

AGENDA

IHSS STAKEHOLDERS MEETING

Friday, November 19, 2010
10:30 a.m. – Noon
9323 Tech Center Drive, Sacramento, California
Conference Room 2

Conference Call Dial-In Information:

Telephone Number: 1-800-288-9626 Participant Code: 177580

MEETING OBJECTIVES

- To present draft material including recipient and provider notices related to the expansion of exclusionary crimes and the waiver process as required by AB 1612.
- To obtain feedback from our stakeholders.

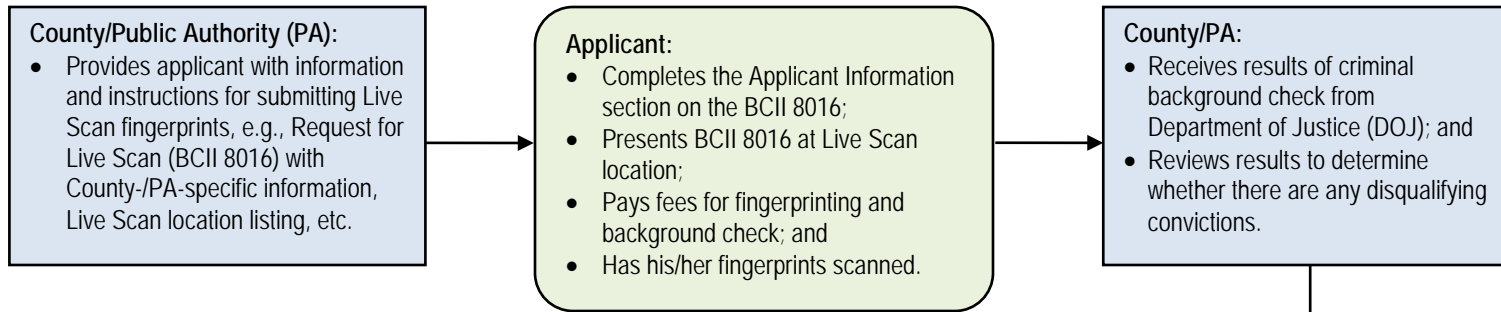
TIME

TOPIC

10:30–10:45	Welcome & Introductions – Meeting Objectives
10:45–11:00	Overview of AB 1612 - provider enrollment requirements and exclusionary crimes process
11:00–11:30	IHSS Recipient Notices for Exclusionary Crimes <ul style="list-style-type: none">○ Tier 1 - (Elder Abuse; Specified Child Abuse; and Medi-Cal/Supportive Services Fraud)○ Tier 2 – (Serious/Violent felonies; Sex Offender Felonies; and Fraud Against a Government Agency)○ IHSS Program Recipient Request for Waiver Form
11:30–11:50	IHSS Provider Notices (Tier 1 and Tier 2)
11:50 – noon	Wrap Up

Comment Period: *Respond by December 3, 2010.*

IN-HOME SUPPORTIVE SERVICES (IHSS) PROVIDER CRIMINAL BACKGROUND CHECK PROCESS



IF THE DOJ CRIMINAL BACKGROUND CHECK RESULTS AND/OR CRIMINAL OFFENDER RECORD INFORMATION (CORI) SHOW -

NO RECORD OF ANY CONVICTIONS

CONVICTION* FOR OTHER THAN TIER 1 OR TIER 2*** CRIME**

CONVICTION* FOR A TIER 1 EXCLUSIONARY CRIME**

CONVICTION* FOR A TIER 2* EXCLUSIONARY CRIME**

County/PA:

- Determines applicant **ELIGIBLE** to be enrolled as provider (if all other enrollment requirements have met).
- Utilizes state-developed notices to inform both provider and recipient(s) of individual's eligibility and enrollment as provider.

County/PA:

- Determines applicant **INELIGIBLE** to be enrolled as provider.
- Utilizes state-developed notices to inform both applicant and recipient(s) of individual's ineligibility.
- Informs the applicant and recipient, due to the type of the criminal conviction, the individual would **NOT** qualify for an individual waiver or general exception.

