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California State Assembly

PUBLIC SAFETY

NICK SCHULTZ
CHAIR

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Andrew Ironside

Deputy Chief Counsel
Stella Choe

Staff Counsel
Kimberly Horiuchi
Dustin Weber
Ilan Zur

Lead Committee Secretary
Elizabeth Potter

Committee Secretary
Samarpreet Kaur

1020 N Ste, Room 111
(916) 319-3744
FAX: (916) 319-3745

AGENDA

Tuesday, March 11, 2025
9 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

1.	AB 247	Bryan	Incarcerated individual hand crew members: wages.
2.	AB 248	Bryan	County jails: wages.
3.	AB 358	Alvarez	Criminal procedure: privacy.
4.	AB 366	Petrie-Norris	PULLED BY COMMITTEE
5.	AB 380	Mark González	Price gouging.(Urgency)
6.	AB 383	Davies	Firearms: prohibition: minors.
7.	AB 394	Wilson	Crimes: public transportation providers.
8.	AB 400	Pacheco	Law enforcement: police canines.
9.	AB 451	Petrie-Norris	Law enforcement policies: restraining orders.
10.	AB 464	Aguiar-Curry	Sexual assault in prison.

Date of Hearing: March 11, 2025
Consultant: Elizabeth Potter

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 247 (Bryan) – As Amended March 5, 2025

SUMMARY: Requires incarcerated individual hand crew members, from county jails, to be paid an hourly wage of $19 and to have the wage rate updated on an annual basis.

EXISTING LAW:

1) Provides that for time spent in the county jail, a term of four days will be deemed to have been served for every two days spent in actual custody. (Pen. Code, § 4019.)

2) Provides that a county jail inmate assigned to a conservation camp by a sheriff and who is eligible to earn day-for-day credits shall instead earn two-for-one credits. (Pen. Code, § 4019.2, subd. (a).)

3) Provides that a county jail inmate who has completed training for assignment to a conservation camp or to a state or county facility as an inmate firefighter or who is assigned to a county or state correctional institution as an inmate firefighter and who is eligible to earn day-for-day credits shall instead earn two-for-one credits. Application is limited to eligible inmates after October 1, 2011. (Pen. Code, § 4019.2, subd. (b).)

4) Allows county jail inmates who have successfully completed training for firefighter assignments to also receive a credit reduction from their term of confinement. Application is limited to eligible inmates after October 1, 2011. (Pen. Code, § 4019.2, subd. (d).)

5) Prohibits a person convicted of murder from accruing work-time or program credit reductions. (Pen. Code, § 2933.2.)

6) States CDCR shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements. (Cal. Const. Art. 1, § 32, subd. (b).)

7) Prohibits slavery and provides that involuntary servitude is prohibited except to punish crime. (Cal. Const., art. I, §6.)

8) Authorizes the Legislature to provide for minimum wages and for the general welfare of employees. (Cal. Const., art. XIV, § 1.)

9) Provides that CDCR shall require of every able-bodied incarcerated person as many hours of faithful labor in each day and every day during their term of imprisonment. (Pen. Code, § 2700.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Incarcerated people who fight fires heroically step forward to protect communities statewide. They currently earn $5 to $10 per day. Crews typically work grueling 24-hour shifts – although this year's Los Angeles fires saw many working double that. AB 247 will ensure that incarcerated people on the front line of fire disasters receive fair compensation for their invaluable service during devastating fires. This bill is a step forward in recognizing and compensating the essential work that incarcerated workers do for our state during unprecedented disasters."

2) **Conservation (Fire) Camps:** According to CDCR's website, "The primary mission of the Conservation (Fire) Camp Program is to support state, local and federal government agencies as they respond to emergencies including fires, floods, and other natural or disasters Additionally, hand crews respond to rescue efforts in local parks or flood suppression.

   "CDCR, in cooperation with the California Department of Forestry and Fire Protection (CAL FIRE) and the Los Angeles County Fire Department (LACFD), jointly operates 35 conservation camps, commonly known as fire camps, located in 25 counties across California. All camps are minimum-security facilities and staffed with correctional staff."[1]

   The conservation camp can be a vital part of a person's rehabilitation. "Just as in every CDCR prison, every conservation camp offers rehabilitative and educational services, including substance abuse programs, religious programs, and GED and college courses."[2]

   The participants are volunteers and must have "minimum custody" status – i.e., the lowest classification for an incarcerated person based on behavior and following rules while in prison and when participating in rehabilitative programing. Additionally, minimum custody status notwithstanding, certain convictions automatically make a person ineligible for a conservation camp assignment.[3]

   Persons are excluded from fire camp based on any of the following: a conviction requiring sex offender registration; a life sentence; a sentence for escape within the last 10 years; an arson conviction; a felony hold; validated active or inactive prison gang membership or

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[1] CDCR Conservation (Fire) Camp Program website: (<https://www.cdcr.ca.gov/facility-locator/conservation-camps/>) [as of Mar. 3, 2025]
[2] CDCR Conservation (Fire) Camp Program website: (<https://www.cdcr.ca.gov/facility-locator/conservation-camps/faq-conservation-fire-camp-program/>) [as of Mar. 3, 2025]
[3] CDCR Conservation (Fire) Camp Program website: (<https://www.cdcr.ca.gov/facility-locator/conservation-camps/faq-conservation-fire-camp-program/>) [as of Mar. 3, 2025]

association; a public interest case; current or prior convictions of murder, rape, or kidnap (violent felonies); or a pattern of excessive misconduct or disruption of the orderly operations of the institution.[4]

3) **Conservation Camp (Fire) Wages:** CDCR runs 35 conservation/fire camps in partnership with the California Department of Forestry and Fire Protection and the Los Angeles County Fire Department. (DOM § 51130.3.) State law permits CDCR to establish a Conservation Camp Program and to promulgate rules and regulations for the government of and management of their affairs. (Pen Code, §S 6200 & 6204; DOM § 51130.1.) The purpose of the Correctional Conservation Camp Program is to promote the conservation of natural and human resources in cooperation with other state and local agencies in a joint operation. (*Ibid.*) Incarcerated workers may be assigned to perform public conservation projects including, but not limited to, forest fire protection and control, forest and watershed management, recreational area development, fish and game management, soil conservation, and forest watershed revegetation. (DOM § 51130.2.)

Incarcerated staff in the camps are assigned to one of five pay grades with a pay rate of $1.45 to $3.90 per day. (DOM § 51130.27.3.) When working as emergency firefighters during a wildfire, that pay is increased to $1 per hour and is paid by the State Emergency Fund. (*Ibid.*) The specific rate per hour is established by CDCR:

Fire Camp Pay Schedule[5]	
Pay Grade	**Rates**
Grade I The majority of workers are assigned to this grade	$1.45 per day
Grade II Skilled and experienced workers and a selected number of in-camp workers are assigned to this grade	$1.67 per day
Grade III A limited number of skilled workers who have been given special assignments are included at this level	$1.95 per day
Grade IV Reserved for a very limited number of highly skilled journeyman level workers	$2.56 per day

[4] CDCR Conservation (Fire) Camp Program website: (<https://www.cdcr.ca.gov/facility-locator/conservation-camps/fire_camp_expungement/>)
[5] Source: DOM § 51130.27.3., Department Operations Manual (DOM) - Regulations and Policy, p. 382.

Grade V Two positions in each camp are designated for this grade	$3.90 per day
Emergency Fire Fighter	$1.00 hourly

The pay period for fire camps is based on the calendar month and incarcerated workers are compensated for each day's work within the month. (DOM § 51130.27.2.) The standard workweek is five eight-hour days, Monday through Friday, with Saturdays, Sundays, and approved holidays off. (DOM § 51130.27.2.)

According to CDCR's website, "depending on skill level, conservation camp incarcerated fire crew members earn between $5.80 and $10.24 per day, paid by CDCR. While assigned to an active emergency, incarcerated fire crew members earn an additional $1 per hour paid by CAL FIRE, regardless of skill level. During emergencies, crews can work a 24-hour shift, followed by 24 hours of rest. For example, for one 24 hour shift during an active emergency, the lowest skill level would earn $29.80 per day. They are paid during rest periods, as well." Each camp has an in-camp pay committee. (DOM § 51130.27.1.) The committee determines the promotion and/or demotion of inmates in the various pay grades. (*Ibid.*)

While the information above applies to volunteers in CDCR, it provides a framework for how much these individuals are paid. This bill seeks to pay incarcerated individual hand crew members a minimum wage of $19 per hour, which would subsequently be updated on annual basis. As written, this legislation is only applicable to incarcerated individual hand crew members that come from county jails.

4) **California Firefighter Wages:** California firefighter wages vary throughout the state. Some agencies, like the Los Angeles Fire Department, begin trainees (Firefighter I) at $85,351 and include medical and dental benefits during their probationary period.[6] CalFIRE, one of California's oldest agencies, states that a Firefighter I at CalFire pays Monthly Base salary of $3,672.00 - $4,643.00 Plus $1,824 - $2,306 Extended Duty Week Compensation (paid every 4 weeks). Firefighter I is a seasonal, temporary classification.[7] Comparatively, a volunteer firefighter in the Long Valley Fire Protection District in Mono County received a wage of $2,308 dollars for their service.

   As California wild fire season grows annually and more intensely, the work that hand crews provide is invaluable. Given the continuous and dangerous work that incarcerated individual hand crew members provide for the State of California, paying these individuals a comparable hourly wage, recognizes the work they do in combatting California wildfires.

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[6] Los Angeles Fire Department: <https://www.joinlafd.org/salary-and-benefits>
[7] CalFIRE website: <https://www.fire.ca.gov/join-calfire/seasonal-firefighter>

5) **Argument in Support**: According to *Initiate Justice*, a cosponsor of this bill, "We believe this legislation strikes at the heart of the many injustices facing incarcerated firefighters, who demonstrate the same level of bravery, sacrifice, and commitment to protecting our communities as non-incarcerated firefighters, yet face extreme disparities in pay.

"Initiate Justice fights to end mass incarceration by activating the political power of those directly impacted by it. Reaching over 60,000 people currently incarcerated in California's state prisons and training hundreds of advocates inside and outside of our prisons, we advocate for policy change that centers the lived experiences of those most affected by incarceration. Incarcerated people are too often seen as disposable, and are not recognized for their positive contributions to our communities.

"The state of California has relied on incarcerated labor since its inception, and specifically for fire response for nearly 100 years. Known as the Conservation Camp Program, it is a program jointly run by the Department of Corrections and Rehabilitation (CDCR) and the California Department of Forestry and Fire Protection (CAL FIRE). During the height of the program, prior to many of the policy reforms enacted by the Legislature towards reducing the state prison population, as many as a third of all CAL FIRE firefighters were incarcerated.

"Incarcerated firefighters normally work on what are known as 'hand crews' conducting the grueling work of charting paths to slow the spread of fires usinghand tools such as chainsaws, axes, and shovels. They are tasked with cutting down fire lines and removing "fuel" (i.e. debris like dead branches and leaves) from close to structures. During active deployments, incarcerated hand crews are often working 24-hour shifts right alongside non-incarcerated firefighters.

"While the prison population - including the population of people in fire camps and houses - has reduced in recent years as a result of positive reforms, incarcerated firefighters continue to play a vital role in our state's response to these emergencies. Indeed, as Los Angeles County faced the most destructive wildfires in its history in January 2025, over 1,100 of the firefighters deployed to assist the city and county in its response were incarcerated.

"Despite the enormity of our state's reliance on these firefighters, people in prison who are fire crew members are paid as little as $5.80 per day by CDCR, and receive a shamefully low additional $1 per hour, paid by CAL FIRE, during their active deployment. By increasing their pay to equal what the lowest paid non-incarcerated firefighter receives during active deployment, AB 247 takes a strong step towards ending the exploitative pay inequities that exist.

"Our incarcerated firefighters deserve dignity in pay for their relentless work in safeguarding our lives, communities, and properties." (citations omitted)

6) **Argument in Opposition**: The *California State Sheriff's Association* states, "Under existing law, any inmate who has completed training for assignment to a conservation camp or to a state or county facility as an inmate firefighter or who is assigned to a county or state correctional institution as an inmate firefighter shall earn two days of credit for every one day served in that assignment or after completing that training.

"We recognize the contribution made by inmate firefighters and in return for their service, these inmates earn very generous early release credits that reduce their sentences. Every day served in this role earns two additional days of credit, meaning an inmate would only serve one-third of their sentence for the time they qualify.

"AB 247 could also create significant fiscal pressure on counties already facing challenging budget times. Counties, if they are to be responsible for paying this new wage, would be forced to consider a substantial new cost when determining if and how to deploy inmate firefighters."

7) **Related Legislation**: AB 248 (Bryan), would allow the Board of Supervisors in their respective counties, to credit a prisoner who is confined in or committed in a county jail performs a work assignment with a wage.

8) **Prior Legislation**: AB 2147 (Reyes), Chapter 60, Statutes of 2020, allowed a defendant who successfully participated in the California Conservation Camp Program (Fire Camp) or a county inmate hand crew to petition for a dismissal of their conviction.

REGISTERED SUPPORT / OPPOSITION:

Support

Initiate Justice (Co-Sponsor)
Initiate Justice Action (Co-Sponsor)
A New Way of Life Re-entry Project
ACLU California Action
All of Us or None Los Angeles
Alliance for Boys and Men of Color
Asian Americans Advancing Justice Southern California
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California for Safety and Justice
California Immigrant Policy Center
California Innocence Coalition
California Public Defenders Association (CPDA)
Californians United for A Responsible Budget
Catalyst California
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Debt Free Justice California
Democratic Party of The San Fernando Valley
East Bay Community Law Center
Ella Baker Center for Human Rights
End Poverty in California Action Aka Epic Action, a Project of Tides Advocacy

Essie Justice Group
Fresh Lifelines for Youth
Friends Committee on Legislation of California
Grip Training Institute
Justice2jobs Coalition
LA Defensa
Land Together
League of Women Voters of California
Legal Services for Prisoners With Children
Local 148 LA County Public Defenders Union
Los Angeles County Democratic Party
Nextgen California
One Fair Wage
Root and Rebound Reentry Advocates
Rubicon Programs
Ryse Center
San Francisco Public Defender
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
The W. Haywood Burns Institute
University of San Francisco School of Law | Racial Justice Clinic
Vera Institute of Justice
Western Center on Law & Poverty, INC.

Oppose

California State Sheriffs' Association

Analysis Prepared by: Elizabeth Potter / PUB. S. / (916) 319-3744

Date of Hearing: March 11, 2025
Consultant: Samarpreet Kaur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 248 (Bryan) – As Introduced January 15, 2025

SUMMARY: Authorizes the County Board of Supervisors to determine a wage to be credited to each prisoner if the prisoner is confined in or committed to a county jail and performs a work assignment.

EXISTING LAW:

1) States that the common jails in the several counties of this state are kept by the sheriffs of the counties in which they are respectively situated, and are used as follows:

   (a) For the detention of persons committed in order to secure their attendance as witnesses in criminal cases;

   (b) For the detention of persons charged with crime and committed for trial;

   (c) For the confinement of persons committed for contempt, or upon civil process, or by other authority of law;

   (d) For the confinement of persons sentenced to imprisonment therein upon a conviction for crime; and,

   (e) For the confinement of persons for a violation of the terms and conditions of their postrelease community supervision. (Pen. Code, § 4000.)

2) States that the board of supervisors may provide that each prisoner confined in or committed to a county jail shall be credited with a sum not to exceed two dollars ($2) for each eight hours of work done by the prisoner in such county jail. (Pen. Code, § 4019.3.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 248 will remove the arbitrary and harmful wage cap in place for incarcerated workers throughout our state's jails, and allow counties to provide their incarcerated workers with pay they deem equitable."

2) **Background**: As of December 2024, there are 96,000 incarcerated individuals in California state prisons and 59,300 individuals being held in California county jails.[1] On average incarcerated individuals in prisons earn $0.08 to $0.37 per hour for half time and partial full time employment; or $12.00 to $56.00 per month for full time employment. These are roughly equivalent rates to 7 hour work days and 22 days per month.[2] California Department of Corrections and Rehabilitations (CDCR) 2024 operations manual breaks down the rate of wages, created by the CDCR inmate pay committee, that inmates can be eligible for in the table below[3]:

	Minimum – Maximum Hourly	**Minimum – Maximum Monthly**
Level I DOT 9 Lead person	**$0.32 - $0.37**	**$48 - $56**
Level 2 DOT 7-8 Special Skill	**$0.19 - $0.32**	**$29 - $48**
Level 3 DOT 5-6 Technician	**$0.15 - $0.24**	**$23 - $36**
Level 4 DOT 3-4 Semi-Skill	**$0.11 - $0.18**	**$17 - $27**
Level 5 DOT 1-2 Laborer	**$0.08 - $0.13**	**$12 - $20**

There is not sufficient data that points to exactly how much county jail inmates get in wages for work that is done while in custody. Existing law states that the county board of supervisors may provide that each prisoner confined in or committed to a county jail shall be credited with a sum not to exceed two dollars ($2) for each eight hours of work done in such county jail. (Pen. Code, § 4019.3.) However, because there is no minimum stated in existing law, individuals confined in county jails may not get compensated in wages for the work that they perform. According to multiple organizations in support of this bill, data received through a Public Records Request sent to all 58 counties, the 48 county sheriffs' offices who provided records responsive to this request, 44 (92%) indicated that workers incarcerated in their county's jails are not paid monetary wages.

Penal code section 4019.3 has not been amended since 1975, when AB 1396 (Craven), Chapter 350, increased the wage limit credited to prisoners in county jail from fifty cent to two dollars. AB 248 aims to get rid of the $2 maximum put into place through existing law for individuals confined in county jails. This bill would give counties the discretion to decide a fair wage for work performed while confined in county jails.

3) **Ballot Measure: Proposition 6:** In the 2024 General election, the California Legislature put forth Proposition 6, which intended to eliminate the current state constitutional provision that allows jails and prisons to impose involuntary servitude to punish crime. Approximately 8

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[1] Legislative Analyst's Office
[2] Prison wages: Appendix | Prison Policy Initiative
[3] 2024 DOM

million voters voted NO on Proposition 6. If this proposition were to have passed by the voters, it would have tasked CDCR and the County Board of Supervisors to change or set wages for voluntary work assignments done by incarcerated workers in prison or jail.[4] However, with this measure failing, it seems to suggest that offering incarcerated workers increased wages is concerning to Californians due to the implied increase of state costs.

As discussed above, this bill will give each county the chance to set wages for incarcerated workers confined in jail at their own discretion. This bill would not mandate that each county pay a certain wage for incarcerated workers performing a work assignment while confined in jail, potentially avoiding the issue of increased state mandated costs that Proposition 6 would have created if passed.

4) **Argument in Support**: According to *California Attorneys for Criminal Justice*, "Incarcerated workers are workers and deserve to earn monetary wages. Currently, incarcerated workers in county jails do not earn monetary wages in over 90% of California's counties.1 In most counties, incarcerated workers are provided with sentence credits or other informal forms of "compensation" such as additional recreational time. Paying fair wages to incarcerated workers has both fiscal and non-fiscal benefits for the workers, their families, and society at large. First, paying incarcerated workers fair wages would allow them the potential to save money while incarcerated, which in turn would help them get back on their feet post-release. This would positively impact recidivism rates, as well as reincarceration expenditures and crime costs for society at large."

5) **Argument in Opposition**: According to *California State Sheriffs' Association*, "AB 248 could create significant fiscal pressure on counties already facing challenging budget times. Counties would likely be forced to consider a substantial new cost when determining if and how to deploy inmate workers. Inmates are already eligible to earn credit toward early release by completing work assignments as well as some form of monetary compensation. AB 248 would create pressure on counties to increase the fiscal recompense provided to inmate workers, thereby potentially limiting the availability of opportunities for work while incarcerated."

6) **Prior Legislation**:

   a) SB 1394 (Fisher), Chapter 1226, Statutes of 1959, added section 4019.3 to the penal code and stated that each prisoner confined in or committed to a county jail shall be credited with a sum not to exceed fifty cents for each eight hours of work.

   b) AB 1396 (Craven), Chapter 350, Statutes of 1975, amended section 4019.3 of the penal code and stated that each prisoner confined in or committed to a county jail shall be credited with a sum not to exceed two dollars for each eight hours of work.

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[4] California election result: Proposition 6, ban forced prison labor - CalMatters

REGISTERED SUPPORT / OPPOSITION:

Support

A New Way of Life Re-entry Project
Aouon Orange County
Bend the Arc: Jewish Action California
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Immigrant Policy Center
California Innocence Coalition
California Public Defenders Association (CPDA)
Californians United for A Responsible Budget
Center for Employment Opportunities
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Ella Baker Center for Human Rights
Glide
Initiate Justice
Initiate Justice Action
Interfaith Movement for Human Integrity
Justice2jobs Coalition
LA Defensa
Legal Aid At Work
Legal Services for Prisoners With Children
Local 148 LA County Public Defenders Union
One Fair Wage
Riverside All of Us or None
Rubicon Programs
Ryse Center
San Francisco Public Defender
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
Starting Over Strong
Starting Over, INC.
UAW Region 6
Vera Institute of Justice
Western Center on Law & Poverty, INC.
Youth Empowerments Finest
Youth Leadership Institute

Oppose

California State Sheriffs' Association

Analysis Prepared by: Samarpreet Kaur / PUB. S. / (916) 319-3744

Date of Hearing: March 11, 2025
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 358 (Alvarez) – As Introduced January 30, 2025

As Proposed to be Amended in Committee

SUMMARY: Authorizes law enforcement to access electronic device information without a warrant if, with specific consent, an individual locates a device within their residence, automobile, or personal property, and the device is reasonably believed to have been used for the purpose of recording or tracking the individual without their permission.

EXISTING FEDERAL LAW:

Provides that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (U.S. Const., Amend. IV.)

EXISTING STATE LAW:

1) Provides that all people have an inalienable right to privacy. (Cal. Const., art. I, § 1.)

2) Provides that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized. (Cal. Const., art. I, § 13.)

3) Provides that a search warrant is an order in writing, in the name of the people, signed by a magistrate, directed to a peace officer, commanding him or her to search for a person or persons, a thing or things, or personal property, and, in the case of a thing or things or personal property, bring the same before the magistrate. (Pen. Code, § 1523.)

4) Provides that a search warrant cannot be issued but upon probable cause, supported by affidavit, naming or describing the person to be searched or searched for, and particularly describing the property, thing, or things and the place to be searched. (Pen. Code, § 1525.)

5) States, except as authorized by statute, a government entity may not do any of the following:

   a) Compel the production of or access to electronic communication information from a service provider.

   b) Compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device.

c) Access electronic device information by means of physical interaction or electronic communication with the electronic device, however this section does not prohibit the intended recipient of an electronic communication from voluntarily disclosing electronic communication information concerning that communication to a government entity. (Pen. Code, § 1546.1, subd. (a)(1-3).)

6) Authorizes a government entity may compel the production of or access to electronic communication information from a service provider, or compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device only under the following circumstances:

   a) Pursuant to a warrant;

   b) Pursuant to a wiretap order;

   c) Pursuant to an order for electronic reader records;

   d) Pursuant to a subpoena, provided that the information is not sought for the purpose of investigating or prosecuting a criminal offense, and compelling the production of or access to the information via the subpoena is not otherwise prohibited; or

   e) Pursuant to an order for a pen register or trap and trace device, as specified. (Pen. Code, § 1546.1, subd. (b)(1-5).)

7) Allows a government entity may access electronic device information by means of physical interaction or electronic communication with the device only as follows:

   a) Pursuant to a warrant, as specified.

   b) Pursuant to a wiretap order.

   c) Pursuant to a tracking device search warrant.

   d) With the specific consent of the authorized possessor of the device.

   e) With the specific intent of the owner of the device, only when the device has been reported lost or stolen.

   f) If the government entity, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires access to the electronic device information.

   g) If the government entity, in good faith, believes the device to be lost, stolen, or abandoned, provided that the entity shall only access electronic device information in order to attempt to identify, verify, or contact the owner or authorized possessor of the device.

   h) Except where prohibited by state or federal law, if the device is seized from an inmate's possession or found in an area of a correctional facility or a secure area of a

local detention facility where inmates have access, the device is not in the possession of an individual, and the device is not known or believed to be the possession of an authorized visitor.

i) Except where prohibited by state or federal law, if the device is seized from an authorized possessor of the device who is serving a term of parole under the supervision of the Department of Corrections and Rehabilitation or a term of post-release community supervision under the supervision of county probation.

j) Except where prohibited by state or federal law, if the device is seized from an authorized possessor of the device who is subject to an electronic device search as a clear and unambiguous condition of probation, mandatory supervision, or pretrial release.

k) If the government entity accesses information concerning the location or the telephone number of the electronic device in order to respond to an emergency 911 call from that device. (Pen. Code, § 1546.1, subd. (c)(1-11).)

