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**DEPARTMENT OF SOCIAL SERVICES**  
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February 7, 2019

ALL-COUNTY LETTER (ACL) NO. 19-14

TO: ALL COUNTY WELFARE DIRECTORS  
ALL IHSS PROGRAM MANAGERS  
COUNTY FISCAL OFFICERS

SUBJECT: CLARIFICATION OF ISSUES RELATED TO IN-HOME  
SUPPORTIVE SERVICES (IHSS) PROVIDER ENROLLMENT  
REQUIREMENTS AND EXCLUSIONARY CRIMES

REFERENCES: [ACL 09-52](#), DATED OCTOBER 1, 2009  
[ACL 09-70](#), DATED OCTOBER 31, 2009  
[ACL 10-35](#), DATED JULY 16, 2010  
[ACL 11-12](#), DATED JANUARY 26, 2011  
[ACIN I-04-12](#), DATED JANUARY 24, 2012  
[ACL 14-102](#), DATED DECEMBER 31, 2014  
[ACL 16-53](#), DATED JULY 7, 2016

The purpose of this letter is to provide clarification relating to the In-Home Supportive Services (IHSS) provider enrollment process and expand upon the provider enrollment requirements as explained in All-County Letter (ACL) 09-52 (October 11, 2009) and ACL 11-12 (January 26, 2011). This letter also provides counties with an updated list of Tier 2 excludable crimes, initially released in ACL 11-12.

### **Background**

Assembly Bill Extraordinary Session 4 (ABX4) 19 (Chapter 17, Statutes of 2009) established expanded enrollment requirements for existing and prospective IHSS providers, including requiring individuals to attend a provider orientation and to submit fingerprints and undergo a criminal background check conducted by the California Department of Justice (DOJ). In order to enroll as an IHSS provider, an individual must not have been convicted of, or incarcerated following a conviction for, certain disqualifying crimes within the previous ten years. Initially, the lists of excludable crimes included only those specified in Welfare and Institutions Code (WIC) section 12305.81, i.e. Tier 1 crimes, namely:

- Specified abuse of a child (Penal Code (PC) section 273a(a) or a similar violation in another jurisdiction);
- Abuse of an elder or dependent adult (PC section 368 or a similar violation in another jurisdiction); or
- Fraud against a government health care or supportive services program.

Assembly Bill (AB) 1612 (Chapter 725, Statutes of 2010) expanded the list of exclusionary crimes to include other crimes for which an individual could be disqualified from serving as an IHSS provider. This expansion created a new category of exclusionary crimes, i.e. Tier 2 crimes, for which an individual could still enroll as a provider if he/she receive an individual waiver from a recipient or a general exception from the California Department of Social Services (CDSS). These crimes are set forth in WIC section 12305.87 and include:

- A violent or serious felony, as specified in PC section 667.5(c) and PC section 1192.7(c);
- A felony offense for which a person is required to register as a sex offender, pursuant to PC section 290(c); and
- A felony offense of fraud against a public social services program, as defined in WIC section 10980(c)(2) and 10980(g)(2).

A list of the Tier 2 crimes was included with ACL 11-12 to assist county IHSS offices and Public Authorities in determining prospective provider eligibility when reviewing Criminal Offender Record Information (CORI) documents received from the DOJ in response to the required fingerprinting.

Regulations implementing the new provider enrollment process were promulgated in June 2016 and became operative on January 1, 2017, as set forth in ACL 16-53 (July 7, 2016).

## **PROVIDER ENROLLMENT**

The discussion below addresses common issues that have arisen related to provider enrollment.

### **Minors as Providers**

Minors can serve as IHSS providers within the IHSS program under certain conditions as long as they comply with California labor law and the provider enrollment requirements set forth in the Manual of Policies and Procedures (MPP) 30-776.4, including the criminal background check. DOJ regulations require that fingerprinting of minors for the purpose of a criminal background check can only be done with the prior

approval of a parent or legal guardian.

Minors must be at least 12 years of age to obtain a valid work permit to work as IHSS providers. If a minor wishes to obtain a work permit to be a provider, he/she must get the form "Statement of Intent to Employ Minor and Request for Work Permit" from his/her school. The form is completed by the minor and the recipient (as the employer) and is then signed by the minor's parent or legal guardian and the recipient (in the capacity of the prospective supervisor). After returning the completed and signed form to the school, school officials will then issue the "Permit to Employ and Work" which the minor can then present to the county IHSS office or Public Authority as verification of his/her ability to be employed and work as an IHSS provider.

California law restricts the number of hours a minor can work each day and the services they can perform as IHSS providers based on their age. The California Department of Industrial Relations (DIR) oversees and enforces child labor laws in California. The following information is available in the DIR's pamphlet on Child Labor Laws which can be viewed on the DIR's website at [Child Labor Law Pamphlet](#).

General Rules Regarding Minor Employment by Age:

Minors 12-13 years old:

- May be employed to provide limited domestic services (i.e. house cleaning, laundry, etc.).
- May not provide cooking or food preparation services.
- Must have the physical strength necessary if providing services which require the provider to assist the recipient with moving, standing, sitting, etc.
- May only be employed during school holidays and vacations (which includes weekends).
- May never work on a school day, either before or after school.
- May not work before 7 am or after 7 pm during the school year.
- May not work more than eight hours in a day or 40 hours in a week during school vacations/holidays.
- Daily and weekly maximum hours for employment are not specified in statute and are at the discretion of school officials. Typically, school districts adhere to the maximum of three hours per day, 18 hours per week accorded to 14-15 year olds.

Minors 14-15 years old:

- May provide cooking or food preparation services but only while being supervised by the recipient or another individual over the age of 18.
- May work three hours per school day outside of school hours and eight hours on any non-school day.
- May not work before 7 am or after 7 pm during the school year.
- May work a maximum of three hours per day, 18 hours per week.

Minors Under 16 years old:

- Cannot provide medical accompaniment or grocery shopping/errands which would require them to operate a motor vehicle.
- While not specifically prohibited, it is recommended they do not administer or dispense medications to recipients.

Minors 16-17 years old:

- May provide cooking or food preparation services unsupervised.
- May work four hours per school day outside of school hours and eight hours on any non-school day or any day preceding a non-school day (typically Friday).
- May not work before 5 am or after 10 pm during the school year. However, they may work until 12:30 am on any evening preceding a non-school day (typically Friday and/or Saturday).
- May work a maximum of 48 hours per week.
- Must have a valid driver's license or permit to provide medical accompaniment or grocery shopping/errands. If the minor has a driver's permit, he/she must be accompanied by a licensed driver over the age of 18.