County/PA:

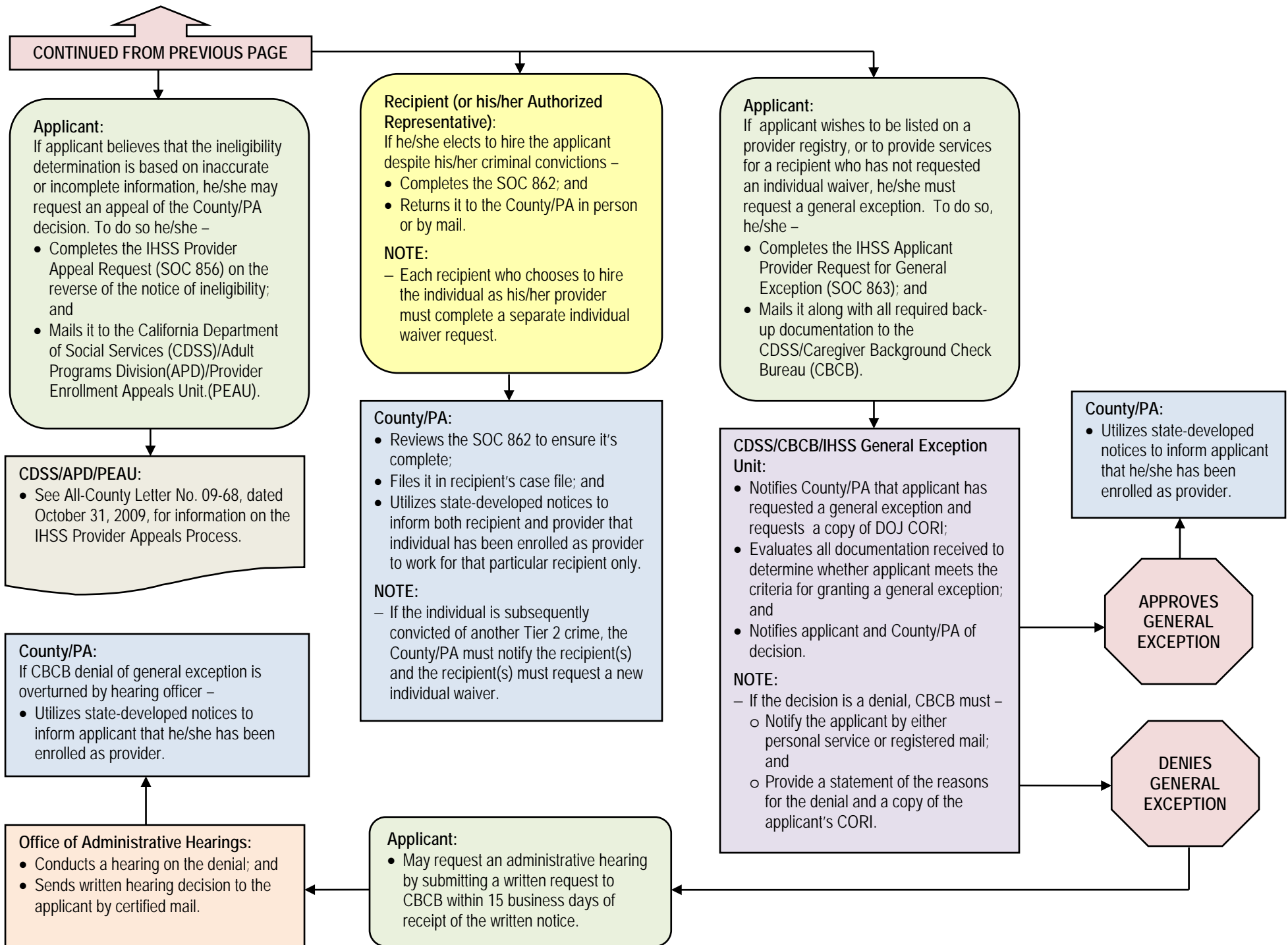
- Determines applicant **INELIGIBLE** to be enrolled as provider.
- Utilizes state-developed notices to inform both applicant and recipient(s) of individual's ineligibility.
- Informs both applicant and recipient that an individual waiver or general exception may be requested.
- Includes with ineligibility notice to recipient, the state-developed IHSS Recipient's Request for Provider Waiver (SOC 862).
- Includes with ineligibility notice to provider state-developed information about the process and required documentation for requesting a general exception.

