

**THE  
PENAL CODE  
OF THE  
STATE OF CALIFORNIA**

Primary sex laws

Title IX, Chapters I .. VIII: Sect 261 .. 318  
Title XV, Chapter II: Sect 645 .. 647a

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Including  
Legislative History — References — Annotations  
Appendix Covering Certain Penal Statutes Not  
Incorporated in Penal Code

knowingly parted with the immediate custody of the libel under circumstances which exposed it to be read or seen by any other person than himself.

§252. References: Libel and Slander: McK.Dig. §104. Cal.Pac.D. §146. C.J. §642. 16 Cal.Jur. §130.

**253. Liability of editors and publishers.** Each author, editor, and proprietor of any book, newspaper, or serial publication, is chargeable with the publication of any words contained in any part of such book, or number of such newspaper or serial.

§253. References: Libel and Slander: McK.Dig. §106. Cal.Pac.D. §150. C.J. §661. 16 Cal.Jur. §130.

**254. Publishing a true report of public official proceedings privileged.** No reporter, editor, or proprietor of any newspaper is liable to any prosecution for a fair and true report of any judicial, legislative, or other public official proceedings, or of any statement, speech, argument, or debate in the course of the same, except upon proof of malice in making such report, which shall not be implied from the mere fact of publication.

§254. References: Libel and Slander: McK.Dig. §108. Cal.Pac.D. §148. C.J. §646, 686. 16 Cal.Jur. §134.

**255. Extent of privilege.** Libelous remarks or comments connected with matter privileged by the last section receive no privilege by reason of their being so connected.

§255. References: Libel and Slander: McK.Dig. §108. Cal.Pac.D. §148. C.J. §647. 16 Cal.Jur. §134.

**256. Other privileged communications.** A communication made to a person interested in the communication, by one who was also interested or who stood in such relation to the former as to afford a reasonable ground for supposing his motive innocent, is not presumed to be malicious, and is a privileged communication.

§256. References: Libel and Slander: McK.Dig. §108. Cal.Pac.D. §148. C.J. §647.

**257. Threatening to publish libel. Offer to prevent publication, with intent to extort money.** Every person who threatens another to publish a libel concerning him, or any parent, husband, wife, or child of such person, or member of his family, and every person who offers to prevent the publication of any libel upon another person, with intent to extort any money or other valuable consideration from any person, is guilty of a misdemeanor.

§257. See post, §§523, 524.  
References: Libel and Slander: McK.Dig. §104. Cal.Pac.D. §142. C.J. §633. 16 Cal.Jur. §129.  
Extortion: McK.Dig. §§4, 5, 11. Cal.Pac.D. §§3-10. C.J. §2.

## CHAPTER XI.

### Slander.

#### Section

258. Slander defined.

259. Presumption.

#### Section

260. Truth of statement.

**258. Slander defined.** Slander is a malicious defamation, orally uttered, whether or not it be communicated through or by radio or any mechanical or other means or device whatsoever, tending to

blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue or reputation, or disclose the actual or alleged defects of one who is living, or of any educational, literary, social, fraternal, benevolent or religious corporation, association or organization, and thereby to expose him or it to public hatred, contempt, or ridicule. Every person who willfully, and with a malicious intent to injure another, utters any slander, is punishable by a fine not exceeding five thousand dollars, or imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Words uttered in the proper discharge of an official duty, or in any legislative or judicial proceeding, or in any other official proceeding authorized by law, shall be privileged and shall never be deemed a slander within the meaning of this section.—1929:1174.

§258. Leg. Hist.: En.1899:28; R.1915:761; En.1929:1174.

See post, §784a.

References: Libel and Slander: McK.Dig. §104. Cal.Pac.D. §144. C.J. §§632, 639. 16 Cal.Jur. §129.

**259. Presumption.** The injurious utterance of slander is presumed to have been malicious save when it is a communication to a person interested therein, by one who is also interested, or by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or who is requested by the person interested to give the information.

§259. Leg. Hist.: En.1899:155; R.1917:174; En.1929:1174.

References: Libel and Slander: McK.Dig. §114. Cal.Pac.D. §§143, 144. C.J. §§643, 687. 16 Cal.Jur. §131.

**260. Truth of statement.** In all criminal prosecutions for slander, the truth may be given in evidence to the jury, and if it appears to the jury that the matter charged as slanderous is true, and was uttered with good motives and for justifiable ends, the party shall be acquitted.—1929:1175.

§260. Leg. Hist.: En.1929:1175.

References: Libel and Slander: McK.Dig. §114. Cal.Pac.D. §149. C.J. §§646, 686. 16 Cal.Jur. §133.

## TITLE IX.

### CRIMES AGAINST THE PERSON AND AGAINST PUBLIC DECENCY AND GOOD MORALS.

#### Chapter I. Rape, Abduction, Carnal Abuse of Children, and Seduction.

II. Abandonment and Neglect of Children.

III. Abortions.

IV. Child Stealing.

V. Bigamy, Incest, and the Crime against Nature.

VI. Violating Sepulture and the Remains of the Dead.

VII. Crimes against Religion and Conscience, and Other Offenses against Good Morals.

VIII. Indecent Exposure, Obscene Exhibitions, Books and Prints, and Bawdy and Other Disorderly Houses.

IX. Lotteries.

X. Gaming.

X5. Horse Racing.

XI. Pawnbrokers.

XII. Other Injuries to Persons.

## CHAPTER I.

## Rape, Abduction, Carnal Abuse of Children, and Seduction.

Section	Section
261. Rape defined.	266d. Placing female in custody for the purpose of cohabitation.
262. When physical ability must be proved.	266e. Paying for female for the purpose of prostitution.
263. Penetration sufficient.	266f. Selling female for immoral purposes.
264. Punishment for rape.	266g. Placing or permitting the placing of one's wife in house of prostitution.
265. Abduction of women.	267. Abduction.
266. Enticing, etc.	268. Seduction. Penalty.
266a. Taking female for purpose of prostitution.	269. Intermarriage, when a bar to prosecution.
266b. Taking a female by force, duress, etc., to live in an illicit relation.	269a. Adultery.
266c. Bringing or landing Chinese or Japanese women for the purpose of selling.	269b. Adultery of married persons.

261. Rape defined. Rape is an act of sexual intercourse, accomplished with a female not the wife of the perpetrator, under either of the following circumstances:

1. Where the female is under the age of eighteen years;
2. Where she is incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent;
3. Where she resists, but her resistance is overcome by force or violence;
4. Where she is prevented from resisting by threats of great and immediate bodily harm, accompanied by apparent power of execution, or by any intoxicating narcotic, or anaesthetic, substance, administered by or with the privity of the accused;
5. Where she is at the time unconscious of the nature of the act, and this is known to the accused;
6. Where she submits under the belief that the person committing the act is her husband, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce such belief.—1913:212.

§261. Leg. Hist.: A.1889:223; 1897:201; 1913:212.  
References: Rape: McK.Dig. §§2-7. Cal.Pac.D. §1. C.J. §§1-13.  
22 Cal.Jur. §2.

262. When physical ability must be proved. No conviction for rape can be had against one who was under the age of fourteen years at the time of the act alleged, unless his physical ability to accomplish penetration is proved as an independent fact, and beyond a reasonable doubt.

§262. References: Rape: McK.Dig. §§3, 46. Cal.Pac.D. §3. C.J. §14.  
22 Cal.Jur. §21.

263. Penetration sufficient. The essential guilt of rape consists in the outrage to the person and feelings of the female. Any sexual penetration, however slight, is sufficient to complete the crime.

§263. References: McK.Dig. §§2, 56. Cal.Pac.D. §§7, 51. C.J. §24.  
22 Cal.Jur. §6.

264. Punishment for rape. Rape is punishable by imprisonment in the state prison not more than fifty years, except where the offense is under subdivision one of section two hundred sixty-one of the Penal Code, in which case the punishment shall be either by imprisonment in the county jail for not more than one year or in the state prison for not more than fifty years, and in such case the jury shall recommend by their verdict whether the punishment shall be by imprisonment in the county jail or in the state prison; provided, that when the defendant pleads guilty of an offense under subdivision one of section 261 of the Penal Code the punishment shall be in the discretion of the trial court, either by imprisonment in the county jail for not more than one year or in the state prison for not more than fifty years.—1923:271.

§264. Leg. Hist.: A.1913:213; 1923:271.

See post, §645.

References: Rape: McK.Dig. §87. Cal.Pac.D. §64. C.J. §166.

