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

COMMITTEE ANALYSES

PART II

AB 1140 (Connolly) – 1488 (Flora)

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

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1140 (Connolly) – As Introduced February 20, 2025

SUMMARY: Establishes a single-occupancy cell pilot program in four to-be-determined California Department of Corrections and Rehabilitation (CDCR) facilities. Specifically, **this bill**:

1) Requires CDCR, by January 1, 2027, to develop and implement a pilot program to house persons who are incarcerated at four adult prison facilities in single-occupancy cells.

2) Requires the Secretary of CDCR, or their designee, to determine the pilot program facilities and to establish criteria to determine which incarcerated people shall be housed in single-occupancy cells.

3) Requires, at a minimum, the pilot program to include four CDCR facilities housing incarcerated adults, excluding medical facilities and state hospitals, and to apply to 10 percent of the population housed at each of the four facilities.

4) Requires the Secretary of CDCR to transmit a publicly available report to the Legislature and Governor by March 15, 2028, detailing all of the following:

    a) The capacity of the pilot sites as of December 31, 2026, and December 31, 2027, defining "capacity" as the rated capacity, operational capacity, and design capacity of the facility and requiring reporting on each.

    b) The number of incarcerated persons housed in single-occupancy cells under the pilot program at the four pilot sites.

    c) The number of incarcerated persons in each facility participating the following on December 31, 2026, and on December 31, 2027, respectively:

        i) Work assignments;

        ii) Education assignments; and,

        iii) Treatment and reentry program assignments.

    d) The housing classification for incarcerated persons participating in the assignments by facility.

    e) The number of disciplinary incidents and incidents involving violence that occurred by facility overall and disaggregated by single-occupancy and non-single-occupancy cells and rehabilitative programming, including a breakdown of disciplinary incidents and

incidents involving violence by facility and month for the first year that the pilot program is operational.

f) The inclusion or exclusion criteria, or both, used to designate incarcerated persons to single-occupancy cells, by facility; and,

g) A qualitative description of the changes made in each of the four facilities in order to implement this pilot program.

5) Prohibits the Secretary of CDCR, or their designee, from deeming persons housed in safety, detoxification, or temporary holding cells as part of the percentage of the pilot site's population required to be housed in single-occupancy cells.

6) Provides that if an incarcerated person requests to be housed in a pilot site and the Secretary of CDCR, or their designee, denies the inmate's request for that housing, that denial shall not constitute a cognizable cause of action.

7) Includes legislative findings and declarations.

EXISTING LAW:

1) Prohibits the infliction of cruel and unusual punishment. (Cal. Const., art. I, § 17.)

2) Establishes rights for persons sentenced to imprisonment in a state prison, and provides that a person may, during that period of confinement be deprived of such rights, and only such rights, as is reasonably related to legitimate penological interests. (Pen. Code, § 2600.)

3) Prohibits the use of any cruel, corporal or unusual punishment or to inflict any treatment or allow any lack of care whatever which would injure or impair the health of the prisoner, inmate, or person confined. (Pen. Code, § 2652.)

4) Authorizes CDCR to prescribe and amend rules and regulations for the administration of the prisons. (Pen. Code, § 5058.)

5) Requires the Secretary of CDCR to classify and assign prisoners to the institution of the appropriate security level and gender population nearest the prisoner's home, unless other classification factors make such a placement unreasonable. (Pen. Code, § 5068.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Reducing recidivism rates and ensuring the safety of prisoners and correctional staff should be the top priority of our state prisons. Innovative solutions such as single-occupancy cells will help improve our public safety, both inside and outside of correctional facilities. AB 1140 will provide valuable feedback and data on the relationship between sleep, safety, and recidivism, which would inform future policy decisions on how best to expand or refine the program."

2) **Need for this Bill**: This bill would require CDCR to develop and implement a pilot program to house 10 percent of incarcerated persons at each of the four designated adult prison facilities in single-occupancy cells. The pilot program would require each of the four CDCR facilities to report the number of incarcerated persons housed in single-occupancy cells under the pilot program at the four pilot sites; the number of incarcerated person in each facility participating in work, education, and treatment and reentry program assignments; the housing classification for incarcerated persons participating in the assignments by facility; the number of disciplinary incidents and incidents involving violence that occurred by facility overall and disaggregated by single-occupancy and non-single-occupancy cells and rehabilitative programming; and the criteria for selecting individuals for participation in the program. This bill prohibits CDCR from deeming persons housed in safety, detoxification, or temporary holding cells as part of the percentage of the pilot site's population required to be housed in single-occupancy cells.

   Additionally, this bill would require CDCR to establish criteria to determine which incarcerated people are eligible for program participation. The legislative findings and declarations "recommend[] that single-occupancy cells be used as a reward and preference to promote healing, not to inflict punishment." Perhaps making program participation a reward for good behavior will compel some segment of the population to behave better in the hope that they might be selected for the program. However, the true impact of single-celling may be obscured by the exclusion of people whose behavior may most be impacted by sharing a cell. Put another way, incarcerated people with good behavior when sharing a cell will likely continue to have good behavior when they have their own cell.

   Finally, the legislative findings and declarations also state that "incarcerated persons must be able to sleep without fear of physical harm" in order "[t]o properly engage in rehabilitative programming." The findings and declarations note the effect of sleep deprivation on mood, emotional regulation, and social interactions. However, this bill does not require CDCR to prioritize persons who fear physical harm from their cell mate. Nor does it seek survey data on the impact of single-cell occupancy on sleep of the incarcerated individuals who participate. Sleep quantity and quality in CDCR facilities may be affected by many factors (e.g. noise, comfort, light exposure, etc.) other than cell sharing, including fear of violence when not in-cell. It would be helpful to know how much program participants report sleeping per night before participation in the program and during participation in the program. Without even rudimentary data on the impact of single-celling on sleep, the link between positive outcomes, if any, and sleep might be unclear.

3) **Argument in Support**:

   a) According to the *California Correctional Supervisors Organization*, "Assembly Bill 1140 addresses a problem that has been in existence for many years. The cells in the state's institutions were built to house a single inmate. These cells were subsequently retrofitted to house two inmates (bunk bed added) due to prison overcrowding. The cells contain one desk and one seating area. They also have one combination wash basin containing a drinking fountain above the lavatory. The average size of a prison cell is 6 X 8 feet or approximately 48 square feet.

      "Placing two inmates in such a small area where there is no privacy for taking care of bodily functions can cause stress on inmates. Small irritations can fester and lead to

confrontations. There are, however, some inmates who thrive by having a cellmate and who do not want to be in a single cell alone.

"AB1140 addresses the problems created by double bunking by creating a program where inmates can earn the right to have a single cell. By making the program voluntary it will incentivize inmates to alter their behavior, providing space for personal growth through educational pursuits."

b) According to the *California Public Defenders Association*: "The overwhelming majority of people who serve time in prison will at some point be released. The Bureau of Justice Statistics estimates at least 95% of people serving time in state prisons will be released at some point. Participation in educational programing while incarcerated has been shown to reduce recidivism, and thereby increase public safety. To effectively engage in educational programming, an incarcerated person must be allowed the restorative sleep necessary to learn and grow.

"Unfortunately, violence is a recurring issue in California's prisons and is particularly prevalent in shared cells. Overcrowding in prisons can lead to increased violence against staff and incarcerated individuals. Living in constant fear of violence, or even being forced to listen to it, disrupts sleep and has a deeply detrimental effect on cognitive functioning and overall well-being. Intervening in violent episodes places correctional officers at risk and contributes further to a more dangerous environment for everyone in the facility.

"AB 1140 will implement a pilot program in four adult facilities within the California Department of Corrections and Rehabilitation (CDCR), requiring that 10% or more of the incarcerated population be housed in single-occupancy cells. This pilot program will allow observation and data-collection of how single-occupancy housing impacts the ability to meaningfully engage in educational and rehabilitative programming. It is this very engagement that leads to reductions in recidivism and improvements in public safety. An additional and immediate benefit of decreased violence is a safer environment for staff and incarcerated individuals."

4) **Related Legislation**: AB 701 (Ortega), would require the Department of Justice (DOJ) to study the use of solitary confinement in all jails, prisons, and private detention facilities operating within the State of California. AB 701 is currently pending hearing in the Assembly Appropriations Committee.

5) **Prior Legislation**:

a) AB 280 (Holden), of the 2023-2024 Legislative Session, would have limited the use of segregated confinement and requires facilities in the State in which individuals are subject to confinement or involuntary detention to follow specified procedures related to segregated confinement.

b) AB 2632 (Holden), of the 2021-2022 Legislative Session, was substantially similar AB 280. AB 2632 was vetoed by the Governor.

c) AB 2321 (Jones-Sawyer), Chapter 781, Statutes of 2022, prohibits confinement of a minor in a locked single-person room or cell in a juvenile facility for a period lasting longer than one hour when room confinement is necessary for institutional operations.

d) AB 1225 (Waldron), of the 2021-2022 Legislative Session, would have prohibited an incarcerated woman from being placed in solitary confinement for medical observation. AB 1225 was held in the Assembly Appropriations Committee.

e) SB 759 (Anderson), Chapter 191, Statutes of 2016, repealed provisions of law that made incarcerated persons housed in segregation units ineligible to earn credits.

f) SB 124 (Leno), of the 2015-2016 Legislative Session, would have established standards and protocols for the placement of juveniles in solitary confinement. SB 124 was held in the Assembly Appropriations Committee.

g) SB 1289 (Lara), of the 2015-2016 Legislative Session, would have, among other things, prohibited an immigration detention facility from involuntarily placing a detainee in segregated housing because of his or her actual or perceived gender, gender identity, gender expression, or sexual orientation. SB 1289 was vetoed by the Governor.

h) SB 1143 (Leno), Chapter 726, Statutes of 2016, provided guidelines for the use of room confinement, as defined, in juvenile detention facilities.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Psychiatric Technicians
California Correctional Peace Officers Association (CCPOA)
California Correctional Supervisors Organization, INC.
California Public Defenders Association (CPDA)
San Francisco District Attorney Brooke Jenkins
Union of American Physicians and Dentists

Opposition

None submitted.

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

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

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1144 (McKinnor) – As Introduced February 20, 2025

As Proposed to be Amended in Committee

SUMMARY: Authorizes incarcerated persons 55 years of age and older, and those persons with physical or mental disabilities, to elect whether to continue to work, to reduce the number of hours worked, or to cease working and retire. Specifically, **this bill**:

1) Requires every able-bodied incarcerated person under 55 years of age imprisoned in any state prison as many hours of faithful labor in each day and every day during their term of imprisonment as prescribed by the rules and regulations of the Secretary of the Department of Corrections and Rehabilitation.

2) Authorizes prisoners 55 years of age and older, and those persons with physical or mental disabilities, in state prisons to elect whether to continue to work, to reduce the number of hours worked, or to cease working and retire.

3) States that the compensation of prisoners under the jurisdiction of the Prison Industry Authority, including those 55 years of age and older and who have opted for part-time work, to be paid either out of funds appropriated by the Legislature or out of such other funds available to the Department of Corrections and Rehabilitation (CDCR) for expenditure.

4) Provides that CDCR shall not punish a prisoner who refuses to work, which includes, but is not limited to, disciplinary writeup, change in security level, involuntary transfer to a different correctional institution, transfer to a special housing unit or administrative segregation, change or reduction in privilege group assignment, and limiting participation in voluntary programming.

5) States that all persons under 55 years of age and those persons with physical or mental disabilities, who are confined in the county jail, industrial farm, road camp, or city jail under a final judgment of imprisonment rendered in a criminal action or proceeding and all persons under 55 years of age, and those persons with physical or mental disabilities, who are confined in the county jail, industrial farm, road camp, or city jail as a condition of probation after suspension of imposition of a sentence or suspension of execution of sentence may be required by an order of the board of supervisors or city council to perform labor on the public works or ways in the county or city, respectively, and to engage in the prevention and suppression of forest, brush and grass fires upon lands within the county or city, respectively.

6) Authorizes a person 55 years of age or older, and those persons with physical or mental disabilities, in county jail, industrial farm, road camp, or city jail to elect whether to continue to work, to reduce the number of hours worked, or to cease working and retire.

7) Defines "mental disability" to include, but is not limited to, all of the following:
   a) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

      i) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

      ii) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

      iii) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

   b) Any other mental or psychological disorder or condition not described in paragraph (a) that requires special education or related services.

   c) Having a record or history of a mental or psychological disorder or condition described in paragraph (a) or (b), which is known to the employer or other entity covered by this part.

   d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

   e) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (a) or (b).

   f) "Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

8) Defines "physical disability" to include, but is not limited to, all of the following:

   a) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

      i) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

      ii) Limits a major life activity. For purposes of this section:

         (1) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

         (2) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(3) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

b) Any other health impairment not described in paragraph (a) that requires special education or related services.

c) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (a) or (b), which is known to the employer or other entity covered by this part.

d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

e) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (a) or (b).

f) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

EXISTING LAW:

1) States that CDCR shall require of every able-bodied prisoner in any state prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations of the Director of Corrections. (Pen. Code, § 2700, subd. (a).)

2) Establishes that incarcerated persons not engaged on work programs under the jurisdiction of the Prison Industry Authority, but who are engaged in productive labor outside of such programs may be compensated in like manner. The compensation of such prisoners shall be paid either out of funds appropriated by the Legislature for that purpose or out of such other funds available to the CDCR for expenditure. (Pen. Code, § 2700, subd. (a).)

3) States that when any prisoner escapes, the director shall determine what portion of his or her earnings shall be forfeited and such forfeiture shall be deposited in the State Treasury in a fund known as the Inmate Welfare Fund. (Pen. Code, § 2700, subd. (a).)

4) Stipulates that all persons confined in the county jail, industrial farm, road camp, or city jail under a final judgment of imprisonment rendered in a criminal action or proceeding and all persons confined in the county jail, industrial farm, road camp, or city jail as a condition of probation after suspension of imposition of a sentence or suspension of execution of sentence may be required by an order of the board of supervisors or city council to perform labor on the public works or ways in the county or city, respectively, and to engage in the prevention and suppression of forest, brush and grass fires upon lands within the county or city, respectively. (Pen. Code, § 4017, subd. (a).)

5) States that whenever any such person so in custody shall suffer injuries or death while working in the prevention or suppression of forest, brush or grass fires he shall be considered to be an employee of the county or city, respectively, for the purposes of compensation under the provisions of the Labor Code regarding workmen's compensation and such work shall be performed under the direct supervision of a local, state or federal employee whose duties include fire prevention and suppression work. A regularly employed member of an organized fire department shall not be required to directly supervise more than 20 such persons so in custody. (Pen. Code, § 4017, subd. (a).)

6) Defines "mental disability" to include, but is not limited to, all of the following:

   a) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

      i) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

      ii) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

      iii) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

   b) Any other mental or psychological disorder or condition not described in paragraph (a) that requires special education or related services.

   c) Having a record or history of a mental or psychological disorder or condition described in paragraph (a) or (b), which is known to the employer or other entity covered by this part.

   d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

   e) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (a) or (b).

   f) "Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs. (Gov. Code, § 12926., subd. (j).)

7) Defines "physical disability" to include, but is not limited to, all of the following:

   a) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

      i) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs,

cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

ii) Limits a major life activity. For purposes of this section:

(1) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(2) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(3) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working. (Gov. Code, § 12926., subd. (m).)

b) Any other health impairment not described in paragraph (a) that requires special education or related services.

c) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (a) or (b), which is known to the employer or other entity covered by this part.

d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

e) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (a) or (b).

f) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Older adults in California prisons, including those with chronic but not fully disabling illnesses, are required to work daily with no option to reduce their hours. Incarcerated individuals, even those in their 70s and 80s, must continue working, often performing physically demanding tasks such as lifting heavy materials, working in extreme heat and laboring in high-risk environments like kitchens and prison yards.

"This aging population faces a higher risk of workplace injuries, yet work assignments rarely consider age-related limitations. Without a medical exemption—difficult to obtain and often denied—older incarcerated individuals must either continue working or risk losing

privileges, benefits, or even facing disciplinary action. The exemption process is lengthy, uncertain and inaccessible to many, forcing individuals with legitimate age-related health concerns to work under conditions that may be harmful.
"AB 1144 would grant incarcerated individuals aged 55 and older—excluding those sentenced to death—the right to choose whether to continue working or reduce their hours. The bill would also prohibit the California Department of Corrections and Rehabilitation (CDCR) from punishing individuals for making this choice, including restricting privileges or altering their classification status.

"By allowing older incarcerated individuals to make informed decisions about their work participation without fear of losing essential privileges such as visitation or canteen access, AB 1144 upholds their human dignity and recognizes their physical limitations. AB 1144 ensures that aging incarcerated people are not forced into labor that endangers their health, and provides reasonable accommodations to this aging population."

2) **Effect of the Bill:** This bill would allow incarcerated persons to retire from work requirements upon reaching age 55. This bill may turn out not to alter a majority of the existing confinement labor structure. CDCR has already announced that it is transforming approximately 75% of its full-time labor positions to half-time labor positions.[1] In addition to potentially increasing options for incarcerated persons to enroll and participate in more rehabilitative or educational programming,[2] CDCR's expected change in job positions could dovetail with the requirements of this bill, possibly limiting excess administrative burdens.

As stated by the author, offering incarcerated persons a choice of work types upon reaching 55 years of age brings some additional measure of humanity to that person's confinement. As one scholar noted, "The exploitative dynamics [of forced prison labor] are rooted in slavery . . . which relies on inhumane, regressive forms of revenue generation and masks the true costs of incarceration."[3]

There are additional health considerations for older incarcerated persons as well. One study noted that incarcerated persons age faster compared to those not in confinement.[4] "Prisons are unhealthy places for anyone of any age, but keeping older adults locked up is particularly dangerous. A robust body of research shows that incarceration itself accelerates aging: people face more chronic and life-threatening illnesses earlier than we would expect outside of prison, and physiological signs of aging occur in people younger than expected."[5] The paper also notes that for every one year spent in prison, incarcerated persons lose an average of two years off their expected lifespan.[6]

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[1] *The 2024-25 Budget: California Department of Corrections and Rehabilitation* (Feb. 22, 2024) Legislative Analyst's Office <https://www.lao.ca.gov/Publications/Report/4852> [as of Apr. 2, 2025].
[2] *Ibid.*
[3] Mast, *Forced Prison Labor in the "Land of the Free"* (Jan. 16, 2025) Economic Policy Institute <https://www.epi.org/publication/rooted-racism-prison-labor/> [as of Mar. 17, 2025].
[4] *Ibid.*
[5] Widra, *The Aging Prison Population: Causes, Costs, and Consequences*, Prison Policy Initiative (August 2, 2023) <https://www.prisonpolicy.org/blog/2023/08/02/aging/> [as of Apr. 2, 2025].
[6] *Ibid.*

By making work for incarcerated persons voluntary at age 55 and older, this bill could align with CDCR's existing plan to move most jobs to half-time positions and restore some measure of dignity and humanity in aging for incarcerated persons.

3) **Elder Voluntary Work and Public Safety:** This bill would make work voluntary for those 55 years of age and older, and those with mental or physical disabilities, which could have impacts on public safety.

As California's Elderly Parole Program (EPP) moves into its second decade, this bill could have a limited impact on the number of incarcerated persons who end up having the choice whether to work at age 55 or older. Incarcerated persons are eligible for the EPP after reaching age 50 and being continuously incarcerated for 20 years, except persons sentenced to death, persons sentenced to life without the possibility of parole, persons sentenced under California's strike laws for a second or third strike, and persons convicted of first-degree murder of a peace officer or former peace officer due to performance of their official duties.[7] Incarcerated persons confined on a second or third strike must wait until 60 years of age and service of 25 years' incarceration before becoming eligible for the EPP.[8] Between 2014-2020, fewer than 1 out of every 5 elderly parole applicants actually received parole.[9] If EPP sees growth in the future, this could mean fewer elderly persons remain incarcerated past 55 years of age, which could result in fewer who even have the opportunity to retire from work pursuant to this bill's provisions.

Elderly incarcerated persons tend to be some of the least likely to reoffend. As a recent CDCR recidivism report showed, "The [recidivism] rate steadily decreases as age increases, with individuals ages 60 and over having the lowest conviction rate of all age groups (16.5 percent). This general trend has persisted with time, making older individuals some of the least likely to recidivate."[10]

Making work voluntary could also promote improved rehabilitation and public safety outcomes by increasing marketable skills and lowering re-offense rates. One program that requires voluntary workers and payment of higher wages, the Prison Industry Enhancement Certification Program (PIECP), has demonstrated voluntary work programs can achieve these outcomes.[11] This bill could work with existing programs to improve public safety.

4) **Additional Considerations:** This bill appears to create a natural conflict with AB 475 (Wilson) which was passed out of this Committee earlier this year. AB 475 would make all work voluntary for incarcerated persons, while this bill would allow for voluntary work for

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[7] *Elderly Parole Hearings*, California Department of Corrections and Rehabilitation <https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview/> [as of Apr. 2, 2025].
[8] *Ibid.*
[9] *Expanding Elderly Parole Eligibility in California*, Recidiviz (Aug. 14, 2020) <5fb40eed8f1515cb65cb32bb_CA_elderlyparole_v3.pdf> [as of Apr. 2, 2025].
[10] *Recidivism Report for Individuals Released in Fiscal Year 2018-19*, California Department of Corrections and Rehabilitation (Feb. 2024) <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2024/02/Statewide-Recidivism-Report-for-Individuals-Released-in-Fiscal-Year-2018-19.pdf> [as of Apr. 2, 2025].
[11] *Prison Industry Enhancement Certification Program*, Bureau of Justice Assistance (Aug. 2018) <https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/PIECP-Program-Brief_2018.pdf> [as of Mar. 31, 2025].
[11] *Ibid.*

incarcerated persons 55 years of age and older, and those with physical or mental disabilities. By limiting voluntary work just to age 55 and older populations, the focus of this bill seems narrower relative to AB 475. It is unclear whether one approach might be superior to the other at this time.

5) **Committee Amendments:** The proposed amendments would authorize the same voluntary work options for those incarcerated persons with mental disabilities or physical disabilities. The amendments define these terms for purposes of the bill.