8) States any person in a trial, hearing, or proceeding may move to suppress any electronic information obtained or retained in violation of the Fourth Amendment to the United States Constitution or existing statute. (Pen. Code, § 1546.4, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "The California Electronic Communication Privacy Act requires, with limited exceptions, a warrant in order to access electronic devices and/or communication. Exceptions are limited by Penal Code section 1546.1(c)(3)—(c)(11) and includes specific consent from the 'authorized possessor' (Pen. Code §(c)(3)). An 'authorized possesso' 'means the possessor of an electronic device when that person is the owner of the device or has been authorized to possess the device by the owner of the device.' (Pen. Code § 1546(b).) In limited circumstances, a device and/or electronic communication information can be accessed if it's reasonably believed that the device has been abandoned, lost, or stolen, or if there is a belief that accessing the device will prevent death or serious bodily injury.

   "Current law pertaining to law enforcement's ability to access devices and/or electronic information without a warrant is unnecessarily narrow, frustrating the ability for law enforcement to protect the rights of victims. AB 358 seeks to rectify this by adding two additional exemptions to the need to acquire a warrant to access electronic device. The first being when the device is believed in good faith to belong to a deceased individual, the second, when the device is found by a victim and was being used to record and/or track the victim without their consent.

   "Every Californian deserves justice, dignity, and protection under the law. AB 358 addresses this by amending the California Electronic Privacy Communication's Act in two ways. First, AB 358 allows that families who have lost loved ones to tragedy to be contacted and get the

answers they deserve. Second, the bill protects survivors of domestic violence and stalking from being re-victimized through abusive use of technology tools.

"One example is the fentanyl crisis that has devastated communities across our state, leaving parents, siblings, and children searching for closure after an unimaginable loss. Right now, outdated and uncertain legal barriers prevent law enforcement from accessing a deceased victim's device in a timely manner, delaying critical investigations that could save lives and prevent further harm. These delays mean that families are left without answers, and dangerous drugs continue circulating in our communities. AB 358 ensures that when tragedy strikes, we act with urgency and compassion by giving law enforcement and public administrators access to electronic devices to contact next of kin or to investigate a death.

"Similarly, no one should have to live in fear of being watched, tracked, or controlled by an abuser. Technology has given bad actors new ways to invade people's most private spaces, yet our laws have not kept up. Even when survivors discover hidden tracking or recording devices, law enforcement cannot access them without a warrant. This delay gives perpetrators the opportunity to remotely erase evidence, making it nearly impossible to hold them accountable. AB 358 gives victims the ability to seek immediate protection by allowing law enforcement to investigate these devices when found in a private space.

"AB 358 is not about weakening privacy protections—it is about balancing them with the real and urgent needs of victims. It is about giving families peace, keeping our communities safe, and ensuring that survivors are not left defenseless against technological exploitation

2) **Fourth Amendment Protections Generally:** The Fourth Amendment of the United States Constitution provides that "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath of affirmation, and particularly describing the place to be searched, and the persons or things to be seized." Section 13, Article I of the California Constitution mirrors the Fourth Amendment of the United States Constitution.

> "The Fourth Amendment protects against unreasonable searches and seizures. To that end, an officer generally must secure a warrant before conducting a search of private property. Warrantless searches are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions. The prosecution bears the burden of proving the applicability of an exception." (*In re Randy C.* (2024) 101 Cal.App.5th 933, 937.)

Application of the Fourth Amendment to searches or seizures of electronic information by law enforcement was directly addressed by the U.S. Supreme Court in 2012 and 2014 and its holdings largely formed the basis for the California Electronic Communications Privacy Act ("CalECPA").

In *U.S. v. Jones* (2012) 132 S.Ct. 945, the Court held that attaching a global positioning system (GPS) device to a person's vehicle to track their movements constitutes a search

within the meaning of the Fourth Amendment. (*Id.* at p. 949.) The Court reasoned that attaching a GPS tracking device to a vehicle is akin to trespass and constitutes a search because the government is physically "occupying" private property (by placing a GPS on a car) for the purpose of information gathering. (*Ibid.*)

In *Riley v. California* (2014) 134 S. Ct. 2473, the Unites States Supreme Court unanimously held that police must obtain a warrant before searching digital information on a person's cell phone. In so doing, the Court recognized that the search of digital data has serious implications for an individual's privacy. The court observed that cell phones are both qualitatively and quantitatively different than other objects which might be found on an arrestee's person. (*Id.* at p. 2489.)

Hence, Fourth Amendment jurisprudence requires a warrant before searching a phone or seeking information from an electronic communications provider. The only exceptions would be abandonment, consent, and exigency. States are required to comply with the Fourth Amendment and cannot simply legislate around it.

> California law cannot exempt the City from complying with the Fourth Amendment. State law might require the City to hold [the defendant's] [property], but that 'does not, in and of itself, determine the reasonableness of the seizure under the Fourth Amendment.' The federal Fourth Amendment requires the City to return the [property], and that supersedes any contrary requirements in California law. (*See id. Brandstetter v. City of Riverside* (9th Cir. Jan. 10, 2025) 2025 U.S. App. LEXIS 506, at *8, citing *Sibron v. New York* (1968) 392 U.S. 40, 61; *Miranda v. City of Cornelius* (9th Cir. 2005) 429 F.3d 858, 864-65.)

Therefore, courts examining the reasonableness of a search must consider not just California law, but also the limits of the Fourth Amendment. California, for instance, may not enact a statute that states law enforcement may search any deceased person's phone for evidence without a warrant because the Fourth Amendment does not allow for that.

3) **CalECPA:** Penal Code section 1546.1 prohibits a government entity from compelling the production of, or access to, electronic communication information or electronic device information without a search warrant or wiretap order, except under specified emergency situations. (Pen Code, § 1546.1, subd. (c)(6-7).) Before the enactment of CalECPA, California law as it related to a search of electronic communications (e.g. cell phones, email, social media accounts, location data) was controlled by 4th Amendment law pertaining to a reasonable expectation of privacy. (*People v. Sandee* (2017) 15 Cal.App.5th 294.)

   Penal Code section 1546.1 requires that law enforcement obtain a warrant before ordering any person or service provider to grant access to information located on an electronic communications device. The only exceptions to the warrant requirement within CalECPA are: (a) where there is the consent of the owner or an authorized possessor; (b) if a governmental entity has a good faith basis to believe that an emergency involving danger of death or serious physical injury requires access to the device's information; (c) if the device is lost, stolen, or abandoned and a government entity must access the device for purposes of identifying the owner of the device; (d) if a device is seized from a prison or jail inmate; (e)

where it is necessary to locate the phone or user to respond to a 911 call; or (f) where a person is on probation or parole and there are lawful search terms related to their electronic communication devices. (Pen. Code, § 1546.1, subd. (f)(1-8).) In all other circumstances, a government entity (i.e., a law enforcement agency), must obtain a search warrant pursuant to Penal Code section 1546.1, subdivision (a). Furthermore, case law does not require a specific identified target when seeking a warrant where the person accused of wrongdoing is not known.

> There is no requirement in the statute that a suspect's name or other identifying information be included in the warrant to ensure its validity. In fact, CalECPA specifically contemplates a scenario where there is no identified target of a warrant and provides that, in such an instance, because notice of the warrant cannot be served upon any individual, the law enforcement agency seeking the warrant must notify the California Department of Justice. (Internal citation omitted). Accordingly, the failure to specify an individual's name or other identifying information did not render the warrant invalid under CalECPA. (*People v. Meza* (2023) 90 Cal.App.5th 520, 546.)

As to the second exception regarding devices left to surreptitiously record or surveil someone seems less problematic, but it is not clear why the police cannot take the device found, get a warrant, and identify the person who left the device. However, it is arguable under *California v. Greenwood* (1988) 486 U.S. 35, that the device is abandoned and the person who placed the device does not have a reasonable expectation of privacy in the data collected from the device because it was left in someone else's home, vehicle, or in someone else's property.

4) **Argument in Support**: According to the *San Diego County District Attorney*: "The CalECPA created a new framework for warrants in the digital space. AB 358 is aimed at empowering victims, preserving evidence, speeding up death investigations, and saving resources by creating two narrow exceptions to this newly created statutory framework. Finally, as to the surveillance and tracking component of AB 358, this narrow exception is focused on righting a wrong that CalECPA may have unintentionally created. In traditional Fourth Amendment jurisprudence, the focus was always on ones "reasonable expectation of privacy". CalECPA, in some circumstances, has empowered individuals committing crimes who have no expectation of privacy, at the expense of victims who do have an expectation of privacy. As mentioned above, cases that we have seen in San Diego include: (1) a person putting spy cameras in vents in a victim's home to spy on her in her bedroom and bathroom; (2) a person putting spy cameras in bathrooms of local stores; and (3) a person putting spy cameras in a dorm within a public employer.

   "Allowing the victims in these very narrow circumstances—device being used to commit the crime and the victim has a reasonable expectation of privacy where the device is located—empowers the victim, speeds up investigations, and brings CalECPA closer in line with Fourth Amendment jurisprudence."

5) **Argument in Opposition**: According to *Electronic Frontier Foundation*: "CalECPA is a common-sense extension of the U.S. Supreme Court's unanimous decision in *Riley v. California*. Recognizing that the information held on smart phones can reveal comprehensive

records of a person's familial, political, professional, religious, and sexual associations, the Court in *Riley* held that before police can access information held on a smart phone, they must comply with the basic constitutional process that applies to other searches – "get a warrant". Among other provisions, CalECPA reflects Riley and generally requires police to get a warrant before accessing electronic device information via physical or electronic interaction with the device.

"AB 358 is unnecessary because CalECPA currently allows warrantless searches of devices when a law enforcement agency believes an emergency involving danger of death or serious physical injury to any person requires accessing the device, so long as the agency files an appropriate warrant application within three days of the search. Therefore, CalECPA already allows law enforcement officers to quickly search electronic devices without a warrant in appropriate situations, whether the device is found on a decedent, in a person's house, or elsewhere.

"AB 358 would unnecessarily threaten the proper balance between privacy and public safety that the Legislature carefully crafted in passing CalECPA. A warrantless search, without a proper exception, violates Californians' State and Federal constitutional rights. CalECPA includes strong protections that prohibit the government from overreaching. Search warrants must be narrowly particularized to ensure that they properly describe the information sought and seized. And any information obtained that is unrelated to the subject matter of the warrant must be "sealed and shall not be subject to further review, use, or disclosure" without an additional court order. These additional protections protect Californians constitutional rights and ensure that material unrelated to the search—which might be associated with people with no connection at all to a criminal investigation—are not rummaged through by law enforcement.

"While the author's intention is to address delays in getting warrants approved, the solution proposed, allowing certain warrantless searches, is wholly inappropriate. As stated in Riley, the Court has "historically recognized that the warrant requirement is 'an important working part of our machinery of government,' not merely "an inconvenience to be somehow 'weighed' against the claims of police efficiency." In so far as there are concerns about the efficiency of approving warrants, the answer is not to get rid of this "important working part of our machinery of government." Instead, the Legislature should invest in our Courts to increase their capacity to consider, analyze, and make decisions on applications for warrants."

6) **Related Legislation**: AB 1118 (Chen), would allow a search warrant for stolen or embezzled property to include an order for such property to be returned to a lawful owner identified in the warrant pursuant to specified procedures including a hearing, if requested, to determine that the property was stolen or embezzled, before it is returned to its owner. AB 1118 is pending hearing in this committee.

7) **Prior Legislation**:

   a) AB 2603 (Low), of the 2023-24 Legislative Session, would authorize issuance of a search warrant on the grounds that the property or things to be seized consists of evidence that tends to show that certain misdemeanor hate crimes have occurred. AB 2603 is pending

hearing in this committee. AB 2603 was never heard in this committee.

b) AB 2419 (Gipson), of the 2023-24 Legislative Session, would expand the grounds upon which a search warrant may be issued to include when the property or things to be seized consist of evidence that tend to show the crime of communications in furtherance of a solicitation of a minor, as specified, has occurred or is occurring. AB 2419 was never heard in the Senate Committee on Public Safety.

c) AB 1924 (Bigelow), Chapter 511, Statutes of 2016, provides an exemption from the Electronic Communications Privacy Act (ECPA) for pen registers and trap and trace devices to permit authorization for the devices to be used for 60 days

d) SB 178 (Leno), Chapter 651, Statutes of 2015, prohibits a government entity from compelling the production of, or access to, electronic-communication information or electronic-device information without a search warrant or wiretap order, except under specified emergency situations.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
California Narcotic Officers' Association
Crime Victims Alliance
San Diego County District Attorney's Office
San Diego County Probation Officers Association

Oppose

ACLU California Action
All of Us or None Los Angeles
Californians United for A Responsible Budget
Electronic Frontier Foundation
Legal Services for Prisoners With Children
Oakland Privacy
San Francisco Public Defender
Sister Warriors Freedom Coalition

Analysis Prepared by: Kimberly Horiuchi / PUB. S. / (916) 319-3744

AMENDMENTS TO ASSEMBLY BILL NO. 358

Amendment 1

On page 4, strike out lines 9 to 13, inclusive, in line 14, strike out "(14)" and insert:

(13)

Amendment 2

On page 6, in line 17, strike out "and" and insert:

and,

- 0 -

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PROPOSED AMENDMENTS TO ASSEMBLY BILL NO. 358

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL **No. 358**

Introduced by Assembly Member Alvarez

January 30, 2025

An act to amend Section 1546.1 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 358, as introduced, Alvarez. Criminal procedure: privacy.

Existing law, the Electronic Communications Privacy Act, prohibits a government entity from compelling the production of, or access to, electronic communication information or electronic device information, as defined, without a search warrant, wiretap order, order for electronic reader records, or subpoena issued pursuant to specified conditions. Existing law authorizes a government entity to access electronic device information by means of physical interaction or electronic communication with the device in certain circumstances, including, pursuant to the specific consent of the authorized possessor of the device or if the government entity, in good faith, believes that an emergency involving danger of death or serious physical injury to a person requires access to the information.

This bill would additionally authorize a government entity to access electronic device information ~~if the government entity locates the device with a deceased body, and the entity in good faith believes that the device belongs to the decedent, as specified, or~~ with the specific consent of an individual who locates the device and the device is reasonably believed to have been used to track or record the individual without their permission.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

ıge 2 1 SECTION 1. Section 1546.1 of the Penal Code is amended to
2 read:
3 1546.1. (a) Except as provided in this section, a government
4 entity shall not do any of the following:
5 (1) Compel the production of or access to electronic
6 communication information from a service provider.
7 (2) Compel the production of or access to electronic device
8 information from any person or entity other than the authorized
9 possessor of the device.
10 (3) Access electronic device information by means of physical
11 interaction or electronic communication with the electronic device.
12 This section does not prohibit the intended recipient of an electronic
13 communication from voluntarily disclosing electronic
14 communication information concerning that communication to a
15 government entity.
16 (b) A government entity may compel the production of or access
17 to electronic communication information from a service provider,
18 or compel the production of or access to electronic device
19 information from any person or entity other than the authorized
20 possessor of the device only under the following circumstances:
21 (1) Pursuant to a warrant issued pursuant to Chapter 3
22 (commencing with Section 1523) and subject to subdivision (d).
23 (2) Pursuant to a wiretap order issued pursuant to Chapter 1.4
24 (commencing with Section 629.50) of Title 15 of Part 1.
25 (3) Pursuant to an order for electronic reader records issued
26 pursuant to Section 1798.90 of the Civil Code.
27 (4) Pursuant to a subpoena issued pursuant to existing state law,
28 provided that the information is not sought for the purpose of
29 investigating or prosecuting a criminal offense, and compelling
30 the production of or access to the information via the subpoena is
31 not otherwise prohibited by state or federal law. Nothing in this
32 paragraph shall be construed to expand any authority under state
33 law to compel the production of or access to electronic information.

ıge 3

1 (5) Pursuant to an order for a pen register or trap and trace
2 device, or both, issued pursuant to Chapter 1.5 (commencing with
3 Section 630) of Title 15 of Part 1.
4 (c) A government entity may access electronic device
5 information by means of physical interaction or electronic
6 communication with the device only as follows:
7 (1) Pursuant to a warrant issued pursuant to Chapter 3
8 (commencing with Section 1523) and subject to subdivision (d).
9 (2) Pursuant to a wiretap order issued pursuant to Chapter 1.4
10 (commencing with Section 629.50) of Title 15 of Part 1.
11 (3) Pursuant to a tracking device search warrant issued pursuant
12 to paragraph (12) of subdivision (a) of Section 1524 and
13 subdivision (b) of Section 1534.
14 (4) With the specific consent of the authorized possessor of the
15 device.
16 (5) With the specific consent of the owner of the device, only
17 when the device has been reported as lost or stolen.
18 (6) If the government entity, in good faith, believes that an
19 emergency involving danger of death or serious physical injury to
20 any person requires access to the electronic device information.
21 (7) If the government entity, in good faith, believes the device
22 to be lost, stolen, or abandoned, provided that the government
23 entity shall only access electronic device information in order to
24 attempt to identify, verify, or contact the owner or authorized
25 possessor of the device.
26 (8) Except where prohibited by state or federal law, if the device
27 is seized from an inmate's possession or found in an area of a
28 correctional facility or a secure area of a local detention facility
29 where inmates have access, the device is not in the possession of
30 an individual, and the device is not known or believed to be the
31 possession of an authorized visitor. This paragraph shall not be
32 construed to supersede or override Section 4576.
33 (9) Except where prohibited by state or federal law, if the device
34 is seized from an authorized possessor of the device who is serving
35 a term of parole under the supervision of the Department of
36 Corrections and Rehabilitation or a term of postrelease community
37 supervision under the supervision of county probation.
38 (10) Except where prohibited by state or federal law, if the
39 device is seized from an authorized possessor of the device who

is subject to an electronic device search as a clear and unambiguous condition of probation, mandatory supervision, or pretrial release.

(11) If the government entity accesses information concerning the location or the telephone number of the electronic device in order to respond to an emergency 911 call from that device.

(12) Pursuant to an order for a pen register or trap and trace device, or both, issued pursuant to Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1.

Amendment 1

~~(13) If the government entity locates the device with a deceased body, and in good faith believes that the device belongs to the decedent, provided that the government entity shall only access electronic information in order to attempt to determine cause of death or to identify next of kin.~~

~~(14)~~

(13) With the specific consent from an individual who locates the device within their residence, automobile, or personal property, and the device is reasonably believed to have been used for the purpose of recording or tracking the individual without their permission.

(d) Any warrant for electronic information shall comply with the following:

(1) The warrant shall describe with particularity the information to be seized by specifying, as appropriate and reasonable, the time periods covered, the target individuals or accounts, the applications or services covered, and the types of information sought, provided, however, that in the case of a warrant described in paragraph (1) of subdivision (c), the court may determine that it is not appropriate to specify time periods because of the specific circumstances of the investigation, including, but not limited to, the nature of the device to be searched.

(2) The warrant shall require that any information obtained through the execution of the warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject to further review, use, or disclosure except pursuant to a court order or to comply with discovery as required by Sections 1054.1 and 1054.7. A court shall issue such an order upon a finding that there is probable cause to believe that the information is relevant to an active investigation, or review, use, or disclosure is required by state or federal law.

(3) The warrant shall comply with all other provisions of California and federal law, including any provisions prohibiting, limiting, or imposing additional requirements on the use of search warrants. If directed to a service provider, the warrant shall be accompanied by an order requiring the service provider to verify the authenticity of electronic information that it produces by providing an affidavit that complies with the requirements set forth in Section 1561 of the Evidence Code. Admission of that information into evidence shall be subject to Section 1562 of the Evidence Code.

(e) When issuing any warrant or order for electronic information, or upon the petition from the target or recipient of the warrant or order, a court may, at its discretion, do either or both of the following:

(1) Appoint a special master, as described in subdivision (d) of Section 1524, charged with ensuring that only information necessary to achieve the objective of the warrant or order is produced or accessed.

(2) Require that any information obtained through the execution of the warrant or order that is unrelated to the objective of the warrant be destroyed as soon as feasible after the termination of the current investigation and any related investigations or proceedings.

(f) A service provider may voluntarily disclose electronic communication information or subscriber information when that disclosure is not otherwise prohibited by state or federal law.

(g) If a government entity receives electronic communication information voluntarily provided pursuant to subdivision (f), it shall destroy that information within 90 days unless one or more of the following circumstances apply:

(1) The government entity has or obtains the specific consent of the sender or recipient of the electronic communications about which information was disclosed.

(2) The government entity obtains a court order authorizing the retention of the information. A court shall issue a retention order upon a finding that the conditions justifying the initial voluntary disclosure persist, in which case the court shall authorize the retention of the information only for so long as those conditions persist, or there is probable cause to believe that the information constitutes evidence that a crime has been committed.

ıge 5 39 (3) The government entity reasonably believes that the
40 information relates to child pornography and the information is
ıge 6 1 retained as part of a multiagency database used in the investigation
2 of child pornography and related crimes.
3 (4) The service provider or subscriber is, or discloses the
4 information to, a federal, state, or local prison, jail, or juvenile
5 detention facility, and all participants to the electronic
6 communication were informed, prior to the communication, that
7 the service provider may disclose the information to the
8 government entity.
9 (h) If a government entity obtains electronic information
10 pursuant to an emergency involving danger of death or serious
11 physical injury to a person, that requires access to the electronic
12 information without delay, the government entity shall, within
13 three court days after obtaining the electronic information, file
14 with the appropriate court an application for a warrant or order
15 authorizing obtaining the electronic information or a motion
16 seeking approval of the emergency disclosures that shall set forth
17 the facts giving rise to the emergency, ~~and~~ *and,* if applicable, a
18 request supported by a sworn affidavit for an order delaying
19 notification under paragraph (1) of subdivision (b) of Section
20 1546.2. The court shall promptly rule on the application or motion
21 and shall order the immediate destruction of all information
22 obtained, and immediate notification pursuant to subdivision (a)
23 of Section 1546.2 if that notice has not already been given, upon
24 a finding that the facts did not give rise to an emergency or upon
25 rejecting the warrant or order application on any other ground.
26 This subdivision does not apply if the government entity obtains
27 information concerning the location or the telephone number of
28 the electronic device in order to respond to an emergency 911 call
29 from that device.
30 (i) This section does not limit the authority of a government
31 entity to use an administrative, grand jury, trial, or civil discovery
32 subpoena to do any of the following:
33 (1) Require an originator, addressee, or intended recipient of
34 an electronic communication to disclose any electronic
35 communication information associated with that communication.
36 (2) Require an entity that provides electronic communications
37 services to its officers, directors, employees, or agents for the
38 purpose of carrying out their duties, to disclose electronic

| **Amendment 2**

ıge 6 39 communication information associated with an electronic
ıge 7 1 communication to or from an officer, director, employee, or agent
2 of the entity.
3 (3) Require a service provider to provide subscriber information.
4 (j) This section does not limit the authority of the Public Utilities
5 Commission or the State Energy Resources Conservation and
6 Development Commission to obtain energy or water supply and
7 consumption information pursuant to the powers granted to them
8 under the Public Utilities Code or the Public Resources Code and
9 other applicable state laws.
10 (k) This chapter shall not be construed to alter the authority of
11 a government entity that owns an electronic device to compel an
12 employee who is authorized to possess the device to return the
13 device to the government entity's possession.

O

Date of Hearing: March 11, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 366 (Petrie-Norris) – As Introduced February 3, 2025

PULLED BY COMMITTEE

Analysis Prepared by: Ilan Zur / PUB. S. / (916) 319-3744

Date of Hearing: March 11, 2025
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 380 (Mark González) – As Amended March 4, 2025

As Proposed to be Amended in Committee

SUMMARY: Expands price gouging prohibitions to include commercial real property and extends the period of protection during a state of emergency to the duration of the emergency. Specifically, **this bill**:

1) Extends price gouging prohibitions from 30 days or 180 days to the duration of the proclamation or declaration of a state of emergency.