265. Abduction of women. Every person who takes any woman unlawfully, against her will, and by force, menace, or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the state prison not less than two nor more than fourteen years.

§265. References: Abduction: McK.Dig. §§3-5. Cal.Pac.D. §§1, 17. C.J. §§4-21.  
1 Cal.Jur. §§1-6.

266. Enticing, etc. Every person who inveigles or entices any unmarried female, of previous chaste character, under the age of eighteen years, into any house of ill-fame, or of assignation, or elsewhere, for the purpose of prostitution, or to have illicit carnal connection with any man; and every person who aids or assists in such inveiglement or enticement; and every person who, by any false pretenses, false representation, or other fraudulent means, procures any female to have illicit carnal connection with any man, is punishable by imprisonment in the state prison not exceeding five years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.—Code amend.—1874:429.

§266. Leg. Hist.: A.1873:429.

References: Abduction: McK.Dig. §§3-5. Cal.Pac.D. §§1, 17. C.J. §15.

Seduction: McK.Dig. §1. Cal.Pac.D. §29. C.J. §§153-161.

Prostitution: McK.Dig. §3. Cal.Pac.D. §1. C.J. §17.

266a. Taking female for purpose of prostitution. Every person who, within this state, takes any female person against her will and without her consent, or with her consent procured by fraudulent inducement or misrepresentation, for the purpose of prostitution, is punishable by imprisonment in the state prison not exceeding five years, and a fine not exceeding one thousand dollars.—1905:655.

§266a. Leg. Hist.: En.1905:655.

References: Abduction: McK.Dig. §§3-5. Cal.Pac.D. §1. C.J. §15.

1 Cal.Jur. §3.

Prostitution: Cal.Pac.D. §1. C.J. §17.

Fandering and P.: McK.Dig. §2.

266b. Taking a female by force, duress, etc., to live in an illicit relation. Every person who takes any female person unlawfully, and against her will, and by force, menace, or duress, compels her to live with him in an illicit relation, against her consent, or to so live

with any other person, is punishable by imprisonment in the state prison not less than two nor more than four years.—1905:655.

§266b. **Leg. Hist.:** En.1905:655.  
**References:** Abduction: McK.Dig. §4. Cal.Pac.D. §1. C.J. §16.  
 1 Cal.Jur. §1.  
 Pandering and P.: McK.Dig. §2. 20 Cal.Jur. §§1-10.  
 Prostitution: Cal.Pac.D. §1. C.J. §17.

**266c. Bringing or landing Chinese or Japanese women for the purpose of selling.** Every person bringing to, or landing within this state, any female person born in the empire of China or the empire of Japan, or the islands adjacent thereto, with intent to place her in charge or custody of any other person, and against her will to compel her to reside with him, or for the purpose of selling her to any person whomsoever, is punishable by a fine of not less than one nor more than five thousand dollars, or by imprisonment in the county jail not less than six nor more than twelve months.—1905:656.

§266c. **Leg. Hist.:** En.1905:656.  
 See ante, §§173-175.  
**References:** Abduction: McK.Dig. §4. Cal.Pac.D. §1. C.J. §15.  
 Aliens: McK.Dig. §61. Cal.Pac.D. §§18-31. C.J. §§73-75.

**266d. Placing female in custody for the purpose of cohabitation.** Any person who receives any money or other valuable thing for or on account of his placing in custody any female for the purpose of causing her to cohabit with any male to whom she is not married, is guilty of a felony.—1905:656.

§266d. **Leg. Hist.:** En.1905:656.  
 Also L. 1921, p. 26.  
**References:** Abduction: McK.Dig. §§3-5. C.J. §15.  
 Prostitution: Cal.Pac.D. §1. C.J. §18.  
 Pandering and P.: McK.Dig. §2.

**266e. Paying for female for the purpose of prostitution.** Every person who purchases, or pays any money or other valuable thing for any female person for the purpose of prostitution, or for the purpose of placing her, for immoral purposes, in any house or place against her will, is guilty of a felony.—1905:656.

§266e. **Leg. Hist.:** En.1905:656.  
 Also L. 1921, p. 26.  
**References:** Pandering and P.: McK.Dig. §2. 20 Cal.Jur. §3.  
 Prostitution: Cal.Pac.D. §1. C.J. §§18, 22.

**266f. Selling female for immoral purposes.** Every person who sells any female person or receives any money or other valuable thing for or on account of his placing in custody, for immoral purposes, any female person, whether with or without her consent, is guilty of a felony.—1905:656.

§266f. **Leg. Hist.:** En.1905:656.  
**References:** Pandering and P.: McK.Dig. §2.  
 Prostitution: Cal.Pac.D. §1. C.J. §§16-24.

**266g. Placing or permitting the placing of one's wife in house of prostitution.** Every man who, by force, intimidation, threats, persuasion, promises, or any other means, places or leaves, or procures any other person or persons to place or leave, his wife in a house of prostitution, or connives at or consents to, or permits, the placing or leaving of his wife in a house of prostitution, or allows or permits her to remain therein, is guilty of a felony and punishable by im-

prisonment in the state prison for not less than three nor more than ten years; and in all prosecutions under this section a wife is a competent witness against her husband.—1905:656.

§266g. **Leg. Hist.:** En.1905:656.  
**References:** Husband and W.: McK.Dig. §223. Cal.Pac.D. §3. C.J. §320.  
 Pandering and P.: McK.Dig. §2.  
 Prostitution: Cal.Pac.D. §1. C.J. §§20, 21.

**267. Abduction.** Every person who takes away any female under the age of eighteen years from her father, mother, guardian, or other person having the legal charge of her person, without their consent, for the purpose of prostitution, is punishable by imprisonment in the state prison not exceeding five years, and a fine not exceeding one thousand dollars.

§267. **References:** Abduction: McK.Dig. §§3-5. Cal.Pac.D. §1. C.J. §15.  
 1 Cal.Jur. §1.

**268. Seduction. Penalty.** Every person who, under promise of marriage, seduces and has sexual intercourse with an unmarried female of previous chaste character, is punishable by imprisonment in the state prison for not more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment.—1889:12.

§268. **Leg. Hist.:** En.1889:12.  
 (See Civ. Code §3339. Code Civ. Pro. §374.)  
**References:** Seduction: McK.Dig. §2. Cal.Pac.D. §34. C.J. §§156-161.  
 23 Cal.Jur. §§6, 7.

**269. Intermarriage, when a bar to prosecution.** The intermarriage of the parties subsequent to the commission of the offense is a bar to a prosecution for a violation of the last section; provided, such marriage take place prior to the finding of an indictment or the filing of an information charging such offense.—1889:12.

§269. **Leg. Hist.:** En.1889:12.  
**References:** Seduction: McK.Dig. §3. Cal.Pac.D. §36. C.J. §171.

**269a. Adultery.** Every person who lives in a state of cohabitation and adultery is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year, or by both.—1911:426.

§269a. **Leg. Hist.:** En.1905:657; A.1911:426.  
 (See Civ. Code §93.)  
**References:** Adultery: McK.Dig. §§1-4. Cal.Pac.D. §§1-3. C.J. §§4-12.  
 1 Cal.Jur. §§1-7.

**269b. Adultery of married persons.**

If two persons, each being married to another, live together in a state of cohabitation and adultery, each is guilty of a misdemeanor. A recorded certificate of marriage or a certified copy thereof, there being no interlocutory decree of divorce, proves the marriage of a person for the purpose of this section.—1933:1678.

§269b. **Leg. Hist.:** En.1905:657; A.1911:426; 1933:1678.  
 (See Civ. Code §93.)  
**References:** Adultery: McK.Dig. §4. Cal.Pac.D. §3. C.J. §5.  
 1 Cal.Jur. §§1-7.

or other place, or who permits such minor to enter such house, theater, or other place, is guilty of a misdemeanor.—1905:760.

§273e. **Leg. Hist.:** En.1905:760.  
**References:** Delinquent C.: McK.Dig. §§22, 24.  
 Infants: Cal.Pac.D. §13. C.J. §15. 14 Cal.Jur. §9.

**273f. Sending children to immoral places.** Any person, whether as parent, guardian, employer, or otherwise, and any firm or corporation, who as employer or otherwise, shall send, direct, or cause to be sent or directed to any saloon, gambling-house, house of prostitution, or other immoral place, any minor under the age of eighteen, is guilty of a misdemeanor.—1907:565.