6) **Argument in Support**: According to the *Ella Baker Center for Human Rights*, "Based in Oakland, the Ella Baker Center (EBC) works to advance racial and economic justice to ensure dignity and opportunity for people with low income and people of color. We advocate for state legislation that fights abusive practices in prisons and jails, strengthens family connections, ends the economic burdens placed on people by mass incarceration, and reinvests in community. The Ella Baker Center works to shift resources away from prisons and punishment towards opportunities that make our communities safe, healthy, and strong.

"The Ella Baker Center, first and foremost, supports pathways to freedom and decarceration for individuals suffering from chronic illness, old age, and severe health risks. The number of incarcerated individuals in California, over 50 has risen from about 4% in 1994 to 25% in 2019 (Prison Policy Initiative). Due to the nature of long sentences, three strikes, and a history of over-incarceration, California's prison population includes individuals who need additional care and choice. On the pathway to identifying opportunities for release, we must off er people a choice over whether they work while incarcerated to meaningfully support them in caring for themselves while incarcerated.

"Older adults in California prisons, including those with chronic but not fully disabling illnesses, are required to work daily with no option to reduce their hours. Incarcerated individuals, even those in their 70s and 80s, must continue working, often performing physically demanding tasks such as lifting heavy materials, working in extreme heat, and laboring in high-risk environments like kitchens and prison yards.

"This aging population faces a higher risk of workplace injuries, yet work assignments rarely consider age-related limitations. Without a medical exemption—difficult to obtain and often denied—older incarcerated individuals must either continue working or risk losing privileges, benefits, or even facing disciplinary action. The exemption process is lengthy, uncertain, and inaccessible to many, forcing individuals with legitimate age-related health concerns to work under conditions that may be harmful."

7) **Argument in Opposition**: According to the *California State Sheriffs Association (CSSA),* "On behalf of the California State Sheriffs' Association (CSSA), I regret to inform you that we are opposed to your measure, Assembly Bill 1144, which would allow state prison and county jail inmates aged 55 years and older to elect whether to continue a custodial work assignment, to reduce the number of hours worked, or to cease working and retire.

"We disagree with the notion of installing an arbitrary age threshold at which inmates would be permitted to discontinue their work assignments. Inmate workers earn time credits toward early release and typically a wage in consideration of their completed work. These work assignments are generally compatible with and supportive of rehabilitative efforts.

"And though the bill is unclear on this point, the use of the term "retire" raises the question of whether an inmate who reaches the age of 55 and elects to discontinue or limit their work would still receive early release credits and/or monetary compensation. If such is determined to be the case, it would heighten our objection to the bill."

8) **Related Legislation**:

a) ACA 6 (Wilson) would amend the California to prohibit slavery in all forms, including involuntary servitude. This resolution is pending referral.

b) AB 475 (Wilson) would make all work voluntary, except for Proposition 66-impacted death-eligible persons, for all incarcerated persons. This bill is set to be heard in the Assembly Appropriations Committee.

9) **Prior Legislation**:

a) ACA 8 (Wilson), of the 2023-24 Legislative Session, would have prohibited slavery in any form. This amendment failed to secure majority support from California voters during the 2024 General Election.

b) AB 628 (Wilson), of the 2023-24 Legislative Session, would have prohibited involuntary servitude, required CDCR to develop a voluntary work program and to prescribe rules and regulations regarding work and programming assignments for CDCR inmates, including the wages for work assignments, and would have required wages for work assignments in county and city jail programs to be set by local ordinance. This bill failed due to its corresponding constitutional amendment failing to pass.

c) ACA 3 (Kamlager), of the 2021-22 Legislative Session, would have defined slavery to include involuntary servitude and forced labor compelled by the use or threat of physical or legal coercion. The measure would have clarified that the provisions are not intended to have any effect on voluntary work programs in corrections settings. This measure was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

A New Way of Life Re-entry Project
ACLU California Action
California Elder Justice Coalition (CEJC)
California Public Defenders Association (CPDA)
Cure California
Ella Baker Center for Human Rights
Grip Training Institute
Initiate Justice
Initiate Justice Action
Justice2jobs Coalition
LA Defensa
Los Angeles Regional Reentry Partnership (LARRP)

Vera Institute of Justice
Western Center on Law & Poverty

1 private individual

Oppose

California State Sheriffs' Association

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

Amended Mock-up for 2025-2026 AB-1144 (McKinnor (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. Section 2700 of the Penal Code is amended to read:

2700. (a) (1) The Department of Corrections and Rehabilitation shall require of every able-bodied prisoner under 55 years of ~~age,~~ ***age, or any prisoner that does not have a mental or physical disability that is*** imprisoned in any state ~~prison~~ *prison,* as many hours of faithful labor in each day and every day during their term of imprisonment as shall be prescribed by the rules and regulations of the Secretary of the Department of Corrections and Rehabilitation.

(2) Prisoners 55 years of age and older ***or prisoners with mental or physical disabilities,*** shall shall elect whether to continue to work, to reduce the number of hours worked, or to cease working and retire.

(b) Whenever by any statute a price is required to be fixed for any services to be performed in connection with the work program of the Department of Corrections, the compensation paid to prisoners shall be included as an item of cost in fixing the final statutory price.

(c) Prisoners not engaged in work programs under the jurisdiction of the Prison Industry Authority, but who are engaged in productive labor outside of those programs may be compensated in like manner. The compensation of prisoners, including those 55 years of age and older ***or prisoners with mental and physical disabilities*** and who have opted for part-time work, shall be paid either out of funds appropriated by the Legislature for that purpose or out of other funds available to the Department of Corrections and Rehabilitation for expenditure, as the Director of Finance may direct.

(d) When a prisoner escapes, the secretary shall determine what portion of their earnings shall be forfeited and that forfeiture shall be deposited in the State Treasury in a fund known as the Inmate Welfare Fund of the Department of Corrections and Rehabilitation.

(e) The department shall not punish a prisoner who refuses to work pursuant to subdivision (a). For the purposes of this subdivision, punishment includes, but is not limited to:

(1) Disciplinary writeup.

(2) Change in security level.

(3) Involuntary transfer to a different correctional institution.

(4) Transfer to a special housing unit or administrative segregation.

(5) Change or reduction in privilege group assignment.

(6) Limiting participation in voluntary programming.

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

(1) "Mental disability" means the same as in Section 12926 of the Government Code.

(2) "Physical disability" means the same as in Section 12926 of the Government Code.

SEC. 2. Section 4017 of the Penal Code is amended to read:

4017. (a) (1) All persons under 55 years of age who are confined in the county jail, industrial farm, road camp, or city jail under a final judgment of imprisonment rendered in a criminal action or proceeding and all persons under 55 years of age ***or persons who do not have a mental or physical disability,*** who are confined in the county jail, industrial farm, road camp, or city jail as a condition of probation after suspension of imposition of a sentence or suspension of execution of sentence may be required by an order of the board of supervisors or city council to perform labor on the public works or ways in the county or city, respectively, and to engage in the prevention and suppression of forest, brush and grass fires upon lands within the county or city, respectively, or upon lands in adjacent counties where the suppression of fires would afford fire protection to lands within the county.

(2) A person 55 years of age or older ***or a person who has a mental or physical disability*** shall elect whether to continue to work, to reduce the number of hours worked, or to cease working and retire.

(b) Whenever any person so in custody shall suffer injuries or death while working in the prevention or suppression of forest, brush, or grass fires they shall be considered to be an employee of the county or city, respectively, for the purposes of compensation under the provisions of the Labor Code regarding workmen's compensation and that work shall be performed under the direct supervision of a local, state or federal employee whose duties include fire prevention and suppression work. A regularly employed member of an organized fire department shall not be required to directly supervise more than 20 persons so in custody.

(c) As used in this section, "labor on the public works" includes clerical and menial labor in the county jail, industrial farm, camps maintained for the labor of persons upon the ways in the county, or city jail.

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

(1) "Mental disability" means the same as in Section 12926 of the Government Code.

(2) "Physical disability" means the same as in Section 12926 of the Government Code.

Date of Hearing: April 8, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1160 (Wilson) – As Amended March 24, 2025

SUMMARY: Prohibits a law enforcement agency ("LEA") from purchasing a remotely piloted aerial or ground vehicle without specified data protections. Specifically, **this bill**:

1) Prohibits an LEA from purchasing an unmanned, remotely piloted, powered aerial or ground vehicle unless:

   a) The vehicle contains an option to turn off any data collection programs that are not necessary for the vehicle to function; or

   b) The LEA uses an American data storage company to house all data collected, including, but not limited to, video and photographic images.

2) Makes this bill effective on January 1, 2027, and specifies that this bill does not restrict a LEA's ability to maintain ownership or possession of a remotely powered vehicle purchased before January 1, 2027.

3) Defines an "American data storage company" to mean a partnership, corporation, limited liability company, or other business entity formed under the laws of, and headquartered in, this state or the laws of any other state of the United States or the District of Columbia, that provides services related to storing digital data, including, but not limited to, through cloud storage, and has adopted security measures to protect stored data from unauthorized access, modification, or destruction, and that has dedicated servers or hard drives located in the U.S.

EXISTING LAW:

1) Requires a LEA to obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body before, among other things, requesting, acquiring, or seeking funds for military equipment. (Gov. Code, § 7071, subd. (a).)

2) Defines "military equipment" to include, among other things, unmanned, remotely piloted, powered aerial or ground vehicles, or weaponized aircraft, vessels, or vehicles of any kind. (Gov. Code, § 7070, subd. (c)(1) & (6).)

3) Defines "governing body" as the elected body that oversees a LEA or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a LEA. (Gov. Code, § 7070, subd. (a).)

4) Defines "law enforcement agency" as a police department, sheriff's department, district attorney's office, or county probation department. (Gov. Code, § 7070, subd. (b)(1)-(4).)

5) Requires a LEA to submit a proposed military equipment use policy to the governing body and make those documents available on the LEA's internet website at least 30 days prior to any public hearing concerning the military equipment at issue. (Gov. Code, § 7070, subd. (b).)

6) Provides that the governing body shall only approve a military equipment use policy if it determines all of the following:

   a) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

   b) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

   c) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

   d) Prior military equipment use complied with the military equipment use policy that was in effect at the time or, if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance. (Gov. Code, § 7071, subd. (d)(1).)

7) Requires, in order to facilitate public participation, any proposed or final military equipment use policy to be made publicly available on the internet website of the relevant LEA for as long as the military equipment is available for use. (Gov. Code, § 7071, subd. (d)(2).)

8) Requires a LEA that receives approval for a military equipment use policy to submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter, that among other things, summarizes how the equipment was used, any complaints or concerns pertaining to the equipment, and the total annual cost of the equipment. (Gov. Code, § 7072, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Law enforcement agencies large and small have progressed in the last decade to implement varying types of drone programs due to the operational and safety advantages provided by these technologies, which cannot be understated. Law enforcement agencies also already take precautions to ensure that the data they collect remains secure. While the specific protocols vary by agency, they include mitigations such as using drones without internet, downloading third-party software to avoid interacting with the manufacturer's software, and adhering to municipal and state data retention and storage policies as appropriate. Whether used in search and rescue operations, for reconnaissance purposes, or to improve real-time awareness, law enforcement use of

drone technology has become ubiquitous throughout California and credited with saving lives.

"However, as is the case with all emerging technology, the use of these devices has not come without unique challenges and debates. AB 1160 establishes minimum security requirements for law enforcement agencies to adhere to prior to any future purchase of drone technology. These protections include 1) a requirement that each vehicle contains an option to turn off any data collection programs that are not necessary for the vehicle to function, and 2) that the law enforcement agency uses an American data storage company to house all data collected, including, but not limited to, video and photographic images. By establishing these requirements, California can limit unnecessary data collection, and ensure the data collected by local and state law enforcement is housed domestically, limiting access to all information by foreign entities."

2) **Need for this Bill:** AB 1160 seeks to address the privacy and security concerns associated with certain non-U.S. drone manufacturing companies such as Da-Jiang Innovations ("DJI"), a private company located in Shenzhen, China. For context, DJI is the largest drone manufacturer in the United States, and their drones are in widespread use in California.[1] Some reports suggest there may be loopholes in DJI drone technology that permit DJI to gain access to significant amounts of personal information collected by the drones. As such, DJI has been placed on the Defense Department's list of Chinese military companies whose products the U.S. armed forces will be prohibited from purchasing in the future. This has also led to federal legislative efforts to ban certain DJI drone models.[2] Most recently, Congress passed the National Defense Authorization Act for 2025, which entered into effect on December 23, 2024. (118 P.L. 159; 2024 Enacted H.R. 5009; 118 Enacted H.R. 5009; 138 Stat. 1773). This Act required specified U.S. national security agencies to identify, within one year after the date of the Act's enactment, any surveillance equipment or services, including surveillance equipment manufactured by DJI, among other companies, that present an unacceptable risk to U.S. national security or the security and safety of U.S. persons, for the purposes of placing such equipment on a specified prohibited equipment list. (*Id.* at § 1709).

   SB 99 (Umberg), of the 2023-2024 Legislative Session, would have broadly prohibited a local governing body from approving a military equipment use policy if it contains military equipment that federal law or regulation prohibits the United States Armed Forces from purchasing. In effect, this would have largely prohibited law enforcement from utilizing DJI drones. SB 99 was ultimately held in suspense in the Assembly Appropriations Committee. Here AB 1160 similarly seeks to establish data privacy and security protections in LEA use of drones, although it takes a slightly different approach.

3) **Effect of this Bill:** Existing law requires a LEA to obtain approval from the governing body that oversees it before acquiring or using military equipment. (Gov. Code, § 7071, subd. (a), et seq.) Military equipment includes, among other things, unmanned, remotely piloted, powered aerial or ground vehicles (hereafter referred to as "drones"). (Gov. Code, § 7070,

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[1] Drone U, *The Top 29 Drone Companies in 2025* (Dec. 9, 2024), available at: https://www.thedroneu.com/blog/top-drone-companies/
[2] *Ibid.*

subd. (c)(1).) As such, before a LEA can purchase a drone in California, that drone must be identified in the LEAs military equipment use policy, which is subject to the approval of the governing body. (*Ibid.*)

A governing body may only approve a military equipment use policy if four requirements are met: 1) the equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; 2) the military equipment policy will safeguard the public's welfare, safety, civil rights, and civil liberties; 3) the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety, if purchasing the equipment; and 4) prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance. (Gov. Code, § 7071, subd. (d)(1).) Any proposed or final military equipment use policy must be made publicly available on the internet website of the applicable LEA, and if a governing body approves a military equipment policy, the LEA must submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter. (Gov. Code, § 7071, subd. (d)(2) & 7072, subd. (a).)

This bill would prohibit an LEA from purchasing a drone unless at least one of the following conditions are met: 1) the vehicle contains an option to turn off any data collection programs that are not necessary for the vehicle to function; or 2) the LEA uses an American data storage company to house all data collected, including, but not limited to, video and photographic images. To meet the definition of an American data storage company, a company must meet four requirements. It must be formed under the laws of, and headquartered in, a U.S. state, provide services related to storing digital data, adopt security measures to protect stored data from unauthorized access, and have dedicated servers or hard drives in the U.S.

AB 1160 delays its effective date by one year, until January 1, 2027, to give law enforcement more time to comply with this bill's requirements.

The extent to which this bill will prohibit LEAs from purchasing DJI drones, or other drones that similarly may not protect and guard the data they collect, is unclear. One method of complying with this bill is for a LEA-purchased drone to have an option to turn off any data collection programs that are not necessary for the vehicle to function. Having the option to turn off a given data collection function in and of itself, without additional guidance, may not function to protect collection of sensitive information. This bill does not define what a "data collection program" is, and what type of program would be considered to be "necessary for the [drone] to function." For example, would a LEA purchase of a drone that takes photographs, which has a cover that can technically be placed over the camera (even if it is never actually applied), meet this requirement? Does "necessary to function" refer to the drone's primary purpose (e.g. taking photographs) or does this refer to a drone's actually ability to move, fly, or drive? The author may wish to clarify what "data collection program" and "not necessary… to function" mean to reduce uncertainty over the scope of this bill.

The second method of compliance with this bill is for the LEA to use an American data storage company to house all data collected by the drone. While this is aimed at prohibiting

LEAs from purchasing drones that may share data with foreign governments, it is unclear if it will have this effect. The bill does not require LEA-purchased drones to be *manufactured* by American companies, but requires an American company to *store* all data collected. Further, requiring an LEA to use an American data storage company does not preclude that data from being shared elsewhere or otherwise stored in multiple countries. The author may similarly wish to clarify this provision of the bill.

Finally, as previously noted, federal national security agencies are now in the process of identifying whether specified foreign-made surveillance equipment, such as DJI drones, pose an unacceptable national security risk, as required by the National Defense Authorization Act for 2025. This determination must be made not later than one year following December 23, 2024, the date of the Act's enactment. It may be prudent to wait to review the federal government's findings, once released, to ensure the restrictions proposed by this bill are effectively tailored to preventing LEAs from purchasing drones that have been identified to have the greatest security risks.

4) **Argument in Support**: According to *Oakland Privacy*, "Federal agencies have prohibited the use of unmanned aerial vehicles (commonly known as drones) that don't comply with certain public safety and national security standards. Harmonizing those regulations across California state and local agencies – especially under the current administration and growing global uncertainty – is prudent. The growing security concerns makes it necessary, just as the government has re-evaluated the use of some telecom and surveillance technology equipment from Chinese brands Huawei, Hikvision, Dahua and ZTE.

"The direct and immediate impact of this bill would likely be on the further procurement of drones manufactured by DJI. DJI is a privately-owned company located in Shenzen, China. They are the largest manufacturer of drones with more than 70% market share with a wide variety of unmanned aircraft models. Such market concentration makes them a significant security risk as DJI is a product of China with purported ties to the Chinese Communist Party (CCP). DJI products are popular with California law enforcement agencies predominately because they are "cheap and disposable". Michigan Congressman Moolenaar articulates the Chinese technology playbook like this: "Pick a national champion in a strategic industry. Subsidize. Employ predatory pricing to offer its products at a massive, anti-competitive price point. Drive out the competition. Then leverage newfound dependencies to advance CCP interests." The Feds and other states seem to have caught on and it's time California does too.

"Security researchers have identified serious vulnerabilities in DJI-made unmanned aircraft. These vulnerabilities include inadequate encryption of location data, log insecurity, and the potential for unauthorized remote operation. In fact, a security researcher was able to access highly sensitive customer data on DJI's servers, including passport and driver's license information, photos, and flight logs from military and government workers accounts. This threatens the security and integrity of data collected by DJI-made drones and have disturbing implications for the critical infrastructure where these drones are deployed…

"It is important to say that the risks of DJI's product are not confined to possible information links to the Chinese government. The drones from the PRC have weak flight systems and unsecured communication links between the drone and the operator, enabling data such as telemetry and live video feeds to be intercepted, if not properly encrypted. Some PRC drones are also susceptible to malware infections and cyberattacks, which could be used to launch

distributed denial-of-service attacks. Obviously, cyberattacks on law enforcement agencies can have severe consequences, including disrupting operations, jeopardizing public safety, crippling essential applications, preventing law enforcement from accessing critical data and impeding first responder['s] ability to respond to emergencies…

"AB 1160 would make sure that California is aligned with the most up to date intelligence of military, privacy and cybersecurity experts.

"The average shelf life of the drones currently in use by CA law enforcement agencies is approximately in three years, so we can anticipate 100% replacement of this equipment by 2027.

"Will the prohibition of DJI drones hinder public safety? No. The federal government has already undertaken the work to vet drones for security and over a dozen approved make and models appear on a "Blue UAS Cleared List". In terms of capacity issues between U.S. and Chinese-made drones, the technological jumpstart for China has been largely mitigated in current years and that will continue, making it a non-issue for law enforcement agencies to discontinue to purchase drones banned by the U.S. military."

5) **Argument in Opposition**: According to the *Association for Uncrewed Vehicle Systems International ("AUVSI")*, "AUVSI is the world's largest nonprofit organization dedicated to the advancement of uncrewed systems, autonomy, and robotics. Our association represents corporations and leaders from more than 60 countries across industry, government, and academia in the defense, civil and commercial sectors…

"We write to express our strong opposition to AB 1160 (Wilson), as amended. We have strong concerns over allowing the use of adversary drones with software mitigations. Specifically, AB 1160 would create new and ongoing loopholes by enabling drones manufactured by Chinese military companies, as designated by the U.S. Department of Defense, to be purchased by California state and local entities. Sending Californian tax dollars to the Chinese military is a position we cannot and will not support. To put it simply, the bill is a wolf in sheep's clothing. By pretending to safeguard, the bill would provide a backdoor for our adversaries. California's law should strive to protect the state's cybersecurity and data. The language in this bill would take California backwards.

"The risks of operating foreign drones from adversarial nations and Chinese military companies are not new and are very well understood. In 2017, the U.S. military began removing these systems from their Arsenal. In 2020, Congress codified the ban on Chinese drones for the U.S. military. In 2023, Congress enacted the American Security Drone Act extending the ban to the entire federal government. Congress continued this work in 2024 and enacted language which established a year-long transitional period that will begin prohibiting Chinese military drone manufacturers from selling new products in the United States. The U.S. Congress has not provided a carve out for adversarial systems with American software or those operated in local only mode. Congress knows that such actions would not address the national security concerns.

"As the Federal Government continues to enact policies prohibiting the use of certain foreign-made drones, states that fail to comply with these regulations may find themselves ineligible for federal grants and contracts related to drone operations. These risks are, of

course, secondary to the threat of the state's data. We respectfully oppose the provisions in AB 1160 and ask you to do the same."