County IHSS offices and public authorities are encouraged to review the California Department of Industrial Relations website for additional information and updates. Please be advised that the information provided above is general in nature and that counties should address specific questions about compliance with child labor laws with their county counsel.

**Expired Immigrant Work Authorization Documents**

Pursuant to federal immigration law, in order to work in the United States, a non-naturalized immigrant must have: 1) a permanent resident card (also known as a green card); 2) an employment authorization document (work permit); or 3) an employment-related visa which allows an immigrant to work for a particular employer. Only the first two categories of work authorization are applicable to IHSS. If a non-citizen provider's

green card or work permit has expired, he/she is not allowed to work in the United States until it is renewed. In this case, non-citizen providers should contact the U.S. Citizenship and Immigration Services (USCIS) to regain work authorization. Once work authorization is reinstated, the non-citizen provider may resume providing IHSS.

### **Acceptable Photo Identification**

Pursuant to CDSS' Manual of Policies and Procedures (MPP) section 30-776.414, an applicant provider must present and allow the county to photocopy a valid (unexpired) positive photograph identification issued by a U.S. Federal or State government agency or federally-recognized Native American or Alaskan Native tribal organization "[w]hen returning the completed provider enrollment form." There is no subsequent reverification of the photograph identification document after this point. Accordingly, as long as the identification is valid and unexpired at the time of submission of the completed provider enrollment form, it is acceptable even if it is due to expire soon and/or may be expired before the completion of the provider enrollment process.

### **Providers Working in Multiple Counties or Transferring to New County**

MPP section 30-776.463 sets forth the duties of each county when a provider is providing IHSS for recipients in multiple counties within the State. The county in which he/she originally applied to become an IHSS provider and which secured his/her criminal background check from the DOJ is the "originating county." Pursuant to MPP section 30-776.463(a)(1), the originating county is responsible for providing the new county with copies of the provider enrollment form and the provider enrollment agreement, both of which will be placed in the new county's provider files. It is also recommended that the new county be provided copies of the identification documentation provided by the applicant provider when he/she initially applied for enrollment into the IHSS program (the photo identification and social security card) to ensure the new county has the provider's complete file.

Because the law prohibits the provider's CORI documentation from being transferred to the new county, the originating county will remain responsible for maintaining the CORI and for receipt of any rap-backs or notices of subsequent arrest and/or disposition information, pursuant to MPP section 30-776.463(a)(2). MPP section 30-776.463(a)(4) requires the originating county to inform the new county within three calendar days if notification is received indicating that the provider has been convicted of a subsequent disqualifying crime.

However, if an individual was determined to be ineligible to be paid as an IHSS provider in the originating county on the basis of a Tier 2 exclusionary conviction, but his/her exclusion as a provider has been waived by a recipient using an SOC 862 (IHSS

Program Recipient Request for Provider Waiver), this individual waiver does not constitute a criminal background clearance. Therefore, an individual attempting to enroll in a new county must obtain a new DOJ criminal background check for use in the new county. Once the new county has received the CORI documentation, if the recipient in the new county chooses to waive the exclusion, he/she can submit an SOC 862 to allow the provider to work for him/her in the new county (see MPP section 30-776.7 and ACL 16-53). After they complete the background check, the new county will also receive any rap-backs or notices of subsequent arrest and/or disposition information from the DOJ in the same manner as the originating county. Case Management, Information, and Payrolling System (CMIPS) functionality to support two or more CORIs for a provider working in multiple counties was completed on October 1, 2018.

### **Provider Orientation**

Pursuant to WIC section 12301.24(e)(4) and MPP section 30-776.423, counties are required to permit employee labor organizations representing IHSS providers to conduct a 30-minute presentation during the required provider orientation. The orientation topics which providers are required to participate in are set forth in WIC section 12301.24(a) and MPP section 30-776.441. The county is responsible for administering provider enrollment requirements, and ensuring IHSS program information regarding statutorily mandated topics—such as requirements of provider eligibility; timesheet completion; and program requirements, rules, and regulations are presented in the IHSS provider orientation. During the employee labor organization presentation, if any questions arise related to the IHSS program, IHSS provider eligibility and/or rules, or responsibilities of the IHSS provider, it is recommended that the county staff be available to respond to such inquiries.

### **Tier 1/Tier 2 Exclusions**

If an enrolled provider with a Tier 2 conviction has been working under an individual waiver, he/she may become eligible to work with no limits after the ten-year timeframe following his/her exclusionary conviction or incarceration following the conviction has ended. While it is not necessary for the county IHSS office to track when each of the providers in the county working under individual waivers will become eligible due to the end of the ten-year exclusionary period, if the county is made aware of the end of the exclusionary period and if it can be verified that the provider has no subsequent disqualifying felony convictions, the county IHSS office should update the provider's eligibility status to Enrolled and send that provider the SOC 848A (IHSS Program Lapse of Ten-Year Timeframe for Tier 2 Crime). The situation and procedures for returning the provider to Active Enrolled status are outlined in MPP section 30-776.8 through section 30-776.82 and in ACL 16-53 (July 7, 2016).

If an individual works for a recipient prior to his/her enrollment in the IHSS program and is subsequently denied enrollment due to a Tier 1 or Tier 2 criminal conviction, the work provided is not a part of the IHSS program. Accordingly, the recipient is responsible for any payment of wages that are due to the individual. The IHSS program cannot pay for or reimburse the recipient who pays for hours worked prior to the determination of ineligibility. However, if the individual was convicted of a Tier 2 crime and the recipient agrees to an individual waiver and the individual is ultimately enrolled as a provider, the provider may be paid retroactively for authorized service hours worked by him/her prior to filing of the individual waiver (SOC 862) with the county as set forth in MPP 30-776.32 and in ACL 16-53.

### **CLARIFICATION REGARDING EXCLUDABLE CRIMES**

Since the release of ACL 11-12, which provided counties with information and instructions regarding exclusionary crimes, counties have requested additional assistance in evaluating whether specific crimes are exclusionary based on the requirements of WIC section 12305.81 or section 12305.87. Some of the more common issues that counties seem to encounter while reviewing CORI documents are discussed below.