§273f. **Leg. Hist.:** Origin §273. En.1905:74. §273f.—En.1907:565.  
**References:** Delinquent C.: McK.Dig. §§22, 24.  
 Infants: Cal.Pac.D. §§13, 20. C.J. §19.

**273g. Immoral practices in presence of children.** Any person who in the presence of any child indulges in any degrading, lewd, immoral or vicious habits or practices, or who is habitually drunk in the presence of any child in his care, custody or control, is guilty of a misdemeanor.—1907:756.

§273g. **Leg. Hist.:** En.1907:756.  
**References:** Delinquent C.: McK.Dig. §§20-24.  
 Infants: Cal.Pac.D. §§13, 20. C.J. §17.

**273h. Sentence to road work. Payment to dependents.** In all prosecutions under the provisions of either section 270, section 270a, section 270b, section 271 or section 271a, of this code, where a conviction is had and sentence of imprisonment in the county jail or in the city jail is imposed, the court may direct that the person so convicted shall be compelled to work upon the public roads or highways, or any other public work, in the county or in the city where such conviction is had, during the term of such sentence. And it shall be the duty of the board of supervisors of the county where such person is imprisoned in the county jail, and of the city council of the city where such person is imprisoned in the city jail, where such conviction and sentence are had and where such work is performed by a person under sentence to the county jail or to the city jail, to allow and order the payment out of any funds available, to the wife or to the guardian, or to the custodian of a child or children, or to an organization, or to an individual, appointed by the court as trustee, at the end of each calendar month, for the support of such wife or children, a sum not to exceed two dollars for each day's work of such person so imprisoned.—1927:433.

§273h. **Leg. Hist.:** En.1911:688; A.1927:433.  
**References:** Husband and W.: McK.Dig. §222. Cal.Pac.D. §317.  
 C.J. §§961-963.  
 Parent and C.: McK.Dig. §45. Cal.Pac.D. §17. C.J. §229.

### CHAPTER III.

#### Abortions.

##### Section

**274. Administering drugs, etc., with intent to produce miscarriage.**

**274. Administering drugs, etc., with intent to produce miscarriage.** Every person who provides, supplies, or administers to any woman,

##### Section

**275. Submitting to an attempt to produce miscarriage.**

or procures any woman to take any medicine, drug, or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life, is punishable by imprisonment in the State prison not less than two nor more than five years.—1935:

§274. **Leg. Hist.:** A.1935:1605.  
**References:** Abortion: McK.Dig. §1. Cal.Pac.D. §§1-3. C.J.S. §§1-14.  
 1 Cal.Jur. §2.

**275. Submitting to an attempt to produce miscarriage.** Every woman who solicits of any person any medicine, drug, or substance whatever, and takes the same, or who submits to any operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, unless the same is necessary to preserve her life, is punishable by imprisonment in the state prison not less than one nor more than five years.

§275. **References:** Abortion: McK.Dig. §1. Cal.Pac.D. §§1-3. C.J.S. §7.  
 1 Cal.Jur. §1.

### CHAPTER IV.

#### Child Stealing.

##### Section

**278. Child stealing. Penalty.**

**278. Child stealing. Penalty.** Every person who maliciously, forcibly, or fraudulently takes or entices away any minor child with intent to detain and conceal such child from its parent, guardian, or other person having the lawful charge of such child, is punishable by imprisonment in the state prison not exceeding twenty years.

§278. **Leg. Hist.:** A.1901:269.  
 See ante, §§207-209. See post, §646.  
**References:** Infants: McK.Dig. §29. Cal.Pac.D. §20. C.J. §§8, 15.  
 Parent and C.: McK.Dig. §5. Cal.Pac.D. §18. C.J. §244.  
 Kidnaping: McK.Dig. §3. Cal.Pac.D. §§1-3. C.J. §§1-14. 15 Cal.Jur. §3.

### CHAPTER V.

#### Bigamy, Incest, and the Crime against Nature.

##### Section

**281. Bigamy defined.**

**282. Exceptions.**

**283. Bigamy, punishment of.**

**284. Marrying a husband or wife of another; punishment.**

**285. Penalty for incest.**

**286. Penalty for crime against nature.**

##### Section

**287. Penetration sufficient to complete the crime.**

**288. Crimes against children, a felony.**

**288a. Sex perversions.**

**288.1. Same. Restriction on suspended sentence or parole.**

**281. Bigamy defined.** Every person having a husband or wife living, who marries any other person, except in the cases specified in the next section, is guilty of bigamy.

§281. **References:** Bigamy: McK.Dig. §§1-4. Cal.Pac.D. §1. C.J. §§3-17.  
 C.J.S. §1. 4 Cal.Jur. §1.

**282. Exceptions.** The last section does not extend—

1. To any person by reason of any former marriage, whose husband or wife by such marriage has been absent for five successive



years without being known to such person within that time to be living; nor,

2. To any person by reason of any former marriage which has been pronounced void, annulled, or dissolved by the judgment of a competent court.

§282. **References:** Bigamy: McK.Dig. §§1-4. Cal.Pac.D. §2. C.J. §20. C.J.S. §7. 4 Cal.Jur. §§2, 6.

283. **Bigamy, punishment of.** Bigamy is punishable by a fine not exceeding five thousand dollars and by imprisonment in the state prison not exceeding ten years.—1905:245.

§283. **Leg. Hist.:** A.1905:245.  
(See Civ. Code §61.)  
**References:** Bigamy: McK.Dig. §§1-4. Cal.Pac.D. §17. C.J. §60. C.J.S. §23. 4 Cal.Jur. §12.

284. **Marrying a husband or wife of another; punishment.** Every person who knowingly and willfully marries the husband or wife of another, in any case in which such husband or wife would be punishable under the provisions of this chapter, is punishable by fine not less than five thousand dollars, or by imprisonment in the state prison not exceeding ten years.—1905:245.

§284. **Leg. Hist.:** A.1905:245.  
**References:** Bigamy: McK.Dig. §§1-4. Cal.Pac.D. §17. C.J. §60. 4 Cal.Jur. §12.

285. **Penalty for incest.** Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the state prison not less than one year nor more than fifty years.—1921:96.

§285. **Leg. Hist.:** A.1921:96.  
(See Civ. Code §59.)  
**References:** Incest: McK.Dig. §§1, 2. Cal.Pac.D. §§1-8½. C.J. §§1-16. 13 Cal.Jur. §§1-5.

286. **Penalty for crime against nature.** Every person who is guilty of the infamous crime against nature, committed with mankind or with any animal, is punishable by imprisonment in the state prison not less than one nor more than ten years.—1921:87.

§286. **Leg. Hist.:** A.1921:87.  
See ante, §220.  
**References:** Sodomy: McK.Dig. §§1-3. Cal.Pac.D. §§1, 8. C.J. §§2-8. 23 Cal.Jur. §§1-11.

287. **Penetration sufficient to complete the crime.** Any sexual penetration, however slight, is sufficient to complete the crime against nature.

§287. **References:** Sodomy: McK.Dig. §2. Cal.Pac.D. §§1-3. C.J. §5. 23 Cal.Jur. §3.

288. **Crimes against children, a felony.**

Any person who shall wilfully and lewdly commit any lewd or lascivious act including any of the acts constituting other crimes provided for in part one of this code upon or with the body, or any

part or member thereof, of a child under the age of fourteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be guilty of a felony and shall be imprisoned in the State prison for a term of from one year to life.—1937; Chap. 545.

§288. **Leg. Hist.:** En.1901:630; A.1933:1028; 1937:1562.  
**References:** Lewdness: McK.Dig. §§2-6. Cal.Pac.D. §§1-3. C.J. §§3-9. 16 Cal.Jur. §1.  
Infants: Cal.Pac.D. §20. C.J. §15.

288a. **Sex perversions.** Any person participating in the act of copulating the mouth of one person with the sexual organ of another is punishable by imprisonment in the state prison for not exceeding fifteen years.—1921:1633.

§288a. **Leg. Hist.:** En.1915:1022; R.1921:1633; En.1921:1633.  
**References:** Sodomy: McK.Dig. §2. Cal.Pac.D. §§1-4. C.J. §§2-8. 23 Cal.Jur. §3.

288.1. **Same. Restriction on suspended sentence or parole.** Any person convicted of committing any lewd or lascivious act including any of the acts constituting other crimes provided for in Part 1 of this code upon or with the body, or any part or member thereof, of a child under the age of 14 years shall not have his sentence suspended until the court obtains a report from a reputable psychiatrist as to the mental condition of such person, and such person shall not be paroled from prison until a report is received from the prison psychiatrist setting forth the mental condition of the prisoner and stating that the prisoner was under observation while confined in prison.