6) **Prior Legislation**:

a) SB 99 (Umberg), of the 2023-2024 Legislative Session, would have prohibited a local governing body from approving a military equipment use policy if it contains military equipment that federal law or regulation prohibits the United States Armed Forces from purchasing. SB 99 was held in Assembly Appropriations Committee.

b) AB 2014 (Nguyen), of the 2023-2024 Legislative Session, would have changed enforcement's duty to seek approval from the local governing body before funding, acquiring or using drones or robots to only require approval if the drone or robot were weaponized. The hearing on AB 2014 was canceled at the request of the author.

c) AB 2536 (Rendon), Chapter 408, Statutes of 2024, clarifies that the definition of "military equipment" for the purposes of existing law regarding police procurement of that equipment refers to certain devices, such as tasers and sound-based weapons, with a general description of the device rather than a specific trade name

d) AB 79 (Weber), of the 2023-2024 Legislative Session would have prohibited a peace officer from using deadly force against or intending to injure, intimidate, or disorient a person by utilizing any unmanned, remotely piloted, powered ground or flying equipment except under specified circumstances. The hearing on AB 79 was cancelled at the request of the author.

e) AB 1486 (Jones-Sawyer), of the 2023-2024 Legislative Session, would have clarified that an assault weapon is not a "standard issue service weapon" and therefore falls under the definition of "military equipment," which requires approval from the local governing body before a LEA may acquire it. AB 1486 was placed on the inactive file in the Senate.

f) AB 421 (Chiu), Chapter 406, Statutes of 2021, requires local LEAs to follow specific procedures to obtain approval from local government prior to the acquisition or use of federal surplus military equipment.

g) AB 3131 (Gloria), of the 2017 – 2018 Legislative Session, was similar to AB 421. AB 3131 was vetoed.

h) AB 36 (Campos), of the 2015 – 2016 Legislative Session, would have prohibited local agencies, except local LEAs that are directly under the control of an elected officer, from applying to receive specified surplus military equipment from the federal government, unless the legislative body of the local agency approves the acquisition at a regular meeting. AB 36 was vetoed.

i) SB 242 (Monning), Chapter 79, Statutes of 2015, requires a school district's police department to obtain approval from its governing board prior to receiving federal surplus military equipment.

REGISTERED SUPPORT / OPPOSITION:

Support

California Police Chiefs Association
Oakland Privacy

Oppose

California Chapter of Association of Uncrewed Vehicle Systems International (AUVSI)

Analysis Prepared by: 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 1187 (Celeste Rodriguez) – As Introduced February 21, 2025

As Proposed to be Amended in Committee

SUMMARY: Requires personal firearm importers to obtain a valid firearm safety certificate (FSC), makes it a misdemeanor for that personal firearm importer to bring a firearm into this state without obtaining a valid FSC within 60 days, and requires any applicant for a firearm safety certificate to complete a training course. Specifically, **this bill**:

1) Requires a personal firearms importer, within 60 days of bringing a firearm into the state, to obtain a valid FSC, as specified, and include a copy of the valid FSC within the report.

2) Makes it a misdemeanor to bring any firearm, except an antique firearm, into this state without obtaining a valid FSC within 60 days of bringing that firearm into this state if the person is required to report the importation of the firearm to the Department of Justice (DOJ), as defined.

3) Provides that it is not a misdemeanor if a person purchases, receives, sells, delivers, loans, or transfers any firearm, except an antique firearm, without a valid FSC if evidence of that violation arises only as the result of the person applying for a FSC after the expiration of the 60-day period.

4) Establishes that an applicant for a FSC shall have completed a training course that meets all of the following conditions:

    a) The training shall be no less than eight hours in length, including at least one hour of live shooting.

    b) The training shall include instruction on all of the following:

        i) Federal and state laws related to possession, transportation, and storage of firearms.

        ii) The importance of secure storage to prevent unauthorized access and use of firearms.

        iii) Safe firearm handling and fundamentals of shooting firearms.

        iv) Risks of firearms and causes of accidents.

        v) How to legally relinquish or transfer a firearm.

        vi) State laws pertaining to self-defense and techniques for conflict resolution.

vii) Mental health, suicide prevention, and domestic violence issues associated with firearms and firearm violence.

c) The training shall be taught and supervised by defined firearms instructors certified by the DOJ.

d) The live-fire shooting exercises shall take place on a firing range and shall include a demonstration by the applicant of safe handling of firearms and basic firearm shooting proficiency.

5) States that the training course requirement does not apply to certain persons, as defined.

6) Provides that the DOJ may promulgate regulations and provide additional information for the implementation of the required training course.

7) Establishes that the Dealers' Record of Sale Special Account may be used, upon appropriation by the Legislature, for any costs associated with this law's implementation and ongoing expenses.

EXISTING LAW:

1) Provides that a well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed. (U.S. Const., 2nd Amend.)

2) Requires a personal firearms importer to submit to the DOJ a report including information concerning that individual and a description of the firearm in question. (Pen. Code, § 27560, subd. (a)(1)(A).)

3) Authorizes DOJ to request photographs of the firearm to determine if the firearm is a generally prohibited weapon, assault weapon, or machinegun, or is otherwise prohibited. (Pen. Code, § 27560, subd. (a)(1)(A).)

4) Prohibits a person from furnishing a fictitious name or address, knowingly furnish any incorrect information, or knowingly omit any information required to be provided in this report. (Pen. Code, § 27560, subd. (a)(1)(A).)

5) Requires DOJ to establish a fee for submission of the personal firearms importer form and an additional fee for each additional firearm, but prohibits fee from exceeding the reasonable and actual costs of processing the form. (Pen. Code, § 27560, subd. (a)(2).)

6) States that it is a misdemeanor if a person purchases or receives any firearm, except an antique firearm, without a valid FSC, except that in the case of a handgun, an unexpired handgun safety certificate may be used. (Pen. Code, § 31615, subds. (a)(1) & (b).)

7) States that it is misdemeanor if a person sells, delivers, loans, or transfers any firearm, except an antique firearm, to any person who does not have a valid firearm safety certificate, except that in the case of a handgun, an unexpired handgun safety certificate may be used. (Pen. Code, § 31615, subds. (a)(2) & (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California has one of the lowest rates of firearm deaths in the country in part due to its preventative efforts and strong gun safety laws. AB 1187 continues to strengthen our state's common-sense firearm safety laws by ensuring that all new firearm carriers complete an 8-hour training that includes a live-fire shooting exercise so that all carriers in California are properly trained and handle a firearm safely. This bill also addresses a loophole in current law by requiring firearm carriers that move to California to obtain a firearm safety certificate within 60 days, consistent with all residents in California who purchase a firearm.

   "AB 1187 will strengthen our collective handling of firearms and encourage responsible gun ownership, while making our communities safer."

2) **Effect of the Bill:** This bill would make it a misdemeanor for a person who "brings any firearm, except an antique firearm, into this state without obtaining a valid firearm safety certificate within 60 days of bringing that firearm into this state." While the bill does include a safe harbor provision that precludes late reporting being used as evidence to prove a misdemeanor charge that "arises only as the result of the person applying for a firearm safety certificate after the expiration of the 60-day period," to subject someone to jail time for failing to report possession of a lawful good may not be proportional. It is unclear whether 60 days is even sufficient for a new resident to manage the move and to secure an FSC, inclusive of this bill's new requirements.

   A standard misdemeanor in California is punishable by imprisonment in county jail for up to six months and a fine of up to $1,000. (Pen. Code, § 19.) The punitive nature of the penalty is potentially magnified when it is considered that this law likely could only be applied to new California residents, from out-of-state, who would not be necessarily familiar with our firearms laws and who would be attempting to manage a significant life event. For comparison, other standard misdemeanors in California include drug possession (Heal. & Saf. Code, § 11350), drunk in public (Pen. Code, § 647, subd. (f)), indecent Exposure (Pen. Code, § 314), petty theft (Pen. Code, § 484), prostitution (Pen. Code, § 647, subd. (b)), shoplifting (Pen. Code, § 459.5), and some trespassing violations (Pen. Code, § 602). It is debatable whether this bill would be treating like violations alike by making a reporting violation a misdemeanor.

   The inclusion of a potential $1,000 fine is also of questionable deterrent effect. There is reliable evidence showing increased penalties generally fails to deter criminal behavior.[1] Data shows greater deterrent effects as the likelihood of being caught and the perception that

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[1] *Five Things About Deterrence* (May 2016) National Institute of Justice <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [as of Apr. 2, 2025].

one will get caught rises.[2] In contrast, the act of punishment and the length of punishment largely do not increase deterrence.[3]

Criminal fines and the collection of those fines is commonly misunderstood. Criminal fines rapidly balloon into unpayable amounts for most of the population, which create downstream economic consequences for impacted individuals and society. The judicial branch reported that $8.6 billion in fines and fees remained unpaid at the end of 2019-20.[4]

With evidence also showing that increasing criminal fines increases felony recidivism, specifically among a population that historically has faced inexplicably disproportionate punishment in the criminal justice system,[5] it remains questionable whether increasing criminal punishment, as this bill does, would produce the desired impact.

3) **Firearm Safety Certificates (FSC) vs. Concealed Carry Weapons (CCW) Permits:** This bill would require new residents to report bringing in firearms to California DOJ with a copy of their FSC. This bill would also significantly expand the training requirements needed to acquire an FSC.

FSC's are required for many actions a person undertakes as part of firearm ownership in California. This includes, among other acts, purchase, transport, and loans.[6] The current requirement to obtain an FSC in California involves scoring 75% or greater on a 25-question multiple choice exam issued by a DOJ-certified instructor.[7] This bill would expand that requirement to eight hours of in person instruction, with numerous defined areas of instruction, and one hour of live fire shooting. The defined areas of instruction under this bill are: federal and state laws related to possession, transportation, and storage of firearms; the importance of secure storage to prevent unauthorized access and use of firearms; safe firearm handling and fundamentals of shooting firearms; risks of firearms and causes of accidents; how to legally relinquish or transfer a firearm; state laws pertaining to self-defense and techniques for conflict resolution; and mental health, suicide prevention, and domestic violence issues associated with firearms and firearm violence.

An FSC is valid for five years from the date of issuance.[8] The stated intent of the California Legislature in enacting the current FSC law is for persons who obtain firearms to have a basic familiarity with those firearms, including, but not limited to, the safe handling and storage of those firearms.[9] A firearms dealer cannot deliver a firearm unless the person receiving the firearm presents a valid FSC, which can be obtained by passing a test on

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[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] *Overview of Criminal Fine and Fee System,* Legislative Analyst's Office (May 13, 2021) <https://lao.ca.gov/Publications/Detail/4427> [as of Apr. 2, 2025].
[6] *Firearm Safety Certificate Program Frequently Asked Questions*, California Department of Justice < https://oag.ca.gov/firearms/fscfaqs> [as of Apr. 2, 2025].
[7] Firearms Safety Certificate Study Guide, California Department of Justice (June 2020) <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/hscsg.pdf > [as of Apr. 2 , 2025].
[8] *Ibid.*
[9] *Firearm Safety Certificate Manual for Firearms Dealers and DOJ Certified Instructors,* California Department of Justice (June 2020) < https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/hscman.pdf > [as of Apr. 2, 2025].

firearm safety.[10] Prior to taking delivery of a firearm from a licensed firearms dealer, the purchaser/recipient must also successfully perform a safe handling demonstration with that firearm.[11]

Compare this bill's requirements to our state's requirements to acquire a concealed carry weapons permit, which generally allows licensees to publicly carry a loaded firearm in non-prohibited places. To get a CCW license, which is valid for two years, new license applicants must complete a training course that meets all of the following minimum criteria: the course shall be no less than 16 hours in length, the course shall include instruction on firearm safety, firearm handling, shooting technique, safe storage, legal methods to transport firearms and securing firearms in vehicles, laws governing where permit holders may carry firearms, laws regarding the permissible use of a firearm, and laws regarding the permissible use of lethal force in self-defense. The course shall also include a component, no less than one hour in length, on mental health and mental health resources, shall be taught and supervised by firearms instructors certified by the DOJ, shall require students to pass a written examination to demonstrate their understanding of the covered topics; and the course shall include live-fire shooting exercises on a firing range and shall include a demonstration by the applicant of safe handling of, and shooting proficiency with, each firearm that the applicant is applying to be licensed to carry. (Pen. Code, § 26165, subd. (a)(1)-(6).) CCW *renewal* applicants, however, must complete only an eight-hour course, inclusive of most of the new licensee criteria. (Pen. Code, § 26165, subd. (e.)

While the requirements for obtaining an FSC and CCW are distinct for initial applicants, this bill could result in requiring more live fire training from an FSC applicant than from a CCW renewal applicant. For example, while this bill would require one hour of live fire training, the City of West Sacramento requires scoring 80% in a shooting demonstration.[12] The training required to acquire an FSC under this bill would include comparable training requirements as those for a CCW renewal.

4) **Constitutional Analysis:** 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.*)

This bill requires reporting from any unexempted personal firearm importer bringing a firearm into the state. The bill also does not on its face appear unduly burdensome. A single reporting requirement does not seem to be overly burdensome in contravention of *Bruen*'s advisement. (See *Bruen, supra,* at fn. 9.) Yet, even without specific examples, the national historical tradition for regulating purchases and ownership of a firearm is likely not as robust

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[10] *Ibid.*
[11] *Ibid.*
[12] *California Concealed Carry Weapon Requirements*, City of West Sacramento <https://www.cityofwestsacramento.org/government/departments/police/ca-ccw-requirements> [as of Apr. 2, 2025].

or comparatively burdened as the historical tradition regulating carrying in public. Historical evidence of surety laws, which burdened the right to public carry. Establishing relevantly similar historical examples to justify the former is likely more difficult than for the latter. Therefore, were we to create two equally burdensome schemes gives at least a somewhat greater probability of the scheme with the less robust tradition being found unconstitutional.

It does not appear that AB 1187's new FSC scheme is nearly as burdensome as acquiring an initial CCW license, anyway, but these constitutional boundaries are not precisely fixed. As a result, while this bill is more likely than not constitutional, whether this bill would violate the Second Amendment post-*Bruen* is unclear.

5) **Additional Considerations:** There has been some concern expressed over whether this bill would require out-of-state hunters coming to visit California to hunt to get an FSC. As currently constructed, this bill appears to exempt out of state hunters from its provisions, since under this bill there would be no requirement to report bringing the firearm into California and there would no requirement to get an FSC, assuming two things: 1) the Section 17000 personal firearms importer definition applies to the bill, and 2) the out of state hunters have a hunting license.

   If AB 1187 uses the Section 17000 definition of personal firearms importer, then presumably out of state hunters would not be considered personal firearms importers because they are not coming into California to establish residency. The out of state hunters are not likely to be considered to be establishing residency because they do not fit the definition of coming into California for the purposes of the state being their "state of domicile" under Vehicle Code section 12505. Because they are not residents or expected residents, they likely could not be defined as personal firearms importers as a result of not fitting all of the criteria under the law for being a personal firearms importer. Because they are not likely personal firearms importers they would not be subject to AB 1187's FSC provisions, as currently written.

   Additionally, this bill provides that it does not apply to persons "properly identified" pursuant to Section 31700. Section 31700(c) states that "a person, 18 years of age or older, validly identified, who has been issued a valid hunting license that is unexpired is exempt from the firearm safety certificate requirement, except as to handguns." Since out of state hunters likely could be properly identified under Section 31700 (and assuming, of course, they have their hunting license), then they would be exempt from the FSC requirement for bringing firearms into California. Since they would not be required to submit a report to DOJ, they likewise would not need to either adhere to the bill's reporting requirement or secure an FSC.

6) **Committee Amendments:** The amendments to this bill would carve out the misdemeanor penalty as applied to those who do not meet the reporting requirement, clarify that the Penal Code Section 17000 definition of personal firearms importer is the definition applied in this bill, and makes technical, clarifying changes to other language in the bill.

7) **Argument in Support**: According to the *California District Attorneys Association (CDAA)*, "On behalf of the California District Attorneys Association (CDAA), I am writing in support of your measure, AB 1187, which seeks to ensure the safe handling of firearms by requiring that personal firearm importers and those who bring firearms into the state obtain a valid firearm safety certificate and by also requiring that an applicant for a firearm safety

certificate on or after July 1, 2027 complete a training no less than eight hours in length that includes amongst other things, instruction on firearm safety and handling and live-fire shooting exercises on a firing range. This law aligns with existing law requiring those purchasing or receiving a firearm to possess a firearm safety certificate and is aimed at ensuring public safety through these measures. For these reasons, we strongly support AB 1187."

8) **Argument in Opposition**: According to the *California Rifle and Pistol Association (CRPA)*, "AB1187 as written is demonstrative of an Author not understanding the process that exists in California to purchase a firearm or transfer ownership. Currently the law guides the purchaser to take a Firearms Safety Certificate test based on the June 2020 California Department of Justice (CADOJ) Firearms Safety Certificate (FSC) Study Guide. The CADOJ requires extensive firearms knowledge and Federal Firearms License Dealers that administer the test provide information on Suicide prevention, safe firearms storage laws, provide demonstrations already in the status quo.

"The individual under this law would be required to take an 8-hour course and a 1-hour live fire course prior to receiving their FSC as an applicant. It is against the law to obtain a firearm without an FSC. The author is creating a scenario where a first-time purchaser will be unable to complete the firearms range training due to the lack of a firearm.

"The FSC is not a license it is proof of passing a CADOJ test required to purchase, transfer, or receive a firearm. The legislature is signaling out a constitutional right to intimidate firearms ownership through warnings that are already being delivered. The Author asserts it's to save lives. The question then must be asked why is the legislature not demanding every citizen get trained about the risks of medical malpractice which take more than ten times the lives of Californians?"

9) **Related Legislation**:

a) SB 15 (Blakespear), would authorize the DOJ 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. SB 15 is set to be heard in the Senate Appropriations Committee.

b) SB 248 (Rubio), would require the DOJ to mail to any person who notifies the department of a firearm transaction a letter that includes certain information relevant to firearm ownership, such as information on how to legally transfer or relinquish a firearm and resources regarding gun violence restraining orders, among others. SB 248 is set to be heard in the Senate Appropriations Committee.

c) AB 1092 (Castillo), would extend the concealed carry weapon license window from two to four years, beginning on January 1, 2027. AB 1092 failed passage in the Assembly Public Safety Committee.

d) AB 1006 (Ramos), would include additional specified acts that would deem an applicant as a disqualified person, including providing any inaccurate or incomplete information in connection with the application or, in the 10 years prior to the licensing authority

receiving the completed application for a new license or a license renewal, the applicant has been charged with certain offenses. AB 1006 is set to be heard today in the Assembly Public Safety Committee.

10) **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) 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 DOJ, on or before February 1, 2026, to develop and implement a training course, as specified, including a testing certification component.

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 1420 (Berman), Chapter 245, Statutes of 2023, authorizes the DOJ to conduct inspections and assess a fine for any violation of provisions relating to regulation of specified licenses and for violations of specified provisions regulating the sale of secondhand firearms.

e) SB 1253 (Gonzales), of the 2023-2024 Legislative Session, would have prohibited bringing any firearm, except an antique firearm, into this state as a personal firearm importer, as defined, without obtaining a valid firearm safety certificate within 120 days of bringing that firearm into this state.

REGISTERED SUPPORT / OPPOSITION:

Support

Brady California
Brady Campaign
Building Opportunities for Self-sufficiency
California District Attorneys Association
California Emergency Nurses Association
California Medical Association (CMA)
Consumer Protection Policy Center/usd School of Law
Griffin Dix, Brady Oakland/alameda Chapter
Neveragainca
San Diegans for Gun Violence Prevention
Wave

Oppose

California Rifle and Pistol Association, INC.
Delta Waterfowl
Gun Owners of California, INC.
National Rifle Association - Institute for Legislative Action

2 private individuals

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

Amended Mock-up for 2025-2026 AB-1187 (Celeste Rodriguez (A))

Mock-up based on Version Number 99 - Introduced 2/21/25
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 27560 of the Penal Code is amended to read:

27560. (a) (1) Within 60 days after bringing any firearm into this state, a personal firearm importer, ***as defined in Section 17000,*** shall do one of the following:

(A) Submit to the Department of Justice, in a form and manner prescribed by the department, a report including information concerning that individual and a description of the firearm in question. The department may request photographs of the firearm to determine if the firearm is a generally prohibited weapon, assault weapon, or machinegun, or is otherwise prohibited. A person shall not furnish a fictitious name or address, knowingly furnish any incorrect information, or knowingly omit any information required to be provided in this report. A personal firearm importer shall obtain a valid firearm safety certificate, pursuant to paragraph (3) of subdivision (a) of Section 31615, and include a copy of the valid firearm safety certificate within the report.

(B) Sell or transfer the firearm in accordance with the provisions of Section 27545 or in accordance with the provisions of an exemption from Section 27545.

(C) Sell or transfer the firearm to a dealer licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(D) Sell or transfer the firearm to a sheriff or police department.

(2) The department shall establish a fee for submission of the form described in subparagraph (A) of paragraph (1) and an additional fee for each additional firearm. This fee shall not exceed the reasonable and actual costs of processing the form submitted pursuant to that paragraph. The department may annually review and adjust this fee to fully fund, but not exceed, these costs.

(3) Upon receipt of the report submitted pursuant to subparagraph (A) of paragraph (1) and the required fee, the department shall examine its records, as well as those records that it is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare and Institutions Code, and records available to the department in the National Instant Criminal

Background Check System, to determine if the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) If all of the following requirements are satisfied, the personal firearm importer shall have complied with the provisions of this section:

(1) The personal firearm importer sells or transfers the firearm pursuant to Section 27545.

(2) The sale or transfer cannot be completed by the dealer to the purchaser or transferee.

(3) The firearm can be returned to the personal firearm importer.

(c) (1) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law.

(2) However, an act or omission punishable in different ways by this article and different provisions of the Penal Code shall not be punished under more than one provision.

(d) The department shall conduct a public education and notification program regarding this section to ensure a high degree of publicity of the provisions of this section.

(e) As part of the public education and notification program described in this section, the department shall do all of the following:

(1) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this section is advised of the provisions of this section, and provided with blank copies of the report described in subparagraph (A) of paragraph (1) of subdivision (a), at the time when that person applies for a California driver's license or registers a motor vehicle in accordance with the Vehicle Code.

(2) Make the reports referred to in subparagraph (A) of paragraph (1) of subdivision (a) available to dealers licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(3) Make the reports referred to in subparagraph (A) of paragraph (1) of subdivision (a) available to law enforcement agencies.

(4) Make persons subject to the provisions of this section aware of all of the following:

(A) The report referred to in subparagraph (A) of paragraph (1) of subdivision (a) may be completed at either a law enforcement agency or the licensed premises of a dealer licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(B) It is advisable to do so for the sake of accuracy and completeness of the report.