Additionally, an updated “plain language” list of Tier 2 exclusionary crimes is attached. However, it should be noted while every effort has been made to make the list as comprehensive and accurate as possible, the factual circumstances regarding a specific individual's conviction, as well as subsequent statutory changes, may impact whether or not a specific conviction is a Tier 2 exclusionary crime. If you have any questions about a specific situation, CDSS suggests contacting county counsel.

### **Differentiating Types of Manslaughter**

If a CORI shows a conviction for PC 192, manslaughter, it must be determined what type of manslaughter was committed in order to determine if it is a Tier 2 crime. PC section 192 contains three distinct types of manslaughter, “voluntary”, “involuntary”, and “vehicular”, set forth in subdivisions (a), (b), and (c), respectively. Voluntary manslaughter is a violent or serious felony pursuant to PC sections 667.5(c)(1) and 1192.7(c)(1), and thus, a Tier 2 crime. Involuntary manslaughter is not a Tier 2 crime.

Pursuant to PC 1192.8, vehicular manslaughter specified in PC 192(c)(1) can be a Tier 2 crime if it involved the personal infliction of great bodily injury on any person other than an accomplice, or involved the personal use of a dangerous or deadly weapon within the meaning PC section 1192.7, subdivisions (c)(8) and (c)(23). Additionally, a conviction under PC 191.5 for gross vehicular manslaughter or vehicular manslaughter while intoxicated, or a conviction for vehicular manslaughter by a vessel as specified in

PC 192.5, subdivisions (a), (b), and (c), can be a Tier 2 crimes for the same reason. It should be noted that PC 1192.8 also specifies certain crimes falling under the Vehicle Code, other than manslaughter, which can also be Tier 2 crimes. These code sections have been added to the updated list of Tier 2 crimes.

### **Definition of “Dangerous or Deadly Weapon”**

Any felony in which the defendant used a dangerous or deadly weapon is a Tier 2 exclusionary crime (see WIC section 12305.87(b)(1) and Penal Code (PC) section 1192.7(c)(23)). Typically it can be determined whether a dangerous or deadly weapon was used during the commission of a crime reviewing the convictions listed on the CORI. However, in the event that it is not readily apparent from the CORI, it should be noted that there is a distinction between weapons that are inherently dangerous or deadly (such as a gun or switchblade) and those items which are not dangerous or deadly in their ordinary use (such as scissors, hammers, baseball bats, or kitchen knives) but that could be used in a dangerous or deadly manner based on the facts of a particular incident.

When items that are not inherently deadly or dangerous are used as weapons, the factual circumstances determine if the weapon is dangerous or deadly. Courts have held that in making this determination, the following factors are considered: (1) the manner of the weapon's use; (2) the location of the injuries inflicted; and (3) the extent of the injuries.

For example, a felony conviction under PC section 273.5, Infliction of Corporal Injury on a Cohabitant, would not be a Tier 1 or Tier 2 crime on its face. However, if the individual used a dangerous or deadly weapon while committing the felony, it would be a Tier 2 conviction. If the individual used a gun while committing the crime, it would be a Tier 2 crime because a gun is inherently dangerous or deadly. However, if a pair of scissors had been used, a factual analysis would have to be done to determine if a dangerous or deadly weapon was used during the commission of the felony. If the scissors were used to cut the victim's hair against his/her will, they would likely not be considered to be a dangerous or deadly weapon. However, if the scissors were used to stab the victim in the abdomen, they would likely be a dangerous or deadly weapon.

### **Definition of “Great Bodily Injury”**

Any felony in which the defendant personally inflicts great bodily injury (GBI) upon any person other than an accomplice is a Tier 2 exclusionary crime (see WIC section 12305.87(b)(1) and PC sections 667.5(c)(8) and 1192.7(c)(8)). Thus, even if the underlying felony conviction is not exclusionary, if the crime resulted in GBI to someone other than an accomplice, it would make the conviction a Tier 2 exclusionary crime.

PC section 12022.7(f) defines GBI as “a significant or substantial physical injury.” Additionally, courts have held that the term “serious bodily injury” is essentially equivalent to and synonymous with the term “great bodily injury” as used in PC section 1192.7(c)(8) (see *People v. Moore*, 10 Cal. App. 4<sup>th</sup> 1868, at 1871). Thus, anywhere that “serious bodily injury” (SBI) is used in the PC, it is synonymous with GBI and should be treated the same when determining if the conviction is for a Tier 2 crime. It is important to remember that, in order for a felony conviction to be disqualifying based on the infliction of GBI, the GBI must have actually been inflicted, not just threatened or have the potential to have occurred.

The decision to include a sentencing enhancement for causing GBI to a victim when it is not an element of the crime is made by the judge or jury during the defendant’s sentencing after trial, and the sentencing enhancement would ordinarily be documented in the CORI. However, there are certain situations in which GBI may be sustained by a victim and the sentencing enhancement is not included with the CORI. This usually occurs when the infliction of GBI is an element of the crime for which the individual has been convicted. For example, a felony conviction for violating PC section 273d(a), “infliction of corporal punishment or injury on a child resulting in a traumatic condition” may include the infliction of GBI on the victim if the “traumatic condition” meets the definition of GBI.

**Definition of Health Care or Supportive Services Program (for Purposes of Tier 1 Exclusion)**

As set forth in WIC section 12305.81(a)(1), “fraud against a government healthcare or supportive services program” is a Tier 1 exclusionary crime. In order to be a Tier 1 exclusionary crime, the fraud must have been perpetrated against a Medicare or Medicaid funded program or against a program providing services under Title V, Title XX, or Title XXI of the federal Social Security Act. Accordingly, prior fraud against the IHSS program would be considered a Tier 1 crime and disqualify an individual from being an IHSS provider for ten years following the conviction and/or incarceration. In addition, fraud against one of the programs listed below, which are fully or partially funded under Title V, Title XX, or Title XXI of the Social Security Act, would also be a Tier 1 crime and make an individual ineligible to be a provider. Please note, the following list of programs is not exhaustive.

- **Title V (Maternal and Child Health Services Block Grant):** Sudden Infant Death Syndrome Program; Oral Health Program; Breastfeeding Program; California Birth Defects Monitoring Program; California Diabetes and Pregnancy Program; Childhood Injury Prevention Program; Fetal and Infant Mortality Review Program; Local Health Department Maternal, Child, and Adolescent Health Program; Maternal, Child, and Adolescent Health in Schools Program; and Regional

#### Prenatal Programs of California.

- Title XX (Block Grants to States for Social Services): There are currently no identified government health care or supportive services programs funded under Title XX in California.
- Title XXI (State Children's Health Insurance Program): Healthy Families Program and the Access for Infants and Mothers (AIM) Program.