§288.1. **Leg. Hist.:** En.1941, ch.1201.

## CHAPTER VI.

### Violating Sepulture and the Remains of the Dead.

Comprising Sections 290-297. Repealed. Stats. 1939; Chap. 60.  
[Superseded by Health and Safety Code.]

## CHAPTER VII.

### Crimes against Religion and Conscience, and Other Offenses against Good Morals.

Section	Section
302. Disturbing religious meetings.	308. Selling tobacco to minors.
303. Sale of liquor on commission.	Dealers to post copy of act.
304. Selling liquors at camp meeting.	Secretary of state to furnish.
305. Limitation of preceding section.	309. To prevent admission of minors to houses of prostitution.
307. Repealed 1937.	310. Repealed 1933.
	310a. Repealed 1933.

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288a. Sex perversions. Any person participating in the act of copulating the mouth of one person with the sexual organ of another is punishable by imprisonment in the state prison for not exceeding

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**290. [New.] Registration of persons convicted of certain offenses: Contents.** Any person who, since the first day of July, 1944, has been or is hereafter convicted in the State of California of any offense defined in Sections 266, 267, 268, 285, 286, 288, 288a, 647a, subdivision 3 or 4 of Section 261, or subdivision 1 or 2 of Section 311 of this code, or of any offense involving lewd and lascivious conduct under Section 702 of the Welfare and Institutions Code, or has been since said date or is hereafter convicted in any other state of any offense which, if committed in this State, would have been punishable under one or more of the above-mentioned sections shall within 30 days after the effective date of this section or within 30 days of his coming into any county in which he resides or is temporarily domiciled for such length of time register with the sheriff of or a chief of police in such county.

Such registration shall consist of (a) a statement in writing signed by such person, giving such information as may be required by the State Bureau of Criminal Identification, and (b) the fingerprints and photograph of such person. Within three days thereafter the sheriff or chief of police shall forward such statement, fingerprints and photograph to the State Bureau of Criminal Identification and Investigation.

Any person required hereby to register shall upon changing his address within the county in which he is required to register promptly inform the sheriff or chief of police in writing of his new address, and such sheriff or chief of police shall within three days after receipt of such information forward it to the State Bureau of Criminal Identification and Investigation.

Any person required to register under the provisions of this section who shall violate any of the provisions thereof is guilty of a misdemeanor.

The statements, photographs and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(In effect on ninety-first day after June 20, 1947.

Stats. 1947, Chap. 1124.)

Pen. Code, 1947.

meeting.

305. Limitation of preceding section.

307. Repealed 1937.

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310. Repealed 1933.

310a. Repealed 1933.

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**302. Disturbing religious meetings.** Every person who willfully disturbs or disquiets any assemblage of people met for religious worship, by profane discourse, rude or indecent behavior, or by any unnecessary noise, either within the place where such meeting is held, or so near it as to disturb the order and solemnity of the meeting, is guilty of a misdemeanor.—1905:657.

§302. **Leg. Hist.:** A.1905:657.  
See ante, §59. See post, §403.  
**References:** Disorderly Conduct: McK.Dig. §1. Cal.Pac.D. §1. C.J. §6.  
9 Cal.Jur. §2.  
Disturbance of P.A.: Cal.Pac.D. §§1-4. C.J. §§2-15.

### **303. Sale of liquor on commission.**

It shall be unlawful for any person engaged in the sale of alcoholic beverages, other than in the original package, to employ upon the premises where the alcoholic beverages are sold any person for the purpose of procuring or encouraging the purchase or sale of such beverages, or to pay any person a percentage or commission on the sale of such beverages for procuring or encouraging such purchase or sale. Violation of this section shall be a misdemeanor.—1935:

§303. **Leg. Hist.:** R.1905:657; En.1935:1576.  
**References:** Intox. Liq.: McK.Dig. §42. Cal.Pac.D. §146 (2). C.J. §15; also Alcoholic Bev. Cont. Act, §57.

**304. Selling liquors at camp meeting.** Every person who erects or keeps a booth, tent, stall, or other contrivance for the purpose of selling or otherwise disposing of any wine, or spirituous, or intoxicating liquors, or any drink of which wines, spirituous, or intoxicating liquors form a part, or for selling or otherwise disposing of any article of merchandise, or who peddles, or hawks about any such drink or article, within one mile of any camp or field meeting for religious worship, during the time of holding such meeting, is punishable by fine of not less than five nor more than five hundred dollars.

§304. See ante, §172.  
**References:** Intox. Liq.: McK.Dig. §42. Cal.Pac.D. §162. C.J. §228.

**305. Limitation of preceding section.** The provisions of the preceding section do not apply to any person carrying on a regular business in the sale of liquors or other articles, which business was established prior to the appointment of the meeting referred to in such section.

§305. **References:** Intox. Liq.: McK.Dig. §42. Cal.Pac.D. §162. C.J. §228.

**307. Repealed.** Stats. 1937; Chap. 382. See Appendix—State Narcotic Act.

**308. Selling tobacco to minors. Dealers to post copy of act.** Secretary of state to furnish. Every person, firm or corporation which sells or gives or in any way furnishes to another person who is in fact under the age of eighteen years any tobacco, cigarette or cigarette papers or any other preparation of tobacco is guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment for not more than sixty days; and for the second offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment for not more than ninety days; and for each subsequent offense by a fine of not less than one hundred dollars and not more than three hundred dollars,

or by imprisonment for not less than ninety days nor more than six months, or by both such fine and imprisonment.

Every person, firm or corporation which sells, or deals in tobacco or any preparation thereof shall, within ninety days after this act becomes effective, post conspicuously and keep so posted in his or their place of business a copy of this act, and any such person failing to do so shall upon conviction be punished by a fine of five dollars for the first offense and twenty-five dollars for each succeeding violation of this provision, or by imprisonment for not more than thirty days.

The secretary of state is hereby authorized to have printed sufficient copies of this act to enable him to furnish dealers in tobacco with copies thereof upon their request for the same.—1911:481.

§308. **Leg. Hist.:** En.1891:64; A.1911:481.  
**References:** Infants: McK.Dig. §29. Cal.Pac.D. §§12-14, 20. C.J. §17.

**309. To prevent admission of minors to houses of prostitution.** Any proprietor, keeper, manager, conductor, or person having the control of any house of prostitution, or any house or room resorted to for the purpose of prostitution, who shall admit or keep any minor of either sex therein; or any parent or guardian of any such minor, who shall admit or keep such minor, or sanction, or connive at the admission or keeping thereof, into, or in any such house, or room, shall be guilty of a misdemeanor.—Code amend.—1880:36.

§309. **Leg. Hist.:** En.1880:36.  
See ante, §§272, 273e, f, g.  
**References:** Infants: McK.Dig. §29. Cal.Pac.D. §§12-14, 20. C.J. §15.  
14 Cal.Jur. §9.

**310. Desecration of national flag.** Repealed. Stats. 1933; Chap. 975. Superseded by §614, Military and Veterans Code.

**310a. Desecration of state flag.** Repealed. Stats. 1933; Chap. 975. Superseded by §614, Military and Veterans Code.

## **CHAPTER VIII.**

### **Indecent Exposure, Obscene Exhibitions, Books and Prints, and Bawdy and Other Disorderly Houses.**

Section	Section
311. Lewd conduct.	316. Keeping disorderly houses, etc.
312. Seizure of indecent articles authorized.	317. Repealed 1937.
313. Their character to be summarily determined.	318. Prevailing upon any person to visit a place kept for gambling or prostitution, a misdemeanor.
314. Their destruction.	
315. Keeping or residing in house of ill-fame. Proof.	

### **311. Lewd conduct.**

Every person who wilfully and lewdly, either:

One—Exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or,



Two—Procures, counsels, or assists any person so to expose himself, or to take part in any model artist exhibition, or to make any other exhibition of himself to public view, or to the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts; or,

Three—Writes, composes, stereotypes, prints, publishes, sells, distributes, keeps for sale, or exhibits any obscene or indecent writing, paper, or book; or designs, copies, draws, engraves, paints, or otherwise prepares any obscene or indecent picture or print; or molds, cuts, casts, or otherwise makes any obscene or indecent figure; or,

Four—Writes, composes, or publishes any notice or advertisement of any such writing, paper, book, picture, print, or figure; or,

Five—Sings or speaks any lewd or obscene song, ballad, or other words, in any public place, or in any place where there are persons present to be annoyed thereby, is guilty of a misdemeanor. The provision of subdivision five of this section shall not apply to any person participating in violation thereof only as an actor, unless and until the proper court shall have passed upon the matter and found the actor to have violated the said subdivision five of this section, except where after a complaint has been filed against the owner, manager, producer or director charging a violation of said subdivision five of this section, and pending the determination thereof an actor or actress utters the particular word or words complained against or other word or words of the same or similar import, in connection with such performance, act, play, drama, exhibition or entertainment.

