California State Assembly

PUBLIC SAFETY

NICK SCHULTZ
CHAIR

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AGENDA

Tuesday, April 8, 2025
8:30 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

1.	AB 354	Michelle Rodriguez	Commission on Peace Officer Standards and Training.
2.	AB 468	Gabriel	Crimes: looting.
3.	AB 622	Kalra	Parole: minimum eligible date.
4.	AB 651	Bryan	Juveniles: dependency: incarcerated parent.
5.	AB 923	Quirk-Silva	Detention and incarceration of pregnant and postpartum defendants.
6.	AB 1006	Ramos	Firearms: concealed carry.
7.	AB 1011	Hoover	Crimes: child neglect: serious felony.
8.	AB 1019	Flora	Enhancing Law Enforcement Activities Subaccount: identification of unidentified human remains.
9.	AB 1078	Berman	Firearms.
10.	AB 1100	Sharp-Collins	Victim compensation.
11.	AB 1108	Hart	County officers: coroners: officer-involved deaths.
12.	AB 1118	Chen	Criminal procedure: search warrants.
13.	AB 1127	Gabriel	Firearms: converter pistols.
14.	AB 1134	Bains	Coerced marriage.
15.	AB 1140	Connolly	Single-Occupancy Cell Pilot Program.
16.	AB 1144	McKinnor	Prisons: elderly employment.
17.	AB 1160	Wilson	Military equipment.
18.	AB 1187	Celeste Rodriguez	Firearms: safety certificates.
19.	AB 1195	Quirk-Silva	Juveniles: incarcerated parent: visitation.
20.	AB 1210	Lackey	Postrelease community supervision.
21.	AB 1213	Stefani	Restitution: priority.
22.	AB 1231	Elhawary	Criminal procedure: felony diversion.
23.	AB 1258	Kalra	Deferred entry of judgment pilot program.
24.	AB 1263	Gipson	Firearms: ghost guns.
25.	AB 1269	Bryan	County and city jails: incarcerated person contacts.

26.	AB 1279	Sharp-Collins	Criminal procedure: sentencing.
27.	AB 1344	Irwin	Restrictions on firearm possession: pilot project.
28.	AB 1387	Quirk-Silva	Mental health multidisciplinary personnel team.
29.	AB 1424	Celeste Rodriguez	Corrections.
30.	AB 1488	Flora	Self-defense.

MOTION FOR RECONSIDERATION

31.	AB 1092	Castillo	Firearms: concealed carry licenses.

Date of Hearing: April 8, 2025
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 354 (Michelle Rodriguez) – As Amended March 24, 2025

SUMMARY: Authorizes the Commission on Peace Officer Standards and Training (POST) to access information derived from the California Law Enforcement Telecommunications System (CLETS) if POST determines that the information is needed in the course of the commission's duties related to investigating peace officer misconduct and an agency's compliance with regulatory requirements. Specifically, **this bill**:

1) States, notwithstanding any other law, that POST or other persons whose duties require access, may inspect or duplicate any information derived from CLETS when POST deems the information necessary to fulfill its duties.

2) States, notwithstanding any other law, that POST is authorized to inspect and duplicate any criminal history information, criminal offender record information, or criminal justice information, including information contained in or derived from CLETS, or any other sensitive, confidential or privileged information if POST determines that the information is needed in the course of the commission's duties.

3) Provides that it is the intent of the Legislature to recognize that POST is considered a criminal justice agency, as defined in existing law, and may have access to information derived from criminal justice databases.

4) Requires POST employees, prospective employees, appointees, volunteers, contractors, and subcontractors, whose job duties require access to criminal offender record information, state summary criminal history information, or information obtained from CLETS, to undergo a fingerprint-based state and national criminal history background check.

5) States that POST shall submit to the Department of Justice (DOJ) fingerprint images and related information for individuals whose duties require access to the above information and requires DOJ to provide a state or federal level response.

6) States that the Peace Officer Standards Accountability Division of POST shall have authority to inspect or duplicate any criminal history information, criminal offender record information, or criminal justice information, including information contained in or derived from CLETS and any other information that would otherwise be confidential, privileged, or subject to any other restriction on disclosure when that information is included as part of an investigation involving a matter within POST's jurisdiction.

7) Grants authority to POST to inspect or duplicate any criminal history information, criminal offender record information, or criminal justice information, including information contained in or derived from CLETS, or any other information that would otherwise be confidential,

privileged, or subject to any other restriction on disclosure, when that information is included as part of an investigation involving peace officer misconduct.

EXISTING LAW:

1) Establishes POST within DOJ, to consist of 15 members appointed by the Governor, after consultation with, and with the advice of, the Attorney General and with the advice and consent of the Senate. (Pen. Code § 13500.)

2) Authorizes POST to suspend or revoke the certification of a peace officer if the person has been terminated for cause from employment as a peace officer for, or has, while employed as a peace officer, otherwise engaged in, any serious misconduct, as described.. (Pen. Code, § 13510.8, subd. (a)(2).)

3) Requires POST to adopt by regulation a definition of "serious misconduct" that shall serve as the criteria for consideration for ineligibility for, or revocation of, certification of a peace officer. The definition shall include all of the following:

   a) Dishonestly relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for purposes of concealing misconduct;

   b) Abuse of power, including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.

   c) Physical abuse, including, but not limited to, the excessive or unreasonable use of force;

   d) Sexual assault;

   e) Demonstrating bias on the basis of race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner. This paragraph does not limit an employee's rights under the First Amendment to the United States Constitution;

   f) Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by POST;

   g) Participation in a law enforcement gang;

   h) Failure to cooperate with an investigation into potential police misconduct; and,

   i) Failure to interceded when present and observing another officer using force that is clearly beyond what is necessary, as determined by an objectively reasonable officer

under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject. (Pen. Code, § 13510.8, subd. (b).)

4) Establishes within POST a Peace Officer Standards Accountability Division whose primary responsibility is to review investigations conducted by law enforcement agencies or any other investigative authority and to conduct additional investigations, as necessary, into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification, present findings and recommendations to the board and commission, and bring proceedings seeking the suspension or revocation of certification of peace officers as directed by the Peace Officer Standards Accountability Advisory Board and POST. (Pen. Code, §13509.5.)

5) Requires the division within POST to promptly review any grounds for decertification received from an agency and grants the division the authority to review any agency or other investigative authority file, as well as conduct additional investigation, if necessary. (Pen. Code, § 13510.8, subd. (c)(1)(2).)

6) Requires law enforcement agencies to report to POST within 10 days any of the following information:

   a) The employment, appointment, or termination or separation from employment or appointment, by that agency, of any peace officer. Separation from employment or appointment includes any involuntary termination, resignation, or retirement;

   b) Any complaint, charge, or allegation of conduct against a peace officer employed by that agency that could render a peace officer subject to suspension or revocation of certification by POST;

   c) Any finding or recommendation by a civilian oversight entity, including a civilian review board, civilian police commission, police chief, or civilian inspector general, that a peace officer employed by that agency engaged in conduct that could render a peace officer subject to suspension or revocation of certification by POST;

   d) The final disposition of any investigation that determines a peace officer engaged in conduct that could render a peace officer subject to suspension or revocation of certification by POST, regardless of the discipline imposed; and,

   e) Any civil judgment or court finding against a peace officer based on conduct, or settlement of a civil claim against a peace officer or an agency based on allegations of officer conduct that could render a peace officer subject to suspension or revocation of certification by POST. (Pen. Code, § 13510.9, subd. (a).)

7) Requires an agency employing peace officers to make available for inspection or duplication by POST any investigation into matter reported pursuant to the above. (Pen. Code, § 13510.9, subd. (c).)

8) Requires DOJ to maintain state summary criminal history information, as defined, and to furnish this information to various state and local government officers, officials, and other

prescribed entities, if needed in the course of their duties. (Pen. Code, §11105, subds. (a)-(b).)

9) Defines "state summary criminal history information" to mean the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, sentencing information, and similar data about the person. (Pen. Code, §11105, subds. (a)(2)(A).)

10) States that DOJ shall maintain CLETS, a statewide telecommunications system for the use of law enforcement agencies. (Gov. Code, § 15152.)

11) States that CLETS shall be used exclusively for the official business of the state, and the official business of any city, county, city and county, or other public agency. (Gov. Code, § 15153.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "As the author of AB 354, I believe strongly in the need for meaningful accountability within law enforcement — not only to protect public trust, but to ensure the highest professional standards are upheld by those sworn to serve our communities. This bill is about strengthening California's ability to decertify peace officers who engage in serious misconduct. Decertification is one of the most critical tools we have to ensure that officers who abuse their authority — whether through excessive force, dishonesty, bias, or participation in law enforcement gangs — are held accountable and removed from positions of public trust. With this access, POST can more effectively investigate allegations of misconduct and make timely, informed decisions about an officer's eligibility to serve. AB 354 ensures that accountability follows misconduct — not just within an agency, but across the state. This bill reflects our commitment to responsible policing, transparency, and public safety. I am proud to carry this legislation and look forward to working with my colleagues, community stakeholders, and law enforcement partners to see it through."

2) **Summary Criminal History Information**: State summary criminal history information is the master record of information compiled by DOJ pertaining to the identification and criminal history of any person. This information includes name, date of birth, physical description, fingerprints, photographs, arrests, dispositions and similar data. (Pen. Code, § 11105, subd. (a).) Access to person's summary criminal history information is generally prohibited and only allowed to be disseminated if specifically authorized in statute. "The state constitutional right of privacy extends to protect defendants from unauthorized disclosure of criminal history records. [Citation.] These records are compiled without the consent of the subjects and disseminated without their knowledge. Therefore, custodians of the records, have a duty to 'resist attempts at unauthorized disclosure and the person who is the subject of the record is entitled to expect that his right will be thus asserted.'" (*Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, 165-66.)

DOJ is tasked with maintaining state summary criminal history information and requires the Attorney General to furnish state summary criminal history information only to statutorily authorized entities or individuals for employment, licensing, volunteering etc. (Pen. Code, § 11105.) In addition to the specified entities authorized to receive state summary criminal history information, DOJ may furnish state summary criminal history information to other specified employers upon a showing of compelling need for the information and to any person or entity when they are required by statute to conduct a criminal to comply with requirements or exclusions expressly based upon specified criminal conduct. (Pen. Code, § 11105, subds. (a)(13) & (c).)

Existing law provides that any fingerprint-based criminal history check required pursuant to any statute shall be requested by DOJ. The agency or entity authorized to received criminal history information shall submit to DOJ fingerprint images and any related information required by DOJ for the purpose of obtaining information as to the existence and content of a record or state or federal arrests, as specified. (Pen. Code, § 11105, subd. (u)(1).) If requested, DOJ shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation (FBI) for the purpose of obtaining a federal criminal history information check. DOJ shall review the information returned from the FBI, and compile and disseminate a response or a fitness determination, as appropriate, to the agency or entity identified that requested the information. (Pen. Code, § 11105, subd. (u)(2).)

This bill specifies that any POST employees, prospective employees, appointees, volunteers, contractors, and subcontractors, whose job duties require access to criminal offender record information, state summary criminal history information, or information obtained from the CLETS, shall undergo a fingerprint-based state and national criminal history background check. POST would be required to submit fingerprint images and any related information to DOJ for the state and federal background check.

3) **Peace Officer Decertification**: In 2021, California established a statewide system to decertify or suspend peace officers who have committed serious misconduct. (SB 2 (Bradford), Ch. 409, Stats. 2021.) Under SB 2, POST was directed to create a certification program for peace officers, who must receive a proof of eligibility and a basic certificate in order to serve in that capacity. (Pen. Code, § 13510.1.) Additionally, SB 2 provided a new mechanism by which POST may investigate and review allegations of "serious misconduct" against an officer. The measure empowered POST to make a determination on whether, at the conclusion of that investigation, to suspend or revoke the officer's certification.

   SB 2 also created two new entities within POST: the Peace Officer Standards Accountability Division, which is tasked with conducting and reviewing investigations into serious misconduct and bringing proceedings seeking revocation or suspension of certifications; and the Peace Officer Standards Accountability Advisory Board, which is tasked with making recommendations on the decertification of peace officers to POST. (Pen. Code, §§ 13509.5 & 13509.6)

   Existing law grants the Peace Officer Standards Accountability Division authority to review any agency or other investigative authority file, as well as the ability to conduct additional investigation, if necessary. (Pen. Code, § 13510.8, subd. (c)(2).) This bill additionally provides that the division shall have authority to inspect or duplicate any criminal history

information, criminal record information, or criminal justice information contained or *derived from CLETS* and any other information that would otherwise be confidential, privileged, or subject to any other restriction on disclosure when that information is included as part of an investigation involving a matter within POST's jurisdiction.

Existing law requires law enforcement agencies to report to POST within 10 days specified events impacting the a peace officer's suspension or revocation and other findings or recommendations from investigations into the officer's misconduct. (Pen. Code, § 13510.9.) To effectuate this law, a law enforcement agency is required to make available for inspection or duplication by POST any investigation into the reported matters. (*Ibid.*) This bill specifies, notwithstanding any other law, POST shall have the authority to inspect or duplicate any criminal history information, criminal offender record information, or criminal justice information, including information contained in or *derived from CLETS*, or any other information that would otherwise be confidential, privileged, or subject to any other restriction on disclosure, when that information is included as part of an investigation involving a matter within POST's jurisdiction.

According to background information provided by the author of this bill, "CLETS is a vital resource used by law enforcement agencies to access criminal history records, warrants, protective orders, and other sensitive data. However, POST's access to CLETS is limited, despite its growing responsibilities related to peace officer oversight and decertification. Granting POST access to CLETS would directly support public safety in the following ways:

i) Faster Identification of Disqualifying Conduct: Immediate access to CLETS would allow POST to identify arrests, convictions, or active warrants involving peace officers under review—critical data points when determining whether a peace officer is eligible for certification.

ii) Closing Decertification Loopholes: Without CLETS access, there is a risk that officers who commit misconduct may slip through the cracks during employment transitions or background investigations. CLETS would help ensure that POST has full visibility into an officer's criminal history and ongoing legal matters.

iii) Enhancing Investigations and Due Process: CLETS access would enable POST to independently verify criminal offender record information (CORI) when reviewing allegations of serious misconduct. This would ensure investigations are thorough, accurate, and grounded in official records.

iv) Improving Interagency Coordination: Better information flow between POST and the Department of Justice, facilitated by CLETS, would create a more unified, consistent system of accountability and reduce redundant or conflicting records across state agencies.

v) Upholding Community Trust: In the current environment, public confidence in law enforcement depends on the integrity of the certification process. Providing POST with CLETS access would bolster its capacity to decertify officers who pose a risk to public safety and uphold the professional standards expected of California peace officers.

Currently, access to CLETS is only allowed for persons who have undergone a background security clearance, which includes at minimum, the required state and federal fingerprint-based criminal offender record information search. As referenced above, this bill would require any POST employees whose job duties require access to criminal offender record information, state summary criminal history information, or information obtained from CLETS to undergo a fingerprint-based state and national criminal history background check pursuant to subdivision (u) of Penal Code section 11105. This subdivision specifies how a statutorily authorized agency may request a background check for applicable persons. The subdivision authorizes DOJ to charge a fee sufficient to cover the reasonable cost of processing the request. Additionally, the subdivision requires the agency making the background check request to request from DOJ subsequent notification service of any arrests and criminal dispositions. However, statute referenced in subdivision (u) which is Penal Code section 11105.2 regarding subsequent notification services specifically excludes law enforcement agencies from entering into contracts with DOJ to receive subsequent notifications.

Due to this exclusion, this bill may need further clarification to ensure that POST can receive subsequent notification which also complies with other procedures including when subsequent notification to the agency should end.

4) **Argument in Support**: According to American Civil Liberties Union California Action, "In 2021, the Legislature passed SB 2 (Bradford, 2021), which created a multilayer process to decertify or suspend officers who have committed serious misconduct. This decertification process is channeled through POST and the Peace Officers Standards Accountability Division. AB 354 would help ensure that both entities are able to review all relevant information when determining if an officer should be decertified by allowing the entities to inspect and duplicate criminal history information. As such, AB 354 will help keep the officers who are sworn to protect our communities accountable to those same communities."

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

6) **Related Legislation**: AB 277 (Alanis) would require a person who provides behavioral health treatment, as defined, for a behavioral health center, facility, or program to undergo a background check to identify and exclude a person who has been convicted of a crime involving a minor. AB 277 is pending hearing by the Assembly Human Services Committee.

7) **Prior Legislation**:

   a) AB 44 (Ramos), Chapter 638, Statutes of 2023, requires the DOJ to grant CLETS access to law enforcement agencies of federally recognized Indian tribes that meet specified qualifications.

   b) SB 2 (Bradford), Chapter 409, Statutes of 2021, established a system to authorize POST to decertify or suspend peace officers who have committed serious misconduct and created.

   c) AB 1747 (Gonzalez), Chapter 789, Statutes of 2019, prohibits subscribers to CLETS from using information other than criminal history information transmitted through the

system for immigration enforcement purposes, as defined.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
California Civil Liberties Advocacy

Opposition

None

Analysis Prepared by: Stella Choe / PUB. S. / (916) 319-3744

Date of Hearing: April 8, 2025
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 468 (Gabriel) – As Amended April 2, 2025

SUMMARY: Establishes increased penalties for looting in an evacuation zone and impersonating emergency personnel in an evacuation zone. Specifically, **this bill**:

1) Provides that all of the following offenses when committed during and within an evacuation zone or in an evacuation zone are looting and subject to increased punishment as follows:

   a) First-degree burglary is punishable by imprisonment in the state prison for three, four, or seven years.

   b) Second-degree burglary is punishable by imprisonment in county jail for two, three or four years.

   c) Grand theft, except grand theft of a firearm, is punishable by imprisonment in county jail for two, three, or four years.

   d) Trespass with the intent to commit larceny is punishable by imprisonment in county jail for a term of two, three, or four years.

   e) Theft from an unlocked vehicle is punishable by imprisonment in a county jail for up to one year or by imprisonment 16 months, two years, or three years.

2) Defines "evacuation zone" as an evacuation area or an area subject to an evacuation warning, as specified.

3) Provides that an "evacuation zone" includes a principal residence while it is undergoing reconstruction following damage or destruction caused by an earthquake, fire, flood, riot, or other natural or manmade disaster, after an evacuation order or warning has been lifted.

4) Provides that a person arrested for looting in an evacuation zone shall not be released on a notice to appear.

5) Requires a person, upon arrest for looting in an evacuation zone, to be brought before a magistrate and require the court, before releasing the person, to make an individualized determination of the person's risk to public safety and likelihood they will return to court.

6) Provides that the fact that the structure entered has been damaged by a natural or other disaster, or the extent of that damage, does not preclude conviction.

7) Provides that a person who is convicted of looting within an evacuation zone while impersonating emergency personnel, in addition and consecutive to the penalty provided for the felony or attempted felony of which they have been convicted, shall be punished by an additional and consecutive term of one, two, or three years.

8) Provides that any person other than emergency personnel who, in an evacuation zone, impersonates emergency personnel is guilty of a felony punishable by imprisonment for 16 months, two years, or three years.

9) Provides that any person other than emergency personnel who, in an evacuation zone, impersonates emergency personnel during the commission of a felony shall be punished by an additional and consecutive term of imprisonment for three, four, or six years.

10) Defines "impersonating" as willful wearing, exhibiting, or using of an authorized uniform insignia, emblem, device, label, certificate, card, or writing of emergency personnel with the intent of fraudulently inducing the belief that they are a member of emergency personnel.

11) Defines "principal residence" means a residence, as specified, including the land or building surrounding, contiguous to, or appertaining to the residence.

12) Defines "emergency personnel" as a peace officer, an officer or member of a fire department or a deputy state fire marshal, an employee of a public utility or district, state, county, city, or special district, a city and county officer or employee, an officer or member of a governmental agency-managed or –affiliated search and rescue unit or team, an officer or member of the Armed Forces of the United States, the California National Guard, the State Guard, the Naval Militia, the national guard of any other state, or any other reserve component of the Armed Forces of the United States, or an emergency medical technician, as defined.

EXISTING LAW:

1) Provides that a person who commits a specified offense during and within an affected county in a state or local emergency, or under an evacuation order, is guilty of looting and subject to punishment as follows:

   a) Where the underlying offense is second-degree burglary, by imprisonment up to one year in county jail or by 16 months, two years, or three years. (Pen. Code, § 463, subd. (a).)

   b) Where the underlying offense is grand theft, except grand theft of a firearm, by imprisonment in a county jail for one year or by 16 months, two years, of three years. (Pen. Code, § 463, subd. (b).)

   c) Where the underlying offense is second-degree burglary or grand theft, a mandatory minimum term of 180 days in county jail for a person who receives probation, except that a court may reduce or eliminate the jail sentence in the interest of justice. (Pen. Code, § 463, subd. (a) & (b).)

d) Where the underlying offense is petty theft, for a misdemeanor punishable by imprisonment in a county jail for six months. (Pen. Code, § 463, subd. (c).)

e) Where the underlying offense is petty theft, a mandatory minimum term of 90 days in county jail for a person who receives probation, except that a court may reduce or eliminate the jail sentence in the interest of justice. (Pen. Code, § 463, subd. (c).)

2) Requires the court, if it reduces or eliminates the mandatory jail sentence for a person granted probation for a looting conviction, to specify on the record and enter into the minutes the circumstances indicating that the interest of justice would be served by that disposition. (Pen. Code, § 463, subds. (a)-(c).)

3) Provides that, for purposes of a looting involving second-degree burglary, the fact that the structure entered has been damaged by the earthquake, fire, flood, or other natural or manmade disaster shall not, in and of itself, preclude conviction. (Pen. Code, § 463, subd. (a).)

4) Authorizes the court to require any person granted probation following a looting conviction to perform community service in any program deemed appropriate by the court, including any program created to rebuild the community. (Pen. Code, § 463, subd. (a)-(c).)

5) Makes willfully wearing, exhibiting, or using the authorized uniform, insignia, emblem, device, label, certificate card, or writing, of a peace officer, a member of the fire department, an employee of a public utility or district, a government officer or employee, or search and rescue personnel, with the intent of fraudulently impersonating them or of fraudulently inducing the belief that the defendant is one of them, a misdemeanor punishable by imprisonment in county jail for up to six months, by a fine of $1,000, or both. (Pen. Code, §§ 538d, subd. (a); 538e, subd. (a); 538f, subd. (a); 538g, subd. (a); 538h, subd. (a); Pen. Code, § 19.)

6) Makes willfully wearing, exhibiting, or using the badge of any of the above personnel, except that of a government employee or an employee of a public utility or district, with the intent of fraudulently impersonating them or of fraudulently inducing the belief that the defendant is one of them, a misdemeanor punishable by up to one year in county jail, a fine of up to $2,000, or both. (Pen. Code, §§ 538d, subd. (b)(1); 538e, subd. (b)(1); 538h, subd. (b)(1).)

7) Provides that any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of any of the above personnel, or which so resembles the authorized badge of the above personnel as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given that authority, for the purpose of fraudulently impersonating them or of fraudulently inducing a belief that they are one of them, si guilty of a misdemeanor punishable by imprisonment in county jail for up to one year, by a fine of $2,000, or by both. (Pen. Code, §§ 538d, subd. (b)(2); 538e, subd. (b)(2); 538g, subd. (b)(2); 538h, subd. (b)(2).)

8) Provides that any person who impersonates a peace officer during the commission of a felony shall receive an additional one-year term of imprisonment to be imposed consecutive to the term imposed for the felony, in lieu of the penalty that would have been imposed for

impersonating a peace officer." (Pen. Code, § 667.17.)

9) Provides that any person who makes or sells a badge falsely purporting to be that of a peace officer, fire fighter, or government official as described above is subject to a fine up to $15,000. (Pen. Code, §§ 538d, subd. (c)(1); 538e, subd. (c); 538g, subd. (b).)

10) Provides that any uniform vendor who sells a uniform identifying a law enforcement agency or firefighting agency, without verifying that the purchaser is n employee of the agency, is guilty of a misdemeanor punishable by up to six months in county jail or by a fine of up to $1,000. (Pen. Code, §§ 538d, subd. (e)(2); 538e, subd. (e)(3).)

11) Defines burglary of entering a specified structure, vessel, or vehicle with the intent of committing theft or any felony therein. (Pen. Code, § 459.)

12) States that burglary of an inhabited dwelling is first degree burglary, and that all other kinds of burglary are of the second degree. (Pen. Code, § 460.)

13) Provides that, for the purposes of burglary, "inhabited" means currently being used for dwelling purposes, whether occupied or not. A house, trailer, vessel designed for habitation, or portion of a building is currently being used for dwelling purposes if, at the time of the burglary, it was not occupied solely because a natural or other disaster caused the occupants to leave the premises. (Pen. Code, § 459.)

14) Provides that the punishment for first-degree burglary is imprisonment in the state prison for two, four, or six years. (Pen. Code, § 461, subd. (a).)

15) Provides that the punishment for second-degree burglary is either confinement of up to one year in the county jail or imprisonment for 16 months, two, or three years. (Pen. Code, §§ 18, subd. (a); 461, subd. (b).)

16) Divides theft into two degrees, petty theft and grand theft. (Pen. Code, § 486.)

17) Defines grand theft as when the money, labor, or real or personal property taken is of a value exceeding $950 dollars, except as specified. (Pen. Code, § 487.)

18) Defines petty theft as obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed $950 and makes it a misdemeanor punishable by a fine not exceeding $1,000, by imprisonment in the county jail not exceeding six months, or both, except as specified. (Pen. Code, § 490.)

19) Makes petty theft with two or more prior theft convictions, or other specified offenses, an alternate felony-misdemeanor punishable by up to one year in county jail or imprisonment for 16 months, two years, or three years. (Pen. Code, § 666.1, subd. (a).)

20) Defines "state of emergency" as conditions that, by reason of their magnitude, are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat. (Pen. Code, § 463, subd. (d)(1).)

21) Defines "local emergency" as conditions that, by reason of their magnitude, are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat. (Pen. Code, § 463, subd. (d)(2).)

22) Provides that a "state of emergency" shall exist from the time of the proclamation of the condition of the emergency until terminated, as specified, and that a "local emergency" shall exist from the time of the proclamation of the condition of the emergency by the local governing body until terminated, as specified. (Pen. Code, § 463, subd. (d)(3).)

23) Defines "evacuation order" as an order from the Governor, or a county sheriff, chief of police, or fire marshal, under which persons subject to the order are required to relocate outside of the geographic area covered by the order due to an imminent danger resulting from an earthquake, fire, flood, riot, or other natural or manmade disaster. (Pen. Code, § 463, subd. (d)(4).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Assembly Bill 468 will provide a sense of security and better protect communities that have been devastated by wildfires. This legislation responds to recent criminal activity in communities devastated by the Palisades and Eaton Fires. Looters – particularly those who impersonate emergency personnel – create chaos and confusion, endanger residents and first responders, undermine public trust in evacuation orders, divert critical emergency resources, and victimize communities that already have suffered devastating harm. AB 468 will close existing loopholes, provide stronger deterrence, and better protect communities during the recovery and rebuilding process."

2) **Existing Criminal Penalties for Looting**: Existing law defines looting as the commission of specified crimes during a state or local emergency, or in a county that is under an evacuation, and creates penalties in addition to the underlying offense for looting. (Pen. Code, § 463.) Specifically, where the underlying offense is burglary or grand theft, the punishment for looting is an alternate felony-misdemeanor punishable by imprisonment in county jail for up to one year or by imprisonment for 16 months, two years, or three years. (Pen. Code, § 463, subds. (a) & (b).) Unlike the punishment for the underlying crime, a person granted probation for a looting conviction under the above circumstances must also serve a mandatory minimum county jail term of 180 days. (*Ibid.*) Where the underlying crime is petty theft, looting is a misdemeanor punishable by up to six months in county jail, and a person granted probation must serve a mandatory minimum jail term of 90 days. (Pen. Code, § 463, subds. (a) & (b).)

   This bill would increase the penalty for looting in an evacuation zone. The bill defines "evacuation zone" as an evacuation are or an area subject to an evacuation warning, and it includes a principal residence while it is undergoing reconstruction following damage or destruction caused by an earthquake, fire, flood, riot, or other natural or manmade disaster, after an evacuation order or warning has been lifted. When committed in an evacuation zone,

this bill increases the penalty for looting where the underlying offense is burglary or grand theft from an alternate felony-misdemeanor to a straight felony punishable by imprisonment in county jail for two, three, or four years.

Existing law also punishes false impersonation of emergency personnel as a misdemeanor. (Pen. Code, §§ 538d, 538e, 538f, 538g, & 538h.) This bill would increase the penalty for false impersonation of emergency personnel in an evacuation zone to a straight felony punishable by imprisonment in county jail for 16 months, two years, or three years.

3) **New Enhancements for False Impersonation**: In addition to the increased criminal penalties described above, this bill also creates two new enhancements for false impersonation in an evacuation zone. The first is an enhancement up to three years for a person convicted of looting within an evacuation zone while impersonating emergency personnel, but this appears be inconsistent and incongruent with existing sentencing enhancements. For example, existing law provides that impersonating peace officer in the commission of a felony is a one year enhancement. (Pen. Code, § 667.17.) A person who uses a deadly or dangerous weapon in the commission of a felony or attempted felony is also subject to a one year enhancement; so is a person who commits a felony while armed with a firearm. (Pen. Code, §§ 12022, subd. (a)(1) & (b).) The vulnerable victim enhancement for committing specified crimes, including first-degree burglary, against a person who is 65-years-old or older, a person who is blind, deaf, developmentally disable, a paraplegic, or a quadriplegic, or against a person who is under 14-years-old may also receive a one year enhancement. (Pen. Code, § 667.9, subd. (a).)

Conversely, crimes that carry a sentencing enhancement of three years or up to three years include, for example, carjacking with a deadly or dangerous weapon (Pen. Code, §12022, subd. (b)); the commission or attempted commission of a felony while armed an assault weapon; (Pen. Code, § 12022, subd. (a)(2)); inflicting great bodily injury in the commission or attempted commission of a felony (Pen. Code, § 12022.7, subd. (a)); and, administering a controlled substance to another against their will by means of force (Pen. Code, § 12022.75, subd. (a))

These enhancements are also applied to conduct that is arguably more harmful than even that targeted by the second proposed enhancement in this bill, which creates an enhancement of up to six years for a person who impersonates emergency personnel within an evacuation zone during the commission of a felony. As previously noted, existing law provides a one year enhancement for impersonating a peace officer during the commission of a felony. (Pen. Code, § 667.17.) This enhancement also proposes potentially more severe punishment than, for example, being armed with a firearm while trafficking or attempting to traffic a controlled substance (Pen. Code, § 12022, subd (c)(1) [up to five years]); administering a controlled substance to another against their will in the commission or attempted commission of specified sex crimes, including rape, sodomy, and sexual penetration (Pen. Code, § 12022.75, subd. (b) [five years]); inflicting great bodily injury during the commission of specified sex crimes, including rape and lewd or lascivious acts involving children (Pen. Code, § 12022.8 [5 years]); and, willfully inflicting unjustifiable physical pain or mental suffering on a child resulting in death (Pen. Code, § 12022.95, subd. (a)).

Enhancements have been widely used in California.[1] More than half of currently incarcerated women and more than two-thirds of currently incarcerated men have at least one sentence enhancement.[2] Sentence enhancements increase an individual's prison sentence, increasing the size of our prison population.[3] Sentence enhancements are applied disproportionately to Black men.[4] A 2023 study found, "Black people are over-represented among the currently incarcerated with sentence enhancements while Hispanic people are slightly under-represented. Among those *without* a sentence enhancement, 49% are Hispanic while 19% are Black. Individuals serving a sentence with an enhancement are overwhelmingly male."[5]

Sentence enhancements increase the average sentence by nearly 2 years for all admissions.[6] Confinement length for those with a sentence enhancement is approximately 5 years longer compared to those without an enhancement.[7] Approximately 40% of prison admissions since 2015 have sentences lengthened by a sentence enhancement.[8]

4) **Longer Sentences Impact on Recidivism and Deterrence**: Research shows that increasing the severity of the punishment does little to deter the crime.[9] According to the National Institute of Justice, "Laws and policies designed to deter crime by focusing mainly on increasing the severity of punishment are ineffective partly because criminals know little about the sanctions for specific crimes. More severe punishments do not 'chasten' individuals convicted of crimes, and prisons may exacerbate recidivism… Studies show that for most individuals convicted of a crime, short to moderate prison sentences may be a deterrent but longer prison terms produce only a limited deterrent effect."[10] Rather, increasing the perception that an individual will be caught and prosecuted is a vastly more effective deterrent than increased punishment. Studies also show that custodial sanctions have no effect on recidivism or slightly increase it when compared with the effects of noncustodial sanctions such as probation.[11]

5) **County Jail Impact:** In January 2010, a 9th Circuit three-judge panel issued a ruling ordering the State of California to reduce its prison population to 137.5% of design capacity because overcrowding was the primary reason CDCR was unable to provide inmates with constitutionally adequate healthcare. (*Coleman/Plata v. Schwarzenegger* (2010) No. Civ S-90-0520 LKK JFM P/NO. C01-1351 THE.) The United State Supreme Court upheld the decision, declaring that "without a reduction in overcrowding, there will be no efficacious remedy for the unconstitutional care of the sick and mentally ill" inmates in California's prisons. (*Brown v. Plata* (2011) 131 S.Ct. 1910, 1939; 179 L.Ed.2d 969, 999.)

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[1] Bird, et al., *Sentence Enhancements in California*, Cal. Policy Lab (Mar. 2023) <https://www.capolicylab.org/wp-content/uploads/2023/03/Sentence-Enhancements-in-California.pdf> [as of Feb. 25, 2025].
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*
[7] *Ibid.*
[8] *Ibid.*
[9] National Institute of Justice, *Five Things about Deterrence* <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [accessed Mar. 26, 2025].
[10] Ibid.
[11] D.M. Petrich, et al., *Custodial Sanctions and Reoffending: A Meta-Analytic Review* (2021).

AB 109, The Criminal Justice Realignment Act, was implemented in 2011 in response to prison overcrowding. In part, it shifted to county jails the responsibility for incarcerating lower-level offenders previously incarcerated in state prison. (Pen. Code, § 1170, subd. (h).) This, however, increased the pressure on county jails to house larger populations and to make difficult decisions about how to manage their growing jail populations. These pressures manifest differently by county based on a number of factors including jail capacity and whether the county jail system is operating under a court-mandated population cap. Such caps have been in place in some counties long before *Brown v. Plata* addressed state prison overcrowding. (Sarah Lawrence, Court-Ordered Population Caps in California County Jails (Dec. 2014).)[12]

This bill creates six new felonies that require imprisonment to be served primarily in county jail.