An individual convicted of felony fraud against any other public social services program, as specified in WIC section 12305.87(b), such as welfare, food stamps, or workers' compensation, could be found ineligible to work in the IHSS program as an IHSS provider under a Tier 2 conviction, as set forth in MPP section 30-701(t)(2)(C).

If it is unclear from the CORI under which government program the fraud was committed, the county must research (using court documents or other official documentation) to determine the specific government program in order to determine if the conviction is a Tier 1 or Tier 2 disqualifying conviction.

#### **Failure to Register as Sex Offender**

Certain individuals whose convictions fall under the requirements of PC section 290(c) are required for the remainder of their lives while residing in California to register as a sex offender with the chief of police of the city in which they reside or the sheriff of the county in which they reside if living in an unincorporated area or city with no police department. Individuals who fail to register as a sex offender when required to do so can be found guilty of a misdemeanor, as stated in PC section 290.018(a). However, a conviction for failure to register as a sex offender is a separate conviction from his/her initial sex crime conviction. A conviction for failure to register as a sex offender is not a Tier 2 crime, even if the underlying sex crime conviction was a Tier 2 crime.

Additionally, incarceration for failure to register as a sex offender is not an extension of the incarceration for the underlying sex crime conviction.

#### **Human Trafficking**

In November 2012, PC 290 was amended to require individuals convicted of violating subsections (b) and (c) of PC section 236.1, human trafficking, to register as sex offenders. Because these sections are felonies for which an individual must register under subdivision (c) of Section 290 of the Penal Code, pursuant to WIC section 12305.87(b)(2), an individual with a conviction for violating PC 236.1(b) or (c) is excluded from working as an IHSS provider based on a Tier 2 exclusionary crime.

If an individual is convicted of human trafficking for purposes other than human sex trafficking, i.e. for forced labor pursuant to PC 236.1(a), this is not a Tier 1 or Tier 2 exclusionary crime, and the individual cannot be disqualified from working as an IHSS provider on that basis.

### **Federal Conviction**

If a county receives a CORI with a conviction of a federal crime listed, the county should determine if the crime is a Tier 1 or Tier 2 exclusionary crime. If the crime is the equivalent of a Tier 1 or Tier 2 exclusionary crime that is referenced by its common law name in WIC section 12305.81, PC section 667.5(c), or PC 1192.7(c), then it would be an exclusionary crime.

For example, under PC section 1192.7(c)(19), one of the crimes listed as a “serious felony” (i.e. a Tier 2 crime) is “bank robbery,” which is typically a federal crime. If an individual had a federal felony conviction for bank robbery within the previous 10 years listed on his or her California CORI from the DOJ, he or she would be excluded from serving as an IHSS provider based on a Tier 2 conviction.

### **Kidnapping vs. Child Abduction**

Kidnapping is a Tier 2 crime because it is a violent or serious felony pursuant to PC sections 667.5(c)(14) and 1192.7(c)(20). However, it should be noted that, according to case law, kidnapping is not synonymous with child abduction (*In re Michele D.*, 29 Cal. 4<sup>th</sup> 600, at 614). According to the Court, there is a fundamental difference between kidnapping and child abduction in terms of the person targeted by the offense; the first is a crime against the person being kidnapped, the second against the parents of the abducted child. Because child abduction is a distinct crime from kidnapping, and child abduction is not a violent or serious felony pursuant to PC sections 667.5(c) and 1192.7(c), it is not a Tier 2 crime.

### **Parole/Probation Violation**

If an individual who has been convicted of an exclusionary crime and received probation or parole as part of his or her sentencing and then returned to jail as a consequence of violation a condition of his or her parole or probation, the incarceration for the parole/probation violation should be considered “incarceration following the conviction” for an exclusionary crime as the parole/probation was part of the sentence for the initial exclusionary crime.

For example, on May 1, 2006, an individual was convicted of an exclusionary crime and was incarcerated from that date until May 1, 2008, after which he or she was released

on a year's probation. On September 15, 2008, the individual's probation was revoked because he or she violated a curfew, and he or she was returned to jail until November 1, 2008. Although the revocation of the probation was for a relatively minor infraction, the incarceration from September 15, 2008, to November 1, 2008, was part of original sentence the individual received due to his initial conviction for the exclusionary crime. Therefore, the last day of incarceration for the exclusionary crime would be November 1, 2008, and he or she would not be eligible to be enrolled as an IHSS provider until November 1, 2018.

### **Felonies Reduced to Misdemeanors**

Occasionally, counties will receive a CORI indicating that an applicant provider has a disqualifying conviction for a felony Tier 2 exclusionary crime within the previous ten years. However, the CORI will also show that the conviction was reduced to a misdemeanor, pursuant to Penal Code section 17. In such a situation, the applicant provider would be eligible to work as an IHSS provider as the CORI shows that his conviction for the disqualifying crime was for a misdemeanor and WIC section 12305.87 specifies that only felonies are considered to be exclusionary crimes for which an individual can be determined ineligible to be a provider.

However, if the applicant provider states that he/she worked as an IHSS provider during the time period after his/her initial felony conviction, but before it was reduced to a misdemeanor, and is attempting to collect retroactive payment for authorized services he/she provided during that time period, that retroactive payment should be denied. The individual was not eligible to work as an IHSS provider before the felony was reduced to a misdemeanor unless the IHSS recipient for whom he/she was working at the time submits an individual waiver for the provider for that time period.

### **USE OF COURT ORDERS/COURT DOCUMENTATION**

Counties have inquired regarding whether court orders and/or court documentation can be used to determine an individual's eligibility to be enrolled as a provider prior to the receipt of the CORI from the DOJ. WIC section 12305.86(c) states that "the county shall deny or terminate the applicant's request to become a provider of supportive services to any recipient of the In-Home Supportive Services program" when the county has received "notice from the Department of Justice that a prospective or current provider has been convicted of a criminal offense specified" in WIC section 12305.81 or section 12305.87. Accordingly, eligibility determinations should not be made using court orders or court documents alone.