§311. **Leg. Hist.:** A.1873:429; 1931:1597.  
**References:** Lewdness: McK.Dig. §§1-6. Cal.Pac.D. §§1-3. C.J. §§3-8.  
16 Cal.Jur. §2.  
Obscenity: Cal.Pac.D. §§1-9. C.J. §§3-23.

312. **Seizure of indecent articles authorized.** Every person who is authorized or enjoined to arrest any person for a violation of subdivision 3 of the last section, is equally authorized and enjoined to seize any obscene or indecent writing, paper, book, picture, print, or figure found in possession or under the control of the person so arrested, and to deliver the same to the magistrate before whom the person so arrested is required to be taken.

§312. **References:** Lewdness: McK.Dig. §§2, 3. Cal.Pac.D. §12. C.J. §31.  
Search and Seizure: McK.Dig. §1. Cal.Pac.D. §2. C.J. §221.  
Obscenity: Cal.Pac.D. §22. C.J. §45.

313. **Their character to be summarily determined.** The magistrate to whom any obscene or indecent writing, paper, book, picture, print, or figure is delivered, pursuant to the foregoing section, must, upon the examination of the accused, or, if the examination is delayed or prevented, without awaiting such examination, determine the character of such writing, paper, book, picture, print, or figure, and if he finds it to be obscene or indecent, he must deliver one copy to the district attorney of the county in which the accused is liable to indictment or trial, and must at once destroy all the other copies.

§313. **References:** Lewdness: McK.Dig. §§2, 3. Cal.Pac.D. §12. C.J. §31.  
Search and Seizure: McK.Dig. §1. Cal.Pac.D. §2. C.J. §221.  
Obscenity: Cal.Pac.D. §22. C.J. §45.

### 314. Their destruction.

Upon the conviction of the accused, such district attorney must cause any writing, paper, book, picture, print, or figure, in respect

whereof the accused stands convicted, and which remains in the possession or under the control of such district attorney, to be destroyed. (Amendment 1901:452 held unconstitutional, 134 Cal. 291.)

§314. **References:** Lewdness: McK.Dig. §§2, 3. Cal.Pac.D. §12. C.J. §31.  
Search and Seizure: McK.Dig. §1. Cal.Pac.D. §12. C.J. §221.  
Obscenity: Cal.Pac.D. §22. C.J. §45.

315. **Keeping or residing in house of ill-fame. Proof.** Every person who keeps a house of ill-fame in this state, resorted to for the purposes of prostitution or lewdness, or who willfully resides in such house, is guilty of a misdemeanor; and in all prosecutions for keeping or resorting to such a house common repute may be received as competent evidence of the character of the house, the purpose for which it is kept or used, and the character of the women inhabiting or resorting to it.—1905:668.

§315. **Leg. Hist.:** A.1905:668.  
**References:** Disorderly H.: McK.Dig. §4. Cal.Pac.D. §§4-9. C.J. §§37-47.  
Prostitution: McK.Dig. §3. Cal.Pac.D. §§1, 2. C.J. §§7, 9.

316. **Keeping disorderly houses, etc.** Every person who keeps any disorderly house, or any house for the purpose of assignation or prostitution, or any house of public resort, by which the peace, comfort, or decency of the immediate neighborhood is habitually disturbed, or who keeps any inn in a disorderly manner; and every person who lets any apartment or tenement, knowing that it is to be used for the purpose of assignation or prostitution, is guilty of a misdemeanor.

§316. **Leg. Hist.:** A.1873:430.  
**References:** Disorderly H.: McK.Dig. §4. Cal.Pac.D. §§4-9. C.J. §§37-40.  
9 Cal.Jur. §§1-17.  
Prostitution: McK.Dig. §3. Cal.Pac.D. §§1, 2. C.J. §7.

317. **Repealed.** Stats. 1937; Chap. 399.

318. **Prewailing upon any person to visit a place kept for gambling or prostitution, a misdemeanor.** Whoever, through invitation or device, prevails upon any person to visit any room, building, or other places kept for the purpose of gambling or prostitution, is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not exceeding six months, or fined not exceeding five hundred dollars, or be punished by both such fine and imprisonment.

§318. **Leg. Hist.:** En.1880:40.  
**References:** Gaming: McK.Dig. §12. Cal.Pac.D. §77. C.J. §§155, 175.  
Prostitution: McK.Dig. §3. Cal.Pac.D. §§1, 2. C.J. §16.  
Pandering: McK.Dig. §§1-6.

## CHAPTER IX.

### Lotteries.

Section	Section
319. Lottery defined.	324. Insuring lottery tickets.
320. Punishment for drawing lottery.	Publishing offers to insure.
321. Punishment for selling lottery tickets.	325. Property offered for disposal in lottery forfeited.
322. Aiding lotteries.	326. Letting building for lottery purposes.
323. Lottery offices. Advertising lottery offices.	

**625a. Unlawful interference with fire-alarm apparatus; penalty.** Any person who willfully and maliciously tampers with, molests, injures, or breaks any public fire-alarm apparatus, wire, or signal, or willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any public fire-alarm system or signal, is punishable by imprisonment in the county jail, not exceeding one year, or by a fine, not exceeding one thousand dollars, or by both such fine and imprisonment.—1903:137.

§625a. Leg. Hist.: En.1903:137.

References: Mal. Misch.: McK.Dig. §1. Cal.Pac.D. §1. C.J. §§7, 10.

## TITLE XV.

### MISCELLANEOUS CRIMES.

#### Chapter I. Violation of the Laws for the Preservation of Game and Fish.

#### II. Other and Miscellaneous Offenses.

### CHAPTER I.

#### Violation of the Laws for the Preservation of Game and Fish.

All sections under this chapter, numbered 626 to 637½a inclusive, with the exception of section 627, as below, were repealed in 1933.

They were then re-enacted and embodied in the Fish and Game Code, approved April 11, 1933.

Section	Section
627. Trespass for purpose of hunting. Destruction of signs.	627.5. Signs prohibiting trespass.

#### 627. Trespass for purpose of hunting. Destruction of signs.

Every person who for the purpose of hunting, pursuing, taking, killing or destroying any animal or bird, enters upon any lands under cultivation or enclosed by a fence, or enters upon any other lands or upon the canal banks or rights of way of any irrigation district, where signs are displayed not less than three to the mile along all exterior boundaries and at all roads and trails entering such land, canal banks, or rights of way forbidding such trespassing, without the written permission of the owner of such lands, or irrigation district or the agent or the person in lawful possession thereof, or who maliciously tears down, mutilates, or destroys any sign, signboard, or other notice forbidding hunting on such lands, canal banks, or rights of way, is guilty of a misdemeanor.

Nothing in this section shall be construed as making the entering or use of any road or trail on such lands, canal banks or rights of way unlawful when entered or used for the purpose of communicating with the owner of such lands or his agent or the person in lawful possession of such lands. The provisions of this section shall not apply to any person employed by any county, the State, or by the United States to destroy predatory animals or birds, or pests as defined in section 100 of the Agricultural Code, when acting in the course of his employment.

Every person who posts any sign indicating that the land affected is a State or Federal game refuge, unless it was so established by the State of California or Federal Government, is guilty of a misdemeanor.—1939; Chap. 277.

§627. Leg. Hist.: A.1875:113; R.1883:80; En.1895:257; A.1897:92; 1901:821; 1929:1180; 1931:321; 1939:1533.

See ante, §602.

References: Trespass: McK.Dig. §2. Cal.Pac.D. §76. C.J. §305.

24 Cal.Jur. §15.

Game: McK.Dig. §2. Cal.Pac.D. §§3-8. C.J. §§4, 11, 29.

#### 627.5. Signs prohibiting trespass.

Every sign prohibiting trespass hereafter posted pursuant to section 627 of this code shall bear the name of the owner or person in lawful possession of the property affected or of an authorized agent of such owner or person. The posting of any such sign by any person other than the owner, the person in lawful possession, or an authorized agent of either the owner or such person is a misdemeanor.