(C) Before transporting a firearm to a law enforcement agency to comply with subdivision (a), the person should give notice to the law enforcement agency that the person is doing so.

(D) In any event, the handgun should be transported unloaded and in a locked container and a firearm that is not a handgun should be transported unloaded.

(f) Any costs incurred by the department to implement this section shall be absorbed by the department within its existing budget and the fees in the Dealers' Record of Sale Special Account allocated for implementation of subdivisions (d) and (e) of this section pursuant to Section 28235.

SEC. 2. Section 31615 of the Penal Code is amended to read:

31615. (a) A person shall not do ***any*** ~~either~~ of the following:

(1) Purchase or receive any firearm, except an antique firearm, without a valid firearm safety certificate, except that in the case of a handgun, an unexpired handgun safety certificate may be used.

(2) Sell, deliver, loan, or transfer any firearm, except an antique firearm, to any person who does not have a valid firearm safety certificate, except that in the case of a handgun, an unexpired handgun safety certificate may be used.

(3) Bring any firearm, except an antique firearm, into this state without obtaining a valid firearm safety certificate within 60 days of bringing that firearm into this state if the person is required to report the importation of the firearm to the department pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 27560.

(b) Any person who violates subdivision (a)***(1) or (a)(2)*** is guilty of a misdemeanor.

(c) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of this code shall not be punished under more than one provision.

(d) Paragraph (3) of subdivision (a) shall not apply to a person if evidence of that violation arises only as the result of the person applying for a firearm safety certificate after the expiration of the 60-day period in paragraph (3) of subdivision (a).

SEC. 3. Section 31640.5 is added to the Penal Code, to read:

31640.5. (a) An applicant for a firearm safety certificate on or after July 1, 2027, shall have completed a training course that meets all of the following conditions:

(1) The training shall be no less than eight hours in length, including at least one hour of live shooting.

(2) The training shall include instruction on all of the following:

(A) Federal and state laws related to possession, transportation, and storage of firearms.

(B) The importance of secure storage to prevent unauthorized access and use of firearms.

(C) Safe firearm handling and fundamentals of shooting firearms.

(D) Risks of firearms and causes of accidents.

(E) How to legally relinquish or transfer a firearm.

(F) State laws pertaining to self-defense and techniques for conflict resolution.

(G) Mental health, suicide prevention, and domestic violence issues associated with firearms and firearm violence.

(3) The training shall be taught and supervised by firearms instructors certified by the Department of Justice pursuant to Section 31635 and in a manner to be prescribed by regulation.

(4) The live-fire shooting exercises shall take place on a firing range and shall include a demonstration by the applicant of safe handling of firearms and basic firearm shooting proficiency.

(b) This subdivision does not apply to persons properly identified pursuant to Section 31700.

(c) The Department of Justice may promulgate regulations and provide additional information for the implementation of this subdivision.

(d) The Dealers' Record of Sale Special Account may be used, upon appropriation by the Legislature, for any costs associated with this law's implementation and ongoing expenses.

SEC. 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
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1195 (Quirk-Silva) – As Introduced February 21, 2025

SUMMARY: Requires, if the court has ordered reunification services, an incarcerated parent to be entitled to regularly scheduled, in-person visitation in county jail, except as provided. Specifically, **this bill**:

1) States that if the parent of the child is incarcerated in a county jail and the court has ordered reasonable services to the parent, he incarcerated parent is entitled to regularly scheduled, in-person visitation and that the county jail shall ensure that the incarcerated parent is made available to attend those regularly scheduled, in-person visits with their dependent child, unless:

    a) It is not feasible for regularly scheduled, in-person visitation to take place due to logistical or safety concerns at the county jail, that the county jail shall facilitate the incarcerated parents participation in regularly scheduled visitation using videoconferencing technology or telephonic communication.

    b) The court finds by clear and convincing evidence that in-person visitation between the dependent child and the incarcerated parent would be detrimental to the child's well-being, based on factors that are currently required to be considered when determining whether reasonable reunification services should be ordered.

2) States that if it is not feasible for regularly scheduled, in-person visitation to place due to logistical or safety concerns at the county jail, the county jail shall facilitate the incarcerated parent's participation in regularly scheduled visitation using videoconferencing technology or telephonic communication.

3) Requires the child welfare agency to coordinate with the county jail to ensure that the visitation schedule between the incarcerated parent and the dependent child is maintained and that, to the extent possible, there are no logistical barriers preventing incarcerated parents from participating in regularly scheduled visitation.

4) Requires the child welfare agency and county jail to document all scheduled visits, including, but not limited to, any cancellations of, or delays in, regularly scheduled visitation, and include a written explanation for any missed visits. This documentation shall be submitted to the court at each hearing in the dependency action.

5) Requires the child welfare agency to ensure the incarcerated parent is notified of their visitation rights, including instructions on how to request visitation, and how to participate in dependency proceedings, in writing, at the commencement of the dependency proceeding, or at the time of their detention, whichever occurs first.

6) Authorizes community-based organizations with licensed visitation monitors to facilitate scheduled visits between an incarcerated parent and the dependent child.

7) Includes Legislative findings and declarations that:

   a) Maintaining the parent-child relationship while a parent is incarcerated reduces emotional trauma for children, improves family reunification outcomes, and decreases recidivism rates;

   b) Maintaining family bonds is a critical component of the reunification process and the overall well-being of children in the foster care system;

   c) It is, therefore, the intent of the Legislature in enacting this act, to remove barriers that prevent incarcerated parents from participating in their dependent children's lives and ensures that county jails and child welfare agencies prioritize family connections.

EXISTING LAW:

1) Provides that if a parent or guardian is incarcerated, the court shall order reasonable reunification services unless the court determines by clear and convincing evidence that those services would be detrimental to the child. (Welf. & Inst. Code, § 361.5, subd. (e)(1).)

2) Provides that in determining detriment, the court shall consider the age of the child, the degree of parent-child boding, the length of the sentence, the length and nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, the likelihood of the parent's discharge from incarceration, institutionalization, or detention within the reunification time limitations, and any other appropriate factors. (*Ibid.*)

3) States that in determining the content of reasonable services, the court shall consider the particular barriers to an incarcerated parent's access to those court-mandated services and ability to maintain contact with the child, and shall document this information in the child's case plan. (*Ibid.*)

4) States that reasonable reunification services for an incarcerated parent and their child may include, but shall not be limited to, all of the following:

   a) Maintaining contact between the parent and child through collect telephone calls;

   b) Transportation services, when appropriate;

   c) Visitation services, when appropriate; and,

   d) Reasonable services to extended family members or foster parents or required counseling, parenting or vacating training classes for the incarcerated parent. (*Ibid.*)

5) States that in order to maintain the ties between the parent or guardian and any siblings and the child, and to provide information relevant to deciding if, and when, to return a child to the

custody of their parent or guardian, or to encourage or suspend sibling interaction, any order placing a child in foster care and ordering reunification services, shall provide as follows:

a) Subject to safety of this child, visitation between parent or guardian and the child being as frequent as possible, consistent with the well-being of the child;

b) No visitation order shall jeopardize the safety of the child. To protect the safety of the child, the court may keep the child's address confidential.

c) Visitation between the child and any siblings, unless the court finds by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of either child; and,

d) If the child is a teen parent who has custody of their child and that child is not a dependent of the court, visitation among the teen parent, the child's noncustodial parent, and appropriate family members, unless the court finds by clear and convincing evidence that visitation would be detrimental to the teen parent. (Welf. & Inst. Code, § 362.1, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "When a parent is incarcerated, a child should not be punished with separation. California law recognizes the importance of the parent-child bond, but too often bureaucratic obstacles and a lack of coordination prevent meaningful visitation. AB 1195 ensures that county jails and child welfare agencies uphold the rights of incarcerated parents by requiring regular, in-person visits, unless a court finds, with clear and convincing evidence, that it would harm the child. This bill is about stability, reunification, and breaking the cycles of trauma so that children are not left to bear the weight of a system that was never designed with them in mind."

2) **Reunification Services**: When it is necessary for a child to be removed from the home of their parent or guardian, the primary objective of the child welfare system is to safely reunify the child with those caregivers. To support this objective, in most cases the juvenile court orders reunification services, such as counseling for the family and parenting classes and drug or alcohol treatment for the child's parents. If the child is under the age of three, these reunification services are only offered for a period of six months. If the child is over the age of three, the services are offered for twelve months. In some circumstances, the time period for reunification services can be extended up to 24 months.

   During dependency proceedings, a court must hold periodical review hearings at least every six months, including at six and 12 months after the dispositional hearing. (Section 366.21(e)(1).) At each hearing, except for the permanency and permanency review hearings, the court must find by clear and convincing evidence that the parent was adequately provided reunification services. At a permanency hearing, a judge must find, also by clear and convincing evidence, that reunification services were provided. (Section 366.26.)

Reunification services must be provided to most parents. In a number of exceptional cases, however, reunification services "need not" be provided if the court finds, by clear and convincing evidence, that one of the following specified conditions exist:

a) The parent is suffering from a mental disability that renders the parent incapable of using the reunification services;
b) The parent has caused the death of another child through abuse or neglect;
c) The child or a sibling has been adjudicated a dependent as the result of several physical or sexual abuse;
d) The parent has been convicted of a violent felony; or
e) The parent has a history of drug or alcohol abuse and has failed to comply with treatment programs as provided. (Welf. & Inst. Code, Section 361.5, subd. (b).)

This bill requires, when reunification services have been ordered for an incarcerated parent in county jail, the county jail to ensure the incarcerated parent is made available to attend those regularly scheduled, in-person visits with their child, unless the court finds by clear and convincing evidence that in-person visitation would be detrimental to the child's well-being, or it is not feasible due to logistical or safety concerns at the jail. If the latter applies, the bill requires the county jail to facilitate the incarcerated parents' participation in regularly scheduled visitation using videoconferencing technology or telephonic communication.

Some jails may not have space for in-person visits, thus the bill recognizes that visits may have to occur remotely when there is a logistical or safety reason the in-person visit cannot occur.

This bill requires the county child welfare agency to coordinate with the county jail to ensure that scheduled visitation is maintained and that there are no logistical barriers to participation in the visits, to the extent possible. This bill also requires the child welfare agency and county jail to document all scheduled visits, including information of any delays or cancellations with written explanations for any missed visits. This information shall be submitted to the court at each hearing in the dependency action.

This bill also requires the county welfare agency to provide information to the incarcerated parent of their visitation rights as well as other relevant information. This bill states that a community-based organization with licensed visitation monitors may facilitate scheduled visits between an incarcerated parent and dependent child.

This bill is double referred with the Assembly Committee on Human Services. The additional duties placed on county welfare agencies by this bill will be analyzed in that committee who has jurisdiction over these agencies.

3) **Impact on Children Affected by an Incarcerated Parent**: According to additional background information provided by the author,[1] "Parental incarceration is identified as an adverse childhood experience, along with other events such as parental death, divorce, or experiencing or witnessing violence. The negative effects of parental incarceration are

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[1] *Child Welfare Practice with Families Affected by Parental Incarceration*, U.S. Dept. of Health and Human Services, Children's Bureau(Jan. 2021), pgs. 4-5.)

typically felt by children throughout the process—from arrest through reentry. Children who are exposed to a parent's criminal activities, as well as those who witness the arrest or are questioned by prosecutors, may experience additional trauma (Peterson et al., 2015; Poehlmann- Tynan et al., 2017).

"While a parent is incarcerated, a child may experience a range of emotions, including sadness; shame; isolation; concern for the parent's well-being; and anger toward the parent, the caregiver, or the system (Corinne Wolfe Children's Law Center et al., 2011). Parental incarceration may also have long-term impacts on child well-being outcomes, including higher risk for learning disabilities and developmental delays (Turney, 2014), antisocial behaviors (Murray et al., 2012), and problems with school performance and engagement (Murphey & Cooper, 2015). Children's reactions to parental incarceration may vary, which makes it critical for caseworkers to consider each individual experience when delivering services and supports. For example, older children may have the cognitive capacity to understand and handle contact with incarcerated parents, whereas a younger child may not have that capacity and require more gatekeeping and supervision from their caregivers (Shlafer & Poehlmann, 2010). However, although many studies show an association between parental incarceration and a host of negative outcomes for children, there is the possibility that these issues may be caused by risk factors predating their parents' incarceration, such as poverty, parental substance use, witnessing domestic violence, and parental mental health issues (Johnson & Easterling, 2012; Wildeman & Turney, 2014).

"A child's negative reactions to parental incarceration can be buffered by protective factors, including the personal characteristics and temperament of the child, the quality of his or her home environment, caregiver support following the incarceration, and frequent and meaningful opportunities to have contact with the incarcerated parent (Hairston, 2009)."

4) **Argument in Support**: According to Families Inspiring Reentry & Reunification 4 Everyone, the sponsor of this bill, "When children are denied meaningful contact with their parents, they often experience emotional distress, behavioral challenges, and long-term instability. Research has consistently shown that children who have regular face-to-face interactions with their incarcerated parents experience less emotional trauma, improved mental health outcomes, and a stronger sense of security despite the challenges of separation.

"Additionally, parents who maintain consistent contact with their children during incarceration are more likely to successfully reintegrate into society, less likely to reoffend, and better prepared to resume their parental responsibilities upon release. Family visitation is not just a compassionate policy—it is a proven public safety strategy that supports successful reentry and reduces recidivism.

"Despite the well-documented benefits of parent-child visitation, many county jails lack clear policies or sufficient infrastructure to facilitate in-person, contact visitation. As a result, incarcerated parents and their children face inconsistent and often inadequate opportunities to connect.

"In some cases, visits are limited to video calls or conducted behind a glass partition, which prevents the physical interaction that is essential for bonding. These barriers further strain already fragile relationships, making reunification more difficult and increasing the likelihood of negative social and emotional outcomes for children.

"AB 1195 directly addresses these challenges by:

- Guaranteeing regularly scheduled, in-person visitation between incarcerated parents and their children, unless a court determines such visits would be detrimental to the child's well-being.

- Requiring county jails to facilitate visits and, when in-person visitation is not feasible due to logistical or safety concerns, provide alternative methods such as videoconferencing to ensure continued contact.

- Mandating child welfare agencies and county jails to document and report all visitations, including any cancellations or delays, ensuring accountability and transparency in the visitation process."

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

6) **Related Legislation**: AB 1201 (Jackson) would, in order for the court to refuse to provide reunification services in the case of a violent felony conviction, as described above, require the court to also find that, based on a prescribed individualized assessment, the violent felony for which the parent or guardian was convicted involved harm to the child or the parent or guardian poses a current and documented risk to the safety of the child. AB 1201 is pending hearing by the Assembly Committee on human Services.

7) **Prior Legislation**:

   a) AB 1226 (Haney), Chapter 98, Statutes of 2023, requires the California Department of Corrections and Rehabilitation to assign or reassign an incarcerated person in the correctional institution or facility that is located nearest to the primary place of residence of the person's child.

   b) AB 958 (Santiago), of the 2023-2024 Legislative Session, would have established personal visits for incarcerated persons as a civil right. AB 958 was held in the Senate Appropriations Committee's suspense file.

   c) SB 1008 (Becker), Chapter 827, Statutes of 2022, requires CDCR to provide voice communication services to incarcerated persons free of charge.

   d) AB 964 (Medina), of the 2019-2020 Legislative Session, would have required all local detention facilities to offer in-person visitation. AB 964 was held on the Assembly Appropriations suspense file.

   e) SB 843 (Committee on Budget), Chapter 33, Statutes of 2016, barred prohibiting incarcerated persons from family visits based solely on the fact that the incarcerated person is sentenced to life without the possibility of parole or is sentenced to life and is without a parole date.

   f) SCR 20, Chapter 88, Statutes of 2009, encouraged correctional facilities to distribute the Children of Incarcerated Parents Bill of Rights to children of incarcerated parents, and to

use the bill of rights as a framework for analysis and determination of procedures when making decisions about services for these children.

g) AB 2133 (Goldberg), Chapter 238, Statutes of 2002, required that any amendments to regulations adopted by CDCR which may impact the visitation of incarcerated persons recognize and consider the value of visitation as a means of increasing safety in prisons, maintaining family and community connections, and preparing inmates for successful release and rehabilitation.

REGISTERED SUPPORT / OPPOSITION:

Support

Families Inspiring Reentry & Reunification 4 Everyone (FIR4E) (co-sponsor)
All of Us or None (co-sponsor)
A New Way of Life Re-entry Project
ACLU California Action
All of Us or None Orange County
Alliance for Children's Rights
American Academy of Pediatrics, California
California Public Defenders Association (CPDA)
Communities United for Restorative Youth Justice (CURYJ)
Ella Baker Center for Human Rights
If/when/how: Lawyering for Reproductive Justice
Initiate Justice
Initiate Justice Action
Jesse's Place Org
Legal Services for Prisoners With Children
Public Counsel
Smart Justice California, a Project of Tides Advocacy
Starting Over INC.
The Purpose of Recovery INC

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 1210 (Lackey) – As Amended April 1, 2025

SUMMARY: Increases the notice required by California Department of Corrections and Rehabilitation (CDCR) to a county probation department prior to the discharge of a person on postrelease community supervision (PRCS) from 30 days to no later than 165 days. Specifically, **this bill**:

1) Requires CDCR, no later than 165 days prior to the discharge date for a person subject to PRCS, to provide the county probation department written and verbal notification of the scheduled release date of the person and of all information that would otherwise be required for parolees, as specified.

2) Requires CDCR, if a discharge date is set or reset for fewer than 165 days after the date that the discharge date is set or reset, to provide the information described above to the county probation department no later than five business days after the date the discharge date is set or reset, but not later than 30 days before the discharge date of the person.

3) Requires CDCR to notify the county probation department of the name and contact information of the prerelease care manager, postrelease care manager, and enhanced care manager for the person being released to ensure California Advancing and Innovating Medi-Cal (CalAIM) processes are integrated with local reentry service delivery and court-ordered conditions.

4) Requires CDCR, if a county probation department identifies, prior to the release of a person, that the person's current county of residence may be different than the county of the person's last legal residence, to coordinate with the county probation department to determine the person's current county of residence and to develop coordinated plans for the release and transport of the released person to the person's current county of residence.

EXISTING LAW:

1) Provides that a person released from prison shall, upon release from prison and for a period up to three years immediately following release, be subject to PRCS by the county probation department in the county to which the person is released. (Pen. Code, § 3451, subd. (a).)

2) Provides that persons convicted of the following crimes are not eligible for PRCS:

   a) A "serious" or "violent" felony, as defined;

   b) A crime for which the person suffered an increased sentence for having two or more prior "serious" or "violent" felony convictions, as specified;

c) A crime for which the person is classified as a high-risk sex offender; or,

d) A crime for which the person is required, as a condition of parole, to undergo treatment by the State Department of State Hospitals (DSH), as specified. (Pen. Code, § 3451, subd. (b)(1)-(5).)

3) Requires PRCS to be implemented by the county probation department according to a postrelease strategy designated by each county's board of supervisors. (Pen. Code, § 3451, subd. (c)(1).)

4) Requires CDCR to inform every prisoner released from state prison and subject to PRCS of PCRS requirements and their responsibility to report to the county probation department. (Pen. Code, § 3451, subd. (c)(2).)

5) Requires CDCR or the county probation department to also inform a person serving a term of parole or PRCS for a felony offense, as specified, of their responsibility to report to the county probation department. (Pen. Code, § 3451, subd. (c)(2).)

6) Requires CDCR, 30 days prior to the release of a person subject to PRCS, to notify the county of all information that would otherwise be required for parolees, as specified. (Pen. Code, § 3451, subd. (c)(2).)

7) Requires a person released to PRCS, regardless of any subsequent determination that the person should have been released to parole, as specified, to remain subject to PRCS after having served 60 days under PRCS. (Pen. Code, § 3451, subd. (c)(3).)

8) Requires CDCR to release the following information to local law enforcement agencies regarding a paroled person or a person placed on PRCS who is released in their jurisdiction:

a) Last, first, and middle names.

b) Birth date.

c) Sex, race, height, weight, and hair and eye color.

d) Date of parole or placement on postrelease community supervision and discharge.

e) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

f) California Criminal Information Number, FBI number, social security number, and driver's license number.

g) County of commitment.

h) A description of scars, marks, and tattoos on the inmate.

i) Offense or offenses for which the inmate was convicted that resulted in parole or postrelease community supervision in this instance.

j) Address, including all of the following information:

i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

ii) City and ZIP Code.

iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.

k) Contact officer and unit, including all of the following information:

i) Name and telephone number of each contact officer.

ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.

l) A digitized image of the photograph and at least a single digit fingerprint of the parolee.

m) A geographic coordinate for the inmate's residence location for use with a Geographical Information System (GIS) or comparable computer program. (Pen. Code, § 3003, subd. (e)(1)(A)-(M).)

9) Provides that the above information shall come from the statewide parolee database. (Pen. Code, § 3003, subd. (e)(3).)

10) Requires CDCR, unless the information is unavailable, to electronically transmit to the county agency the incarcerated person's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the county to consider as the offender transitions onto PRCS for the purpose of identifying the medical and mental health needs of the individual. (Pen. Code, § 3003, subd. (e)(2).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Probation departments recognize the importance of early, timely, and robust reentry planning prior to release. Currently, statute requires CDCR to provide to county probation departments information on a person that will be released to PRCS 30 days prior to release. However, there are current agreements for CDCR to provide this information no less than 165 days. This bill would codify this timeline for the sharing of information from CDCR to probation departments to ensure that county probation can plan, prepare and coordinate reentry services prior to release."

2) **Postrelease Community Supervision**: AB 109 (Committee on Budget), Chapter 15, Statutes of 2011, enacted Criminal Justice Realignment which, among other things, limited which

felons could be sent to state prison, required that more felons serve their sentences in county jails, and affected parole supervision after release from custody. The purposes of Criminal Justice Realignment include reducing recidivism by facilitating the reintegration of low-level offenders into society and managing incarcerated person more cost-effectively. (See Pen. Code, § 17.5, subd. (a)(5).)