If the county is aware of an applicant provider's conviction of a disqualifying Tier 1 or Tier 2 crime within the State of California during the initial provider enrollment process (either via court documents or any other means), the county office should still receive the CORI verifying the conviction information before determining the applicant provider is ineligible due to an exclusionary crime. Likewise, if the county discovers that a currently enrolled provider has received a subsequent conviction for a Tier 1 or Tier 2 crime within the State of California through means other than the receipt of an amended CORI or rap-back, the county should not terminate the provider based on that information until the county office receives the amended CORI or rap-back from the DOJ.

Based on information provided by DOJ, that Department updates the criminal records in their system whenever it receives information from the county courts or District Attorney's office about a conviction. DOJ regulations state that the county courts must notify DOJ within 30 days after the date of the conviction. As soon as the county IHSS office has been made aware of any new or subsequent conviction for an applicant provider or enrolled provider, the office should contact the District Attorney's office and request submission of the new conviction information to the DOJ as soon as possible as it typically takes between 30 days to no later than 90 days for the DOJ to update the CORI.

There are, however, certain circumstances where the use of court documentation is appropriate and/or necessary. For example, sometimes a condition of the convicted individual's sentencing is that he/she is specifically banned from working as an IHSS provider for ten years. This information can only be learned from court documentation. In such a circumstance, even if the underlying conviction is not for an exclusionary crime, the county IHSS office should classify them as ineligible in a manner similar to a Tier 1 conviction to ensure that he/she could not serve as an IHSS provider in another county even with an individual waiver or general exception. The county should then document in the applicant provider's case notes that the individual is subject to a ban for ten years from working as an IHSS provider based on a court order.

Court documentation can also be used as supplementary material for determining the eligibility of an applicant provider to be enrolled as a provider. If the CORI does not provide the complete information regarding the conviction (such as the government agency against which an applicant provider has been convicted of defrauding or if the CORI contains a case number without providing details of the conviction itself), the county can use court documentation provided by the county court system to determine the exact nature of the conviction.

Additionally, if the county becomes aware of an applicant provider's or currently enrolled provider's conviction of a disqualifying Tier 1 crime in a jurisdiction outside of California (and verifies this information via court documents or other official documentation from a government entity), the county office should immediately make the determination of ineligibility for the applicant provider or enrolled provider. Since convictions in jurisdictions outside of California will not appear on the CORI issued by the DOJ, it is not necessary to receive a CORI or rap-back before ineligibility determination for applicant providers convicted of Tier 1 convictions outside of California.

If you have any questions about this ACL, please contact the Adult Programs Policy and Quality Assurance Branch, Policy and Operations Bureau at (916) 651-5350.

Sincerely,

***Original Document Signed By:***

DEBBI THOMSON  
Deputy Director  
Adult Programs Division

Attachment

## 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

- The statutes cited in WIC 12305.87 are Penal Code (PC) 290(c), PC 667.5(c), PC 1192.7(c), WIC 10980(c)(2) and WIC 10980(9)(2).
- The column "CODE SECTION" refers to PC sections referenced in the PC statutes listed above.
- If two or more PC sections list an offense, only the offense with the broader application is referenced in the "code section" column.