§627.5. Leg. Hist.: En.1939:2214.

### CHAPTER II.

#### Other and Miscellaneous Offenses.

Section	Section
638. Neglect or postponement of telegraphic or telephonic messages.	648a. Slugs resembling coins of United States. Definitions. Exceptions.
639. Employe using information contained in telegraphic or telephonic messages.	649. Repealed.
640. Fraudulent connection with telegraph, etc., wires. Penalty.	650. Sending letters threatening to expose another.
640a. Misuse of slot machines, etc.	650a. Exposure of paroled prisoners prohibited. Repealed 1941.
641. Bribing telegraph or telephone operator.	650½. Penalty for injuring person or property of another.
642. Removing and appropriating articles of value from dead human bodies.	651. Trafficking in Federal order stamps.
643. Repealed 1937.	652. Repealed 1933.
644. Habitual criminals.	652. Reward offer for "dead" or "dead or alive" forbidden.
645. Carnal abuse, additional penalty.	653b. Repealed 1929.
646. Repealed 1937.	653c. Repealed 1937.
647. Vagrants defined. Penalty.	653c-1. Repealed 1937.
647a. Vagrants. Schools and school children.	653d. Repealed 1937.
648. Issuing or circulating paper money.	653e. Repealed 1937.
	653f. Soliciting commission of a crime. Punishment. Proof.
	653g. Repealed 1937.
	653h. Dictograph. Installation of.
	653½. Appraisers of estates not to accept fee or reward.

638. Neglect or postponement of telegraphic or telephonic messages. Every agent, operator, or employe of any telegraph or telephone office, who willfully refuses or neglects to send any message

received at such office for transmission, or willfully postpones the same out of its order, or willfully refuses or neglects to deliver any message received by telegraph or telephone, is guilty of a misdemeanor. Nothing herein contained must be construed to require any message to be received, transmitted, or delivered, unless the charges thereon have been paid or tendered, nor to require the sending, receiving, or delivery of any message counseling, aiding, abetting, or encouraging treason against the government of the United States or of this state or other resistance to the lawful authority, or any message calculated to further any fraudulent plan or purpose, or to instigate or encourage the perpetration of any unlawful act, or to facilitate the escape of any criminal or person accused of crime.—1905:690.

§638. Leg. Hist.: A.1905:690.

(See Civ. Code §2161.)

References: Tel. & Tel.: McK.Dig. §4. Cal.Pac.D. §79. C.J. §§134, 376.  
24 Cal.Jur. §33.

**639. Employee using information contained in telegraphic or telephonic messages.** Every agent, operator, or employee of any telegraph or telephone office, who in any way uses or appropriates any information derived by him from any private message passing through his hands, and addressed to any other person, or in any other manner acquired by him by reason of his trust as such agent, operator, or employee, or trades or speculates upon any such information so obtained, or in any manner turns, or attempts to turn, the same to his own account, profit, or advantage, is punishable by imprisonment in the state prison not exceeding five years, or by imprisonment in the county jail not exceeding one year, or by fine not exceeding five thousand dollars, or by both such fine and imprisonment.—1905:690.

§639. Leg. Hist.: A.1905:690.

See ante, §619.

References: Tel. & Tel.: McK.Dig. §4. Cal.Pac.D. §§40, 79. C.J. §§149, 377.  
24 Cal.Jur. §34.

**640. Fraudulent connection with telegraph, etc., wires. Penalty.**

Every person who, by means of any machine, instrument, or contrivance, or in any other manner, willfully and fraudulently, or clandestinely taps, or makes any unauthorized connection with any telegraph or telephone wire, line, cable, or instrument under the control of any telegraph or telephone company; or who willfully and fraudulently, or clandestinely, or in any unauthorized manner, reads, or attempts to read, or to learn the contents or meaning of any message, report, or communication while the same is in transit or passing over any telegraph or telephone wire, line, or cable, or is being sent from, or received at any place within this state; or who uses, or attempts to use, in any manner, or for any purpose, or to communicate in any way, any information so obtained; or who aids, agrees with, employs, or conspires with any person or persons to unlawfully do, or permit, or cause to be done any of the acts or things hereinabove mentioned, is punishable as provided in section 639.—1915:210.

§640. Leg. Hist.: A.1905:691; 1915:210.

References: Tel. & Tel.: McK.Dig. §4. Cal.Pac.D. §79. C.J. §§147, 377.  
24 Cal.Jur. §33.

**640a. Misuse of slot machines, etc.** 1. Any person who shall knowingly and willfully operate, or cause to be operated, or who shall attempt to operate, or attempt to cause to be operated, any automatic

vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, by means of a slug or any false, counterfeited, mutilated, sweated or foreign coin, or by any means, method, trick or device whatsoever not lawfully authorized by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, or who shall take, obtain or receive from or in connection with any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, any goods, wares, merchandise, gas, electric current, article of value, or the use or enjoyment of any telephone or telegraph facilities or service, or of any musical instrument, phonograph or other property, without depositing in and surrendering to such machine, coin-box telephone or receptacle lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, shall be guilty of a misdemeanor.

2. Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any automatic vending machine, slot machine, coin-box telephone or other receptacle, depository or contrivance designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, or who, knowing or having cause to believe that the same is intended for unlawful use, shall manufacture for sale, or sell or give away any slug, device or substance whatsoever intended or calculated to be placed or deposited in any such automatic vending machine, slot machine, coin-box telephone or other such receptacle, depository or contrivance, shall be guilty of a misdemeanor.

§640a. Leg. Hist.: En.1925:484.

References: Larceny: McK.Dig. §16. Cal.Pac.D. §14. C.J. §57.

**641. Bribing telegraph or telephone operator.** Every person who, by the payment or promise of any bribe, inducement, or reward, procures or attempts to procure any telegraph or telephone agent, operator, or employee to disclose any private message, or the contents, purport, substance, or meaning thereof, or offers to any such agent, operator, or employee any bribe, compensation, or reward for the disclosure of any private information received by him by reason of his trust as such agent, operator, or employee, or uses or attempts to use any such information so obtained, is punishable as provided in section 639.—1905:691.

§641. Leg. Hist.: A.1905:691.

References: Bribery: McK.Dig. §§2-5. Cal.Pac.D. §2. C.J. §§2, 5-9.  
Tel. & Tel.: 24 Cal.Jur. §34.

**642. Removing and appropriating articles of value from dead human bodies.**

Every person who wilfully and maliciously removes and keeps possession of and appropriates for his own use articles of value from a dead human body, the theft of which articles would be petty theft is guilty of a misdemeanor, or if the theft of the articles would be grand theft, a felony. This section shall not apply to articles removed at the request or direction of one of the persons enumerated in section 7111 of the Health and Safety Code.—1939; Chap. 691.

§642. Leg. Hist.: R.1937:1184; En.1939:2209.



643. Violations of the provisions of the chapter relating to police regulations of San Francisco harbor. Repealed. Stats. 1937; Chap. 372. Superseded by Harbors and Navigation Code.

\* 644. Habitual criminals.

(a) Every person convicted in this State of the crime of robbery, burglary of the first degree, burglary with explosives, rape with force or violence, arson as defined in Section 447a of this code, murder, assault with intent to commit murder, train wrecking, felonious assault with a deadly weapon, extortion, kidnaping, escape from a State prison by use of force or dangerous or deadly weapons, rape or fornication or sodomy or carnal abuse of a child under the age of 12 years, conspiracy to commit any one or more of the aforementioned felonies, who shall have been previously twice convicted upon charges separately brought and tried, and who shall have served separate terms therefor in any State prison and/or Federal penitentiary, either in this State or elsewhere, of the crime of robbery, burglary, burglary with explosives, rape with force or violence, arson, murder, assault with intent to commit murder, grand theft, bribery of a public official, perjury, subornation of perjury, train wrecking, feloniously receiving stolen goods, felonious assault with a deadly weapon, extortion, kidnaping, mayhem, escape from a State prison, rape or fornication or sodomy or carnal abuse of a child under the age of 12 years, conspiracy to commit any one or more of the aforementioned felonies, shall be adjudged an habitual criminal and shall be punished by imprisonment in the State prison for life;

(b) Every person convicted in this State of the crime of robbery, burglary of the first degree, burglary with explosives, rape with force or violence, arson as defined in Section 447a of this code, murder, assault with intent to commit murder, train wrecking, felonious assault with a deadly weapon, extortion, kidnaping, escape from a State prison by use of force or dangerous or deadly weapons, rape or fornication or sodomy or carnal abuse of a child under the age of 12 years, conspiracy to commit any one or more of the aforementioned felonies, who shall have been previously three times convicted, upon charges separately brought and tried, and who shall have served separate terms therefor in any State prison and/or Federal penitentiary, either in this State or elsewhere, of the crime of robbery, burglary, burglary with explosives, rape with force or violence, arson, murder, assault with intent to commit murder, grand theft, bribery of a public official, perjury, subornation of perjury, train wrecking, feloniously receiving stolen goods, felonious assault with a deadly weapon, extortion, kidnaping, mayhem, escape from a State prison, rape or fornication or sodomy or carnal abuse of a child under the age of 12 years, conspiracy to commit any one or more of the aforementioned felonies, or any of the aforementioned felonies, shall be adjudged an habitual criminal and shall be punished by imprisonment in the State prison for life;

(c) Provided, however, that in exceptional cases, at any time not later than 60 days after the actual commencement of imprisonment, the court may, in its discretion, provide that the defendant is not an habitual criminal, and in such case the defendant shall not be subject to the provisions of this section or of Sections 3047 and 3048 of this code;

(d) Nothing in this section shall abrogate or affect the punishment by death in any and all crimes now or hereafter punishable by death.

