, Valium (diazepam), Rohypnol (flunitrazepam), and anabolic steroids.

0-3 years in juvenile facility.

H&S §11378.5. Possession for sale of PCP

Possess for sale / PCP.

0-5 years in juvenile facility.

H&S §11379.2. Possession for sale of ketamine

Possess for sale or sell / ketamine.

0-3 years in juvenile facility.

H&S §11379(a). Transportation or distribution of methamphetamine, etc.

(a) Transport, sell, furnish, administer, or give away; or offer do so; or attempt to transport / without valid prescription / specified controlled substance, including methamphetamine, Ecstasy (MDMA), Ritalin (methylphenidate), Adderall, LSD, psilocybin, Valium (diazepam), Rohypnol (flunitrazepam), and anabolic steroids.

0-4 years in juvenile facility.

H&S §11379.5. Transportation or distribution of PCP

(a) Transport, sell, furnish, administer, or give away; or offer do so; or attempt to transport / without valid prescription / PCP.

0-5 years in juvenile facility.

H&S §11350. Possession of cocaine, heroin, OxyContin, GHB, etc.

(a) Possess / without valid prescription / specified controlled substance, including cocaine, heroin, opium, codeine, Vicodin (hydrocodone), morphine, OxyContin/ Percodan/Percocet (oxycodone), methadone, mescaline, peyote, and THC (tetrahydrocannabinol/dronabinol).

0-3 years in juvenile facility.

(b) Possess / GHB (gamma hydroxybutyric acid).

0-3 years in juvenile facility.

H&S §11351. Possession for sale of cocaine, etc.

Possess for sale or purchase for sale / specified controlled substance, including cocaine, heroin, opium, codeine, Vicodin (hydrocodone), morphine, OxyContin/ Percodan/Percocet (oxycodone), methadone, mescaline, peyote, THC, and GHB.

0-4 years in juvenile facility.

H&S §11351.5. Possession for sale of cocaine base

Possess for sale or purchase for sale / cocaine base (rock/crack cocaine).

0-5 years in juvenile facility.

H&S §11352(a). Transportation or distribution of cocaine, etc.

Transport, sell, furnish, administer, or give away; or offer do so; or attempt to transport / without valid prescription / specified controlled substance, including cocaine, heroin, opium, codeine, Vicodin (hydrocodone), morphine, OxyContin/Percodan/Percocet (oxycodone), methadone, mescaline, peyote, THC, and GHB.

0-5 years in juvenile facility.

**OTHER CONTROLLED SUBSTANCES:
MISCELLANEOUS**

H&S §11550(a). Under the influence of a controlled substance (other than marijuana)

(a) Use or be under the influence of / many common controlled substances (not including marijuana).

M 0-1 year in juvenile facility.

H&S §11364(a). Possession of paraphernalia for injecting or smoking a controlled substance (other than marijuana)

(a) Possess / paraphernalia for unlawfully injecting or smoking / many common controlled substances (not including marijuana).

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

☼ Possession by a minor of paraphernalia for smoking marijuana is punishable under PC §308(b).

B&P §4140. Possession of hypodermic needle or syringe

Possess / hypodermic needle or syringe / except with valid prescription or for use on animals.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

H&S §11365. Presence where controlled substance (other than marijuana) is being used

(a) Be in any room or place / where many common controlled substances (not including marijuana) are being unlawfully used / knowing unlawful use is occurring / and oneself unlawfully use, or aid or abet unlawful use.

M 0-6 months in juvenile facility and/or \$0-\$1,000 fine.

H&S §§11355 and 11382. Furnishing fake controlled substance

Sell, deliver, furnish, transport, administer, or give away / fake controlled substance / misrepresenting it as real.

M 0-3 years in juvenile facility.

☼ PC §11355 applies to cocaine, heroin, opium, codeine, Vicodin (hydrocodone), morphine, OxyContin/ Percodan/Percocet (oxycodone), methadone, mescaline, peyote, THC, GHB, and marijuana.

PC §11382 applies to methamphetamine, Ecstasy (MDMA), Ritalin (methylphenidate), Adderall, PCP, LSD, psilocybin, Valium (diazepam), Rohypnol (flunitrazepam), anabolic steroids, and ketamine.

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