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	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 667.5(c)(20) PC 1192.7(c)(37)
PC 182 related to any PC 290(c) crimes	Conspiracy to commit any of the crimes set forth in PC 290(c); PC 182 related to: PC 220 (except assault to commit mayhem); PC 236.1(b) or (c) PC 243.4; PC 261(a)(1), (2), (3), (4), or (6); PC 262(a)(1) involving force or violence for which the person is sentenced to state prison; PC 264.1; PC 266; PC 266c; PC 266h(b); PC 266i(b); PC 266j; PC 267; PC 269; PC 285; PC 286; PC 288; PC 288a; felony violation of PC 288.2; PC 288.3; PC 288.4; PC 288.5; PC 288.7; PC 289; PC 311.1; PC 311.2(b), (c), or (d); PC 311.3; PC 311.4; PC 311.10; PC 311.11; felony violation of PC 314(1); PC	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. It should be noted that the individual does not necessarily have to also be convicted of a crime set forth in PC 290(c), i.e. their conspiracy to commit the crime does not have to have been successful. However, there must be some indication that the conspiracy conviction was related to a crime set forth in PC 290(c).	PC 290(c)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
PC 182 related to any PC 290(c) crimes, continued	647.6; former PC 647a; PC 653f(c); any offense involving lewd or lascivious conduct under PC 272; any felony violation of PC 288.2; any statutory predecessor that includes all of the elements of one of the above-listed offenses.		
PC 182 related to any PC 1192.7(c) crimes	Conspiracy to commit any of the crimes set forth in PC 1192.7(c); PC 182 related to: PC 136.1; felony violation of PC 186.22; PC 187; PC 189; PC 190-190.4; PC 192(a); PC 203; PC 205; PC 207; PC 208; PC 209; PC 209.5; PC 211; PC 212.5; PC 213; bank robbery; PC 214; PC 215; PC 220 (with intent to commit PC 261 or PC 211); PC 220(a) (with intent to commit mayhem, rape, sodomy, or oral copulation); PC 244; PC 245; PC 245.2; PC 245.3; PC 245.5; PC 246; PC 261; PC 262; PC 264.1; PC 286 (c)(2) or (3); PC 288; PC 288a(c)(2); PC 288.5; PC 289(a)(1); PC 422; PC 451; PC 451.5; PC 459 (when first degree); PC 460(a); PC 461(a); PC 487(d)(2); PC 4500 (only if on a non-inmate); PC 4501; PC 4503; PC 11418(b) or (c); PC 12022.3(a); PC 12022.5; PC 12022.53; PC 12022.55; PC	Agreeing with one or more people to commit a specified violent or serious felony. It should be noted that the individual does not necessarily have to also be convicted of a violent or serious felony set forth in PC 1192(c), i.e. their conspiracy to commit the crime does not have to have been successful. However, there must be some indication that the conspiracy conviction was related to a violent or serious felony set forth in PC 1192(c).	PC 1192.7(c)(42)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
PC 182 related to any PC 1192.7(c) crimes, continued	18740; PC 18745; PC 18750; PC 18755; felony violation of PC 26100(b) or (c).		
PC 186.22	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(c)(28)
PC 187 PC 189 PC 190-190.4	Murder.	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. Murder also includes “felony murder” which is a homicide that occurs during the commission of certain felonies, whether intentional or accidental. Under the felony murder rule, if multiple people have conspired to commit such a felony, any homicide that occurs during the commission is attributed to all, regardless of whether they did the actual killing.	PC 667.5(c)(1) PC 1192.7(c)(1)
PC 191.5	Gross Vehicular Manslaughter and Vehicular Manslaughter while intoxicated.	The unlawful killing of a person other than an accomplice, without intent as a result of driving a vehicle under the influence with gross negligence and the unlawful killing of a person without intent as a result of driving under the influence without gross negligence.	PC 1192.7(c)(8) and (23) (See PC 1192.8)
PC 192(a)	Voluntary Manslaughter.	When a person kills another person but there were extenuating circumstances such as adequate provocation (“heat of passion”) or diminished capacity. It should be noted that “voluntary”, “involuntary”, and “vehicular” manslaughter are all distinct crimes, set forth in subdivisions (a), (b), and (c)	PC 667.5(c)(1) PC 1192.7(c)(1)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
PC 192(a), continued		of PC 192, respectively. Involuntary manslaughter is not a Tier 2 crime. Vehicular manslaughter specified in PC 192, paragraph (c)(1), is a Tier 2 crime as set forth below. Thus if CORI shows a conviction for PC 192, it must be determined what type of manslaughter was committed in order to determine if it is a Tier 2 crime.	
PC 192 (c)(1)	Certain Vehicular Manslaughter.	Driving a vehicle in the commission of an unlawful act, with gross negligence; or driving a vehicle in the commission of lawful act, but with gross negligence, that results the unlawful death of someone other than an accomplice.	PC 1192.7(c)(8) and (23) (See PC 1192.8)
PC 192.5(a) PC 192.5(b) PC 192.5(c)	Vehicular Manslaughter by a Vessel.	Operating a vessel in a grossly negligent manner which endangers the life, limb, or property of others, or operation of a vessel by a person under the influence of alcohol or drugs, or operation of a vessel by a drug addict; which results in the unintentional unlawful killing of a person other than an accomplice.	PC 1192.7(c)(8) and (23) (See PC 1192.8)
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(c)(2) PC1192.7(c)(2)
PC 207 PC 208	Kidnapping.	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.  "Kidnapping" is a separate and distinct crime from	PC 667.5(c)(14) PC 1192.7(c)(20)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
PC 207 PC 208, continued		“child abduction” set forth in PC 277 <i>et seq.</i> Child abduction is not a Tier 2 crime.	
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 667.5(c)(14) PC 1192.7(c)(20)
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(c)(14) PC 1192.7(c)(20)
PC 211 PC 212.5 PC 213	Robbery or Bank Robbery	<p>Taking property from someone by force or fear and against their will.</p> <p>Bank robbery is typically a federal crime, although it could technically can also be charged as a violation of PC 211. PC 1192.7(d) defines bank robbery as robbing a bank, credit union, or any savings and loan association.</p>	PC 667.5(c)(9) PC 1192.7(c)(19)
PC 214	Train Robbery.	Taking property 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 667.5(c)(9) PC 1192.7(c)(19)
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 667.5(c)(17) PC 1192.7(c)(27)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
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 mayhem or certain sex offenses listed in PC 220.	PC 290(c)(except assault to commit mayhem) PC 667.5(c)(15) PC 1192.7(c)(10) and (29)
PC 236.1(b) PC 236.1(c)	Human trafficking.	Use of force, fraud or coercion to cause or induce the victim to engage in a commercial sexual act or sexual exploitation.	PC 290(c)
PC 243(d)	Battery resulting in serious bodily injury.	The use of force on another resulting in harmful or offensive contact.  California courts have held that "serious bodily injury," as that term is used in PC 243(d), and defined by PC 243(f)(4), is the equivalent of "great bodily injury," as that phrase is used in PC 1192.7(c)(8). <i>People v. Johnson</i> , 244 Cal. App. 4th 384, at 386.	PC 1192.7(c)(8)
PC 243.4	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 another person.	Intentionally trying to disfigure a person by throwing a specified chemical that could injure or disfigure the person.	PC 1192.7(c)(30)
PC 245(a) PC 245(b)	Assault with a deadly weapon or instrument, firearm, machine gun, assault weapon, or semiautomatic gun.	Unlawful attempt to use a deadly weapon or instrument, or firearm, to cause violent injury to another person.	PC 1192.7(c)(31)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
PC 245(c) PC 245(d)	Assault with a deadly weapon or instrument against a peace officer or firefighter.	Unlawful attempt to use a deadly weapon to cause violent injury (assault) on a peace officer or firefighter.	PC 1192.7(c)(11) and (31)
PC 245.2	Assault with a deadly weapon against a public transit employee.	Unlawful attempt to use a deadly weapon to cause violent injury to a person.	PC 1192.7(c)(32)
PC 245.3	Assault with a deadly weapon against a custodial officer.	Unlawful attempt to use 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 1192.7(c)(32)
PC 245.5	Assault with a deadly weapon against a school employee.	Unlawful attempt to use a deadly weapon to cause violent injury to a school employee.	PC 1192.7(c)(32)
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(c)(33)
PC 246.3	Discharge of Firearm or BB device in grossly negligent manner.	<p>The discharge of a firearm in a grossly negligent manner which could result in injury or death to a person.</p> <p>A felony conviction of PC 246.3 is a Tier 2 crime because it is a felony “in which the defendant personally uses a firearm”. (See <i>People v. Leslie</i>, 47 Cal. App. 4th 198, 200, 54 Cal. Rptr. 2d 545, 545 (1996).)</p>	PC 1192.7(c)(8)
PC 261	Rape.	Sex with a person, not a spouse, 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 290(c) PC 667.5(c)(3) PC1192.7(c)(3)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
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 290(c) PC 667.5(c)(18) PC 1192.7(c)(3)
PC 264.1  PC 264.1, continued	Rape or penetration of genital or anal openings by a foreign object; acting in concert by force or violence.	When 2 or more people have sex with or sexually penetrate 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 290(c) PC 667.5(c)(18) PC 1192.7(c)(34)
PC 266	Enticing a minor into prostitution; aiding and abetting.	Convincing, or helping someone 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 person or through 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.	Taking a person younger than 18 years old from their parent or guardian without permission for prostitution.	PC 290(c)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	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 (which involves lewd or lascivious conduct)	Conduct contributing to the delinquency of a minor; persuading, luring, or transporting minors 12 years old or younger.	Contributing to the delinquency of a minor or luring a minor 12 years old or younger from their home.  In order to be considered a Tier 2 crime, the conviction must involve lewd or lascivious conduct.	PC 290(c)
PC 285	Incest.	Having sexual relations with family members or close relatives.	PC 290(c)
PC 286	Sodomy against a minor, without a person's consent, against a person's will, or by threat.	Anal-penile sexual contact (anal sex).	PC 290(c) PC 667.5(c)(4) PC 1192.7(c)(4)
PC 287 (Effective January 1, 2019)	Oral copulation with a minor, without a person's consent, against a person's will, or by threat.	Applying the mouth of one person to the genitals or anus of another person (oral sex).  <i>(Effective January 1, 2019, this section is renumbered from PC 288a.)</i>	PC 290(c) PC 667.5(c)(5) PC 1192.7(c)(5)
PC 288	Lewd or lascivious act upon a child under 14.	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(6) PC 1192.7(c)(6)
PC 288a	Oral copulation with a minor, without a person's consent, against a person's will, or by threat.	Applying the mouth of one person to the genitals or anus of another person (oral sex).  <i>(Effective January 1, 2019, this section will be renumbered to PC 287.)</i>	PC 290(c) PC 667.5(c)(5) PC 1192.7(c)(5)
PC 288.2 (Felony Violation)	Felony distribution of lewd material to children.	Intentionally sending inappropriate material to seduce a person younger than 18 years old.	PC 290(c)