Although not stated in the legislation, one of the main underlying reasons for realignment was concerns for prison overcrowding. In November 2006, plaintiffs in two class action lawsuits— *Plata v. Brown* (involving CDCR medical care) and *Coleman v. Brown* (involving CDCR mental health care)— filed motions for the courts to convene a three-judge panel pursuant to the federal Prison Litigation Reform Act. The plaintiffs argued that persistent overcrowding in the state's prison system was preventing CDCR from delivering constitutionally adequate health care to incarcerated persons. The three-judge panel declared that overcrowding in the state's prison system was the primary reason that CDCR was unable to provide incarcerated persons with constitutionally adequate health care. In January 2010, the three-judge panel issued its final ruling ordering the State of California to reduce its prison population by approximately 50,000 individuals in the next two years. (*Coleman/Plata vs. Schwarzenegger* (2010) No. Civ S-90-0520 LKK JFM P/NO. C01-1351 THE.)

The United States Supreme Court upheld the decision of the three-judge panel, declaring that "without a reduction in overcrowding, there will be no efficacious remedy for the unconstitutional care of the sick and mentally ill" persons in California's prisons. (*Brown v. Plata* (2011) 131 S.Ct. 1910, 1939.) Without changes to how the prison population was managed, the court decisions could have led to arbitrary release of tens of thousands of people in prison.

Prior to realignment, individuals released from prison were placed on parole and supervised in the community by parole agents of CDCR. If it was alleged that a parolee had violated a condition of parole, they would have a revocation proceeding before the Board of Parole Hearings (BPH). If parole was revoked, the offender would be returned to state prison for violating parole.

Realignment shifted the supervision of some individuals released from prison from CDCR parole agents to local probation departments. Parole under the jurisdiction of CDCR for persons released from prison is limited to those defendants whose term was for a serious or violent felony; were serving a Three-Strikes sentence; are classified as high-risk sex offenders; who are required to undergo treatment as mentally disordered offenders; or who, while on parole, commit new offenses. (Pen. Code, §§ 3000.08, subds. (a) & (c), and 3451, subd. (b).) All other individuals released from prison are subject to up to three years of PRCS under local supervision. (Pen. Code, §§ 3000.08, subd. (b), and 3451, subd. (a).)

Additionally, realignment changed the process for revocation hearings. As of July 1, 2013, the trial courts assumed responsibility for holding all revocation hearings for those individuals who remain under the jurisdiction of CDCR. Moreover, intermediate sanctions, including flash incarceration, also became available for a person on supervision. (Pen. Code, § 3000.08, subd. (d).)

Realignment also changed where an offender is incarcerated for violating parole or PRCS.

Most individuals can no longer be returned to state prison for violating a term of supervision; offenders serve the revocation term in county jail. (Pen. Code, §§ 3056, subd. (a), and 3458.) There is a 180-day limit to incarceration. (Pen. Code, §§ 3056, subd. (a), and 3455, subd. (c).) The only offenders who are eligible for return to prison for violating parole are life-term parolees paroled pursuant to Penal Code section 3000.1 (e.g., murderers, specific life term sex offenses).

3) **Effect of the Bill**: Under existing law, a person released from prison is released on PRCS to the county probation department in the county to which the person is released for a period of up to three years, unless that person has been convicted of specified offenses. (Pen. Code, § 3451, subds. (a) & (b).) Existing law requires CDCR to notify the county probation department of specified information 30 days prior to the person's discharge date, including among other things, their name, birth date, criminal history identification numbers, physical description, photograph, the offenses for which the inmate was convicted that resulted in PRCS, their address and geographic coordinates for that address. (Pen. Code, §§ 3451, subd. (c)(2); 3003, subd. (e)(1)(A)-(M).)

   This bill would increase the notice required by CDCR to a county probation department prior to the discharge of a person on PRCS from 30 days to no later than 165 days. It would also require CDCR to provide specified information on a person set for discharge on PRCS to a county probation department no later than 165 days prior to the discharge. If a discharge date is set or reset for fewer than 165 days after the date that the discharge date is set or reset, CDCR would have to provide the information no later than five business days after the date the discharge date is set or reset, and no later than 30 days before the person's discharge date. Additionally, it would require CDCR to notify the county probation department of the name and contact information of the prerelease care manager, postrelease care manager, and enhanced care manager for the person being released to ensure California Advancing and Innovating Medi-Cal (CalAIM) processes are integrated with local reentry service delivery and court-ordered conditions.

4) **Placement Following Release Generally**: This bill would also require CDCR, if a county probation department identifies prior to the person's release that their current county of residence may be different than their last legal residence, to coordinate with the county probation department to determine the person's current county of residence and to develop coordinated plans for the release and transport of the released person to the person's current county of residence.

   Current law generally requires that a person who is released on parole or PRCS be returned to the county that was the last legal residence of the person prior to the person's incarceration. (Pen. Code, § 3003, subd. (a).) Individuals committed to prison for which sex offender registration is required are to be returned to the city of last legal residence or a close geographic location in which they have family, social, or economic ties and access to reentry services unless a return to that location would violate another law or pose a risk to the victim. (*Ibid.*)

   CDCR regulations specify that the county of last legal residence is the county or city of residence where the person resided prior to incarceration for the most current commitment offense. (Cal. Code of Regs., tit 15, § 3741.) If a person has multiple commitment offenses, the most current of the offenses is used to determine the county or city of last legal residence.

(*Ibid.*) Offenses that occur in custody, defined as being confined in state prison, county jail, or a DSH facility for treatment are not to be considered in determining the county or city of last legal residence. (*Ibid.*; Pen. Code, § 3003, subd. (a).)

Division of Adult Parole Operations (DAPO) determines the county or city of last legal residence using the current Probation Officer's Report, sentencing transcript for the current commitment, arrest report for the current commitment offense, and the abstract of judgment with the recorded county of commitment for the current commitment offense. (Cal. Code of Regs., tit. 15, § 3742.) If all the documents list the person as either transient or homeless, or fail to list a complete address, the person will be paroled to the county of commitment. (*Ibid.*)

5) **Placement in a County other than the County of Last Legal Residence:** Current law provides that an incarcerated person may be returned to another county or city if that would be in the best interests of the public. (Pen. Code, § 3003, subd. (b).) The paroling authority, either BPH or CDCR, must consider the following factors, giving the greatest weight to the protection of the victim and the safety of the community: the need to protect the life or safety of a victim, the parolee, a witness, or any other person; public concern that would reduce the chance that the person's parole would be successfully completed; the verified existence of a work offer, or an educational or vocational training program; the existence of family in another county with whom the incarcerated person has maintained strong ties and whose support would increase the chance that the person's parole would be successfully completed; and the lack of necessary outpatient treatment programs for parolees receiving treatment as a mentally disordered offender. (*Ibid.*)

   If the person is serving a term for a violent felony, the reasons for the paroling authority's decision to return the person to another county or city must be included in the notice to the sheriff or chief of police, or both, who has jurisdiction over the community in which the person was convicted as well as the sheriff or chief of police, or both, who has jurisdiction over the community in which the person is going to be released. (*Ibid.*; Pen. Code, § 3058.6.) CDCR regulations specify that a person may be returned, or while in the community, a person may be transferred, from the person's county or city of last legal residence to a county or city other than the county or city of last legal residence to serve parole if it is in the best interest of the public, and DAPO determines placement in a county or city other than the county or city of last legal residence is appropriate based on specified criteria that match the factors listed above that the paroling authority must consider. (Cal. Code of Regs., tit. 15, §§ 3743, 3744.) However, regulations additionally specify that DAPO must consider the availability for direct placement into a CDCR-funded community-based residential treatment program which is to be approved for transfer provided there are no victim or witness residence restrictions as recorded in the offender's special conditions of parole. (Cal. Code of Regs., tit. 15, § 3744.)

6) **Argument in Support**: According to the *Chief Probation Officers of California* (CPOC), the bill's sponsor: "In 2011, AB 109 enacted Public Safety Realignment which, among other things, transferred responsibility for post-release supervision from the state to county probation departments by creating a new category of supervision called Post-Release Community Supervision (PRCS).

   "Probation departments and officers are highly skilled and trained professionals who balance accountability with rehabilitation to safely supervise those in the justice system and support

their successful reentry. Probation supervises and connects people to critical resources like workforce development, mental health services, and education while using evidence-based strategies to change behavior.

"Probation recognizes the importance of early, timely, and robust reentry planning prior to release. Currently, statute requires the California Department of Corrections and Rehabilitation (CDCR) to provide to county probation departments information on a person that will be released to PRCS 30 days prior to release. However, there are current agreements for CDCR to provide this information no less than 165 days. This bill would codify this timeline for the sharing of information from CDCR to probation departments to ensure that county probation can plan, prepare and coordinate reentry services prior to release.

"Further, to reflect important process changes resulting from the implementation of CalAIM, this bill would require CDCR to provide to county probation departments the contact information for the ECM for the person being released to ensure coordination of services for the reentry work."

7) **Related Legislation**: AB 1483 (Haney) would prohibit the arrest, detention and incarceration of any person on parole, PRCS, probation, or mandatory supervision for a technical violation, as defined. AB 1483 is pending a hearing in this committee.

8) **Prior Legislation**:

   a) SB 990 (Hueso), Chapter 826 Statutes of Statutes of 2022, required a person being released from state prison on parole to be released, transferred, or permitted to travel to a county where they have an educational, vocational, outpatient treatment, or housing opportunity, as specified, unless there is evidence that the person would present a threat to public safety; and authorized and strongly encouraged probation to extend these provisions to persons released from state prison on post release community supervision (PRCS)

   b) AB 1783 (Gallagher), of the 2017-2018 Legislative Session, as introduced, would have required the Board of State and Community Corrections (BSCC) to collect and analyze data regarding recidivism rates of all persons who receive a felony sentence punishable by imprisonment in a county or who are placed on PRCS, as specified. AB 1783 was amended into an unrelated subject matter.

   c) AB 109 (Committee on Budget), Chapter 15, Statutes of 2011, enacted Criminal Justice Realignment which, among other things, limited which felons could be sent to state prison, required that more felons serve their sentences in county jails, and created PRCS.

REGISTERED SUPPORT / OPPOSITION:

Support

Chief Probation Officers' of California (CPOC) (Sponsor)
California Police Chiefs Association

Opposition

None submitted.

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

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

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1213 (Stefani) – As Amended March 19, 2025

SUMMARY: Clarifies a restitution order be paid before all fines, restitution fines, penalty assessments, and other fees on a criminal defendant, as specified.

EXISTING LAW:

1) Provides that, in order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled specified rights, including among others, restitution. (Cal. Const., art. I, § 28, subd. (b)(13).)

2) States that it is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer. (Cal. Const., art. I, § 28, subd. (b)(13)(A).)

3) Provides that restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss. (Cal. Const., art. I, § 28, subd. (b)(13)(B).)

4) Mandates that in every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. (Pen. Code, § 1202.4, subd. (b).)

5) Requires a restitution fine be set at the discretion of the court and commensurate with the seriousness of the offense. If the person is convicted of a felony, the fine shall not be less than $300 and not more than $10,000. If the person is convicted of a misdemeanor, the fine shall not be less than $150 and not more than $1,000. (Pen. Code, § 1202.4, subd. (b)(1).)

6) States that, in setting a felony restitution fine, the court may determine the amount of the fine as the product of the minimum fine, as specified above, multiplied by the number of years of imprisonment the defendant is ordered to serve, multiplied by the number of felony counts of which the defendant is convicted. (Pen. Code, § 1202.4, subd. (b)(2).)

7) Provides that to the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:

   a) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of

repairing the property when repair is possible.

b) Medical expenses.

c) Mental health counseling expenses.

d) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

e) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

f) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of child sexual assault, as specified.

g) Interest, at the rate of 10 percent per year that accrues as of the date of sentencing or loss, as determined by the court.

h) Actual and reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim.

i) Expenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

j) Expenses to install or increase residential security incurred related to domestic violence, as specified, or a violent felony, as specified, including, but not limited to, a home security device or system, or replacing or increasing the number of locks.

k) Expenses to retrofit a residence or vehicle, or both, to make the residence accessible to or the vehicle operational by the victim, if the victim is permanently disabled, whether the disability is partial or total, as a direct result of the crime.

l) Expenses for a period of time reasonably necessary to make the victim whole, for the costs to monitor the credit report of, and for the costs to repair the credit of, a victim of identity theft, as specified. (Pen. Code, § 1202.4, subd. (f)(3)(A-L).)

8) States if a defendant is currently incarcerated in a state prison with two-way audio-video communication capability, the Department of Corrections and Rehabilitation (CDCR), at the request of the California Victim Compensation Board (Cal VCB), may collaborate with a court in any county to arrange for a hearing to impose or amend a restitution order, if the victim has received victim compensation assistance, to be conducted by two-way electronic audio-video communication between the defendant and the courtroom in lieu of the defendant's physical presence in the courtroom, provided the county has agreed to make the necessary equipment available. (Pen. Code, § 1202.41, subd. (a)(1).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California's Constitution enshrines the rights of victims of crime in California. Among those is the right to receive restitution and that "all monetary payments, monies, and properties collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim. However, our Penal Code has yet to carry that constitutional command into practice.

   "AB 1213 will make clear that victims in California remain at the forefront of our consideration and will statutorily mandate that victim restitution orders have priority over any fines, fees, or penalty assessments imposed in conjunction with a criminal conviction. While restitution cannot undue the harm a victim has suffered, it is often the first step in a victim's healing journey. This bill will carry our Constitution's command into effect and places a victim's restitution order first in priority for satisfaction."

2) **Victims' Right to Restitution**: The California Constitution guarantees victims the right to restitution. Specifically, Article I, Section 28 of the California Constitution provides that, in order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled specified rights, including among others, restitution. (Cal. Const., art. I, § 28, subd. (b)(13).) It also states that it is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons *convicted* of the crimes causing the losses they suffer. (Cal. Const., art. I, § 28, subd. (b)(13)(A) [emphasis added].) And, it provides that restitution shall be ordered from the *convicted wrongdoer* in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss. (Cal. Const., art. I, § 28, subd. (b)(13)(B) [Emphasis added].)

   The purpose of victim restitution is to reimburse the victim for economic loss caused by the crime. (*People v. Giordano* (2007) 42 Cal.4th 644, 652.) In 1982, California voters passed Proposition 8, the Victims' Bill of Rights, which added article I, section 28, subdivision (b) to the California Constitution, which gives victims the right to seek and secure restitution from the persons convicted of the crimes causing the loss that they suffer. (*People v. Gross* (2015) 238 Cal.App.4th 1313, 1317-1318.) "A victim's right to restitution is, therefore, a constitutional one; it cannot be bargained away or limited, nor can the prosecution waive the victim's right to receive restitution." (*Ibid.*)

As directed by the voters, the Legislature enacted Penal Code section 1202.4 to implement the Victims' Bill of Rights. (*Gross, supra*, 238 Cal.App.4th at p. 1318; *People v. Seymour* (2015) 239 Cal.App.4th 1418, 1435.) This statute provides that "in every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order." (Pen. Code, § 1202.4, subd. (f).) The statute further provides that a "defendant's inability to pay shall not be consideration in determining the amount of a restitution order." (Pen. Code, § 1202.4, subd. (g).) Rather, victim restitution orders must be of a dollar amount that is sufficient to fully reimburse the victim, which can include an assortment of expenses such as medical expenses, mental health counseling expenses, wages or lost profits, noneconomic losses like psychological harm, actual and reasonable attorney's fees, and relocation fees. The victim restitution order must also include interest at the rate of 10% per annum (Pen. Code, § 1204.5, subd. (f)(3).).

Payment of victim restitution goes directly to the victim and compensates them for economic losses they have suffered because of the defendant's crime, i.e., to make the victim reasonably whole. (*People v. Guillen* (2013) 218 Cal.App.4th 975, 984.) A victim restitution order is an enforceable civil money judgment, and typical post-judgment enforcement tools are available to the victim. (Pen. Code, § 1202.4, subd. (i).) Victims have access to all available resources to enforce the order, including wage garnishment and lien procedures, even if the defendant is no longer in custody or on supervision. (*Ibid.*)

This bill seeks to clarify, in existing law, that restitution orders take priority over all other fines and fees that may be levied against a defendant based on their conviction.

3) **People v. Dueñas:** In *People v. Duenas* (2019) 30 Cal.App.5th 1157, the court held that imposing court fines and assessments on indigent defendants who lack the ability to pay violates the Due Process Clauses of both the United States and California Constitutions. (*Id.* at p. 1168.) In *Duenas*, the trial court imposed $220 in fines and fees when an indigent, homeless mother of three children pleaded no contest to driving a suspended license.[1] (*People v. Duenas*, *supra*, 30 Cal.App.5th at p. 1160.) The court ordered that any outstanding debt at the end of Ms. Duenas's probation would go to collections without further court order. (*Ibid.*) Ms. Duenas argued on appeal that the failure to consider her ability to pay before imposition of these charges violates due process.[2] (*Ibid.*) Specifically, Duenas argued that laws imposing mandatory fines on people who are too poor to pay essentially punish these persons for their poverty. (*Id.* at p. 1164.)

The Court of Appeal agreed. The court noted that "'Raising money for government through law enforcement, whatever the source … can lay a debt trap for the poor. When a minor offense produces a debt, that debt, along with attendant court appearances, can lead to a loss of employment or shelter, compounding interest, yet more legal action, and an ever-expanding financial burden—a cycle as predictable and counterproductive as it is

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[1] The suspended license was the result of the inability to pay over $1000 arising from three juvenile citations. (*People v. Duenas*, *supra*, 30 Cal.App.5th at p. 1161.)

[2] Amicus Curiae Los Angeles County Public Defender also argued that imposing a restitution fine without considering ability to pay also violates the prohibition on excessive fines. The Court of Appeal did not specifically address this claim, noting that the due process and excessive fines analysis are sufficiently similar that they reach the same result. (*People v. Duenas*, *supra*, 30 Cal.App.5th at 1171, fn. 8.)

intractable.'" (*People v. Duenas*, *supra*, 30 Cal.App.5th at p. 1163.) The court relied on well-established case law holding that the State cannot inflict punishment on an indigent criminal defendant solely based on his or her poverty. (*Id.* at pp. 1166-1167, citing *In re Antazo* (1970) 3 Cal.3d 100; *Bearden v. Georgia* (1983) 461 U.S. 660 [103 S.Ct. 2064]; and *Tate v. Short* (1971) 401 U.S. 395 [91 S.Ct. 668].)

The court rejected the prosecution's argument that imposition of fines on people who cannot pay them is not punishment because such people do not face imprisonment for failure to pay, noting that punishment is not restricted to incarceration. (*People v. Duenas*, *supra*, 30 Cal.App.5th at pp. 1167-1168.) The court reversed the fees for court facilities and court operations, and stayed the restitution fine. The court remanded the case with directions that the charges be stayed until and unless prosecution establishes the defendant has the ability to pay them. (*Id.* at pp. 1172-1173.) The *Duenas* opinion dealt with three discreet fines and assessments and did not pertain to a victim restitution order. Restitution orders are levied against defendants for the actual harm done – not fines and fees.

4) **Argument in Support**: According to the *Office of the San Francisco County District Attorney*: "Our Constitution guarantees a victim of a crime the right to restitution. (Cal. Const., art. I, § 28(b)(l3).) And the Constitution further provides that "All monetary payments, monies, and properties collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim." (Cal. Const., Art. I, § 28(b)(13)(C).) While in practice victim restitution has always had priority (see e.g., People v. Mozes (2011) 192 Cal.App.4th 1124), no statute carries that constitutional command into effect. AB 1213 does just that by amending Penal Code section 1202.4 to clarify that a victim restitution order has priority over all other fines, fees, and penalty assessments imposed as part of a criminal conviction.

"Receiving restitution is an essential component to victims of crime being made whole after a crime is committed. By ensuring that such orders are satisfied first, victims of crime will begin to heal from the trauma that a defendant inflicted upon them. And, conversely, an incarcerated defendant, who has paid off their restitution order will not be surprised upon their release to learn of an unpaid restitution order. Through work with incarcerated men at San Quentin Rehabilitation Center's Civic Engagement Group, this proposal was identified as a critical gap in services for victims of crime. While restitution cannot undo the harm a victim suffered, it is an important step in ensuring that the victim is made whole and their constitutional rights are honored. The incarcerated men identified this issue as a top legislative priority for them because of its direct impact on victims of crime and on their ability to successfully reenter the community. Ensuring timely restitution payments benefits victims of crime and is a smart, common-sense, prison reform that improves community re-entry opportunities for incarcerated people. Paying restitution is not optional; it is mandated and part of the court-imposed sentence people convicted of a crime must complete to successfully move past their crime and reenter the community."

5) **Related Legislation**: AB 1100 (Sharp-Collins) makes changes to the definition of "derivative victim" and "victim" and adds the phrase "victim of violent crime advocate" for purposes of the Victim's Compensation program. AB 1100 is being heard in this committee today.

6) **Prior Legislation**:

a) AB 855 (Jackson), of the 2023-2024 Legislative Session, would have changed the annual interest rate on restitution orders and the annual interest rate charged by the Franchise Tax Board on certain delinquent payments, including fines, fees, and restitution, to no more than 1%. AB 855 was referred to, but never heard in the Assembly Committee on Revenue and Taxation.

b) AB 1803 (Jones-Sawyer), Chapter 494, Statutes of 2022, prohibited a court from denying expungement relief to an otherwise qualified person, and who meets the criteria, as specified, for a waiver of court fees and costs, solely on the basis that the person has not yet satisfied their restitution obligations.

c) SB 1106 (Wiener), Chapter 734, Statutes of 2022, prohibited the denial of a petition for expungement relief, the denial of release on parole to another state, and the denial of a petition for reduction of a conviction, solely on the basis that the person has not yet satisfied their restitution obligations.

d) SB 651 (Leyva), Chapter 131, Statutes of 2015, expanded the definition of "victim" in juvenile proceedings to include a corporation, estate, or other legal or commercial entity when that entity is a direct victim of a crime and a person who has sustained economic loss because of a crime and who satisfies specified conditions.

e) AB 576 (Torres), Chapter 454, Statutes of 2009, expanded the definition of a "victim" for the purposes of restitution to include any governmental entity responsible for repairing, replacing or restoring public and privately owned property defaced with graffiti or other inscribed material, as specified, and has sustained economic loss as a result.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
California Police Chiefs Association
Chief Probation Officers' of California (CPOC)
Community Youth Center of San Francisco
Institute on Aging
San Francisco District Attorney Brooke Jenkins

Opposition

None submitted.