6) **Immigration Consequences:** A conviction of the new crimes created by this bill poses potential immigration consequences for noncitizen defendants. A theft offense is an aggravated felony for immigration purposes if a one-year sentence is imposed. (8 USC § 1101(a)(43)(G) & (U).) Thus, if a term of one-year or more is imposed for this new offense, it will be a theft-related "aggravated felony" for immigration purposes. This triggers a host of immigration consequences, including deportability. (8 USC § 1227(a)(2)(A)(iii).) By contrast, a Ninth Circuit case has held that auto burglary under Penal Code section 459 is not a theft-related aggravated felony because it is an indivisible statute which can be violated by entering the locked vehicle with the intent to commit theft *or any felony*. (*Rendon v. Holder* (9th Cir. 2014) 764 F.3d 1077, 1084.)

The new looting offenses created by this bill may be considered a crime of moral turpitude for immigration purposes which can pose consequences for noncitizen defendants. (*United States v. Esparza-Ponce* (9th Cir. 1999) 193 F.3d 1133, 1136 [theft is a crime of moral turpitude for immigration purposes].) Among other possible consequences, a crime of moral turpitude can render a noncitizen inadmissible (8 USC § 1182(a)(2)(A)(i)(I)) or deportable (8 USC § 1227(a)(2)(A)(i) & (ii)).

However, in the 2010 U.S. Supreme Court case of *Kentucky v. Padilla*, the Court ruled that criminal defense lawyers must advise their clients of the potential immigration consequences of a criminal conviction. Failure to advise a client on the immigration consequences of a criminal conviction could constitute ineffective assistance of counsel under the Sixth Amendment. (*Kentucky v. Padilla* (2010) 559 U.S. 356.) In California, a defendant may seek to withdraw a plea if a defendant did not know and understand the immigration consequences of their crimes. (See Pen. Code, § 1473.7.)

7) **Argument in Support**: According to the *Office of the District Attorney for Ventura County*, "In Ventura County we have seen firsthand how much pain looters bring to victims of devasting fires such as the Thomas Fire, the Woolsey Fire, and the Mountain Fire. For example, even when some evacuees were fortunate enough to have time to select items to spare from the flames, looters during the Thomas Fire broke into the evacuees' vehicles to steal their most precious possessions. After the more recent Mountain Fire, opportunistic

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[12] Located at https://law.stanford.edu/search-sls/?q_as=california%20county%20jails [last visited March 26, 2024].

looters picked through rubble and ash looking for scraps of copper pipe. During the Woolsey Fire, a registered sex offender entered homes that were unoccupied due to evacuations to steal women's lingerie.

"AB 468 helps address crimes like the ones described above by providing updated definitions of relevant terms and graduated penalties for more serious looting offenses. AB 468 would enhance penalties for burglaries and for trespassing in an evacuation zone and will discourage thieves from entering evacuated homes as well as from picking through the ashes of destroyed homes. AB 468 also provides additional penalties for those who impersonate first responders in order to commit looting and other crimes against victims of natural disasters.

"I understand the language will be amended to clarify that those who target evacuees' vehicles will receive no break in the law simply because the car was unlocked. This is important as evacuees are often forced to abandon their vehicles to flee for safety on foot. With this planned amendment, AB 468 sends a strong message to would-be looters that California will not tolerate such despicable crimes."

8) **Argument in Opposition**: According to *Vera Institute of Justice*, "**AB 468 is alarmingly broad and invites prosecutorial abuse**. The bill's harsher penalties for property crimes would apply to *any* theft, burglary, or trespassing in an area under evacuation order or warning, even when an evacuation *never* occurred or *after* the evacuation order is lifted. The bill is also open-ended because it includes residences undergoing reconstruction for an indeterminate time. Further, AB 468 severely limits pretrial release for people *arrested for* (not charged with) a misdemeanor, disproportionately harming low-income people who cannot afford bail. During the COVID-19 State of Emergency, for example, prosecutors misused looting laws to sidestep California's bail policies, and AB 468 invites similar abuses.

"**AB 468 will worsen racial disparities in the criminal legal system.** The bill creates a harsh felony for "trespass with intent to commit larceny," punishable by up to four years in jail, for a person's mere presence in a specified location based on their alleged intent. This invites racial profiling, which people in historically Black communities like Altadena experienced during the recent Los Angeles fires. Research shows that media coverage often reinforces a harmful and racialized double standard in the wake of natural disasters, depicting Black people as "looting" goods and white people as simply "finding" items. By perpetuating this double standard, AB 468 will place already vulnerable communities at even greater risk under the guise of safety.

"**Instead of responding to the expressed needs of people impacted by the fires, AB 468 prioritizes a costly criminal legal response.** The Essie Justice Group surveyed 137 Altadena residents impacted by the Eaton Canyon Fire and not a single person mentioned looting and theft. Instead, Altadena residents want public officials to provide timely cash assistance, reconstruction, and improved emergency preparedness. With the state spending more than $130,000 per year to incarcerate one person, increasing penalties and higher court costs ultimately divert critical funds away from disaster relief. Lawmakers should focus on providing services to fire victims, not counterproductive policing in recovering communities.

"All Californians deserve safe communities, especially during emergencies. **AB 468,**

however, is overly broad, and puts Black and low-income Californians at risk with short-sighted and wasteful measures that fail to address the immediate needs of victims in Los Angeles. As we face the increased impacts of climate change, we need to strengthen our state's emergency preparedness and work with communities to rebuild public trust."

9) **Related Legislation**:

a) AB 271 (Hoover) would make looting a straight felony and would create two-year enhancement for any looting conviction in which the defendant impersonated a first responder, as specified. AB 271 is pending a hearing in this committee.

b) SB 265 (Valladares) would make looting where the underlying crime is second-degree burglary a straight felony. SB 265 is pending a hearing in the Senate Public Safety Committee.

c) SB 571 (Archuleta) would make impersonating a first responder an alternate felony-misdemeanor punishable by up to one year in county jail or by imprisonment for 16 months, two years, or three years; would extend looting to include within 180 days of the termination of a state or local emergency, or an evacuation order; and would eliminate court discretion to reduce or eliminate mandatory minimum jail sentences for persons granted probation following a looting conviction, except where the underlying offense was petty theft. SB 571 is pending referral in the Senate Rules Committee.

10) **Prior Legislation**:

a) SB 905 (Weiner), Chapter 170, Statutes of 2024, created a new alternate felony-misdemeanor for any person who forcibly enters a vehicle, with the intent to commit a theft or any felony therein.

b) AB 3078 (Gallagher), Chapter 132, Statutes of 2018, expanded the crime of looting to include theft which occurs while an area is under an evacuation order.

c) AB 2820 (Chiu), Chapter 671, Statutes of 2016, revised the definition of state of emergency and local emergency for purposes of criminal price gouging.

REGISTERED SUPPORT / OPPOSITION:

Support

American Medical Response West
California District Attorneys Association
California Fire Chiefs Association
California Police Chiefs Association
California Professional Firefighters
Fire Districts Association of California
League of California Cities
Los Angeles County District Attorney's Office
Los Angeles Police Protective League

Peace Officers Research Association of California (PORAC)
Riverside County District Attorney
San Francisco District Attorney Brooke Jenkins
Ventura County Office of The District Attorney

Oppose

ACLU California Action
All of Us or None (HQ)
California Public Defenders Association (CPDA)
Californians United for A Responsible Budget
Ella Baker Center for Human Rights
Essie Justice Group
Felony Murder Elimination Project
Initiate Justice
Initiate Justice Action
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 LA County Public Defenders Union
San Francisco Public Defender
Smart Justice California, a Project of Tides Advocacy
Universidad Popular
Vera Institute of Justice

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

Date of Hearing: April 8, 2025
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 622 (Kalra) – As Amended March 17, 2025

SUMMARY: Requires the Secretary of the California Department of Corrections and Rehabilitation (CDCR), in setting the minimum term or minimum period of confinement for a person imprisoned under one or more life sentences, to apply all applicable credits promulgated under CDCR's constitutional authority.

EXISTING LAW:

1) Provides that CDCR has the authority to award credits earned for good behavior and approved rehabilitative or education achievements. (Cal. Const., art. I, § 32, subd. (a), par. (2).)

2) Requires the Board of Parole Hearings (BPH) to meet with each inmate during the sixth year before the inmate's minimum eligible parole date for the purposes of reviewing and documenting the inmate's activities and conduct pertinent to parole eligibility. (Pen. Code, § 3041, subd. (a)(1).)

3) Requires BPH, during this consultation, to provide the inmate information about the parole hearing process legal factors relevant to their suitability or unsuitability for parole, and individualized recommendations for the inmate regarding their work assignments, rehabilitative programs, and institutional behavior. (Pen. Code, § 3041, subd. (a)(1).)

4) Provides that one year before the inmate's minimum eligible parole date a panel of two or more commissioners or deputy commissioners shall meeting with the inmate and shall normally grant parole, as specified. (Pen. Code, § 3041, subd. (a)(2).)

5) Prohibits an incarcerated person imprisoned under a life sentence from being paroled until they have served the greater of the following:

   a) A term of at least seven calendar years; or,

   b) A term as established under any other law that establishes a minimum term or minimum period of confinement under a life sentence before eligibility for parole. (Pen. Code, § 3046, subd. (a).)

6) Prohibits, if two or more life sentences are ordered to run consecutively to each other, as specified, an incarcerated person so imprisoned from being paroled until they have served the term above on each of the life sentences that are ordered to run consecutively. (Pen. Code, § 3046, subd. (b).)

7) Requires an incarcerated person found suitable for parole following a youth offender parole hearing or an elderly parole hearing, as specified, to be paroled regardless of the manner in which the board sets release dates. (Pen. Code, § 3046, subd. (c).)

8) Requires the BPH, in considering parole for an incarcerated person, to consider all statements and recommendations which may have been submitted by the judge, district attorney, and sheriff, or in response to specified notifications, and recommendations of other persons interested in the granting or denying of parole. (Pen. Code, § 3046, subd. (d).)

9) Requires BPH to enter on its order granting or denying parole to these incarcerated people, the fact that the statements and recommendations have been considered by it. (Pen. Code, § 3046, subd. (d).)

10) Provides that incarcerated persons are expected to work or participate in rehabilitative programs and activities to prepare for their eventual return to society. (Cal. Code Regs., tit. 15, § 3043, subd. (a).)

11) Provides that incarcerated persons who comply with CDCR regulations and rules and perform the duties assigned to them shall be eligible to earn Good Conduct Credit, as specified. (Cal. Code Regs., tit. 15, § 3043, subd. (a); § 3043.2, subd. (b).)

12) Provides that all incarcerated persons who participate in approved rehabilitative programs and activities, including incarcerated persons housed in restricted housing units or in other restricted housing, shall be eligible to earn Milestone Completion Credit, Rehabilitative Achievement Credit, and Educational Merit Credit, as specified. (Cal. Code Regs., tit. 15, § 3043, subd. (a).)

13) Provides that the award of these credits, as well as Extraordinary Conduct Credit as specified, shall advance an incarcerated person's release date if sentenced to a determinate term or an incarcerated person's initial parole hearing date if sentenced to an indeterminate term with the possibility of parole. (Cal. Code Regs., tit. 15, § 3043, subd. (a).)

14) Provides that incarcerated persons who do not comply with CDCR regulations and rules or who do not perform the duties assigned to them shall be subject to credit forfeiture, as specified. (Cal. Code Regs., tit. 15, § 3043, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Under existing law, people incarcerated with an indeterminate sentence can earn credits for good conduct and completing rehabilitative programming. These credits allow them the opportunity to advance their "minimum eligible parole date" (MEPD) and appear before the Board of Parole Hearings, where they undergo an exceptionally rigorous, evidence-based process that prioritizes public safety. In 2024, BPH approved on 14.4% of cases that were scheduled for a hearing.

   "However, despite the success of credit-earning programs and the strict parole review

process, recent litigation has resulted in CDCR being unable to parole individuals who worked hard to earn a hearing date and demonstrated to the board that they could be safely released to parole supervision. This is contrary to current legal processes and has created unnecessary, costly delays in parole.

"AB 622 reaffirms CDCR's authority to issue credits that would allow someone who has completed the most significant rehabilitative programming to advance their MEPD and be eligible to go before the Board of Parole Hearings. By clarifying that CDCR is permitted to issue these credits, as they have done for years, this bill encourages rehabilitation, ensures fairness in the parole process, and reduces wasteful spending."

2) **Need for the Bill**: Proposition 57 was passed by the electorate (Ballot Pamp., Gen. Elec. Nov. 8, 2016) and implemented as Article I, section 32 of the California Constitution. Section 32, subdivision (a)(2) of Article I, states: "Credit Earning: The Department of Corrections and Rehabilitation shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements." Proposition 57 gave CDCR the authority to create its own credit rules.[1] "By its plain terms, article I, section 32, subdivision (a)(2) authorizes the Department to award—or to not award—conduct credits as it sees fit." (*In re Canady* (2020) 57 Cal.App.5th 1022, 1034, citing *Brown v. Superior Court* (2016) 63 Cal.4th 335, 359, 361 (dis. opn. of Chin, J.) "The broad and permissive language of article I, section 32, subdivision (a)(2) suggests that the voters intended for the Department to have substantial discretion in determining how credits are applied to early parole consideration…." (*In re Canady, supra,* 57 Cal. App.5th at p. 1034.)

In May 2017, CDCR promulgated new credit-earning regulations that, among other things, provided any person sentenced to an indeterminate term the opportunity to earn credits to advance their minimum eligible parole date. These regulations provide that "all incarcerated persons who participate in approved rehabilitative programs and activities, including incarcerated persons housed in restricted housing units or in other restricted housing, shall be eligible" for credits "advance[ing] an incarcerated person's initial parole hearing date…if sentenced to an indeterminate term with the possibility of parole." (Cal. Code Regs., tit. 15, § 3043, subd. (a).) By receiving good conduct credits and participating in rehabilitative opportunities, persons sentenced to indeterminate terms could appear before the BPH sooner.

But this did not guarantee their release. Even if eligible for parole, the BPH still must find that person suitable for parole, which requires finding that the individual does not pose an unreasonable risk to public safety.[2] And, even if released, an individual is still subject to parole supervision and must comply with specific parole conditions. Violation of those conditions could result in that individual being reincarcerated.

Notwithstanding this process, a person serving an indeterminate term that BPH has found suitable for parole is no longer eligible for release. Recent litigation has called into question CDCR's authority to advance the minimum eligible parole date for persons with indeterminate terms. In December 2023, a superior court ruled that CDCR had exceeded its

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[1] See https://www.capolicylab.org/wp-content/uploads/2022/08/Three-Strikes-in-California.pdf at p. 8.
[2] https://www.cdcr.ca.gov/bph/parole-suitability-hearings-overview/information-considered-at-a-parole-suitability-hearing/

authority under Prop. 57. Accordingly, CDCR states, "Pursuant to a December 13, 2023 ruling and January 26, 2024 judgment by the Sacramento County Superior Court, CDCR is currently prohibited from releasing on parole, indeterminately sentenced people who had a parole hearing conducted based on a Minimum Parole Eligibility Date that was advanced (made earlier) based on Proposition 57 credit earning."[3] CDCR has appealed the ruling.

While the issue makes its way through the courts, CDCR has been forced to modify its procedures for dealing with persons serving indeterminate terms. According to CDCR, the people impacted by the litigation are "[p]eople who (1) the Board of Parole Hearings has found suitable for parole; and (2) are indeterminately sentenced; and (3) were eligible for their parole hearing because minimum eligible parole date (MEPD) was advanced (made earlier) by application of Prop. 57 credits."[4] For people already found suitable for parole, "CDCR will recalculate the [minimum eligible parole date] by removing Prop 57 credits" but "only after someone is granted parole." [5] CDCR states that "[t]he parole grant will remain in place and you will be eligible for release on your newly calculated [minimum eligible parole date], or earliest parole eligible date."[6] The Board of Parole Hearings "will continue to conduct parole hearings based on" an incarcerated persons minimum eligible parole date based on Prop. 57 credits.[7]

This bill would clarify in statute that CDCR does have the authority to apply all applicable credits promulgated under its constitutional authority to persons sentenced to indeterminate terms.

3) **Committee on Revision on the Penal Code Recommendation**: The Committee on Revision of the Penal Code (CRPC) was established to study and recommend statutory reforms to the criminal law, with "the goals of improving public safety, reducing unnecessary incarceration, improving equity, and addressing racial disparities in the criminal legal system.[8] In its most recent report, CRPC stated:

> The Committee has concluded that the Legislature should clarify to the maximum extent possible in the Penal Code that credits promulgated by CDCR under its constitutional authority apply to MEPDs. Doing so would improve public safety by allowing sentence-reducing credits to incentive [sic] rehabilitation for people in prison. It would asl save the state significant money by allowing the release of people who present a very low risk to the public.[9]

CRPC noted that less than .5% of persons BPH approved for parole between 2011 and 2019 were convicted of an offense against a person, and that credit earning may reduce recidivism.[10] As a result, CRPC recommended that the Legislature "[s]pecify in the Penal

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[3] https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2024/07/Fact-Sheet-CJLF-Litigation-Impact-to-Release-Dates.pdf
[4] *Id.* at p. 2.
[5] *Id.* at p. 2.
[6] *Id.* at p. 2.
[7] *Id.* at p. 3.
[8] Committee on Revision of the Penal Code, 2024 Annual Report (Dec. 2024) at p. 3 <https://clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2024.pdf> [last visited Mar. 31, 2025].
[9] *Id.* at p. 53.
[10] *Id.* at p. 54.

Code that the credits created under Proposition 57's constitutional provisions should continue to be applied to minimum eligible parole dates."[11]

4) **Prison Overcrowding**: In January 2010, a three-judge panel issued a ruling ordering the State of California to reduce its prison population to 137.5% of design capacity because overcrowding was the primary reason that CDCR was unable to provide inmates with constitutionally adequate healthcare. After continued litigation, on February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows: 143% of design bed capacity by June 30, 2014; 141.5% of design bed capacity by February 28, 2015; and, 137.5% of design bed capacity by February 28, 2016.

   CDCR's most recent monthly report on the prison population notes that the state prison population is at 87,660. CDCR's institutional design capacity is 71,656 as of March 26, 2025. Accordingly, CDCR is currently occupying 122.3 percent of design capacity.[12]

   Thus, while CDCR is currently in compliance with the three-judge panel's order on the prison population, the state needs to maintain a "durable solution" to prison overcrowding "consistently demanded" by the court.[13] In addition, the State's commitment to closing prisons[14] demands that the Legislature is judicious about measures that will result in increased prison population.

   CDCR has identified that part of this "durable remedy" is "increased credit-earning opportunities for all incarcerated persons except the condemned and those serving life without parole."[15] The recent court order halted part of CDCR's efforts to reduce prison populations by providing credit-earning opportunities to persons serving indeterminate sentences. This bill would confirm in statute CDCR's constitutional authority to provide those opportunities.

5) **Argument in Support**: According to *Initiate Justice*, a co-sponsor of the bill: "We know from firsthand experience the importance of incentivized programming and the positive impact it has not only on the individuals participating, but on the environment inside and the incarcerated community as a whole. Additionally, we know that those who are serving indeterminate sentences can often serve as role models, leaders, and peer mentors for others in the population due to the significant lengths of time they have been living inside. When these individuals are motivated to participate in programming and educational opportunities, their peers are positively influenced to pursue the same course of action. This bill will ensure these positive paths continue.

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[11] Committee on Revision of the Penal Code, 2024 Annual Report (Dec. 2024) at p. 52 <https://clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2024.pdf> [last visited Mar. 31, 2025].
[12] https://www.cdcr.ca.gov/research/population-reports-2/
[13] Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown*, *Plata v. Brown* (2-10-14).)
[14] 11) LAO, *The 2024-25 Budget, California Department of Corrections and Rehabilitation*. Available at: <https://lao.ca.gov/Publications/Report/4852#Prison_Capacity_Reduction>. see also, Penal Code section 17.5 [criminal justice policies that rely on building and operating more prisons to address community safety concerns are not sustainable, and will not result in improved public safety].
[15] https://www.cdcr.ca.gov/3-judge-court-update/#cc7a5a69-6fa6-4036-8a4f-27e459004d88-link

"Under the California constitution, people incarcerated with a life sentence with the possibility of parole can earn credits for good conduct and completing educational and other programs. Per CDCR's regulations, people with an indeterminate sentence, which requires appearing before, and receiving approval from, the parole board to determine if release is appropriate, can advance their 'minimum eligible parole date' (MEPD) with these credits.

"From 2017 until the middle of 2024, credits were used to determine when someone with a life sentence was *eligible for consideration* for release. No one with an indeterminate sentence was released until the Board of Parole Hearings determined they did not pose an 'unreasonable risk of danger to society if released from prison.' This is an exceptionally rigorous, evidence-based process that prioritizes public safety. **Between 2018 and 2023, only 11% of people eligible for their first parole hearing were approved by the Board of Parole Hearings**.

"The Committee on Revision of the Penal Code also cited in their 2024 annual report that between Fiscal Years 2011–12 and 2018–19, the parole board approved 5,248 people for release. **Of those individuals, less than 3% had a new conviction of any kind within 3 years of release, and less than half of a percent had a new felony conviction for an offense against a person**. Despite the success of these credit-earning programs, recent litigation has resulted in CDCR being unable to release people with indeterminate sentences who had earned earlier parole eligibility dates with these credits and were approved for release by the parole board. This is contrary to current legal processes and has created unnecessary, costly delays in parole.

"AB 622 simply reaffirms CDCR's authority to issue credits that would allow someone to advance their MEPD and be eligible to go before the Board of Parole Hearings. This bill will enable the individuals who have completed the most significant rehabilitative programming and were found by the parole board to be suitable to re-enter society under parole supervision and reentry programming. **By simply restating CDCR's existing statutory authority to issue these credits, AB 622 ensures fairness in the parole process, reduces wasteful spending, and asserts the Legislature's commitment to rehabilitation**."

6) **Argument in Opposition**: According to the *California District Attorneys Association*, "Indeterminate terms are reserved for significant criminal acts, and the vast majority are imposed for murder and significant sexual assaults. These populations represent a significant danger to the safety of Californians and do not warrant a reduction in sentence. After all, the vast majority of conduct credits are granted for following prison rules which should be the bare minimum expectation. It is not evidence of rehabilitation.

"In summary AB 622:

- **Undermines Sentencing Certainty** – The current parole structure ensures that individuals serving life sentences meet their minimum confinement requirements as determined by the courts. Allowing conduct credit reductions to affect these terms diminishes sentencing integrity and erodes public confidence in the criminal justice system.

- **Threatens Public Safety** – Life sentences are reserved for the most serious offenses and for major recidivist offenders. Reducing the minimum time served for these

individuals risks the premature release of dangerous offenders, increasing the risk of recidivism and harm to victims and communities.

- **Contradicts Existing Statutory and Voter-Approved Measures** – The exclusion of credit reductions for murderers and violent and habitual sex offenders were enacted to ensure accountability for the most heinous crimes. AB 622 attempts to circumvent these protections, contradicting voter intent and sound prior public policy decisions. As a result, AB 622 will be the subject of substantial litigation and will not likely serve its intended purpose.

"Specifically, the bill incorporates the provision of conduct credits promulgated by the Secretary of CDCR that have **never been shown to protect and enhance public safety**. CDCR has **never even attempted** to provide any evidence that the increased credits promulgated under article I, section 32, subdivision (b) "protect and enhance public safety." In fact, CDCR has taken the legal position that they need not provide any such evidence. Further this bill's lack of concern over whether CDCR's credits proclamations do anything other than assist in emptying the prisons of violent criminals is concerning. The voters placed considerable trust in CDCR with their vote for Proposition 57 (Gen. Elec., Nov. 8, 2016), but it [sic] hardly likely they would have approved if they knew CDCR would simply declare public safety *improvements* without a shred of evidence in support of them.

"Further, AB 622 contradicts several prior voter directives that have limited, or outright repealed, credits that the bill attempts to restore. This lack of acknowledgment of prior voter initiatives, some of which *did not provide* for legislative amendment at all, will both generate unnecessary litigation and appears to be dismissive of voter priorities. Specifically, Proposition 222 in 1996 (Primary Elec., June 2, 1998) and Proposition 83 (Gen. Elec., Nov. 7, 2006) deleted the then existing good conduct credit earning regimes for murderers and major sex crimes that that had previously been in place. Proposition 184 (Gen. Elec., Nov. 8, 1994) limited conduct credits, a limit in which CDCR has simply brushed aside with **no evidence that public safety is enhanced**.

"Finally, the bill ignores why we have minimum terms. Minimum terms ensure that the most reprehensible conduct in society *will result* in no less than a particular sanction. This bill will benefit those who have committed the most vile of crimes, murder and major sexual assaults. It also targets its benefits to proven recidivists. Whittling away at those minimum terms, especially when *the only thing the inmate must* do is comply with prison rules, serves to undermine our constitutional requirement of truth in sentencing. (Cal. Const., art. I, § 28, subd. (f)(5).) Following prison rules should be the minimum expected, but CDCR rewards the minimum with *very generous credits*, in some cases up to 66.6 percent."

7) **Related Legislation**:

a) AB 47 (Nguyen) would exempt from the Elderly Parole Program persons convicted of specified sex offenses or persons convicted of crimes requiring registration as a sex offender. AB 47 is pending a hearing in this committee.

b) AB 1011 (Hoover) would makes any person convicted of specific child neglect offenses ineligible to earn credits for their service as an inmate firefighter. AB 1011 is scheduled

for hearing today in this committee.

c) AB 1094 (Bains) would require any person convicted of torture where the victim is 14 years of age or younger and the person is in care or custody of the victim, to serve a minimum term of 20 years before being eligible for release. AB 1094 is pending hearing in the Assembly Appropriations Committee.

8) **Prior Legislation**:

a) AB 1898 (Flora), of the 2023-2024 Legislative Session, would prohibit a person convicted of specified child pornography offenses, who previously has been convicted of and has served two or more separate prior prison terms for specified offenses, from receiving release credits. AB 1898 was held in suspense in the Assembly Appropriations Committee.

b) AB 2341 (V. Fong), of the 2023-2024 Legislative Session, would prohibit the granting of release credits to an inmate serving a sentence for a fentanyl-related offense, as specified. The hearing on AB 2341 was cancelled at the request of the author.

c) SB 359 (Umberg), of the 2023-2024 Legislative Session, would have required CDCR to compile data related to credits awarded to incarcerated persons, as specified, and to submit an annual report to the Legislature on or before January 1, 2025. SB 359 failed passage in this committee.

d) SB 445 (Jones), of the 2021-2022 Legislative Session, would have excluded "one strike" sex offenses from the Elderly Parole Program. SB 445 failed passage in the Senate Public Safety Committee.

e) SB 411 (Jones), of the 2019-2020 Legislative Session, was nearly identical to SB 445 above. SB 411 failed passage in the Senate Public Safety Committee.

f) AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program to be administered by the BPH.

REGISTERED SUPPORT / OPPOSITION:

Support

A New Path
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
Alliance of Californians for Community Empowerment (acce Action)
American Friends Service Committee
Asian Americans Advancing Justice Southern California
Bend the Arc: Jewish Action California
Black Women for Wellness Action Project

Bridges of Hope CA
Buen Vecino
C.h.a.n.g.e.s
California Coalition for Women Prisoners
California Public Defenders Association (CPDA)
Californians for Safety and Justice
Californians United for A Responsible Budget
Center on Juvenile and Criminal Justice
Community Health Project LA
Courage California
Critical Resistance
Critical Resistance, Los Angeles
Disability Rights California
Drug Policy Alliance
Ella Baker Center for Human Rights
Empowering Women Impacted by Incarceration
Fair Chance Project
Famm
Felony Murder Elimination Project
Friends Committee on Legislation of California
Grip Training Institute
Indivisible CA Statestrong
Initiate Justice
Initiate Justice Action
Inland Coalition for Immigrant Justice
Justice2jobs Coalition
LA Defensa
Lawyers' Committee for Civil Rights of The San Francisco Bay Area
Legal Services for Prisoners With Children
Local 148 LA County Public Defenders Union
Milpa Collective
Pillars of The Community
Prison Law Office
Prison Policy Initiative
Restoring Hope California
Ryse Center
Sacred Purpose LLC
San Francisco Public Defender
Showing Up for Racial Justice Santa Cruz County
Silicon Valley De-bug
Smart Justice California, a Project of Tides Advocacy
Southeast Asia Resource Action Center
Starting Over INC.
The Change Parallel Project
Uncommon Law
Vera Institute of Justice
White People 4 Black Lives
Youth Forward

53 private individuals

Oppose

California District Attorneys Association
Criminal Justice Legal Foundation
Riverside County District Attorney
San Diego County District Attorney's Office
Stand Up for Victims

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

Date of Hearing: April 8, 2025
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 651 (Bryan) – As Introduced February 13, 2025

SUMMARY: Requires notice and opportunity for an incarcerated parent to be physically present, or the opportunity to participate in those proceedings by videoconference or teleconference, in specified dependency hearings related to their child. Specifically, **this bill**:

1) Adds the following proceedings to those that require notice and opportunity for an incarcerated parent to be physically present, or the opportunity to participate in those proceedings by videoconference or teleconference:

    a) Proceedings related to seeking to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court when the prisoner is the petitioner;

    b) Hearings related to limitations on parent or guardian control and appointment of another adult to make educational or developmental decisions;

    c) Hearings on dependency status review;

    d) Hearings on permanency review following continuance; and,

    e) Any subsequent permanency review hearings.

2) Requires, rather than permits, a court to give a prisoner who is the parent of a child involved in a dependency hearing who has waived their presence or who has not been ordered before the court, the opportunity to participate in the hearing by videoconference, if available, and if participation otherwise complies with the law.

3) Provides that if videoconferencing is not available, teleconferencing shall be utilized to facilitate parental participation.

4) States that anyone who is entitled to notice of initial petition hearings, dependency status review hearing, and dependency status review and permanency review hearings is entitled to be present at the hearing in addition to the minor who is the subject of the juvenile hearing.

EXISTING LAW:

1) Requires notice to the prisoner in proceedings seeking to terminate the parental rights of a prisoner, or a proceeding seeking to adjudicate the child of a prisoner a dependent child of the court. (Pen. Code, § 2625, subd. (b).)

2) Defines "prisoner" for purposes of the above requirement, to include any individual om custody in state prison, the California Rehabilitation Center, or a county jail, or who is a ward of a juvenile facility, or who, upon a verdict or finding that the individual was insane at the time of the committing offense, or mentally incompetent to be tried or adjudged to punishment, is confined in a state hospital for the care and treatment of persons with mental health disorders or in any other public or private treatment facility. (Pen. Code, § 2625, subd. (a).)

3) Provides that upon receipt by the court of a statement from the prisoner or the prisoner's attorney indicating the prisoner's desire to be present during the court's proceedings, the court shall issue an order for the temporary removal of the prisoner from the institution, and for the prisoner's production before the court. (Pen. Code, § 2625, subd. (d).)

4) Prohibits specified proceedings seeking to terminate the parental rights of a prisoner, or proceedings seeking to adjudicate the child of a prisoner a dependent child from being held without the physical presence of the prisoner or the prisoner's attorney, unless the court has before it a knowing waiver of the right of physical presence signed by the prisoner, or an affidavit signed by the warden, superintendent, or other person in charge of the institution stating that the prisoner has, by express statement or action, indicated an intent not to appear at the proceeding. (*Ibid.*)

5) Authorizes the court, in any other action or proceeding or action adjudicating the prisoner's parental or marital rights, to issue an order for the prisoner's temporary removal from the institution and for the prisoner's production before the court. A copy of the order shall be transmitted to the warden, superintendent, or other person in charge of the institution not less than 15 days before the order is to be executed. (Pen. Code, § 2625, subd. (e).)

6) Establishes the juvenile court with jurisdiction over children who are subject to abuse or neglect. (Welf. & Inst. Code, § 300.)

7) States that the purpose of the juvenile court dependency system is the maximum safety and protection for children who are currently being abused, neglected, or exploited. Provides that the focus is on the preservation of the family, as well as the safety, protection, and physical and emotional well-being of the child. (Welf. & Inst. Code, § 300.2.)

8) States that a minor who is the subject of a juvenile court hearing, and any person entitled to notice of the hearing is entitled to be present at the hearing. (Welf. & Inst. Code, § 349, subd. (a).)

9) Provides that if the minor is present at the hearing, the court shall inform the minor that he or she has the right to address the court and participate in the hearing and the court shall allow the minor, if the minor so desires, to address the court and participate in the hearing. (Welf.& Inst. Code, § 349, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author of this bill: "AB 651 is a common sense measure that would ensure that incarcerated parents are notified of and allowed to participate in their children's dependency hearings remotely. Current law requires parents to be produced in-person for specified dependency hearings, but appearing in person is an onerous process if a parent is incarcerated in a county that is different from the county that has jurisdiction over their child. By allowing incarcerated parents the option for remote participation, we can ensure better outcomes for our foster youth and provide families with a better chance for safely reunifying after a parent's incarceration period is over."

2) **Collateral Consequences of Incarceration on Children:** Incarceration of a parent has many collateral effects on children. A March 2009 paper published by the National Conference of State Legislatures stated:

> Research suggests that intervening in the lives of incarcerated parents and their children to preserve and strengthen positive family connections can yield positive societal benefits in the form of reduced recidivism, less intergenerational criminal justice system involvement, and promotion of healthy child development. In the words of one prominent researcher, "[s]tudies . . . indicate that families are important to prisoners and to the achievement of major social goals, including the prevention of recidivism and delinquency."[1]

With respect to involving inmates who are parents in court proceedings involving their minor children, the paper noted:

> Although inmate parents are vulnerable to losing parental rights, they often are unaware of this vulnerability or know very little about what they can do to prevent loss of rights. Even if they understand what is at stake, administrative and logistical factors can prevent them from attending critical court hearings. Key to addressing these issues is ensuring that inmate parents are consistently represented by attorneys who are familiar not only with dependency litigation, but also with the criminal justice system and applicable corrections policies that affect incarcerated parents. Addressing this problem also will require improved coordination among law enforcement, the judiciary, corrections and child welfare. California law, for example, authorizes the presiding judge of the juvenile court in each county to convene representatives of these systems to develop protocols to ensure notification, transportation and presence of an incarcerated parent at all court proceedings that affect his or her child.[2]

3) **Dependency Proceedings**: Children who are at risk of abuse, neglect, or abandonment may be deemed dependents of the juvenile court and provided with services, supports and interventions aimed at protecting them and their health and safety. The system aims to preserve and strengthen families by maintaining or reuniting children with their parents whenever appropriate. The dependency process begins when child abuse, neglect, or abandonment is reported to the local child welfare agency. A social worker with the child welfare agency investigates the allegation to determine if the child requires protection in

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[1] *Children of Incarcerated Parents*, p. 1 (Steve Christian (National Conference of State Legislatures, March 2009, (footnote omitted) ; http://www.ncsl.org/documents/cyf/childrenofincarceratedparents.pdf.

[2] *Id.* at p. 11 (footnotes omitted).

order to ensure their safety. If so, the child welfare agency files a petition with the juvenile court to make the child a dependent of the court. If necessary, the social worker will remove the child from their home and take the child into protective custody.