<b>CALIFORNIA CODE SECTION</b>	<b>CRIME</b>	<b>PLAIN ENGLISH/COMMENTS</b>	<b>STATUTE SOURCE</b>
PC 288.3	Contact with a minor to commit sexual offense.	Contacting or communicating with a person younger than 18 years old for a specified sexual purpose.	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.	Abusing 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) PC667.5(c)(16) PC1192.7(c)(35)
PC 288.7	Sexual conduct with a child 10 years old or younger.	Sexual intercourse, anal-penile sexual contact (anal sex), oral-genital or oral-anal contact (oral sex) with a person younger than 10 years old.	PC 290(c)
PC 289	Sexual penetration by foreign object.	Sexual penetrating 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(c)(11) PC 1192.7(c)(25)
PC 311.1	Child-related pornography.	Having 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 production, distribution, or exhibition.	Possessing or distributing 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.	Possessing any image showing a minor younger than 18 years old engaging in sexual acts.	PC 290(c)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
PC 311.4	Using a minor to assist in making or distributing child pornography.	Knowingly employing 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.	Knowingly advertising for sale or distributing 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.	Knowingly possessing or controlling any image showing a person younger than 18 years old doing, or pretending to do sexual acts.	PC 290(c)
PC 314, felony violation of subdivision 1.	Lewd or obscene exposure of private parts.	<p>Exposing or getting another to expose private parts in an obscene or indecent way in public or where others are present.</p> <p>It should be noted that an individual's first conviction for violating subdivision 1 of PC 314 is a misdemeanor and not a felony, unless the individual also has a previous conviction under PC 288. A second, and each subsequent conviction of subdivision 1 is a felony, and therefore a Tier 2 crime. The violation of PC 314 must be a felony to qualify as a Tier 2 crime.</p>	PC 290(c)
PC 422	Criminal threats.	Communicating a threat to commit a crime that would cause death or serious physical harm to another person and intending this statement to be understood as a threat.	PC 1192.7(c)(28)
PC 451	Arson.	Intentionally setting fire to or burning any structure, forest land or property.	PC 667.5(c)(10) PC 1192.7(c)(14)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
PC 451.5	Aggravated arson.	Arson with intent to cause injury to one or more people, or under circumstances likely to injure one or more people.	PC 1192.7(c)(14)
PC 455	Attempted arson.	Willful and malicious attempt to set fire to or attempts to burn or to aid, counsel or procure the burning of any structure, forest land or property; or placing or distributing any flammable, explosive or combustible material or substance, or any device in or about any structure, forest land or property in an arrangement or preparation with intent to eventually willfully and maliciously set fire to or burn the structure, forest land, or property.  (See <i>People v. Flores</i> , 39 Cal. App. 4th 1811 (1995).)	PC 1192.7(c)(14) and (39)
PC 459 (when first degree) PC 460(a) PC 461(a)	First degree burglary.	Entering a building or a vehicle occupied by people with the intent to steal.  It should be noted that if the conviction is under PC 459, it must be a conviction for <i>first degree</i> burglary. Occasionally this will be indicated on the CORI.	PC 667.5(c)(21) PC 1192.7(c)(18)
PC 487(d)(2)	Grand theft involving a firearm.	The theft of a firearm.	PC 1192.7(c)(26)
PC 518 only 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(c)(19)
PC 647.6	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)