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NOTES:

- * Conviction, or incarceration following a conviction, within the last 10 years.
- ** Tier 1 exclusionary crimes are:
 - Abuse of an elder or dependent adult (Penal Code Section 368);
 - Specified abuse of a child (Penal Code 273a, Subdivision (a)); and
 - Fraud against a government health care or supportive services program.
- *** See Attachment for listing of Tier 2 exclusionary crimes.

IN-HOME SUPPORTIVE SERVICES (IHSS) PROVIDER CRIMINAL BACKGROUND CHECK PROCESS



TIER 2 EXCLUSIONARY CRIMES

Violent or Serious Felonies, Offenses Requiring Registration as a Sex Offender,
and Felony Offenses for Fraud Against a Public Social Services Program
Pursuant to Welfare and Institutions Code (WIC) Section 12305.87

CODE SECTION	TITLE	PLAIN ENGLISH	STATUTE SOURCE
PC 136.1	Intimidation of victims or witnesses	Preventing or trying to convince a witness not to testify at any legal proceeding or not to make any reports or act in any way that leads to an arrest or prosecution of the person.	PC 1192.7 PC 667.5: only if it includes violation of PC 186.22
PC 182	Conspiracy to commit any of the crimes set forth in 290(c)	Agreeing with one or more people to commit a crime that would require the person who commits the crime to register as a sex offender.	PC 290(c)
PC 186.22	Any felony offense which also constitutes a felony violation of participation in a criminal street gang.	Any felony crime that is committed while a person is acting as part of a criminal street gang.	PC 1192.7
PC 187, PC 190-190.4 PC 192(a)	Murder or Voluntary Manslaughter	Murder is when one person kills another while acting recklessly or intending to kill the person, commit a felony crime or cause severe physical harm. PC 192(a): Voluntary manslaughter: is when a person kills another person but has an excuse, such as "heat of passion."	PC 667.5 PC 1192.7 PC 290(c): includes PC 187
PC 203 PC 205	Mayhem	Removing, disabling, or disfiguring a body part of a person or cutting certain parts of a person's head.	PC 667.5 PC 1192.7
PC 207 PC 208 PC 209 PC 209.5	Kidnapping	PC 207/PC 208: Taking, holding, or keeping another person by force or fear and moving the person to a different place; or the person taken is under 14 years old; or when a person talks a child into going with them to another place. PC 209: Kidnapping for ransom: Taking another person and intending to hold the victim for ransom, reward or to intimidate. If someone helps another person to commit this crime they are also guilty of kidnapping for ransom. PC 209.5: Kidnapping during a carjacking: Taking a person who is not involved in the carjacking and moving that person to a place away from the carjacking that causes an increased risk of harm to the victim.	PC 667.5 PC 1192 PC 7290(c): includes PC 207 and PC 209
PC 211 PC 212 PC 212.5 PC 213	Robbery	Taking property from someone by force or fear and against their will. PC 214: Train robbery: Taking property	PC 667.5 PC 1192.7: includes PC 212