At the subsequent court hearing, the court may elect to keep the child in, or return the child to, their home or remove the child from the home. Removal may either result in eventual reunification with the family, or the court may determine that an alternate permanent placement – including the options of guardianship or adoption – is more fitting. When reunification is not possible or appropriate, children are placed in the setting deemed least restrictive and most suitable; the court must give preference to potential placements with relatives or nonrelative extended family members. Throughout this system, there are multiple court hearings – including the detention hearing, the jurisdictional hearing and the dispositional hearing, followed by ongoing review hearings and the permanency hearing – where the custody of a child or their placement is evaluated, reviewed, and determined by the court, in consultation with the child's social worker appointed by the county and the child's attorney, to help provide the best possible support and services to the child.

Existing law requires courts to provide notice of, and opportunity to be physically present in proceedings on the initial hearing to adjudicate their child as a ward of the court and for the hearing on permanency, to incarcerated parents. Existing law states that upon receipt of notice that if the incarcerated parent would like to participate in the hearing, the court shall issue an order for the temporary removal of the prisoner form the institution and for the prisoner's production before the court. The court may not hold those proceedings without the physical presence of the incarcerated parent or their attorney unless the court has either (1) a waiver of the right of physical presence signed by the incarcerated parent or an affidavit signed by the warden, superintendent, or other person in charge of the institution, or (2) a designated representative stating that the prisoner has, by express statement or action, indicated an intent not to appear at the proceeding. An incarcerated parent who has waived the right to be in person or who has not been ordered before the court may, at the court's discretion, be given the opportunity to participate by videoconference, and if that technology is not available, teleconferencing may be utilized. Existing law recognizes the significance of dependency court hearings for parental rights and children's long-term care, and states that physical attendance by the parent at the hearings is preferred to participation by videoconference or teleconference.

This bill would require notice of, and the opportunity to be physically present at review hearings for the adjudication of the incarcerated parent's child and review hearings on permanency. This bill would require, rather than allow, a judge to order an opportunity for the incarcerated parent who has either waived physical presence or has not been ordered to come before the court, to participate via videoconference, and only if videoconference is not available, then participation by teleconference would be required. The sponsors of this bill have indicated that for parents who are incarcerated in a different county than where the proceedings involving their child are taking place, those parents often are not give the option to be physically present during these proceedings, either because notice is not given or because the jail administrator refuses to produce the incarcerated parent to another county. The videoconference mandate in the bill is to also to ensure that if the incarcerated parent cannot be transferred, there is still a meaningful opportunity to participate in one of these critical hearings.

4) **Argument in Support**: According to *Alliance for Children's Rights*, "Approximately 15% to 20% of children involved in the child welfare system have an incarcerated parent. Research consistently demonstrates that early and consistent inclusion of parents, even those incarcerated, improves outcomes for children. While incarcerated parents may not immediately resume custody, their participation provides essential information to the court regarding suitable placements with relatives or family friends, and ensures compliance with critical mandates such as the Indian Child Welfare Act.

"California's appellate courts have long affirmed that incarceration alone does not justify the severance of parental rights. In fact, there is a presumption favoring reunification for incarcerated parents whenever safely feasible. Active participation of incarcerated parents in hearings enables them to highlight service delivery deficiencies, visitation issues, updates in custodial status, and remain informed on their cases' legal progression. This not only safeguards parental rights but also protects children's rights to maintain familial relationships and promotes reunification when appropriate.

"Currently, Penal Code Section 2625 mandates the physical presence of incarcerated parents in dependency court for Welfare and Institutions Code (WIC) 366.26 termination hearings and most adjudication hearings. Remote appearances are only allowed at the court's discretion. Unfortunately, logistical challenges have historically prevented consistent production of incarcerated parents, causing significant delays and procedural complications. Parents in out-of-county custody often miss hearings entirely, and parents in state prison frequently waive their attendance due to risks of losing program placements or accruing disruptions to rehabilitative progress.

"AB 651 addresses these critical gaps through two significant changes:

1. Mandating remote participation when an in-person appearance is impractical or waived for WIC 366.26 permanency hearings and adjudication hearings. Despite technological advancements implemented due to COVID-19, these remote capabilities have not been consistently utilized in dependency cases.

2. Expanding mandatory remote appearance provisions to additional hearings, including disposition, statutory reviews, paternity proceedings, and WIC 388 petitions. Consistent parental participation throughout dependency proceedings—not merely at the beginning and end—is crucial for informed decision-making and positive child welfare outcomes.

"Ensuring remote access for incarcerated parents will significantly enhance their ability to engage meaningfully in their children's dependency cases, ultimately improving child welfare and family reunification outcomes."

5) **Argument in Opposition**: None received

6) **Related Legislation**: AB 1195 (Quirk-Silva), would require any ordered reunification services to include specified provisions if the parent of the dependent child is incarcerated in a county jail, including, among others, that the incarcerated parent is entitled to regularly scheduled, in-person visitation. AB 1195 is scheduled to be heard in this committee today.

7) **Prior Legislation**: SB 962 (Liu), Chapter 482, Statutes of 2010, provided that an incarcerated parent who has either waived the right to be physically present at the proceeding or who has not been ordered by the court to be present at the proceeding may be given the opportunity to participate in the proceeding by videoconference or teleconference, if that technology is available.

REGISTERED SUPPORT / OPPOSITION:

Support

Dependency Legal Services (Co-sponsor)
Families Inspiring Reentry & Reunification 4 Everyone (Co-sponsor)
Legal Services for Prisoners With Children (Co-sponsor)
Los Angeles Dependency Lawyers, INC (Co-sponsor)
Alliance for Children's Rights
A New Way of Life Re-entry Project
ACLU California Action
All of Us or None (HQ)
All of Us or None Orange County
Alliance for Children's Rights
California Alliance of Child and Family Services
Dependency Advocacy Center
Disability Rights California
If/when/how: Lawyering for Reproductive Justice
Starting Over INC.
The Purpose of Recovery INC

Opposition

None received

Analysis Prepared by: Stella Choe / PUB. S. / (916) 319-3744

Date of Hearing: April 8, 2025
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 923 (Quirk-Silva) – As Introduced February 19, 2025

SUMMARY: Establishes the California Women's Care Act that, among other things, creates a rebuttable presumption against incarcerating a pregnant or postpartum person. Specifically, **this bill**:

1) Defines the following terms:

   a) "Newborn" means a person who has been born and who is less than one year of age.

   b) "Postpartum period" means a period of one year after the end of a pregnancy, regardless of the pregnancy outcome.

   c) "Pregnant or postpartum defendant" means a person who is pregnant or in a postpartum period who has been accused or convicted of a crime.

   d) "Stay of execution" means delaying the imposition of a sentence of the incarceration portion of the sentence for a pregnant or postpartum defendant after the sentence is announced by the court.

2) Provides that there is a rebuttable presumption against detention and incarceration of a pregnant or postpartum defendant if the defendant provides the court and district attorney with notice of the defendant's status as a pregnant or postpartum person at each applicable stage of the proceedings.

3) Requires the court, when exercising its discretion, to apply the rebuttable presumption of a pregnant or postpartum defendant in determining to do one of following:

   a) Issue bail or own recognizance release, as specified;

   b) Accept a diversion agreement;

   c) Accept or continue a deferred entry of judgement;

   d) Impose a sentence, including whether to grant probation; or

   e) Grant a stay of execution, as specified.

4) Provides that a court shall not use a pregnant or postpartum period as a basis for imposing a greater restriction on the defendant's liberty than a similarly situated defendant who is not pregnant or postpartum, including if a pregnant or postpartum defendant has a substance use

disorder.

5) Requires a court to make specific findings on the record if the incarcerated pregnant or postpartum defendant is detained and, after weighing the applicable legal standards and considerations set forth above, that the risk to public safety or any other factor the court is required to consider is substantial enough to outweigh the risk of incarceration.

6) Allows a person who is pregnant or postpartum who is arrested or in custody in a county jail or state prison to request a pregnancy test upon or following admission to the county jail or state prison.

7) Requires staff at the county jail or state prison to provide a pregnancy test upon request and allow the person to take the pregnancy test within 24 hours after the request.

8) States that requesting a pregnancy test, taking a pregnancy test, and the results of the pregnancy test are confidential medical information.

9) States medical information shall not be disclosed to outside parties unless the information is required for the person to receive medical care or to allow staff at the county jail or state prison to provide necessary care.

10) Requires a county jail or state prison to give notice to a person's attorney, if they are represented by an attorney in a criminal proceeding, and the county jail and state prison has a signed medical release from the person, within 48 hours, excluding state holidays and weekends, concerning the person's request for a pregnancy test, as specified.

11) Allows a pregnant or postpartum defendant to raise the issue of their pregnancy or postpartum period at any time during their criminal proceedings or while serving a sentence.

12) Provides that if the pregnancy or postpartum period is raised, the pregnant or postpartum defendant shall provide notice to the district attorney by providing evidence of the pregnancy or the start of the postpartum period with a limited waiver of privilege.

13) Provides that a positive pregnancy test, or medical record confirming pregnancy or the end of the pregnancy, or a birth certificate of a newborn, is prima facie evidence of pregnancy or the start of a postpartum period.

14) Requires a court to hold a hearing as soon as possible, but no later than 14 days after the issue is raised, if the prosecution contests that the defendant is pregnant or in a postpartum state, unless the defendant requests the hearing be held later than 14 days after the issue is raised.

15) Requires a court to protect medical information provided to the court regarding a defendant's pregnancy and postpartum status and states that the defendant's wavier of medical privilege is limited, as specified.

16) Allows a pregnant or postpartum defendant to request a stay of execution by filing a written request to the court if the pregnant or postpartum defendant is detained or incarcerated in a county jail or state prison for any period of time through the end of the pregnancy or the

postpartum period.

17) Requires a court to hold a hearing for a pregnant or postpartum defendant to determine a request for a stay of executive as soon as practicable, but no later than 14 days unless the pregnant or postpartum defendant requests a later hearing.

18) Requires a court to hold a hearing for a pregnant or postpartum defendant to determine a request for a stay of executive as soon as practicable, but no later than 14 days unless the pregnant or postpartum defendant requests a later hearing.

19) Requires a court to make the determination of a later hearing in the timeline requested when a pregnant or postpartum defendant makes the request.

20) Requires a court to hold the hearing immediately if the circumstances of the pregnant or postpartum defendant or the newborn require it.

21) Requires a defendant to prove, by preponderance of the evidence, that the defendant is a pregnant or postpartum person.

22) Requires the court, during this hearing, to apply a rebuttable presumption against the detention of the incarcerated pregnant or postpartum.

23) Requires the district attorney and the court to comply with the specified victims' rights set forth in the California Constitution.

24) Allows the court to order a stay of execution of the sentence, after determining eligibility, for any period of time through the end of the pregnancy or postpartum period.

25) Requires a court to order a date, time, and place for the defendant to appear to serve the sentence upon completion of the stay of execution.

26) Requires a court that grants a stay of execution to order the bail and the conditions of bail to remain in effect until the date the pregnant or postpartum defendant is ordered to start serving the defendant's sentence.

27) States that, notwithstanding the provisions above, a pregnant or postpartum defendant who is ineligible for bail is not eligible to a stay of execution.

28) Requires the court to set a hearing if the pregnant or postpartum defendant is charged with a new violation or the court receives a verified motion from the district attorney that establishes a prima facie case that the pregnant or postpartum defendant has violated conditions of the stay of execution and presents a substantial risk to the public safety that the pregnant or postpartum defendant must appear.

29) Allows a court, after the hearing described above, to end the stay of execution, add new conditions, issue a warrant, or continue the stay of execution.

EXISTING LAW:

1) Requires the Board of State Community Corrections (BSCC) to establish minimum standards for state and local correctional facilities, including standards for pregnant individuals incarcerated at the CDCR. (Pen. Code, § 6030.)

2) Provides that every woman upon being committed to CDCR shall be examined mentally and physically, and shall be given the care, treatment and training adapted to her particular condition. (Pen. Code, § 3403.)

3) Provides that any incarcerated person shall have the right to summon and receive the services of any physician, nurse practitioner, certified nurse midwife, or physician assistant of their choice in order to determine whether they are pregnant. (Pen. Code, § 3406.)

4) States that, if the incarcerated person is found to be pregnant, they are entitled to a determination of the extent of the medical and surgical services needed and to the receipt of these services from the physician, nurse practitioner, certified nurse midwife, or physician assistant of their choice. (Pen. Code, § 3406, subd. (b).)

5) States that a person who is incarcerated in state prison who is identified as possibly pregnant or capable of becoming pregnant during an intake health examination or at any time during incarceration shall be offered a test upon intake or by request. (Pen. Code, § 3408, subd. (a).)

6) States that an incarcerated person with a positive pregnancy test result shall be offered comprehensive and unbiased options counseling that includes information about prenatal health care, adoption, and abortion. (Pen. Code, § 3408, subd. (b).)

7) Requires a person incarcerated in prison who is confirmed to be pregnant to, within seven days of arriving at the prison, be scheduled for a pregnancy examination with a physician, nurse practitioner, certified nurse-midwife, or physician assistant. The examination shall include all of the following:

   a) A determination of the gestational age of the pregnancy and the estimated due date;

   b) A plan of care, including referrals for specialty and other services, isolation practices, level of activities, and bed assignments, social and clinical needs, among other services; and,

   c) Prenatal labs and diagnostic studies, as needed based on gestational age or existing or newly diagnosed health conditions. (Pen. Code, § 3408, subd. (d).)

8) States that an eligible incarcerated pregnant person or person who gives birth after incarceration shall be provided notice of, access to, and written application for, community-based programs serving pregnant, birthing, or lactating incarcerated persons. (Pen. Code, § 3408, subd. (j).)

9) Provides that each incarcerated pregnant person shall be referred to a social worker who shall do all of the following:

a) Discuss with the incarcerated person the options available for feeding, placement, and care of the child after birth, including the benefits of lactation;

b) Assist the incarcerated pregnant person with access to a phone in order to contact relatives regarding newborn placement; and,

c) Oversee the placement of the newborn child. (Pen. Code, § 3408, subd. (k).)

10) States that an incarcerated pregnant person shall be temporarily taken to a hospital outside the prison for the purpose of childbirth. (Pen. Code, § 3408, subd. (l).)

11) Allows an incarcerated pregnant person to elect to have a support person present during labor, childbirth, and during postpartum recovery while hospitalized. (Pen. Code, § 3408, subd. (m).)

12) Provides that the support person may be an approved visitor or the prison's staff designated to assist with prenatal care, labor, childbirth, lactation, and postpartum care. The approval for the support person must be made by the administrator of the prison. Upon receipt of a written denial, the incarcerated pregnant person may choose the approved institution staff to act as the support person. (Pen. Code, § 3408, subd. (m).)

13) Requires CDCR to establish a community treatment program for incarcerated women who have one or more children under age six to participate. The program shall provide for the release of the mother and child or children to a public or private facility in the community and which will provide the best possible care for the mother and child. (Pen. Code, § 3411.)

14) Provides that every female inmate who is pregnant and who is not eligible for participation in the community treatment program shall have access to complete prenatal care, which shall include a balanced, nutritious diet approved by a doctor. (Pen. Code, § 3424.)

15) State that any amendments to existing CDCR regulation which may impact the visitation of incarcerated persons shall recognize the role of visitation in establishing and maintaining a meaningful connection with family and community. (Pen. Code, § 6400.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "For too long, our criminal justice system has failed to account for the unique medical and emotional needs of pregnant individuals. The California Women's Care Act sets a new standard that recognizes that incarceration is not a substitute for proper healthcare. AB 923 ensures that pregnant and postpartum individuals are given the opportunity to seek safer, more compassionate alternatives to incarceration. It creates a legal presumption that these individuals should not be detained and establishes a clear process for courts to consider alternatives at every stage of a case. This bill is about affirming dignity, protecting lives, and ensuring that no pregnancy is put at risk simply because a person is in custody."

2) **Incarcerated Pregnant People:** Recent estimates indicate that eight to ten percent of women who enter prison are pregnant.[1] However, the number of women incarcerated have declined in recent years.[2] State law provides incarcerated pregnant individuals a minimal level of pre- and post-partum services, such as access to a social worker, regular prenatal care visits with a health care provider, and the right to have delivery take place in a hospital outside of the institution. (Pen. Code, §§ 3408, 4203.8.) In addition, some incarcerated women can apply to the Community Prison Mother Program (CPMP) within CDCR's Female Offender Programs and Services. Pursuant to California Penal Code sections 3410 through 3424, the CPMP provides an opportunity for pregnant individuals and mothers with one or more children, six years of age or younger, the opportunity to be housed with their children in a supervised facility away from the prison setting.

   The primary focus of the CPMP is to reunite mothers with their children and re-integrate them back into society as productive citizens by providing a safe, stable, wholesome and stimulating environment. CPMP also looks to establish stability in the parent-child relationship, provide the opportunity for mothers who are incarcerated individuals to bond with their children, and strengthen the family unit.

3) **Rebuttable Presumption:** This bill creates a rebuttable presumption in favor of not incarcerating a pregnant or post-partum person. (*In re Marriage of Ashodian* (1979) 96 Cal.App.3d 43.) ["Evidence Code 601 characterizes a rebuttable presumption as one affecting either the burden of proof or the burden of producing evidence, where the statutory or decisional law creating the presumption has failed to so specify."].) The rebuttable presumption in this case would require that the district attorney demonstrate a sufficient risk to public safety before the court may order an incarcerated or postpartum person be incarcerated before or after sentencing. This bill also states that if a pregnant or post-partum person is denied bail, they are not eligible for release.

   It is not clear whether courts would be more inclined to deny bail simply to avoid the rebuttable presumption. This may occur in circumstances where a defendant has failed to appear before. Penal Code section 1320.5 creates a presumption that a person is guilty of a felony if that person fails to appear within 14 days on a felony charge. (Pen. Code, § 1320.5.) It is not clear how those presumptions will be reconciled if a pregnant or postpartum person is before the court on a felony and has failed to appear before.

   This bill also states that any hearing on the issue of pregnancy or whether the defendant is post-partum must be conducted pursuant to Marsy's Law. (See Cal Const., art. I, § 28.) Marsy's Law requires victims be consulted and have input in the criminal justice system. Section 28(f) expressly deals with bail and pre-trial release and states:

> Public Safety Bail. **A person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great.** Excessive bail may not be required. In setting, reducing or denying bail, the judge or

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[1] Legal Services for Prisoners with Children, *Pregnant Women in California Prisons and Jails: A Guide for Prisoners and Legal Advocates,* <https://www.courts.ca.gov/documents/BTB_23_4K_5.pdf>.)
[2] https://bjs.ojp.gov/library/publications/jail-inmates-2020-statistical-tables; https://www.prisonpolicy.org/graphs/CA_Women_Counts_1978_2015.html

> magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety and the safety of the victim shall be the primary considerations.
>
> A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail.
>
> Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney and the victim shall be given notice and reasonable opportunity to be heard on the matter.
>
> When a judge or magistrate grants or denies bail or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes. (Emphasis added.) (Cal. Const., art. 1, § 28, subd. (f)(3).)

There may be two separate presumptions at work if this bill is enacted that will likely need to be synthesized by the courts: the right of public safety and victim input and the presumption in favor of not incarcerating a pregnant or post-partum person.

4) **Argument in Support**: According to *Ella Baker Center for Human Rights*, "Pregnancy and the postpartum period are critical and time-sensitive medical conditions that require access to consistent healthcare, stability, and support systems—none of which are adequately provided in jails and prisons. Despite this, the number of incarcerated pregnant people continues to increase, placing individuals at significant medical risk while also jeopardizing the health and development of newborns.

"AB 923 is a necessary step in protecting the rights and health of pregnant and postpartum individuals by:

- Creating a rebuttable presumption against incarceration of pregnant and postpartum individuals, ensuring that courts prioritize alternatives to detention and incarceration.

- Requiring courts to justify incarceration decisions with specific findings, preventing the routine jailing of individuals who could otherwise safely remain in the community.

- Ensuring pregnant individuals in custody have access to pregnancy tests within 24 hours of request and maintaining records on pregnant individuals in jails.
- Providing an option to delay sentencing until after the pregnancy or postpartum period to prevent harmful separations and medical risks.

"The negative health and social consequences of incarcerating pregnant and postpartum individuals are well-documented. The lack of proper prenatal care increases risks of miscarriage, preterm birth, and maternal mortality. Separating newborns from their parents during the crucial postpartum bonding period can have lifelong developmental and health

impacts. Incarceration during pregnancy also worsens health disparities for Black, Indigenous, and low-income individuals, who are already disproportionately impacted by the criminal legal system.

"California has an opportunity to lead the nation in ensuring that incarceration is not a barrier to maternal health, family stability, and community well-being. We strongly urge the Legislature to pass AB 923 and affirm that no one should face incarceration at the expense of their reproductive health."

5) **Argument in Opposition**: According to the *California District Attorneys Association*: California law already provides courts with broad discretion to consider a defendant's pregnancy or postpartum status when determining release conditions, sentencing, or a stay of incarceration. Judges are well-equipped to weigh these factors alongside public safety and other considerations and existing sentencing alternatives, such as home detention and probation. AB 923, however, unduly burdens judicial discretion by imposing an unnecessary presumption against incarceration.

"Additionally, the bill's language is overly broad. It applies to pregnancy as well as an entire year after a pregnancy. This year-long period applies no matter how the pregnancy terminated and regardless of the particular defendant's actual health concerns or lack of health concerns.

"CDAA understands the importance of supporting maternal and newborn health. But AB 923 would forbid courts from requiring pregnant or postpartum defendants from attending doctor visits or parenting classes, both of which could tremendously improve outcomes for pregnant women and newborns.

6) **Related Legislation**: AB 260 (Aguiar-Curry) makes, among other things, technical changes to provisions authorizing abortion for incarcerated and committed persons. AB 260 is pending in the Assembly Health Committee.

7) **Prior Legislation**:

   a) AB 2160 (McKinnor), of the 2023-24 Legislative Session, was identical to this bill. AB 2160 was held on the Assembly Appropriations Committee suspense file.

   b) AB 2740 (Waldron), Chapter 738, Statutes of 2024, required incarcerated pregnant persons in state prison to be referred to a social worker to discuss options for parenting classes and other classes relevant to caring for newborns and options for placement and visiting the newborn.

   c) AB 2717 (Waldron), of the 2021-2022 Legislative Session, would have expanded the community prison mother treatment program within CDCR. AB 2717 was vetoed by the Governor.

   d) AB 732 (Bonta), Chapter 321, Statutes of 2020, requires specified medical treatment and services for county jail and state prison inmates who are pregnant, and requires that incarcerated persons be provided with materials necessary for personal hygiene with

regard to their menstrual cycle and reproductive system, upon request.

e) SB 1433 (Mitchell), Chapter 311, Statutes of 2016, requires that any person incarcerated in state prison who menstruates shall, upon request, have access to and be allowed to use materials necessary for personal hygiene with regard to their menstrual cycle and reproductive system.

REGISTERED SUPPORT / OPPOSITION:

Support

A New Way of Life Re-entry Project
ACLU California Action
Advocacy and Research on Reproductive Wellness of Incarcerated People (ARRWIP)
All of Us or None Orange County
Alliance for Children's Rights
Black Women for Wellness Action Project
California Catholic Conference
California Coalition for Women Prisoners
California Public Defenders Association (CPDA)
Californians United for A Responsible Budget
Center for Employment Opportunities
Communities United for Restorative Youth Justice (CURYJ)
Disability Rights California
Dream.org
Ella Baker Center for Human Rights
Families Inspiring Reentry & Reunification 4 Everyone (FIR4E)
Grip Training Institute
Initiate Justice
Initiate Justice Action
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Michelson Center for Public Policy
Movement for Family Power
Prison Ftio
Restoreher Us.america INC
Reversion 36
San Francisco Public Defender
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
Vera Institute of Justice
5 private individuals

Oppose

California District Attorneys Association

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

Date of Hearing: April 8, 2025
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1006 (Ramos) – As Amended March 24, 2025

As Proposed to be Amended in Committee

SUMMARY: Expands criteria for disqualified applicants of a concealed carry weapons (CCW) license and would provide for joint spousal firearm registration. Specifically, **this bill**:

1) States that if a person applies for a new license or license renewal to carry a pistol, revolver, or other firearm capable of being concealed upon the person, the sheriff of a county shall issue or renew a license to that person upon proof the applicant is the recorded owner of the pistol, revolver, or other firearm for which the license will be issued, or the spouse of the recorded owner.

2) Provides that when a person applies for a new CCW license or license renewal, the chief or other head of a municipal police department of any city or city and county shall issue or renew a license to that person upon proof of the applicant is the recorded owner of the pistol, revolver, or other firearm for which the license will be issued, or the spouse of the recorded owner.

3) Establishes that prior to the issuance of a CCW license, renewal of a license, or amendment to a license, each licensing authority shall determine if the applicant is the recorded owner or the spouse of the recorded owner of the particular pistol, revolver, or other firearm capable of being concealed upon the person reported in the application.

4) States that a licensee shall not carry a firearm not listed on the license or a firearm for which they are not the recorded owner or the spouse of the recorded owner.

5) Provides that unless a court makes a contrary determination, as defined, an applicant shall be deemed to be a disqualified person and cannot receive or renew a license if the applicant has been subject to any restraining order, protective order, or other type of court order issued pursuant to specified statutory provisions, unless that order expired, was dismissed, or was vacated or otherwise canceled more than five years prior to the licensing authority receiving the completed application.

6) States that unless a court makes a contrary determination, as defined, an applicant shall be deemed to be a disqualified person and cannot receive or renew a license if the applicant provided any inaccurate or incomplete information, having known or should have known the information was inaccurate, in connection with an application for a new license or a renewal.

7) Provides that unless a court makes a contrary determination, as defined, an applicant shall be deemed to be a disqualified person and cannot receive or renew a license if the applicant in

the 10 years prior to the licensing authority receiving the completed application, has been convicted of a specified offense.

8) States that unless a court makes a contrary determination, as defined, an applicant shall be deemed to be a disqualified person and cannot receive or renew a license if the applicant is a validated gang member.

9) Provides that unless a court makes a contrary determination, as defined, an applicant shall be deemed to be a disqualified person and cannot receive or renew a license if the applicant in the 10 years prior to the licensing authority receiving the completed application, has been convicted of an offense that does not preclude the person's lawful possession of a firearm but is an offense involving violence against a person.

10) Establishes that a license issued on or after January 1, 2026, as defined, is valid for any period of time not to exceed two years from the date of the license.

EXISTING LAW:

1) States that if a person applies for a new CCW license or license renewal, the sheriff of a county shall issue or renew a license to that person upon proof of all of the following:

   a) The applicant is not a disqualified person to receive such a license, as determined in accordance with the standards, as defined.

   b) The applicant is at least 21 years of age, and presents clear evidence of the person's identity and age, as defined.

   c) The applicant is a resident of the county or a city within the county, or the applicant's principal place of employment or business is in the county or a city within the county and the applicant spends a substantial period of time in that place of employment or business. Prima facie evidence of residency within the county or a city within the county includes, but is not limited to, the address where the applicant is registered to vote, the applicant's filing of a homeowner's property tax exemption, and other acts, occurrences, or events that indicate presence in the county or a city within the county is more than temporary or transient. The presumption of residency in the county or city within the county may be rebutted by satisfactory evidence that the applicant's primary residence is in another county or city within the county.

   d) The applicant has completed a course of training as described.

   e) The applicant is the recorded owner, with the Department of Justice, of the pistol, revolver, or other firearm for which the license will be issued. (Pen. Code, § 26150, subd. (a)(1)-(5).)

2) Provides that the sheriff shall issue or renew a license under subdivision (a) in either of the following formats:

   a) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

b) Where the population of the county is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in only that county a pistol, revolver, or other firearm capable of being concealed upon the person. (Pen. Code, § 26150, subd. (b)(1)-(2).)

3) States that when a person applies for a new CCW license or license renewal, the chief or other head of a municipal police department of any city or city and county shall issue or renew a license to that person upon proof of all of the following:

a) The applicant is not a disqualified person to receive such a license, as determined in accordance with defined standards.

b) The applicant is at least 21 years of age, and presents clear evidence of the person's identity and age, as defined.

c) The applicant is a resident of that city or city and county. Prima facie evidence of residency within the county or a city within the county includes, but is not limited to, the address where the applicant is registered to vote, the applicant's filing of a homeowner's property tax exemption, and other acts, occurrences, or events that indicate presence in the county or a city within the county is more than temporary or transient. The presumption of residency in the county or city within the county may be rebutted by satisfactory evidence that the applicant's primary residence is in another county or city within the county.

d) The applicant has completed a course of training, as defined.

e) The applicant is the recorded owner, with the Department of Justice, of the pistol, revolver, or other firearm for which the license will be issued. (Pen. Code, § 26155, subd. (a)(1)-(5).)

4) Provides that the chief or other head of a municipal police department shall issue or renew a license under subdivision (a) in either of the following formats:

a) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

b) Where the population of the county in which the city is located is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in only that county a pistol, revolver, or other firearm capable of being concealed upon the person. (Pen. Code, § 26155, subd. (b)(1)-(2).)

5) Establishes that prior to the issuance of a license, renewal of a license, or amendment to a license, each licensing authority shall determine if the applicant is the recorded owner of the particular pistol, revolver, or other firearm capable of being concealed upon the person reported in the application for a license or the application for the amendment to a license. (Pen. Code, § 26162, subd. (a).)

6) States that while carrying a firearm as authorized by a CCW, a licensee shall not do any of the following:

a) Consume an alcoholic beverage or controlled substance, as defined.

b) Be in a place having a primary purpose of dispensing alcoholic beverages for onsite consumption.

c) Be under the influence of any alcoholic beverage, medication, or controlled substance as defined.

d) Carry a firearm not listed on the license or a firearm for which they are not the recorded owner.

e) Falsely represent to a person that the licensee is a peace officer.

f) Engage in an unjustified display of a deadly weapon.

g) Fail to carry the license on their person.

h) Impede a peace officer in the conduct of their activities.

i) Refuse to display the license or to provide the firearm to a peace officer upon demand for purposes of inspecting the firearm.

j) Violate any federal, state, or local criminal law. (Pen. Code, § 26200, subd. (a)(1)-(10).)

7) Establishes that a license may also include any reasonable restrictions or conditions that the licensing authority deems warranted, including restrictions as to the time, place, manner, and circumstances under which a licensee may carry a pistol, revolver, or other firearm capable of being concealed upon the person. (Pen. Code, § 26200, subd. (b).)

8) States that any restrictions imposed pursuant to subdivision (b) shall be indicated on any license issued. (Pen. Code, § 26200, subd. (c).)

9) Provides that a licensee authorized to carry a firearm shall not carry more than two firearms under the licensee's control at one time. (Pen. Code, § 26200, subd. (d).)

10) Specifies that unless a court makes a contrary determination, as defined, an applicant shall be deemed to be a disqualified person and cannot receive or renew a license if the applicant:

a) Is reasonably likely to be a danger to self, others, or the community at large, as demonstrated by anything in the application, or as shown by the results of any psychological assessment.

b) Has been convicted of contempt of court, as defined.

c) Has been subject to any restraining order, protective order, or other type of court order, as defined, issued pursuant to the following statutory provisions, unless that order expired or was vacated or otherwise canceled more than five years prior to the licensing authority receiving the completed application

d) In the 10 years prior to the licensing authority receiving the completed application for a new license or a license renewal, has been convicted of a defined offense.
e) Has engaged in an unlawful or reckless use, display, or brandishing of a firearm.

f) In the 10 years prior to the licensing authority receiving the completed application for a new license or a license renewal, has been charged with any offense, as defined, that was dismissed pursuant to a plea or dismissed with a waiver pursuant to *People v. Harvey* (1979) 25 Cal.3d 754.

g) In the five years prior to the licensing authority receiving the completed application for a new license or a license renewal, has been committed to or incarcerated in county jail or state prison for, or on probation, parole, postrelease community supervision, or mandatory supervision as a result of, a conviction of an offense, an element of which involves controlled substances, as defined.

h) Is currently abusing controlled substances or alcohol, as defined.

i) In the 10 years prior to the licensing authority receiving the completed application for a new license or a license renewal, has experienced the loss or theft of multiple firearms due to the applicant's lack of compliance with federal, state, or local law regarding storing, transporting, or securing the firearm.

j) Failed to report a loss of a firearm, as defined, or any other state, federal, or local law requiring the reporting of the loss of a firearm. (Pen. Code, § 26202, subd. (a)(1)-(10).)

11) States that in determining whether an applicant is a disqualified person and cannot receive or renew a license, the licensing authority shall conduct an investigation that meets all of the following minimum requirements:

a) An in-person interview with the applicant. For renewal applications, the licensing authority may elect to forgo this requirement.

b) In-person, virtual, or telephonic interviews with at least three character references, as defined. For renewal applications, the licensing authority may elect to forgo this requirement.

c) A review of publicly available information about the applicant, including publicly available statements published or posted by the applicant.

d) A review of all information provided in the application for a license.

e) A review of all information provided by the Department of Justice, as defined, as well as firearms eligibility notices or any other information subsequently provided to the licensing authority regarding the applicant.

k) A review of the information in the California Restraining and Protective Order System accessible through the California Law Enforcement Telecommunications System. (Pen. Code, § 26202, subd. (b)(1)-(6).)

12) Establishes that within 90 days of receiving the completed application for a new license or a license renewal, the licensing authority shall give written notice to the applicant of the licensing authority's initial determination of whether an applicant is a disqualified person, as defined:

    a) If the licensing authority makes an initial determination that, based on its investigation thus far, the applicant is not a disqualified person, the notice shall inform the applicant to proceed with the defined training requirements. The licensing authority shall then submit the applicant's fingerprints or the renewal notification to the Department of Justice.

    b) If, within 90 days of receiving the completed application for a new license or a license renewal, the licensing authority determines that the applicant is a disqualified person, the notice shall inform the applicant that the request for a license has been denied, state the reason as to why the determination was made, and inform the applicant that they may request a hearing from a court. A licensing authority providing notice under this paragraph informing the applicant that the request for a license has been denied satisfies the requirement to provide notice of a denial of a license. (Pen. Code, § 26202, subd. (d)(1)-(2).)

13) Specifies that the listed prohibitions shall apply whether the relevant conduct, order, conviction, charge, commitment, or other relevant action took place or was issued or entered before the effective date of the act adding this subdivision. (Pen. Code, § 26202, subd. (e).)

14) States that except as otherwise provided, a license is valid for any period of time not to exceed two years from the date of the license. (Pen. Code, § 26220, subd. (a).)

15) Provides that if the licensee's place of employment or business was the basis for issuance of a license, the license is valid for any period of time not to exceed 90 days from the date of the license, unless the license was issued. The license shall be valid only in the county in which the license was originally issued. The licensee shall give a copy of this license to the licensing authority in which the licensee resides. (Pen. Code, § 26220, subd. (b).)