2) Expands price gouging protections to include price increases on the sale, offer to sell, or rental increases of commercial real property.

3) Eliminates the authorization to increase rental prices beyond 10 percent where the person or business can prove that the increase is directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term that caused the rent to be increased greater than 10 percent.

4) Extends to commercial tenants of real property protections against eviction.

5) Increases the maximum fine for violation of the price gouging prohibitions from $10,000 to $25,000 for all, except individuals.

6) Removes from the definition of "housing" the requirement that rental housing have an initial lease term of no longer than one year.

7) Expands the definition of "rental price" to include, for commercial real property not rented and not offered for rent within one year prior to declaration of emergency, the average market rent per square foot established by a third-party commercial real estate database.

8) Defines "third party commercial real estate database" as an internet website, application, or other similar centralized platform that acts as an intermediary between a consumer and another person, and that allows another person to list the availability of commercial real property for sale or for rent to a consumer.

9) Defines "commercial real property" as all real property in this state, except dwelling units, mobile homes, and recreational vehicles, as specified.

EXISTING LAW:

1) Prohibits, for 30 days following an official proclamation or declaration of emergency, the sale or offer to sell of any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels for more than a 10 percent greater price than the price charged prior to the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (b).)

2) Prohibits a contractor, for 180 days following an official proclamation or declaration of emergency, from selling or offering to sell any repair or reconstruction services or any services used in emergency cleanup for more than a 10 percent greater price than the price charged prior to a proclamation or declaration of emergency. (Pen. Code, § 396, subd. (c).)

3) Prohibits an owner or operator of a hotel or motel, for 30 days following an official proclamation or declaration of emergency, from increasing the hotel or motel's regular rates, as advertised more than a 10 percent greater price than the price charged prior to a proclamation or declaration of emergency. (Pen. Code, § 396, subd. (d).)

4) Prohibits, for 30 days following an official proclamation or declaration of emergency, the increase of rental price advertised, offered, or charged for housing, to an existing or prospective tenant for more than a 10 percent greater price than the price charged prior to a proclamation or declaration of emergency. (Pen. Code, § 396, subd. (e).)

5) Prohibits a landlord, for 30 days following an official proclamation or declaration of emergency, from evicting a tenant and renting or offering to rent to another person at a rental price greater than the evicted tenant could be charged, unless the eviction process began prior to the emergency proclamation or declaration. (Pen. Code, § 396, subd. (f).)

6) Provides that price gouging prohibitions may be extended for additional periods beyond the initial 30 days or 180 days of a proclamation or declaration of emergency if deemd necessary to protect the lives, property, or welfare of citizens. (Pen. Code, § 396, subd. (g).)

7) Authorizes an extension of the price gouging prohibitions for up to 30 days, and authorizes specified price increases exceeding provided limits. (Pen. Code, § 396, subd. (g).)

8) Makes price gouging, as defined, punishable as a misdemeanor with imprisonment in a county jail for a period not exceeding one year, by a fine of not more than $10,000, or by both fine and imprisonment. (Pen. Code, § 396, subd. (h).)

9) Establishes that violations of the price gouging restrictions constitute unlawful business practices and potentially subject violators to injunctions and other remedies, as defined. (Pen. Code, § 396, subd. (i).)

10) Defines rental "housing", including rented space at a mobile home park or campground, to have an initial lease term of no longer than one year. (Pen. Code, § 396, subd. (j)(10).)

11) Defines "rental price" for housing as any of the following:

a. For housing rented within one year prior to the time of the proclamation or declaration of emergency, the actual rental price paid by the tenant.

b. For housing not rented at the time of the declaration or proclamation, but rented, or offered for rent, within one year prior to the proclamation or declaration of emergency, the most recent rental price offered before the proclamation or declaration of emergency.

c. For housing rented at the time of the proclamation or declaration of emergency but which becomes vacant while the proclamation or declaration of emergency remains in effect and which is subject to any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the actual rental price paid by the previous tenant or 160 percent of the fair market rent, as specified, whichever is greater.

d. For housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, 160 percent of the fair market rent established by the United States Department of Housing and Urban Development. (Pen. Code, § 396, subd. (j)(11)(A)-(B).)

15) Provides that non-commercial housing subject to daily rate rents are covered by the restrictions under the definition of "rental housing". (Pen. Code, § 396, subd. (j)(11)(C).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Residents across Los Angeles continue to suffer in the aftermath of devastating wildfires that have displaced over 100,000 people and destroyed thousands of homes and businesses. As Angelenos navigate recovery, they should not have to worry about being exploited by predatory price gouging. Yet, we have seen rental prices skyrocket up to 300% despite existing legal protections. This is unacceptable.

   "AB 380 ensures that price gouging protections last as long as an emergency declaration and closes loopholes that allow bad actors to exploit those in crisis. This bill aligns protections for hotels, food, and essential goods with those already in place for rental housing, ensuring families can access necessities without facing predatory price hikes. It also expands safeguards to commercial real estate, protecting small business owners from unjustified rent increases and evictions.

   "Additionally, AB 380 strengthens enforcement by increasing penalties for violations—from $10,000 to $50,000—and allowing displaced residents to recover legal fees when fighting illegal price hikes. Essential goods and housing should not come with a corporate surcharge—after an emergency Californians deserve stability, not exploitation.

   "During times of crisis, we must stand together to prevent opportunistic profiteering and safeguard our communities. This bill is a critical step in ensuring that all Californians can focus on healing and rebuilding, free from the fear of being priced out of their homes and businesses."

2) **Effect of the Bill:** This bill changes the length of certain price gouging protections from a defined number of days to "the duration of" the emergency, which would solidify the reach of the law's protections. This bill would also expand protections against price gouging during an emergency by broadening the definition of "housing" to include any rental housing without regard to the length of the initial lease term. Additionally, the bill would remove the exemption for increasing the rental price by more than 10% for additional repair costs and would make prohibitions on eviction and increasing rental price by more than 10% applicable to commercial real property. The bill would also increase the size of the fine for violating this law to $25,000 for all, except individuals.

   This bill modifies Pen. Code section 396, where key interpretive differences in the law's reach have created confusion during a traumatic time for Southern California residents recently haunted by devastating fires.

   The two plausible readings of the current law regarding the extent of the price gouging protections are 1) the law's protections exist only for 30 days or 180 days following the issuance of the emergency declaration, and 2) the protections exist for the duration of the emergency declaration *plus* an additional 30 days or 180 days. This bill endeavors to codify the latter, which appears to be the Legislature's original intent.

   Intent language provides a reasonably definitive idea of what the law hopes to accomplish. The California Supreme Court wrote, "Our fundamental task in interpreting a statute is to determine the Legislature's intent so as to effectuate the law's purpose." (*Cox v. City of Oakland*, (2025) 17 Cal. 362, 373.) In 1872, we codified the following into law, "In the construction of a statute the intention of the Legislature . . . is to be pursued . . . ." (Cal. Civ. Proc. Code, § 1859.)

   Here, the Legislature advised, "It is the intent of the Legislature in enacting this act to protect citizens from excessive and unjustified increases in the prices charged *during or shortly after* a declared state of emergency or local emergency . . . ." (emphasis added). Additionally, the more narrow interpretation could violate the rule against surplusage, which is a canon of legal interpretation that directs courts to give meaning to every word of a statute. (*Skidgel v. California Unemployment Ins. Appeals Board* (2021) 12 Cal. 5th 1, 16.)

   While it is arguably more plausible that the Legislature's original intent was for their price gouging protections to remain in effect during the period of a declared emergency *and* for a short period following a declared emergency (*e.g.,* 30 days), the more narrow interpretation is not wholly unreasonable. Instead of "during or shortly after", the Legislature could have been clearer in its meaning by writing "during *and* shortly after" in its intent language. With two plausible interpretations of this law's reach, it is reasonable to pursue a change in the law that would conclusively clarify its meaning.

3) **Increased Fines and Criminal Deterrence:** This bill would increase maximum fines from $10,000 to $25,000, except for individuals.

It remains unclear whether increasing criminal fines reliably deters crime. There is evidence showing that increased penalties generally fail to deter criminal behavior.[1] Data instead shows greater deterrent effects when there are increases in the likelihood of being caught and the perception that one will get caught.[2] In contrast, the act of punishment does not demonstrably increase deterrence.[3]

Criminal fines and the collection of criminal fines is commonly misunderstood. After the application of numerous assessments and surcharges, criminal fines rapidly balloon into unpayable amounts for most of the population, which create significant downstream consequences. Unsurprisingly, the judicial branch reported that $8.6 billion in fines and fees remained unpaid at the end of 2019-20.[4]

4) **Committee Amendments:** Under the amended proposal, the maximum fine for violating this law would be kept at $10,000 for individuals, while the maximum fine for all others would be $25,000. Those subject to the $25,000 are defined in the statute.

5) **Argument in Support**: According to the *Los Angeles County Board of Supervisors*, "In the wake of the devastation brought on by January's firestorms, tens of thousands of residents were left to seek shelter, further straining an already expensive housing market and exacerbating the region's housing crisis.

"State price gouging protections were immediately activated shortly after the start of the fires on January 7th, yet reports indicate that some landlords and corporate rental firms have potentially engaged in price gouging.

"Investigations revealed that short-term rental companies have listed units at significantly inflated prices, with some rates increasing by over 50 percent compared to pre-disaster levels. Additionally, the California Department of Justice has issued warnings to more than 200 hotels and landlords for alleged violations, as tenants and housing advocates document widespread rent hikes beyond the legal threshold.

"Upon the declaration of an emergency, current law requires a renewal of a 30-day cap on price gouging protections for hotels, food and other emergency services every 30 days, which fails to account for the prolonged recovery periods following large-scale disasters.

"The recent wildfires underscore the necessity for robust consumer protection laws that extend price gouging protections for essential goods and services beyond arbitrary time limits. Reports indicate that as emergency declarations remain in place for months, affected residents continue to face exploitative pricing. In some cases, landlords have circumvented legal restrictions by relisting rental units at inflated prices under new terms, exploiting loopholes in enforcement."

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[1] *Five Things About Deterrence* (May 2016) National Institute of Justice <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [as of Feb. 25, 2025].
[2] *Ibid.*
[3] *Ibid.*
[4] *Overview of Criminal Fine and Fee System* (May 13, 2021) Legislative Analyst's Office <https://lao.ca.gov/Publications/Detail/4427> [as of Feb. 25, 2025].

6) **Argument in Opposition**: According to the California Retailers Association, "AB 380 would extend price gouging protections for the full duration of an emergency declaration. This open-ended timeframe is problematic as California currently has several ongoing emergency declarations from years ago, such as an open proclamation for Hurricane Hillary from August 2023 and even as far back as a tree mortality statewide declaration from October 2015, during the Brown Administration. Extending price controls indefinitely under all these proclamations would create an untenable business environment. Long-term price controls can lead to supply shortages and market distortions, ultimately increasing costs for consumers.

   The bill's language covering "consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing" is excessively broad. This sweeping categorization coupled with an indefinite period of time, discourages the restocking of essential goods or entering affected markets to meet demand."

7) **Related Legislation**:

   a) SB 36 (Umberg) would additionally authorize a search warrant to be issued when the property or things to be seized consists of evidence that tends to show that specified price gouging violations have occurred or are occurring. SB 36 is pending hearing in the Senate Judiciary Committee.

   b) SB 368 (Smallwood-Cuevas) would require the Department of Justice and local district attorneys to establish partnerships to enforce the price gouging provisions. SB 368 is pending hearing in the Senate Public Safety Committee.

   c) AB 299 (Gabriel) would prohibit eviction if the guest is living in the motel, hotel, or short-term lodging as a result of losing their residence in a wildfire in the County of Los Angeles. prior housing being damaged, destroyed, or otherwise made uninhabitable by a disaster. AB 299 is pending hearing in the Housing and Community Development Committee.

8) **Prior Legislation**:

   a) SB 1133 (Archuleta), of the 2021-22 Legislative Session, would have required an extension of price gouging protections, as defined, if they would apply to rental housing and the state of emergency has been in effect for over a year or more. SB 1133 bill was held in the Senate Appropriations Committee.

   b) SB 1212 (Caballero), of the 2021-22 Legislative Session, would have made it a misdemeanor, upon the proclamation or declaration of a state of emergency for any temporary services employer to increase its nonlabor costs, as defined, for health care personnel by more than 10%, except as specified. SB 1212 was held in the Senate Judiciary Committee.

   c) AB 1936 (Rodriguez), of the 2019-20 Legislative Session, would have specified that, for a proclamation or declaration of emergency made because of a public safety power shutoff or because of an announcement that a public safety power shutoff will occur, the

restrictions on increased pricing apply for a period lasting until 72 hours after the restoration of power. AB 1936 was held in the Assembly Appropriations Committee.

d) AB 3023 (Gabriel), of the 2019-20 Legislative Session, would have made price gouging protections applicable to a short-term lodging establishment, defined as any hotel, motel, bed and breakfast inn, or other similar lodging establishment. AB 3023 was held in the Assembly Public Safety Committee.

e) SB 1196 (Umberg), Chapter 339, Statutes of 2020, provided that, if a contractor or business did not offer an item or service prior to the state of emergency, they are not allowed to charge more than 50% more of the total cost of the item to consumers.

f) AB 1919 (Wood), Chapter 631, Statutes of 2018, expanded the scope of the crime of price gouging by including rental housing that was not on the market at the time of the proclamation or declaration of emergency.

REGISTERED SUPPORT / OPPOSITION:

Support

Asian Americans Advancing Justice-southern California
Bay Area Legal Aid
Bet Tzedek Legal Services
Beverly-vermont Community Land Trust
California Housing Partnership Corporation
Cameo - California Association for Micro Enterprise Opportunity
County of Los Angeles Board of Supervisors
Disability Rights California
Esperanza Community Housing Corporation
Housing and Economic Rights Advocates
Housing Rights Center
Inclusive Action for The City
Inner City Law Center
Leadership Counsel for Justice & Accountability
Legal Aid of Sonoma County
Legal Aid Society of San Diego
Little Tokyo Service Center
Neighborhood Legal Services of Los Angeles County
Physicians for Social Responsibility - Los Angeles
Public Advocates INC.
Public Counsel
Strategic Actions for A Just Economy
Tenants Together
Tenemos Que Reclamar Y Unidos Salvar LA Tierra - South LA (trust South La)
The Rent Brigade
Western Center on Law & Poverty, INC.

Oppose

Building Owners and Managers Association of California
California Apartment Association
California Business Properties Association
California Business Roundtable
California Retailers Association
Institute of Real Estate Management (IREM)
Naiop of California

Oppose Unless Amended

California Apartment Association
California Association of Realtors
California Chamber of Commerce
California Hotel & Lodging Association

Analysis Prepared by: Dustin Weber / PUB. S. / (916) 319-3744

Amended Mock-up for 2025-2026 AB-380 (Mark González (A) , Gipson (A))

Mock-up based on Version Number 98 - Amended Assembly 3/4/25
Submitted by: Staff Name, Office Name

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 396 of the Penal Code is amended to read:

396. (a) The Legislature hereby finds that during a state of emergency or local emergency, including, but not limited to, an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster, some merchants have taken unfair advantage of consumers by greatly increasing prices for essential consumer goods and services. While the pricing of consumer goods and services is generally best left to the marketplace under ordinary conditions, when a declared state of emergency or local emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of essential consumer goods and services be prohibited. It is the intent of the Legislature in enacting this act to protect citizens from excessive and unjustified increases in the prices charged during or shortly after a declared state of emergency or local emergency for goods and services that are vital and necessary for the health, safety, and welfare of consumers, whether those goods and services are offered or sold in person, in stores, or online. Further, it is the intent of the Legislature that this section be liberally construed so that its beneficial purposes may be served.

(b) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county, and for the duration of that proclamation or declaration, it is unlawful for a person, contractor, business, or other entity to sell or offer to sell any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, commercial real property, transportation, freight, and storage services, or gasoline or other motor fuels for a price of more than 10 percent greater than the price charged by that person for those goods or services immediately prior to the proclamation or declaration of emergency, or prior to a date set in the proclamation or declaration. However, a greater price increase is not unlawful if that person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, during the state of emergency or local emergency, and the price is no more than 10 percent greater than the total of the cost to the seller plus the markup customarily applied by that seller for that good or service in the usual course of

business immediately prior to the onset of the state of emergency or local emergency. If the person, contractor, business, or other entity did not charge a price for the goods or services immediately prior to the proclamation or declaration of emergency, it may not charge a price that is more than 50 percent greater than the cost thereof to the vendor as "cost" is defined in Section 17026 of the Business and Professions Code.

(c) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county, and for the duration of that proclamation or declaration, it is unlawful for a contractor to sell or offer to sell any repair or reconstruction services or any services used in emergency cleanup for a price of more than 10 percent above the price charged by that person for those services immediately prior to the proclamation or declaration of emergency. However, a greater price increase is not unlawful if that person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, during the state of emergency or local emergency, and the price represents no more than 10 percent greater than the total of the cost to the contractor plus the markup customarily applied by the contractor for that good or service in the usual course of business immediately prior to the onset of the state of emergency or local emergency.

(d) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county, and for the duration of that proclamation or declaration, it is unlawful for an owner or operator of a hotel or motel to increase the hotel or motel's regular rates, as advertised immediately prior to the proclamation or declaration of emergency, by more than 10 percent. However, a greater price increase is not unlawful if the owner or operator can prove that the increase in price is directly attributable to additional costs imposed on it for goods or labor used in its business, to seasonal adjustments in rates that are regularly scheduled, or to previously contracted rates.

(e) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any city, county, or city and county, and for the duration of that proclamation or declaration, it is unlawful for any person, business, or other entity, to increase the rental price, as defined in paragraph (11) of subdivision (j), advertised, offered, or charged for housing or commercial real property, to an existing or prospective tenant, by more than 10 percent. However, a greater rental price increase is not unlawful if an increase was contractually agreed to by the tenant prior to the proclamation or declaration. It shall not be a defense to a prosecution under this subdivision that an increase in rental price was based on the length of the rental term, the inclusion of additional goods or services, except as provided in paragraph (11) of subdivision (j) with respect to furniture, or that the rent was offered by, or paid by, an insurance company, or other third party, on behalf of a tenant. This subdivision does not authorize a landlord to charge a price greater than the amount authorized by a local rent control ordinance.

(f) It is unlawful for a person, business, or other entity to evict any residential tenant of residential housing or commercial tenant of commercial real property after the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any city, county, or city and county, and for the duration of that proclamation or declaration, and rent or offer to rent to another person at a rental price greater than the evicted tenant could be charged under this section. It shall not be a violation of this subdivision for a person, business, or other entity to continue an eviction process that was lawfully begun prior to the proclamation or declaration of emergency.

(g) The prohibitions of this section may be extended for additional periods, as needed, by a local legislative body, local official, the Governor, or the Legislature, if deemed necessary to protect the lives, property, or welfare of the citizens. Each extension by a local legislative body or local official shall not exceed 30 days. An extension may also authorize specified price increases that exceed the amount that would otherwise be permissible under this section.

(h)**(1)** A violation of this section by an individual is subject to a misdemeanor punishable by imprisonment in a county jail for a period not exceeding one year, by a fine of not more than **ten thousand dollars ($10,000), or by both fine and imprisonment.**

(2) Notwithstanding subdivision (h)(1), a violation of this section by a sole proprietorship, partnership, limited company, registered club, society, association, legal entity, estate, trust, joint venture, or any other incorporated or unincorporated entity, or any other type of person other than a natural person is punishable by fine of not more than ~~fifty~~ twenty-five thousand dollars ~~($50,000)~~ ($25,000).

(i) A violation of this section shall constitute an unlawful business practice and an act of unfair competition within the meaning of Section 17200 of the Business and Professions Code. The remedies and penalties provided by this section are cumulative to each other, the remedies under Section 17200 of the Business and Professions Code, and the remedies or penalties available under all other laws of this state.

(j) For the purposes of this section, the following terms have the following meanings:

(1) "State of emergency" means a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster for which a state of emergency has been declared by the President of the United States or the Governor.

(2) "Local emergency" means a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster for which a local emergency has been declared by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county in California.

(3) "Consumer food item" means any article that is used or intended for use for food, drink, confection, or condiment by a person or animal.

(4) "Repair or reconstruction services" means services performed by any person who is required to be licensed under the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), for repairs to residential or commercial property of any type that is damaged as a result of a disaster.

(5) "Emergency supplies" includes, but is not limited to, water, flashlights, radios, batteries, candles, blankets, soaps, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers.

(6) "Medical supplies" includes, but is not limited to, prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products.

(7) "Building materials" means lumber, construction tools, windows, and anything else used in the building or rebuilding of property.

(8) "Gasoline" means any fuel used to power any motor vehicle or power tool.

(9) "Transportation, freight, and storage services" means any service that is performed by any company that contracts to move, store, or transport personal or business property or that rents equipment for those purposes, including towing services.

(10) "Housing" means any rental housing, including, but not limited to, a space rented in a mobilehome park or campground.

(11) "Rental price" for housing and commercial real property means any of the following:

(A) For housing and commercial real property rented within one year prior to the time of the proclamation or declaration of emergency, the actual rental price paid by the tenant. For housing and commercial real property not rented at the time of the declaration or proclamation, but rented, or offered for rent, within one year prior to the proclamation or declaration of emergency, the most recent rental price offered before the proclamation or declaration of emergency. For housing and commercial real property rented at the time of the proclamation or declaration of emergency but that becomes vacant while the proclamation or declaration of emergency remains in effect, the actual rental price paid by the previous tenant. This amount may be increased by 5 percent if the housing was previously rented or offered for rent unfurnished, and it is now being offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.

(B) (i) For housing and commercial real property not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, 160 percent of the fair market rent established by the United States Department of Housing and Urban Development. This amount may be increased by 5 percent if the housing is offered for rent fully furnished. This amount shall

not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.

(ii) (I) For commercial real property not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, the average market rent per square foot for the commercial real property use established by a third-party commercial real estate database.

(II) For purposes of this ~~clause~~, **subdivision,** "third-party commercial real estate database" means an internet website, application, or other similar centralized platform that acts as an intermediary between a consumer and another person, and that allows another person to list the availability of commercial real property for sale or for rent to a consumer.

(C) Housing and commercial real property advertised, offered, or charged, at a daily rate at the time of the declaration or proclamation of emergency, shall be subject to the rental price described in subparagraph (A), if the housing or commercial real property continues to be advertised, offered, or charged, at a daily rate. Housing and commercial real property advertised, offered, or charged, on a daily basis at the time of the declaration or proclamation of emergency, shall be subject to the rental price in subparagraph (B), if the housing or commercial real property is advertised, offered, or charged, on a periodic lease agreement after the declaration or proclamation of emergency.

(D) For mobilehome spaces rented to existing tenants at the time of the proclamation or declaration of emergency and subject to a local rent control ordinance, the amount authorized under the local rent control ordinance. For new tenants who enter into a rental agreement for a mobilehome space that is subject to rent control but not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for a space in the same mobilehome park. For mobilehome spaces not subject to a local rent control ordinance and not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for the space.

(12) "Goods" has the same meaning as defined in subdivision (c) of Section 1689.5 of the Civil Code.

(13) "Commercial real property" has the same meaning as defined in Section 827 of the Civil Code.

(k) This section does not preempt any local ordinance prohibiting the same or similar conduct or imposing a more severe penalty for the same conduct prohibited by this section.

(l) A business offering an item for sale, or a service, at a reduced price immediately prior to the proclamation or declaration of the emergency may use the price it normally charges for the item or service to calculate the price pursuant to subdivision (b) or (c).

(m) This section does not prohibit an owner from evicting a tenant for any lawful reason, including pursuant to Section 1161 of the Code of Civil Procedure.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent unlawful price increases during the state of emergency in the Counties of Los Angeles and Ventura due to the fires and windstorm events in the County of Los Angeles, it is necessary that this act take effect immediately.