§644. Leg. Hist.: R.1911:71; En.1923:237; A.1927:1066; 1931:1052; 1935:1699; 1939:1443; 1941, ch.106; 1945, ch.934, §1.

See post, §§666-668.

Matter added by 1945 amendment is in italics.

The 1945 amendment deletes from this section the words "any felony" which occurred respectively in subdivisions (a) and (b) following the words "convicted in this State".

References: Crim. Law.: McK.Dig. §1459. Cal.Pac.D. §§1200, 1211, 1212. C.J. §§3150, 3184. C.J.S. §§1958-1973. 7 Cal.Jur. Vol. 8, §614.

645. **Carnal abuse**, additional penalty. Whenever any person shall be adjudged guilty of carnal abuse of a female person under the age of ten years, the court may, in addition to such other punishment or confinement as may be imposed, direct an operation to be performed upon such person, for the prevention of procreation.—1923:448.

§645. Leg. Hist.: R.1907:307; En.1923:448.

References: Crim. Law.: McK.Dig. §1476. Cal.Pac.D. §1213. C.J. §3198.

646. Aiding apprentices to run away or harboring them. Repealed. Stats. 1937; Chap. 90. See Labor Code, §3091.

647. **Vagrants** defined. Penalty.

1. Every person (except a California Indian) without visible means of living who has the physical ability to work, and who does not seek employment, nor labor when employment is offered him; or,

2. Every beggar who solicits alms as a business; or,

3. Every person who roams about from place to place without any lawful business; or,

4. Every person known to be a pickpocket, thief, burglar or confidence operator, either by his own confession, or by his having been convicted of either of such offenses, and having no visible or lawful means of support, when found loitering around any steamboat landing, railroad depot, banking institution, broker's office, place of amusement, auction-room, store, shop or crowded thoroughfare, car, or omnibus, or any public gathering or assembly; or,

5. Every idle, or lewd, or dissolute person, or associate of known thieves; or,

6. Every person who wanders about the streets at late or unusual hours of the night, without any visible or lawful business; or,

7. Every person who lodges in any barn, shed, shop, outhouse, vessel, or place other than such as is kept for lodging purposes, without the permission of the owner or party entitled to the possession thereof; or,

8. Every person who lives in and about houses of ill-fame; or,

9. Every person who acts as a runner or capper for attorneys in and about police courts or city prisons; or,

10. Every common prostitute; or,

11. Every common drunkard;

Is a vagrant and is punishable by a fine of not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.—1919; Chap. 1078.

§647. Leg. Hist.: A.1891:130; 1903:96; 1911:508; 1929:78; 1931:696; 1939:3002.

References: Vagrancy: McK.Dig. §§1-3. Cal.Pac.D. §§1-6. C.J. §§5-17.

25 Cal.Jur. §§1-7.

Prostitution: McK.Dig. §3. Cal.Pac.D. §§1, 2. C.J. §§4-9.

Lewdness: McK.Dig. §§1-3. Cal.Pac.D. §§1-3. C.J. §9.



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645. Carnal abuse, additional penalty. whenever any person shall be adjudged guilty of carnal abuse of a female person under the age of ten years, in addition to such other punishment or

**647. Vagrants enumerated: Punishment.** 1. Every person (except a California Indian) without visible means of living who has the physical ability to work, and who does not seek employment, nor labor when employment is offered him; or,

2. Every beggar who solicits alms as a business, or,

3. Every person who roams about from place to place without any lawful business; or,

4. Every person known to be a pickpocket, thief, burglar or confidence operator, either by his own confession, or by his having been convicted of either of such offenses, and having no visible or lawful means of support, when found loitering around any steamboat landing, railroad depot, banking institution, broker's office, place of amusement, auction room, store, shop or crowded thoroughfare, car, [or] omnibus, or any public gathering or assembly; or,

5. Every idle, or lewd, or dissolute person, or associate of known thieves; or,

6. Every person who wanders about the streets at late or unusual hours of the night, without any visible or lawful business; or,

7. Every person who lodges in any barn, shed, shop, outhouse, vessel, or place other than such as is kept for lodging purposes, without the permission of the owner or party entitled to the possession thereof; or,

8. Every person who lives in and about houses of ill-fame; or,

9. Every person who acts as a runner or capper for attorneys in and about police courts or city prisons; or,

10. Every common prostitute; or,

11. Every common drunkard; [or,

12. Every person who loiters, prowls or wanders upon the private property of another, in the nighttime, without visible or lawful business with the owner or occupant thereof; or who while loitering, prowling or wandering upon the private property of another, in the nighttime, peeks in the door or window of any building or structure located thereon and which is inhabited by human beings, without visible or lawful business with the owner or occupant thereof;]

Is a vagrant, and is punishable by a fine of not exceeding five hundred dollars (\$500), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

(In effect on ninety-first day after June 20, 1947.

Stats. 1947, Chap. 989.)

Pen. Code, 1947.

**647a. Vagrants.** Schools and school children. Every person who annoys or molests any school child or who loiters about any school or public place at or near which school children attend, is a vagrant and is punishable by a fine of not exceeding five hundred dollars or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.—1929:697.

§647a. Leg. Hist.: En.1929:697.

References: Vagrancy: McK.Dig. §1. Cal.Pac.D. §§1-6. C.J. §17.  
25 Cal.Jur. §§1-7.

**648. Issuing or circulating paper money.** Every person who makes, issues, or puts in circulation any bill, check, ticket, certificate, promissory note, or the paper of any bank, to circulate as money except as authorized by the laws of the United States, for the first offense, is guilty of a misdemeanor, and for each and every subsequent offense, is guilty of felony.

§648. Punishment: See post, §§654, 666, 667, 668.

References: Counterfeiting: McK.Dig. §2. Cal.Pac.D. §8. C.J. §§10-20.  
C.J.S. §§1-3. 7 Cal.Jur. §§1-10.

**648a. Slugs resembling coins of United States. Definitions. Exceptions.**

Every person who has in his possession for any illegal purpose or who makes, sells, issues, or puts in circulation any slug or token of the size and shape, or of a size and shape such that the radius, the diameter and the thickness thereof are each within six one-hundredths of an inch of that of any coin of the United States of America is guilty of a misdemeanor. The term "slug" and the term "token," as used herein, mean any piece of metal or other material not a coin of the United States or a foreign country. However, tokens sold by and accepted as fares by electric railways and lettered checks having a returnable trade value shall not be subject to the provisions of this act.—1931:2513.

§648a. Leg. Hist.: En.1931:2513.

References: Counterfeiting: McK.Dig. §2. Cal.Pac.D. §§1, 5. C.J. §§10, 15.  
C.J.S. §6. 7 Cal.Jur. §§1-10.

**649. Officers of fire department issuing false certificates of exemption.** Repealed. Stats. 1939; Chap. 60. [Superseded by Health and Safety Code.]

**650. Sending letters threatening to expose another.** Every person who knowingly and willfully sends or delivers to another any letter or writing, whether subscribed or not, threatening to accuse him or another of a crime, or to expose or publish any of his failings or infirmities, is guilty of a misdemeanor.

§650. See ante, §§257, 523. See post, §660.

References: Threats: Cal.Pac.D. §1. C.J. §§3-32.  
Extortion: McK.Dig. §§11-13.