16) Establishes that a license issued, as defined, is valid for any period of time not to exceed three years from the date of the license if the license is issued to any of the following individuals:

    a) A judge of a California court of record.

    b) A full-time court commissioner of a California court of record.

    c) A judge of a federal court.

    d) A magistrate of a federal court. (Pen. Code, § 26220, subd. (c)(1)-(4).)

17) States that a license issued, as defined, is valid for any period of time not to exceed four years from the date of the license if the license is issued to a custodial officer who is an employee of the sheriff, except that the license shall be invalid upon the conclusion of the person's employment if the four-year period has not otherwise expired or any other condition imposed

pursuant to this article does not limit the validity of the license to a shorter time period. (Pen. Code, § 26220, subd. (d).)

18) States that a license issued, as defined, to a peace officer appointed as a reserve officer is valid for any period of time not to exceed four years from the date of the license, except that the license shall be invalid upon the conclusion of the person's appointment if the four-year period has not otherwise expired or any other condition imposed pursuant to this article does not limit the validity of the license to a shorter time period. (Pen. Code, § 26220, subd. (e).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Following the U.S. Supreme Court ruling in New York Rifle and Pistol Association v. Bruen, the legislature passed SB 2 which was aimed at addressing the issues raised in the case. Unfortunately, SB 2 did not address certain CCW issues and other implementation challenges have come to light since its enactment. AB 1006 allows spouses to jointly register firearms they co-own so both could list them on their CCW. Without this change, and pursuant to existing law, married couples wherein both spouses have CCWs each have to own their own firearm since SB 2 requires the CCW holder to be the recorded owner of the firearm. The bill also clarifies conditions and criminal history that disqualify a CCW applicant from being issued a license, including when an applicant lies on an application or has been convicted of specified crimes. Finally, in order to address the resources and time needed to undertake the rigorous application and renewal process, the bill permits CCWs to be valid for up to four years, instead of the current two years."

2) **Effect of the Bill:** This bill would allow spouses to jointly register firearms for the purpose of CCW licensure and expand the criteria for denying a CCW license to an applicant.

   Authorizing joint registration of firearms would allow each spouse to list the same firearm on their respective CCW license. Given that California is a community property state (Fam. Code, § 720), authorizing joint registration would add some natural consistency to how property is treated among spouses. This could also provide some measure of relief in potential administrative burdens that would otherwise accrue from re-register of the same firearm for legal co-owners. There appears to be no research suggesting an impact on public safety resulting from permitting joint registration.

   This bill would additionally expand the disqualifying criteria for denying issuance or renewal of a CCW license. Carefully constructed, there may be no constitutional issues with expanding these criteria. Properly tailoring these criteria can help stay within *Bruen*'s constitutional boundaries. As amended, this bill's expansion of disqualification criteria appears to more closely adhere to our constitutional mandate by maintaining focus for disqualification on elements of potential dangerousness.

3) **The *Bruen* Analysis:** This bill would prevent certain disqualified persons from acquiring a CCW license. Since this bill would regulate plain text Second Amendment conduct, 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 is comparatively justified. (*Ibid.*)

The expansion of the disqualifying criteria in this bill largely focuses on precluding issuance of a license to a person with a history of dangerousness. American history is replete with relevantly similar examples prohibiting people with a history of dangerous behavior from possessing, purchasing, and owning weapons of all kinds, including firearms.[1]

The US Supreme Court has already ruled on a similar issue. In a 2023 case, the Court held that when an individual has been found by a court to pose a credible threat to the physical safety of another, that individual may be temporarily disarmed consistent with the Second Amendment. (*United States v. Rahimi,* (2024) 602 U.S. 680, 685.) Including additional disqualifying criteria that are rooted in an applicant's history of dangerousness appears consistent with current Second Amendment jurisprudence.

Since this bill proposes comparable burdens on Second Amendment conduct, which is disarmament of people who are dangerous, this bill would likely fit within the nation's historical tradition of Second Amendment regulations.

4) **Additional Considerations:** This bill would permit license denial to a validated gang member. Validation of gang membership may be too ambiguous to deny exercise of a constitutional right. While there are certain standards for validating gang members, these criteria remain undefined and undirected in the bill, as currently written.

5) **Committee Amendments:** As amended, this bill would retain the two-year licensure duration for most CCW's, include a severability provision, establish a *mens rea* requirement for inaccurate information being entered onto a CCW application, clarify that a person must have been convicted of, not simply charged with, certain defined crimes to become disqualified, and eliminate other defined penalties being sufficient for CCW disqualification.

6) **Argument in Support**: According to multiple law enforcement organizations, "California's law enforcement organizations are in support of AB 1006 which will allow spouses to jointly register firearms they co-own so both could list them on their carry concealed weapons (CCW) license, clarify conditions and criminal history that disqualify a CCW applicant from being issued a license, and allow CCWs to be valid for up to four years, instead of the current two years. California enacted legislation altering the process by which licenses to CCW are issued.

"While this legislation addressed issues created by case law, it neglected to solve other pre-existing issues with CCW law. Additionally, the implementation of this legislation has sparked questions regarding implementation and identified issues that need to be addressed further. AB

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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. 25, 2025].

1006 will enable spouses to jointly register firearms they co-own, allowing both to include them on their CCW permits.

"Additionally, clarify the specific conditions and criminal history that would disqualify an applicant from obtaining a CCW, and extend the validity of CCWs to four years, rather than the current two-year limit."

7) **Argument in Opposition**: According to the *California Rifle and Pistol Association (CRPA),* "The author is bringing forth legislation that is problematic in supporting law-abiding citizens defending themselves. AB1006 seeks to expand the concept of "Disqualifying Criteria" through several amendments to the current law. The 5-year prohibition is wholly unconstitutional in prohibiting a person from obtaining a CCW simply because they had a civil restraining order issued against them. Given the relative ease to make an allegation and obtain a Temporary Restraining Order (TRO) that is found meritless after a hearing.

"The Amendment to: *SEC. 5. Section 26202 of the Penal Code (11) is amended to read: Provided any inaccurate or incomplete information in connection with an application for a new license or a license renewal.* This amendment is not only wholly subjective, but also unconstitutional under the 2022 United States Supreme Court decision New York State Rifle & Pistol Association, Inc. v. Bruen. In speaking with several Sheriff's department, the simple act of forgetting to mention on the application a speeding ticket from over a decade would result in being prohibited from obtaining a CCW and denial of a constitutional right.

"The Amendment to: *SEC. 5. Section 26202 of the Penal Code (12) In the 10 years prior to the licensing authority receiving the completed application for a new license or a license renewal, has been charged with an offense listed in Section 71, 76, 422, or 626.8.* This amendment uses the term "has been charged". The act of being charged is a mere allegation and should not be a prohibition, some of those penal codes are infractions (meaning the person is only fined a monetary amount)!

"The Amendment to: *SEC. 5. Section 26202 of the Penal Code (13) Is a validated gang member.* What does "validated" mean? The way its worded makes this highly subjective, at the very least should also be "currently," otherwise its over inclusive and a lifetime bar.

"The Amendment to: *SEC. 5. Section 26202 of the Penal Code* A *(14) In the 10 years prior to* the licensing authority receiving the completed application for a new license or a license renewal, has been convicted of an offense that does not preclude the person's lawful possession of a firearm but is an offense involving violence against a person, a crime of moral turpitude, an offense that could be charged as a felony or misdemeanor that is adjudicated as a misdemeanor, or an offense charged as a felony that is adjudicated as a misdemeanor. This amendment is wholly subjective. What does "violence against a person" mean? What does "crime of moral turpitude" mean? His is a blatant attempt to reestablish "good moral character" which is again subjective and in direct contradiction to the 2022 United States Supreme Court decision New York State Rifle & Pistol Association, Inc. v. Bruen. Finally, using a 10-year ban from obtaining a CCW based on any wobbler offense is another attempt by the author to unreasonably deny a constitutional right."

8) **Related Legislation**:

a) SB 15 (Blakespear) would authorize the Department of Justice to remove a person from the centralized list who has willfully failed to comply with specified licensing

requirements or who, among other things, failed to remedy violations discovered as a result of an inspection within 90 days of the inspection. This bill is set to be heard in the Senate Appropriations Committee.

b) SB 704 (Arreguin) would prohibit the sale or transfer of a firearm barrel, unless the transaction is completed in person by a licensed firearms dealer. The bill would require the licensed firearms dealer to conduct a background check of the purchaser or transferee and to record specified information pertaining to the transaction, including the date of the sale or transfer. This bill is set to be heard in the Assembly Public Safety Committee.

c) AB 1092 (Castillo) would extend the concealed carry weapon license window from two to four years, beginning on January 1, 2027. This bill is set to be heard in the Assembly 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.

b) AB 303 (Davies), Chapter 161, Statutes of 2023, requires the Attorney General to provide specific information to local law enforcement agencies involving prohibited persons, including, but not limited to, personal identifying information, case status, and information regarding previous contact with the prohibited person.

c) AB 1133 (Schiavo), of the 2023-2024 Legislative Session, would have required the Department of Justice to develop, evaluate, update, maintain, and publish a standardized curricula for a license to carry a concealed firearm. 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. This bill also 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.

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 Narcotic Officers' Association
California Reserve Peace Officers Association

California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
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

1 private individual

Oppose

Brady California
Brady Campaign
California Rifle and Pistol Association, INC.

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

Amended Mock-up for 2025-2026 AB-1006 (Ramos (A))

Mock-up based on Version Number 98 - Amended Assembly 3/24/25
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 26150 of the Penal Code is amended to read:

26150. (a) If a person applies for a new license or license renewal to carry a pistol, revolver, or other firearm capable of being concealed upon the person, the sheriff of a county shall issue or renew a license to that person upon proof of all of the following:

(1) The applicant is not a disqualified person to receive such a license, as determined in accordance with the standards set forth in Section 26202.

(2) The applicant is at least 21 years of age, and presents clear evidence of the person's identity and age, as defined in Section 16400.

(3) The applicant is a resident of the county or a city within the county, or the applicant's principal place of employment or business is in the county or a city within the county and the applicant spends a substantial period of time in that place of employment or business. Prima facie evidence of residency within the county or a city within the county includes, but is not limited to, the address where the applicant is registered to vote, the applicant's filing of a homeowner's property tax exemption, and other acts, occurrences, or events that indicate presence in the county or a city within the county is more than temporary or transient. The presumption of residency in the county or city within the county may be rebutted by satisfactory evidence that the applicant's primary residence is in another county or city within the county.

(4) The applicant has completed a course of training as described in Section 26165.

(5) The applicant is the recorded owner, with the Department of Justice, of the pistol, revolver, or other firearm for which the license will be issued, or the spouse of the recorded owner.

(b) The sheriff shall issue or renew a license under subdivision (a) in either of the following formats:

(1) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Where the population of the county is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in only that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) (1) Nothing in this chapter shall preclude the sheriff of the county from entering into an agreement with the chief or other head of a municipal police department of a city to process all applications for licenses, renewals of licenses, or amendments to licenses pursuant to this chapter, in lieu of the sheriff.

(2) This subdivision shall only apply to applicants who reside within the city in which the chief or other head of the municipal police department has agreed to process applications for licenses, renewals of licenses, and amendments to licenses, pursuant to this chapter.

SEC. 2. Section 26155 of the Penal Code is amended to read:

26155. (a) When a person applies for a new license or license renewal to carry a pistol, revolver, or other firearm capable of being concealed upon the person, the chief or other head of a municipal police department of any city or city and county shall issue or renew a license to that person upon proof of all of the following:

(1) The applicant is not a disqualified person to receive such a license, as determined in accordance with the standards set forth in Section 26202.

(2) The applicant is at least 21 years of age, and presents clear evidence of the person's identity and age, as defined in Section 16400.

(3) The applicant is a resident of that city or city and county. Prima facie evidence of residency within the county or a city within the county includes, but is not limited to, the address where the applicant is registered to vote, the applicant's filing of a homeowner's property tax exemption, and other acts, occurrences, or events that indicate presence in the county or a city within the county is more than temporary or transient. The presumption of residency in the county or city within the county may be rebutted by satisfactory evidence that the applicant's primary residence is in another county or city within the county.

(4) The applicant has completed a course of training as described in Section 26165.

(5) The applicant is the recorded owner, with the Department of Justice, of the pistol, revolver, or other firearm for which the license will be issued, or the spouse of the recorded owner.

(b) The chief or other head of a municipal police department shall issue or renew a license under subdivision (a) in either of the following formats:

(1) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Where the population of the county in which the city is located is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in only that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) Nothing in this chapter shall preclude the chief or other head of a municipal police department of any city from entering an agreement with the sheriff of the county in which the city is located for the sheriff to process all applications for licenses, renewals of licenses, and amendments to licenses, pursuant to this chapter.

SEC. 3. Section 26162 of the Penal Code is amended to read:

26162. (a) Prior to the issuance of a license, renewal of a license, or amendment to a license, each licensing authority with direct access to the designated Department of Justice system shall determine if the applicant is the recorded owner or the spouse of the recorded owner of the particular pistol, revolver, or other firearm capable of being concealed upon the person reported in the application for a license or the application for the amendment to a license under this chapter.

(b) An agency with direct access to the designated Department of Justice system shall confirm the applicant's information with firearm ownership maintained in the system. An agency without access to the system shall confirm this information with the sheriff of the county in which the agency is located.

SEC. 4. Section 26200 of the Penal Code is amended to read:

26200. (a) While carrying a firearm as authorized by a license issued pursuant to this chapter, a licensee shall not do any of the following:

(1) Consume an alcoholic beverage or controlled substance as described in Sections 11053 to 11058, inclusive, of the Health and Safety Code.

(2) Be in a place having a primary purpose of dispensing alcoholic beverages for onsite consumption.

(3) Be under the influence of any alcoholic beverage, medication, or controlled substance as described in Sections 11053 to 11058, inclusive, of the Health and Safety Code.

(4) Carry a firearm not listed on the license or a firearm for which they are not the recorded owner or the spouse of the recorded owner. This paragraph does not apply to a licensee who was issued a license pursuant to Section 26170, in which case they may carry a firearm that is registered to the agency for which the licensee has been deputized or appointed to serve as a peace officer, and the licensee carries the firearm consistent with that agency's policies.

(5) Falsely represent to a person that the licensee is a peace officer.

(6) Engage in an unjustified display of a deadly weapon.

(7) Fail to carry the license on their person.

(8) Impede a peace officer in the conduct of their activities.

(9) Refuse to display the license or to provide the firearm to a peace officer upon demand for purposes of inspecting the firearm.

(10) Violate any federal, state, or local criminal law.

(b) In addition to the restrictions and conditions listed in subdivision (a), a license issued pursuant to this chapter may also include any reasonable restrictions or conditions that the licensing authority deems warranted, including restrictions as to the time, place, manner, and circumstances under which a licensee may carry a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) Any restrictions imposed pursuant to subdivision (b) shall be indicated on any license issued.

(d) A licensee authorized to carry a firearm pursuant to this chapter shall not carry more than two firearms under the licensee's control at one time.

SEC. 5. Section 26202 of the Penal Code is amended to read:

26202. (a) Unless a court makes a contrary determination pursuant to Section 26206, an applicant shall be deemed to be a disqualified person and cannot receive or renew a license pursuant to Section 26150, 26155, or 26170 if the applicant:

(1) Is reasonably likely to be a danger to self, others, or the community at large, as demonstrated by anything in the application for a license or through the investigation described in subdivision (b), or as shown by the results of any psychological assessment, including, but not limited to, the assessment described in subdivision (e) of Section 26190.

(2) Has been convicted of contempt of court under Section 166.

(3) Has been subject to any restraining order, protective order, or other type of court order issued pursuant to the following statutory provisions, unless that order expired, was dismissed, or was vacated or otherwise canceled more than five years prior to the licensing authority receiving the completed application:

(A) Section 646.91 or Part 3 (commencing with Section 6240) of Division 10 of the Family Code.

(B) Part 4 (commencing with Section 6300) of Division 10 of the Family Code.

(C) Sections 136.2 and 18100.

(D) Section 527.6, 527.8, or 527.85 of the Code of Civil Procedure.

(E) Section 213.5, 304, 362.4, 726.5, or 15657.03 of the Welfare and Institutions Code.

(4) In the 10 years prior to the licensing authority receiving the completed application for a new license or a license renewal, has been convicted of an offense listed in Section 422.6, 422.7, 422.75, or 29805.

(5) Has engaged in an unlawful or reckless use, display, or brandishing of a firearm.

(6) In the 10 years prior to the licensing authority receiving the completed application for a new license or a license renewal, has been charged with any offense listed in Section 290, 667.5, 1192.7, 1192.8, or 29805 that was dismissed pursuant to a plea or dismissed with a waiver pursuant to People v. Harvey (1979) 25 Cal.3d 754.

(7) In the five years prior to the licensing authority receiving the completed application for a new license or a license renewal, has been committed to or incarcerated in county jail or state prison for, or on probation, parole, postrelease community supervision, or mandatory supervision as a result of, a conviction of an offense, an element of which involves controlled substances, as described in Sections 11053 to 11058, inclusive, of the Health and Safety Code, or alcohol.

(8) Is currently abusing controlled substances, as described in Sections 11053 to 11058, inclusive, of the Health and Safety Code, or alcohol.

(9) In the 10 years prior to the licensing authority receiving the completed application for a new license or a license renewal, has experienced the loss or theft of multiple firearms due to the applicant's lack of compliance with federal, state, or local law regarding storing, transporting, or securing the firearm. For purposes of this paragraph, "multiple firearms" includes a loss of more than one firearm on the same occasion, or the loss of a single firearm on more than one occasion.

(10) Failed to report a loss of a firearm as required by Section 25250 or any other state, federal, or local law requiring the reporting of the loss of a firearm.

(11) Provided any **information that the applicant knew or should have known was inaccurate or incomplete information in connection with an application for a new license or a license renewal.**

(12) In the 10 years prior to the licensing authority receiving the completed application for a new license or a license renewal, has been **convicted of** ~~**charged with**~~ an offense listed in Section 71, 76, 422, or 626.8.

(13) Is a validated gang member.

(14) In the 10 years prior to the licensing authority receiving the completed application for a new license or a license renewal, has been convicted of an offense that does not preclude the person's lawful possession of a firearm but is an offense involving violence against a person~~**., a crime of moral turpitude, an offense that could be charged as a felony or misdemeanor that is**~~

~~adjudicated as a misdemeanor, or an offense charged as a felony that is adjudicated as a misdemeanor.~~

(b) In determining whether an applicant is a disqualified person and cannot receive or renew a license in accordance with subdivision (a) of this section, the licensing authority shall conduct an investigation that meets all of the following minimum requirements:

(1) An in-person interview with the applicant. For renewal applications, the licensing authority may elect to forgo this requirement.

(2) In-person, virtual, or telephonic interviews with at least three character references, at least one of whom must be a person described in subdivision (b) of Section 273.5, if applicable, and at least one of whom must be the applicant's cohabitant, if applicable. For renewal applications, the licensing authority may elect to forgo this requirement.

(3) A review of publicly available information about the applicant, including publicly available statements published or posted by the applicant.

(4) A review of all information provided in the application for a license.

(5) A review of all information provided by the Department of Justice in accordance with subdivision (a) of, paragraph (2) of subdivision (b) of, and paragraph (3) of subdivision (c) of Section 26185, as well as firearms eligibility notices or any other information subsequently provided to the licensing authority regarding the applicant.

(6) A review of the information in the California Restraining and Protective Order System accessible through the California Law Enforcement Telecommunications System.

(c) In determining whether an applicant is a disqualified person and cannot receive or renew a license in accordance with subdivision (a), nothing in this section precludes the licensing authority from engaging in investigative efforts in addition to those listed in subdivision (b).

(d) Within 90 days of receiving the completed application for a new license or a license renewal, the licensing authority shall give written notice to the applicant of the licensing authority's initial determination, based on its investigation thus far, of whether an applicant is a disqualified person pursuant to Section 26150, 26155, or 26170 as follows:

(1) If the licensing authority makes an initial determination that, based on its investigation thus far, the applicant is not a disqualified person, the notice shall inform the applicant to proceed with the training requirements specified in Section 26165. The licensing authority shall then submit the applicant's fingerprints or the renewal notification to the Department of Justice in accordance with Section 26185.

(2) If, within 90 days of receiving the completed application for a new license or a license renewal, the licensing authority determines that the applicant is a disqualified person, the notice shall inform

the applicant that the request for a license has been denied, state the reason as to why the determination was made, and inform the applicant that they may request a hearing from a court, as outlined in Section 26206. A licensing authority providing notice under this paragraph informing the applicant that the request for a license has been denied satisfies the requirement to provide notice of a denial of a license pursuant to Section 26205.

(e) The prohibitions listed in subdivision (a) shall apply whether or not the relevant conduct, order, conviction, charge, commitment, or other relevant action took place or was issued or entered before the effective date of the act that added this subdivision.

~~**SEC. 6.** Section 26220 of the Penal Code is amended to read:~~ [WD1]

~~**26220.** (a) Except as otherwise provided in this section and in subdivision (c) of Section 26210, a license issued on or after January 1, 2026, pursuant to Section 26150 or 26155 is valid for any period of time not to exceed two four years from the date of the license.~~

~~(b) If the licensee's place of employment or business was the basis for issuance of a license pursuant to Section 26150, the license is valid for any period of time not to exceed 90 days from the date of the license, unless the license was issued pursuant to subdivision (d). The license shall be valid only in the county in which the license was originally issued. The licensee shall give a copy of this license to the licensing authority of the city, county, or city and county in which the licensee resides. The licensing authority that originally issued the license shall inform the licensee verbally and in writing in at least 16-point type of this obligation to give a copy of the license to the licensing authority of the city, county, or city and county of residence. Any application to renew or extend the validity of, or reissue, the license may be granted only upon the concurrence of the licensing authority that originally issued the license and the licensing authority of the city, county, or city and county in which the licensee resides.~~

~~(c) A license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed four years from the date of the license if the license is issued to a custodial officer who is an employee of the sheriff as provided in Section 831.5, except that the license shall be invalid upon the conclusion of the person's employment pursuant to Section 831.5 if the four-year period has not otherwise expired or any other condition imposed pursuant to this article does not limit the validity of the license to a shorter time period.~~

~~(d) A license issued pursuant to Section 26170 to a peace officer appointed pursuant to Section 830.6 is valid for any period of time not to exceed four years from the date of the license, except that the license shall be invalid upon the conclusion of the person's appointment pursuant to Section 830.6 if the four-year period has not otherwise expired or any other condition imposed pursuant to this article does not limit the validity of the license to a shorter time period.~~

SEC. 7. 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.

~~7~~

SEC. 8. 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.

Date of Hearing: April 8, 2025
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1011 (Hoover) – As Introduced February 20, 2025

As Proposed to be Amended in Committee

SUMMARY: Makes any person convicted of child endangerment, if the four-year sentence enhancement for great bodily injury is imposed, and assault causing death of a child under 8-years-old ineligible to earn credits for their service as an inmate firefighter.

EXISTING LAW:

1) Provides that any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished as a misdemeanor by imprisonment in a county jail not exceeding one year, or as a felony punishable by imprisonment in the state prison for two, four, or six years. (Pen. Code, § 273a, subd. (a).)

2) Provides that any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor. (Pen. Code, § 273a, subd. (b).)

3) Provides that any person convicted of the above-described offense, who under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or injury that results in death, or having the care or custody of any child, under circumstances likely to produce great bodily harm or death, willfully causes or permits that child to be injured or harmed, and that injury or harm results in death, shall receive a four-year enhancement for each violation, in addition to the sentence provided for that conviction. (Pen. Code, § 12022.95.)

4) Provides that any person, having the care or custody of a child who is under eight, who assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child's death, is guilty of a felony, punishable by imprisonment in the state prison for 25 years to life. (Pen. Code, § 273ab, subd. (a).)

5) Provides that any person, having the care or custody of a child who is under eight, who assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child becoming comatose due to brain injury or suffering

paralysis of a permanent nature, is guilty of a felony, punishable by imprisonment in the state prison for life with the possibility of parole. (Pen. Code, § 273ab, subd. (b).)

6) Provides that for every six months of continuous incarceration, except as specified, a person incarcerated in state prison may earn a six-month work-time credit reduction from their term of confinement (one-for-one post-sentence credit). (Pen. Code, § 2933, subd. (b).)

7) Provides that a person who is assigned to a CDCR conservation camp and is eligible to receive one day of work-time credit for every one day of incarceration (one-for-one credits) shall instead receive two-for-one credits. The service performed must be after January 1, 2003. (Pen. Code, § 2933.3, subd. (a).)

8) Provides that a prisoner who has completed training for assignment to a conservation camp or to a correctional institution as an inmate firefighter or who is assigned to a correctional institution as an inmate firefighter and is eligible to earn one-for-one credits shall receive two-for-one credits. Application is limited to prisoners who are eligible after July 1, 2009. (Pen. Code, § 2933.3, subd. (b).)

9) Allows an incarcerated person who has successfully completed training for a firefighter assignment to also receive a credit reduction from their confinement pursuant to regulations adopted by the secretary. Application is limited to prisoners who are eligible after July 1, 2009. (Pen. Code, § 2933.3, subd. (c).)

10) 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.)

11) 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).)

12) 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).)

13) 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).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Child abuse is always heartbreaking but when it results in death it is the worst kind of tragedy. Unfortunately, child abuse happens far too frequently in our country and usually at the hands of a parent or caretaker. Under California law, child abuse is considered a 'non-serious, non-violent' offense. That means

when an individual is found guilty of this crime, the offender qualifies for early release programs. That is also true even when the abuse results in a child's death. This bill would prohibit a person whose abuse causes a child's death from being eligible to serve in a conservation/fire camp, which is the state's most generous early release program. Killing a child is a horrific crime and should be treated as such."

2) **Prison Overcrowding**: In January 2010, a three-judge panel issued a ruling ordering the State of California to reduce its prison population to 137.5% of design capacity because overcrowding was the primary reason that CDCR was unable to provide inmates with constitutionally adequate healthcare. After continued litigation, on February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows: 143% of design bed capacity by June 30, 2014; 141.5% of design bed capacity by February 28, 2015; and, 137.5% of design bed capacity by February 28, 2016.

   CDCR's most recent monthly report on the prison population notes that the state prison population is at 87,660. CDCR's institutional design capacity is 71,656 as of March 26, 2025. Accordingly, CDCR is currently occupying 122.3 percent of design capacity.[1]

   Thus, while CDCR is currently in compliance with the three-judge panel's order on the prison population, the state needs to maintain a "durable solution" to prison overcrowding "consistently demanded" by the court.[2] In addition, the State's commitment to closing prisons[3] demands that the Legislature is judicious about measures that will result in increased prison population.

   CDCR has identified that part of this "durable remedy" is "increased credit-earning opportunities for all incarcerated persons except the condemned and those serving life without parole."[4] This bill would limit credit earning opportunities for persons convicted of specified child abuse offenses.

3) **Inmate Firefighter Credits**: Most incarcerated fire crew members receive 2-for-1 credits, meaning they receive two additional days off their sentence for every one day they serve on a fire crew. Camp volunteers who work as support staff, but not on a fire crew, receive day-for day credits, meaning they receive one day off their sentence for every one day they serve as a firefighter.[5]

   Volunteers must have "minimum custody" status, or the lowest-security classification based on their sustained good behavior in prison, ability to follow rules, and participation in rehabilitative programming. Volunteers must have eight years or less remaining on their

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[1] https://www.cdcr.ca.gov/research/population-reports-2/
[2] Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14).)
[3] 11) LAO, *The 2024-25 Budget, California Department of Corrections and Rehabilitation.* Available at: <https://lao.ca.gov/Publications/Report/4852#Prison_Capacity_Reduction>. see also, Penal Code section 17.5 [criminal justice policies that rely on building and operating more prisons to address community safety concerns are not sustainable, and will not result in improved public safety].
[4] https://www.cdcr.ca.gov/3-judge-court-update/#cc7a5a69-6fa6-4036-8a4f-27e459004d88-link
[5] CDCR, *Fire Camp Program.* Available at: <https://www.cdcr.ca.gov/facility-locator/conservation-camps/faq-conservation-fire-camp-program/>.

sentence to be considered. Some convictions automatically make someone ineligible for conservation camp assignment, even if they have minimum-custody status. Disqualifying convictions include rape and other sex offenses, arson, and escape history. Other disqualifiers include active warrants, medical issues, and high-notoriety cases.[6]

4) **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 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.[7]

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."[8]

The participants are volunteers and must have "minimum custody" status – i.e., the lowest classification for an incarcerated person based on behavior and compliance with the rules 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.[9]

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 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.[10]

This bill would provide that incarcerated persons in state prison, who have been convicted of specified child endangerment and abuse offenses resulting in the child's death, may not earn enhanced credits for their service as an inmate firefighter or after completing inmate firefighting training. Anyone convicted of assault of a child under eight years of age resulting in death is currently excluded from participation in Conservation (Fire) Camp by virtue of the life sentence. (See Pen. Code, § 273ab.) If the death of the child results in a murder conviction, the incarcerated person is also excluded.

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[6] *Ibid.*
[7] https://www.cdcr.ca.gov/facility-locator/conservation-camps/
[8] https://www.cdcr.ca.gov/facility-locator/conservation-camps/faq-conservation-fire-camp-program/
[9] *Ibid.*
[10] https://www.cdcr.ca.gov/facility-locator/conservation-camps/fire_camp_expungement/

5) **Constitutional Authority to Award Credits Given to CDCR in Proposition 57**: Proposition 57 was passed by the electorate (Ballot Pamp., Gen. Elec. Nov. 8, 2016) and implemented as Article I, section 32 of the California Constitution. Section 32, subdivision (a)(2) of Article I states: "Credit Earning: The Department of Corrections and Rehabilitation shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements." Thus Proposition 57 gave CDCR the authority to create its own credit rules.[11]

   Under current CDCR regulations, full-time conservation workers and people training for these jobs may earn credits at a rate of 66.6% (two-for-one credits). However, if the person has a violent felony conviction, they may only earn credits at a rate of 50% (one-for-one credits).[12]

   This bill would arguably not affect CDCR's authority to nonetheless grant enhanced credits for an inmate's post-sentence participation in these programs or training, pursuant to Proposition 57. "By its plain terms, article I, section 32, subdivision (a)(2) authorizes the Department to award—or to not award—conduct credits as it sees fit." (*In re Canady* (2020) 57 Cal.App.5th 1022, 1034, citing *Brown v. Superior Court* (2016) 63 Cal.4th 335, 359, 361 (dis. opn. of Chin, J.) "The broad and permissive language of article I, section 32, subdivision (a)(2) suggests that the voters intended for the Department to have substantial discretion in determining how credits are applied to early parole consideration...." (*In re Canady, supra,* 57 Cal. App.5th at p. 1034.)

6) **Sheriff Fire Camp Programs:** Under Penal Code section 4019.2, persons incarcerated in a county jail may similarly earn credits for participation in a sheriff's conservation camp or successful completion of training for assignment to a conservation camp or as an inmate firefighter. An inmate eligible to earn one day of credit for every day of incarceration (one-for-one credits) would instead be able to earn two days of credit for every one day served (two-for-one credits).

   The use of such programs, as well as standards and training, can vary by county. For example, the San Diego County Sheriff's Department, in recognizing the usefulness of reentry services, offers a fire camp program collaboratively administered by Cal Fire and CDCR. To be eligible, the incarcerated person must be sentenced under realignment (Pen. Code, § 1170, subdivision (h)).[13] Realignment, as passed by California voters in 2011, diverts defendants convicted of less serious felonies to serve their time in local county jail rather than in state prison. Persons are excluded from realignment if they have suffered a serious or violent felony conviction, aggravated theft conviction, or are required to register as a sex offender. (Pen. Code, § 1170, subd. (h)(3).)

   This bill would prohibit persons convicted of specified child endangerment and abuse offenses resulting in death of the child from earning enhanced credits for their service as an inmate firefighter or after completing inmate firefighting training. Anyone convicted of assault of a child under eight years of age resulting in death is currently excluded from

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[11] See https://www.capolicylab.org/wp-content/uploads/2022/08/Three-Strikes-in-California.pdf at p. 8.
[12] https://www.cdcr.ca.gov/proposition57/
[13] https://www.sdsheriff.gov/bureaus/detention-services-bureau/county-parole-and-alternative-custody

realignment by virtue of the state prison sentence attendant to the offense, and thus wouldn't be eligible to participate in, for example, the San Diego Sheriff's fire camp program. (See Pen. Code, § 273ab.)

7) **Argument in Support**: According to the *California Association of School Police Chiefs*, "In February of 2019, a young child named Ryla was given to her mom by a daycare worker – lifeless and near death. She was rushed to the hospital in an ambulance, having a stroke and a seizure on the way to the emergency room where she later died. Upon examining her body, the doctor determined that Ryla had suffered damage of the brain and her lung was blue and swollen. Ryla did not die of a seizure, she had suffered from abuse, which had resulted in her death. She was not yet 2 years old.

"The daycare center worker, who was found guilty for Ryla's death, was sentenced under PC 273a with the enhancement PC 12022.95. She was given the maximum sentence under California law, which is 10 years. Because child abuse is a non-violent crime, the daycare worker qualified to serve in a conservation camp, the most generous early release credit program that our state offers and was released after being incarcerated for only 2 years and 8 months for the crime of killing a child.

"AB 1011 would prohibit persons convicted of child abuse under Penal Code Section 273a with a PC 12022.95 enhancement and PC Section 273ab, from serving as an inmate firefighter and earning the generous early release credits provided by that program… This bill is only singling out the most egregious child abuses offenders, who have been convicted of causing death to a child, to not qualify to serve in a conservation camp, which allows an inmate to earn 2 days of credit for every 1 day served as an inmate firefighter."

8) **Argument in Opposition**: According to the *Ella Baker Center for Human Rights*, "The commission of such harm against a child already carries steep penalties. Existing law makes it a crime for a person who has the care or custody of a child to willfully cause or permit the person or health of that child to be injured or willfully cause or permit that child to be placed in a situation where the child's health may be endangered. Existing law imposes a 4-year enhancement on a person who violates that provision and who willfully causes or permits a child to suffer, inflicts unjustifiable physical pain or injury that results in death, or, having the care or custody of a child, willfully causes or permits that child to be injured or harmed and that injury or harm results in death. Existing law also requires a person who, having the care or custody of a child who is under 8 years of age, assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child's death, to be punished by imprisonment in the state prison for 25 years to life.

"AB 1011 will not prevent child neglect or support families - it is yet another ill-advised attempt at degrading the opportunity for rehabilitation and good conduct credits, which are strongly supported by California voters. Under existing law, people in prison can earn 2 days of credit for every one day served as an incarcerated firefighter or upon completion of firefighter training. This bill would deny these credits altogether if someone has a child abuse related conviction as outlined by AB 1011. Furthermore, AB 1011 is utterly misguided in the wake of the incredible heroism and bravery of incarcerated firefighters in response to the Los Angeles fires of January 2025. It is nonsensical and arbitrary to deny firefighter credits based on a certain conviction, especially when there is no legitimate connection between the conviction and participation in a fire program. Good conduct credits are not a "get out of jail free" card - instead, they are one of the most important investments into rehabilitation and

education programming California has ever enacted. We should be incentivizing as many incarcerated people towards such programming as possible to help them turn their lives around, not curtailing access.