Date of Hearing: March 11, 2025
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 383 (Davies) – As Introduced February 3, 2025

As Proposed to be Amended in Committee

SUMMARY: This bill would authorize the issuance of a search warrant for minors unlawfully in possession of a firearm, expand the exemptions prohibiting minors from possessing firearms, apply existing firearms relinquishment procedures to adjudicated minors, and disarm certain adjudicated minors until age 25 or age 30. Specifically, **this bill**:

1) States that a search warrant may be issued when property to be seized includes "ammunition" and "ammunition and firearm", the person owning or possessing those items is subject to a protective order, and the person has not relinquished the items pursuant to a court order.

2) States that a search warrant may be issued when property to be seized includes a firearm *or ammunition or both* that is owned by, or in the possession of, a person subject to a prohibition of firearms and has failed to relinquish the firearm pursuant to a court order, where the person is subject to a valid temporary restraining order, injunction, or protective order, as defined, from any jurisdiction.

3) Exempts minors taking part in "hunting activities or hunting education" from the law prohibiting minors from possessing any firearm, where the minor has the prior written consent of a parent or legal guardian, the minor is on lands owned or lawfully possessed by the parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational activity.

4) Includes minors adjudicated for various offenses, as defined, in the existing statute that requires a person convicted of those offenses to relinquish all firearms they own, possess, or have under their custody or control within 48 hours of the conviction or adjudication if the person remains out of custody, or within 14 days of the conviction or adjudication if the defendant person is in custody.

5) Requires the court to instruct minors adjudicated for various offenses, as defined, that they are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control, any firearms, ammunition, and ammunition feeding devices, and magazines, and shall order the person to relinquish all firearms.

6) Requires retention of a relinquished firearm when an adjudicated minor provides written notice of an intent to appeal an adjudication.

7) Authorizes the courts to grant use immunity where a person refuses to relinquish possession of a firearm or ammunition based on assertion of the right against self-incrimination, as

provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution.

8) Mandates that a minor be dispossessed of a firearm until age 30, where the minor is adjudicated for certain felony violations, as defined, certain misdemeanor offenses, as defined, certain repeat misdemeanors, specific violent offenses, illegally transporting a machine gun, and illegally modifying a firearm.

9) Mandates that a minor be dispossessed of a firearm until age 25, where the minor is adjudicated for minor in possession of a handgun.

10) Clarifies that the provisions of this bill are severable, to maintain the validity of remaining provisions should any of this bill be deemed invalid.

EXISTING LAW:

1) Authorizes issuance of a search warrant when a prohibited person owns or possesses a firearm because the person has a protective order issued against them. (Pen. Code, § 1524, subd. (a)(11).)

2) Authorizes issuance of a search warrant when a prohibited person owns or possesses a firearm due to a felony conviction, an express probation condition, certain misdemeanor convictions, as defined, certain drug offenses, as defined, and certain violent crimes, as defined, and the person has not relinquished the items pursuant to a court order. (Pen. Code, § 1524, subd. (a)(15).)

3) Exempts minors from the prohibition on owning a firearm when the minor is taking part in lawful recreational sport, competitive shooting, agriculture, ranching, hunting activities, film, television, or video production, or entertainment or theatrical events, where the minor has the prior written consent of a parent or legal guardian, the minor is on lands owned or lawfully possessed by the parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational activity. (Pen. Code, § 29615, subd. (d).)

4) Requires people prohibited from owning a firearm due to a felony conviction, an express probation condition, certain misdemeanor convictions, as defined, certain drug offenses, as defined, and certain violent crimes, as defined to relinquish all firearms they own, possess, or control within 48 hours of the conviction if the person remains out of custody, or within 14 days of the conviction if the person is in custody. (Pen. Code, § 29810, subd. (a)(1).)

5) Requires the court to instruct defendants convicted for various offenses, as defined, that they are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control, any firearms, ammunition, and ammunition feeding devices, and magazines, and order the person to relinquish all firearms. (Pen. Code, § 29810, subd. (a)(2).)

6) Requires retention of a relinquished firearm when a defendant provides written notice of an intent to appeal their conviction. (Pen. Code, § 29810, subd. (i).)

7) Mandates a minor be dispossessed of a firearm until age 30, where the minor is adjudicated for certain felony violations and adjudged a ward of the juvenile court, as defined. (Pen. Code, § 29820, subds. (a)-(b).)

8) Mandates a minor be dispossessed of a firearm for 10 years following conviction or adjudication, where the minor is adjudicated for certain misdemeanor or felony offenses, as defined, and adjudged a ward of the juvenile court. (Pen. Code, § 29820, subds. (a)(1)(A), (G), & (b), Pen. Code, § 29805, subd. (a)(1).)))

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Minors who break the law may not have the maturity or responsibility needed to handle firearms safely. In many cases, young people might not fully understand the consequences of their actions with firearms, increasing the risk of harm to themselves and others. AB 383 is a common-sense measure to guarantee that our justice system truly does have a blind eye and ensures that no matter where a minor is adjudicated or convicted, they have the same consequences as someone who is convicted of the same crime. This bill is necessary to keep our neighborhoods and communities safe from those who threaten or do not respect our firearm laws."

2) **Effect of the Bill:** This bill adds further conditions upon which a search warrant may be issued and property seized.

   Due to incorporation of the Fourth Amendment to the States through the Fourteenth Amendment (*Mapp v. Ohio,* (1961) 367 U.S. 643), it is important to be mindful of legal areas where State leadership may require a more nuanced legislative or constitutional approach. The narrow addition this bill authorizes for issuance of a search warrant, however, is unlikely to encroach on any Fourth Amendment boundaries.

   This bill would additionally include "hunting activity" as a qualifying possession exemption for minors. This appears to be a logical addition to this statute's defined exemptions for minors possessing firearms. Likewise, this bill would extend the firearm relinquishment statute to certain adjudicated minors, which appears to be consistent with the law's intent of removing firearms from those who have committed certain firearms-related offenses.

   This bill would also expand and clarify the offenses, which subject adjudicated juveniles to firearm dispossession until age 25 or age 30. This is the part of the bill likely to draw the most scrutiny.

3) **The *Bruen* Analysis:** This bill would disarm certain adjudicated minors until age thirty (30). Since this bill would regulate plain text Second Amendment conduct, a person's right to keep and bear arms, completing a *Bruen* analysis should help evaluate the law's constitutionality.

   To justify a law or regulation that purports to place restrictions on protected Second Amendment conduct, the government must demonstrate the law is "consistent with the nation's historical tradition of firearms regulation." (*New York State Rifle & Pistol Association, Inc. v. Bruen,* (2022) 597 U.S. 1.) A firearms regulation is constitutional under the Second Amendment if the government establishes the proposed law is "relevantly similar" to historical laws, regulations, and traditions. (*Ibid.*) Relevantly similar means laws that have historical analogues, how the proposed law comparatively burdens a person's

Second Amendment rights, and how the proposed law comparatively burdens a person's Second Amendment rights. (*Ibid.*)

American history is replete with relevantly similar examples prohibiting minors from possessing, purchasing, and owning weapons of all kinds, including firearms.[1] Since this bill proposes comparable burdens on Second Amendment conduct, which is age-delayed authorization for arms possession, this bill constitutionally seems to fit within the nation's historical tradition of Second Amendment regulations.

4) **Minors and the Criminal Justice System:** This bill expands the number of offenses for which an adjudicated minor can be disarmed until age 30. While adults in California face lifetime prohibitions against firearm ownership or possession, minors endure less punitive responses.

   Treating minors differently from adults in the criminal justice system has sound scientific foundations. The U.S. Supreme Court acknowledged this approximately twenty years ago when it wrote: "Three general differences between juveniles under 18 and adults demonstrate [important reasons for subjecting them to reduced punishment]: First, '[a] lack of maturity . . . often result[s] in impetuous and ill-considered actions and decisions, juveniles are more vulnerable or susceptible to negative influences and outside pressures, [and] the character of a juvenile is not as well formed as that of an adult. (*Roper v. Simmons,* (2013) 543 U.S. 551, 569.) It is for these and other reasons that our criminal justice system has evolved to direct more concerted efforts at rehabilitating minors.

   It may be debatable whether the length of dispossession in this bill for adjudicated minors is sufficient, but more certain is a minor's capacity for rehabilitation. Minors subject to effective rehabilitative efforts are much less likely to reoffend upon release.[2] Reducing recidivism improves public safety.[3] By retaining the option for adjudicated minors to one day restore their ability to own a firearm, this bill both embraces the rehabilitative capacity of juvenile offenders and appears to stay within the confines of the Second Amendment.

5) **Committee Amendment:** Under the amended proposal, a minor adjudicated for possession of a handgun by a minor would be dispossessed of a firearm until age 25. This amendment would commence on January 1, 2026.

6) **Argument in Support**: According to the *Orange County District Attorney's Office*, which is the sponsor of the bill, "This bill is a necessary step to close a loophole in existing law and ensure consistency in firearm restrictions for both juvenile and adult offenders.

   "Currently, individuals convicted of a felony in California are prohibited from owning or possessing firearms under Penal Code §29810. However, this restriction does not apply

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[1] Kopel & Greenlee, *The History on Bans of Types of Arms Before 1900* (2024) University of Denver Journal of Legislation <https://scholarship.law.nd.edu/jleg/vol50/iss2/3/> [as of Mar. 6, 2025].

[2] Hansen, *Rehabilitation Over Reincarceration: Reducing Juvenile Recidivism,* Justice Education Project <https://www.justiceeducationproject.org/post/rehabilitation-over-reincarceration-reducing-juvenile-recidivism> [as of Mar. 6, 2025].

[3] Reducing Recidivism in Released Offenders Improves Public Safety (June 10, 2019) Office of Justice Programs <https://www.ojp.gov/archives/ojp-blogs/2019/reducing-recidivism-released-offenders-improves-public-safety> [as of Mar. 6, 2025].

equally to juveniles, as their cases are categorized as adjudications rather than convictions. AB 383 would address this gap by amending Penal Code §29810 to include juvenile adjudications, thereby extending firearm prohibitions to these individuals and to help protect public safety.
"Ensuring that juveniles who have committed serious offenses are prohibited from possessing firearms until the age of 30 is a crucial measure to enhance community safety. By preventing access to firearms, AB 383 helps reduce the risk of gun violence among this demographic."

7) **Argument in Opposition:** According to the *California Public Defenders Association (CDFA)*, "AB 383 would expand the firearm possession prohibition until age 30 to include youth who are adjudged wards for simple possession of live ammunition without anything more. This offense is typically a misdemeanor offense, unless the youth is a repeat offender.

   "While AB 383 may be a well-intentioned effort to enhance public safety, this bill fails to adequately consider the collateral consequences for youth who become justice-involved for a relatively minor offense. Critically, this bill would negatively impact youth who want to pursue careers in law enforcement, the military, or security. Such careers which would not be otherwise barred by a juvenile misdemeanor possession of ammunition, would be barred by AB 383. There is no exception for youth once the prohibition on firearms is in effect and last until the youth turns 30 years old.

   "Additionally, by extending restrictions to juveniles who are not engaged in violent conduct, AB 383 may contribute to the over-criminalization of youth. Rather than imposing harsher penalties and broader restrictions, we should focus on alternative interventions that address the root causes of gun violence and reduce the likelihood of reoffending, such as mental health services, educational opportunities, and community-based youth programs."

8) **Related Legislation**:

   a) AB 824 (Stefani), would make clarifying changes to the procedures relating to the protective or restraining orders by explicitly requiring the restrained person to relinquish, in addition to any firearm, any ammunition in that person's immediate possession or control. Beginning January 1, 2026, AB 824 would also require the Judicial Council to include, on the petition form for the protective or restraining orders, a statement that any party or witness may request to appear remotely at a hearing. This bill is pending referral in the Assembly.

   b) AB 1078 (Berman), would require the review of the California Restraining and Protective Order System to include information concerning whether the applicant is reasonably likely to be a danger to self, others, or the community at large. AB 1078 would additionally exempt from the licensure prohibition for applicants previously subject to a restraining order, protective order, or other type of court order, applicants who were previously subject to an above-described order that did not receive notice and an opportunity to be heard before the order was issued. AB 1078 is pending referral in the Assembly.

   c) SB 320 (Limon) would require the Department of Justice to develop and launch a system to allow a person who resides in California to voluntarily add their own name to, and

subsequently remove their own name from, the California Do Not Sell List, to prevent the sale or transfer of a firearm to a person who adds their name. SB 320 is pending hearing in the Senate Public Safety Committee.

9) **Prior Legislation**:

   a) SB 1002 (Blakespear), Chapter 526, Statutes of 2024, expands prohibitions for the ownership, possession, custody, or control of ammunition. Requires a person subject to the prohibition, because they are a danger to themselves or others as a result of a mental health disorder, to relinquish a firearm, other deadly weapon, or ammunition they own, possess, or control within 72 hours of discharge from a facility. Additionally, this law requires a person subject to the prohibition, because they are a person who has been adjudicated to be a danger to others as a result of a mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, or a person who has been found not guilty by reason of insanity of committing specified crimes, to relinquish to law enforcement a firearm, other deadly weapon, or ammunition in their custody or control within 14 days of the court order finding the person to be a person as described.

   b) SB 899 (Skinner), Chapter 544, Statutes of 2024, requires the court, when issuing protective orders, to provide the person how any firearms or ammunition still in their possession to be relinquished. Requires the court to review the file to determine whether the receipt was filed and inquire whether the person complied with the requirement.

   c) AB 2518 (Davies), of the 2023-2024 Legislative Session, would have any minor adjudicated or convicted of murder, attempted murder or manslaughter lose all firearm privileges for life. This bill was held in the Senate Appropriations Committee.

   d) SB 715 (Portantino), Chapter 250, Statutes of 2021, amended the available exceptions to include new requirements for loans based upon the type of firearm and the age of the minor. Prohibits the dealer from returning a firearm to the person making the sale, transfer, or loan, if that person was prohibited from obtaining a firearm. Extends the exceptions to include a manufacturer of ammunition, and certain transfers to minors. Prohibits the possession of a semiautomatic centerfire rifle and, commencing July 1, 2023, the possession of any firearm, by a minor.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Reserve Peace Officers Association
Claremont Police Officers Association

County of Orange, Through its Office of The District Attorney/public Administrator
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association

Oppose

ACLU California Action
California Attorneys for Criminal Justice
California Public Defenders Association (CPDA)
Californians United for A Responsible Budget
Ella Baker Center for Human Rights
Initiate Justice
Local 148 LA County Public Defenders Union
San Francisco Public Defender

Analysis Prepared by: Dustin Weber / PUB. S. / (916) 319-3744

Amended Mock-up for 2025-2026 AB-383 (Davies (A))

Mock-up based on Version Number 99 - Introduced 2/3/25
Submitted by: Staff Name, Office Name

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1524 of the Penal Code is amended to read:

1524. (a) A search warrant may be issued upon any of the following grounds:

(1) When the property was stolen or embezzled.

(2) When the property or things were used as the means of committing a felony.

(3) When the property or things are in the possession of a person with the intent to use them as a means of committing a public offense, or in the possession of another to whom that person may have delivered them for the purpose of concealing them or preventing them from being discovered.

(4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

(5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.

(6) When there is a warrant to arrest a person.

(7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of a person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom that person may have delivered them for the purpose of concealing them or preventing their discovery.

(8) When the property or things to be seized include an item or evidence that tends to show a violation of Section 3700.5 of the Labor Code or tends to show that a particular person has violated Section 3700.5 of the Labor Code.

(9) When the property or things to be seized include a firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.

(10) When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.

(11) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms or ammunition or both pursuant to Section 6389 of the Family Code, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Section 6218 of the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm or ammunition or both as required by law.

(12) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, tends to show that a particular person has committed a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code. A tracking device search warrant issued pursuant to this paragraph shall be executed in a manner meeting the requirements specified in subdivision (b) of Section 1534.

(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(14) Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence

restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(15) Beginning January 1, 2018, the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 29800, 29805, 29815, 29820, or 29825, and the court has made a finding pursuant to subdivision (c) of Section 29810 that the person has failed to relinquish the firearm as required by law.

(16) When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance pursuant to the authority described in Section 11472 of the Health and Safety Code.

(17) (A) When all of the following apply:

(i) A sample of the blood of a person constitutes evidence that tends to show a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code.

(ii) The person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 655.1 of the Harbors and Navigation Code.

(iii) The sample will be drawn from the person in a reasonable, medically approved manner.

(B) This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(18) When the property or things to be seized consists of evidence that tends to show that a violation of paragraph (1), (2), or (3) of subdivision (j) of Section 647 has occurred or is occurring.

(19) (A) When the property or things to be seized are data, from a recording device installed by the manufacturer of a motor vehicle, that constitutes evidence that tends to show the commission of a felony or misdemeanor offense involving a motor vehicle, resulting in death or serious bodily injury to a person. The data accessed by a warrant pursuant to this paragraph shall not exceed the scope of the data that is directly related to the offense for which the warrant is issued.

(B) For the purposes of this paragraph, "recording device" has the same meaning as defined in subdivision (b) of Section 9951 of the Vehicle Code. The scope of the data accessible by a warrant issued pursuant to this paragraph shall be limited to the information described in subdivision (b) of Section 9951 of the Vehicle Code.

(C) For the purposes of this paragraph, "serious bodily injury" has the same meaning as defined in paragraph (4) of subdivision (f) of Section 243.

(20) When the property or things to be seized consists of evidence that tends to show that a violation of Section 647.9 has occurred or is occurring. Evidence to be seized pursuant to this paragraph shall be limited to evidence of a violation of Section 647.9 and shall not include evidence of a violation of a departmental rule or guideline that is not a public offense under California law.

(21) If the property to be seized includes ammunition and all of the following criteria are satisfied:

(A) The property is owned by, in the possession of, or in the custody or control of a person who is subject to the prohibition set forth in Section 8103 of the Welfare and Institutions Code.

(B) The person has been lawfully served with the order required by Section 8103 of the Welfare and Institutions Code.

(C) The person has failed to relinquish the ammunition as required by law.

(22) When the property or things to be seized include a firearm or ammunition or both that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 527.9 of the Code of Civil Procedure, the person has been lawfully served with that order, and the person has failed to relinquish the firearm or ammunition or both as required by law.

(b) The property, things, person, or persons described in subdivision (a) may be taken on the warrant from a place or from a person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), a search warrant shall not be issued for documentary evidence in the possession or under the control of a person who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2) (A) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

(B) At the hearing, the party searched shall be entitled to raise an issue that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The

hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make motions or present evidence. The hearing shall be held within three days of the service of the warrant unless the court makes a finding that the expedited hearing is impracticable. In that case, the matter shall be heard at the earliest possible time.

(C) If an item or items are taken to court for a hearing, a limitation of time prescribed in Chapter 2 (commencing with Section 799) of Title 3 shall be tolled from the time of the seizure until the final conclusion of the hearing, including an associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for determination by the court, an item that appears to be privileged as provided by law.

(d) (1) As used in this section, a "special master" is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

(2) In a case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) A search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or that party's designee to accompany the special master as the special master conducts the search. However, that party or that party's designee may not participate in the search nor shall they examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, "documentary evidence" includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, x-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films, and papers of any type or description.

(g) No warrant shall issue for an item or items described in Section 1070 of the Evidence Code.

(h) No warrant shall issue for an item or items that pertain to an investigation into a prohibited violation, as defined in Section 629.51.

(i) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(j) Nothing in this section is intended to limit an attorney's ability to request an in-camera hearing pursuant to the holding of the Supreme Court of California in People v. Superior Court (Laff) (2001) 25 Cal.4th 703.

(k) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute evidence that tends to show a violation of Section 530.5, the magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

(l) This section does not create a cause of action against a foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information.

(m) This section shall become operative on January 1, 2026.

SEC. 2. Section 29615 of the Penal Code is amended to read:

29615. Section 29610 shall not apply if one of the following circumstances exists:

(a) The minor is accompanied by a parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity or hunting education, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves this use of a firearm.

(b) The minor is accompanied by a responsible adult, the minor has the prior written consent of a parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity or hunting education, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(c) The minor is at least 16 years of age, the minor has the prior written consent of a parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful recreational

sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity or hunting education, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(d) The minor has the prior written consent of a parent or legal guardian, the minor is on lands owned or lawfully possessed by the parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity or hunting education, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(e) The minor possesses, with the express permission of their parent or legal guardian, a firearm, other than a handgun or semiautomatic centerfire rifle, and both of the following are true:

(1) The minor is actively engaged in, or in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or an agricultural, ranching, or hunting activity or hunting education, the nature of which involves the use of a firearm.

(2) The minor is 16 years of age or older or is accompanied by a responsible adult at all times while the minor is possessing the firearm.

SEC. 3. Section 29810 of the Penal Code is amended to read:

29810. (a) (1) **Commencing January 1, 2026,** Upon conviction of, or adjudication for, any offense that renders a person subject to Section 29800, 29805, 29815, 29820, or 29825, the person shall relinquish all firearms they own, possess, or have under their custody or control in the manner provided in this section within 48 hours of the conviction or adjudication if the person remains out of custody or within 14 days of the conviction or adjudication if the person is in custody.

(2) The court shall, upon conviction or adjudication of a person for an offense described in subdivision (a), instruct the person that they are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control, any firearms, ammunition, and ammunition feeding devices, including, but not limited to, magazines, and shall order the person to relinquish all firearms in the manner provided in this section. The court shall also provide the person with a Prohibited Persons Relinquishment Form developed by the Department of Justice.

(3) Using the Prohibited Persons Relinquishment Form, the person shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the person that they are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control, any firearms, ammunition, and, if applicable, ammunition feeding devices, including, but not limited to, magazines, and that they shall relinquish all firearms through a designee within the time periods set forth in subdivision (d) or (e) by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the person that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the person to declare any firearms that they owned, possessed, or had under their custody or control at the time of their conviction or adjudication, and require the person to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the person to name a designee, if the person declares that they owned, possessed, or had under their custody or control any firearms at the time of their conviction or adjudication, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate their consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that they are not prohibited from possessing any firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the person and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c) (1) When a person is convicted of, or adjudicated for, an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the person owns, possesses, or has under their custody or control any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the person or the person's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the person has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court and the prosecuting attorney whether the person has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the person on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer

shall also report to the Department of Justice on a form to be developed by the department whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the person.

(3) If the report of the probation officer does not confirm relinquishment of firearms the court shall take one of the following actions:

(A) If the court finds probable cause, after a warrant request has been submitted pursuant to Section 1524, that the person has failed to relinquish any firearms as required, the court shall order a search warrant for, and removal of, any firearms at any location where the judge has probable cause to believe the person's firearms are located. The court shall set a court date to confirm relinquishment of all firearms. The search warrant shall be executed within 10 days pursuant to subdivision (a) of Section 1534.

(B) If the court finds good cause to extend the time for providing proof of relinquishment, the court shall set a court date within 14 days for the person to provide proof of relinquishment.

(C) If the court finds additional investigation is needed, the court shall refer the matter to the prosecuting attorney and set a court date within 14 days for status review.

(4) Prior to final disposition or sentencing in the case, the court shall confirm that the person has relinquished all firearms as required, and that the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within 14 days of sentencing.

(5) Failure by a person to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars ($100).

(d) The following procedures shall apply to any person who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who does not remain in custody at any time within the 48-hour period following conviction or adjudication:

(1) The designee shall dispose of any firearms the person owns, possesses, or has under their custody or control within 48 hours of the conviction or adjudication by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the person. Any proceeds from the sale of the firearms shall become the property of the person. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the person owns, possesses, or has under their custody or control any firearms to relinquish, the person's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within 48 hours following the conviction or adjudication, along with the receipts described in paragraph (1) of subdivision (d) showing the person's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the person does not own, possess, or have under their custody or control any firearms to relinquish, they shall, within 48 hours following conviction or adjudication submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(e) The following procedures shall apply to any person who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the 48-hour period following conviction or adjudication.

(1) The designee shall dispose of any firearms the person owns, possesses, or has under their custody or control within 14 days of the conviction or adjudication by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the person. Any proceeds from the sale of the firearms shall become the property of the person. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the person owns, possesses, or has under their custody or control any firearms to relinquish, the person's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction or adjudication, along with the receipts described in paragraph (1) of subdivision (e) showing the person's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the person does not own, possess, or have under their custody or control any firearms to relinquish, they shall, within 14 days following conviction or adjudication, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(4) If the person is released from custody during the 14 days following conviction or adjudication and a designee has not yet taken temporary possession of each firearm to be relinquished as described above, the person shall, within five days following their release, relinquish each firearm required to be relinquished pursuant to paragraph (1) of subdivision (d).