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CODE SECTION	TITLE	PLAIN ENGLISH	STATUTE SOURCE
PC 214		from any passenger or person on a train; interfering with anything related to the train and railroad; placing dynamite on anything having to do with the train; or stopping or attempting to stop a train with the intent to rob a person on the train.	
PC 215	Carjacking	Taking a vehicle from another person against their will by force or fear intending to leave the person without the vehicle.	PC 1192.7 PC 667.5: includes PC 215(a).
PC 220	Assault with intent to commit mayhem, rape, sodomy, oral copulation, rape in concert, lewd or lascivious acts on a child under 14 and genital or anal penetration by a foreign object	Intentionally causing violent injury to another person while intending to commit certain sex offenses listed in PC 220 or mayhem.	PC 667.5 PC 290(c) PC 1192.7: includes PC 220(a).
PC 243.4	Sexual battery and attempted sexual battery	Touching the private parts of a person for sexual purposes without permission while the victim is restrained; is a patient receiving medical care and is seriously disabled or seriously ill; or the perpetrator wrongly believes that the touching is for a professional purpose.	PC 290(c)
PC 244	Throwing acid or flammable substances at a another person	Intentionally trying to disfigure a person by throwing or placing gas, petroleum, corrosive acid or other chemicals on the person that could injure or disfigure the person.	PC 1192.7
PC 245	Assault with a deadly weapon or instrument against a peace officer or firefighter	Intentionally using a deadly weapon to cause violent injury (assault) on a peace officer or firefighter.	PC 1192.7
PC 245.2 PC 245.3 PC 245.5	Assault with a deadly weapon against a public transit employee, custodial officer or school employee	PC 245.2: Intentionally using a deadly weapon to cause violent injury to a person. PC 245.3 Intentionally using a deadly weapon to cause violent injury to a person employed by a law enforcement agency as a public officer who is not a peace officer. PC 245.5: Intentionally using a deadly weapon to cause violent injury to a school employee.	PC 1192.7

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CODE SECTION	TITLE	PLAIN ENGLISH	STATUTE SOURCE
PC 246	Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft	Intentionally shooting at a building, vehicle or aircraft when a person or persons are inside.	PC 1192.7
PC 261	Rape	Sex with a person without that person's consent and against the person's will, the person is unconscious or unaware, or the person cannot consent because of a mental disorder or developmental or physical disability.	PC 1192.7 PC 667.5 PC 290(c): includes PC 261(a)(1), (2), (3), (4) or (6) only
PC 262	Rape of a spouse	When a person has sex with their spouse and it is either against the spouse's will, the spouse is unconscious or the spouse is prevented from resisting due to intoxication that the person should have known about.	PC 1192.7 PC 667.5: includes PC 262(a)(1) and (4) only PC 290(c): includes 262(a)(1) only
PC 264.1	Rape in concert and attempted rape	When 2 or more people have, or attempt to have, sex with a person without that person's consent and against the person's will, when the person is unconscious or unaware, or when the person cannot consent because of a mental disorder or developmental or physical disability.	PC 667.5 PC 1192.7 PC 290(c)
PC 266	Enticing, or attempting to entice, a minor into prostitution (and attempted)	Convincing, or trying to convince, a female younger than 18 years old to become a prostitute.	PC 290(c)
PC 266c	Inducing sexual intercourse by fear or consent through fraud	Having sex, sexual penetration, oral sex or anal sex by misrepresentations to the victim intending to cause fear.	PC 290(c)
PC 266h(b)	Pimping a minor	Sharing in or taking the money earned by a prostitute who is younger than 18 years old.	PC 290(c)
PC 266i (b)	Pandering a minor	Convincing by threats, violence, or promises, a person younger than 18 years old to become or remain a prostitute.	PC 290(c)
PC 266j	Providing a minor under 16 for lewd or lascivious act	Intentionally giving, providing, or making available a person younger than 16 years old for an obscene, indecent, or lustful act.	PC 290(c)
PC 267	Abduction of person under 18 for prostitution (and attempted)	Taking, or trying to take, a person younger than 18 years old from their parent or guardian without permission for prostitution.	PC 290(c)