"Furthermore, significant research has found that lengthy prison terms do not deter future crime. Sentencing enhancements will not address violence in any demonstrable way. Enhancements are, however, one of the drivers of mass incarceration, a systematic means of economically and politically disenfranchising Black, Latinx and Indigenous families and communities. We urge the Committee to reject failed carceral approaches, and to invest in proven community-based solutions."

9) **Related Legislation**:

a) AB 38 (Lackey), would designate specified crimes involving rape or sexual assault of a minor who has a developmental disability as "violent felonies." AB 38 is pending a hearing in this committee.

b) AB 292 (Patterson), would add the crime of felony domestic violence to the list of "Violent Felonies" that subject a defendant to additional penalties, including under California "Three Strikes" Law, and reduce the custody credits that a defendant may receive. AB 292 is pending hearing in this committee.

c) AB 568 (Lackey) ,would add selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give fentanyl to a minor on the list of serious felonies subject to enhanced penalties. AB 568 is pending a hearing in the Assembly Appropriations Committee.

d) AB 1279 (Sharp-Collins), would prohibit a prior juvenile adjudication or a prior conviction for an offense that occurred before the person was 18 years old from being considered a prior serious or violent felony conviction for purposes of sentence enhancement. AB 1279 is pending hearing in this committee.

e) SB 432 (Seyarto) is identical to AB 568 above. SB 432 is pending hearing in the Senate Appropriations Committee.

10) **Prior Legislation**:

a) AB 3032 (Hoover), of the 2023-2024 Legislative Session, was nearly identical to this bill. AB 3032 did not receive a hearing in this committee.

b) AB 1746 (Hoover) of the 2023-2024 Legislative Session, was substantially similar to this bill. AB 1746 failed passage in this committee.

c) AB 945 (Reyes), of the 2023-2024 Legislative Session, would have required courts to report specified data to the Judicial Council regarding petitions for expungement relief filed on the basis of having successfully participated as an incarcerated fire camp member or at an institutional firehouse. AB 945 was vetoed by the Governor.

d) AB 3000 (Budget Committee), Chapter 1124, Statutes of 2002, as relevant here, provides that any inmate assigned to a conservation camp shall earn two days of work-time credit for every day of service.

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 Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Child Abuse Prevention Center and Its Affiliates Safe Kids California, Prevent Child Abuse California and The California Family Resource Association; the
Claremont Police Officers Association
Corona Police Officers Association
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

Ella Baker Center for Human Rights
Initiate Justice
Initiate Justice Action
Justice2jobs Coalition
LA Defensa
Local 148 LA County Public Defenders Union
San Francisco Public Defender

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

Amended Mock-up for 2025-2026 AB-1011 (Hoover (A))

Mock-up based on Version Number 99 - Introduced 2/20/25
Submitted by: Staff Name, Office Name

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

SECTION 1. This act shall be known, and may be cited, as Ryla's Law.

~~**SEC. 2.** Section 1192.7 of the Penal Code is amended to read:~~

~~**1192.7.** (a) (1) It is the intent of the Legislature that district attorneys prosecute violent sex crimes under statutes that provide sentencing under a "one strike," "three strikes," or habitual sex offender statute instead of engaging in plea bargaining over those offenses.~~

~~(2) Plea bargaining in any case in which the indictment or information charges any serious felony, any felony in which it is alleged that a firearm was personally used by the defendant, or any offense of driving while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.~~

~~(3) If the indictment or information charges the defendant with a violent sex crime, as listed in subdivision (c) of Section 667.61, that could be prosecuted under Sections 269, 288.7, subdivisions (b) through (i) of Section 667, Section 667.61, or 667.71, plea bargaining is prohibited unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence. At the time of presenting the agreement to the court, the district attorney shall state on the record why a sentence under one of those sections was not sought.~~

~~(b) As used in this section, "plea bargaining" means any bargaining, negotiation, or discussion between a criminal defendant, or their counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.~~

~~(c) As used in this section, "serious felony" means any of the following:~~

~~(1) Murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) lewd or lascivious act on a child under 14 years of age; (7) any felony punishable by death or imprisonment in the state prison for life; (8) any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) attempted murder; (10) assault with intent to commit rape or robbery; (11) assault with a deadly weapon or instrument on a peace officer; (12) assault by a life prisoner on a noninmate; (13) assault with a deadly weapon by an inmate; (14) arson; (15) exploding a destructive device or any explosive with intent to injure; (16) exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem; (17) exploding a destructive device or any explosive with intent to murder; (18) any burglary of the first degree; (19) robbery or bank robbery; (20) kidnapping; (21) holding of a hostage by a person confined in a state prison; (22) attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) any felony in which the defendant personally used a dangerous or deadly weapon; (24) selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machinegun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Section 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; (42) human trafficking of a minor, in violation of subdivision (c) of Section 236.1, except, with respect to a violation of paragraph (1) of subdivision (c) of Section 236.1, where the person who committed the offense was a victim of human trafficking, as described in subdivision (b) or (c) of Section 236.1, at the time of the offense; (43) a violation of Section 273a for which an enhancement was imposed pursuant to Section 12022.95; (44) a violation of subdivision (a) of Section 273ab; and (45) a conspiracy to commit an offense described in this subdivision.~~

~~(d) As used in this section, "bank robbery" means to take or attempt to take, by force or violence, or by intimidation from the person or presence of another any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association.~~

~~As used in this subdivision, the following terms have the following meanings:~~

~~(1) "Bank" means any member of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.~~

~~(2) "Savings and loan association" means any federal savings and loan association and any "insured institution" as defined in Section 401 of the National Housing Act, as amended, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.~~

~~(3) "Credit union" means any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union administration.~~

~~(e) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.~~

SEC. ~~3~~ 2. Section 2933.3 of the Penal Code is amended to read:

2933.3. (a) Notwithstanding any other law, an inmate assigned to a conservation camp by the Department of Corrections and Rehabilitation, who is eligible to earn one day of credit for every one day of incarceration pursuant to Section 2933 shall instead earn two days of credit for every one day of service. The enhanced credit authorized pursuant to this subdivision shall only apply to those prisoners eligible after January 1, 2003.

(b) Notwithstanding any other law, an inmate who has completed training for assignment to a conservation camp or to a correctional institution as an inmate firefighter or who is assigned to a correctional institution as an inmate firefighter and who is eligible to earn one day of credit for every one day of incarceration pursuant to Section 2933 shall instead earn two days of credit for every one day served in that assignment or after completing that training.

(c) In addition to credits granted pursuant to subdivision (a) or (b), inmates who have successfully completed training for firefighter assignments shall receive a credit reduction from their term of confinement pursuant to regulations adopted by the secretary.

(d) The credits authorized in subdivisions (b) and (c) shall only apply to inmates who are eligible after July 1, 2009.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a person convicted of a violation of Section 273a and subject to the punishment described in Section 12022.95 or convicted of a violation of subdivision (a) of Section 273ab is not eligible for the credits authorized in this section.

SEC. ~~4~~ 3. Section 4019.2 of the Penal Code is amended to read:

4019.2. (a) Notwithstanding any other law, an inmate sentenced to county jail assigned to a conservation camp by a sheriff and who is eligible to earn one day of credit for every one day of incarceration pursuant to Section 4019 shall instead earn two days of credit for every one day of service.

(b) Notwithstanding any other law, an 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 one day of credit for every one day of incarceration pursuant to Section 4019 shall instead earn two days of credit for every one day served in that assignment or after completing that training.

(c) In addition to credits granted pursuant to subdivision (a) or (b), inmates who have successfully completed training for firefighter assignments shall receive a credit reduction from their term of confinement.

(d) The credits authorized in subdivisions (b) and (c) shall only apply to inmates who are eligible after October 1, 2011.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a person convicted of a violation of Section 273a and subject to the punishment described in Section 12022.95 or convicted of a violation of subdivision (a) of Section 273ab is not eligible for the credits authorized in this section.

SEC. ~~5~~ 4. 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.

Date of Hearing: April 8, 2025
Consultant: Samarpreet Kaur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1019 (Flora) – As Introduced February 20, 2025

PULLED BY THE AUTHOR

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

Date of Hearing: April 8, 2025
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1078 (Berman) – As Amended April 1, 2025

SUMMARY: Establishes new criteria for a non-California resident application for a concealed carry weapons (CCW) license or license renewal, requires the those to attest that the jurisdiction in which the applicant has applied is the primary location in California in which they intend to travel or spend time, and requires that the applicant has completed live-fire shooting exercises for each pistol, revolver, or other firearm for which the applicant is applying to be licensed to carry in California. Specifically, **this bill**:

1) States that the prohibition against a person knowingly possessing a firearm in a public transit facility does not apply to a person transporting an unloaded firearm locked in a lock box, as specified.

2) Provides that when a non-California resident applies for a new CCW license or license renewal to carry a pistol, revolver, or other firearm, the sheriff of a county or the chief or other head of a municipal police department of any city or city and county shall issue or renew a license to that non-California resident, subject to the following conditions:

   a) The applicant is not a disqualified person to receive the license, as determined in accordance with defined standards and all comparable statutes and provisions of law of the nonresident applicant's state of residence.

   b) The applicant is at least 21 years of age and confirms their identity, age, and state of residence by providing either a valid driver's license from their state of residence or a valid out-of-state identification card issued by the Department of Motor Vehicles.

   c) The applicant attests, under oath, that the jurisdiction in which they have applied is the primary location in California in which they intend to travel or spend time.

   d) The applicant has completed a course of training that meets the criteria as it pertains to the licensing authority to which the application is submitted. If the licensing authority to which the application is submitted has not approved of any online training courses, the applicant may complete an online training course approved by any other licensing authority that issues licenses, as specified.

   e) The applicant has completed live-fire shooting exercises, as required, for each pistol, revolver, or other firearm for which the applicant is applying to be licensed to carry in California. The applicant shall inform the licensing authority to which they have applied of the live-fire course the applicant intends to complete, and the licensing authority shall either approve the course or suggest an alternative acceptable course within 75 miles of

the applicant's residence.

f) The applicant has identified on the application the make, model, caliber, and serial number of each pistol, revolver, or other firearm for which the applicant is applying to be licensed to carry in California. Identification of a pistol, revolver, or other firearm that cannot lawfully be carried or possessed in California shall be cause for denial of a license as to that pistol, revolver, or other firearm.

3) Provides that a licensing authority shall not issue a CCW renewal license if DOJ is unable to ascertain the final disposition of an arrest or criminal charge, the outcome of a mental health treatment or evaluation, or the applicant's eligibility to possess, receive, own, or purchase a firearm.

4) States that, if a psychological assessment on the initial application is required by the licensing authority, the licensing authority may either allow the applicant to complete a virtual psychological assessment, where the applicant appears by video and audio, or approve an examination provider located within 75 miles of the applicant's residence.

5) States that a license shall not be issued if an applicant provides any inaccurate or incomplete information in connection with an application for a license or license renewal or an application to amend a license.

6) Provides that a licensee shall inform the local licensing authority that issued the license of any restraining order or arrest, charge, or conviction of a crime.

7) Expands the circumstances making someone ineligible for a CCW license or license renewal to include convictions for any federal law or law of any other state that includes comparable elements of the specified state offenses, as defined.

8) Provides that the prohibition on a person CCW license eligibility or renewal for people abusing controlled substances does not apply to the lawful habitual or occasional use or consumption of cannabis or alcohol.

9) Provides that a review by the licensing authority of a persons eligibility for CCW shall include a review of information indicating that the applicant is reasonably likely to be a danger to self, others, or the community at large, as specified, or that the applicant is otherwise disqualified, as specified.

10) Requires a licensing authority, if a licenseholder fails to submit an application for renewal within 90 days of the expiration of their license, to immediately request that the department terminate state or federal subsequent notification, as described.

11) Provides that, if a mandate following an appeal is issued reversing, in whole or in part, the district court order and judgment in *Nguyen v. Bonta*, S.D. Cal. No. 3:20-cv-02470, thereby allowing the state to limit firearm sales to one firearm within any 30-day period, the Attorney General shall, before the 30th day after the issuance, inform every licensed firearms dealer in California that the limit to purchase a firearm shall decrease to one firearm within any 30-day period.

12) Makes technical and conforming changes pursuant to the above provision.

13) Provides that the prohibition on a person with a felony conviction from owning, purchasing, receiving, or possession a firearm does not apply if the felony conviction was for a nonviolent felony under the laws of another state and if both of the following criteria are satisfied:

    a) The conviction has been vacated, set aside, expunged, or otherwise dismissed under the laws of the state where the defendant was convicted; and

    b) If the conviction resulted in a firearms prohibition under the laws of the state where the defendant was convicted, the vacatur, set aside, expungement, or dismissal of the conviction restored firearms rights under the laws of that state.

14) Provides that the prohibition for defined convictions does not apply to a conviction for a nonviolent felony under the laws of any other state if both of the following criteria are satisfied:

    a) The person received a full and unconditional pardon by the Governor of the other state for the felony conviction and the pardon restores civil rights that include firearms rights; and

    b) The person was never convicted of a felony involving the use of a dangerous weapon, as that phrase is used in Sections 4852.17 and 4854.

15) Provides that "nonviolent felony" means an offense under the laws of another state that does not include a material element of death, mayhem, serious or great bodily injury, force likely to produce serious or great bodily injury, threat of serious or great bodily injury, kidnapping, discharge of a firearm or other weapon, carjacking, assault with a deadly weapon, rape, or oral copulation.

EXISTING LAW:

1) Provides that knowingly possessing a firearm, imitation firearm, and other specified devices on a public transit facility is a misdemeanor punishable by imprisonment in county jail for up to six months, a fine of up to $1,000, or both. (Pen. Code, § 171.7, subd. (b).)

2) States that when a person applies for a new license or license renewal to carry a pistol, revolver, or other firearm capable of being concealed upon the person, the sheriff of a county or the chief or other head of a municipal police department of any city or city and county shall issue or renew a license to that person upon proof of all of the following:

    a) The applicant is not a disqualified person to receive such a license, as defined.

    b) The applicant is at least 21 years of age, and presents clear evidence of the person's identity and age, as defined.

    c) The applicant is a resident of the county or a city within the county, or the applicant's principal place of employment or business is in the county or a city within the county and

the applicant spends a substantial period of time in that place of employment or business.

d) The applicant has completed a course of training, as defined.

e) The applicant is the recorded owner, with the Department of Justice, of the pistol, revolver, or other firearm for which the license will be issued. (Pen. Code, § 26150, subd. (a)(1)-(5); 26155, subd. (a)(1)-(5)..)

3) States that prior to the issuance of a license, renewal of a license, or amendment to a license, each licensing authority with direct access to the designated DOJ system shall determine if the applicant is the recorded owner of the particular pistol, revolver, or other firearm capable of being concealed upon the person reported in the application for a license or the application for the amendment to a license. (Pen. Code, § 26162, subd. (a).)

4) Provides that an agency with direct access to the designated DOJ system shall confirm the applicant's information with firearm ownership maintained in the system. An agency without access to the system shall confirm this information with the sheriff of the county in which the agency is located. (Pen. Code, § 26162, subd. (b).)

5) States that upon issuance of the notice, the licensing authority shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for each applicant applying for a new license to carry a pistol, revolver, or other firearm capable of being concealed upon the person. (Pen. Code, § 26185, subd. (a)(1).)

6) States that upon issuance of the notice, the licensing authority shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for each applicant applying for a new license to carry a pistol, revolver, or other firearm capable of being concealed upon the person. (Pen. Code, § 26185, subd. (a)(1).)

7) Provides that for each applicant for a renewal license, upon issuance of the notice, the licensing authority shall submit to the department the renewal notification, as defined. (Pen. Code, § 26185, subd. (b)(1).)

8) States that for each applicant for a renewal license, the department shall determine whether the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. (Pen. Code, § 26185, subd. (c)(1).)

9) States that for each applicant for a renewal license whose renewal notification is submitted to DOJ prior to September 1, 2026, DOJ shall determine whether the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm and notify the forwarding licensing agency in a manner to be prescribed through regulations. (Pen. Code, § 26185, subd. (c)(2).)

10) Establishes that for each applicant for a renewal license whose renewal notification is submitted to the department on or after September 1, 2026, upon receipt of the applicant's fingerprints, the department shall promptly furnish the forwarding licensing authority information as to whether the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. The department shall make this determination in

a manner to be prescribed through regulations. (Pen. Code, § 26185, subd. (c)(3).)

11) Provides that for any renewal license applicant referred to the department, the department may use any method authorized through regulations implementing this section to determine if the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. (Pen. Code, § 26185, subd. (d).)

12) States an applicant for a new license or for the renewal of a license shall pay at the time of filing the application a fee determined by the Department of Justice. The fee shall not exceed the application processing costs of the Department of Justice for the direct costs of furnishing the information and report. (Pen. Code, § 26190, subd. (a)(1).)

13) Stipulates after the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget. (Pen. Code, § 26190, subd. (a)(2).)

14) States the officer receiving the application and the fee shall transmit the fee, with the fingerprints, if required, to the Department of Justice in accordance with Section 26185. (Pen. Code, § 26190, subd. (a)(3).)

15) Requires the licensing authority of any city, city and county, or county charge an additional fee in an amount equal to the reasonable costs for processing the application for a new license or a license renewal, issuing the license, and enforcing the license, including any required notices, excluding fingerprint and training costs, and shall transmit the additional fee, if any, to the city, city and county, or county treasury. (Pen. Code, § 26190, subd. (b)(1).)

16) States if a psychological assessment on the initial application is required by the licensing authority, the license applicant shall be referred to a licensed psychologist acceptable to the licensing authority. The applicant may be charged for the actual cost of the assessment. In no case shall the amount charged to the applicant for the psychological assessment exceed the reasonable costs to the licensing authority. (Pen. Code, § 26190, subd. (e)(1).)

17) Establishes that additional psychological assessment of an applicant seeking license renewal shall be required only if there is compelling evidence of a public safety concern to indicate that an assessment is necessary. The applicant may be charged for the actual cost of the assessment. In no case shall the cost of psychological assessment exceed the reasonable costs to the licensing authority. (Pen. Code, § 26190, subd. (e)(2).)

18) States a license shall be revoked by the local licensing authority if at any time either the local licensing authority determines or is notified by the Department of Justice of any of the following:

    a) A licensee is prohibited by state or federal law from owning or purchasing a firearm.

    b) A licensee has breached any of the conditions or restrictions set forth in or imposed in accordance with Section 26200.

c) Any information provided by a licensee in connection with an application for a new license or a license renewal is inaccurate or incomplete.

d) A licensee has become a disqualified person and cannot receive such a license, as determined in accordance with the standards set forth in Section 26202. (Pen. Code, § 26195, subd. (c)(1)(A)-(D).)

19) Provides that if the local licensing authority revokes the license, the Department of Justice shall be notified of the revocation and reason. The licensee shall also be immediately notified of the revocation in writing. (Pen. Code, § 26195, subd. (c)(3).)

20) Establishes that, unless a court makes a contrary determination, an applicant shall be deemed to be a disqualified person and cannot receive or renew a license if, among other things, the applicant is reasonably likely to be dangerous, has been convicted of specified crimes, has engaged in the reckless use of a firearm. (Pen. Code, § 26202, subd. (a)(1)-(10).)

21) States that in determining whether an applicant is a disqualified person and cannot receive or renew a license, the licensing authority shall conduct an investigation that includes, among other things, an in-person interview unless otherwise stated, interviews with three character witnesses, and a review of information provided by DOJ. (Pen. Code, § 26202, subd. (b)(1)-(6).)

22) Provides that in determining whether an applicant is a disqualified person and cannot receive or renew a license, nothing in this section the licensing authority from engaging in investigative efforts in addition to those defined. (Pen. Code, § 26202, subd. (c).)

23) Establishes that within 90 days of receiving the completed application for a new license or a license renewal, the licensing authority shall give written notice to the applicant of the licensing authority's initial determination, based on its investigation thus far, of whether an applicant is a disqualified person. (Pen. Code, § 26202, subd. (d)(1)-(2).)

24) States that if a new license or license renewal is denied or revoked based on a determination that the applicant is a disqualified person for such a license, the licensing authority shall provide the applicant with the notice of this determination stating the reason for the determination. (Pen. Code, § 26206, subd. (a).)

25) Provides that an applicant shall have 30 days after the receipt of the notice of denial to request a hearing to review the denial or revocation from the superior court of their county of residence. (Pen. Code, § 26206, subd. (c)(1)-(2).)

26) States that an applicant who has requested a hearing shall be given a hearing. (Pen. Code, § 26206, subd. (d)(1).)

27) The court shall set the hearing within 60 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 30 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. (Pen. Code, § 26206, subd. (d)(2).)

28) Provides that the people shall bear the burden of showing by a preponderance of the evidence that the applicant is a disqualified person. (Pen. Code, § 26206, subd. (e).)

29) Provides that if the court finds that the people have met their burden to show by a preponderance of the evidence that the applicant is a disqualified person, the court shall inform the person of their right to file a subsequent application for a license no sooner than two years from the date of the hearing. (Pen. Code, § 26206, subd. (g).)

30) Provides that a person granted a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person shall not carry a firearm on specified public transportation or property under the control of a transit authority, as specified. (Pen. Code, § 26230, subd. (a)(8).)

31) States a person shall not make an application to purchase more than one firearm within any 30-day period. This does not authorize a person to make an application to purchase a combination of firearms, completed frames or receivers, or firearm precursor parts within the same 30-day period. (Pen. Code, § 27535, subd. (a).)

32) States any person who has been convicted of a felony under the laws of the United States, the State of California, or any other state, government, or country, or of a specified offense, or who is addicted to the use of any narcotic drug, and who owns, purchases, receives, or has in possession or under custody or control any firearm is guilty of a felony. (Pen. Code, § 29800, subd. (a)(1).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California has long been a leader in implementing commonsense firearm laws, and these laws save lives. Recent Supreme Court decisions in *Bruen* and *Rahimi* created new constitutional standards for evaluating firearm regulations under the Second Amendment, leading to legal challenges that threaten critical aspects of California's firearm safety laws. After *Bruen*, California followed Supreme Court guidance and enacted Senate Bill 2, expanding public carry while protecting public safety. Legal challenges to Senate Bill 2 and other California firearm laws are working through the courts, but the Legislature must be proactive in better aligning the State's strong and effective firearms laws to evolving constitutional requirements and practical realities.

   "AB 1078 responds to these challenges by amending California's firearm laws to ensure they remain enforceable and effective. This bill updates our concealed carry licensing rules to comply with due process and establishes procedures for non-residents and individuals with rehabilitated out-of-state felony convictions to exercise their rights under the Second Amendment. It also strengthens firearm purchase restrictions to prevent gun trafficking and allows concealed carry license holders to transport their firearms on public transit while protecting public transit passengers from gun violence by requiring those firearms to be unloaded and secured in a lockbox.

"By addressing constitutional concerns and making the needed updates to our firearm laws, AB 1078 enhances public safety, prevents legal uncertainty, respects Second Amendment rights, and protects California's strong firearm laws from additional legal challenges."

2) **Effect of the Bill:** This bill aims to tackle myriad sections of our firearms codes, largely in an apparent effort to align our statutes with case law.

The impetus for many of the changes required to our firearms codes grows out of the U.S. Supreme Court's decision, *New York Rifle & Pistol Ass'n v. Bruen*, where the Court held that certain discretionary licensing schema (*i.e.,* largely, "may issues" regimes) were unconstitutional under the Second Amendment's extension of the indibidual right to public carry for lawful self-defense. (*See generally, New York Rifle & Pistol Ass'n v. Bruen* (2022) 597 U.S. 1.)

Following the *Bruen* decision, California enacted Senate Bill 2. This bill updated our concealed carry laws to switch from a "may-issue" regime into a "shall-issue" regime, which leaves less discretion to administering officials to grant a concealed carry weapons (CCW) license. To be sure, exercise of one's public carry rights are subject to various constitutionally-justifiable hurdles that must be cleared before a person is granted a CCW. Multiple issues have arisen in the wake of *Bruen* (and to a lesser extent, *Rahimi,* which held a finding that a person is dangerous is sufficient to disarm that dangerous person consistent with the Second Amendment.) (*United States v. Rahimi,* (2024) 602 U.S. 680, 685.) State and federal courts continue addressing the issues left over by the *Bruen* court. Some of the court decisions restrict or enjoin application of our laws on constitutional grounds, which requires legislators to abandon or rework the legislation subdued by the courts. This bill endeavors to make significant updates to tour firearms laws, consistent with recent court decisions and existing constitutional boundaries.

By revising multiple provisions of the California Penal Code to conform certain California firearms laws, this bill appears to serve as a notable effort at continuing our responsiveness to the ongoing evolution of firearms laws while also continuing to promote public safety.

Firearm Purchase Frequency

This bill makes updates to our laws implicating our purchasing limits. California law limits each person to purchase of one firearm every thirty days. (Pen. Code, 26195?.) The District Court in the Southern District found this limitation to be an insufficient number for individuals for want to exercise their right to public carry, for example, at a second home or place of business. As such, the court ruled California's purchase limits violate the Second Amendment. (*Nguyen v. Bonta* (2024) 720 F. Supp. 3d 921.) In *Nguyen*, the court stated, "nothing in the text of the Second Amendment suggests that the Second Amendment right is limited to possession and acquisition of a single firearm, or that the acquisition of additional firearms is inherently subject to additional limitations—if anything, the usage of the term 'arms' in plural suggests the opposite." (*Nguyen, supra,* at p. 934.) After beginning its movement through the appellate courts, there remains no currently constitutional limit on the number of firearms that may be purchased in California.

The bill would update our laws to authorize the purchase of up to three firearms within any 30-day period. (See Pen. Code, §§§ 26835, 27535, 27540.) This bill likewise makes

provisions for the law to revert back to the one firearm per month, upon order of a final disposition in the State's favor.

Ex Parte Domestic Violence or Civil Protection Orders and CCW Licenses

California dispossesses anyone subject to a restraining or protection order and similary, prohibits those individuals from acquiring a CCW. (Pen. Code, 26202, subd. (a).) Our laws currently allow for denial of a CCW following an *ex parte* order from the court. *Ex parte* orders are relatively seldom used and done so typically in emergency circumstances where the risk and amount of potential irreparable harm done by allowing the conduct to continue is sufficient to override a defendant or respondent's procedural Due Process rights to notice and a hearing. The Brownstein appears open to reconsidering whether these orders are sufficient to justify disqualifying a person from acquiring a CCW. (See *Brownstein v. Orange County Sheriff's Dept.*, C.D. Cal. No. 24-cv-00970.)

This bill would attempt to resolve those concerns by extending the possibility of licensure through alternative proceudres Penal Code Section 26202(a).

Prohibited Places: Public Transit and Public Carry

Passage of SB 2 following the *Bruen* decision created a list of roughly two dozen prohibited places for carrying a firearm even with a valid CCW. Prohibited places under this law captured large swaths of public and publicly accessible areas, which the court found too expansive to satisfy constitutional scrutiny. (*Wolford v. Lopez* (2024) 116 F.4th 959.) Our Ninth Circuit Court of Appeals engaged in a lengthy analysis applying *Bruen*'s test to each individual place categorized as sensitive and found many of the designated prohibited places did not have relevantly similar analogues and thus, could not be reconciled with our nation's historical tradition of firearm regulation. (See generally *Wolford, supra*, at p. 959.) This included public transit, likely unless properly and securely stored.

Section 26230 of this bill seems to provide allowance for valid CCW holders to carry a secure firearm on public transit.

Restoration of Second Amendment Rights for Out-of-State Commutations and Pardons

Current law prohibits any convicted felons from acquiring firearms, at both the federal and state levels (See Gun Control Act and Pen. Code, § 29800, *et seq.*) or firearms and ammunition at the state level. (Pen. Code, §§ 29800, 30305.) Courts are creating a rapidly developing split of authjorities on the general question of whether nonviolent felons can be subject to lifetime dispossession under the Second Amendment's reach, as contemplated by, among others, *Bruen* and *Rahimi*. Various federal circuits are already split as to whether the GCA's lifetime ban on firearms possession is consistent with current Second Amendment jurisprudence. Because the Second Amendment is incorporated to the States through the Fourteenth Amendment, overturning lifetime dispossession for nonviolent felons at the federal level likely invalidates our State's ban.

Our federal district court in the Northern District weighed in favor of the challengers on summary judgement finding lifetime dispossession violative the Second Amendment, at least as applied to certain persons like the *Linton* plaintiffs. (*Linton v. Bonta*, N.D. Cal., Case No.

18-cv-07653, at p. 21.) The district court concluded, "Overall, California did not demonstrate that permanently denying firearms to these plaintiffs accords with the "unqualified command" in the Second Amendment of the right to bear arms. (*Bruen*, 597 U.S. at 24.) Summary judgment is granted in favor of plaintiffs on the Second Amendment claim."

This bill amends Section 29800 of the Penal Code to incorporate *Linton*'s guidance into our statutes. These updates could put California ahead of a burgeoning circuit split that warrants resolution from the U.S. Supreme Court and helps clarify the firearms and ammunition rearming process for out-of-state, non-violent felons potentially authorized for firearms rights restoration.

CCW Standards for Out-of-State Residents

California law to date has permitted only residents to obtain a CCW license. Individuals domiciled outside of California had no recourse then to even apply for a CCW in California. The California Rifle & Pistol Association (CRPA) challenged this restriction in court and the district court enjoined further enforcement of California's requirement for residency for the purposes of securing a CCW, and the case was returned to the district court for further adjudication (See *Hoffman v. Bonta*, S.D. Cal. No. 24-cv-664.)

This bill appears to rectify the absence of a CCW licensure process for out of state residents by developing a system largely identical to the process already in place for in-state residents. This bill makes additional clarifying and substantive changes arising from ambiguities in SB 2.

3) **Additional Considerations:** The author may wish to consider establishing a *mens rea* or similar requirement for inaccurate information being entered onto a CCW application in Section 26195(b) of the bill before. Including this type of requirement would prevent arbitrary determinations on an applicant's license where, for example, the applicant simply inadvertently misspelled a word. If the intent with this criterion is to weed out dishonest applicants, it would follow that attaching a *mens rea* component could be worth inclusion. Dishonesty itself suggests a state of mind intending to deceive or mislead, which could be useful information about a CCW applicant, while a minor spelling or grammar error would not have an intent attached and likely offers no information about the applicant.

4) **Argument in Support:** According to California Attorney General Rob Bonta, "In 2022, the Supreme Court issued its decision in New York Rifle & Pistol Ass'n v Bruen, holding that "good cause" requirements for carry a concealed weapon ("CCW") licenses were unconstitutional. In reaching the Bruen decision, the Court set aside the traditional two-step test for evaluating Second Amendment cases and instead created the new text-and-history test, requiring that any regulation of firearms must be consistent with the nation's historical tradition of firearm regulation. The Bruen decision itself, however, provided little guidance on how to apply this new test.

"In response to Bruen, California enacted Senate Bill 2 (Portantino) in 2023, which revised the state's CCW licensing laws to replace the good cause requirement with objective, defined criteria consistent with Bruen's guidance. Since that time, the interpretation of the Bruen test

has been clarified through lower court rulings in cases challenging California's firearms laws, including Senate Bill 2.

"AB 1078 provides critical updates to California's CCW and firearms laws to align with recent court holdings clarifying the text-and-history test including: removing the automatic five-year CCW disqualification for individuals who were subject to expired ex parte restraining orders; authorizing CCW holders to transport firearms on public transit, provided the firearms are unloaded and secured in a DOJ-certified lock box; establishing a process for non-residents to apply for CCW licenses; allowing individuals with non-violent, out-of-state felony convictions that have been expunged, vacated, or pardoned to regain firearm rights; and making various technical improvements to the CCW licensing process.

"In addition, AB 1078 will reestablish reasonable purchase limits on firearms to prevent bulk purchases of guns. Enforcement of the current laws governing firearm purchase limits is presently enjoined by court order, meaning an individual can currently purchase an unlimited number of firearms at any time. This bill will set a new purchase limit of three firearms per 30-day period, which will prevent individuals from stockpiling weapons in a short period of time."

5) **Argument in Opposition**: According to Gun Owners of California, "This legislation is multi-faceted; one of the more objectionable elements is that it seeks to mandate non-Californians select the jurisdiction for their CCW application based upon where their primary destination would be while in the state. Given that we are one of the largest states nationally and boast more tourism dollars than another other state by far – forcing a tourist to establish a single, primary area where they may visit is an unreasonable expectation. Visitors to beautiful California travel from one end of the state to the other.

"Additionally, this proposal circumvents – in a seemingly positive matter – the ruling in Nguyen v. Bonta, which declared California's one gun a month scheme unconstitutional. In truth, however, this is nothing more than a legislative snub to the ruling, as if increasing the limit to 3 guns would pass Constitutional muster. Further, the bill provides that any CCW application that contains even the most basic error or unintended omission, would be invalidated; this is both punitive and unnecessary.

"In closing, it's important to note that should Congress pass HR 38, the National Constitutional Reciprocity bill, this legislation and a score of other similar proposals will be declared null and void."

6) **Related Legislation**:

   a) SB 704 (Arreguin) would prohibit the sale or transfer of a firearm barrel, unless the transaction is completed in person by a licensed firearms dealer. The bill would require the licensed firearms dealer to conduct a background check of the purchaser or transferee and to record specified information pertaining to the transaction, including the date of the sale or transfer. This bill is in the Senate Rules Committee.

   b) 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.

c) SB 15 (Blakespear) would authorize the Department of Justice to remove a person from the centralized list who has willfully failed to comply with specified licensing requirements or who, among other things, failed to remedy violations discovered as a result of an inspection within 90 days of the inspection. This bill is set to be heard in the Senate Appropriations Committee.

d) AB 1092 (Castillo) would extend the concealed carry weapon license window from two to four years, beginning on January 1, 2027. This bill is set to be heard in the Assembly Public Safety Committee.

7) **Prior Legislation**:

a) SB 1002 (Blakespear), Chapter 526, Statutes of 2024, 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.
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 303 (Davies), Chapter 161, Statutes of 2023, requires the Attorney General to provide specific information to local law enforcement agencies involving prohibited persons, including, but not limited to, personal identifying information, case status, and information regarding previous contact with the prohibited person.

d) 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.

e) AB 1133 (Schiavo), of the 2023-2024 Legislative Session, would have required the Department of Justice to develop, evaluate, update, maintain, and publish a standardized curricula for a license to carry a concealed firearm. This bill was held in the Senate Appropriations Committee.

f) 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. This bill also 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.

REGISTERED SUPPORT / OPPOSITION:

Support

California Department of Justice

Oppose

Gun Owners of California, INC.