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in paragraph (3) of subdivision (c), or allow an alternative method of relinquishment.

(g) The person shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.

(h) Any firearms that would otherwise be subject to relinquishment by a person under this section, but which are lawfully owned by a cohabitant of the person, shall be exempt from relinquishment, provided the person is notified that the cohabitant must store the firearm in accordance with Section 25135.

(i) A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice, or if the person provides written notice of an intent to appeal a conviction or adjudication for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.

(j) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.

(k) If a person declines to relinquish possession of a firearm or ammunition based on the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm or ammunition required under this section.

(l) This section shall become operative on January 1, 2026.

SEC. 4. Section 29820 of the Penal Code is amended to read:

29820. (a) This section applies to a person who satisfies both of the following requirements:

(1) The person meets one of the following:

(A) The person is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.

(B) The person was convicted of violating Section 11351 or 11351.5 of the Health and Safety Code by possessing for sale, or Section 11352 of the Health and Safety Code by selling, a substance

containing 28.5 grams or more of cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of, or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of, the Health and Safety Code, or 57 grams or more of a substance containing at least 5 grams of cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of, or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of, the Health and Safety Code.

(C) The person was convicted of violating Section 11378 of the Health and Safety Code by possessing for sale, or Section 11379 of the Health and Safety Code by selling, a substance containing 28.5 grams or more of methamphetamine or 57 grams or more of a substance containing methamphetamine.

(D) The person was convicted of violating subdivision (a) of Section 11379.6 of the Health and Safety Code, except those who manufacture phencyclidine, or who is convicted of an act that is punishable under subdivision (b) of Section 11379.6 of the Health and Safety Code, except those who offer to perform an act that aids in the manufacture of phencyclidine.

(E) Except as otherwise provided in Section 1203.07, the person was convicted of violating Section 11353 or 11380 of the Health and Safety Code by using, soliciting, inducing, encouraging, or intimidating a minor to manufacture, compound, or sell heroin, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code, or methamphetamine.

(F) The person was convicted of violating Section 11379.6, 11382, or 11383 of the Health and Safety Code with respect to methamphetamine, if the person has one or more prior convictions for a violation of Section 11378, 11379, 11379.6, 11380, 11382, or 11383 of the Health and Safety Code with respect to methamphetamine.

(G) The person was alleged to have committed an offense enumerated in Section 29805 or an offense described in Section 25850, subdivision (a) of Section 25400, or subdivision (a) of Section 26100.

(H) Commencing January 1, 2026, the person committed an offense punishable pursuant to **paragraph (1) or paragraph (2) of** subdivision (a) of Section 29700.

(I)Commencing January 1, 2026, the person committed an offense enumerated in Section 29800.

(J)Commencing January 1, 2026, the person committed an offense enumerated in Section 29805.

(2) The person is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in paragraph (1).

(b) This subdivision applies to a person who satisfies both of the following requirements:

(1) Commencing January 1, 2026, the person committed an offense punishable pursuant to paragraph (3) of subdivision (a) of Section 29700.
(2) The person is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in paragraph (1).

(c)**(1)** A person described in subdivision (a) shall not own, or have in possession or under custody or control, a firearm until the person is 30 years of age or older.

(2) A person described in subdivision (b) shall not own, or have in possession or under custody or control, a firearm until the person is 25 years of age or older.

~~(c)~~ **(d)** A violation of this section shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

~~(d)~~ **(e)** The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this section may be used to determine eligibility to acquire a firearm.

SEC. 5. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Date of Hearing: March 11, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 394 (Wilson) – As Introduced February 3, 2025

SUMMARY: Expands the crime of misdemeanor trespass on transit-related property, authorizes a court to issue an 18 month order prohibiting a person convicted of misdemeanor trespass onto railroad or transit-related property, or battery against a specified public transportation official from re-entering public transit property, authorizes non-peace officer "transit enforcement officers" to enforce specified crimes, and increases the criminal penalties for battery against certain transit workers. Specifically, **this bill**:

1) Provides that a person convicted of misdemeanor trespass onto railroad or transit-related property without permission, as specified, or battery of a specified transportation official, maybe subject to up to an 18 month prohibition order ("public transit protective order") barring reentry to public transit property.

2) Authorizes a prosecuting authority, transit agency, or its legal representative, upon conviction of misdemeanor trespass onto railroad or transit-related property, or battery of a specified transportation official, to petition the court for a prohibition order to restrict the individual's access to public transit property for up to 18 months. This petition must include:

   a) Evidence of the conviction.

   b) A statement of facts demonstrating the need for the prohibition to protect public safety and transit operations.

   c) The proposed duration and scope of the prohibition order, not to exceed a period of 18 months.

3) Requires a court to hold a hearing within 30 days of receiving such a petition to determine whether to issue the public transit protective order, and requires the individual subject to the order to be provided notice and an opportunity to be heard.

4) Authorizes a court to issue a public transit protective order if it finds by a preponderance of the evidence that:

   a) The individual poses a continuing threat to public safety or transit operations; and

   b) The order is necessary to prevent future violations or disruptions.

5) Provides that a public transit protective order may do both of the following:

   a) Bar the individual from entering specified transit properties or facilities; and

b) Limit access to transit services for a duration determined by the court, not to exceed 18 months, subject to review.

6) Requires a public transit protective order to be consistent with state and federal laws protecting civil rights and public access.

7) Makes violation of a public transit protective order a misdemeanor punishable by up to six months in jail or a $1,000 fine.

8) Authorizes an individual subject to a public transit protective order to petition the court for modification or termination of the order after demonstrating compliance and rehabilitation.

9) Requires transit agencies to maintain records of issued prohibition orders and provide periodic reviews to ensure proportionality and fairness.

10) Broadens the crime of misdemeanor trespass on transit-related property, by adding ferries to the type of public transportation methods covered by this crime and expanding what constitutes "transit-related property," to include:

  a) Any land, facilities or vehicles owned, leased, or possessed by a joint powers authority; and

  b) Any property, facilities, or vehicles upon which upon which any county transportation commission, transportation authority, joint powers authority, or operator, as defined, owes policing responsibilities to a local government pursuant to an operations and maintenance agreement or similar interagency agreement.

11) Authorizes non-peace officer "transit enforcement officers" to enforce the crime of misdemeanor trespass on transit-related property, as follows:

  a) Enables "transit enforcement officers" designated by a public transit agency to enforce misdemeanor trespass on transit related property violations if they have completed the requisite training for issuing citations and enforcing trespass violations.

  b) Authorizes such "transit enforcement officers" to detain individuals for violations of misdemeanor trespass on transit-related property until law enforcement arrives or as authorized pursuant to state law.

  c) Specifies that this expanded enforcement authority does not apply to individuals performing official duties with lawful authority, including, but not limited to, public transit agency employees, emergency responders, and individuals granted special permission by the transit agency.

12) Requires public transit agencies to provide clear signage at restricted access points to inform the public of trespassing prohibitions and potential penalties.

13) Expands the additional criminal penalties for committing battery against operators, drivers or passengers of specified public transportation vehicles, to include employees and contractors of a public transportation providers.

EXISTING LAW:

1) Defines "battery" as the willful and unlawful use of force or violence upon another person, and makes the offense punishable by up to six months in the county jail, by a fine not to exceed $2,000, or by both. (Pen. Code, §§ 242 & 243, subd. (a).)

2) Provides that when a battery is committed upon any person and serious bodily injury is inflicted upon that person, the offense is punishable as a "wobbler" with a possible sentence of up to one year in the county jail, or two, three, or four years in the county jail. (Pen. Code, § 243, subd. (d).)

3) Establishes additional criminal penalties for battery committed against certain transportation officials, as follows:

   a) When battery is committed against the person of an operator, driver, or passenger on a bus, taxicab, streetcar, cable car, trackless trolley, or other motor vehicle, including a vehicle operated on stationary rails or on a track or rail suspended in the air, used for the transportation of persons for hire, or against a school bus driver, or against the person of a station agent or ticket agent for the entity providing the transportation, and the person who commits the offense knows or reasonably should know that the victim, in the case of an operator, driver, or agent, is engaged in the performance of his or her duties, or is a passenger the offense shall be punished by up to one year in county jail or a $10,000 fine. (Pen. Code, § 243.3.)

   b) If injury is inflicted during a battery against a specified transportation official, as described above, the offense can be charged as a "wobbler" punishable up to a year in county jail or up to a $10,000 fine, or in the state prison for 16 months, or two or three years. (Pen. Code, § 243.3.)

   c) Provides that except as provided above, when a battery is committed against any person on the property of, or in a motor vehicle of, a public transportation provider, the offense shall be punished by a fine not to exceed $2,000, or by imprisonment in a county jail up to one year. (Pen. Code, § 243.35, subd. (a).)

4) Provides that any person who enters or remains upon the property of any railroad, as specified, without the permission of the owner of the land, the owner's agent, or the person in lawful possession and whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders, or which, if allowed to continue, would interfere with, interrupt, or hinder the safe and efficient operation of any locomotive, railway car, or train is guilty of a misdemeanor punishable by up to six months in county jail or a fine of $1,000. (Pen. Code, § 369i, subd. (a).)

5) Provides that any person who enters or remains upon any transit-related property, as specified, without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the transit-related

facility is guilty of a misdemeanor punishable by up to six months in county jail or a fine of $1,000. (Pen. Code, § 369i, subd. (b).)

6) Authorizes Sacramento Regional Transit District ("SacRT"), the Los Angeles County Metropolitan Transportation Authority ("Metro"), the Fresno Area Express ("FAX"), the San Francisco Bay Area Rapid Transit District ("BART"), the Santa Clara Valley Transportation Authority ("VTA"), or the Santa Monica Department of Transportation ("SMDT") to issue a prohibition order for up to 180 days to any person who, under specified circumstances, is cited for a specified infraction committed in or on a vehicle, bus stop, or light rail station of the transit district or a property, facility, or vehicle upon which BART owes policing responsibilities to a local government pursuant to an operations and maintenance agreement or similar interagency agreement. (Pub. Util. Code, § 99171, subd. (a)(1)(A).)

7) Provides that a member of the BART, transit police officers or peace officers of a county, city, transit development board, or district, or any railroad police officer commissioned by the Governor are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, *if the primary duty of the peace officer is the enforcement of the law in or about properties owned, operated, or administered by the employing agency* or when performing necessary duties with respect to patrons, employees, and properties of the employing agency (Pen. Code, § 830.33.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California's public transit employees continue to face escalating threats of violence and harassment, creating unsafe conditions for both workers and passengers. Existing laws, such as Penal Code 243.3, provide limited protection, covering only specific transit roles while excluding essential employees like janitors, fare collectors, and station agents. Additionally, the narrow definition of 'transit-related property' under Penal Code 369i limits effective enforcement against trespassing on public transit systems. AB 394 addresses these gaps by broadening legal protections to all transit workers, strengthening trespassing laws, and empowering courts to issue temporary prohibition orders for individuals convicted of violent offenses on transit systems.

   "By enhancing safety measures, AB 394 ensures a safer and more welcoming environment for the millions of Californians who rely on public transit—many of whom are from low-income and communities of color. This bill not only improves safety and equity within our transit systems but also contributes to maintaining public confidence, boosting ridership, and supporting a resilient public transportation network for all."

2) **Increasing Violence Against Transit Workers**: As noted in the author statement, violence against transit workers is a growing problem. According to the U.S. Department of Transportation "Assaults on transit workers are a significant and growing concern in the transit industry. From 2008 to 2021, the National Transit Database (NTD) documented an average of 241 transit worker assault major events per year, including 192 per year occurring

in or on transit vehicles, 44 per year occurring in transit revenue facilities, and five per year occurring in other non-public locations, such as maintenance shops and yards. The number of reported transit worker assaults per 100 million vehicle revenue miles (VRM) increased by an average of eight percent per year from 2008 to 2021—a 121 percent total increase from the 2008 transit worker assault rate. This data may significantly underestimate the true number and rate of assaults on transit workers. Today, NTD reporting requirements focus on the most serious events—those that meet the NTD 'major event' reporting threshold, as defined by the NTD reporting manual."[1]

3) **Effect of this Bill:** AB 366 contains four primary provisions.

   a) *Expands misdemeanor trespass on railroad or transit property:* Existing law makes it a misdemeanor to trespass onto transit-related property, punishable by up to six months in county jail or a fine of $1,000. This crime applies to any person who enters or remains on transit-related property without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the transit-related facility. (Pen. Code, § 369i, subd. (b).) Notably, this crime can be triggered by entering transit-related property *without permission*, and does not require interference or interruption of transit operations. For the purpose of this crime, "transit-related property" means any land, facilities, or vehicles owned, leased, or possessed by a county transportation commission, transportation authority, or transit district that are used to provide public transportation by rail or passenger bus or are directly related to that use, or any property, facilities, or vehicles upon which BART owes policing responsibilities to a local government. (Pen. Code, § 369i, subd. (b).)

      AB 366 expands misdemeanor trespass by broadening the definition of transit related property to include: 1) any land, facilities or vehicles owned, leased, or possessed by a joint powers authority; and 2) property, facilities, or vehicles upon which any county transportation commission, transportation authority, joint powers authority, or operator owes policing responsibilities to a local government pursuant to an operations and maintenance agreement or similar interagency agreement. By expanding the properties encompassed by this crime, AB 394 can reasonably be expected to result in an increase in criminal trespass charges, particularly against unhoused persons (discussed more below).

   b) *Expands the crime of battery against transportation officials:* Under existing law, battery of specified transportation officials is punishable by up to one year in county jail, a $10,000 fine, or both. (Pen. Code, § 243.3.) In contrast, ordinary battery is punishable by up to *six months in county jail*. (Pen. Code, §§ 242 & 243, subd. (a).) These additional criminal penalties apply to assault and battery on operators, drivers, or passengers on a bus, taxicab, streetcar, cable car, trackless trolley, or other motor vehicle, including a vehicle operated on stationary rails or on a track or rail suspended in the air, used for the transportation of persons for hire, or against a school-bus driver, station agent or ticket agent for the entity providing the transportation. (Pen. Code, § 243.3.) Here, AB 366 promotes uniform application of the transit official battery statute by including battery

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[1] United States Department of Transportation, *Required Actions Regarding Transit Worker Assault* (Oct. 4, 2022). Available at: https://www.transit.dot.gov/sites/fta.dot.gov/files/2022-10/FTA-Special-Directive-22-21-to-the-Metro-Transit.pdf.

against employees and contractors of a public transportation provider.

c) *Authorizes courts to bar persons from transit property for 18 months:* AB 394 authorizes a prosecutor or transit agency, upon conviction of misdemeanor trespass on transit or railroad property, to petition a court for a prohibition order restricting that person's access to public transit property for up to 18 months. Such an order could also be made subsequent to a conviction for battery of a transit worker. A petition must provide evidence of the conviction, demonstrate the need for the prohibition, and a court must hold a hearing within 30 days of receiving such a petition. A court can make an order upon a finding, by the preponderance of the evidence, that the individual poses a continuing threat and that the order is necessary to prevent future violations and disruptions. Individuals subject to such an order may petition a court for modification or termination after demonstrating compliance and rehabilitation, and transit agencies must maintain records of such orders and provide periodic reviews to ensure proportionality and fairness. AB 394 does not include any hardship exemptions or authorize use of transit for medical necessities.

d) *Authorizes "transit enforcement officers" to enforce misdemeanor trespass on transit-related property:* Certain transit officials have peace officer authority subject to certain conditions. These include a member of BART, transit police officers or peace officers of a county, city, transit development board, or district, and any railroad police officer commissioned by the Governor. The authority of such officers extends to any place in the state for the purpose of performing their primary duty or when making an arrest as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense. Additionally, the primary duty of such peace officers is the enforcement of the law in or about properties owned, operated, or administered by the employing agency or when performing necessary duties with respect to patrons, employees, and properties of the employing agency.

   AB 366 proposes to permit non-peace officer "transit enforcement officers" designated by a public transit agency to enforce criminal law, including detaining individuals for misdemeanor trespass violations until law enforcement arrives or as authorized pursuant to state law. "Transit enforcement officers" would have to complete "requisite" training on issuing citations and enforcing trespass violations. This authority would not be available to individuals performing official duties with lawful authority, including, but not limited to, public transit agency employees, emergency responders, and individuals granted special permission by the transit agency.

4) **The Criminalization of Poverty:** California has the highest poverty rate in the country.[2] California's poverty rate rose from 11.7% in 2021 to 13.2% in 2023, and nearly a third of Californians are living in or near poverty.[3] This rising poverty rate, as well as increased costs of living, has coincided with a significant increase in California's homelessness population—

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[2] Dan Walters, *Once again, California beats every other state when it comes to poverty* (Sept. 11, 2024), available at: https://calmatters.org/commentary/2024/09/california-again-top-state-poverty/

[3] Bohn et. al., *Poverty in California*, Public Policy Institute of California (Oct. 2023)., available at: https://www.ppic.org/publication/poverty-in-california/

increasing by as much as 7.5% between 2022 and 2023.[4] Recent data suggests that more than 180,000 persons were experiencing homelessness in California in 2024.[5] Racial disparities among the homeless population is well documented. The share of Black, American Indian, Alaska Native, or Indigenous people experiencing homelessness is five times greater than their share of the total population. [6]

Poverty and lack of shelter is associated with numerous criminal penalties. As summarized by a peer reviewed journal, *Transport Reviews*:

> [There has been] a general trend of increasing criminalization of homelessness over the last three decades; transit environments are no exception. Broadly, this has entailed the adoption of ordinances restricting activities associated with homelessness (such as camping, loitering, and panhandling), more intensive policing, and the use of hostile architecture in public spaces [citation omitted]). For example, a number of municipalities have enacted since the early 1990s "sit-lie" ordinances, which prohibit individuals from lingering, sitting, or sleeping in public spaces.[7]

This is particularly true following the 2024 U.S. Supreme Court decision in *City of Grants Pass v. Johnson*, which overturned legal precedent and permitted local governments to arrest and fine unhoused persons in public spaces, even when no alternative shelter is available. (*City of Grants Pass v. Johnson* (2024) 603 U.S. 52.) Following this court case, there has been an uptick in criminal penalties associated with being unhoused.[8] For example, the City of Fresno has since made it a misdemeanor to camp anywhere, even if no shelter is available.[9] As of September, 2024, at least 15 local jurisdictions in California modified their ordinances to further punish conduct associated with homelessness.[10]

Unhoused persons frequently rely on public transportation stations and property not only for shelter, but to access medical care, homeless services, and potential employment opportunities. "A 2011 study surveyed unhoused individuals sleeping overnight in buses in Northern California's Santa Clara County [citation omitted]. Of 49 interviewees, about two thirds reported that the 24-hour bus line was their only shelter or one of their usual shelters; many slept on the bus every day.[11]

The primary means of travel for people experiencing homelessness is public transportation – "a stark difference from the low rate of transit ridership among the general public in the U.S."[12] "Unhoused people travel for a variety of purposes, commonly including accessing

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[4] Cuellar and Perez, *An Update on Homelessness in California*, PPIC (March 21, 2024), available at: https://www.ppic.org/blog/an-update-on-homelessness-in-california/
[5] *Ibid.*
[6] Business, Consumer Services and Housing Agency, *Acting to Prevent, Reduce, and End Homelessness* (accessed March 6, 2025), available at: https://bcsh.ca.gov/calich/hdis.html
[7] Ding et. al., *Homelessness on public transit: A review of problems and responses*, Transportation Reviews, 2022, Vol. 42: 2, 134-156, at p. 135, available at: https://doi.org/10.1080/01441647.2021.1923583
[8] Kendall, *No sleeping bags, keep moving: California cities increase crackdown on homeless encampments* (Sept. 12, 2024), available at: https://calmatters.org/housing/homelessness/2024/09/camping-ban-ordinances/
[9] *Ibid.*
[10] *Ibid.*
[11] Ding et. al., *Homelessness on public transit: A review of problems and responses*, Transportation Reviews, 2022, Vol. 42: 2, 134-156, at p. 137, available at: https://doi.org/10.1080/01441647.2021.1923583
[12] *Id.* at p. 135.
[12] *Id.* at p. 140.

medical services, visiting friends and family, going to food banks, attending religious services, and searching for a job [citation omitted]. Unhoused people travel on average nine to 14 miles daily[.]"[13]

Given the intersection between homelessness and public transportation usage, there have been efforts, not un-similar to those discussed earlier, to remove unhoused persons from transportation stations:

> In both 2016 and 2020, around forty percent of agencies surveyed reported periodically conducting sweeps of transit environments where unhoused people congregate. Over those four years, the share of transit operators that require riders to exit the vehicle at the end of the line and pay an additional fare to board again rose from 36 percent to 67 percent [citation omitted]. Beyond transit, removal of unhoused people and encampments from rights-of way is a common approach adopted by departments of transportation in many states, but in most cases such actions only serve as a temporary "solution" until those displaced or others return.[14]

Such efforts are not only being made at the local level. For example, last year in the California legislature, a bill proposed to make it an alternative misdemeanor/infraction for a person to sit, lie, sleep, or store, use maintain, or place personal within a major transit stop.[15]

Here, AB 394 reasonably seeks to expand transit worker protections against violence. However, in practice, the more impactful impact of AB 394 will be to expand the criminal penalties that can be utilized against unhoused persons sleeping or residing on public transportation property. The crime of trespass is frequently utilized against unhoused persons who, without access to their own private residence, have no choice to but sleep and reside in public settings. As previously noted, this bill expands the properties encompassed by misdemeanor trespass and authorizes courts to bar people from transit authority property for up to 18 months for misdemeanor trespass. But will unhoused persons be able to comply with these orders if it is there only means of transportation or they have no other means of shelter?

5) **Restricting Access to Food, Medical Care, and Employment Opportunities:** As noted earlier, public transportation is the primary means of travel for unhoused persons, who utilize public transportation to access medical services, visit friends and family, go to food banks, and search for jobs.[16] AB 394 contains no hardship exemptions for a person subject to a transit stay away order. Neither does AB 394, when an order has been issued, permit limited use of a transportation agency for medical care or other urgent needs.

   This may place many unhoused persons in the position of having to endure criminal penalties in order to find a meal or secure life-saving care. Alternatively, for unhoused persons who reside in an area with only one public transportation option, it may prohibit unhoused person

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[13] *Ibid.*
[14] *Id.* at p. 144.
[15] SB 1011 (Jones), of the 2023-2024 Legislative Session.
[16] Ding et. al., *Homelessness on public transit: A review of problems and responses*, Transportation Reviews, 2022, Vol. 42: 2, 134-156, at p. 140, available at: https://doi.org/10.1080/01441647.2021.1923583

from accessing such necessities entirely, further contributing to the high mortality rate for unhoused persons.[17]

6) **Existing Penalties for Conduct this Bill Seeks to Prohibit**: Proponents of the bill cite the need to protect transit workers from violence. But there are numerous criminal consequences for committing violence against a transit worker.

   a) *Criminal Penalties:* There are multiple battery statutes that can be utilized to prosecute battery of a transit worker. Battery is the crime of "any willful and unlawful use of force or violence upon the person of another." (Pen. Code, § 242.) Battery in general is punishable by up to six months in the county jail, by a fine not to exceed $2,000, or by both. Aggravated battery committed against any person that inflicts serious bodily injury is punishable by up one year in the county jail, or two, three, or four years in the county jail. (Pen. Code, § 243, subd. (d).)

      Moreover, as noted earlier, simple assault or battery is committed against a passenger or specified transit workers where the perpetrator knows the victim is a passenger or specified transit worker engaged in the performance of their duties, is punishable by up to an additional six months in jail, for a maximum sentence of up to one year or fine up to $10,000. (Pen. Code, § 243.35.) Even if a battery perpetrator does not meet the above knowledge requirement, battery committed against any person on the property of, or in a motor vehicle of, a public transportation provider, is similarly punishable by up to one year in county jail. (Pen. Code, § 243.35, subd. (a).) Further, if any injuries are inflicted during a battery against a specified transit worker, the crime is punishable by imprisonment in a county jail not exceeding one year or in the state prison for up to three years, as well as up to a $10,000 fine. (Pen. Code, § 243.3.)

   b) *Protective Orders:* A protective order can be issued as a condition of probation. This is because courts have broad discretion to fashion and impose additional probation conditions that are particularized to the defendant.[18] A valid condition must be reasonably related to the offense and aimed at deterring misconduct in the future.[19] Phrased differently, a court is already authorized to issue a protective order against a person convicted of battery against a transit employee. As such, the need for this additional protective authority is unclear.