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CODE SECTION	TITLE	PLAIN ENGLISH	STATUTE SOURCE
PC 269	Aggravated sexual assault of a child	Raping, having anal sex, having oral sex, or sexually penetrating a person younger than 14 years old who is 7 or more years younger than the attacker.	PC 290(c)
PC 272	Contributing to delinquency of a minor (and attempted)- must involve lewd or lascivious conduct	Causing, or trying to cause, a person younger than 18 years old or any ward of the juvenile court to violate a juvenile court order or to come within the control of the juvenile court.	PC 290(c)
PC 285	Incest and attempted incest	Having, or trying to have, sexual relations with family members or close relatives.	PC 290(c)
PC 286	Sodomy	Anal-penile sexual contact or anal-penile sexual penetration (anal sex).	PC 290(c) PC 667.5: includes PC 286(c) or (d) PC 1192.7: includes PC 286(c)(3)
PC 288	Lewd or lascivious act upon a child under 14 and attempted lewd and lascivious acts	Intentionally doing, or trying to do, an obscene, indecent, or lustful act with a person younger than 14 years old.	PC 290(c) PC 667.5: includes 288(a) or (b)
PC 288a	Oral copulation	Applying the mouth of one person to the genitals or anus of another person (oral sex).	PC 290(c) PC 667.5: includes 288a(c) or (d) PC 1192.7: includes PC 288a(c)(2)
PC 288.2	Felony distribution of lewd material to children and attempted felony distribution of lewd material to children	Intentionally sending, or trying to send, inappropriate material to seduce a person younger than 18 years old.	PC 290(c)
PC 288.3	Contact with a minor to commit sexual offense.	Contacting or communicating with a person younger than 18 years old in order to commit certain sex crimes listed in PC 288.3.	PC 290(c)
PC 288.4	Meeting with a minor for a sexual purpose.	Arranging to meet with a minor younger than 18 years old to expose the genitals or anal area of the minor or the perpetrator; or to do obscene, indecent or lustful acts with the minor.	PC 290(c)
PC 288.5	Continuous sexual abuse of a child (and attempted abuse)	Abusing, or trying to abuse, a child younger than 14 years old at least 3 times over a period of at least 3 months through sexual contact or obscene, indecent, or lustful acts.	PC 290(c) PC 667.5 PC 1192.7

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CODE SECTION	TITLE	PLAIN ENGLISH	STATUTE SOURCE
PC 288.7	Sexual conduct with a child 10 years old or younger.	Sexual intercourse, anal-penile sexual contact or penetration (anal sex), oral-genital or oral-anal contact (oral sex) with a person younger than 10 years old.	PC 290(c)
PC 289	Genital or anal penetration by foreign object (and attempted)	Sexual penetrating, or trying to sexual penetrate, against a victim's will by force, violence, or fear when the victim cannot consent because of a mental disorder or developmental or physical disability, or the victim is unconscious or unaware.	PC 290(c) PC 667.5: includes PC 289(a) or (j) PC 1192.7: includes PC 289(a)(1)
PC 311.1	Child-related pornography (and attempted child-related pornography)	Having, or trying to have, any connection to images showing a minor younger than 18 years old doing, or pretending to do, sexual acts.	PC 290(c)
PC 311.2(b) PC 311.2(c) PC 311.2(d)	Child-related pornography (and attempted child-related pornography)	Having, or trying to have, any connection to images showing a person younger than 18 years old doing, or pretending to do sexual acts for profit.	PC 290(c)
PC 311.3	Sexual exploitation of a child (and attempted)	Possessing, or trying to possess any image showing a minor younger than 18 years old engaging in sexual acts.	PC 290(c)
PC 311.4	Using a minor to assist in making or distributing child pornography (and attempted)	Knowingly employing, or trying to employ, a minor younger than 18 years old to make an image or video showing sexual acts.	PC 290(c)
PC 311.10	Advertising or distributing child pornography (and attempted)	Knowingly advertising for sale or distributing, or trying to sell or distribute, obscene material that shows a minor younger than 18 years old doing, or pretending to do, sexual acts.	PC 290(c)
PC 311.11	Possessing child pornography (and attempted)	Knowingly possessing or controlling, or trying to possess or control, any image showing a person younger than 18 years old doing, or pretending to do sexual acts.	PC 290(c)
PC 314 (1) PC 314 (2)	Lewd or obscene exposure of private parts (and attempted)	Exposing, attempting to expose, or getting another minor to expose private parts in an obscene or indecent way in public or where others are present.	PC 290(c)
PC 422	Criminal threats	Communicating a plan to commit a crime that causes death or serious physical harm to another person.	PC 1192.7
PC 451	Arson	Intentionally setting fire to or burning any structure, forest land or property.	PC 1192.7 PC 667.5: includes PC 451 (a) or (b)
PC 460	First Degree Burglary	Entering a building or a vehicle occupied by people with the intent to steal.	PC 1192.7 PC 667.5: includes PC 460(a) in specified circumstances