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

Date of Hearing: April 8, 2025
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1100 (Sharp-Collins) – As Amended March 17, 2025

SUMMARY: Makes various changes to California's Victim Compensation Program (CalVCP) including repealing provisions that authorize denial of compensation based on the victim's involvement in the events leading up to the crime or failure of the applicant to cooperate reasonably with law enforcement in the apprehension and conviction of the perpetrator of the crime. Specifically, **this bill**:

1) Amends the existing definition of "derivative victim" to specify that the person cannot have committed the crime that caused the victim's injury or death.

2) Amends the existing definition of "victim" to include "an act or omission of another that is" a crime.

3) Defines "victim of violent crime advocate" to mean a person who is employed, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of violent crimes for an agency or organization that has a documented record of providing services to victims of violent crime or provides those services under the auspices or supervision of a court or a law enforcement or prosecution agency, consistent with existing law.

4) Specify that the California Victim Compensation Claims Board (board) may verify with hospitals, physicians, law enforcement officials, or other interested third parties involved only if the information provided to the board is insufficient to reasonably verify the application or claim by a preponderance of the evidence.

5) Prohibits the board from seeking or requiring additional information from a third party solely to verify that a qualifying crime occurred if the board has received a valid and complete form of verification as provided.

6) Prohibits the board from soliciting or requiring information from a law enforcement agency if either of the following occurred:

   a) The qualifying crime was not reported to a law enforcement agency; or,

   b) The victim provided a form of authorized verification in lieu of a police report.

7) Provides that the above provisions shall not be construed to limit the board's ability to contact the agency, organization, court, or individual from which a form of evidence originates that the board has received evidencing that the crime occurred or that injury or death resulted from the crime in order to confirm the evidence's authenticity.

8) Deletes the requirement that the Department of Justice (DOJ) shall furnish all information necessary to verify eligibility of the applicant for benefits or to evaluate the status of any criminal disposition.

9) Deletes provisions of law that make a person ineligible for compensation based on the victim's or other applicant's involvement in the events leading to the crime and based on failure to cooperate reasonably with law enforcement in the apprehension and conviction of the perpetrator of the crime.

10) Provides that an application for a claim shall not be denied, in whole or in part, because of either of the following:

    a) A police report was not made; or,

    b) The crime was not reported to a law enforcement agency.

11) Requires the board to adopt guidelines that allow it to consider and approve applications that rely on evidence other than a police report to establish that a qualifying crime has occurred or that the injury or death on which the claim is based is a result of the qualifying crime.

12) Requires the board to accept any of the following forms of evidence, without limitation, to establish that a qualifying crime occurred or that the injury or death on which the claim is based is a result of the qualifying crime:

    a) Medical records documenting injuries consistent with the allegation of the qualifying crime;

    b) A signed statement from a victim of violent crime advocate;

    c) A permanent restraining order or protective order issued by a court to protect or separate the victim or derivative victim from the person alleged to have committed the qualifying crime;

    d) A statement from a licensed medical professional, physician's assistant, nurse practitioner, or other person licensed to provide medical or mental health care stating that the victim experienced physical, mental, or emotional injury as a result of a qualifying crime; or,

    e) A police report or another written or oral report from a law enforcement agency.

13) States that the board shall provide educational materials regarding how victims may contact and cooperate with law enforcement to applicants upon request and shall include in these materials contact information for service providers that are available to help the victim or claimant contact law enforcement and information about victim rights regarding participation in an investigation or prosecution.

14) Prohibits the board from denying an application, in whole or in part, based on lack of cooperation by a victim, derivative victim, or applicant with a law enforcement agency.

15) Deletes existing provision of law that make a person ineligible for compensation while that person is required to register as a sex offender.

16) Deletes the existing provision of law that states that a person convicted of a violent felony shall not be granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, postrelease community supervision or mandatory supervision for that violent crime.

17) Specifies that a victim or derivative victim may receive compensation for loss of income or support if they earned income benefits either in the tax year preceding the year the crime occurred or in the tax year the crime occurred, and the amount of income earned or earned income benefits received in the applicable tax year totaled at least $1,320, or if the victim had an offer of employment at the time of the crime and was unable to begin employment as a result of the crime.

EXISTING LAW:

1) States that the Legislature finds and declares that it is in the public interest to assist residents of the State of California in obtaining compensation for the pecuniary losses they suffer as a direct result of criminal acts. (Gov. Code, § 13950, subd. (a).)

2) Establishes the board to operate the CalVCP. (Gov. Code, §§ 13950 *et. seq*.)

3) Provides than an application for compensation shall be filed with the board in the manner determined by the board. (Gov. Code, § 13952, subd. (a).)

4) Requires an application be filed in accordance with the following timelines:

   a) Within seven years of the date of the crime;
   b) Seven years after the victim attains 21 years of age; or,
   c) Seven years of the time the victim or derivative victim knew or in the exercise of ordinary diligence could have discovered than an injury or death had been sustained as a direct result of crime, whichever is later. (Gov. Code, § 13953, subd. (a).)

5) Authorizes the board to reimburse for pecuniary loss for the following types of losses:

   a) Medical or medical-related expenses incurred by the victim for services provided by a licensed medical provider;

   b) Out-patient psychiatric, psychological or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center, not to exceed $10,000;

   c) Compensation equal to the loss of income or loss of support, or both, that a victim or derivative victim incurs as a direct result of the victim's injury or the victim's death;

   d) Cash payment to, or on behalf of, the victim for job retraining or similar employment-oriented services;

e) The expense of installing or increasing residential security, not to exceed $1,000;

f) The expense of renovating or retrofitting a victim's residence or a vehicle to make them accessible or operational, if it is medically necessary;

g) Relocation expenses, not to exceed $3,418, if the expenses are determined by law enforcement to be necessary for the victim's personal safety, or by a mental health treatment provider to be necessary for the emotional well-being of the victim;

h) Funeral or burial expenses, not to exceed $12,818;

i) Costs to clean the scene of the crime, not to exceed $1,709; and,

j) Costs of veterinary services, not to exceed $10,000. (Gov. Code, § 13957, subd. (a).)

6) Limits the total award to or on behalf of each victim or derivative victim to $ $35,000, except that this award may be increased to an amount not exceeding $70,000 if federal funds are available. (Gov. Code, § 13957, subd. (b).)

7) Defines "victim" to mean an individual who sustains injury or death as a direct result of a crime as specified. (Gov. Code, § 13951, subd. (e).)

8) Defines "derivative victim" to mean an individual who sustains pecuniary loss as a result of injury or death to a victim. (Gov. Code, § 13951, subd. (e).)

9) Authorizes the board to require submission of additional information supporting the application that is reasonably necessary to verify the application and determine eligibility for compensation. (Gov. Code, § 13952, subd. (c)(1).)

10) Requires the board staff to determine whether an application for compensation contains all of the information required by the board. If the staff determines that an application does not contain all of the required information, the staff shall communicate that determination to the applicant with a brief statement of the additional information required. (Gov. Code, § 13952, subd. (c)(2).)

11) States that the applicant, within 30 calendar days of being notified that the application is incomplete, may either supply the additional information or appeal the staff's determination to board, which shall review the application to determine whether it is complete. (Gov. Code, § 13952, subd. (c)(2).)

12) Makes emergency awards available to a person eligible for compensation if the board determines that such an award is necessary to avoid or mitigate substantial hardship that may result from delaying compensation until complete and final consideration of an application. (Gov. Code, § 13952.5, subd. (a).)

13) Requires the board to verify with hospitals, physicians, law enforcement officials, or other interested parties involved, the treatment of the victim or derivative victim, circumstances of

the crime, amounts paid or received by or for the victim or derivative victim, and any other pertinent information deemed necessary by the board. (Gov. Code, § 13954, subd. (a).)

14) Requires an applicant to cooperate with the staff of the board or the victim center in the verification of the information contained in the application and states that failure to cooperate shall be reported to the board, which, in its discretion, may reject the application solely on this ground. (Gov. Code, § 13954, subd. (b).)

15) States that an applicant's refusal to apply for other benefits potentially available to them from other sources, including, but not limited to, worker's compensation, state disability insurance, social security benefits, and unemployment insurance may be used to reject the application. (Gov. Code, § 13954, subd. (b)(2)(C).)

16) States that if the applicant threatens violence or bodily harm to a member of the board of board's staff, the application may be denied. (Gov. Code, § 13954, subd. (b)(2)(D).)

17) States that the DOJ shall furnish, upon application of the board, all information necessary to verify the eligibility of any applicant for benefits to recover any restitution fine or order obligations that are owed to the Restitution Fund or to any victim of crime, or to evaluate the status of any criminal disposition. (Gov. Code, § 13954, subd. (f).)

18) States that a person who is convicted of a violent felony shall not be granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, or has been discharged from postrelease community supervision or mandatory supervision, if any, for that violent crime. (Gov. Code, § 13956, subd. (c)(1).)

19) Prohibits compensation from being granted to an applicant during any period of time the applicant is held in a correctional institution or while an applicant is required to register as a sex offender. (*Ibid.*)

20) States that a person shall not be eligible for compensation under the following conditions:

    a) An application may be denied, in whole or in part, if the board finds that denial is appropriate because of the nature of the victim's or other applicant's involvement in the events leading to the crime, or the involvement of the person whose injury or death gives rise to the application, as specified; or,

    b) An application shall be denied if the board finds that the victim or, if compensation is sought by, or on behalf of, a derivative victim, either the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. In determining whether cooperation has been reasonable, the board shall consider the victim's or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or the victim's family or the derivative victim or the derivative victim's family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of any of these factors. A victim of domestic violence shall not be determined to have failed

to cooperate based on the victim's conduct with law enforcement at the scene of the crime. (Gov. Code, § 13956, subds. (a)-(b).)

21) States that lack of cooperation shall also not be found solely because a victim of sexual assault, domestic violence, or human trafficking delayed reporting the qualifying crime. (Gov. Code, § 13956, subd. (b)(1).)

22) Authorizes compensation for loss of income directly resulting from the injury, except that loss of income shall not be paid by the board for more than 5 years following the crime, unless the victim is disabled as a direct result of the injury. (Gov. Code, §13957.6, subd. (a)(1).)

23) States that an adult derivative victim may be compensated for loss of income subject to the following:

   a) The derivative victim is the parent or legal guardian of a victim, who at the time of the crime was under 18 years of age and is hospitalized as a direct result of the crime;

   b) The minor victim's treating physician certifies in writing that the presence of the victim's parent or legal guardian at the hospital is necessary for the treatment of the victim;

   c) Reimbursement for loss of income under this paragraph may not exceed the total value of the income that would have been earned by the adult derivative victim during a 30-day period. (Gov. Code, §13957.5, subd. (a)(2).)

24) States that an adult derivative victim may be compensated for loss of income for a victim who has died as a direct result of the crime, subject to the following:

   a) The derivative victim is the parent or legal guardian of a victim who a the time of the crime was under 18 years of age; and,

   b) The board shall pay for loss of income under this paragraph for not more than 30 calendar days from the date of the victim's death. (a)(3).)

25) Provides that a derivative victim who was legally dependent on the victim at the time of the crime may be compensated for loss of support incurred by that person as a direct result of the crime, subject to the following:

   a) Loss of support shall be paid by the board for income lost by an adult for a period up to, but not more than, five years following the date of the crime; and,

   b) Loss of support shall not be paid by the board on behalf of a minor for a period beyond the child's attaining 18 years of age. (Gov. Code, §13957.5, subd. (a)(4).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Access to support, specifically compensation, for victims of crime should not come with barriers. This common sense bill removes outdated restrictions and makes it easier to apply for compensation. After suffering a crime, the last thing a person should experience is a delay in funds needed to help them move forward. AB 1100 is a long overdue fix to our victim's compensation system."

2) **History and Purpose of California's Victim Compensation Program**: The CalVCP was created in 1965, the first such program in the country. The program provides compensation for victims of violent crime. It reimburses eligible victims for many crime-related expenses, such as counseling and medical fees. Funding for the program comes from restitution fines and penalty assessments paid by criminal offenders, as well as federal matching funds.[1]

   The CalVCP is the payor of last resort, which means applicants are compensated for covered expenses that have not been and will not be compensated from any other source. The types of expenses that may be reimbursed include:

   - Medical, medical-related, dental.
   - Outpatient mental health treatment or counseling.
   - Funeral and burial.
   - Wage or income loss up to five years following the date of the crime due to the victim's disability resulting from the qualifying crime. If the victim is permanently disabled, wage or income loss may be extended.
   - Support loss for legal dependents of a deceased or injured victim.
   - Up to 30 days wage loss for the parent or legal guardian of a minor victim who is hospitalized or dies as a direct result of a crime.
   - Job retraining.
   - Medically necessary renovation or retrofitting of a home or vehicle for a person permanently disabled as a result of the crime.
   - Home security installation or improvements
   - In-patient psychiatric hospitalization costs.
   - Relocation.
   - Crime scene clean-up.
   - Veterinary fees, or replacement costs for a guide, signal or service dog.
   - Roundtrip mileage reimbursement to medical, dental or mental health appointments.
   - Minors who suffer emotional injuries from witnessing a violent crime may be eligible for mental health counseling. To qualify, the minor witness must have been in close proximity to the crime.

   Reimbursement is limited to the actual amount paid out-of-pocket or bills accrued by the victim. The maximum amount reimburse a victim or derivative victim is $35,000, except this amount may be increased to $70,000 if federal funds are available. Additionally, there are specified limits for certain expenses.

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[1] See the California Victim Compensation Board's website http://www.vcgcb.ca.gov/board/ (accessed Mar. 28, 2025).)

3) **Current Requirements for Eligibility and Changes Made by this Bill**: CalVCP reimburses eligible victims for specified expenses such as counseling and medical fees. Eligible persons are victims and derivative victims where the crime either occurred in California or the victim is a resident of California or a member or a family member living with a member of the military stationed in California. The victim or derivative victim must have sustained either physical injury or emotional injury for specified violent crimes.

Under existing law, the application for compensation shall be verified under penalty of perjury of the individual seeking compensation and the board may require submission of additional information supporting the application that is reasonably necessary to verify the application and determine eligibility. (Gov. Code, § 13952, subd. (b)-(c).) If the staff determines that an application does not contain all of the required information, the staff shall communicate that determination to the applicant and the applicant will be given 30 days of being notified to provide additional information or appeal the determination to the board. (Gov. Code, § 13952, subd. (c)(2).)

Under existing law, once an application is filed, the board is required to verify with hospitals, physicians, law enforcement officials, or other interested parties involved, the treatment of the victim or derivative victim, circumstances of the crime, amounts paid or received by or for the victim or derivative victim, and any other pertinent information deemed necessary by the board. (Gov. Code, § 13954, subd. (a).) Any verification information requested by the board must be returned within 10 days of the request. (*Ibid.*)

This bill states instead that the board may verify such information with these third parties only if the information provided to the board is insufficient to reasonably verify the application or claim by a preponderance of the evidence. The board would not be authorized to seek or require additional information from a law enforcement agency or another third party solely to verify that the crime occurred if the board has already received a valid form a verification, as authorized under this bill, however the board would not be limited in contacting the agency, organization, court, or individual from which a form of evidence evidencing the crime occurred originates to confirm the evidence's authenticity.

Additionally, this bill specifies that the board shall not solicit information from a law enforcement agency nor require information from a law enforcement agency if either the qualifying crime was not reported to a law enforcement agency, or if the victim provided a form of authorized verification in lieu of a police report.

Under existing law, the board may deny an application based on a finding that either the victim was involved in the events leading to the crime or the victim's failure to reasonably cooperate with law enforcement. (Gov. Code, § 13956, subds. (a)-(b).) Existing law provides that "[i]n determining whether cooperation has been reasonable, the board shall consider the victim or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, and any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or victim's family or derivative victim or derivative victim's family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of these factors." (Gov. Code, § 13956, subd. (b)(1).)

The proponents of this bill state that these disqualifying factors unjustly exclude victims based on subjective perceptions about the victim and lead to inequitable rates of denials, including disproportionate denials for Black victims and families. According to background information provided by the author:

> A recent analysis found that the discretionary application of contributory conduct standards disproportionately impacts Black survivors, with Black victims more likely to be denied compensation for behavior-based reasons like contributory misconduct.[2] Another study analyzed victim compensation applications and decisions in one state between January 1, 2015 and December 31, 2022, and found that Black victims represented 30.89 percent of all victim compensation claims but they represented 53.39 percent of all denials of contributory conduct, and that Black men represented 14.3 percent of all claims but 47.18 percent of all denials of contributory conduct.[3] As one commenter noted, "if victim compensation programs assist only 'innocent' or 'perfect' victims and survivors, an untold number of people, especially people of color, are unlikely to heal or at least get" reimbursed for expenses they incurred as a result of their victimization.[4]

An Alameda Grand Jury also released a report in 2021 that found that black applicants and family members were more than twice as likely as white applicants to have their applications denied for lack of cooperation with law enforcement (9.8% of Black applicants compared to 4.7% of white applicants) and almost twice as likely as white applicants based on involvements in events leading to the crime (7.1% of Black applicants compared to 3.9% of white applicants). The report also found that there was little or no opportunity for applicants to provide relevant information, or to address disagreements or misunderstandings between applicants and law enforcement. Additionally, while existing law requires mitigating factors to be considered when reaching conclusions about a victim or family member's cooperation - such as a person's age, physical condition, psychological state, cultural or linguistic barriers, or fear of retaliation - the report found it was unlikely that a police report would reflect on those considerations.[5]

This bill instead provides that an application for a claim shall not be denied, in whole or in part, because a police report was not made or the crime was not reported to a law enforcement agency. The bill requires the board to accept any of the following forms of evidence to establish that a qualifying crime occurred or that the injury or death on which the claim is based is a result of a qualifying crime: (1) medical records documenting injuries consistent with the allegation of the qualifying crime; (2) a signed statement from a victim of violent crime advocate; (3) a permanent restraining order or protective order issued by a court to protect or separate the victim or derivative victim from the person alleged to have

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[2] Mike Cataline & Claudia Lauer, *Every state offers victim compensation. For the Longs and other Black families, it often isn't fair.* Associated Press (May 17, 2003), available from: https://apnews.com/article/crime-victims-compensation-racial-bias-58908169e0ee05d4389c57f975eae49b.

[3] Common Justice comment on OVC Proposed VOCA Victim Compensation Rule, April 5, 2024, available from: https://www.regulations.gov/comment/OJP-2024-0001-3761. See p. 3 referencing Professor Jeremy Levine of the University of Michigan's analysis.

[4] *Ibid.*

[5] Alameda County Grand Jury (2021). *Final report: Racial Inequities in Police Responses to Victims' Needs.* http://grandjury.acgov.org/grandjury-assets/docs/2020-2021/Racial%20Disparities.pdf.

committed the qualifying crime; (4) a statement from a licensed medical professional, physician's assistant, nurse practitioner, or other person licensed to provide medical or mental health care stating that the victim experienced physical, mental, or emotional injury as a result of a qualifying crime; or (5) a police report or another written or oral report from a law enforcement agency.

The bill also requires the board to adopt guidelines that allow it to consider and approve applications that rely on evidence other than a police report to establish that a qualifying crime has occurred or that the injury or death on which the claim is based is a result of the qualifying crime.

This bill also prohibits the board from denying an application in whole or in part, based on a lack of cooperation by a victim, derivative victim, or applicant with a law enforcement agency. The bill also requires the board to provide educational materials regarding how victims may contact and cooperate with law enforcement to applicants upon request. The board shall include in these materials contact information for service providers that are available to help the victim or claimant contact law enforcement and information about victim rights regarding participation in an investigation or prosecution.

Additionally, existing law makes a person convicted of a violent felony and either serving a term of incarceration, or under a form of supervision for the violent felony, ineligible for compensation until release. (Gov. Code, § 13956, subd. (c)(1).) Also, a person who is required to register as a sex offender is ineligible for compensation. (*Ibid.*)

This bill deletes the above disqualifying factors but keeps intact the prohibition that a person who is currently held in a correctional institution shall not be granted compensation or have their application considered until they are released. A person's conviction for a violent felony or requirement to register as a sex offender are irrelevant to the matter of whether the applicant is a victim of an eligible offense, thus these exclusions seem appropriate to remove.

4) **Changes to Compensation Based on Loss of Income or Support**: The board is authorized to pay a victim for lost income "as a direct result of the victim's injury." For example, the board is currently authorized to compensate a victim for loss of income due to unpaid time off work after the crime due to recovery from injuries, for doctor's or counseling appointments, or to attend court to assist in the prosecution of the case.[6] Since CalVCP is the payor of last resort, lost income the victim incurs as a direct result of the crime will only be paid if the victim has not been and will not be compensated from any other source, such as insurance, criminal restitution, or civil lawsuits.

Loss of income may apply to direct victims as described above and to derivative victims who are the parent or legal guardian of a minor victim who is in the hospital or dies as a result of the crime. (Gov. Code, § 13957.5, subd. (a).) Both require evidence that the victim was working at the time of the qualifying crime and the amount of the lost income. The maximum reimbursement for loss of income to a victim is for a period of five years. The maximum reimbursement for a parent or legal guardian of a minor in the hospital or who dies as a result

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[6] See Compensation Benefit Guide < http://vcgcb.ca.gov/docs/forms/victims/CalVCPBenefitReferenceGuide.pdf> (accessed Apr. 2. 2025).

of the crime is 30 days of lost income. (Gov. Code, § 13957.5, subd. (a)(1)-(3).) Existing law also provides compensation for loss of support incurred by a derivative victim who was legally dependent on the victim at the time of the crime.

The board also reimburses for loss of support for derivative victims who had been legally dependent on the victim at the time of the qualifying crime. (Gov. Code, § 13957.5, subd. (a)(4).) An application for loss of support requires evidence of the support the derivative victim was receiving from the victim at the time of the qualifying crime. The board may reimburse for loss of support for income lost by an adult derivative victim for a period up to five years following the date of the crime, and loss of support on behalf of a minor derivative victim for a period up to the child attaining 18 years of age. Existing law does not specify how loss of income or support is to be calculated or acceptable proof of income to be considered.

Amendments to Government Code section 13957.5 were enacted through AB 160 (Committee on Budget), Chapter 771, Statutes of 2022, changing calculations for loss of income and support. Specifically, AB 160 stated that a victim or derivative victim who is eligible for loss of income shall be eligible for loss of income if they were employed or receiving earned income benefits at the time of the crime. If adult victim or derivative victim was not employed or receiving earned income benefits at the time of the crime, they shall be eligible for loss of income if the victim or derivative victim was fully or partially employed or receiving income benefits for a total of at least 2 weeks in the 12 months preceding the qualifying crime, or had an offer of employment at the time of the crime and was unable to begin employment as a result of the crime.

For a derivative victim who was legally dependent on the victim at the time of the crime, AB 160 stated that they shall be eligible for loss of support if the victim was employed or receiving earned income benefits at the time of the crime. If the victim was not employed or receiving earned income benefits at the time of the crime, the derivative victim shall be eligible if the victim was fully or partially employed or receiving earned income benefits for a total of at least 2 weeks in the 12 months preceding the qualifying crime, or if the victim had an offer of employment at the time of the crime and was unable to begin employment as a result of the crime.

The changes made through AB 160 were contingent on appropriation for these purposes. According to the author of this bill, an appropriation was not made thus those provisions did not go into effect.

This bill makes similar changes to AB 160 to the provision of law that allows a victim or derivative victim who was unemployed at the time of the crime to receive compensation for loss of income or support. Specifically, this bill makes a victim or derivative victim eligible for loss of income compensation if (1) they earned income or received earned income benefits either in the tax year preceding the year the crime occurred or in the tax year the crime occurred, and the amount of income earned or earned income benefits received in the applicable tax year totaled at least $1,320; or (2) they had an offer of employment at the time of the crime and was unable to begin employment as a result of the crime. The bill specifies that loss of income or support shall be based on actual loss the victim or derivative victim sustains or the wages the victim or derivative victim would have earned if employed for 35

hours per week at the minimum wage required during the period for which loss of income or support is being claimed, whichever is greater.

5) **Condition of the Restitution Fund**: The Restitution Fund, which funds the Victim Compensation Program reimbursements, has been operating under a structural deficiency for a number of years. In 2015, the Legislative Analyst's Office (LAO) reported the Restitution Fund was depleting and would eventually face insolvency. Although revenue has remained consistent, expenditures have outpaced revenues since FY 2015-16. The Governor's 2021-22 budget proposed $33 million dollars in one-time General Fund monies to backfill declining fine and fee revenues in the Restitution Fund, and $39.5 million annually afterwards. This amount will allow the board to continue operating at its current resource level. Furthermore, the Budget Act allows for additional backfill if a determination is made that revenues are insufficient to support the board.[7] According to information provided by the LAO, the $39.5 million backfill from the General Fund faced a one-time reduction to $14.5 million in 2024-2025, and $29.5 million in 2025-2026. However, the General Fund backfill will return to $39.5 million in 2026-2027.

6) **Argument in Support**: According to *Californians for Safety and Justice*, a co-sponsor of this bill, "California became the first state to create a victim compensation program in 1965. Every state now has a program – a lifeline when victims have no other way to cover urgent costs like counseling or funerals. But California now lags behind in adopting policies we know work best to help victims and end racial disparities in access. Clear data show that barriers California has in its compensation laws fuel inequitable rates of denials, and Black victims are more often denied.

"The Biden administration was poised to compel states like California who are behind to adopt best practices – rules the DOJ proposed in 2024 would have required California and the remaining 7 states that deny help to people with conviction histories to overturn these laws and required eliminating vague victim blaming restrictions like those California has that drive racial inequity. They would have also required states to ensure options for victims who may not feel ready or safe yet to work with law enforcement. But the agency ran out of time to finalize the rules before the Trump administration, which is unlikely to pick up these equity-oriented policies.

"Life becomes complicated, expensive, and confusing for victims and family members after a crime, and any barriers to getting help can cause more instability and can place people in more danger. AB 1100 will:

- Remove eligibility restrictions for victims on probation, parole, or with a past conviction.

- Ensure all violent crime victims can use alternative documents in lieu of a police report to apply. California has long allowed this for domestic violence, sexual assault, and human trafficking survivors, but other eligible victims do not have access to these options.

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[7] Department of Finance, California State Budget –2023-24 at 90 <https://ebudget.ca.gov/2023-24/pdf/BudgetSummary/CriminalJustice.pdf> (accessed Apr. 1, 2025).)

• Allow individuals to apply for loss of income or support if the victim was unemployed at the time of victimization but had worked previously in the year. This would fulfill a commitment the legislature passed in budget trailer bill language – AB 160 (2022).

• Address the drivers of racial disparities in access to services by limiting denials based on perceived victim behavior. Victims would remain ineligible in cases in which the victim is an alleged accomplice in the crime. California does not need a federal requirement to adopt these commonsense policies that other states have already implemented. The legislature can act to get victims urgent help."

7) **Argument in Opposition**: According to California State Sheriffs' Association, "Current law allows the Victims Compensation Board to deny an application for compensation if the Board finds that denial is appropriate because of the nature of the victim's or other applicant's involvement in the events leading to the crime, or the involvement of the person whose injury or death gives rise to the application. This is an appropriate barrier to ensuring that those involved in criminality are not able to simultaneously realize a financial benefit.

"Our victim compensation system is routinely at risk of fiscal insolvency and yet AB 1100 allows persons who are involved in a crime to seek victim compensation if they are injured. Legislative efforts should be focused on innocent victims who play no role in their victimization."

8) **Related Legislation**: None

9) **Prior Legislation**:

a) SB 655 (Durazo), of the 2023-2024 Legislative Session, would have made various changes to the CalVCP including some of the changes made by this bill regarding eligibility. SB 655 was held in the Senate Appropriations' suspense file.

b) SB 838 (Menjivar), of the 2023-2024 Legislative Session, would have, in the case of a claim based on a victim's serious bodily injury or death that resulted from a law enforcement officer's use of force, prohibit the board from denying an application based on certain circumstances, including the victim's or other applicant's involvement in the crime, except as specified, the victim's failure to cooperate, or the contents of a police report, or the lack thereof. SB 655 was held in the Senate Appropriations' suspense file.

c) AB 160 (Committee on Budget), Chapter 771, Statutes of 2022, made various changes to the CalVCP, subject to appropriation, including new calculations for loss of income, removing ineligibility factors, and increasing the maximum compensation amount.

d) SB 993 (Skinner), of the 2021-2022 Legislative Session, would have made various changes to the CalVCP including some of the changes made by this bill regarding eligibility. AB 993 (Skinner) was held on the Assembly Floor.

e) AB 767 (Grayson), of the 2019-2020 Legislative Session, would have would expanded eligibility for compensation under the CalVCP for injuries or death caused by use of force by a police officer. AB 767 was held in Senate Appropriations Committee.

f) SB 375 (Durazo), Chapter 375, Statutes of 2019, extended deadline for victims of violent crimes to file an application for compensation from 3 to 7 years.

g) AB 629 (Smith), Chapter 575, Statutes of 2019, authorized CalVCB to provide compensation equal to loss of income or support to human trafficking victims.

h) AB 415 (Maienschein), Chapter 572, Statutes of 2019, authorized CalVCB to compensate a crime victim for the costs of temporary housing for a pet.

i) SB 1232 (Bradford), Chapter 983, Statues of 2018, extended the time limit to file an application for compensation with CalVCB within three years after the victim turns 21, instead of 18.

j) AB 2226 (Patterson), Chapter 142, Statutes of 2018, expanded victim restitution to cover the costs of installing a residential security system to include domestic violence cases.

k) AB 1384 (Weber), Chapter 587, Statutes of 2017, recognized the TRC at San Francisco General Hospital as the State Pilot Trauma Recovery Center, and required the CalVCB to use the model developed by this center when it awards grants to establish additional TRCs.

l) AB 1140 (Bonta), Chapter 569, Statutes of 2015, made various changes to CalVCB, including language requirements, minimum threshold for funeral cost reimbursements, and methods of testifying, among others.

m) SB 618 (Leno), Chapter 800, Statutes of 2013, streamlined and provided clarity to the process for compensating exonerated persons.

n) AB 2809 (Leno), Chapter 587, Statutes of 2008, allowed a minor who suffers emotional injury as a direct result of witnessing a violent crime to be eligible for reimbursement for the costs of outpatient mental health counseling if the minor was in close proximity to the victim when he or she witnessed the crime.

o) AB 2869 (Leno), Chapter 582, Statutes of 2006, clarified that CalVCB is required to award compensation to person seeking reimbursement for the funeral and burial expenses of a victim that died as a result of a crime without respect to any felony status of the victim.

REGISTERED SUPPORT / OPPOSITION:

Support

Californians for Safety and Justice (co-sponsor)
Youth Alive! (co-sponsor)
Initiate Justice Action
Prosecutors Alliance Action

Opposition

California State Sheriffs' Association

Analysis Prepared by: Stella Choe / PUB. S. / (916) 319-3744

Date of Hearing: April 8, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1108 (Hart) – As Amended March 28, 2025

SUMMARY: Requires counties with a combined Sheriff-Coroner's office, in any case in which a coroner is required to inquire into a death that occurred in a sheriff officer's custody or following a sheriff's use of force, to either request another county or state agency to determine cause of death, or utilize a third-party independent medical examination team to determine cause of death. Specifically, **this bill**:

1) Provides that in a case in which a coroner is required to inquire into a death that occurs to a person while in the custody of a county sheriff's officer, or a death of a person who died following use of force by sheriff's personnel, if the offices of the sheriff and the coroner are combined in the county where the death took place, the sheriff-coroner shall not perform the autopsy, but shall instead:

   a) Request another county or state agency to conduct an independent medical examination to determine the cause of death; or

   b) Utilize the services of a third-party independent medical examination team to determine the cause of death.

2) Specifies that the requirement that the manner of death be determined by the coroner or medical examiner of a county, does not apply to an independent medical examination conducted pursuant to this bill.

3) Includes legislative findings and declarations.

EXISTING LAW:

1) States that officers of a county include a sheriff and coroner, among others. (Gov. Code, § 24000 subd. (b) & (m).)

2) Authorizes the board of supervisors to abolish by ordinance the office of coroner and provide instead for the office of medical examiner, to be appointed by the board and to exercise the powers and perform the duties of the coroner. The medical examiner shall be a licensed physician and surgeon duly qualified as a specialist in pathology. (Gov. Code, § 24010)

3) Authorizes county boards of supervisors to consolidate by ordinance the duties of certain county offices into one or more combinations, including the sheriff and the coroner. (Gov. Code, § 24300.)

4) Authorizes certain classifications of counties to additionally combine the duties of the Sheriff, tax collector, and coroner. (Gov. Code, §§ 24304 & 24304.1.)

5) Requires coroners to determine the manner, circumstances and cause of death in the following circumstances:

   a) Violent, sudden or unusual deaths;

   b) Unattended deaths;

   c) When the deceased was not attended by a physician, or registered nurse who is part of a hospice care interdisciplinary team, in the 20 days before death;

   d) Deaths known or suspected as due to homicide or suicide, including suicide where the deceased has a history of being victimized by domestic violence;

   e) Deaths suspected as a result of an accident or injury either old or recent;

   f) Drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or sudden infant death syndrome;

   g) Deaths in whole or in part occasioned by criminal means;

   h) Deaths associated with a known or alleged rape or crime against nature;

   i) Deaths in prison or while under sentence;

   j) Deaths known or suspected as due to contagious disease and constituting a public hazard;

   k) Deaths from occupational diseases or occupational hazards;

   l) Deaths of patients in state mental hospitals operated by the State Department of State Hospitals;

   m) Deaths of patients in state hospitals serving the developmentally disordered operated by the State Department of Development Services;

   n) Deaths where a reasonable ground exists to suspect the death was caused by the criminal act of another; and,

   o) Deaths reported for inquiry by physicians and other persons having knowledge of the death. (Gov. Code, § 27491, subd. (a).)

6) Provides a coroner with discretion to determine the extent of the inquiry to be made into any death occurring under natural circumstances where applicable. (Gov. Code, § 27491, subd. (b).)

7) Requires a coroner, upon determining that a person has died under circumstances that afford a reasonable ground to suspect that the person's death has been occasioned by the act of

another by criminal means, to immediately notify the law enforcement agency having jurisdiction over the criminal investigation. (Gov. Code, § 27491.1.)

8) Authorizes a coroner, in any case where a coroner is required to inquire into a death, to delegate their jurisdiction over the death to an agency of another county or the federal government when all of the following conditions have been met:

   a) The other agency has either requested the delegation of jurisdiction, or has agreed to take jurisdiction at the request of the coroner;

   b) The other agency has the authority to perform the functions being delegated; and,

   c) When both the coroner and the other agency have a jurisdictional interest or involvement in the death. (Gov. Code, § 27491.55.)

9) States that the manner of death shall be determined by the coroner or medical examiner of a county. If a forensic autopsy is conducted by a licensed physician and surgeon, the coroner shall consult with the physician in determining the cause of death. (Pen. Code, § 27522, subd. (d).)