      Existing law also authorizes certain transit agencies to directly issue an order prohibiting a person who commits specified violations from entering transit property and facilities for up to 180 days. (See Pub. Util. Code, § 99171.) They can also be ordered for first-time misdemeanors and felonies and broadly apply to arrests, as well as convictions. This statutory authority has been issued to SacRT, Metro, FAX, BART, VTA, and the Santa Monica Department of Transportation. These prohibition orders may be issued against persons who have committed repeated infractions, or have been arrested or convicted on certain misdemeanor or felony charges. (*Ibid.*)

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[17] Kendall, *It's now significantly more deadly to be homeless. Why are so many people dying?* Cal Matters (Feb. 29, 2024), available at: https://calmatters.org/housing/homelessness/2024/02/homeless-mortality-report/
[18] *People v. Smith* (2007) 152, Cal.App.4th 1245, 1249.
[19] *People v. Carbajal* (1995) 10 Cal.4th 1114, 1121.

7) **Inconsistent Criminal Penalties:** AB 394 creates inconsistencies in the law that treat different conduct the same. For example, AB 394 authorizes an 18 month protective order for both battery of a specified transit official and for misdemeanor trespass onto transit property. Battery involves violence and harm, and requires "willful and unlawful use of force or violence upon another person." (Pen. Code, §§ 242 & 243, subd. (a).) Additionally, as it pertains to battery of a transit worker, that offender must know or reasonably should know that the victim is a specified transit worker in certain circumstances. In contrast, misdemeanor trespass on transit property only requires that a person enters property "without permission." (Pen. Code, § 369i, subd. (b).) As such, AB 394 treats a person who violently attacks a transit official engaged in their duties similarly to an unhoused person sleeping in a transit station.

8) **Authorizes Non-Peace Officer "Transit Enforcement Officers" to Enforce Criminal Law:** Peace officers are subject to clearly delineated requirements, standards, and training under California law. (Pen. Code, §§ 830-832.18.) Similarly, peace officer arrest authority, among other peace officer powers, is extensively addressed both in case law and statutes. (Pen. Code, § 830.1, subd. (a).) AB 366 proposes to give quasi-peace officer authority to "transit enforcement officers," subject to the requirement that they be "designated" by a transit agency and that they complete "requisite training." This gives transit agencies significant discretion over the training and duties of such officers. What requisite training means, however, is unclear.

   Are any qualifications or standards to become a "transit enforcement officer"? Who is responsible and/or liable if a "transit enforcement officer" abuses their authority?

9) **Argument in Support**: According to the *California Transit Association*, "Transit employees frequently face threats of violence – and these incidents have steadily climbed over the past several years. Unfortunately, existing laws intended to protect transit employees have proven too narrow and insufficient. AB 394 promotes safer transit environments for both riders and workers in two keys ways. First, the bill expands existing law to protect all transit employees against assaults. Second, AB 394 also now allows transit agencies to seek a court-issued prohibition order against someone convicted of assault, if the court finds that the individual in question continues to pose a threat.

   "Every day, transit workers are spit at, stabbed, hit, sexually assaulted and more. Unfortunately, the vast majority of incidents have historically not even made it into the National Transit Database, which until 2023 only recorded major assaults – meaning they resulted in a fatality or injury requiring medical transport. Major assaults alone on transit workers went up 73% from just 2018 to 2023.

   "These incidents have directly impacted daily operations, and as a result, many agencies throughout the state are experiencing severe operator and employee shortages. This has also impacted riders' feelings of safety on public transit systems, and is frequently cited as a leading reason members of the public avoid utilizing public transit.

   "CTA has been, and continues to be, a firm advocate of prioritizing public transit and the safety of transit agency employees. For these reasons, we are proud to co-sponsor this measure and thank you for your continued leadership."

10) **Argument in Opposition**: According to the *Western Center on Law and Poverty*, "While protecting transit operators is an important public policy measure, AB 394 is overly broad and eliminates essential access to transportation, employment, healthcare, and housing, which are all key determinants of rehabilitation and reentry following incarceration. Following a criminal conviction for battery "against an employee or contractor of a public transportation provider," AB 394 creates a pathway for criminalization of using vital transit services – by allowing a subsequent prohibition on the use of public transportation. AB 394 adds Section 243.3(b), which allows "a [post-conviction] prohibition order barring reentry to public transit property" if a person is "a continuing threat to public safety or transit operations," and "the order is necessary to prevent future violations or disruptions." This ban may be specifically tailored to certain transit, or the court may "limit access to transit services", for up to 18 months. A violation of a court-imposed transit ban is a misdemeanor.

"AB 394 creates an amorphous standard riddled with discretion, subject to the existing biases in California's criminal justice system. By imposing a new obstacle on mobility after release from incarceration, AB 394 exacerbates reentry challenges following release from incarceration.vi Contrary to the U.S. Attorney General's 2022 recommendations to eliminate reentry obstacles to lower recidivism rates, AB 394 undermines public safety in favor of expansive punishment against individuals post-incarceration.

"Despite the car dependence of many Californians, 2.76 million Californians are carless, with approximately 2.09 million people utilizing public transit. Carless households are disproportionately people of color and low-income. Without vehicles, these households typically spend more time on travel and often have to travel further to access services. Since these same communities are disproportionately represented in both criminal charging and incarceration, AB 394 will disproportionately impact low-income people of color reliant on public transportation.

"As a result of AB 394, many people will be foreclosed from any form of transportation, which "is a key social determinant of health." Transportation is required to access housing, employment, social networks, access to medical care. In fact, transportation is essential to manage chronic diseases, which disproportionately impact incarcerated and formerly incarcerated individuals. AB 394 may prevent formerly incarcerated individuals accessing vital treatment for chronic conditions like high blood pressure, asthma, cancer, arthritis, tuberculosis, hepatitis C, HIV, and mental health disorders. Moreover, transportation is a key factor linked to social mobility, so AB 394 will only contribute to maintaining cycles of poverty among California's most vulnerable communities."

11) **Related Legislation**: AB 32 (Soria) would include tribal judges in the categories of public officials where enhanced penalties are available for the commission of certain crimes against those public officials in retaliation for or preventing them from performing their official duties. AB 32 is pending a hearing in the Assembly Transportation Committee.

12) **Prior Legislation**:

a) SB 1011 (Jones), of the 2023-2024 Legislative Session, would have made it an alternative misdemeanor/infraction for a person to sit, lie, sleep, or store, use maintain, or place personal property upon any street, sidewalk, or other public right-of-way within 500 feet of school or at an open space, or major transit stop.

b) SB 31 (Jones) of the 2023-2024 Legislative Session, provides that a person shall not sit, lie, sleep, or store, use, maintain, or place personal property upon any street, sidewalk, or other public right-of-way within 1000 feet of a sensitive area.

c) AB 2824 (McCarty), of the 2023-2024 Legislative session, would have expanded the criminal penalties associated with committing battery against operators, drivers or passengers of specified public transportation vehicles, to include employees and contractors of a public transportation provider. AB 2824 did not receive a hearing in this committee.

d) AB 1417 (Allen), Chapter 189, Statutes of 2024, authorized the Santa Monica Department of Transportation to issue prohibition orders to any person cited for committing a specified act.

e) AB 1735 (Low) Chapter 69, Statutes of 2023, added VTA to the transit districts authorized to issue prohibition orders to passengers committing certain illegal behaviors.

f) AB 1337 (Lee), Chapter 534, Statues of 2021, extended the authority of specified transit district entities to issue prohibition orders to include the property, facilities and vehicles on which it owes policing responsibilities to a local government pursuant to agreement, and expands current law to make entering or remaining on those properties without permission a misdemeanor.

g) AB 730 (Quirk), Chapter 46, Statutes of 2017, repealed the sunset on the law that allows BART to issue prohibition orders to passengers committing certain illegal behaviors, making BART's authority to do so permanent.

h) AB 468 (Santiago), Chapter 192, Statutes of 2017, added Metro to the transit districts authorized to issue prohibition orders to passengers committing certain illegal behaviors.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
California Conference Board of The Amalgamated Transit Union
California State Legislative Board of Smart – Transportation Division (smart – Td)
California Teamsters Public Affairs Council
California Transit Association
Cslb-blet-ibt
Los Angeles County Metropolitan Transportation Authority
Orange County Transportation Authority
Peace Officers Research Association of California (PORAC)
Sacramento Regional Transit District
Southern California Regional Rail Authority (METROLINK)
Transportation Communications Union / International Association of Machinists and Aerospace Workers/ Tcu/iam Local 1315

Oppose

ACLU California Action
California Public Defenders Association (CPDA)
Californians United for A Responsible Budget
Ella Baker Center for Human Rights
LA Defensa
Local 148 LA County Public Defenders Union
San Francisco Public Defender
Western Center on Law & Poverty, INC.

Analysis Prepared by: Ilan Zur / PUB. S. / (916) 319-3744

Date of Hearing: March 11, 2025
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 400 (Pacheco) – As Introduced February 4, 2025

SUMMARY: Requires every law enforcement agency with a canine unit, on or before January 1, 2027, to maintain a policy for the use of canines by the agency that, at a minimum, complies with the most recent standards established by the Commission on Peace Officer Standards and Training (POST).

EXISTING LAW:

1) Establishes POST. (Pen. Code, § 13500, et seq.)

2) Provides that POST has, among others, the power to develop and implement programs to increase the effectiveness of law enforcement and, when those programs involve training and education courses, to cooperate with and secure the cooperation of state-level peace officers, agencies, and bodies having jurisdiction over systems of public higher education in continuing the development of college-level training and education programs. (Pen. Code, § 13500.3, subd. (e).)

3) Requires POST to submit annually a report to the Legislature on the overall effectiveness of any additional funding for improving peace officer training, including the number of peace officers trained by law enforcement agency, by course, and by how the training was delivered, as well as the training provided and the descriptions of the training. (Pen. Code, § 13500.5, subd. (a) & (b).)

4) Authorizes a peace officer who has reasonable cause to believe that a person to be arrested has committed a public offense to use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. (Pen. Code, § 835a, subd. (b).)

5) Authorizes a peace officer to use deadly force when the officer believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

   a) To defend against an imminent threat of death or serious bodily injury to the officer or to another person; or,

   b) To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts. (Pen. Code,

§ 835a, subd. (c)(1)(A) & (B).)

6) Prohibits a peace officer from using deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person. (Pen. Code, § 835a, subd. (c)(2).)

7) Defines "deadly force" as any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm. (Pen. Code, § 835a, subd. (e)(1).)

8) Provides that an arrest is made by an actual restraint of the person, or by submission to the custody of an officer, and that the person arrested may be subjected to such restraint as is reasonable for their arrest and detention. (Pen. Code, § 835.)

9) Permits a peace officer who is authorized to make an arrest and who has stated their intention to do so, to use all necessary means to effect the arrest if the person to be arrested either flees or forcibly resists. (Pen. Code, § 843.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 400 will ensure uniformity, accountability, and excellence in the use of police canines throughout our state, enhancing both officer and community safety. By implementing these comprehensive standards, California will continue to lead the nation in responsible and effective law enforcement practices."

2) **Police Canine Use and Deployment Policies:** Law enforcement agencies view the use of police canines as indispensable to protecting the public and law enforcement personnel. According the Los Angeles County Sheriff's Department,

   > The prompt and proper utilization of a trained canine team has proven to be a valuable use of a unique resource in law enforcement. When properly used, a canine team greatly increases the degree of safety to citizens within a contained search area, enhances individual officer safety, significantly increases the likelihood of suspect apprehension, and dramatically reduces the amount of time necessary to conduct a search.[1]

   Despite their importance to law enforcement, there is limited direction to local law enforcement on the use and deployment of police canines.

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[1] Field Operations Direction (FOD): 86-037 Canine Deployment, Search and Force Policy, at p. 2; see also VanSickle et al., When Police Violence Is a Dog Bite, The Marshall Project (Oct. 2, 2020) <https://www.themarshallproject.org/2020/10/02/when-police-violence-is-a-dog-bite> [last viewed Apr. 4, 2024] [a joint investigation with USA Today, AL.com, and the Invisible Institute] and Kaste, Videos Reveal A Close, Gory View of Police Dog Bites, NPR (Nov. 20, 2017) <https://www.npr.org/2017/11/20/563973584/videos-reveal-a-close-gory-view-of-police-dog-bites> [last visited Apr. 4, 2024].

In 2024, POST updated the minimum training and performance standards for police canines. According to POST, "Patrol K-9 teams should meet minimum standards regarding obedience, search, apprehension, control, de-escalation, and tracking/trailing."[2] POST apprehension guidelines require, "[u]nder the direction of the handler and while off-leash, the K-9 team will pursue and apprehend the agitator/decoy."[3] It adds, "The K-9 team will demonstrate a "pursuit and call off" prior to apprehension… On command from the handler, the K-9 will pursue and apprehend the agitator/decoy. From a reasonable distance and on verbal command only, the K-9 will cease the apprehension."[4] POST detection guidelines advise "[t]he evaluator [to] be fully apprised of the pertinent agency policies and regulations prior to commencement of the exercise. The 'correct' response or reach of the handler, the K-9, or the two acting together, may differ from agency to agency, based on prevailing agency policy."[5]

Regarding "call-off" procedures, POST states that "[t]his function is critical and separates the K-9 from all other less-than-lethal force options in that the handler has the ability to call of the K-9 prior to making contact with the agitator/decoy, within reason, to avoid a use of force."[6] POST training requires "[t]he K-9 [to] be sent on a directed apprehension, from approximately 30 yards, on a visible and accessible agitator/decoy… Once the K-9 is in the pursuit and committed to the agitator/decoy (approximately halfway), the handler will call off the apprehension using only voice commands."[7]

POST patrol guidelines also provide, "The release of a K-9 to search for or apprehend a suspect should be based upon the handler's reasonable belief that the suspect has committed, is committing, or is threatening to commit a serious offense under any of the following conditions: There is a reasonable belief that the suspect poses an imminent or immediate threat of violence or serious harm to the public or an officer. The suspect is physically resisting or threatening to resist arrest and the use of a K-9 reasonably appears necessary to overcome such resistance. Officers reasonably believe the suspect is concealed in an area where entry by a person would pose a threat to the safety of officers or the public. Unless the handler reasonably believes that it would pose an imminent threat of danger to the officer or other persons or substantially increase the risk of a suspect's escape, a warning, clearly audible, within the deployment area announcing the potential release of a police K-9 if the suspect does not surrender should be given prior to the release of the K-9. Once given, the handler should allow a reasonable opportunity for the suspect to comply with any warning, if feasible."[8]

This bill would require every law enforcement agency with a canine unit, on or before January 1, 2027, to maintain a police for the use of canines by the agency that, at a minimum, complies with the most recent standards established by POST.

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[2] POST, Law Enforcement K-9 Guidelines, p. ix <https://post.ca.gov/Portals/0/post_docs/publications/K-9.pdf> [last viewed Mar. 6, 2025].
[3] *Id.* at p. 4.
[4] *Ibid.*
[5] *Id.* at 8.
[6] *Id.* at 7.
[7] *Ibid.*
[8] *Id.* at 3.

3) **Lack of Comprehensive Data:** Efforts to examine the effect and scope of police canine use by law enforcement agencies are stymied by a familiar problem: insufficient data. There currently is no statewide data on the use of police canines. No entity is charged with collecting information that would help contextualize existing practices.

   For example, supporters and opponents of the use of police canines by law enforcement dispute the effectiveness of call-off procedures. Police dog-handlers "point out that a dog can be called back after it's been unleashed — unlike the deployment of a Taser or the firing of a gun."[9] Indeed, the Los Angeles County Sheriff's Department reasonably requires a handler to "call off the dog at the first moment the canine can be safely released."[10]

   But opponents point to instances where police canines do not obey call-off commands by their handlers. One report states, "Although training experts said dogs should release a person after a verbal command, we found dozens of cases where handlers had to yank dogs off, hit them on the head, choke them or use shock collars."[11] According to another, "Privately, handlers often talk about having trouble getting a dog to 'out,' or open its jaws. It's a concern that comes up on discussion boards, and in this K9 training video."[12]

   Law enforcement does not appear to collect data on the frequency with which police canines obey call-off commands. Some agencies require officers to document how long a bite lasted, but that does not appear to be a consistent practice throughout the state.[13]

4) **Department of Justice Data on Use of Force Incidents Involving Police Canines:** According to data collected by the DOJ's Criminal Justice Statistics Center, law enforcement used a police canine in a use of force incident that resulted in serious bodily injury or death 76 times in 2020, accounting for 10.2% of the total such use of force incidents by law enforcement.[14] Of those 76 incidents, 49 were against persons of color—9 Black individuals, 33 Hispanic individuals, 3 Asian/Pacific Islander individuals, and 2 multi-race individuals.[15] In 29 of the 76 incidents, the officer did not perceive that the civilian was armed.[16] The civilian was later confirmed armed in 24 of the 76 of incidents.[17] In two incidents, the civilian did not resist.[18]

   According to the raw data on use of force incidents in 2020, 14 use of force incidents involving canine contact also involved the discharge of a firearm by the officer, six of which resulted in fatalities and three of which resulted in critical or serious injuries. Of those 14 incidents involving the use of both a canine and a firearm, eight were against people of

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[9] Kaste, *supra*.)
[10] FOD: 86-037, *supra*, at p. 2.)
[11] VanSickle et al., *supra*.
[12] Kaste, *supra*.
[13] See FOD: 86-037, supra, at p. 2 [providing that "[w]ithout exception, a reference to the duration of the canine's contact with a suspect shall be included in the handler's supplemental report"].
[14] The DOJ's Use of Force Incident Reporting contains only incidents where use of force resulted in serious bodily injury or death. DOJ, Use of Force Incident Reporting (2021) p. 1 <https://data-openjustice.doj.ca.gov/sites/default/files/2022-08/USE OF FORCE 2020.pdf> [last visited Apr. 4, 2024].)
[15] *Id.* at 34 [2 individuals are identified as "other"].
[16] *Id.* at 37.
[17] *Id.* at 39.
[18] *Id.* at 40.

color.[19]

In 2021, law enforcement used a canine in a use of force incident that resulted in serious bodily injury or death 77 times, or 11.7% of the total use of force incidents by law enforcement against a civilian.[20] Of those 77 incidents, 50 were against persons of color—13 Black individuals, 36 Hispanic individuals, and 1 American Indian individual.[21] In 37 of the 77 incidents, the officer did not perceive that the civilian was armed.[22] The civilian was later confirmed armed in 27 of the 77 incidents.[23] In five of those incidents the civilian did not resist.[24]

There were 63 use of force incidents involving a canine reported to DOJ in 2022, which amounted to 10.3% of the total use of force incidents.[25] Arrests were made in 62 of the 63 incidents, and 49 of the 63 incidents were against people of color—11 Black individuals, 36 Hispanic individuals, and 2 Asian/Pacific Islander individuals.[26] The officer did not perceive the individual to be armed in 22 of the 63 incidents.[27] The civilian was later confirmed to be armed in 26 of the 63 incidents.[28]

The DOJ's 2023 report on the use of force by law enforcement found 94 incidents involving the use of canine, or roughly 14.3% of all reported uses of force.[29] Law enforcement made an arrest in 93 of the 94 reported incidents. Of the 94 incidents, police use of force using canines occurred 60 times against people of color—12 Black individuals, 44 Hispanic individuals, one American Indian, one Asian Indian, and two Asian/Pacific Islanders.[30] The officer did not perceive the individual to be armed in 17 of 94 incidents, and the civilian was later confirmed not to be armed in 23 of the 94 incidents.[31]

5) **Past Use of Police Dogs:** In July 2022, the California Task Force to Study and Develop Reparations Proposals for African Americans issued an interim report documenting the history of, among other things, the enslavement, racial terror, political disenfranchisement, and mistreatment of African Americans in the justice system. The report briefly discussed the role of police dogs in that history:

> Slave patrols also used dogs to attack enslaved people by biting them but also to instill fear, and used bloodhounds to track down enslaved people. Freedom seekers learned to run without shoes and put black pepper in their socks to make the slave patrols'

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[19] 2020 URSUS Use of Force Data.
[20] DOJ, Use of Force Incident Reporting (2021) p. 31 <https://data-openjustice.doj.ca.gov/sites/default/files/2022-08/USE OF FORCE 2021.pdf> [last visited Apr. 1, 2024].
[21] *Id.* at 35.
[22] *Id.* at 38.
[23] *Id.* at 39.
[24] *Id.* at 40.
[25] DOJ, Use of Force Incident Reporting (2022) p. 38 <https://data-openjustice.doj.ca.gov/sites/default/files/2023-06/USE OF FORCE 2022f.pdf> [last visited Apr. 1, 2024].
[26] *Id.* at p. 32.
[27] *Id.* at p. 35.
[28] *Id.* at p. 36.
[29] DOJ, Use of Force Incident Reporting (2023) p. 29 < https://data-openjustice.doj.ca.gov/sites/default/files/2024-07/use-of-force-2023.pdf> [last visited Mar. 5, 2025].
[30] *Id.* at p. 33.
[31] *Id.* at pp. 36-37.

bloodhounds sneeze and throw them off their scent.

Much like slave patrols, police have continued to use dogs against African Americans in the 20th century through the present. Police used dogs against demonstrators during the civil rights movement. The United States Department of Justice noted in its 2015 report that the Ferguson Police Department "exclusively set their dogs against black individuals, often in cases where doing so was not justified by the danger presented." In Baton Rouge, Louisiana, police dogs bit at least 146 people from 2017 to 2019 and almost all of whom were Black…

In the 1980s, the Los Angeles Police Department, which is the largest police department in California and one of the largest in the country, referred to Black suspects as "dog biscuits." Victims of police dogs sued and alleged that the department disproportionately used dogs in minority neighborhoods, which resulted in police dogs inflicting 90 percent of their reported bites on African Americans or Latinos. In 2013, the Special Counsel to the Los Angeles County Sheriff's Department, which is the largest sheriff's department in California and the country, found that African Americans and Latinos comprised 89 percent of the total individuals who were bitten by the department's dogs from 2004 to 2012. During the same time, the Special Counsel found that the number of African Americans that police dogs bit increased 33 percent. [32]

There remain "stark racial disparities in police interactions and use of force, particularly for Black people."[33]

6) **Police Canine Bites:** Given the history and contemporary uses of police canines by law enforcement, the question is whether this particular law enforcement tool is unique.

Police canines are considered less than lethal. Law enforcement hopes that the presence of a canine will de-escalate a situation by intimidating the sought individual with the threat of a canine attack. The fear is supposed to make the person submit. If they do not surrender, and occasionally even when they do, law enforcement releases the canine who subdues the individual by biting them.

According to canine handlers, a police canine's bite should not cause serious injury.[34] However, as one report observed, "police videos shows some officers using biting dogs against people who show minimal threat to officers, and a degree of violence that would be unacceptable if inflicted directly by the officers."[35] A police canine's bite causes more damage than a domestic dog bite. According to one study, "Police dog bite victims were usually bitten multiple times…were bitten more often in the head, neck, chest, and flank. They were hospitalized more often, underwent more operations and had more invasive

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[32] California Task Force to Study and Develop Reparations Proposals for African Americans, Interim Report (June 2022) p. 376, 380 <https://oag.ca.gov/system/files/media/ab3121-reparations-interim-report-2022.pdf> [last visited Apr. 4, 2024].

[33] Premkumar et al., Police Use of Force and Misconduct in California, PPIC (Oct. 2021) <https://www.ppic.org/publication/police-use-of-force-and-misconduct-in-california/> [last visited Apr. 4, 2024].

[34] VanSickle et al., *supra*.)