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CODE SECTION	TITLE	PLAIN ENGLISH	STATUTE SOURCE
PC 487 with PC 664	Grand theft involving a firearm	Using a firearm to take the property of a person that is worth a certain amount of money or more as listed in the PC 487.	PC 1192.7
PC 518 if committed as a felony violation of PC 186.22	Extortion when committed in participation with a criminal street gang	Acting as part of a criminal street gang when taking property from a person by using force or fear or pretending that they have an official right to take the property.	PC 667.5
PC 647.6	Annoy or molest a child under 18 years old (and attempted)	Harassing or making, or trying to harass, harass, or making indecent sexual offers to a minor younger than 18 years old.	PC 290(c)
PC 647a (Former)	Annoy or molest a child under 18 years old	Harassing or making indecent sexual offers to a minor younger than 18 years old.	PC 290(c)
PC 653f(c)	Solicit another to commit rape, sodomy (and attempted)	Asking, or trying to ask, another person to commit rape, anal-penile sexual contact or penetration (anal sex), or oral-genital or oral-anal contact (oral sex) by force or violence.	PC 290(c)
PC 664 includes any of the crimes listed above.	Attempt to commit any of the 290 (c) crimes	Trying and failing to commit a crime that would require a person to register as a sex offender if the crime has been committed.	PC 290(c)
PC 664 with a 187	Attempted murder	Trying and failing to kill a person while acting recklessly or intending to: kill a person, commit a felony, or cause bodily injury.	PC 667.5 PC 1192.7
664 with certain felonies	Attempt to commit a felony punishable by death or imprisonment in the state prison for life	When a person tries and fails to commit any felony that is punishable by life in prison or death.	PC 1192.7
PC 4500 Specified	Assault on a non-inmate by a prisoner sentenced to life	When a person who is in prison with a life sentence causes violent injury to a person who is not an inmate.	PC 1192.7
PC 4501	Assault with a deadly weapon by an inmate	When a person who is confined in prison uses a deadly weapon to cause violent injury (assault) on another person.	PC 1192.7
PC 4503	Holding of a hostage by a person confined in a state prison	When person in prison keeps an innocent person captive against their will in exchange for certain demands in that prison.	PC 1192.7
PC 11418 (b) PC 11418 (c)	Weapons of mass destruction used (b) against a person, drinking water, or animals, crop seed or seed stock (c) in a form causing damage to public natural resources	When a person uses, has or creates a weapon of mass destruction and has a previous conviction of a crime listed in PC 11418. When a person uses a weapon of mass destruction against a person or in a manner that would cause damage to drinking water.	PC 667.5 PC 1192.7