Analysis Prepared by: Kimberly Horiuchi / 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 1231 (Elhawary) – As Amended March 24, 2025

As Proposed to be Amended in Committee

SUMMARY: Authorizes a court to grant pretrial diversion for felony offenses, except as specified, for a period of up to 24 months, if the court determines that the defendant is suitable for diversion. Specifically, **this bill**:

1) States that a defendant may request diversion at any time prior to the start of a trial and the court may, in its discretion, and after considering the positions of the defense and prosecution, grant pretrial diversion to a defendant if the court determines that the defendant is suitable as provided.

2) States that diversion may apply to any felony punishable either as a county-jail eligible felony or as an alternate felony-misdemeanor, except if the felony offense is a "serious" felony or "violent" felony.

3) Additionally excludes from diversion eligibility:

   a) Any offense alleged to have caused great bodily injury or serious bodily injury;

   b) Any offense alleged to have involved the personal use of a firearm in the commission of an offense, pursuant to Section 12022.5 or Section 12022.53;

   c) A felony driving under the influence offense;

   d) Any offense for which a person, if convicted, would be required to register as a sex offender;

   e) Any offense involving domestic violence;

   f) A violation of stalking; or,

   g) Use or deployment of a weapon of mass destruction.

4) States that in determining whether to grant diversion, the court shall consult with the prosecutor and the defendant or their counsel and may consider information provided by other entities, including, but not limited to, probation or pretrial services, family or close contacts of the defendant, and service providers.

5) States that the court shall consider mitigating factors including the defendant's trauma, victimization, and youth or other mitigating factors listed in Rule of 4.423 of the California Rules of Court.

6) Specifies that a history of having survived human trafficking, domestic violence, or sexual assault shall be given great weight as mitigating factors that indicate diversion is appropriate.

7) States that a defendant shall submit to the court and serve on the prosecution a proposed diversion plan and shall recommend in that plan either dual agency supervision or single agency supervision, as defined.

8) States that the court shall not grant diversion unless it finds that the diversion plan mitigates any unreasonable risk of danger to public safety and finds that the defendant is likely to benefit from the services provided in the diversion plan.

9) Authorizes a court to order the defendant to comply with terms, conditions, or programs that the court finds appropriate for the needs of the defendant and based on the recommendations from the defendant, a social worker, a behavioral health worker, or health care professional. The court may also consider the perspective of the prosecutor, pretrial services office, or probation department, or sexual assault counselor or human trafficking caseworker where appropriate, in assessing any recommendation.

10) States that the diversion plan ordered by the court shall include any conditions necessary to mitigate an unreasonable risk of danger to public safety.

11) Provides that upon a court granting diversion, any bail, bond or undertaking, or deposit in lieu thereof on behalf of the defendant shall be exonerated.

12) Defines the following terms:

    a) "Dual agency supervision" means a court-approved, individually tailored diversion plan administered jointly by the treatment agency and by a county probation department or pretrial services department for a specified period of time. Under dual agency supervision, the treatment agency shall administer the treatment rehabilitation program.

    b) "Single agency supervision" means a court approved, individually tailored diversion plan administered by a treatment agency, for a specified period of time. The treatment agency may include a government-sponsored or community-based job training services center or reentry service provider.

    c) "Treatment agency" may include a government or community-based organization, including, but not limited to, a county health department, a county workforce development department, a behavioral health or reentry services provider, or a similar agency or community-based organization partnering with a county department.

13) Requires the court to order single agency supervision, unless it finds that single agency diversion is not practical or that dual agency diversion is necessary to mitigate unreasonable risks to public safety.

14) Requires the treatment agency to provide progress reports to the court, defense and prosecution under single agency supervision, or to the probation department under dual agency supervision every three months, and requires the probation department to submit copies of the report to the court, defense, and prosecution within 5 judicial days of receipt of the report.

15) Specifies that if the treatment agency is a community-based organization, the following shall apply:

    a) The organization shall adhere to similar transparency, accountability, and outcome measure standards that apply to a government or county department;

    b) The organization shall not pay wages and benefits to its most highly compensated executive and managerial employees that are significantly higher than the rates that would be paid to public employees performing similar job duties; and,

    c) The court shall prioritize ordering services by an organization with a record of providing culturally competent and reasonable rehabilitative services.

16) Provides that while courts may order the defendant to participate in diversion plan services by government or community-based providers, nothing in this section is intended to reduce employment by government agencies.

17) States that a defendant whose charges have been diverted shall be ordered to pay full restitution, however, a defendant's inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

18) Authorizes a court to modify a diversion plan if it appears, following a hearing on the matter, that the defendant is not meeting the terms and conditions of the diversion program.

19) States that a court may hold a hearing to determine whether criminal proceeding should be reinstated if any of the following circumstances exist:

    a) The defendant is charged with a misdemeanor allegedly committed while the defendant is receiving pretrial diversion services that reflects the defendant's propensity for violence;

    b) The defendant is charged with a felony allegedly committed while the defendant is receiving pretrial diversion services; or,

    c) Any other similar circumstance that causes the court to believe that no additional terms, conditions, or services can mitigate unreasonable risks to public safety.

20) Provides that a hearing to reinstitute criminal proceedings shall not proceed until probable cause has been established in *the subsequent felony allegations*.

21) Requires the court to dismiss the criminal allegations if at the end of the period of diversion the defendant has complied with the imposed terms and conditions and the arrest upon which the diversion was based shall be deemed to have never occurred.

22) Specifies that the provisions of this bill shall be implemented only to the extent that it does not conflict with an initiative statute.

EXISTING LAW:

1) Authorizes a city or county prosecuting attorney or county probation department to create a diversion or deferred entry of judgment program for persons who commit a theft offense or repeat theft offenses, as specified. (Pen. Code, § 1001.81.)

2) Authorizes both misdemeanors and felonies to be diverted pretrial under the mental health diversion program for eligible defendants, except for the following offenses:

   a) Murder or voluntary manslaughter;

   b) An offense for which a person, if convicted, would be required to register as a sex offender, except indecent exposure.

   c) Rape;

   d) Lewd or lascivious act on a child under 14 years of age;

   e) Assault with intent to commit rape, sodomy, or oral copulation, in violation of Section 220;

   f) Commission of rape or sexual penetration in concert with another person;

   g) Continuous sexual abuse of a child;

   h) Use or deployment of a weapon of mass destruction. (Pen. Code, §1001.36.)

3) Provides that the period during which criminal proceedings against the defendant may be diverted under mental health diversion is limited to no longer than one year for a misdemeanor and no longer than two years for a felony. (Pen. Code, §1001.36, subd. (f)(1)(C).)

4) States that if any of the following circumstances exists, the court shall, after notice to the defendant, defense counsel, and the prosecution, hold a hearing to determine whether the criminal proceedings should be reinstated, whether the treatment should be modified, or whether the defendant should be conserved and referred to the conservatorship investigator of the county of commitment to initiate conservatorship proceedings for the defendant:

   a) The defendant is charged with an additional misdemeanor allegedly committed during the pretrial diversion and that reflects the defendant's propensity for violence;

   b) The defendant is charged with an additional felony allegedly committed during the pretrial diversion;

   c) The defendant is engaged in criminal conduct rendering the defendant unsuitable for diversion; or,

d) Based on the opinion of a qualified mental health expert whom the court may deem appropriate, either of the following circumstances exists:

i) The defendant is performing unsatisfactorily in the assigned program, or,

ii) The defendant is gravely disabled as defined. (Pen. Code, §1001.36, subd. (g).)

5) States that if the defendant has performed satisfactorily in mental health diversion, at the end of the period of diversion, the court shall dismiss the defendant's criminal charges that were the subject of the criminal proceedings at the time of the initial diversion. (Pen. Code, §1001.36, subd. (h).)

6) Authorizes a judge of the superior court in which a misdemeanor case is being prosecuted, at the judge's discretion and over the objection of a prosecuting attorney, offer diversion to a defendant except if the defendant is charged with any of the following offenses:

a) Any offense for which the defendant, if convicted, would be required to register as a sex offender;

b) Any offense involving domestic violence; or,

c) An offense of stalking. (Pen. Code, § 1001.95., subd. (a) & (e).)

7) States that a judge may continue a diverted case for a period not to exceed 24 months and order the defendant to comply with terms, conditions, or programs that the judge deems appropriate based on the defendant's situation. (Pen. Code, § 1001.95., subd. (b).)

8) States that if the defendant has complied with the imposed terms and conditions, at the end of the period of diversion, the judge shall dismiss the action against the defendant. (Pen. Code, § 1001.95., subd. (c).)

9) States that if it appears that the defendant is not complying with the terms and conditions of diversion, after notice to the defendant, the court shall hold a hearing to determine whether the criminal proceedings should be reinstituted. If the court finds that the defendant has not complied with the terms and conditions of diversion, the court may end the diversion and order resumption of the criminal proceedings. (Pen. Code, § 1001.95., subd. (d).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1231 would allow judges to grant diversion programs and services, rather than solely rely on traditional punishment. This keeps our communities safe, gets people back into the workforce or connected with behavioral health services as needed, ultimately lowering costs to the state."

2) **Background on Diversion**: Diversion is the suspension of criminal proceedings for a prescribed time period with certain conditions. A defendant may not be required to admit

guilt as a prerequisite for placement in a pretrial diversion program. If diversion is successfully completed, the criminal charges are dismissed and the defendant may, with certain exceptions, legally answer that he or she has never been arrested or charged for the diverted offense. If diversion is not successfully completed, the criminal proceedings resume, however, a hearing to terminate diversion is required.

Diversion programs may be pre-plea or post-plea (often called deferred entry of judgement). Pre-plea programs allow a defendant to participate in the program without admitting guilt. In post-plea programs, the defendant must first admit guilt before participating in the program. The main difference between the two types of diversion is that in a pre-plea program, if the defendant does not successfully complete the program, criminal proceedings resume and the defendant has the option to plead guilty or pursue a defense against their case. In a post-plea diversion program, if a defendant does not successfully complete the program, the defendant having already plead guilty, would be sentenced.

In recent years, the Legislature has enacted several pre-plea diversion programs such as military diversion (SB 1227 (Hancock), chapter 658, statutes of 2013), mental health diversion (SB 215 (Beall), chapter 1005, statutes of 2017), diversion for primary caretakers (SB 394 (Skinner), chapter 593, statutes of 2019), and court-initiated misdemeanor diversion (AB 3234 (Ting), chapter 334, statutes of 2020). Drug diversion was enacted as a preplea program and changed to a postplea program in 1997 (SB 1369 (Kopp), chapter 1132, statutes of 1996), then in 2017 changed back to a preplea program (AB 208 (Eggman), chapter 778, statutes of 2017).

Existing law authorizes a city or county prosecuting attorney or county probation department, until January 1, 2031, to create a diversion or deferred entry of judgment program for persons who commit a theft offense or repeat theft offenses and specifies that the prosecuting attorney is to determine who to refer to the program and who is appropriate for placement in the program. For purposes, of the program, "repeat theft offenses" means being cited or convicted for misdemeanor or felony theft from a store or vehicle two or more times in the previous 12 months and failing to appear in court when cited for these crimes or continuing to engage in these crimes after release or after conviction. (Pen. Code, § 1001.81.)

3) **Misdemeanor Diversion**: As referenced above, existing law authorizes a judge to suspend criminal proceedings and divert a misdemeanor defendant, over the objection of the prosecution, except in cases of stalking, domestic violence and any offense requiring sex offender registration. The judge has broad authority to order the defendant to comply with terms, conditions, or programs that the judge deems appropriate based on the specific situation, however the case may not be diverted for a period exceeding 24 months. Similar to other existing diversion programs, if a defendant successfully completes diversion, the charges would be dismissed; if not, the judge is to hold a hearing to determine whether the defendant has not complied with the terms and conditions of diversion and whether the criminal proceedings should be reinstituted. Unlike some of the other existing pre-plea diversion programs such as mental health diversion or military diversion, court-initiated diversion contains no statutory requirements for the defendant to satisfy in order to be eligible other than the crimes that are specifically excluded.

Whether or not to divert a misdemeanor defendant is in the trial court's discretion. However, judicial discretion is not without limits. "[A]ll exercises of legal discretion must be grounded

in reasoned judgment and guided by legal principles and policies appropriate to the particular matter at issue." (*People v. Russel* (1968) 69 Cal.2d 187, 195.) A trial court abuses its discretion when it exceeds the bounds of reason, all of the circumstances before it being considered. (*Id.*, at p. 194.)

This bill creates a similar diversion program to the misdemeanor court-initiated diversion program but applied to felonies that are either punishable as county-jail eligible felonies or an alternate felony-misdemeanor, also known as "wobblers." Excluded offenses would be any "serious" or "violent" felonies, offenses alleged to have caused great bodily injury or serious bodily injury, offenses where it is alleged defendant personally used a firearm in the commission of a felony, or alleged felony driving under the influence. The bill would also exclude offenses that are excluded in misdemeanor diversion, specifically any crime where a person would be required to register as a sex offender, any domestic violence offense, or any stalking offense. Additionally, the bill would exclude use or deployment of a weapon of mass destruction which is excluded from mental health diversion.

This bill specifies that the criminal proceedings may be continued for a period not to exceed two years which is also the same period of time specified in misdemeanor diversion. Restitution would still be ordered in full, although inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

In determining whether the defendant is suitable for diversion, the court is required to consider specified mitigating circumstances with great weight to be given to a history of having survived human trafficking, domestic violence, or sexual assault that would indicate that diversion would be appropriate.

This bill requires that any diversion plan ordered by the court shall include any conditions necessary to mitigate an unreasonable risk of danger to public safety. The treating agency is required to submit progress reports to the court, prosecution, and defense every three months, or to submit progress reports to the probation department every three months if the defendant is on dual agency supervision and the probation department would send copies of the reports to the courts, defense and prosecution.

This bill provides that if the defendant is not meeting the terms and conditions of the diversion program, the court may modify the diversion to provide for greater supervision. A hearing to reinstitute criminal proceedings may be initiated by the court or the prosecutor, or, in cases of dual agency supervision, the probation department and may proceed only after notice to the defendant. If any of the following circumstances exist, that would be cause to hold a hearing to determine whether to reinstate criminal proceedings: (1) the defendant is charged with a misdemeanor allegedly committed during diversion which reflects the defendant's propensity for violence; (2) the defendant is charged with a felony allegedly committed while the defendant is receiving pretrial diversion services; or, (3) any other similar circumstance that causes the court to believe that no additional terms, conditions, or services can mitigate unreasonable risks to public safety. For a felony charge, this bill would require probable cause to be established prior to conducting a hearing on reinstituting criminal proceedings.

On the other hand, if the defendant successfully complies with the terms and conditions of diversion, at the end of the period of diversion, the court shall dismiss the criminal allegations. Any record of the arrest or charges shall be deemed to have never occurred.

4) **Mitigating Factors**: This bill specifies that in determining whether diversion is appropriate, the court shall consider mitigating circumstances, as listed in existing rules of court, and specified circumstances including whether the person has experienced psychological, physical, or childhood trauma, whether the person is a youth or was a youth at the time of the commission of the offense, or the person is or was a victim of intimate partner violence or human trafficking prior to or during the offense. Additionally, the bill states that the court and may consider the defendant's age and health conditions.

   The rules of court lists out circumstances of mitigation that apply to either the circumstances of the crime (i.e. defendant's role was minor or committed under coercion or mistake) or characteristics of the defendant (i.e. defendant was under 26 years of age, or had prior victimization that contributed to the offense, or has little to no criminal record.) (Cal. Rules of Court, rule 4.423.)

   This bill also specifies that a history of having survived human trafficking, domestic violence, or sexual assault shall be given great weight as mitigating factors that indicate diversion is appropriate.

5) **Argument in Support**: According to *Vera Institute of Justice*, the sponsor of this bill, "As a recipient of diversion, I cannot stress enough how life changing this type of relief is for people navigating the justice system. As a youth survivor of sexual assault, and as someone who lacked supportive resources, I developed a substance use disorder as an unhealthy coping mechanism. I soon found myself in jail. However, after speaking with my public defender and the judge overseeing my case, I was able to enroll in diversion instead of solely facing punishment and incarceration as a result of my trauma. I enrolled in an adult school office technology program, which became my foundation for higher education, meaningful employment, and deeper engagement in my community. I went on to attend community college, the University of California, Berkeley, and now advocate for criminal justice reform as a Senior Program Associate at Vera California. Diversion unequivocally saved my life.

   "The research also shows that community-based diversion programs have improved public safety for Californians statewide. Participants in California's diversion programs come into contact with the justice system at a significantly lower rate (15.3 percent) compared to similar people leaving state prisons (41.9 percent). Diversion programs that offer targeted, light-touch services such as job training, education, housing, treatment for substance use and mental health, empower people to address their underlying needs, which reduces future contact with the criminal legal system.

   "Moreover, evidence shows diversion programs are key to reducing racial disparities in the criminal legal system. To this day, Black and brown Californians are arrested at disproportionately higher rates than white people in nearly all of California's 58 counties. Expanded judicial discretion to grant diversion would likely decrease these racial disparities, helping even more Californians avoid the severe, long-term collateral consequences of incarceration—such as barriers to employment, housing, and education—that increase

recidivism. As a Native and Latina youth, receiving diversion gave me the opportunity to overcome the generational cycle of incarceration and educate myself.
"Diversion programs, which tap into existing community services, are also much more cost-effective than prisons and traditional court processing. This is particularly true in rural areas like the Central Valley, where resources are historically limited, and expanded diversion programming provides crucial opportunities for people to achieve stability, thereby enhancing public safety. My experience demonstrates this potential: having access to local resources and counselors in the Central Valley, who believed in me, enabled me to avoid further incarceration and become the advocate I am today."

6) **Argument in Opposition**: According to *Chief Probation Officers of California*, "Several diversion and DEJ statutes and programs already exist around various offenses or collaborative court models. The Legislature has recognized that certain individuals may benefit from these pathways such as with substance use, mental health, veterans courts while concurrently retaining other judicial pathways for addressing the myriad of felony offenses where diversion or DEJ may not be deemed suitable.

"We are concerned that the expansion of felony diversion, particularly considering the structure of the bill to establish tiers of single and dual agency supervision will create significant confusion, create court inefficiencies, and is not in the best interest of public safety. For example, this would establish processes whereby a treatment agency, which may be an entity with no connection to the court or court orders, could be overseeing the treatment and reporting to the court on someone with a felony offense. Additionally, it would propose to have the defendant develop their own diversion plan and make recommendations for who should supervise them based on the new proposed multi-agency model.

"While we recognize the role that specific collaborative court programs can play in helping people to get connected to services through court ordered treatment and accountability, this bill goes beyond that model to apply diversion to a broad list of felony offenses and creates new procedures that create ambiguity and are not in the best interest of public safety, accountability and rehabilitation."

7) **Related Legislation**:

   a) AB 46 (Nguyen), would make various changes to the mental health diversion program including making additional exceptions to eligible crimes under the program. AB 46 is pending hearing by this committee.

   b) AB 433 (Krell), would exclude additional crimes from eligibility for mental health diversion. AB 433 is pending hearing by this committee.

   c) SB 483 (Stern), would add another suitability factor for granting mental health diversion, requiring the court be satisfied that the recommended mental health treatment program is consistent with the purpose of diversion and will meet the defendant's specialized treatment needs. SB 483 is pending hearing by the Senate Committee on Appropriations.

8) **Prior Legislation**:

a) SB 1282 (Smallwood-Cuevas), of the 2023-2024 Legislative Session, would have authorized felony pretrial diversion, with specified exceptions. SB 1282 failed passage on the Senate Floor.

b) SB 1025 (Eggman), of the 2023-2024 Legislative Session, would have expanded military diversion to apply to specified felonies. SB 1025 was vetoed.

c) SB 1223 (Becker), Chapter 735, Statutes of 2022, made various changes to the mental health diversion program recommended by the Committee on the Revision of the Penal Code including requiring the court, if a defendant has been diagnosed with a mental disorder, to find that the defendant's mental disorder was a significant factor in the commission of a charged offense unless there is clear and convincing evidence that it was not a motivating factor, causal factor, or contributing factor to the alleged offense.

d) AB 3234 (Ting), Chapter 334, Statutes of 2020, authorized a judge in the superior court in which a misdemeanor is being prosecuted to offer misdemeanor diversion to a defendant over the objection of a prosecuting attorney, except as specified.

e) SB 394 (Skinner), Chapter 593, Statutes of 2019, authorized the presiding judge of the superior court, in consultation with the presiding juvenile court judge and criminal court judges and together with the prosecuting entity and the public defender, to create a pretrial diversion program for defendants who are primary caregivers of a child under 18 years of age, as specified.

f) SB 215 (Beall), Chapter 1005, Statutes of 2018, made specified changes to mental health diversion established by AB 1810 of the same year.

g) AB 1810 (Committee on Budget), Chapter 34, Statutes of 2018, established mental health diversion for defendants with mental disorders through which the court would be authorized to grant pretrial diversion, for a period no longer than 2 years, to a defendant suffering from a mental disorder, on an accusatory pleading alleging the commission of a misdemeanor or felony offense, in order to allow the defendant to undergo mental health treatment.

h) AB 208 (Eggman), Chapter 778, Statutes of 2017, make the deferred entry of judgment program for drugs a pretrial diversion program.

i) AB 725 (Jackson), Chapter 179, Statutes of 2017, authorized driving under the influence offenses to be diverted under the military diversion program.

j) SB 1227 (Hancock), Chapter 658, Statutes of 2013, established the military diversion program for a defendant who was, or currently is, a member of the United States military and if they may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of his or her military service.