[35] Kaste, *supra*.

diagnostic tests."[36]

Indeed, police canine bites are "strong enough to punch through sheet metal" and have been compared to shark attacks.[37] One article argued that "the police canine needs to be reconceptualized as the physical equivalent of a police baton with spikes three centimeters in length, the approximate length of German Shepherd teeth (i.e., a spiked impact weapon capable of sustained puncturing, compression-pressure, pulling and tearing)."[38] By comparison, for the purpose of DOJ use of force investigations, a deadly weapon includes a billy or blackjack.[39]

Moreover, individuals suspected of a crime are not the only ones injured by police canines. Occasionally, a police canine bites an individual who is not a suspect of a crime.[40] Sometimes, a law enforcement officer is the victim. According to NPR, "In 2016, California's workers compensation system recorded 190 law enforcement officers reporting on-the-job injuries involving police dogs."[41]

7) **Limitations on Use of Force by Law Enforcement:** The legislature has acted to limit the authority of law enforcement to use specific types of force. Following the death of George Floyd in Minneapolis, MN, California banned the use of carotid restraint control holds by law enforcement.[42] According to the DOJ's Use of Force Incident Reporting data, these holds resulted in serious bodily injury or death at similar rates as police canines, and the racial disparities among those who suffered the injuries mirrored those of police canines. For example, of the 60 carotid restraint hold incidents in the year before the ban, 37 were used on people of color.[43]

8) **Argument in Support**: According to the *California Police Chiefs Association*, a co-sponsor of the bill: "CPCA is committed to supporting legislation that ensures law enforcement agencies operate in a manner that prioritizes both public safety and the responsible use of force. Police K9 units have long been valuable tool for law enforcement in executing critical duties such as tracking suspects, detecting narcotics, and ensuring officer safety in dangerous situations. It is essential that their use is governed by clear, up-to-date, and comprehensive policies that reflect best practices and maintain public trust.

   "AB 400 mandates that, by January 1, 2027, every law enforcement agency with a K9 unit must have a policy that complies with POST's most recent standards for the use of K9s. This ensures that agencies adopt uniform, high-quality protocols that protect both the public and law enforcement officers.

   "We understand the critical importance of ensuring that all law enforcement agencies adhere

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[36] https://www.sciencedirect.com/science/article/pii/S1572346106000596.
[37] VanSickle et al., *supra*.
[38] McCauley et al., *The Police Canine Bite: Force, Injury, and Liability*, The Center for Research in Criminology (Nov. 2008) <k9-crc-report-11-08-final-for-pds_1_.pdf (iup.edu)> [last visited Apr. 4, 2024].
[39] Gov. Code, § 12525.3, subd. (a)(1).
[40] VanSickle et al., *supra*.
[41] Kaste, *supra*.
[42] Gov. Code, § 7286.5; AB 96 (Gipson), Chapter 324, Statutes of 2020.
[43] DOJ, Use of Force Incident Reporting (2019) p. 34 <https://data-openjustice.doj.ca.gov/sites/default/files/2022-08/USE OF FORCE 2019.pdf> [last visited Apr. 4, 2024].

to consistent, evidence-based standards that improve public safety while maintaining a commitment to transparency and accountability. By supporting this bill, we believe California will further strengthen its leadership in responsible and professional law enforcement practices."

9) **Argument in Opposition**: According to *Initiate Justice Action*, "Police dogs are currently used in a number of problematic ways. Despite what law enforcement tells us, public records from the last few years show that out of the hundreds of Californians who were disfigured by attack dogs, most were unarmed, about half exhibited signs of mental crisis before the dog was released, and many were suspected only of a minor offense, or no offense at all. In Richmond, police dogs caused 60% of all use of force incidents resulting in great bodily injury or death over a six-year period. Clearly, the Legislature must limit the use of these dogs as it does other severe uses of force by police. Unfortunately, AB 400 is not the answer.

   "Beyond reviving language the Legislature recently rejected, POST's latest guidelines will not solve any issues as they simply repeat the policies most agencies already have in place, including those with proven records of abusively deploying police dogs. For example, every part of Bakersfield Police Department's canine apprehension policy, written by Lexipol, is found in POST's latest guidelines. And these policies have completely failed to stop egregious practices in Bakersfield – 89% of police dog attacks resulting in severe injuries were against Black or Latine residents, a federal DOJ investigation concluded that Bakersfield PD used police dogs "primarily" to "apprehend persons under the influence of drugs and/or alcohol or persons with mental illness," and an alarming 97% of dog deployments ***were not*** to "defend another or self." Instead of requiring substantial reform in light of these facts, AB 400 would give state approval to Bakersfield PD's policy, and the policies of most agencies, as is.

   "Year after year, news articles report police dogs mauling or killing innocent Californians. In addition to the unimaginable human cost, these incidents also lead to million-dollar settlements out of local government budgets. Californians deserve real solutions to this problem. Sadly, AB 400 greatly misses the mark."

10) **Related Legislation**: AB 463 (M. Rodriguez) would authorize a paramedic or emergency medical technician to provide emergency medical care to a police canine injured in the line of duty if no person requires medical attention or transport. AB 463 is pending referral in the Assembly Rules Committee.

11) **Prior Legislation**:

    a) AB 2042 (Jackson) would have required POST to develop guidelines for the use of canines by law enforcement and would have required law enforcement agencies to adopt a policy for the use of canines, as specified. AB 2042 was held in the Senate Appropriations Committee on the Suspense File.

    b) AB 3241 (Pacheco) would have required POST, by July 1, 2026, to study and issue recommendations to the Legislature on the use of canines by law enforcement, and would have required each law enforcement agency with a canine unit to annually publish a report regarding the use of canines on its internet website, as specified. AB 3241 was

ordered to the inactive file in the Senate.

c) AB 742 (Jackson), of the 2023-2024 Legislative Session, would have prohibited the use of canines by peace officers for arrest and apprehension, or in any circumstances to bite a person, but permits their use of canines for search and rescue, explosives detection, and narcotics detection. AB 742 was ordered to the inactive file in the Assembly.

d) AB 1196 (Gibson), Chapter 324, Statutes of 2020, prohibited a law enforcement agency for authorizing the use of a carotid restraint or a choke hold, as defined, and further prohibits techniques or transport methods that involve a substantial risk of positional asphyxia, as defined.

REGISTERED SUPPORT / OPPOSITION:

Support

American Kennel Club, INC.
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of Highway Patrolmen
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Claremont Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
League of California Cities
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association

Oppose

ACLU California Action
All of Us or None Los Angeles
Asian Law Alliance

California Public Defenders Association (CPDA)
Californians United for A Responsible Budget
Communities United for Restorative Youth Justice (CURYJ)
Initiate Justice Action
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
National Police Accountability Project
Sister Warriors Freedom Coalition

Analysis Prepared by: Andrew Ironside / PUB. S. / (916) 319-3744

Date of Hearing: March 11, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 451 (Petrie-Norris) – As Introduced February 6, 2025

SUMMARY: Requires state and local law enforcement agencies to develop and adopt policies and standards pertaining to enforcing firearm relinquishment requirements associated with specified protective and restraining orders. Specifically, **this bill**:

1) Requires municipal police departments and county sheriff's departments, the Department of the California Highway Patrol ("CHP"), and the University of California and California State University Police Departments, on or before January 1, 2027, to develop, adopt, and implement written policies and standards to promote safe, consistent, and effective service, implementation, and enforcement of court protection and restraining orders that include firearm access restrictions, as specified.

2) Specifies that the policies and standards would apply to orders with firearm relinquishment requirements including, but not limited to, civil harassment restraining orders, criminal protective orders, domestic violence restraining orders, emergency protective orders, gun violence restraining orders ("GVROs") , juvenile restraining orders, postsecondary school violence restraining orders, workplace violence restraining orders, and elder or dependent adult abuse restraining orders.

3) Provides that such policies and standards developed must ensure that the agency consistently complies with the requirements of California laws governing service and enforcement of protection and restraining orders and governing relinquishment of firearms by individuals who are armed and subject to those court orders, including new mandates and responsibilities placed on law enforcement agencies, as specified.

4) Provides that in developing these policies and standards, the law enforcement agency shall also review and update existing protocols, policies, or standards pertaining to protection or restraining orders and law enforcement responses to domestic violence incidents to ensure these relevant protocols, policies, and standards are consistent with one another and current law and to ensure that they provide consistent and accessible guidance to law enforcement officers.

5) Requires the policies and standards to instruct officers about:

   a) The array of civil and criminal protection and restraining order options available under California law to law enforcement officers, to victim-survivors, and to other eligible petitioners, as part of a range of potential crisis intervention and safety responses for individuals engaged in violent, abusive, or other dangerous conduct.

   b) The circumstances in which officers are authorized and encouraged to consider requesting emergency protective orders or GVROs, including emergency, temporary, or

final GVROs after a hearing, and about circumstances in which the law enforcement agency may request workplace violence restraining orders to protect employees of the agency.

c) The other civil and criminal protection and restraining orders available to other non-law enforcement petitioners that include provisions restricting a restrained person's access to firearms under California law in order to ensure that officers may effectively advise community members about their safety options, and to ensure that officers effectively coordinate with victims, witnesses, or prosecutors to request criminal protective orders in appropriate cases.

6) Requires the policies and standards to ensure the agency consistently complies with the requirements of California law governing service of protection and restraining orders, as specified. These policies and standards shall do all of the following:

   a) Provide a standard agency process for petitioners who have obtained protection or restraining orders to request that the law enforcement agency provide service of the order against a restrained person who resides in or is located in the agency's jurisdiction.

   b) Provide policies and standards to ensure that the agency effectuates service of orders in a timely manner after receiving requests for service. Agencies are encouraged to develop these policies and standards governing service in coordination with court staff and other regional law enforcement agencies and stakeholders, and are encouraged to develop collaborative processes to identify protection or restraining orders that have not been served prior to a scheduled court date and to ensure that an appropriate agency promptly serves those orders and files proof of completed service forms so that court hearings on protection or restraining orders are not delayed.

   c) Provide policies and standards to ensure that officers who have served protection or restraining orders consistently accomplish all of the following steps as soon as possible and within one business day of serving the order:

      i) Completing the appropriate proof of service form developed by the Judicial Council for the protection or restraining order.

      ii) Filing the proof of service form with the court.

      iii) Ensuring proof of service information is entered into the California Restraining and Protective Order System through the California Law Enforcement Telecommunications System to record that the order has been served on the restrained person.

7) The policies and standards shall ensure that officers effectuate firearm relinquishment at the time of service by requesting, at the time of service, that the restrained person immediately and safely relinquish to the officer's control any firearms, ammunition, body armor, and other prohibited items in the restrained person's possession or control, or subject to the restrained person's possession or control. The policies and standards should ensure officers consistently accomplish the following steps upon serving a protection or restraining order:

a) Notify the restrained person that they are required to immediately transfer all firearms and prohibited items they possess or control to the officer serving the order.

b) Request that the restrained party immediately transfer to the officer, safely and unloaded, any firearms or other prohibited items they possess or control.

c) Conduct a consent search or other lawful search as necessary for the protection of the officer or other individuals present and take custody of any firearms or other prohibited items in plain sight or discovered pursuant to the lawful search.

d) Complete the appropriate proof of firearm relinquishment form developed by the Judicial Council that serves as the receipt to document relinquished firearms and other prohibited items and issue the receipt form to the restrained person.

e) Ensure the Automated Firearms System is updated to record any firearms that the restrained person relinquished to the law enforcement officer.

f) Determine whether the restrained person possesses or controls other firearms that they have not relinquished to the officer. In making such a determination, the officer should be instructed to consider all relevant information, to the extent possible, including by reviewing the protection or restraining order to determine if the court made a finding that the restrained person has firearms, querying the Automated Firearms System to determine whether the restrained person is recorded as having legally acquired firearms in that database, and asking the restrained person or, if it is safe to do so, other persons present.

8) The policies and standards shall additionally do all of the following:

a) Provide a standard agency process for officers to promote firearm relinquishment compliance in circumstances where a restrained person owns, possesses, or controls firearms but credibly indicates that they cannot relinquish all firearms at the time of service, including circumstances where those firearms are stored in another location.

b) This process shall instruct officers to provide accessible local information about how the restrained person can lawfully comply with the court order by relinquishing possession or control of all firearms and other prohibited items, unloaded and in a safe manner, to a local law enforcement agency or to a licensed firearm dealer within 24 hours of being served with the order and by providing the proof of relinquishment compliance receipt form to the court and to the law enforcement agency within 48 hours or being served with the order to verify that the restrained person sold or transferred all firearms and other prohibited items that they possess or control.

c) Instruct officers to inform the restrained person that failure to comply with the above requirements and timelines may result in fines, arrest, and criminal penalties.

d) Require officers to encourage restrained individuals to relinquish any firearms they cannot immediately relinquish to the officer through a designated third party or with law enforcement supervision to reduce the risk that the restrained person will access the firearms or other items to threaten or harm individuals protected by the court order or to otherwise harm themselves or others.

e) Encourage officers to proactively follow up with the restrained person to confirm that the restrained person relinquished all firearms and provided receipt forms verifying relinquishment within the required timeline.

9) The policies and standards shall instruct officers about how to provide accessible information if the restrained person credibly indicates that they do not possess or control firearms that had been associated with the restrained person in the Automated Firearms System, the court order, or other sources. These policies and standards shall instruct officers to inform the restrained person to complete and submit to the court a standard form developed by the Department of Justice ("DOJ") that declares under penalty of perjury that the restrained person is no longer in possession of one or more firearms, along with their response to the protection or restraining order and any other supporting documentation to verify that the restrained person no longer possesses or controls firearms.

10) The policies and standards shall provide a process for the agency, in coordination with court staff and other law enforcement agencies and stakeholders, to proactively identify restrained persons who are illegally armed in violation of the court order and state law.

11) The policies and standards shall instruct officers to take one or more of the following steps, as appropriate for the circumstances, to ensure firearm relinquishment compliance and the safety of any individuals protected by the court order, if the agency receives credible information indicating that the restrained person has not relinquished all firearms or other prohibited items as required:

a) Contact the restrained person to facilitate and verify immediate firearm relinquishment compliance.

b) Take custody of firearms or other prohibited items at a location where there is probable cause to believe those items are located, including through a consent or other lawful search or by requesting a search warrant to search for and seize these items.

c) Notify appropriate partners, such as court clerks, prosecutors, and petitioners or protected parties who may be in danger, that the restrained person has violated the protection or restraining order's firearm relinquishment requirements.

d) Arrest the restrained person for violating the court order and state law.

12) The policies and standards shall provide a standard process for restrained individuals and other community members to safely relinquish firearms to the custody of the agency, and for the agency to store and track relinquished firearms, assess reasonable fees for storage, and return relinquished firearms to the restrained person at the expiration of the order, upon request, if the firearm owner passes a background check verifying that they are the legal owner and are not otherwise prohibited from receiving the firearm.

13) The law enforcement agency shall make the standards and policies developed pursuant to this section available to the public upon request and shall post information on the agency's website about how petitioners may request service of protection or restraining orders by that

agency and how prohibited persons and other community members may relinquish firearms to the custody of the agency.

14) In developing and updating the standards and policies developed pursuant to this section, law enforcement agencies are encouraged to consult and collaborate with domestic violence service providers and survivor advocates, gun violence prevention experts, local court staff, and guidance, technical assistance, or recommendations issued by the DOJ.

EXISTING LAW:

1) Requires each municipal police department and county sheriff's department, CHP, and the University of California and California State University Police Departments to develop, adopt, and implement written policies and standards relating to GVROs, and update such policies and standards as necessary. (Pen. Code, § 18108, subd. (a).)

2) The policies and standards shall:

   a) Instruct officers on the use of GVROs in appropriate situations to prevent future violence involving a firearm and shall encourage the use of de-escalation practices for officer and civilian safety when responding to incidents involving a firearm.

   b) Instruct officers on the types of evidence a court considers in determining whether grounds exist for issuance of a GVRO.

   c) Instruct officers to consider whether a GVRO may be necessary during a response to any residence that is associated with a firearm registration or record, during a response in which a firearm is present, or during a response in which one of the involved parties owns or possesses a firearm, or expressed an intent to acquire a firearm.

   d) Inform officers about the different procedures and protections afforded by different types of firearm-prohibiting emergency protective orders that are available to law enforcement petitioners and provide examples of situations in which each type of emergency protective order is most appropriate.

   e) Instruct officers to consider whether a GVRO may be necessary during a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions, if that person owns or possesses a firearm or expressed an intent to acquire a firearm.

   f) Encourage officers encountering situations in which there is reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm to consider obtaining a mental health evaluation of the person by a medically trained professional or to detain the person for mental health evaluation pursuant to agency policy.

   g) Reflect the policy of the agency to prevent access to firearms by persons who, due to mental health issues, pose a danger to themselves or to others by owning or possessing a firearm.

h) Encourage officers to provide information about mental health referral services during a contact with a person exhibiting mental health issues.

i) Be consistent with any GVRO training administered by the Commission on Peace Officer Standards and Training ("POST"). (Pen. Code, § 18108, subds. (b) & (c).)

j) Include standards and procedures for:

   i) Requesting and serving a temporary emergency GVRO, an ex parte GVRO, a GVRO issued after notice and hearing.

   ii) Seizing firearms and ammunition at the time of issuance of a temporary emergency GVRO.

   iii) Verifying or ensuring the removal of firearms and ammunition from the subject of a GVRO.

   iv) Obtaining and serving a search warrant for firearms and ammunition.

   v) The responsibility of officers to attend GVRO hearings and diligently participate in the evidence presentation process.

   vi) Requesting renewals of expiring GVROs.

   vii) Storing firearms surrendered pursuant to a GVRO.

   viii) Returning firearms upon the termination of a GVRO, including verification that the respondent is not otherwise legally prohibited from possessing firearms.

   ix) Addressing violations of a GVRO. (Pen. Code, § 18108, subd. (c).)

3) Specifies that the aforementioned law enforcement agencies are encouraged to train officers on the standards and procedures. (Pen. Code, § 18108, subd. (e).)

4) Requires POST and each local law enforcement agency to conspicuously post on their internet websites all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public if a request was made pursuant to the California Public Records Act. (Pen. Code, § 13650.)

5) Establishes firearm relinquishment procedures for DVROs, GVROs, civil harassment, workplace violence or postsecondary violence temporary restraining orders and injunctions, elder abuse restraining orders, and protective orders issued during the pendency of criminal proceedings and following specified criminal convictions. (Civ, Pro. Code §§ 527.9, 527.11, 527.12; Fam. Code, §§ 3044, 6389, Pen. Code, §§ 1524, 11108.2, 18120, 18120.5, 25555, 29810, 29830.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California has some of the strongest gun violence prevention laws in the nation, but inconsistent enforcement of firearm relinquishment laws continues to put lives at risk. Under current law, individuals subject to protective orders with firearm restrictions are required to surrender their firearms. However, in practice, enforcement of these orders varies widely from county to county. Some law enforcement agencies diligently ensure firearm relinquishment, while others lack clear policies, creating a dangerous gap in public safety. Survivors of domestic violence, stalking, and workplace harassment deserve the full protection of the law, but when firearm surrender laws are not uniformly enforced, these individuals remain vulnerable to potential harm.

   "In 2023 alone, nearly 290,000 protective orders were issued in California, a 20% increase from 2020. Despite this high volume, some counties account for a disproportionate share of enforcement actions, while others rarely pursue firearm relinquishment at all. This disparity undermines the effectiveness of protective orders and creates an unequal system of justice where an individual's safety depends largely on their geographic location. No one should have to fear for their life simply because their county lacks enforcement policies that others have in place.

   "AB 451 will ensure that all law enforcement agencies in California have standardized, enforceable policies for firearm relinquishment. By requiring firearms to be surrendered within 24 hours and proof of compliance to be submitted within 48 hours, this bill provides clear, actionable guidelines for law enforcement to follow. These policies will help prevent dangerous individuals from retaining access to firearms, reducing the risk of violence in communities across the state.

   "Every Californian deserves to feel safe in their home, workplace, and community. By strengthening and standardizing firearm relinquishment enforcement, AB 451 will close critical gaps in existing law, enhance public safety, and provide equal protection for all individuals, regardless of where they live. I urge my colleagues to support this bill and take a crucial step toward preventing further violence in our state."

2) **Enforcing Firearm Relinquishment Laws:** According to the DOJ Office of Gun Violence Prevention:

   > [O]ver the last few years, there has been a significant increase in the utilization of every type of protection order in California, especially longer-term final protection orders. More survivors of violence and abuse are obtaining long-lasting protections that are vital to preventing gun violence and other harms. Just as declining protection order utilization likely contributed to spikes in gun violence during the height of the COVID-19 pandemic, increased utilization of protection orders since 2020 and 2021 has likely contributed to California's significant recent progress in reducing gun violence.
   >
   > But studies have also shown that lack of awareness and understanding continue to be a barrier to broader access, utilization, and implementation of these processes to

prevent gun violence.[13] Research and stakeholder interviews have also identified a need for more public data about court protection orders across our state.[1]

In 2022, the Legislature strengthened the firearm relinquishment procedures that apply to persons subject to a DVRO.[2] Specifically, legislation required courts provide information about how any firearms or ammunition still in the restrained party's possession are to be relinquished, according to local procedures, and the process for submitting a receipt to the court showing proof of relinquishment. If evidence of relinquishment has not been provided to the court, the court must notify law enforcement, and law enforcement must take all necessary actions to obtain the firearms and ammunition unlawfully in the possession of the restrained person. The law also required that if the court finds at a noticed hearing that the subject of the restraining order has violated the firearms prohibition, the violation shall be reported to the prosecuting attorney within two business days of the court hearing unless the respondent provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court. In 2024, the Legislature sought to promote uniformity of firearm relinquishment procedures by extending the firearm and ammunition relinquishment procedures that exist for purposes of DVROs to other specified protective orders.[3]

3) **Effect of this Bill:** AB 451 seeks to improve enforcement of California's firearm relinquishment laws by establishing uniform procedures for law enforcement agencies to follow when implementing specified protective orders containing firearm prohibitions.

This bill requires such policies and standards to: 1) ensure compliance with California laws governing service and enforcement of California's various protective and restraining orders, and their associated firearm relinquishment requirements; 2) update such policies as necessary; 3) inform officers of the available criminal and civil orders that can be utilized; 3) provide standard processes for petitioners to request that law enforcement agency's provide service of an order; 4) require officers serving orders to complete, within one business day of serving an order, the appropriate service form, file proof of service, and ensure proof of service is entered into California's restraining order system; 5) require officers to effectuate relinquishment at the time of service, including requesting the restrained party to transfer to the officer any firearms or other prohibited items they possess and permitting officers to take custody of any firearms or other items upon serving an order.

Additionally, AB 451 requires such policies to create processes for firearm relinquishment when persons credibly indicate they are unable to relinquish all applicable firearms at the time of service, including giving firearms and other prohibited items to a licensed firearm dealer, or a designated third party. Similarly, the bill outlines procedures for when a restrained person credibly indicates they do not possess or control the firearms at issue. Additionally, the bill requires officers to proactively identify restrained persons who are illegally armed.

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[1] DOJ: Office of Gun Violence Prevention, *Pathways to Safety: California's Nine Court Protection Orders to Prevent Gun Violence* (June 2024), at p. 9, available at: https://oag.ca.gov/system/files/media/ogvp-restraining-order-report-062024.pdf
[2] SB 320 (Eggman), Ch. 685, Stats. 2021.
[3] SB 899 (Skinner), Chapter 544, Statutes of 2024.

Finally such policies and procedures shall instruct officers, upon receiving credible information that a person has not relinquished all firearms or other prohibited items as required, to take one or more of the following steps: 1) contact the person to verify compliance; 2) take custody of the firearms or other prohibited items at a location where there is probable cause to believe those items are located; 3) notify appropriate partners, such as court clerks, prosecutors, and petitioners or protected parties who may be in danger, that the restrained person has violated the protection or restraining order's firearm relinquishment requirements; and 4) arrest the restrained person for violating the court order and state law.