10) States that only persons directly involved in the investigation of the death of the decedent shall be allowed into the autopsy suite. (Pen. Code, § 27522, subd. (f)(1).)

11) Provides that if an individual dies due to the involvement of law enforcement activity, law enforcement directly involved with the death of that individual shall not be involved with any portion of the post mortem examination, nor allowed into the autopsy suite during the performance of the autopsy. (Pen. Code, § 27522, subd. (f)(2).)

12) Requires that any police reports, crime scene or other information, videos, or laboratory test that are in the possession of law enforcement and are related to a death that is incident to law enforcement activity be made available to the forensic pathologist prior to the completion of the investigation of the death. (Pen. Code, § 27522, subd. (g).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1108 is a common-sense measure designed to protect the independence and impartiality of medical investigations into deaths involving sheriff's deputies. By providing counties with options already in use by counties with separate coroner-sheriff offices, the bill improves oversight and transparency. Specifically, AB 1108 will require counties with a combined sheriff-coroner office to refer investigations of deaths in custody, or involving the use of force, to an independent coroner or medical examiner from a different county, or contract with a qualified private medical examiner to perform the investigation. AB 1108 aims to reduce the potential for undue influence by the sheriff's office in cases involving their own officers."

2) **Coroners**: The Office of the Coroner typically has three main responsibilities: medical, investigative, and administrative.[1] Medical responsibilities include conducting autopsies to determine cause of death within the jurisdiction, transporting and removing bodies, verifying cause of death and signing death certificates, and appearing at all unattended deaths unless the deceased has been seen by a physician within a specified period of time.[2] Investigative functions are composed of conducting investigations to determine causes of death, and establishing the identity of the deceased person.[3] Finally, administrative responsibilities include maintaining all records, and responding to inquiries by law enforcement agencies, doctors, and others with potential cases.[4]

3) **Sheriff-Coroner Offices:** Forty-eight of California's 58 counties have combined Sheriff-Coroner offices, meaning the two offices are consolidated and the sheriff also serves as the coroner.[5] The consolidation typically occurs for two reasons: 1) the maintenance and function of two separate offices is more expensive, especially for smaller counties; and 2) many of the deaths that a coroner investigates have criminal or other law enforcement components.

   The duality of Sheriff-Coroners may present a conflict of interest. Medical experts determine a subject's cause of death, but the sheriff, as an elected official, possesses final say in determining a subject's manner of death.

   In San Joaquin County, for example, a lawsuit was filed in 2018 alleging the sheriff's department changed an autopsy report at the center of a police excessive-force case.[6] The year before in that same county, two pathologists resigned from the office and alleged that the sheriff changed the manner of death in autopsy reports without their knowledge. The pathologists called for a split of the offices so that the independence of the coroner could be guaranteed.[7] The San Joaquin County Board of Supervisors ultimately voted to replace the coroner's office with a medical examiner.[8]

   This potential conflict of interest associated with Sheriff-Coroners was reiterated in a recent Sheriff-Coroner's use of "excited delirium" as a cause of death in a law-enforcement related death. This diagnosis has become increasingly controversial as it is generally attributed to sudden, unexplained deaths of individuals while in police custody, which may be used as a justification for excessive police force.[9] This diagnosis has since been prohibited.[10] This was most notably demonstrated in December 2020 when Angelo Quinto died in police custody

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[1] California State Association of Counties, *Sheriff-Coroner* (accessed March 28, 2025), available at: https://www.counties.org/county-office/sheriff-coroner
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] California State Association of Counties, *Sheriff-Coroner* (accessed March 28, 2025), available at: https://www.counties.org/county-office/sheriff-coroner
[6] CBS News, *Lawsuit: Sheriff's Department Changed Autopsy Report in Police Excessive Force Case* (April 21, 2018), available at: https://www.cbsnews.com/sacramento/news/lawsuit-sheriff-changed-autopsy-report/
[7] CBS News, *Pathologists Who Resigned Call for San Joaquin County Sheriff-Coroner Split* (Dec. 8, 2017), available at: https://www.cbsnews.com/sacramento/news/pathologists-who-resigned-call-for-san-joaquin-county-sheriff-coroner-split/
[8] KQED, *San Joaquin County Sheriff Stripped of Role in Death Investigations* (April 25, 2018), available at: https://www.kqed.org/news/11664465/san-joaquin-county-sheriff-stripped-of-role-in-death-investigations
[9] American Medical Association, *New AMA policy opposes 'excited delirium' diagnosis* (Jun. 14, 2021), available at: https://www.ama-assn.org/press-center/press-releases/new-ama-policy-opposes-excited-delirium-diagnosis
[10] *See* AB 360 (Gipson), Chapter 431, Statutes of 2023.

while suffering a mental health episode.[11] Quinto's family alleged that a responding officer knelt on Angelo's neck for nearly five minutes while another officer restrained his legs, causing Angelo to lose consciousness. He later died in the hospital. The Contra Costa County's Coroner Office, which is combined with its Sheriff's office, ruled the cause of Angelo's death was a result of "excited delirium."[12]

In contrast, other counties utilize an office of the medical examiner that is independent from the Sheriff's Office. Existing law authorizes board of supervisors to abolish the office of coroner and provide instead for the office of medical examiner, to be appointed by the board and to exercise the powers and perform the duties of the coroner. (Gov. Code, § 24010.) Given the lower costs associated with maintaining a single Sheriff-Coroner Office, this option is typically utilized by larger, better-resourced counties. A medical examiner functions as the medical doctor responsible for examining bodies post mortem to determine cause of death. Unlike Sheriff-Coroners, a medical examiner must be a licensed physician and surgeon duly qualified as a specialist in pathology. (Gov. Code, § 24010). Medical examiners responsibilities may include investigating sudden or unnatural deaths, performing forensic medicine and pathology consultations, counseling families regarding manners and causes of death, testifying in courts, conducting physical examinations and laboratory tests, conducting inquests, and serving subpoenas for witnesses.

4) **Effect of this Bill:** Existing law bestows counties with discretion to either maintain a combined Sheriff-Coroner office or to abolish the office of the coroner and provide instead for the office of the medical examiner. (Gov. Code, §§ 24010, 24304, 24304.1.) Certain, albeit minimal, conflict of interest protections exist for counties with a combined sheriff-coroner office. If an individual dies due to the involvement of law enforcement activity, law enforcement directly involved with the death of that individual are not allowed to be involved with any portion of the post mortem examination, or allowed into the autopsy suite during the performance of the autopsy. (Pen. Code, § 27522, subd. (f)(2).) However, irrespective of whether law enforcement is allowed into the autopsy suite, the sheriff nonetheless has the final say in determining a subject's manner of death.

   This bill attempts to remedy the potential conflict of interest implicated by combined Sheriff-Coroner offices by requiring the autopsies of deaths that occur in connection with county sheriffs to be performed by an entity other than the Sheriff-Coroner. Specifically, it provides that in a case in which a coroner is required to inquire into a death that occurs to a person while in the custody of a county sheriff's officer, or a death of a person who died following use of force by sheriff's personnel, if the offices of the sheriff and the coroner are combined in the county where the death took place, the sheriff-coroner must either: 1) request another county or state agency to conduct an independent medical examination to determine the cause of death; or 2) utilize the services of a third-party independent medical examination team to determine the cause of death. AB 1108 would specify that the requirement in existing law that the manner of death be determined by the coroner or medical examiner of a county, does not apply to an independent medical examination conducted pursuant to this bill.

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[11] Gartrell, *Death of Angelo Quinto, Navy vet who died after struggle with Antioch cops, blamed on 'excited delirium'* (Aug. 23, 2021), available at: https://www.mercurynews.com/2021/08/20/death-of-angelo-quinto-after-struggle-with-cops-blamed-on-excited-delirium-a-controversial-diagnosis-the-ama-says-is-used-to-shield-police-violence/
[12] *Ibid.*

In practice, the effect and value of this bill may be minimal, given its narrow scope and lack of specificity.

First, the bill only prohibits a Sheriff-Coroner from performing the autopsy, rather than prohibiting the Sheriff-Coroner from making the final determination of the manner, circumstances, and cause of death. As such a Sheriff-Coroner could arguably still make a manner of death determination and comply with this bill, as long as they do not perform the autopsy itself.

Second, the scope of the bill is narrow, as it would not apply to all law enforcement related deaths. Rather, a Sheriff-Coroner would only have to refer out autopsies for deaths "in the custody of a county sheriff's officer" or deaths "following use of force by sheriff's personnel." The bill does not define "in-custody," which may give Sheriff-Coroner's discretion over what type of deaths trigger the requirements of this bill. Further, a Sheriff-Coroner could still make the final manner of death determination for persons killed by police officers, as well as other non-sheriff peace officers. A Sheriff-Coroner's conflict of interest is arguably present in all instances of law enforcement-related deaths, not only deaths associated with individual county sheriffs. To promote consistency and fair application of this bill, the author may wish to expand the scope of this bill to apply to deaths involving other types of peace officers.

Third, a Sheriff-Coroner could easily get around the requirements of this bill by referring a sheriff-involved death to another Sheriff-Coroner's office. It is unclear what it means to "request another county or state agency" to determine the cause of a sheriff-involved death. In practice, a Sheriff-Coroner could maintain compliance with this bill by requesting a neighboring county's Sheriff-Coroner office to determine the cause of a sheriff-involved death, which could undermine the goals of this bill. Further this bill only requires a Sheriff-Coroner to "request" that another county or state agency make a cause of death determination, not that the other agency actually determine the cause of death. If that request is subsequently ignored or denied, would the Sheriff-Coroner simply be able to proceed with making a manner of death determination? The author may wish to clarify what "another county or state agency" means. The author may wish to add provisions specifying the type of expertise and authority an agency receiving such a request must have.

Fourth, requiring a Sheriff-Coroner to comply with this bill by "utilize[ing] the services of a third-party medical examination team," to determine the cause of death may not, without more guidance, effectively resolve a Sherriff-Coroner's conflict of interest in a sheriff-involved death. For example, take a Sheriff-Coroner's office that opts to comply with this bill by contracting with a local physician to provide such services, thereby creating a provider-client relationship. Without more guidance, a physician may have an incentive to make cause-of-death determinations favorable to their client, the Sheriff-Coroner, which could undermine the independence of such a third party provider. The author may also wish to clarify what it means to "utilize the services of a third-party medical examination team." To ensure such third party medical teams are capable of independently and accurately making cause-of-death determinations the author may wish to provide guidelines pertaining to the expertise and qualifications of such third parties.

5) **Argument in Support**: According to the *Sister Warriors Freedom Coalition*, "The Sister Warriors Freedom Coalition (SWFC) is a statewide coalition to end the criminalization and

incarceration of women and trans people of all genders, led by systems-impacted people. Our work uplifts the leadership of those who have experienced and continue to experience the devastating and intergenerational effects of incarceration, family separation, poverty, and gender-based violence. We believe those most impacted by these systems are best positioned to inform, guide, develop, and help implement impactful policy changes that secure justice, opportunity, and self-determination for all.

"AB 1108 will ensure that independent medical examinations are conducted for people who die in custody at county jails or in circumstances involving use of force by sheriff's personnel. This bill will require the 48 counties with combined sheriff-coroner offices to contract with other coroner or medical examiner offices, or a third-party medical examination service, to perform investigations for these limited cases in which the sheriff has a conflict of interest. California is one of only three states that allows elected sheriffs to also serve as coroners. This bill will protect the integrity of the medical examination process and improve public trust in the outcomes of these investigations."

6) **Argument in Opposition**: According to *Justice for Angelo Quinto*, "This bill would require county's with a Sheriff-Coroner to utilize third-party independent medical examination services or request another county or state agency to conduct an independent medical examination to determine the cause of death when a person dies while in the custody of a county sheriff's officer or following use of force by sheriff's personnel. The solutions AB 1108 proposes to address conflicts of interest inherent in the Sheriff-Coroner model reinforces the broken status quo.

"Angelo Quinto was asphyxiated to death by Antioch Police Officers in December of 2020 in front of his mother while experiencing a mental health crisis. He had no weapons, he was not violent, and he was not under the influence of any common substances of abuse. He died under the weight of officers fully restraining him in a prone position for a prolonged period of time, unable to breathe. Justice for Angelo Quinto was formed to seek positive change, accountability and objectivity from a system that has led to far too many unjust deaths and cover-ups after the fact.

"The cover-up of Angelo's death was largely perpetrated by the Sheriff-Coroner who contracted the medical examination out to an "independent" pathologist but failed to provide all information relevant to the case. This pathologist determined that Angelo died of "excited delirium" — a widely debunked, unscientific medical diagnosis used almost exclusively in cases of law enforcement-related deaths involving tasers or excessive force, and which was banned with the passage of CA AB 360 in 2023. The family's experience informed their view that the Sheriff Coroner lacks objectivity and accountability, and has unchecked authority and discretion when coming to determinations that reverberate throughout the criminal legal process. AB 1108 as written provides a veneer of accountability while actually making things worse. As long as law enforcement investigates itself, there can be no accountability.

"California is one of only three states that specifically uses the Sheriff-Coroner model, where the elected county Sheriff is also automatically the coroner for a county. Forensic professionals, advocates, and families alike have raised concerns about this system for a number of reasons including the lack of educational qualifications and training required of Sheriff-Coroners and the conflict of interest that exists when responsible for investigating

cause of death while in the custody of personnel or facilities (i.e., county jails) overseen by the Sheriff-Coroner.

"The National Association of Medical Examiners, one of the national professional bodies overseeing death investigators, has stressed for decades the importance of independent and transparent death investigation teams. They have stressed that teams must be led with medical expertise and independent of other law enforcement investigations, especially in the case of in custody deaths.

"Under AB 1108, county's with a Sheriff-Coroner would be required to utilize third-party independent medical examination services or request another county or state agency to conduct an independent medical examination. These solutions fall short. It is unrealistic to expect a neighboring county's Sheriff-Coroner's office to implicate the original county's Sheriff – especially when the original county will eventually be the one examining a death from the neighboring county. As long as Sheriff-Coroner Offices are allowed to conduct medical examinations for officer-involved incidents, conflicts of interest and bias will get in the way of providing the truth to victims' families.

"Additionally, contracting with a third party medical examination service is often the norm in counties without independent Medical Examiner Offices given Sheriff-Coroner's and Coroner's lack of appropriate medical training. Many of these third party physicians' entire business model is centered around serving their Sheriff-Coroner, their sole client. It is safe to assume that these counties will continue to contract with the same, Sheriff-aligned physician they already work with.

"Finally AB 1108 is too narrow as it only applies to incidents involving sheriff's officers, excluding deaths that occur while in the custody of all other local law enforcement.

"Ultimately, we encourage that the author's office work directly with impacted families across the state to introduce a solution that will truly address the conflict of interest inherent in the state's Sheriff-Coroner system when investigating in-custody deaths."

7) **Prior Legislation**:

a) AB 360 (Gipson), Chapter 431, Statutes of 2023, provides that "excited delirium" is not a validly recognized medical diagnosis or cause of death.

b) AB 2531 (Bryan), Chapter 968, Statutes of 2024, clarifies that death-in-custody reporting requirements apply to juveniles who die in custody and defines "in-custody death."

c) AB 1608 (Gipson), of the 2021-2022 Legislative Session, would have eliminated the authority of a county board of supervisors to consolidate the duties of the sheriff with the duties of the coroner, or the duties of the sheriff with the tax collector. AB 1608 failed passage on the Senate Floor.

d) AB 2761 (McCarty), Chapter 802, Statutes of 2022, requires a state or local correctional facility to post specified information on its website within 10 days after the death of a person who died while in custody, and to update that information within 30 days of any change.

e) SB 1303 (Pan), of the 2017-2018 Legislative session, would have replaced the coroner with an independent office of the medical examiner in counties with 500,000 or more residents or allowed counties to retain the sheriff-coroner position and adopt a policy to refer cases where the sheriff-coroner may have a conflict to a county that has an independent medical examiner. SB 1303 was vetoed.

f) SB 1189 (Pan), Chapter 787, Statutes of 2017, prohibits, if an individual dies due to the involvement of law enforcement activity, law enforcement personnel directly involved with the care and custody of that individual from being involved with any portion of the postmortem examination nor allowed inside the autopsy suite during the performance of the autopsy.

REGISTERED SUPPORT / OPPOSITION:

Support

California for Safety and Justice
California Medical Association (CMA)
California Public Defenders Association (CPDA)
Ella Baker Center for Human Rights
Oakland Privacy
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy

Oppose

Carceral Ecologies
Justice for Angelo Quinto
Justice2jobs Coalition

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

Date of Hearing: April 8, 2025
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1118 (Chen) – As Amended March 27, 2025

SUMMARY: Authorizes a search warrant for stolen or embezzled currency, including fiat currency or crypto currency, to include an order for such currency to be returned to a lawful owner identified in the warrant, as specified, and if requested, to determine that the currency was stolen or embezzled, before it is returned to its owner. Specifically, **this bill:**

1) States a warrant authorizing the seizure of currency, that was stolen or embezzled, may also require it to be returned to a lawful owner, as identified in the warrant, if the warrant also includes all of the following requirements:

   a) A requirement that the person from whom the currency is taken, or their legal representative, be served with a copy of the warrant, either by personal service or by other means reasonably calculated to ensure notice;

   b) A notice that the person from whom the currency is taken may, within 30 days after service, file a petition with the issuing court for a hearing and provide notice to the law enforcement agency that seized the property; at the hearing, the agency seizing the currency shall bear the burden of proving, by a preponderance of evidence, that the currency seized was stolen or embezzled; and,

   c) A requirement that the stolen or embezzled currency not be returned to a lawful owner until after it has been determined to be stolen or embezzled at the hearing or, if no hearing is requested, 31 days after service of the notice.

2) States a warrant issued authorizing the return of stolen or embezzled currency does not affect the court's discretion to suppress or return evidence in accordance with existing law on the suppression of evidence seized in violation of state and federal law.

3) Requires that, no less than 10 days before returning any currency, the agency seizing the currency must notify the prosecuting attorney in the jurisdiction where the offense described in the warrant may reasonably be prosecuted.

EXISTING LAW:

1) Defines a "search warrant" as a written order in the name of the people, signed by a magistrate and directed to a peace officer, commanding him or her to search for a person or persons, a thing or things, or personal property. (Pen. Code, § 1523.)

2) Provides grounds upon which a search warrant may be issued to include when the property was stolen or embezzled. (Pen. Code, § 1524, subd. (a).)

3) 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.)

4) Requires a magistrate to issue a search warrant if they are satisfied of the existence of the grounds of the application or that there is probable cause to believe their existence. (Pen. Code, § 1528, subd. (a).)

5) Allows someone whose property is illegally seized, either as alternative to, or in conjunction with a motion to suppress, move for its return. If it appears the property taken is not the same as that described in the warrant, or that there is no probable cause for believing the existence of the grounds on which the warrant was issued, the magistrate must cause it to be restored to the person from whom it was taken. (Pen. Code, § 1540.)

6) Provides that "if a search or seizure motion is granted . . . the property shall be returned . . . unless it is otherwise subject to lawful detention." (Pen. Code, § 1528, subd. (e).)

7) Provides that, on the application of the owner and on satisfactory proof of his ownership of the property, after reasonable notice and opportunity to be heard has been given to the person from whom custody of the property was taken and any other person as required by the magistrate, the magistrate before whom the complaint is laid, or who examines the charge against the person accused of stealing or embezzling it, shall order it to be delivered, without prejudice to the state, to the owner, on his paying the necessary expenses incurred in its preservation, to be certified by the magistrate. The order entitles the owner to demand and receive the property. (Pen. Code, § 1408.)

8) Provides that, if property stolen or embezzled comes into the custody of the magistrate, it shall be delivered, without prejudice to the state, to the owner upon his application to the court and on satisfactory proof of his title, after reasonable notice and opportunity to be heard has been given to the person from whom custody of the property was taken and any other person as required by the magistrate, and on his paying the necessary expenses incurred in its preservation, to be certified by the magistrate. (Pen. Code, § 1409.)

9) Provides that, if the property stolen or embezzled has not been delivered to the owner, the court before which a trial is held for stealing or embezzling it, upon the application of the owner to the court and on proof of his title, after reasonable notice and opportunity to be heard has been given to the person from whom custody of the property was taken and any other person as required by the court, may order it to be restored to the owner without prejudice to the state. (Pen. Code, § 1410.)

10) Provides for the disposition of evidence in criminal cases, including the procedure for disposition of exhibits of stolen or embezzled property after the final determination of a criminal proceeding. (Pen. Code, §§ 1417-1419.)

11) Presumes the things a person possesses are owned by them. (Evid. Code, § 637.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1118 will create a path forward for victims of financial cybercrimes. Financial fraud can be truly devastating for individuals and businesses, particularly elderly individuals and small businesses that do not have the extensive resources to hire an attorney or have in-house counsel. These groups are extremely vulnerable to this type of crime. What originally starts as an individual paying what is owed to a trusted source can become a year-long process to regain access to the money, while the original payment is still due. The process then turns into petitioning in civil court to get their money back, even though a crime against this individual has been committed. The author and sponsor's goal with this bill is to create a system and tools that can return money to victims in a timely manner while due process is being served."

   The author further explains, "This bill will create a pathway for victims of financial fraud to recover stolen funds within an appropriate time frame. The bill would add a provision in Section 1524 of the Penal Code to include, in a warrant, the ability to petition the court for the return of assets to the rightful owner in criminal court. After petitioning the court. Currently the deficiency of the systems is that most times these fraudulent cases stem from an individual unknowing providing access to their systems as a result of a phishing scam. Once a perpetrator has access they are able to steal information and redirect funds to an account controlled by the perpetrator. Thankfully, under current law, before most of these charges can be processed law enforcement can step in and freeze the transaction. The issue is that once these funds are frozen it is difficult to identify the true suspect and there is no expedient way for the victims to petition for the return of the funds in criminal court.

   "This bill isn't creating new criminal charges; instead, it is providing law enforcement with the tools to return the money to the rightful owner while due process is being served. The Orange County Sheriff's Office shared this story of a local church as one of the examples when they encountered this issue.

   "In March of 2021 an accounting manager from an Orange County church transferred close to $30,000 to a bank account listed on a fraudulent e-mail that appeared to be sent by a contractor the church was doing business with at the time. The e-mail requested the funds owed to the contractor be wired to a bank account. Regrettably, the accounting manager wired the funds, only to later discover the e-mail was fraudulent. The church contacted the Sheriff's department for help. Cybercrime investigators determined the funds were transferred to a bank account that was already under investigation by the bank itself for fraud and were able to freeze the funds by obtaining a search warrant signed by a judge in order to prevent the criminal from taking the funds.

   "When investigators attempted to make contact with the subject registered to the account where the church's funds were transferred, the subject unsurprisingly was not willing to speak with law enforcement. The individual had an address near the Dallas-metro area, but even Texas authorities were unsuccessful in their attempts to contact the subject as well. In an effort to get the funds back to the victim our investigators requested a judge seize the funds and return them to the church. Citing a lack of legal process outlined by law to take

back the funds and return them to the victim, the judge was unable to take action. As a result, over a year later $30,000 of the church's funds still sat frozen in a fraudulent account.

"Another example is a case that occurred in October 2022. An Orange County victim reported his company lost approximately $63,000 due to a business email compromise. Investigators were successful in locating $41,000 of the funds that had been transferred by a scammer into another bank account. Even after locating this money, serving a search warrant to the bank, and freezing the funds, investigators have been unable to contact the owner of the account where the stolen funds are located. The money is essentially stuck in limbo at the bank and the victim has yet to receive their money due to the lack of clarity in the legal system."

2) **Fourth Amendment 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.)

The Fourth Amendment protects people, not places, and also extends to a reasonable expectation of privacy. "When an individual seeks to preserve something as private, and their expectation of privacy is one that society is prepared to recognize as reasonable, we have held that official intrusion into that private sphere generally qualifies as a search and requires a warrant supported by probable cause." (*Carpenter v. United States* (2018) 585 U.S. 296, 304.) 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 abandon the search warrant requirements or require

improper seizure of property without probable cause because the Fourth Amendment does not allow for that.

3) **Seizure of Stolen or Embezzled Property:** This bill allows a court, when issuing a search warrant, to require any alleged stolen or embezzled currency, including cryptocurrency, to be returned to the alleged lawful owner. A search warrant is a warrant signed by a judge or magistrate authorizing a law enforcement officer to conduct a search on a certain person, a specified place, or an automobile for criminal evidence.

   A search warrant is ordinarily a prerequisite to a search, which is designed to protect individuals' reasonable expectation of privacy against unreasonable governmental physical trespass or other intrusion. (See Pen. Code, § 1523.) Penal Code section 1407 states that when property is alleged to have been stolen or embezzled, law enforcement must retain custody of that property pending the disposition of any court proceedings. The alleged owner, assuming the owner can prove they are the owner, and after providing reasonable notice to any other alleged owner, may obtain an order from a court returning the property. (See Pen. Code, § 1408.)

   However, that may not occur until after sufficient due process. (*Modern Loan Co. v. Police Court of San Francisco* (1910) 12 Cal.App. 582, 583 ["One who is in possession of property under a claim of right cannot be deprived of its possession without due process of law; and in order to constitute due process of law, there must be notice of the time and place of hearing and an opportunity to be heard."].) In some cases, the criminal defendant, who may be the subject of the search warrant, has a claim of ownership over the property; therefore, requiring the defendant's case be resolved before property may be returned.

   When property is not alleged to **have been** stolen or embezzled by a person, but rather is just "property stolen or embezzled," in the possession of law enforcement or the court, Penal Code sections 1409-1411 provides that the magistrate who has custody of the property "shall order it delivered to the owner upon satisfactory proof of ownership, and when reasonable notice and an opportunity to be heard have been given to the person from whom the property was taken." (*People v. Superior Court (McGraw)* (1979) 100 Cal.App.3d 154, 156 [holding the property was presumed to be owned by the real parties (the county) until the state had presented evidence that would support a finding by a preponderance of the evidence that the property was stolen.].)

   Additionally, a search warrant requires probable cause that identifies or describes the person to be searched or property to be seized, and the facts supporting an underlying crime. (Pen. Code, § 1525.) If the DA has no jurisdiction or intention to prosecute a person or organization for theft of money or cryptocurrency, it begs the question: how is law enforcement obtaining a warrant? If a criminal prosecution will not result from the outset, it would seem a person is left only with civil remedies to recover any lost funds.

4) **Due Process:** According to materials provided by the author, the intent of this bill is return allegedly stolen funds when the district attorney has no jurisdiction to file charges because the alleged scammer is out of jurisdiction. However, return of seized property where the seizure is effected by law enforcement still implicates due process concerns. The author states that this issue "lacks clarity" resulting in seized assets languishing in the hands of third parties who may not have committed any crime.

However, the court in *Ensoniq Corp. v. Superior Court (John Datorro)* (1998) 65 Cal.App.4th 1537, acknowledged the lack of clarity in Penal Code sections 1408-1411 and stated,

> "However, as the court noted in McGraw, section 1411 is silent as to the appropriate procedure to follow in making the initial determination as to whether property seized under a search warrant is in fact stolen, when there is no conviction of theft and no criminal charge pending. (100 Cal. App. 3d at p. 159.) Sections 1408-1410 are likewise silent as to how the property is to be deemed stolen or embezzled absent a charge or conviction.
>
> We find that due process requires the People to prove by a preponderance of the evidence that the seized property was stolen or embezzled, **in a situation where no charges are pending and no conviction has been obtained.** Although it may be suspected that the seized property was stolen, that fact must be proven by due process of law. (*See People v. Lawrence* (1956) 140 Cal. App. 2d 133, 138.) Evidence Code section 637 provides that the 'things which a person possesses are presumed to be owned by him.' " (Internal citation omitted.) Thus, with regard to a determination of theft under section 1411, the court in *McGraw* concluded that '. . . the subject property is presumed to be owned by the [persons from whom the property was seized] until the state has presented evidence which would support a finding that they did not in fact own the property. The People would be required to prove the property was stolen by a preponderance of the evidence, as in all determinations of ownership. . . . In the event the People fail in their burden of proving the property to be stolen, then the property must be returned to [the persons from whom the property was seized]" (*Ensoniq, supra*, citing *People v. Superior Court (McGraw)* (1979) 100 Cal.App.3d 154.)

Although this bill contemplates due process by providing for a hearing with a preponderance standard, the onus is still on the person contesting the seizure of the property. That turns the Fourth Amendment on its head in that it requires a person in possession of the currency or cryptocurrency to prove they are the rightful holder or suffer loss of the assets. If the alleged holder of the assets does not move quickly to retain counsel and dispute the warrant, presumably, they are just out luck. While the losses suffered by the victims in these cases are indeed devastating, protections against government overreach, particularly in the cryptocurrency space, are equally important.[1]

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[1] Case law on the application of property rights in cryptocurrency is in its infancy, but Justice Gorsuch in his dissent in *Carpenter v. United States* (2018) 585 U.S. 296 supports the idea that crypto accounts and records of crypto accounts are property subject to protection by the Fourth Amendment. *Carpenter* related to cellphone data, but Gorsuch generally alleged that a person may have a property interest in crypto market documents. (Cf *Harper v. Werfel* (1st Cir. 2024) 118 F.4th 100, 111 ["customers have substantial legal interests in [CSLI], including at least

5) **Argument in Support**: According to the *Orange County Sheriff's Department*: "Financial fraud and cybercrime pose an increasing risk to California residents. According to the FBI, nationwide there was $12.5 billion in reported losses to cybercriminals in 2023. California accounted for $2.1 billion of that reported loss. When cybercrime occurs it can be financially devastating to victims. If funds are recovered it is imperative that the victims have the ability to reclaim these funds as quickly as possible. Under the structure of current law, it can take several months or even years to return funds to victims.

"Your bill will enable victims of cybercrimes or financial fraud to recover stolen funds in a timely manner. An example of the need for this bill is demonstrated by a recent case investigated by my department. In October 2022 a victim reported his company lost approximately $63,000 due to a business email compromise. Investigators were successful in locating $41,000 of the funds that had been transferred by a scammer into another bank account. Even after locating this money, serving a search warrant to the bank, and freezing the funds, investigators have been unable to contact the owner of the account where the stolen funds are located. The money is essentially stuck in limbo at the bank and the victim has yet to receive their money due to the lack of clarity in the legal system. Unfortunately this is not a unique occurrence and residents across our state have experienced similar challenges in recovering their funds.

"By providing additional clarity to warrant and seizure language, the bill establishes provisions in the law that make clear the authority and procedure for due process to facilitate the returning of funds to the victims of cybercrimes. In addition to helping victims, this bill will begin to put California on the right footing to address what is becoming one of the most prevalent forms of danger to our economy and infrastructure. Fully addressing this threat requires bills like AB 1118 that fixes insufficiencies in the law used by cyber criminals to their advantage."

6) **Argument in Opposition**: According to *Felony Murder Elimination Project*: "Felony Murder Elimination Project is a nonprofit organization whose goal is the elimination of California's felony murder rule and special circumstances law. We strive not only to bring an end to these laws but to create pathways for relief for those who are serving severe and manifestly disproportionate sentences by their use. For these reasons, we oppose AB 1118 because it undermines due process by allowing property confiscation without conviction, disproportionately harms marginalized communities, and contradicts California's efforts toward fair and just criminal legal reforms.

"AB 1118 disregards constitutional due process rights. Ever since the broad bipartisan effort that enacted SB 443 (Mitchell & Hadley, 2016), California has generally required a person to be convicted of wrongdoing beyond a reasonable doubt, the highest standard of proof in the law, before their property can be forfeited to the State.[2] Despite the consensus support for SB 443, AB 1118 goes the complete opposite direction. In situations where a person cannot

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some right to include, exclude, and control its use," that "might even rise to the level of a property right", but adding that the defendant "offered no analysis . . . of what rights state law might provide him.]")

[2] SB 443 (Mitchell & Hadley, 2016) received a vote of 69-7 on the Assembly Floor and 39-0 on the Senate Floor.

afford to appear at the hearing within the 30-day window the bill provides, the State could give a person's property away based solely on a warrant supported by probable cause – one of the lowest standards in the law. Even if the person has the resources and time to contest the confiscation of their property, they still risk unnecessarily losing their property as the State need only prove by a preponderance (more likely than not) that the property was wrongfully acquired. In either situation, a person can have their property taken from them without ever being convicted of a theft crime. Indeed, AB 1118 would authorize the State to take a person's property without ever even charging them with a crime. This bill is fundamentally unjust.

"Moreover, AB 1118 would unnecessarily complicate criminal proceedings. The constitution requires that both the defendant and the State have ample opportunity to examine crucial evidence in a criminal proceeding. Yet, if the State follows the bill's expedited hearing timeline to take a person's property and gives it to another individual before the separate theft trial concludes, how does either side access the core evidence of the case or ensure it is not tampered with? On a separate note, if the person is found innocent at the trial, how do they recover their property? Likewise, it is unclear how a defendant would get their property back if they prove the underlying warrant was improper.

"The current process for return of property in such cases operates under Penal Code Section 1538.5's inherent assumption that the entity that improperly seized the property still has possession of it. What happens when that property is given to third party? What happens if that third party sells it to another person before the original owner can challenge the underlying warrant? In addition to infringing on people's rights, AB 1118 would clog our courts and use up public defenders' precious time with litigation to resolve these questions. Just as the bill is detrimental to court and attorneys' resources, it is also detrimental to law enforcement.

"First, the bill will waste police officer's time on fishing expeditions for property, even if there is no chance that the items will be used as evidence in a criminal proceeding. Further, the bill will break down trust between law enforcement and the communities they are sworn to protect. AB 1118 asks law enforcement to confront vulnerable Californians to take their property, with little justification, and give it to someone else. This is a recipe for disaster – any tense police interaction has the chance to escalate into a fatal incident. We should not require police to engage in activities that unnecessarily risk the safety of community members.

"AB 1118's scheme is also ripe for abuse by bad actors, incentivizing people with resources to use the bill's unforgiving 30-day window to extract property from vulnerable Californians. For example, imagine that a landlord who lives in a building they own discovers that their tenant down the hall has a nice TV.

"The landlord seeks a warrant claiming that the tenant stole the TV from them. The police then serve the warrant and confiscate the TV. If the tenant does not have the resources to navigate the hearing process or cannot afford to get into a dispute with the person who controls their residence, AB 1118 would reward the landlord with a new TV on the 31st day. Likewise, the bill opens the door to abusive partners and ex-partners using the process to harass victims and take their property. The Legislature should not approve this problematic scheme.

"Lastly, it is important to note that despite law enforcement narratives, property crime is near all-time lows in California according to the state's Department of Justice and the FBI.[3] Moreover, FBI data from 49 California cities demonstrates that in 2024 property crime, larceny, and burglary were down compared to 2022 levels by 21.5%, 16.7%, and 13.9%, respectively.[4] The Legislature's policy debates must be guided by these facts."