**650a. Exposure of paroled prisoners prohibited.** Repealed. [Reenacted as §3058. Stats. 1941; Chap. 106.]

**650j. Penalty for injuring person or property of another.** A person who willfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, or who willfully and wrongfully in any manner, verbal or written, uses another's name for accomplishing lewd or licentious

purposes, whether such purposes are accomplished or not, or who willfully and wrongfully uses another's name in any manner that will affect, or have a tendency to affect the moral reputation of the person whose name is used, generally, or in the estimation of the person or persons to whom it is so used, or who with intent of accomplishing any lewd or licentious purpose, whether such purpose is accomplished or not, personifies any person other than himself, or who causes or procures any other person or persons to identify him, or to give assurance that he is any other person than himself to aid or assist him to accomplish any lewd or licentious purpose, for which no other punishment is expressly prescribed by this code, is guilty of a misdemeanor.—1921:74.

§650j. Leg. Hist.: En.1903:235; R.1921:74; En.1921:74.

References: Civil Rights: McK.Dig. §5. Cal.Pac.D. §15. C.J. §4.  
Privacy: McK.Dig. §1. 5 Cal.Jur. §§1-6.

**651. Trafficking in Federal order stamps.** It is a misdemeanor for any person to buy, receive, sell, give away, dispose of, exchange or barter any Federal order stamps except for the foods or cotton goods for which they are issued.

This section does not apply to any person buying, receiving, selling, giving away, disposing of, exchanging or bartering any Federal order stamps subsequent to the redemption of such stamps in the manner provided by State or Federal law for the foods or cotton goods for which they are issued.

As used in this section, Federal order stamps refers to stamps issued by the United States Department of Agriculture or its duly authorized agent for food and surplus food or cotton and surplus cotton.

§651. Leg. Hist.: En.1941, ch.682.

**652. Officer or member of National Guard failing to attend parade, obey orders, or discharge duty.** Repealed. Stats. 1933, p. 2543. See Military Code, §164.

★ **652. Reward offer for "dead" or "dead or alive" forbidden.** It is unlawful to offer a reward which has, either as its sole object or as one of its objects, the apprehension or capture of a person either "dead," or, in the alternative, "dead or alive." Any person who violates this section is guilty of a misdemeanor.

§652. Leg. Hist.: En.1945:36.

**653b. Abuse of school teachers.** Repealed. Stats. 1929, p. 303. See School Code, §5.548.

**653c. Hours of labor on public works.** Report on emergency work. Record of employees and subcontractors. Stipulation for forfeiture. Collection of forfeiture. Penalties. Scope of section. Repealed. Stats. 1937; Chap. 90. Superseded by Labor Code, §§1810-1816.

**653c-1. Hours of labor on public work.** Repealed. Stats. 1937; Chap. 90. Superseded by Labor Code.

**653d. Retaining wages of employees.** Repealed. Stats. 1937; Chap. 90. Superseded by Labor Code, §1778.

**Punishment.** [(1)] Every person who annoys or molests any [ ] child [ ] is a vagrant [ ] and is punishable [upon first conviction] by a fine of not exceeding five hundred dollars (\$500) or by imprisonment in the county jail for not exceeding six months or by both such fine and imprisonment [and is punishable upon the second and each subsequent conviction by imprisonment in the state prison not exceeding five years].

[(2) Every person who loiters about any school or public place at or near which school children attend, is a vagrant, and is punishable by a fine of not exceeding five hundred dollars (\$500) or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.]

(In effect on ninety-first day after June 20, 1947.

Stats. 1947, Chap. 730.)

**Pen. Code, 1947.**

promissory note, or the paper or any bank, to circulate except as authorized by the laws of the United States, for the first offense is guilty of a misdemeanor and for each and every subsequent

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653e. Blacklisting of former employees prohibited. Fingerprints or photographs. Offense and penalty. Employer may furnish truthful statement. Civil action by aggrieved person. Repealed. Stats. 1937; Chap. 90. Superseded by Labor Code, §§1050-1054.

653f. Soliciting commission of a crime. Punishment. Proof. Every person who solicits another to offer or accept or join in the offer or acceptance of a bribe, or to commit or join in the commission of murder, robbery, burglary, grand theft, receiving stolen property, extortion, rape by force and violence, perjury, subornation of perjury, forgery, or kidnaping, is punishable by imprisonment in the county jail not longer than one year or in the state prison not longer than five years, or by fine of not more than five thousand dollars. Such offense must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances.—1929:612.

§653f. Leg. Hist.: En.1929:612.

References: Crim. Law: McK.Dig. §§50, 56. Cal.Pac.D. §§45, 63. C.J. §97. C.J.S. §§73-78.

653g. Employment on public work. Fee prohibited. Repealed. Stats. 1937; Chap. 90. Superseded by Labor Code.

653h. Dictograph. Installation of. Any person who, without consent of the owner, lessee, or occupant, installs or attempts to install or use a dictograph in any house, room, apartment, tenement, office, shop, warehouse, store, mill, barn, stable, or other building, tent, vessel, railroad car, vehicle, mine or any underground portion thereof, is guilty of a misdemeanor; provided, that nothing herein shall prevent the use and installation of dictographs by a regular salaried peace officer expressly authorized thereto by the head of his office or department or by a district attorney, when such use and installation are necessary in the performance of their duties in detecting crime and in the apprehension of criminals.

§653h. Leg. Hist.: En.1941, ch.525.

653i. Appraisers of estates not to accept fee or reward. Any appraiser, appointed by virtue of section 1444 of the Code of Civil Procedure, who shall accept any fees, reward, or compensation other than that provided for by law, from any executor, administrator, trustee, legatee, next of kin or heir of any decedent, or from any other person, is guilty of a misdemeanor.—1899:35.

§653i. Leg. Hist.: En.1899:35.

References: Executors and Ad.: Cal.Pac.D. §62. C.J. §§380-382. Extortion: McK.Dig. §2. Cal.Pac.D. §§2-10. C.J. §§2-17. Decedents' Estates: McK.Dig. §283.

## TITLE XVI.

## GENERAL PROVISIONS.

## Section

## Section

- |   |   |
|---|---|
| 654. Acts made punishable by different provisions of this code.   | 666. Petit larceny and petit theft. Second offenses, punishment for. Offenses punishable in state prison, five years or more. Offenses punishable in state prison, five years or less. Petit theft. County jail sentence. |
| 654a. False advertising prohibited. Repealed 1941.  | 667. Second offenses, petty theft.  |
| 654b. False advertisements concerning real estate a misdemeanor. Repealed 1941.   | 668. Foreign conviction of former offense.  |
| 654c. Advertising sale of second-hand merchandise. Penalty. Repealed 1941.  | 669. Second term of imprisonment. When to commence.   |
| 655. Acts punishable under foreign law.   | 670. When term of imprisonment commences, etc. Repealed 1941.   |
| 656. Foreign conviction or acquittal.   | 671. Imprisonment for life.   |
| 657. Contempts, how punishable.   | 672. Fine may be added to imprisonment.   |
| 658. Mitigation of punishment in certain cases.   | 673. Suspension of civil rights. Civil rights of paroled prisoner. Record of order. Repealed 1941.  |
| 659. Aiding in misdemeanor.   | 674. Civil death. Civil rights of paroled prisoner. Record of order. Repealed 1941.   |
| 660. Sending letters, when deemed complete.   | 675. Civil death, limitations as to. Repealed 1941.   |
| 661. Removal from office for violation or neglect of official duty by public officers.  | 676. Person of convict protected. Repealed 1941.  |
| 662. Omission to perform duty, when punishable.   | 677. Forfeitures. Repealed 1941.  |
| 663. Attempts to commit crimes, when punishable.  | 678. Values to be in gold coin. Repealed 1937.  |
| 664. Penalties for attempts. Offense punishable by more than five years in state prison. Offense punishable by less than five years in state prison. Offense punishable by fine. Offense punishable by imprisonment and fine. | 679a. Limiting sale of convict-made goods. Repealed 1941.   |
| 665. Restrictions upon the preceding sections.  | 680. Repealed 1935.   |
|   | 681. Cruel punishment in prisons or state, county and city institutions prohibited.   |

654. Acts made punishable by different provisions of this code. An act or omission which is made punishable in different ways by different provisions of this code may be punished under either of such provisions, but in no case can it be punished under more than one; an acquittal or conviction and sentence under either one bars a prosecution for the same act or omission under any other. In the cases specified in sections 648, 667, and 668, the punishments therein prescribed must be substituted for those prescribed for a first offense,