While this bill reasonably seeks to promote uniformity of firearm relinquishment procedures that author may wish to clarify certain portions of the bill. First, the bill repeatedly refers to relinquishment of firearms and "other prohibited items." The author may wish to specify what this means so that the bill does not broadly authorize seizure of items otherwise prohibited by law. Second, law enforcement agencies are already required to adopt policies and standards relating to implementing GVROs, which includes similar provisions pertaining to service of such orders and relinquishment requirements (Pen. Code, § 18108, subd. (a).) The author may wish to consider how this separate requirement interacts with this bill to avoid redundancy. Some additional questions include: 1) what does it mean for a person to "credibly indicate" they cannot relinquish a firearm? 2) What entities constitute "designated third parties" for purposes of who a restrained individual can surrender firearms to? 3) What does it mean for "other community members" to relinquish firearms on behalf of a prohibited person? 4) Would it be more feasible for POST to develop model policies to be adopted by local law enforcement agencies?

4) **Argument in Support**: According to *Giffords*, "The bill will improve the implementation of protective orders by requiring all California law enforcement agencies to establish standardized protocols for the timely service and enforcement of restraining orders that include firearm restrictions.

"California has a robust array of protective orders that carry firearm prohibitions, including Domestic Violence Restraining Orders, Civil Harassment Protective Orders, and Gun Violence Restraining Orders, among others. They play a crucial role in preventing violence and protecting individuals at risk. In 2023, nearly 290,000 protective orders were reported to the California Department of Justice, a 20% increase over 2020.

"Successful implementation of these life-saving tools requires coordination between the courts issuing the order, the California Department of Justice, which registers the order, and, often, local law enforcement to enforce and serve the order. Unfortunately, although the law requires prohibited persons to relinquish their firearms within 24 hours of being served a protective order, there is often a delay.

"In 2022, GIFFORDS advocated for and the Legislature appropriated $40 million in one-time funding to the Judicial Council to support court-based firearm relinquishment programs to decrease these delays. While there has been considerable improvement, Los Angeles cases took an average of 49.5 days after the court order to relinquish firearms, Orange County cases took an average of 14.5 days, and San Diego cases took an average of 0.14 days.

"The inconsistent application of restraining orders across different parts of the state results in varying degrees of protection depending on where you live. By pushing law enforcement to

establish clear, uniform protocols for service of all nine of California's protective orders, **AB 451 will address critical enforcement gaps and enhance public safety.** Standardized policies across protective orders and increased collaboration between the courts and law enforcement will ensure that protective orders are served promptly, firearms are relinquished in a timely fashion, and law enforcement officers have the necessary training to carry out their duties effectively."

5) **Argument in Opposition**: None submitted.

6) **Related Legislation**:

   a) AB 824 (Stefani), makes clarifying and conforming changes to the procedures relating to the protective or restraining orders described above by explicitly requiring the restrained person to relinquish, in addition to any firearm, any ammunition in that person's immediate possession or control.

   b) AB 1078 (Berman), require the review of the California Restraining and Protective Order System to include information concerning whether the applicant is reasonably likely to be a danger to self, others, or the community at large, as specified.

7) **Prior Legislation:**

   a) SB 899 (Skinner), Chapter 544, Statutes of 2024, extends firearm and ammunition relinquishment procedures that exist for purposes of domestic violence restraining orders to other specified protective orders.

   b) AB 2759, Chapter 535, Statutes of 2024, revises the exemption in existing law pertaining to the issuance of a protective order or restraining order and the relinquishment of a firearm to clarify and expand the standard considered by the court in making determinations as to sown peace officers carrying a firearm either on or off duty, as a condition of employment.

   c) AB 36 (Gabriel) of the 2023-2024 Legislative Session, would have prohibited a person from possessing, purchasing, or receiving a firearm within three years of the expiration of a protective order issued against the person. AB 36 died in the Assembly Appropriations Committee.

   d) AB 3083 (Lackey, Chapter 541, Statutes of 2024, requires that a court conduct a search, or cause a search to be conducted, to determine whether the subject of a proposed order under the Domestic Violence Prevention Act (DVPA) owns or possesses a firearm as reflected in the DOJ Automated Firearms System; this provision replaces a search requirement that is conditioned on whether the court has funds for the search, as specified.

   e) AB 2822 (Gabriel), Chapter 536, Statutes of 2024, requires a law enforcement officer to make a notation in a domestic violence incident report if they remove a firearm or other deadly weapon.

f) SB 320 (Eggman), Chapter 685, Statutes of 2021, codifies existing Rules of Court related to the relinquishment of a firearm by a person subject to a civil domestic violence restraining order and requires the courts to notify law enforcement and the county prosecutor's office when there has been a violation of a firearm relinquishment order.

g) AB 339 (Irwin), Chapter 727, Statutes of 2019, requires each municipal police department, county sheriff's department, the Department of California Highway Patrol, and the University of California and California State University Police Departments to develop and adopt written policies and standards regarding the use of GVROs on or before January 1, 2021.

REGISTERED SUPPORT / OPPOSITION:

Support
Giffords Law Center to Prevent Gun Violence (sponsor)
California District Attorneys Association
Legislative Coalition to Prevent Child Abuse
Messaging for Success

Opposition
None submitted

Analysis Prepared by: Ilan Zur / PUB. S. / (916) 319-3744

Date of Hearing: March 11, 2025
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 464 (Aguiar-Curry) – As Introduced February 6, 2025

As Proposed to be Amended in Committee

SUMMARY: Requires the California Department of Corrections and Retaliation (CDCR) to monitor an incarcerated person who is reported to have suffered sexual assault for 90 days following the report of sexual assault, and require CDCR to report that allegation to the Office of Internal Affairs. Specifically, **this bill**:

1) Requires CDCR, for 90 days following the date of a report of an allegation of sexual assault brought on behalf of an incarcerated person against a staff member, to monitor the incarcerated person who is reported to have suffered the sexual assault and, if they are different, the person who made the report for possible retaliation.

2) Requires CDCR to report an allegation of sexual assault to the CDCR's Office of Internal Affairs.

3) Requires CDCR, at the request of an incarcerated person who is reported to have suffered a sexual assault, to notify an immediate family member of the incarcerated person regarding the report of sexual assault within 24 hours of the request.

4) Requires CDCR, unless requested by the incarcerated person not to do so, to notify an immediate family member of an incarcerated person who is reported to have suffered a sexual assault within 48 hours regarding any update or progress on the investigation into the allegations of sexual assault.

5) Requires CDCR, at the request of an incarcerated person who is reported to have suffered a sexual assault, to notify within 48 hours of the request a rape crisis center, community-based organization, or an attorney, or any combination thereof, of the incarcerated person's choosing, regarding the report of sexual assault.

6) Prohibits an incarcerated person who is reported to have suffered a sexual assault by a staff member at a CDCR facility from being transferred to another facility without their written consent, unless their safety would be at risk.

7) Provides that a CDCR employee confirmed to have sexually abused an incarcerated person is prohibited from future employment with CDCR.

8) Defines "department" as the Department of Corrections and Rehabilitation.

9) Defines "immediate family member" as a spouse, domestic partner, parent, guardian, grandparent, aunt, uncle, brother, sister, children or grandchildren who are related by blood,

marriage, or adoption.

10) Defines "incarcerated person" as any individual who is in the custody of the department.

11) Defines "staff member" as any employee or agent of the department, including, but not limited to, a correctional peace officer, as specified.

12) Defines "sexual assault" as specified sex crimes, including sexual battery, rape, sodomy, and oral copulation, assault with the intent to commit any of those crimes, or an attempt to commit any of those crimes.

13) Provides that an action for sexual assault brought against a public entity or public employee by a person who is imprisoned on a criminal charge, or in execution under the sentence of a criminal court, shall be tolled during the period of imprisonment and until four years after the release from actual custody.

14) Contains a severability clause.

EXISTING LAW:

1) Requires CDCR to ensure that the following procedures are performed in an investigation and prosecution of sexual abuse incidents:

    a) The provision of safe housing options, medical care, and the like shall not be contingent upon the victim's willingness to press charges.

    b) Investigations into allegations of sexual abuse shall include, when deemed appropriate by the investigating agency, the use of forensic rape kits, questioning of suspects and witnesses, and gathering of other relevant evidence.

    c) Physical and testimonial evidence shall be carefully preserved for use in any future proceedings.

    d) Staff attitudes that incarcerated persons and wards cannot provide reliable information shall be discouraged.

    e) If an investigation confirms that an employee has sexually abused an incarcerated person or ward, that employee shall be terminated. Administrators shall report criminal sexual abuse by staff to law enforcement authorities.

    f) The above provision only apply to nonconsensual sexual contact among incarcerated persons and custodial sexual misconduct. (Pen. Code, § 2639, subds. (a)-(f).)

2) Charges the Office of the Inspector General with contemporaneous public oversight of the CDCR investigations and staff grievance inquiries conducted by the CDCR's Office of Internal Affairs. (Pen. Code, § 6133, subd. (a)(1).)

3) Requires the OIG, to facilitate oversight of CDCR's internal affairs investigations, to have staff physically co-located with the CDCR's Office of Internal Affairs, within a reasonable

timeframe and without undue delays. (Pen. Code, § 6133, subd. (a)(2).)

4) Requires the OIG to be responsible for advising the public regarding the adequacy of each investigation and whether discipline of the subject of the investigation is warranted. (Pen. Code, § 6133, subd. (a)(3).)

5) Requires the OIG to have discretion to provide public oversight of other CDCR personnel investigations, as needed. (Pen. Code, § 6133, subd. (a)(4).)

6) Requires the OIG to have investigatory authority over all staff misconduct cases that involve sexual misconduct with an incarcerated person. (Pen. Code, § 6133, subd. (a)(5).)

7) Authorizes OIG to monitor and investigate a complaint that involves sexual misconduct with an incarcerated person. (Pen. Code, § 6133, subd. (a)(6).)

8) Authorizes OIG to exercise its investigatory authority in both of the following situations:

   a) Into a complaint that involves sexual misconduct that CDCR has not opened for investigation.

   b) During an investigation being performed CDCR, if the OIG determines that CDCR is not performing an adequate investigation, the OIG may perform the supplemental investigative measures it deems necessary to ensure the investigation is performed adequately. (Pen. Code, § 6133, subd. (a)(7)(A)(i)-(ii).)

9) Prohibits the OIG from exercising its investigative authority in a manner that duplicates investigative efforts or interferes with an ongoing investigation being performed by CDCR. (Pen. Code, § 6133, subd. (a)(7)(B).)

10) Requires OIG, upon completion of an investigation, to compile an investigation report and provide a copy of the report, together with all underlying evidence gathered during the investigation, to the appropriate hiring authority within CDCR. (Pen. Code, § 6133, subd. (a)(8)(A).)

11) Requires OIG to monitor the actions the hiring authority takes after receiving the investigation report and report the results of its monitoring, as specified. (Pen. Code, § 6133, subd. (a)(8)(B).)

12) Requires OIG to issue regular reports, no less than annually, to the Governor and the Legislature summarizing its recommendations concerning its oversight of CDCR allegations of internal misconduct and use of force.

13) Requires OIG to issue regular reports, no less than semiannually, summarizing its oversight of Office of Internal Affairs investigations, as specified. (Pen. Code, § 6133, subd. (b)(1)(A)-(E).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California's Department of Corrections and Rehabilitation (CDCR) has a zero tolerance policy on sexual assault and harassment within state prisons. Yet despite the enactment of the Prison Rape Elimination Act over 20 years ago, sexual assault has not been eliminated in CDCR facilities. AB 464 aims to increase accountability for sexual abuse within California's prison system by ensuring that survivors have the ability to seek justice and that abusive correctional staff cannot continue working within the system. The bill extends the statute of limitations, allowing survivors up to four years after their release to file claims, recognizing that many individuals need time to process their trauma before pursuing legal action. It also strengthens monitoring and oversight to prevent retaliation against those who report abuse. Given the widespread and ongoing nature of sexual abuse in California prisons, this bill is essential for breaking the cycle of abuse, ensuring justice for survivors, and fostering a safer prison environment."

2) **OIG's Monitoring of CDCR**: The OIG is an independent office that provides oversight of CDCR's internal affairs investigations and the disciplinary process as well as oversight of grievances that fall within CDCR's process for reviewing and investigating allegations of staff misconduct. Current law requires the OIG to determine the adequacy of each investigation and whether discipline of the subject of the investigation is warranted. The OIG is statutorily required to issue regular reports, no less than annually, to the Governor and the Legislature summarizing its recommendations concerning its oversight of CDCR allegations of internal misconduct and use of force, and regular reports, no less than semiannually, summarizing its oversight of OIA investigations. All reports are required to be posted on the IG's website and otherwise made publicly available.

   California's prisons—and the women's prisons in particular—have been plagued with allegations of staff sexual assault and sexual misconduct for years.[1] Last year, 130 individuals formerly incarcerated at the California Institution for Women (CIW) and Central California Women's Facility (CCWF) filed a lawsuit against CDCR and 30 current and former correctional officers alleging that they were sexually abused while in prison. The lawsuit alleges the sexual abuse occurred throughout the prisons, including in cells, closets, and storage rooms, and alleges a variety of sexual abuse, including groping, forced oral copulation, and rape. In 2023, a former correctional officer at CCWF was arrested for sexually assaulting 13 incarcerated individuals over nine years and was charged with 96 counts of rape, sodomy, sexual battery, and rape under color of authority.[2]

3) **Prison Rape Elimination Act (PREA):** PREA was passed by Congress in 2003. It applies to all correctional facilities, including prisons, jails, and juvenile facilities. Among the many stated purposes for PREA are to establish a zero-tolerance standard for the incidence of <u>prison rape</u> in prisons in the United States; to develop and implement national standards for the detection, prevention, reduction, and punishment of <u>prison rape</u>; to increase the available

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[1] See Richard Winton, *"'Every woman's worst nightmare': Lawsuit alleges widespread sexual abuse at California prisons for women,"* located at (Jan. 18, 2024) available at <https://www.latimes.com/california/story/2024-01-18/every-womans-worst-nightmare-lawsuit-alleges-widespread-sexual-abuse-at-californias-womens-prisons.)

[2] Jeremy Childs, *"Ex-corrections officer accused of raping 13 inmates in California women's prison"* (May 25, 2023) available at <https://www.latimes.com/california/story/2023-05-25/ex-corrections-officer-accused-of-raping-inmates-at-california-womens-prison)

data and information on the incidence of prison rape to improve the management and administration of correctional facilities; and to increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape.[3] PREA also created the National Prison Rape Elimination Commission and charged it with developing standards for the elimination of prison rape.

The PREA standards developed by the National Prison Rape Elimination Commission were issued as a final rule by the U.S. Department of Justice in 2012.[4] Among other things, the standards require each agency and facility to designate a PREA point person to coordinate compliance efforts; develop and document a staffing plan, taking into account a set of specified factors, that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse; and train staff on key topics related to preventing, detecting, and responding to sexual abuse. In addition, the standards provide requirements regarding the avenues for reporting sexual abuse, investigation of sexual abuse, and access to medical and mental health care for inmate victims of sexual abuse.

This bill would codify an existing PREA standard that requires monitoring for retaliation of the person who reported sexual assault and the incarcerated person alleged to have suffered sexual assault for at least 90 days follow a report of sexual abuse.[5] The standards also provide, "Items the agency should monitor include any inmate disciplinary reports, housing, or program changes, or negative performance review or reassignments of staff."[6] It also provides for continued monitoring beyond 90 days, if necessary.[7]

4) **CDCR PREA Policy:** AB 550 (Goldberg, Chapter 303, Statutes of 2005) established the Sexual Abuse in Detention Elimination Act. The Act requires CDCR to adopt specified policies, practices, and protocols related to the placement of inmates, physical and mental health care of inmate victims, and investigation of sexual abuse. CDCR's PREA policy provides guidelines for the prevention, detection, response, investigation, and tracking of sexual violence, staff sexual misconduct, and sexual harassment against CDCR inmates.[8] The policy applies to all offenders and persons employed by CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole.

5) **Argument in Support**: According to *Smart Justice*, "Despite efforts taken at the state and federal levels, staff sexual misconduct remains a persistent problem within CDCR facilities. Numerous reports and studies have shown high rates of sexual abuse by correctional staff. In September 2024, the Department of Justice launched an investigation at the two prisons in California that hold female inmates to determine whether CDCR has complied with its constitutional obligations to protect the people in their custody from sexual misconduct by staff.

"AB 464 will increase monitoring for retaliation for 90 days following a report of staff sexual

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[3] 34 U.S.C. § 30301 et seq. (previously classified as 42 U.S.C. § 15601 et seq.)
[4] 77 F.R.D. 37106.
[5] PREA Standards, § 115.67, Prisons and Jails, subdivision (c).
[6] *Ibid.*
[7] *Ibid.*
[8] DOM §§ 5404.1-5404.22.

misconduct, extend the civil statute of limitations for survivors to four years following their release, ensure that any staff who is confirmed to have committed sexual abuse of an incarcerated person cannot be re-employed by CDCR after their termination, and ensure that survivors have adequate access to community support and oversight against retaliation following a report of sexual abuse."

6) **Related Legislation**: AB 701 (Ortega) would require DOJ, in collaboration with CDCR and BSCC, to conduct a study on the use of solitary confinement within all detention facilities in California. AB 701 is pending hearing in this committee.

7) **Prior Legislation**:

   a) SB 1069 (Menjivar), Chapter 1012, Statutes of 2024, granted the Office of Inspector General (OIG) investigatory authority over all staff misconduct cases that involve sexual misconduct with an incarcerated person, and authorized the OIG to monitor and investigate a complaint that involves sexual misconduct with an incarcerated person.

   b) AB 102 (Ting), Chapter 38, Statutes of 2023, established "a sexual assault response and prevention working group and ambassador program" and allocated funds to CDCR as well as the Sister Warriors Freedom Coalition to support the working group in identifying best practices for whistleblower protections and trauma-informed care and support to survivors.

   c) AB 1039 (Rodriguez) of the 2023-2024 Legislative Session, would have expanded the definition of the type sexual touching that, when done by an employee or agent of a public entity detention or health facility with a consenting adult who is confined in the facility, qualifies as criminal sexual activity, and increased the penalty for this type of criminal sexual touching from a misdemeanor to an alternative felony-misdemeanor. AB 1039 was held in suspense in the Assembly Appropriations Committee.

   d) AB 1455 (Wicks), Chapter 595, Statutes of 2021, revives otherwise time-barred claims arising out of an alleged sexual assault by a law enforcement officer, modifies the statute of limitations claims arising out of an alleged sexual assault by law enforcement officer, and exempts such claims from all state and local government claim presentation requirements.

   e) SB 990 (Wiener), of the 2017-2018 Legislative Session, would have required CDCR to consider sexual orientation and gender identity when classifying inmates in order to prevent sexual violence. SB 990 was held in suspense in the Assembly Appropriations Committee.

   f) AB 550 (Goldberg), Chapter 303, Statutes of 2005, established the Sexual Abuse in Detention Elimination Act, which requires CDCR to adopt specified policies, practices, and protocols related to the placement of inmates, physical and mental health care of inmate victims, and investigation of sexual abuse

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
All of Us or None (HQ)
Alliance for Boys and Men of Color
California Coalition for Women Prisoners
California Public Defenders Association (CPDA)
Californians for Safety and Justice (CSJ)
Californians United for A Responsible Budget
Courage California
Ella Baker Center for Human Rights
Grip Training Institute
Initiate Justice
Initiate Justice Action
Justice First
LA Defensa
Legal Services for Prisoners With Children
Ryse Center
San Francisco Public Defender
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
Survived & Punished
The Place4grace
Transformative Programming Works
Uncommon Law
Valor US
Youth Empowerments Finest

Opposition

None Submitted.

Analysis Prepared by: Andrew Ironside / PUB. S. / (916) 319-3744

Amended Mock-up for 2025-2026 AB-464 (Aguiar-Curry (A))

Mock-up based on Version Number 99 - Introduced 2/6/25
Submitted by: Staff Name, Office Name

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 352.1 of the Code of Civil Procedure is amended to read:

352.1. (a) If a person entitled to bring an action, mentioned in Chapter 3 (commencing with Section 335), is, at the time the cause of action accrued, imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than for life, the time of that disability is not a part of the time limited for the commencement of the action, not to exceed two years.

(b) Subdivision (a) does not apply to an action against a public entity or public employee upon a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) or Chapter 2 (commencing with Section 910) of Part 3, or Chapter 3 (commencing with Section 950) of Part 4, of Division 3.6 of Title 1 of the Government Code. This subdivision shall not apply to any claim presented to a public entity prior to January 1, 1971.

(c) This section does not apply to an action, other than an action to recover damages or that portion of an action that is for the recovery of damages, relating to the conditions of confinement, including an action brought by that person pursuant to Section 1983 of Title 42 of the United States Code.

(d) Notwithstanding any other law, an action for sexual assault brought against a public entity or public employee by a person who is imprisoned on a criminal charge, or in execution under the sentence of a criminal court, shall be tolled during the period of imprisonment and until four years after the release from actual custody.

SEC. 2. Section 2639 of the Penal Code is amended to read:

2639. The Department of Corrections and Rehabilitation shall ensure that the following procedures are performed in the investigation and prosecution of sexual abuse incidents:

(a) The provision of safe housing options, medical care, and the like shall not be contingent upon the victim's willingness to press charges.

(b) Investigations into allegations of sexual abuse shall include, when deemed appropriate by the investigating agency, the use of forensic rape kits, questioning of suspects and witnesses, and gathering of other relevant evidence.

(c) Physical and testimonial evidence shall be carefully preserved for use in any future proceedings.

(d) Staff attitudes that incarcerated persons and wards cannot provide reliable information shall be discouraged.

(e) If an investigation confirms that any employee has sexually abused an incarcerated person or ward, that employee shall be terminated and shall be prohibited from future employment with the department. Administrators shall report criminal sexual abuse by staff to law enforcement authorities.

(f) Consensual sodomy and oral copulation among incarcerated persons is prohibited by subdivision (e) of Section 286 and subdivision (e) of Section 287 or former Section 288a, respectively. Without repealing those provisions, the increased scrutiny provided by this article shall apply only to nonconsensual sexual contact among incarcerated persons and custodial sexual misconduct.

SEC. 3. Article 4 (commencing with Section 2646) is added to Chapter 3 of Title 1 of Part 3 of the Penal Code, to read:

Article 4. Prevent Sexual Assault and Retaliation in Prisons Act

2646. The following definitions shall apply to this article:

(a) "Department" means the Department of Corrections and Rehabilitation.

(b) "Immediate family member" means spouse, domestic partner, parent, guardian, grandparent, aunt, uncle, brother, sister, children or grandchildren who are related by blood, marriage, or adoption.

~~(b)~~ **(c)** "Incarcerated person" means any individual who is in the custody of the department.

~~(c)~~ **(d)** "Staff member" means any employee or agent of the department, including, but not limited to, a correctional peace officer subject to Title 4.5 (commencing with Section 13600) of Part 4.

~~(d) "Sexual assault" means sexual abuse or any form of sexual violence.~~ **(e) "Sexual assault" means any of the crimes described in Section 243.4, 261, 264.1, 286, 287, or 289, or former Section 288a, assault with the intent to commit any of those crimes, or an attempt to commit any of those crimes.**

2646.2. (a) For 90 days following the date of a report of an allegation of sexual assault brought on behalf of an incarcerated person against a staff member, the department shall monitor the

incarcerated person who is reported to have suffered the sexual assault, and if they are different, the person who made the report, for possible retaliation.

(b) The department shall report an allegation of sexual assault to the department's Office of Internal Affairs.

2646.4. (a) At the request of an incarcerated person who is reported to have suffered a sexual assault, the department shall, within 24 hours of the request, notify ~~the~~ **an immediate family member** of incarcerated person's regarding the report of sexual assault.

(b) Unless requested by the incarcerated person not to do so, the department shall notify ~~the~~ **an immediate family member** of an incarcerated person who is reported to have suffered a sexual assault within 48 hours regarding any update or progress on the investigation into the allegations of sexual assault.

(c) At the request of an incarcerated person who is reported to have suffered a sexual assault, the department shall, within 48 hours of the request, notify a rape crisis center, community-based organization, or an attorney, or any combination thereof, of the incarcerated person's choosing, regarding the report of sexual assault.

2646.6. (a) Notwithstanding any other law, an incarcerated person who is reported to have suffered a sexual assault by a staff member at a department facility shall not be transferred to another facility without their written consent.

(b) This section shall not apply if the safety of the incarcerated person would be at risk.

2646.8. The provisions of this article are severable. If any provision of this article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.