<b>CALIFORNIA CODE SECTION</b>	<b>CRIME</b>	<b>PLAIN ENGLISH/COMMENTS</b>	<b>STATUTE SOURCE</b>
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 by force, oral copulation by force.	Asking another person to commit rape, anal-penile sexual contact (anal sex), or oral-genital or oral- anal contact (oral sex) by force or violence or other specified sexual offenses.	PC 290(c)
PC 664 related to PC 187	Attempted murder.	Trying and failing to kill a person while: acting recklessly; intending to kill a person; intending to commit a felony; or intending to cause bodily injury.	PC 667.5(c)(12)PC 1192.7(c)(9)
PC 664 with any felony PC 290(c) crime	Attempt to commit any of the PC 290(c) crimes; PC 664 related to: PC 220 (except assault to commit mayhem); PC 236.1(b) or (c); PC 243.4; PC 261(a)(1), (2), (3), (4), or (6); PC 262(a)(1) involving force or violence for which the person is sentenced to state prison; PC 264.1; PC 266; PC 266c; PC 266h(b); PC 266i(b); PC 266j; PC 267; PC 269; PC 285; PC 286; PC 288; PC 288a; felony violation of PC 288.2; PC 288.3; PC 288.4; PC 288.5; PC288.7; PC 289; PC 311.1; PC 311.2(b), (c), or (d); PC 311.3; PC 311.4; PC 311.10; PC 311.11; felony violation of PC 314(1); PC 647.6; former PC 647a; PC 653f(c); any offense involving lewd	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)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
PC 664 with any felony PC 290(c) crime, continued	or lascivious conduct under PC 272; any felony violation of PC 288.2; any statutory predecessor that includes all of the elements of one of the above-listed offenses.		
PC 664 related to any PC 1192.7(c) crime, except for assault	Attempt to commit any of the PC 1192.7(c) crimes except for assault; PC 664 related to: PC 136.1; felony violation of PC 186.22; PC 187; PC 189; PC 190-190.4; PC 192(a); PC 203; PC 205; PC 207; PC 208; PC 209; PC 209.5; PC 211; PC 212.5; PC 213; bank robbery; PC 214; PC 215; PC 246; PC 261; PC 262; PC 264.1; PC 286 (c)(2) or (3); PC 288; PC 288a(c)(2); PC 288.5; PC 289(a)(1); PC 422; PC 451; PC 451.5; PC 459 (when first degree); PC 460(a); PC 461(a); PC 487(d)(2); PC 4503; PC 11418(b) or (c); PC 12022.53; PC 123022.55; PC 12034(c); PC 18740; PC 18745; PC 18755,	When a person tries and fails to commit a violent or serious felony listed in PC 1192.7(c).	PC 1192.7(c)(39)
PC 4500 (only if on a non-inmate)	Assault on a non-inmate by a prisoner sentenced to life.	When a person who is in prison with a life sentence threatens violent injury to a person who is not an inmate.	PC 1192.7(c)(12)
PC 4501	Assault with a deadly weapon by an inmate.	When a person who is confined in prison uses a deadly weapon to threaten violent injury (assault) on another person.	PC 1192.7(c)(13)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
PC 4503	Holding of a hostage by a person confined in a state prison.	When person in state prison holds another person against their will.	PC 1192.7(c)(21)
PC 11418 (b) PC 11418 (c)	Weapons of mass destruction used: (b) against a person, drinking water, or animals, crop seed or seed stock; or (c) in a form causing damage to public natural resources.	When a person uses a weapon of mass destruction against a person, drinking water, or animals, crop seed or seed stock or in a form causing damage to public natural resources.	PC 667.5(c)(23) PC 1192.7(c)(41)
PC12022.3(a) PC 12022.5 PC 12022.55	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 12022.55 causing death by discharging firearm into a motor vehicle.	<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(c)(8) PC 1192.7(c)(8)
PC 12022.53	Use of firearm in the commission of a specified felony.	Personal use of a firearm while committing one of the following felonies: murder (PC 187), mayhem (PC 203	PC 667.5(c)(22) PC 1192.7(c)(40)

CALIFORNIA CODE SECTION	CRIME	PLAIN ENGLISH/COMMENTS	STATUTE SOURCE
PC 12022.53, continued		or 205), kidnapping (PC 207, 209, or 209.5), robbery (PC 211), carjacking (PC 215), assault with intent to commit specified felonies (PC 220), assault with a firearm on a peace officer or firefighter (PC 245(d)), rape and other sex crimes (PC 261, 262, 264.1, 286, 288, 288.5, 288a, or 289), assault by a life prisoner (PC 4500), assault by a prisoner (4501), holding a hostage by a prisoner (PC 4503), any felony punishable by death or life in prison, or any attempt to commit one of the listed felonies.	
PC 12022.7 PC 12022.8 PC 12022.9  (Before July 1, 1977 PC 213, PC 264, and PC 461)	A felony crime wherein defendant inflicts great bodily injury 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>PC 12022.7: When a person 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>In should be noted that, courts have held that term “serious bodily injury” is essentially equivalent to and synonymous with the term “great bodily injury” as used in PC section</p>	PC 667.5(c)(8) PC 1192.7(c)(8)

<b>CALIFORNIA CODE SECTION</b>	<b>CRIME</b>	<b>PLAIN ENGLISH/COMMENTS</b>	<b>STATUTE SOURCE</b>
PC 12022.7 PC 12022.8 PC 12022.9, continued		1192.7(c)(8). Thus, "serious physical harm" as used in these sections would be considered a Tier 2 crime.	
PC 18740	Explosion with intent to injure.	When a person explodes, ignites or attempts to explode anything with the intent to injure a person or property.	PC 1192.7(c)(15)
PC 18745	Explosion with intent to commit murder.	When a person explodes, ignites or attempts to explode anything with the intent to kill another person.	PC 667.5(c)(13) PC 1192.7(c)(17)
PC 18750	Explosion that causes bodily injury.	When a person explodes or ignites anything which causes bodily injury to a person.	PC 667.5(c)(13) PC 1192.7(c)(16)
PC 18755	Explosion causing death, mayhem, great bodily injury.	When a person explodes or ignites anything that causes death, mayhem or serious physical harm to a person.	PC 667.5(c)(13) PC 1192.7(c)(16)
PC 26100(c) PC 26100(d)	Shooting from a vehicle.	When someone shoots a gun from a vehicle.	PC 1192.7(c)(36)
Vehicle Code (VC) 2800.3	Flight from peace officer causing death or bodily injury.	The willful flight or attempt to elude a pursuing police officer while operating a motor vehicle which causes serious bodily injury or death to any person.	PC 1192.7(c)(8) and (23) (See PC 1192.8)
VC 23104(b)	Reckless driving causing bodily injury.	A person who's reckless driving causes great bodily injury to a person other than the driver.  Please note, the conviction must be for subdivision (b) of VC 23104.	PC 1192.7(c)(8) and (23) (See PC 1192.8)
VC 23153	Causing great bodily injury while driving under the influence.	Causing great bodily injury to any person other than the driver which is caused by driving a vehicle while under the influence of alcohol or drugs.  The injury must be "great" or "serious" bodily injury for a conviction under this statute to be a Tier 2 crime.	PC 1192.7(c)(8) and (23) (See PC 1192.8)

<b>CALIFORNIA CODE SECTION</b>	<b>CRIME</b>	<b>PLAIN ENGLISH/COMMENTS</b>	<b>STATUTE SOURCE</b>
WIC 10980(c)(2)	Felony Welfare Fraud.	Intentionally and wrongly receiving CalWORKS/welfare aid worth more than \$950.	WIC 12305.87(b)(3)
WIC 10980(g)(2)	Felony Food Stamps Fraud.	Intentionally using food stamps or EBT worth more than \$950 in an illegal way.	WIC 12305.87(b)(3)
Any felony punishable by death or life imprisonment or attempt to commit a felony punishable by death or imprisonment in the state prison for life.		The person has committed a felony that has a punishment of death or life in prison, or has attempted and failed to commit a felony that has a punishment of death or life in prison.	PC 667.5(c)(7) PC 1192.7(c)(7) and (22)
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(c)(23)
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 the Health and Safety Code or any of the precursors of methamphetamines as described in Health and Safety Code Section 11055(f) or 11100(a).			PC 1192.7(c)(24)