REGISTERED SUPPORT / OPPOSITION:

Support

Drug Policy Alliance (Co-sponsor)
Los Angeles Regional Reentry Partnership (LARRP) (Co-sponsor)
Pico California (Co-sponsor)
Vera Institute of Justice (Co-sponsor)
A New Path
A New Way of Life Re-entry Project
ACLU California Action
Alliance of Californians for Community Empowerment (acce Action)
Asian Americans Advancing Justice Southern California
Back to The Start
Being Alive - Los Angeles
Bend the Arc: Jewish Action, California
Bienestar Human Services
Black Women for Wellness Action Project
Broken No More
Buen Vecino
California Immigrant Policy Center
California Public Defenders Association (CPDA)
California State Council of Service Employees International Union (seiu California)
California Syringe Exchange Program (CASEP) Coalition
Californians for Safety and Justice (CSJ)
Californians United for A Responsible Budget
Carceral Ecologies
Catalyst California
Coalition for Humane Immigrant Rights (CHIRLA)
Communities United for Restorative Youth Justice (CURYJ)
County of Los Angeles Board of Supervisors
Courage California
Ella Baker Center for Human Rights
Fair Chance Project
Felony Murder Elimination Project
Gente Organizada
Glide
Homies Unidos INC
Indivisible CA Statestrong
Initiate Justice
Initiate Justice Action
Inland Coalition for Immigrant Justice
Justice in Aging
Justice2jobs Coalition
LA Defensa
Laane (los Angeles Alliance for A New Economy)
Larkin Street Youth Services
Law Office of Jac C. Lyons
Legal Services for Prisoners With Children

Local 148 LA County Public Defenders Union
Los Angeles County Public Defender's Office
National Association of Social Workers, California Chapter
New Light Wellness
Norcal Resist
Oasis Legal Services
Public Counsel
Rubicon Programs
San Francisco Aids Foundation
San Francisco Public Defender
Santa Clara County Public Defender's Office
Smart Justice California, a Project of Tides Advocacy
South Bay People Power
Southeast Asia Resource Action Center
Steinberg Institute
Urban Peace Institute
Valor US

Opposition

California Police Chiefs Association
California State Sheriffs' Association
Chief Probation Officers' of California (CPOC)

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

Amended Mock-up for 2025-2026 AB-1231 (Elhawary (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. Chapter 2.97 (commencing with Section 1001.98) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2.97. Felony Diversion

1001.98. (a) On an accusatory pleading alleging the commission of a felony offense described in subdivision (b), a defendant may move the court for diversion pursuant to this section at any time prior to the start of a trial. The court may, in its discretion, and after considering the positions of the defense and prosecution, grant pretrial diversion to a defendant pursuant to this section if the court determines that the defendant is suitable for that diversion under the factors set forth in subdivision (c).

(b) (1) Except as provided in paragraph (2), this chapter applies to any felony offense punishable as follows:

(A) Pursuant to subdivision (h) of Section 1170.

(B) As a misdemeanor or by imprisonment in the state prison for 16 months, 2 years, or 3 years, as long as the felony offense is not a serious felony, as described in subdivision (c) of Section 1192.7 or a violent felony, as described in subdivision (c) of Section 667.5.

(2) This chapter does not apply to any of the following:

(A) An offense alleged to have caused great bodily injury or serious bodily injury.

(B) An offense alleged to have involved the personal use of a firearm in the commission of an offense, pursuant to Section 12022.5 ***or Section 12022.53***.

(C) An offense punishable pursuant to Section 23550 of the Vehicle Code.

(D) Any offense for which a person, if convicted, would be required to register pursuant to Section 290.

(E) Any offense involving domestic violence, as defined in Section 6211 of the Family Code or subdivision (b) of Section 13700 of this code.

(F) A violation of Section 646.9.

(G) A violation of subdivision (b) or (c) of Section 11418.

(c) (1) In determining whether to grant diversion, the court shall consult with the prosecutor and the defendant or their counsel and may consider information provided by other entities, including, but not limited to, probation or pretrial services, family or close contacts of the defendant, and service providers. In determining whether diversion is appropriate, the court shall consider the factors described in Section 1016.7 and Rule 4.423 of the California Rules of Court ***and may consider the defendant's age and health conditions.*** A history of having survived human trafficking, domestic violence, or sexual assault ~~or where the defendant is over 55 years of age~~, shall be given great weight as mitigating factors that indicate diversion is appropriate.

(2) A hearing on whether to grant diversion may proceed on offers of proof, reliable hearsay, and arguments of counsel and shall proceed prior to any trial or plea of guilty or no contest. At a hearing on whether to grant diversion, a defendant shall submit to the court and serve on the prosecution a proposed diversion plan and shall recommend in that plan either dual agency supervision or single agency supervision, as described in Section 1001.981.

(d) The court shall not grant diversion unless it finds that the diversion plan mitigates any unreasonable risk of danger to public safety and finds that the defendant is likely to benefit from the services provided in the diversion plan.

(e) A court may order the defendant to comply with terms, conditions, or programs that the court finds appropriate for the strengths and needs of the defendant and based on the recommendations from the defendant, a social worker, a behavioral health worker, or health care professional. The court may consider the perspective of the prosecutor, pretrial services office, or probation department in assessing any recommendations. If the defendant has a history of having survived human trafficking, domestic violence, or sexual assault, the diversion plan and proposal may rely on information or recommendations from a sexual assault counselor, as described in Section 1035.2 of the Evidence Code, or a human trafficking caseworker, as described in Section 1038.2 of the Evidence Code. The diversion plan ordered by the court shall include any conditions necessary to mitigate an unreasonable risk of danger to public safety.

(f) Upon a court granting diversion, any bail, bond or undertaking, or deposit in lieu thereof on behalf of the defendant shall be exonerated.

(g) A court may continue the criminal proceedings for a period not to exceed ~~12~~ ***24*** months.

1001.981. (a) As used in this section, the following terms have the following meanings:

(1) "Dual agency supervision" means a court-approved, individually tailored diversion plan administered jointly by the treatment agency and by a county probation department or pretrial services department for a specified period of time. Under dual agency supervision, the treatment agency shall administer the treatment rehabilitation program.

(2) "Single agency supervision" means a court approved, individually tailored diversion plan administered by a treatment agency, for a specified period of time. The treatment agency may include a government-sponsored or community-based job training services center or reentry service provider.

(3) "Treatment agency" may include a government or community-based organization, including, but not limited to, a county health department, a county workforce development department, a behavioral health or reentry services provider, or a similar agency or community-based organization partnering with a county department.

(b) A court shall order single agency supervision, unless it finds that single agency diversion is not practical or that dual agency diversion is necessary to mitigate unreasonable risks to public safety.

(c) The treatment agency administering a diversion plan under single agency supervision shall report the defendant's progress to the court, the prosecution, and the defendant every three months. The treatment agency administering a diversion plan jointly with the county probation department under dual agency diversion shall submit a report to the probation department every three months regarding the defendant's progression in the diversion plan. Within five judicial days of receipt of the treatment agency's report, the probation department shall submit a report on the defendant's progress to the court appending the entire report from the treatment agency and serving copies on the defendant and prosecution.

(d) If the treatment agency is a community-based organization, the following shall apply:

(1) The organization shall adhere to similar transparency, accountability, and outcome measure standards that apply to a government or county department.

(2) The organization shall not pay wages and benefits to its most highly compensated executive and managerial employees that are significantly higher than the rates that would be paid to public employees performing similar job duties.

(3) The court shall prioritize ordering services by an organization with a record of providing culturally competent and reasonable rehabilitative services.

(e) While courts may order the defendant to participate in diversion plan services by government or community-based providers, nothing in this section is intended to reduce employment by government agencies.

1001.982. A defendant who is diverted pursuant to this chapter shall be required to make full restitution. However, a defendant's inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

1001.983. (a) The court may modify a diversion plan if it appears, following a hearing on the matter, that the defendant is not meeting the terms and conditions of the diversion program. The court may modify the diversion plan to provide for greater supervision by either the treatment agency or the probation department, or both. A hearing pursuant to this subdivision shall not be held until after notice has been given to the defendant.

(b) A court may hold a hearing to determine whether criminal proceeding should be reinstated if any of the following circumstances exist:

(1) The defendant is charged with a misdemeanor allegedly committed while the defendant is receiving pretrial diversion services that reflects the defendant's propensity for violence.

(2) The defendant is charged with a felony allegedly committed while the defendant is receiving pretrial diversion services.

(3) Any other similar circumstance that causes the court to believe that no additional terms, conditions, or services can mitigate unreasonable risks to public safety.

(c) A hearing to reinstitute criminal proceedings may be initiated by the court or the prosecutor, or, in cases of dual agency supervision, the probation department and may proceed only after notice to the defendant.

(d) A hearing to reinstitute criminal proceedings pursuant to paragraph (2) of subdivision (b) shall not proceed until probable cause has been established in the subsequent felony allegations.

1001.984. (a) If the defendant has complied with the imposed terms and conditions, at the end of the period of diversion, the court shall dismiss the criminal allegations.

(b) Any record filed with the Department of Justice shall indicate the disposition of those allegations pursuant to this chapter. Upon successful completion of a diversion program, the arrest upon which the diversion was based shall be deemed to have never occurred. The divertee may indicate in response to any question concerning their prior criminal record that they were not arrested or diverted for the offense, except as specified in subdivision (c). A record pertaining to an arrest resulting in successful completion of a diversion program shall not, without the divertee's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

(c) The divertee shall be advised that, regardless of their successful completion of diversion, the arrest upon which the diversion was based may be disclosed by the Department of Justice in response to any peace officer application request and that, notwithstanding subdivision (b), this

section does not relieve the defendant of the obligation to disclose the arrest in response to any direct question contained in any questionnaire or application for a position as a peace officer, as defined in Section 830.

1001.985. This chapter shall be implemented only to the extent that it does not conflict with an initiative statute.

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

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1258 (Kalra) – As Amended April 2, 2025

SUMMARY: Extends the Deferred entry of judgment pilot program, for the Counties of Butte, Nevada, and Santa Clara, to January 1, 2029, and would require an evaluation of the pilot program's impact and effectiveness in their county to be submitted to the Assembly and Senate Committees on Public Safety no later than December 31, 2027.

EXISTING LAW:

1) Provides that the counties of Alameda, Butte, Napa, Nevada, Santa Clara and Ventura may establish a pilot program to operate a deferred entry of judgment pilot program until January 1, 2026 for certain eligible defendants. (Pen. Code, § 1000.7, subd. (a).)

2) Provides that a defendant may participate in a deferred entry of judgment pilot program within the county's juvenile hall if that person is charged with committing a felony offense, except as specified, they plead guilty to the charge or charges, and the probation department determines that the person meets all of the following requirements:

   a) Is 18 years of age or older, but under 21 years of age on the date the offense was committed, or is 21 years of age or older, but under 25 years of age on the date the offense was committed with the approval of the county multidisciplinary team established pursuant to this pilot program;

   b) Is suitable for the program after evaluation using a risk assessment tool, as specified;

   c) Shows the ability to benefit from services generally reserved for delinquents, including but not limited to, cognitive behavioral therapy, other mental health services, and age-appropriate educational, vocational, and supervision services, that are currently deployed under the jurisdiction of the juvenile court;

   d) Meets the rules of the juvenile hall developed in accordance with the applicable regulations;

   e) Does not have a prior or current conviction for committing certain specified offenses; and,

   f) Is not required to register as a sex offender, as specified. (Pen. Code, § 1000.7, subd. (b).)

3) Requires the probation department, in consultation with the superior court, district attorney, and sheriff of the county or the governmental body charged with operating the county jail, to develop an evaluation process using a risk assessment tool to determine eligibility for the program. (Pen. Code, § 1000.7, subd. (c).)

4) States that a defendant is ineligible for the deferred entry of judgment pilot program a defendant who is required to register as a sex offender, as specified, or who has been convicted of one or more of the following offenses:

   a) A "serious" felony, as that term is defined by law;

   b) A "violent" felony, as that term is defined by law; or,

   c) A serious or violent crime as that term is defined pertaining to juveniles. (Pen. Code, § 1000.7, subd. (d).)

5) Provides that the court must grant deferred entry of judgment if an eligible defendant consents to participate in the program, waives their right to a speedy trial or a speedy preliminary hearing, pleads guilty to the charge or charges, and waives time for the pronouncement of judgment. (Pen. Code, § 1000.7, subd. (e).)

6) Provides that if the probation department determines that the defendant is not eligible for the deferred entry of judgment pilot program or the defendant does not consent to participate in the program, the proceedings shall continue as in any other case. (Pen. Code, § 1000.7, subd. (f)(1).)

7) States that if it appears to the probation department that the defendant is performing unsatisfactorily in the program as a result of the commission of a new crime or the violation of any of the rules of the juvenile hall or that the defendant is not benefiting from the services in the program, the probation department may make a motion for entry of judgment. After notice to the defendant, the court is required to hold a hearing to determine whether judgment should be entered. (Pen. Code, § 1000.7, subd. (f)(2).)

8) States that if the court finds that the defendant is performing unsatisfactorily in the program or that the defendant is not benefiting from the services in the program, the court is required to render a finding of guilt to the charge or charges pleaded, enter judgment, and schedule a sentencing hearing, and the probation department, in consultation with the county sheriff, is required to remove the defendant from the program and return him or her to custody in county jail. The mechanism of when and how the defendant is moved from custody in juvenile hall to custody in a county jail shall be determined by the local multidisciplinary team, as specified. (Pen. Code, § 1000.7, subd. (f)(2).)

9) Provides that if the defendant has performed satisfactorily during the period in which deferred entry of judgment was granted, at the end of that period, the court is required to dismiss the criminal charge or charges. (Pen. Code, § 1000.7, subd. (f)(3).)

10) Prohibits a defendant participating in this program from serving longer than one year in juvenile hall. (Pen. Code, § 1000.7, subd. (g).)

11) Requires the probation department to develop a plan for reentry services, including, but not limited to, housing, employment, and education services, as a component of the program. (Pen. Code, § 1000.7, subd. (h).)

12) Requires the probation department to submit data relating to the effectiveness of the program to the Division of Recidivism Reduction and Re-Entry, within the Department of Justice, including recidivism rates for program participants as compared to recidivism rates for similar populations in the adult system within the county. (Pen. Code, § 1000.7, subd. (i).)

13) Prohibits a defendant participating in the program from coming into contact with minors within the juvenile hall for any purpose, including, but not limited to, housing, recreation, or education. (Pen. Code, § 1000.7, subd. (j).)

14) Provides that prior to establishing a pilot program pursuant to this section, the county is required to apply to the Board of State and Community Corrections (BSCC) for approval of a county institution as a suitable place for confinement for the purpose of the pilot program. The BSCC is required to review and approve or deny the application of the county within 30 days of receiving notice of this proposed use. In its review, the BSCC is required to take into account the available programming, capacity, and safety of the institution as a place for the confinement and rehabilitation of individuals within the jurisdiction of the criminal court, and those within the jurisdiction of the juvenile court. (Pen. Code, § 1000.7, subd. (k).)

15) Requires the BSCC to review a county's pilot program to ensure compliance with requirements of the federal law, relating to "sight and sound" separation between juveniles and adult inmates. (Pen. Code, § 1000.7, subd. (l).)

16) Provides that the statutes related to this pilot program apply to a defendant who would otherwise serve time in custody in a county jail. Participation in this pilot program is prohibited as an alternative to a sentence involving community supervision. (Pen. Code, § 1000.7, subd. (m)(1).)

17) Requires that each county establish a multidisciplinary team that shall meet periodically to review and discuss the implementation, practices, and impact of the program. The team shall include representatives from the following entities:

    a) The probation department;

    b) The district attorney's office;

    c) The public defender's office;

    d) The sheriff's department;

    e) Courts located in the county;

    f) The county board of supervisors;

    g) The county health and human services department; and,

    h) A youth advocacy group. (Pen. Code, § 1000.7, subd. (m)(2).)

18) Requires a county that establishes a pilot program pursuant to this section to conduct an evaluation of the pilot program's impact and effectiveness. The evaluation is required to include, but not limited to:

a) Evaluating each pilot program's impact on sentencing and impact on opportunities for community supervision;

b) Monitoring the program's effect on minors in the juvenile facility, if any; and,

c) Its effectiveness with respect to program participants, including outcome-related data for program participants compared to young adult offenders sentenced for comparable crimes. (Pen. Code, § 1000.7, subd. (n)(1).)

19) Requires each participating county evaluations of the pilot program to be combined into a comprehensive report and submitted to the Assembly and Senate Committees on Public Safety, no later than December 31, 2027. (Pen. Code, § 1000.7, subd. (n)(2).)

20) Provides that Counties may contract with an independent entity, including, but not limited to, the Regents of the University of California, for the purposes of conducting the evaluation and preparing the report. (Pen. Code, § 1000.7, subd. (n)(3).)

21) Requires counties to comply with reporting requirements as stated to continue to participate in the pilot program (Pen. Code, § 1000.7, subd. (n)(4).)

22) Requires this chapter to remain in effect only until January 1, 2029, and as of that date is repealed, unless a later enacted statue, that is enacted before January 1, 2029, deletes or extends that date. (Pen. Code, § 1000.7, subd. (o).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Studies have shown that young adults between the ages of 18-25 are still undergoing significant brain development and developing their decision-making skills. To that extent, although these individuals are legal adults, they could be better serviced by the juvenile justice system where they would receive age-appropriate services as opposed to rehabilitation in an adult facility.

   "AB 1258 would extend the sunset date until January 1, 2029, for Santa Clara County to continue offering age-appropriate services for offenders between the ages of 18 and 25 through the Young Adult Deferred Entry Judgement Program. This program has been shown to have a positive impact on young adults as an alternative to adult incarceration. Extending the sunset to continue this program will allow transitional-age youth to receive supportive services geared toward them."

2) **Transition Age Youth (TAY) Pilot Program**: SB 1004 (Hill) Chapter 865, Statutes of 2016, authorized five counties -- Alameda, Butte, Napa, Nevada, and Santa Clara -- to operate a deferred entry of judgement pilot program until January 1, 2020 in which certain young adult offenders would serve their time in juvenile hall instead of jail. Subsequently, SB 1106 (Hill), Chapter 1007, Statutes of 2018, extended the sunset date on the pilot program to January 1, 2022 and added the County of Ventura to the list of counties authorized to operate the pilot program, although ultimately Ventura chose not to participate in the pilot program.

Program eligibility was expanded by AB 1390 (Mark Stone), Chapter 129, Statutes of 2019, to include young adults who were between the age of 21 and 24 at the time of their arresting offense. Program participation by an individual in this age group must first be approved locally by the jurisdiction's multidisciplinary team established for this project. The operation of the pilot program was again extended by AB 1318 (Mark Stone), Chapter 210, Statutes of 2021 to January 1, 2024. AB 58 (Kalra), Chapter 418, Statues of 2023, extended this pilot program to January 1, 2026.

Prior to establishing a pilot program, the county is required to apply to BSCC for approval of a county institution as a suitable place for confinement for the purpose of the pilot program. To be eligible, the defendant must be between the ages of 18 and 21, and must not have a prior or current conviction for a serious, violent, or sex offense. As stated above, individuals between the age of 21 and 24 may participate in the program with approval of the local multidisciplinary team. Participants must consent to participate in the program, be assessed and found suitable for the program, and show the ability to benefit from the services generally provided to juvenile hall youth. The probation department is required to develop a plan for reentry services, including, but not limited to, housing, employment, and education services, as a component of the program. Finally, a person participating in the program cannot serve more than one year in juvenile hall.

The pilot program is a deferred entry of judgment program, meaning that participants have to plead guilty in order to be eligible for the program. If they succeed in the program then the criminal charges are dismissed. If the individual is found to perform unsatisfactorily in the program, the probation department may file a motion of entry of judgement. Once it receives the motion, the court conducts a hearing to establish whether a judgment should be entered. If the court determines that an individual was not benefiting from the services and supports included in the program or is performing unsatisfactorily in the program, the court may render a verdict of guilty to the charge or charges and schedule a sentencing hearing.

This bill would extend the sunset date of the TAY Pilot Program until January 1, 2029, and require participating counties to submit an evaluation report of the program to the Assembly and Senate Public Safety Committees by December 31, 2027.

3) **Argument in Support**: According to the *California Judges Association (CJA),* "AB 1258 extends the sunset date of the Deferred Entry of Judgment Pilot Program (DEJPP) from January 1, 2026, until January 1, 2029. DEJPP has been in place since 2016 in the counties of Alameda, Butte, Napa, Nevada, Santa Clara, and Ventura. AB 1258 would extend the sunset dates for Butte, Nevada, and Santa Clara County to January 1, 2029. This bill allows young adults between the ages of 18 – 25, who meet specific criteria, to participate in a deferred entry program with the approval of a multidisciplinary team established by this bill. This allows these young adults with access to age appropriate services, such as mental health, vocational, educational, and reentry services. Individuals convicted of violent crimes, sex offenses, or other serious felonies are excluded from participation.

"Young adults who complete the program would be eligible to have their charge(s) dropped and have access to housing, employment, and education reentry services to combat recidivism and ensure they are given the best chance to succeed post-incarceration. However, failure to comply or committing a new crime could result in entry of judgment and a transfer to county jail. Program efficacy will be determined through participating county's data

collection submitted by December 31, 2027, to the Division of Recidivism Reduction and Re-Entry within the Department of Justice.

"AB 1258 promotes public safety by prioritizing evidence-based rehabilitation over punitive measures. Research has consistently shown that young adults who receive appropriate services tailored to their needs are less likely to reoffend, making communities safer in the long run. The inclusion of risk assessment tools ensures that only those who demonstrate the ability to benefit from the program are admitted, balancing accountability with the opportunity for positive change."

4) **Prior Legislation**:

a) AB 58 (Kalra), Chapter 418, Statues of 2023, extended this pilot program to January 1, 2026.

b) AB 1318 (Stone), Chapter 210, Statues 2021, extended this pilot program until January 1, 2024.

c) AB 1390 (Stone), Chapter 129, Statutes of 2019, to include young adults who were between the age of 21 and 24 at the time of their arresting offense.

d) SB 1106 (Hill), Chapter 1007, Statutes of 2018, extended the sunset date on the pilot program to January 1, 2022 and added the County of Ventura to the list of counties authorized to operate the pilot program, although ultimately Ventura chose not to participate in the pilot program.

e) SB 1004 (Hill) Chapter 865, Statutes of 2016, authorized five counties -- Alameda, Butte, Napa, Nevada, and Santa Clara -- to operate a deferred entry of judgement pilot program until January 1, 2020.