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CODE SECTION	TITLE	PLAIN ENGLISH	STATUTE SOURCE
PC 12022.7 PC 12022.8 PC 12022.9 after July 1, 1977 213, 264 and 461; before July 1, 1977 or PC 12022.3(a) PC 12022.5 PC 12022.55	<p>After July 1, 1977, felony crime wherein defendant inflicts great physical harm to someone other than an accomplice or where great physical harm is committed in attempted commission of certain sex offenses or injury occurs resulting in termination of a pregnancy.</p> <p>Prior to July 1, 1977, a conviction for rape or first or second degree burglary.</p> <p>Firearm offenses, including PC 12022.5 the use of a firearm in the commission of any felony, 12022.3(a) use of a firearm in the commission of rape, rape of spouse, rape in concert, sodomy, lewd or lascivious acts upon a child under 14, oral copulation, or Genital or anal penetration by foreign object or 12022.55 causing death by discharging firearm into a motor vehicle.</p>	<p>PC 12022.7: When a person intentionally causes serious physical harm to a person while committing, or attempting to commit a felony. If the victim has certain characteristics or is injured in a certain way, the penalty may be higher.</p> <p>PC 12022.8: When a person inflicts serious physical harm on a person while committing, or attempting to commit, certain sex offenses that are listed in PC 12022.8.</p> <p>PC 12022.9: When a person, knowing that a woman is pregnant, personally injures the woman so that the pregnancy is terminated.</p> <p>PC 12022.3(a): When a person uses a firearm or deadly weapon while committing: rape (PC 261), rape of a spouse (262), rape in concert and attempted rape in concert (PC 264.1), sodomy (PC 286), lewd or lascivious act upon a child under 14 and attempted lewd or lascivious act upon a child under 14 (PC 288), oral copulation (PC 288a) or Genital or anal penetration by foreign object and attempted genital or anal penetration by a foreign object (PC 289).</p> <p>PC 12022.5: When a person uses a firearm while committing, or trying to commit, a felony crime.</p> <p>PC 12022.55: When a person shoots a gun into another car while committing, or attempting to commit, a felony and causes injury or death to a person.</p>	PC 667.5
PC 12022.53	Use of firearm in the commission of: murder, mayhem, kidnapping, robbery, carjacking, assault with intent to commit specified crimes (mayhem, rape, sodomy, oral copulation, rape in concert, lewd or	The person has used a firearm while committing a felony that is listed in the statute.	PC 667.5 PC 1192.7

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CODE SECTION	TITLE	PLAIN ENGLISH	STATUTE SOURCE
	lascivious acts on a child under 14 years old and genital or anal penetration by a foreign object), assault with a firearm on a peace officer or firefighter, rape, rape or sexual penetration in concert, sodomy, lewd act on a child, oral copulation, sexual penetration, assault by a life prisoner, assault by a prisoner, holding a hostage by a prisoner, any felony punishable by death or imprisonment in the state prison for life, any attempt to commit a crime listed above other than assault.		
PC 12034(c) or PC 12034(d)	Shooting from a vehicle	When someone shoots a gun from a vehicle at a person in a vehicle or when a driver or owner of a vehicle lets someone shoot a gun from their vehicle.	PC 1192.7
PC 12308 PC 12309 PC 12310	PC 12308: Explosion with intent to commit murder. PC 12309 Explosion that causes great physical harm PC 12310 Explosion causing death.	PC 12308: When a person explodes, ignites or attempts to explode anything with the intent to kill another person while either acting recklessly or intending to either kill the person, commit a felony or cause bodily injury to a person. PC 12309: When a person explodes or ignites anything which causes physical harm to a person PC 12310: When a person explodes or ignites anything that causes death, mayhem or serious physical harm to a person.	PC 667.5 PC 1192.7 includes PC 12308 and PC 12309
	Any conspiracy to commit any offense described in 1192.7(c)	Agreeing with one or more other people to commit a serious felony that is listed in PC 1192.7.	PC 1192.7
WIC 10980(c)(2)	Felony Welfare Fraud	Intentionally and wrongly receiving CalWORKS/welfare aid worth more than \$950.	PC 12305.87(b)(2)
WIC 10980(g)(2)	Felony Food Stamps Fraud	Intentionally using food stamps or EBT worth more than \$950 in an illegal way.	PC 12305.87(b)(2)

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CODE SECTION	TITLE	PLAIN ENGLISH	STATUTE SOURCE
	Any felony punishable by death or life imprisonment	The person has committed a felony that has a punishment of death or life in prison	PC 1192.7
	Any felony in which the defendant personally inflicts GBI on another person other than an accomplice or any felony in which the defendant personally uses a firearm	When a person has committed a felony and caused serious physical harm to a person who is not involved in the crime or the person uses a firearm while committing any felony.	PC 1192.7
	Any felony in which the defendant personally used a dangerous or deadly weapon	When the person used a dangerous or deadly weapon while committing a felony.	PC 1192.7
	Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine, or any methamphetamine-related drug as specified in 11055(d) of H&S or any of the precursors of methamphetamines as describes in H&S 11055(f) or 11100(a)		PC 1192.7