7) **Related Legislation**:

a) AB 358 (Alvarez), would authorize law enforcement to access electronic device information without a warrant if, with specific consent, an individual locates a tracking or surveillance 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. AB 358 is pending in the Assembly Appropriations Committee.

b) AB 1063 (Dixon), would authorize the Department of Public Health to release a physical blood test taken from a newborn to law enforcement in response to a search warrant only if the objective of the warrant is to obtain the DNA of a missing person suspected to be a victim of homicide, child abuse resulting in death, or manslaughter in order to compare the DNA to other samples in the Department of Justice Missing Persons DNA Database and to upload the sample for future identification of the person. AB 1063 is pending hearing in the Health Committee.

8) **Prior Legislation**:

a) AB 2419 (Gipson), of the 2023-24 Legislative Session, would have expanded 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 referred to, but never heard in, the Senate Committee on Public Safety.

b) AB 2603 (Low), of the 2023-24 Legislative Session, would have authorized 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 was referred to, but never heard in, this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs

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[3] Mike Males, New FBI Data: California's Crime Rate is at Record Lows, Center on Juvenile & Criminal Justice (October 16, 2024).
[4] *Id.*

California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
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
Orange County Business Council
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
San Bernardino County Police Chiefs and Sheriff Association
San Bernardino County Sheriff's Department
Santa Ana Police Officers Association

Oppose

ACLU California Action
All of Us or None (HQ)
California Public Defenders Association (CPDA)
Californians United for A Responsible Budget
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
San Francisco Public Defender
Sister Warriors Freedom Coalition
Universidad Popular

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

Date of Hearing: April 8, 2025
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1127 (Gabriel) – As Amended March 28, 2025

As Proposed to be Amended in Committee

SUMMARY: Prohibits a licensed firearms dealer from selling, offering for sale, exchanging, giving, transferring, or delivering any semiautomatic machinegun-convertible pistol, and would provide for escalating punishments for violations of this law. Specifically, **this bill**:

1) Makes unlawful the sale, offer for sale, exchange, give, transfer, or delivery of any semiautomatic machinegun-convertible pistol by a licensed firearms dealer, as defined.

2) Provides for punishment by a fine of up to $1,000 for a first offense.

3) Provides for punishment by a fine of up to $5,000 and discretionary suspension or revocation of a dealer's license for a second offense.

4) Provides for punishment by a misdemeanor and mandatory revocation of a dealer's license for a third offense.

5) Establishes that the prohibition on semiautomatic machinegun-convertible pistols does not apply to a convertible pistol manufactured or delivered prior to January 1, 2026, the sale of a convertible pistol to a police department, sheriff's office, marshal's office, district attorney's office, the California Highway Patrol, the Department of Justice, the Department of Corrections and Rehabilitation, or the military or naval forces of this state or of the United States for use in the discharge of their official duties, or a private party to private party transaction conducted through a licensed firearms dealer, as defined.

6) Establishes additionally that the prohibition on semiautomatic machinegun-convertible pistols does not apply to: A transfer to a gunsmith or other qualified entity for service or repair, sale or transfer to a firearms dealers licensed pursuant to Sections 26700 to 26920, or to federally licensed firearms manufacturers or dealers outside California, a transfer of a firearm back to a private party after temporary safekeeping storage, as defined, a transfer of a firearm back to a private party after a defined period of temporary prohibition, and a transfer to any forensic laboratory or forensic laboratory employee, while on duty and acting within the scope and course of employment.

7) Defines "pistol converter" to mean any device or instrument that when installed in or attached to the rear of the slide of a semiautomatic pistol, replaces the backplate, and interferes with the trigger mechanism and thereby enables the pistol to shoot automatically more than one shot by a single function of the trigger discharge a number of shots or bullets rapidly or automatically with one continuous pull of the trigger.

8) Defines "machingun-convertible pistol" to mean any semiautomatic pistol with a cruciform trigger bar that can be readily converted by hand or with common household tools, as defined in 11 C.C.R. 4082, into a machinegun solely by the installation or attachment of a pistol converter as a replacement for the slide's backplate without any additional engineering, machining, or modification of the pistol's trigger mechanism.

9) Provides that machinegun-convertible pistols do not include hammer-fired semiautomatic pistols or striker-fired semiautomatic pistols lacking cruciform trigger bars, which instead have trigger bars that are shielded from interference by a pistol converter.

10) States that a polymer notch or other piece of polymer molded into the rear of the pistol frame does not prevent ready conversion into a machinegun and will not prevent a pistol from qualifying under this definition.

11) Expands the definition of "reasonable controls" to mean reasonable procedures, acts, or practices that are designed, implemented, and enforced to prevent the installation and use of a pistol converter with a firearm, as defined.

12) Includes severability provision in the law.

EXISTING LAW:

1) States that any person, firm, or corporation, who within this state possesses or knowingly transports a machinegun, except as authorized by this chapter, is guilty of a public offense and upon conviction thereof shall be punished in county jail by 16 months, 2 or 3 years, or by a fine not to exceed $10,000, or by both that fine and imprisonment. (Pen. Code, § 32625, subd. (a).)

2) Provides that any person, firm, or corporation who within this state intentionally converts a firearm into a machinegun, or who sells, or offers for sale, or knowingly manufactures a machinegun, except as authorized by this chapter, is punishable by imprisonment in the county jail for four, six, or eight years. (Pen. Code, § 32625, subd. (b).)

3) Establishes that the Department of Justice shall, for each semiautomatic pistol newly added to the roster, remove from the roster exactly three semiautomatic pistols lacking one or more of the applicable features, as defined and added to the roster before July 1, 2022. Each semiautomatic pistol removed from the roster pursuant to this subdivision shall be considered an unsafe handgun. (Pen. Code, § 31910, subd. (b).)

4) Defines "semiautomatic pistol" means a pistol, as defined in Section 16530, that has an operating mode that uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with each single pull or activation of the trigger. (Pen. Code, § 27531, subd. (e).)

5) Defines "assault weapon" as a semiautomatic pistol that does not have a fixed magazine but has any one of the following:

   a) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.

b) A second handgrip.

c) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer's hand, except a slide that encloses the barrel.

d) The capacity to accept a detachable magazine at some location outside of the pistol grip. (Pen. Code, § 30515, subds. (a)(4)(A)-(D).)

6) Expands definition of "assault weapon" to include a semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds. (Pen. Code, § 30515, subd. (a)(5).)

7) Defines "unsafe handgun" means any pistol, for which any of the following is true:

a) It does not have a positive manually operated safety device, as determined by standards relating to imported guns promulgated by the federal Bureau ATF.

b) It does not meet the firing requirement for handguns.

c) It does not meet the drop safety requirement for handguns.

d) Commencing July 1, 2022, for all centerfire semiautomatic pistols that are not already listed on the established roster, it does not have a chamber load indicator.

e) Commencing July 1, 2022, for all centerfire or rimfire semiautomatic pistols that are not already listed on the established roster, it does not have a magazine disconnect mechanism if it has a detachable magazine. (Pen. Code, § 31910, subds. (a)(2)(A)-(E).)

8) Defines "machinegun" means any weapon that shoots, is designed to shoot, or can readily be restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. (Pen. Code, § 16880, subd. (a).)

9) States that "machinegun" also includes the frame or receiver of any weapon, as defined, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if those parts are in the possession or under the control of a person. (Pen. Code, § 16880, subd. (b).)

10) Specifies that "machinegun" also includes any weapon deemed by the federal Bureau of ATF as readily convertible to a machinegun, as defined. (Pen. Code, § 16880, subd. (c).)

11) Defines "firearm" to mean a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion. (Pen. Code, § 3273.50, subd. (b).)

12) States that "firearm accessory" means an attachment or device designed or adapted to be inserted into, affixed onto, or used in conjunction with a firearm that is designed, intended, or functions to alter or enhance the firing capabilities of a firearm, the lethality of the firearm, or a shooter's ability to hold and use a firearm. (Pen. Code, § 3273.50, subd. (c).)

13) Provides that "firearm-related product" means a firearm, ammunition, a firearm precursor part, a firearm component, firearm manufacturing machine, and a firearm accessory that meets any of the following conditions:

   a) The item is sold, made, or distributed in California.

   b) The item is intended to be sold or distributed in California.

   c) The item is or was possessed in California and it was reasonably foreseeable that the item would be possessed in California. (Pen. Code, § 3273.50, subds. (d)(1)-(3).)

14) Defines "firearm industry member" to mean a person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association engaged in the manufacture, distribution, importation, marketing, wholesale sale, or retail sale of firearm-related products. (Pen. Code, § 3273.50, subd. (f).)

15) Establishes that "reasonable controls" means reasonable procedures, acts, or practices that are designed, implemented, and enforced to do the following:

   a) Prevent the sale or distribution of a firearm-related product to a straw purchaser, a firearm trafficker, a person prohibited from possessing a firearm under state or federal law, or a person who the firearm industry member has reasonable cause to believe is at substantial risk of using a firearm-related product to harm themselves or another or of possessing or using a firearm-related product unlawfully.

   b) Prevent the loss or theft of a firearm-related product from the firearm industry member.

   c) Ensure that the firearm industry member complies with all provisions of California and federal law and does not otherwise promote the unlawful manufacture, sale, possession, marketing, or use of a firearm-related product. (Pen. Code, § 3273.50, subds. (h)(1)-(3).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "The increased prevalence of automatic weapons across the nation is deeply concerning. We all agree that machine guns have no place in our communities, yet a select few gun manufacturers refuse to address a deadly design flaw with their guns that allows them to be converted into dangerous automatic weapons. Assembly Bill 1127 seeks to protect communities from mass shootings and gun violence by preventing easy conversion of semi-automatic firearms to fully automatic machine guns. Most handguns designs don't have this flaw, and this legislation will ensure the limited number of gun manufacturers who refuse to address this begin to do their part to keep deadly automatic weapons off our streets."

2) **Effect of the Bill:** This bill would prevent a licensed firearms dealer from selling, offering for sale, exchanging, giving, transferring, or delivering any semiautomatic machingun-convertible pistol, and would provide for escalating punishments for violations.

   This bill would define pistol converters and semiautomatic pistols as akin to machineguns, for the purposes of acts with pistol converters and would introduce a new penalty scheme for violations of this code section. Those penalties would include, a fine of not more than one thousand dollars ($1,000) for a first violation, a fine of not more than five thousand dollars ($5,000) and possible suspension or revocation of the dealer's license and removal of the firearms dealer from any centralized list for a second violation, and a misdemeanor and required suspension or revocation of the dealer's license removal of the firearms dealer from any centralized list for a third violation.

   This bill would also expand the definition of reasonable controls, part of defined firearms industry practices, to include "prevent[ing] the installation and use of a pistol converter, as defined, with a firearm." This bill would also expand the scenarios in which this law would not apply.

   One possible issue with the bill, which since appear resolved through amendments is the possibility that the bill could act as an unintentional ban on semiautomatic pistols statewide. Interestingly, the State of New York has wrestled with this issue their last two legislative sessions as well. The amended language appears to reconcile this potential issue by defining "machinegun-convertible pistols" to *not* include "hammer-fired semiautomatic pistols or striker-fired semiautomatic pistols lacking cruciform trigger bars, which instead have trigger bars that are shielded from interference by a pistol converter."

   While an exact percentage was unable to be located, many semiautomatic pistols are manufactured in a way that makes them potentially convertible. Clarifying the definition of semiautomatic machinegun-convertible pistols to "mean any semiautomatic pistol with a cruciform trigger bar that can be readily converted by hand or with common household tools, as defined in 11 C.C.R. 4082, into a machinegun solely by the installation or attachment of a pistol converter as a replacement for the slide's backplate without any additional engineering, machining, or modification of the pistol's trigger mechanism" seems to address any remaining issues regarding an unintentional ban on otherwise lawful weapons.

   This bill would also add a severability provision to control for the risk of adverse judicial action on the bill. By putting further restrictions on a potentially dangerous component and firearm modification activity, in addition to clarifying how the law is supposed to work, this bill could generate public safety benefits.

3) **The *Bruen* Analysis:** This bill restricts, among other things, possession, ownership, and sale of a converted semiautomatic pistol. 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 is comparatively justified. (*Ibid.*)

American history is not clear on how pistol converters or other firearm conversion parts fit within the nation's history of firearms regulation. One of the reasons for this could be the advancements in firearms manufacturing had not reached a stage where this type of issue would be a concern. These specific types of modifications unlikely generated much thought from the Framers of the Second Amendment or drafters of the Fourteenth Amendment, which are timeframes the Supreme Court focuses on to establish a national history or tradition. (See *Bruen, supra,* at p. 20.) Surely, there are examples of modified weapons in the historical literature, but nothing was found that squarely addresses the issue here.

If an argument can be established that pistol converters are "unusual" or "dangerous", then it likely would be easier to establish a historical tradition of regulation in this area. It is likely an easier argument to make that machinegun-converted semiautomatic pistols are "dangerous" given the converted weapon's efficiently deadly potential. The Court has already identified this area of dangerousness as one with potential for constitutional clearance under the historical tradition test. (*See Bruen, supra,* at p. 39.) Similarly, if courts accept that a converted semiautomatic pistol and machinegun are sufficiently alike to both be regulated as a machinegun, then prohibition of these weapons likely would be presumptively constitutional. (See *District of Columbia v. Heller* (2008) 554 U.S. 570, 625 [Scalia, J., discussing "M-16's and like [military style weapons] as likely constitutionally prohibitable.) It is not completely clear from the case law, however, whether courts would endorse converted semiautomatic pistols as sufficiently analogous to the dangerous or unusual weapons prohibited during the key timeframes.

A potentially cogent argument can be made for analogizing pistol converters and converted semiautomatic pistols as dangerous weapons, which suggests this bill could survive constitutional scrutiny. Without further guidance from the courts, however it is not completely clear whether this bill constitutionally fits within the nation's historical tradition of Second Amendment regulations.

4) **Committee Amendments:** The amendments update the definition of "machinegun-convertible pistols" to clarify what is included and what is excluded. The amendments also provide additional exemptions for the prohibition against converted machinegun-semiautomatic pistol. The amendments additionally include a severability provision.

5) **Argument in Support**: According to *Vet Voice Foundation,* "DIY machine guns are a growing threat to public safety. Fully automatic machine guns have been illegal under federal and state law for decades, but they can be made at home by attaching a tiny piece of plastic commonly known as a "Glock switch" to a convertible pistol.

"Glock, and other gunmakers who have copied Glock's designs, do not make Glock switches, but manufacture their pistols in a way that makes them uniquely easy to convert into illegal machine guns at home. Glock has known about this problem for years, but has not taken responsibility for its easily convertible products and instead has refused to take serious

action to fix its design. When the firearm industry refuses to take action to prevent tragedies, California lawmakers must act by prohibiting the sale of dangerous convertible pistols.

"Shootings committed with these modified, fully automatic Glocks and Glock clones are significantly more deadly, since they allow shooters to spray bullets with a single pull of the trigger, endangering bystanders. In 2022 — right here in Sacramento — a Glock pistol converted into a machine gun was used during a gun battle that killed six and injured twelve. Officers recovered over 110 shell casings at the scene.

"California law prohibits the devices used to convert pistols into machine guns, and is now taking further steps to address the pistols that are easily able to accept those devices. As long as California gun dealers are selling pistols that can quickly and easily be turned into machine guns solely by adding these plastic conversion devices, this public safety threat will continue."

6) **Argument in Opposition**: According to *Gun Owners of California,* "On behalf of Gun Owners of California, I am writing to express my strong opposition to Assembly Bill 1127, which seeks to ban so-called "convertible pistols" by expanding California's already excessive firearm restrictions. By redefining semi-automatic pistols as "convertible" simply because they could hypothetically be modified, AB 1127 sets a dangerous precedent for future gun bans and further erosion of Second Amendment rights.

"AB 1127 operates as a veiled ban on Glock handguns and dozens of its clones, one of the most widely used and trusted firearm brands in the world. Glocks are carried by law enforcement, military personnel, and responsible civilians across the country due to their reliability and ease of use. By specifically targeting the potential for modification, this bill disproportionately affects potential Glock purchasers and restricts access to one of the most popular handguns available, further demonstrating that this legislation is not about safety but about incremental firearm prohibition.

"California's restrictive handgun roster already prevents the sale of modern Glock models that are designed to be incompatible with so-called "Glock switches," yet AB 1127 further punishes legal firearm purchasers by limiting their choices while criminals will continue to operate without regard for the law. Ironically, California is now scrambling to fix a problem of its own making—blocking access to modern, safer handgun models and then blaming legal gun owners for the consequences. Additionally, this bill fails to acknowledge that nearly all semi-automatic pistols could theoretically be considered a "convertible pistol" making their definition overly broad and unenforceable.

7) **Related Legislation**:

a) SB 649 (Alvarado-Gil) would replace the term "silencer" with the term "suppressor" in specified portion of the Penal Code. This bill is in the Senate Rules Committee.

b) SB 704 (Arreguin) would prohibit the sale or transfer of a firearm barrel, unless the transaction is completed in person by a licensed firearms dealer. The bill would require

the licensed firearms dealer to conduct a background check of the purchaser and to record specified information about the transaction. This bill is in the Senate Rules Committee.

c) AB 879 (Patterson) would authorize a peace officer employed by a county probation department and using an unsafe handgun as a service weapon to satisfy the above-described training requirement by completion of the firearm portion of a training course prescribed by POST. This bill is set to be heard in the Assembly Public Safety Committee.

d) AB 1263 (Gipson), among other things, would prohibit a person from knowingly or willfully causing another person to engage in the unlawful manufacture of firearms or knowingly or willfully aiding, abetting, prompting, or facilitating the unlawful manufacture of firearms, including the manufacture of assault weapons or .50 BMG rifles or the manufacture of any firearm using a three-dimensional printer or CNC milling machine, as specified. This bill is set to be heard in the Assembly Public Safety Committee.

8) **Prior Legislation**:

a) SB 241 (Min), Chapter 250, Statutes of 2023, requires a licensee and any employees that handle firearms to annually complete specified training. This law requires the Department of Justice, on or before February 1, 2026, to develop and implement a training course, as specified, including a testing certification component.

b) AB 97 (Rodriguez), Chapter 233, Statutes of 2023, requires the Department of Justice to collect and report specified information, including, among other things, the number and disposition of arrests made for violations of manufacturing a firearm or assembling a firearm from unserialized components.

c) AB 355 (Alanis), Chapter 235, Statutes of 2023, exempts from the assault weapons loan prohibition the loaning of an assault weapon to, or the possession of an assault weapon by, a person enrolled in the course of basic training prescribed by the Commission on Peace Officer Standards and Training, while engaged in firearms training and being supervised by a firearms instructor.

d) AB 574 (Jones-Sawyer), Chapter 237, Statutes of 2023, requires the register or record to include the acknowledgment by the purchaser or transferee that they have, within the past 30 days, confirmed possession of every firearm that they own or possess.

e) AB 1089 (Gipson), Chapter 243, Statutes of 2023, prohibits the sale, purchase, possession, or receipt of a three-dimensional printer that has the sole or primary function of manufacturing firearms to or by any person in the state other than a state-licensed firearms manufacturer.

f) AB 1420 (Berman), Chapter 245, Statutes of 2023, authorizes the Department of Justice to conduct inspections and assess that fine for any violation of provisions relating to regulation of those licenses, for violations of specified provisions regulating the sale of

secondhand firearms.

REGISTERED SUPPORT / OPPOSITION:

Support

Asian American Christian Collaborative
Build
Everytown for Gun Safety Action Fund
Friends Committee on Legislation of California
Glma: Health Professionals Advancing Lgbtq Equality
Hispanic Federation
Kipp Public Schools Northern California
Moms Demand Action for Gun Sense in America
Newtown Action Alliance
Students Demand Action At UC Davis
Students Demand Action for Gun Sense in America
The Chamberlain Network
Ucla Students Demand Action
Vet Voice Foundation
Voices for Progress
Youth Alive!

66 private individuals

Oppose

Gun Owners of California, INC.
National Rifle Association - Institute for Legislative Action

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

Amended Mock-up for 2025-2026 AB-1127 (Gabriel (A) , Stefani (A))

Mock-up based on Version Number 98 - Amended Assembly 3/28/25
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 3273.50 of the Civil Code is amended to read:

3273.50. As used in this title, the following definitions apply:

(a) "Ammunition" has the same meaning as provided in subdivision (b) of Section 16150 of the Penal Code.

(b) "Firearm" has the same meaning as provided in subdivisions (a) and (b) of Section 16520 of the Penal Code.

(c) "Firearm accessory" means an attachment or device designed or adapted to be inserted into, affixed onto, or used in conjunction with a firearm that is designed, intended, or functions to alter or enhance the firing capabilities of a firearm, the lethality of the firearm, or a shooter's ability to hold and use a firearm.

(d) "Firearm-related product" means a firearm, ammunition, a firearm precursor part, a firearm component, firearm manufacturing machine, and a firearm accessory that meets any of the following conditions:

(1) The item is sold, made, or distributed in California.

(2) The item is intended to be sold or distributed in California.

(3) The item is or was possessed in California and it was reasonably foreseeable that the item would be possessed in California.

(e) "Firearm precursor part" has the same meaning as provided in Section 16531 of the Penal Code.

(f) "Firearm industry member" shall mean a person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association engaged in the manufacture, distribution, importation, marketing, wholesale sale, or retail sale of firearm-related products.

(g) "Firearm manufacturing machine" means a three-dimensional printer, as defined in Section 29185 of the Penal Code, or CNC milling machine that, as described in that section, is marketed or sold as, or reasonably designed or intended to be used to manufacture or produce a firearm.

(h) "Reasonable controls" means reasonable procedures, acts, or practices that are designed, implemented, and enforced to do the following:

(1) Prevent the sale or distribution of a firearm-related product to a straw purchaser, a firearm trafficker, a person prohibited from possessing a firearm under state or federal law, or a person who the firearm industry member has reasonable cause to believe is at substantial risk of using a firearm-related product to harm themselves or another or of possessing or using a firearm-related product unlawfully.

(2) Prevent the loss or theft of a firearm-related product from the firearm industry member.

(3) Ensure that the firearm industry member complies with all provisions of California and federal law and does not otherwise promote the unlawful manufacture, sale, possession, marketing, or use of a firearm-related product.

(4) Prevent the installation and use of a pistol converter, as defined in Section 17015 of the Penal Code, with a firearm.

SEC. *2* ~~3~~. Section 16880 of the Penal Code is amended to read:

16880. (a) As used in this part, "machinegun" means any weapon that shoots, is designed to shoot, or can readily be restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.

(b) The term "machinegun" also includes the frame or receiver of any weapon described in subdivision (a), any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if those parts are in the possession or under the control of a person.

(c) The term "machinegun" also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code.

(d) The term "machinegun" also includes any ***machinegun***-convertible pistol equipped with a pistol converter, as defined in Section 17015.

~~***SEC. 2. Section 16415 is added to the Penal Code, to read:***~~

~~***16415. As used in this part, "convertible pistol" means any semiautomatic pistol that can be converted into a machinegun solely by the installation or attachment of a pistol converter.***~~

SEC. *3* ~~2~~. Section ***~~16415~~ 16885*** is added to the Penal Code, to read:

16885 ~~16415~~.

(a) As used in this part, "***machinegun-***convertible pistol" means any semiautomatic pistol ***with a cruciform trigger bar*** that can be ***readily*** converted ***by hand or with common household tools, as defined in 11 C.C.R. 4082,*** into a machinegun ***~~solely~~*** by the installation or attachment of a pistol converter ***as a replacement for the slide's backplate without any additional engineering, machining, or modification of the pistol's trigger mechanism.***

(b) Machinegun-convertible pistols do not include hammer-fired semiautomatic pistols or striker-fired semiautomatic pistols lacking cruciform trigger bars, which instead have trigger bars that are shielded from interference by a pistol converter.

(c) A polymer notch or other piece of polymer molded into the rear of the pistol frame does not prevent ready conversion into a machinegun and will not prevent a pistol from qualifying under this definition.

SEC. 4. Section 17015 is added to the Penal Code, to read:

17015. "Pistol converter" means any device or instrument that when installed in or attached to the ***rear of the*** slide of a semiautomatic pistol***, replaces the backplate, and*** interferes with the trigger mechanism and thereby enables the pistol to ***shoot automatically more than one shot by a single function of the trigger ~~discharge a number of shots or bullets rapidly or automatically with one continuous pull of the trigger.~~***

SEC. 5. Section 27595 is added to the Penal Code, to read:

27595.

(a) ***~~(1)~~ Except as provided in subdivision (c), ~~C~~c***ommencing on January 1, 2026, ***~~it shall be unlawful for~~*** a firearms dealer licensed pursuant to Sections 26700 to 26920, ***~~inclusive, to~~ shall not*** sell, offer for sale, exchange, give, transfer, or deliver any semiautomatic ***machingun-***convertible pistol***, as defined in Section 16415.***

~~(2) A dealer shall be in compliance with this section if the dealer relies in good faith on a written certification made by the pistol's manufacturer or the Department of Justice that the pistol is not a convertible pistol, as defined in Section 16415.~~

(b)

(1) A violation of subdivision (a) shall be punishable by a fine of not more than one thousand dollars ($1,000).

(2) A second violation of subdivision (a) shall be punishable by a fine of not more than five thousand dollars ($5,000) and may result in the ***suspension or*** revocation of the dealer's license

issued under Sections 26700 to 26920, inclusive***, and removal of the firearms dealer from any centralized list maintained by the Department pursuant to Sections 26715, 28450, and 29060***.

(3) A third violation of subdivision (a) is a misdemeanor and shall result in the revocation of the dealer's license issued under Sections 26700 to 26920, inclusive***, and removal of the firearms dealer from any centralized list maintained by the Department pursuant to Sections 26715, 28450, and 29060***.

(c) This section shall not apply to any of the following:

(1) A ***machingun***-convertible pistol ~~***manufactured or***~~ delivered to a firearms dealer prior to January 1, 2026.

(2) The sale of a ***machingun***-convertible pistol to a police department, sheriff's office, marshal's office, district attorney's office, the California Highway Patrol, the Department of Justice, the Department of Corrections and Rehabilitation, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.

(3) A private party to private party transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(4)A transfer to a gunsmith or other qualified entity for service or repair.

(5) Sale or transfer to a firearms dealers licensed pursuant to Sections 26700 to 26920, or to federally licensed firearms manufacturers or dealers outside California.

(6) A transfer of a firearm back to a private party after temporary safekeeping storage pursuant to Section 26892.

(7) A transfer of a firearm back to a private party after a period of temporary prohibition pursuant to Section 29830.

(8) A transfer to any forensic laboratory or forensic laboratory employee, while on duty and acting within the scope and course of employment.

SEC. 6. Section 27595.1 is added to the Penal Code, to read:

27595.1

The Department of Justice is authorized to adopt regulations to implement Section 27595. Regulations adopted pursuant to those sections are exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 7. If any section, subsection, sentence, or clause of this act is for any reason declared unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity, or enforceability of the remaining portions of this act or any part thereof. The Legislature hereby declares that it would have adopted this act notwithstanding the unconstitutionality, invalidity, or unenforceability of any one or more of its sections, subsections, sentences, or clauses.

SEC. *8* 6. 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.

Date of Hearing: April 8, 2025
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1134 (Bains) – As Amended April 1, 2025

SUMMARY: Makes a technical, non-substantive change to the crime of forced marriage or defilement to be gender neutral and without reference to age. Specifically, **this bill**:

1) Clarifies that forced marriage or defilement is not specific to age or gender.

2) Eliminates the statute of limitations for which a person under the age of legal consent may annul a marriage.

EXISTING LAW:

1) States every person who takes any woman unlawfully, against her will, and by force, menace or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment pursuant to the Realignment Act. (Pen. Code, § 265.)

2) States unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a "minor" is a person under 18 years of age and an "adult" is a person who is 18 years of age or older. (Pen. Code, § 261.5.)

3) Provides that any person who forcibly, or by any other means of instilling fear, steals or takes, or holds, detains, or arrests any person in this state, and carries the person into another country, state, or county, or into another part of the same county, is guilty of kidnapping. (Pen. Code, § 207, subd. (a).)

4) Mandates any person who commits a lewd and lascivious act with the intent of sexual arousal or gratification, and the victim is a child of 14 or 15 years, and that person is at least 10 years older than the child, shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year. (Pen. Code, § 288, subd. (c).)

5) States a marriage is voidable and may be adjudged a nullity if any of the following conditions existed at the time of the marriage:

   a) The party who commences the proceeding or on whose behalf the proceeding is commenced was under 18 years of age, unless the party entered into the marriage pursuant to existing law;

   b) The spouse of either party was living and the marriage with that spouse was then in force and that spouse (1) was absent and not known to the party commencing the proceeding to be living for a period of five successive years immediately preceding the subsequent

marriage for which the judgment of nullity is sought or (2) was generally reputed or believed by the party commencing the proceeding to be dead at the time the subsequent marriage was contracted;

c) Either party was of unsound mind, unless the party of unsound mind, after coming to reason, freely cohabited with the other as his or her spouse;

d) The consent of either party was obtained by fraud, unless the party whose consent was obtained by fraud afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as his or her spouse;

e) The consent of either party was obtained by force, unless the party whose consent was obtained by force afterwards freely cohabited with the other as his or her spouse; or,

f) Either party was, at the time of marriage, physically incapable of entering into the marriage state, or that incapacity continues, and appears to be incurable. (Fam. Code, § 2210, subd. (a)-(f).)

6) States an unmarried person under 18 years of age may be issued a marriage license upon obtaining a court order granting permission to the underage person or persons to marry, as specified. (Fam. Code, § 302.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "No one should be forced into a marriage against their will. Gendered language in current law perpetuates the false belief that only women are the victims of forced marriages. The truth is that anybody can be subjected to forced marriage.

   "California is also one of just a handful of states that imposes a time restriction on victims seeking to annul a forced or coerced marriage. Survivors of violence on average take seven to ten years to escape from abusive relationships. Our current laws place unnecessary constraints on victims running out the clock before they can seek justice. AB 1134 rights both of these wrongs, empowering victims who have too often had their power taken from them."

2) **Penal Code section 265**: Penal Code section 265 was initially enacted in 1872. It has not been amended with the exception of specifying it is a Realignment crime in 2012. Family Code section 304 only authorizes a minor to marry in very specific circumstances pursuant to a court order. Penal Code section 265 once included an age specification which only prohibited forced marriage where the age difference between the man and woman was "not less than two nor more than fourteen years" in 1976.

   Decades ago, a defendant who committed a rape might also be charged with Penal Code section 265 as it pertains to "abduction for defilement." (*People v. Palacio* (1948) 86 Cal.App.2d 778. ["The defendants were jointly charged with a violation of section 265 of the

Penal Code in that on February 27, 1948, they had unlawfully taken the complaining witness against her will and had by force, menace and duress compelled her to be defiled."]) Today, defendants would simply be charged with Penal Code section 220 (assault with intent to commit a sex crime) or Penal Code section 209 (aggravated kidnapping).

In the early 1990s, a defendant tried to allege that he could not be convicted of kidnapping with the intent to rape, because Penal Code section 265 required sentencing only under that statute – which has a considerably reduced penalty. The Court did not agree:

> On appeal, defendant contended that, under the facts, the crime of kidnapping, Cal. Penal Code, § 207, was preempted by the crime of abduction for marriage or defilement, Cal. Penal Code § 265. The court affirmed as to all counts and enhancements, except that defendant's sentence as to one count was corrected to three years, with a stay of execution. The special statute doctrine was inapplicable and defendant was properly convicted of kidnapping because a violation of the "special" statute, § 265, did not necessarily or commonly result in a violation of the general statute, Cal. Penal Code § 207. Section 207 required, as an element, a forcible taking of the victim, and a violation of Cal. Penal Code § 265 could be accomplished without proof of the use of force. (*People v. Vazquez* (1991) 226 Cal.App.3d 988, 994.)

Penal Code section 265 is anachronistic and is likely never used anymore, given that kidnapping with intent to commit rape may be sentenced to up to life in prison. (Pen. Code, § 209, subd. (a).) Moreover, using force or fear for purposes of marriage may be viewed as human trafficking, false imprisonment, or even kidnapping itself. Human trafficking and kidnapping are both subject to long criminal sentences.

This type of offense is now punished much more seriously and is punishable without reference to sex or gender. Amending Penal Code section 265 to be gender neutral is a non-substantive change to the law because using force to affect marriage or sex is criminally punished in other sections and are not gender specific. This statute likely has not been used in decades.

Finally, since the U.S. Supreme Court ruled in *Obergefell v. Hodges* (2015) 574 U.S. 1118, any statute referring to marriage must be equally applied to same-sex marriage the same as heterosexual marriage. This ruling is currently enshrined in Article 1, section 7.5 of the California Constitution and is considered settled law.

3) **Argument in Support**: According to *Family Violence Law Center*: "Under a forced marriage an individual may face threats of physical, verbal, or financial abuse or the use of physical force to make them agree to marriage or to remain in a marriage that they want to leave. According to data captured by the US Census Bureau and analyzed by Quantitative Analysis, LLC, between 2017 and 2021 the state of California has had an average of over 8,111 documented cases of forced marriage involving minors annually.

"A worldwide research study found that there were 22 million people forced to marry in 2021 alone– fifteen million were women and seven million were men, with nearly 60% of victims being 18 years or older at the time the marriage took place. The United Kingdom through their Forced Marriage Protective Unit received 802 inquiries and directly supported 283 individuals, of which 31% were male identified. In line with global efforts to protect all

individuals against forced marriage in the US, the following states and territories have criminal penalties that protect all individuals regardless of their gender identity or sexual orientation against forced marriage: Maryland, Minnesota, Mississippi, Nevada, Virginia, and Washington D.C.

"California is one of three states/territories that only protect women against forced marriage. Additionally, California defines forced marriage as a prohibited marriage yet is one of only 10 states that places a statute of limitations on annulment. A four year statute of limitations does not allow survivors of forced marriage sufficient time to file for annulment, placing the survivor in limbo instead of empowering them to break free.

"AB 1134 will update Penal Code 265 which currently authorizes punishment through state imprisonment for any man who "unlawfully [takes a woman] against [her] will, and by force, menace or duress compels her to marry him, or to marry any other person, or to be defiled."8 AB 1134 will remove gendered language to expand protections and rights to all individuals who are impacted by forced marriage.

"Additionally, AB 1134 will amend family code 2211 to lift the current four year limit and empower survivors to seek an annulment when they are ready. This will align California with a majority of states that allow for a victim to come forth at any time to file for annulment due to force or coercion."

4) **Prior Legislation**: AB 2924 (Petrie-Norris), of the 2023-24 Legislative Session, would have repealed the authorization for a person under 18 years of age to be issued a marriage license or to establish a domestic partnership, thereby prohibiting a person under 18 years of age from being issued a marriage license or from establishing a domestic partnership. The hearing on AB 2924 in the Assembly Judiciary Committee was canceled at the request of the author.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
Community United Against Violence
Family Violence Appellate Project
Family Violence Law Center

Opposition

None submitted.

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