REGISTERED SUPPORT / OPPOSITION:

Support

California Judges Association
California Public Defenders Association (CPDA)
Chief Probation Officers' of California (CPOC)
Ella Baker Center for Human Rights

Opposition

None submitted.

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

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

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1263 (Gipson) – As Amended March 24, 2025

SUMMARY: Prohibits 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 computer numerical control (CNC) milling machine, as specified. Specifically, **this bill:**

1) States that prior to completing the sale or delivery in California or to a California resident of a firearm accessory or a firearm manufacturing machine, as defined, or of a firearm barrel unattached to a firearm, a firearm industry member shall comply with all of the following requirements:

    a) The firearm industry member shall provide a prospective purchaser with a clear and conspicuous notice of the information provided in paragraph (2);

    b) The firearm industry member shall receive an acknowledgment from the prospective purchaser attesting that the prospective purchaser received and understands the notice provided in paragraph (2); and,

    c) The firearm industry member shall require the prospective purchaser to provide proof of age and identity verifying that the prospective purchaser is at least 18 years of age.

2) States that notice described in paragraph (1) shall clearly notify the prospective purchaser that it is generally a crime in California to engage in any of the following conduct without a valid license to manufacture firearms:

    a) Manufacturing more than three firearms per calendar year in California;

    b) Manufacturing a firearm using a three-dimensional printer or CNC milling machine;

    c) Manufacturing a firearm for the purpose of selling or transferring ownership of that firearm to another individual who is not licensed to manufacture firearms;

    d) Manufacturing a firearm for the purpose of selling, loaning, or transferring that firearm, with the intent to complete the sale, loan, or transfer without a required background check initiated by a licensed firearms dealer;

    e) Allowing, facilitating, aiding, or abetting the manufacture of a firearm by a person who is legally prohibited from possessing firearms; or,

f) Manufacturing or causing the manufacture of, assault weapons, machineguns, undetectable firearms, unserialized firearms, unsafe handguns that are not on the Department of Justice roster of handguns certified for sale in California, or other generally prohibited weapons.

3) Provides for shipment and delivery of a firearm barrel, firearm accessory, or firearm manufacturing machine, the firearm industry member shall do all of the following:

   a) Ensure all packages are conspicuously labeled with the words: "Signature and proof of identification of person aged 18 years or older required for delivery.";

   b) Ensure the shipping instructions list an address that matches the purchaser's identification; and,

   c) Require the purchaser, upon delivery, to present a courier with proof of identification and the purchaser's signature in order to receive the item.

4) States that this subdivision does not apply to the sale or delivery of a firearm barrel, firearm accessory, or firearm manufacturing machine to any of the following:

   a) A federally licensed firearms dealer, manufacturer, or importer;

   b) A licensed ammunition vendor;

   c) A member of the Armed Forces of the United States or the National Guard, while on duty and acting within the scope and course of employment, or any law enforcement agency or law enforcement officer while on duty and acting within the scope and course of employment.

   d) A forensic laboratory; or,

   e) A wholesaler.

5) States that the notice requirement does not apply to the delivery of a firearm barrel, firearm accessory, or firearm manufacturing machine to a licensed common carrier or an authorized agent or employee of a licensed common carrier, when acting in the course and scope of duties incident to the delivery of or receipt of these items.

6) Provides that in awarding compensatory damages, a court shall hold a person strictly liable for any personal injury or property damage inflicted by the use of a firearm that is or other device that was unlawfully manufactured or produced as a result of the person's violation, including a firearm or device manufactured or produced in whole or in part using the digital firearm manufacturing code that they the person distributed or caused to be distributed, or that is distributed in violation of the law or a firearm or device that was unlawfully manufactured by means of a CNC milling machine, a three-dimensional printer, or a similar machine.

7) States that a person who has suffered harm in California as a result of violating the law may bring an action in a court of competent jurisdiction to establish that a person has violated this

section, and may seek compensatory damages as well as injunctive relief sufficient to prevent the person and any other defendant from further violating the law.

8) Establishes that there shall be a rebuttable presumption that a person has violated the prohibition against distribution of digital firearms manufacturing codes if both of the following are true:

   a) The person owns or participates in the management of an internet website or other electronic portal, database, or platform that makes digital firearm manufacturing code available for purchase, download, or other distribution to individuals in California who are not federally licensed firearms manufacturers; and

   b) Under the totality of the circumstances, the internet website or other electronic portal, database, or platform encourages individuals who access or use the internet website or electronic portal, database, or platform to upload or disseminate digital firearm manufacturing code or to use digital firearm manufacturing code to manufacture firearms, firearm accessories, or other devices, as defined.

9) States that it is civilly unlawful to knowingly, willfully, or recklessly cause another person to engage in the unlawful manufacture of firearms, or to knowingly, willfully, or recklessly aid, abet, promote, or facilitate the unlawful manufacture of firearms.

10) Provides that a person who has suffered harm in California, as a result of a violation of the prohibition against unlawful firearms manufactured with digital firearm manufacturing codes, may bring an action in a court of competent jurisdiction to establish that a person has violated this section, and may seek compensatory damages as well as injunctive relief sufficient to prevent the person and any other defendant from further violating the law.

11) Specifies that the Attorney General, county counsel, or city attorney may bring an action in a court of competent jurisdiction to establish that a person has violated this section, and may seek a civil penalty not to exceed$25,000 for each violation, as well as injunctive relief sufficient to prevent the person and any other defendant from further violating the law.

12) Establishes that a prevailing plaintiff shall be entitled to recover reasonable attorney's fees and costs.

13) States that the remedies provided by this section are cumulative and shall not be construed as restricting any other rights, causes of action, claims, or defenses available under any other law.

14) Stipulates that it is criminally unlawful to knowingly or willfully cause another person to engage in the unlawful manufacture of firearms, or to knowingly or willfully aid, abet, promote, or facilitate the unlawful manufacture of firearms.

15) States that the "unlawful manufacture of firearms" shall be a misdemeanor and includes any of the following:

a) The manufacture of a firearm by a minor, or by a person who is prohibited from owning or possessing firearms under California law;

b) The manufacture of four or more firearms within the state in the same calendar year by an individual who is not licensed to manufacture firearms pursuant to California law, in violation of established manufacturing limitations;

c) The manufacture of any firearm using a three-dimensional printer or CNC milling machine by an individual who is not licensed to manufacture firearms pursuant to California law, in violation of the prohibition against unlawfully using a milling machine, three dimensional printer, or similar machine to manufacture firearms;

d) The manufacture of a firearm by a person who is not a federally licensed firearms manufacturer, for the purpose of selling or transferring ownership of that firearm to another person who is not a federally licensed firearms manufacturer, in violation of the prohibition against unapproved persons selling or transferring a firearm;

e) The manufacture of a firearm for the purpose of selling, loaning, or transferring the firearm to another person, with the intent to complete the sale, loan, or transfer without a required background check on the transferee initiated by a licensed firearms dealer, in violation of the prohibition against unlawfully acquiring and transferring a firearm within the State of California; or,

f) The manufacture of any of the following:

i. Assault weapons or .50 BMG rifles, in violation of Section 30600.

ii. Firearms that are not immediately recognizable as firearms, in violation of Section 24510.

iii. Firearms that are not imprinted with a valid state or federal serial number or mark of identification, in violation of subdivision (f) of Section 29180.

iv. Large-capacity magazines or large-capacity magazine conversion kits, in violation of Section 32310 or 32311.

v. Machineguns, in violation of Section 32625.

vi. Multiburst trigger activators, in violation of Section 32900.

vii. Short-barreled rifles or short-barreled shotguns, in violation of Section 33215.

viii. Undetectable firearms, in violation of Section 24610.

ix. Unsafe handguns, in violation of Section 32000.

x. Zip guns, in violation of Section 33600.

xi. Any other weapon defined as a "generally prohibited weapon" under Section 16590.

16) States that any person, who is convicted on or after January 1, 2026, of a defined misdemeanor violation and who, within 10 years of the conviction, owns, purchases, receives, or has in their possession or under their custody or control any firearm, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding $1,000, or by both that fine and imprisonment.

17) Defines "digital firearm manufacturing code" to mean any digital instructions in the form of computer-aided design files, computer-aided manufacturing files, or other code or instructions stored and displayed in electronic format as a digital model that may be used to program a CNC milling machine, a three-dimensional printer, or a similar machine, to manufacture or produce any of the following:

a) A firearm, including a completed frame or receiver or a firearm precursor part;

b) A large-capacity magazine, as defined in Section 16740 of the Penal Code;

c) A large-capacity magazine conversion kit, as defined in Section 32311 of the Penal Code;

d) A machinegun, as defined in Section 16880 of the Penal Code, including devices commonly known as switches or auto-sear devices;

e) A multiburst trigger activator, as defined in Section 16930 of the Penal Code;

f) A silencer, as defined in Section 17210 of the Penal Code;

g) A firearm accessory, as defined in Section 3273.50; or,

h) A firearm barrel.

18) Defines "firearm accessory" as 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-increase a firearm's rate of fire or to increase the speed at which a person may reload a firearm or replace the magazine, or any other attachment or device that may render a firearm an assault weapon when inserted into, affixed onto, or used in conjunction with a firearm. The term firearm accessory also includes any other device, tool, kit, part, or parts set that is clearly designed and intended for use in manufacturing firearms.

19) Defines "firearm manufacturing machine" as a three-dimensional printer, as defined, a computer numerical control (CNC) milling machine, or a similar machine, that is marketed or sold as or is reasonably designed or intended to be used to manufacture or produce firearms, firearm components, or firearm accessories.

20) Includes severability provision in the law.

EXISTING LAW:

1) States that a firearm industry member shall comply with the firearm industry standard of conduct. It shall be a violation of the firearm industry standard of conduct for a firearm industry member to fail to comply with any requirement of this section. (Pen. Code, § 3273.51, subd. (a).)
2) Requires a firearm industry member to do both of the following:

    a) Establish, implement, and enforce reasonable controls.

    b) Take reasonable precautions to ensure that the firearm industry member does not sell, distribute, or provide a firearm-related product to a downstream distributor or retailer of firearm-related products who fails to establish, implement, and enforce reasonable controls. (Pen. Code, § 3273.51, subds. (b)(1)-(2).)

3) Provides that a firearm industry member shall not manufacture, market, import, offer for wholesale sale, or offer for retail sale a firearm-related product that is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety in California, where the following shall apply:

    a) A firearm-related product shall not be considered abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety based on a firearm's inherent capacity to cause injury or lethal harm.

    b) There shall be a presumption that a firearm-related product is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety if any of the following is true:

        i. The firearm-related product's features render the product most suitable for assaultive purposes instead of lawful self-defense, hunting, or other legitimate sport and recreational activities.

        ii. The firearm-related product is designed, sold, or marketed in a manner that foreseeably promotes conversion of legal firearm-related products into illegal firearm-related products.

        iii. The firearm-related product is designed, sold, or marketed in a manner that is targeted at individuals who are legally prohibited from accessing firearms. (Pen. Code, § 3273.51, subd. (c).)

4) States that a firearm industry member shall not engage in any conduct related to the sale or marketing of firearm-related products, as defined. (Pen. Code, § 3273.51, subd. (d).)

5) Provides that a civil action may be brought against a person who knowingly does either of the following:

a) Distributes or causes to be distributed, by any means including the internet, any digital firearm manufacturing code to any other person in this state who is not a federally licensed firearms manufacturer, member of the Armed Forces of the United States or the National Guard, while on duty and acting within the scope and course of employment, or any law enforcement agency or forensic laboratory, or

b) Commits an act that violates Section 29185 of the Penal Code, regardless of whether the act results in a conviction. (Pen. Code, § 3273.61, subds. (a)(1)-(2).)

6) States that the Attorney General, county counsel, or city attorney may bring an action in any court of competent jurisdiction to establish that a person has violated this section and may seek a civil penalty not to exceed $25,000for each violation, as well as injunctive relief. (Pen. Code, § 3273.61, subd. (c).)

7) Provides that a prevailing plaintiff shall be entitled to recover reasonable attorney's fees and costs. (Pen. Code, § 3273.61, subd. (d).)

8) Establishes that the remedies provided by this section are cumulative and shall not be construed as restricting any other rights, causes of action, claims, or defenses available under any other law. (Pen. Code, § 3273.61, subd. (e).)

9) States that a person who commits a defined act shall be strictly liable for any personal injury or property damage inflicted by the use of a firearm that is manufactured or produced using the digital firearm manufacturing code that they distributed or caused to be distributed or that is manufactured by means of a CNC milling machine, a three-dimensional printer, or a similar machine. (Pen. Code, § 3273.61, subd. (b).)

10) States that "firearm manufacturing machine" means a three-dimensional printer, as defined, or CNC milling machine that, as described in that section, marketed or sold as, or reasonably designed or intended to be used to manufacture or produce-a firearm. (Pen. Code, § 3273.50, subd. (g).)

11) Establishes 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).)

12) Defines "federally licensed firearms manufacturer" as a person, firm, corporation, or other entity that holds a valid license to manufacture firearm, as defined. (Pen. Code, § 3273.60, subd. (b).)

13) Provides that "firearm" means 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, § 3273.60, subd. (c).)

14) States that "three-dimensional printer" means a computer-aided manufacturing device capable of producing a three-dimensional object from a three-dimensional digital model

through an additive manufacturing process that involves the layering of two-dimensional cross sections formed of a resin or similar material that are fused together to form a three-dimensional object. (Pen. Code, § 3273.50, subd. (d).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "In response to California's effective efforts to regulate the sale of core ghost gun industry products—nearly completed, so-called '80%' frames and receivers—some ghost gun industry entities have shifted to sell machines, parts, products, and services designed to facilitate unlicensed individuals' illegal manufacture of ghost guns, machine gun conversion devices, and other unlawful weapons, using consumer-level 3D-printers and CNC milling machines. Recently enacted California laws included some nation-leading provisions to address these threats, but additional legislation is needed to expand and build on these statutes' protections.

2) **Effect of the Bill**: This bill would make it unlawful to participate in the unlawful manufacture of firearms. Violation of this law would be a misdemeanor and could subject the violator to civil penalties, including a fine of up to $25,000, cost-shifting of attorneys' fees, and injunctive relief.

   It is unclear whether increasing penalties has a deterrent effect. There is reliable evidence showing increased penalties generally fails to deter criminal behavior.[1] Data shows greater deterrent effects as the likelihood of being caught and the perception that one will get caught rises.[2] In contrast, the act of punishment and the length of punishment largely do not increase deterrence.[3]

   A standard misdemeanor in California is punishable by imprisonment in county jail for up to six months and a fine of up to $1,000. (Pen. Code, § 19.) Criminal fines and the collection of those fines is commonly misunderstood. The breakdown and supporting information below can be illustrative.

   Example: Penalty assessments and fees on a base fine of $1,000:

   Pen. Code, § 1464 state penalty on fines: 1,000 ($10 for every $10)

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[1] *Five Things About Deterrence* (May 2016) National Institute of Justice <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [as of Feb. 25, 2025].
[2] *Ibid.*
[3] *Ibid.*

Pen. Code, § 1465.7 state surcharge:	200 (20% surcharge)
Pen. Code, § 1465.8 court operation assessment:	40 ($40 fee per criminal offense)
Gov. Code, § 70372 court construction penalty:	500 ($5 for every $10)
Gov. Code, § 70373 assessment:	30 ($30 for felony or misdemeanor)
Gov. Code, § 76000 penalty:	700 ($7 for every $10)
Gov. Code, § 76000.5 EMS penalty:	200 ($2 for every $10)
Gov. Code, § 76104.6 DNA fund penalty:	100 ($1 for every $10)
Gov. Code, § 76104.7 additional DNA fund penalty:	400 ($4 for every $10)
Total Fine with Assessments:	**$4,170**

Criminal fines rapidly balloon into unpayable amounts for most of the population, which create downstream economic consequences for impacted individuals and society. Unsurprisingly, the judicial branch reported that $8.6 billion in fines and fees remained unpaid at the end of 2019-20.[4]

With evidence also showing that increasing criminal fines increases felony recidivism, specifically among a population that historically has faced inexplicably disproportionate punishment in the criminal justice system,[5] it remains questionable whether increasing criminal punishment, as this bill does, would produce the desired impact.

Yet, the ongoing battle to reduce or eliminate ghost guns has proven difficult. A recent report found a dramatic increase in ghost guns recovered in recent years.[6] The report noted that from 2019-2021, there was a 592% increase in the number of ghost guns recovered as a result of criminal activity, which represented 70% of the entire increase in guns recovered during the same period.[7] From 2021-23, however, there was a 23% decrease in ghost gun recoveries, which could mean existing laws are proving effective.[8] The reduction in ghost

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[4] *Overview of Criminal Fine and Fee System* (May 13, 2021) Legislative Analyst's Office <https://lao.ca.gov/Publications/Detail/4427> [as of Feb. 25, 2025].
[5] One recent study has shown that the increase in fines levied for criminal punishment increased the likelihood of felony recidivism, especially among Black defendants. Giles, *The Government Revenue, Recidivism, and Financial Health Effects of Criminal Fines and Fees* (Sept. 9, 2023) Wellesley College <http://dx.doi.org/10.2139/ssrn.4568724> [as of Apr. 2, 2025].
[6] *California's Fight Against the Ghost Gun Crisis: Progress and New Challenges*, California Department of Justice (Oct. 2024) <https://oag.ca.gov/system/files/media/ogvp-report-ghost-guns.pdf> [as of Apr. 2, 2025].
[7] *Ibid.*
[8] *Ibid.*

gun recoveries accounted for 73% of the overall reduction in crime guns recovered from 2021-23.[9]

Even with this progress, the decreases in ghost gun recoveries still have not returned to their pre-pandemic peak and technology continues getting more advanced. The advances in technology could allow for more efficient production of ghost guns.[10] By placing additional regulations around this industry, this bill could help continue the progress made in California's reduction of recovered ghost guns.

3) **The *Bruen* Analysis:** This bill would regulate some plain text Second Amendment conduct, which includes 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 does not appear to have much to offer in the way of ghost guns. One of the reasons for this could be the process for manufacturing and acquiring ghost guns significantly differs from processes used historically to manufacture and acquire firearms.[11]. Instead of a manufacturer selling to a dealer (or consumer), which then sells to a consumer, ghost guns can be made by consumers themselves with relatively affordable and user-friendly equipment.[12] As our Department of Justice noted, "Increasingly, ghost guns are also being produced using consumer-level computer-operated machines, including 3-D-printers and computerized numerical control (CNC) milling machines. These machines can be programmed to automatically produce or finish frames and receivers and other core firearm components."[13] This sort of technology unlikely was in the thinking of 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.)

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[9] *Ibid.*
[10] *Ibid.*
[11] 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].
[12] See *supra*, at note 6.
[13] *Id.* at p. 7.

If an argument can be established that ghost guns are "unusual" or "dangerous" weapons, then it likely would be easier to establish a historical tradition of regulation in this area. The Court has already identified this area as one with potential for constitutional clearance under the historical tradition test. (See *Bruen, supra*, at p. 39.) It is not clear from the case law whether courts would endorse ghost guns as sufficiently analogous to the dangerous or unusual weapons prohibited during the key timeframes. The tradition of manufacturer and consumer regulation may not yield the type of analogous examples the courts will seek in these cases, either, since the manufacturer and consumer of ghost guns are sometimes one and the same.

The Supreme Court did provide some further guidance in *Bondi v. Vanderstok*. In that case, the challengers argued that the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) new regulations establishing variously completed frames, receivers, and parts kits were weapons under the Gun Control Act (GCA) and thus, subject to agency rules and regulations. (*Bondi v. Vanderstok,* (2025) 604 U.S. ___.) The Court denied the challengers' argument finding, "the statutory text contemplates that some things short of fully operable firearms qualify as 'weapons.'" (*Ibid.*) The Court used an example of one kit that came with all the necessary parts for building a semiautomatic pistol and the kit required only common tools to assemble the finished product, which it found to be sufficient to qualify as a product subject to ATF's regulations. (*Ibid.*) The Court also warned, "we do not suggest that the GCA reaches, and ATF may regulate, any combination of parts susceptible of conversion into a frame or receiver with sufficient time, tools, and expertise." (*Ibid.*)

The potential significance of this decision here may be found with the Court's confirmation that ATF has authority under existing law to regulate certain unfinished firearms parts as weapons or firearms and that whether an individual has a Second Amendment right to keep and bear these "weapons" was not an issue. As the California Department of Justice wrote, "Most ghost guns have been assembled using handgun frames or long gun receivers sold in nominally unfinished form, either as a standalone product or as part of a bundled ghost gun build kit. These products are frequently marketed as "80%" frames or receivers to convey that they are close to fully completed." The Court here appears to have done nothing to call into question our federal or state government's power to regulate ghost guns. Following the Court's decisions in *Vanderstok and Bruen*, it appears that this bill and our laws regulating ghost guns are unlikely to draw Second Amendment scrutiny.

4) **Argument in Support:** According to California Attorney General Rob Bonta, "'Ghost guns' are firearms that are produced without an identifying serial number by individuals who do not have a license to manufacture firearms. The absence of a serial number can make it very difficult for law enforcement investigating gun crimes to trace the manufacture, sale, or existence of a ghost gun. Importantly, the absence of a serial number also indicates that the gun was likely built from components sold through unregulated or illegal channels without a sale or manufacturing record and, of particular concern, without any background check.

"California enacted the nation's strongest ghost gun reform bills in 2022 and 2023, in significant part through legislation you authored, including AB 1621 and AB 1089. Those laws have had a substantial positive impact by strengthening civil and criminal accountability tools to address a range of unfair and dangerous conduct by the ghost gun industry and those using ghost gun industry products to unlawfully manufacture and traffic ghost guns. Those laws provide a strong foundation for further reform. But irresponsible actors continue to seek out new ways to profitably market skip-the-background-check access to deadly weapons and we must ensure our laws proactively address these threats. Recent reports by DOJ's Office of Gun Violence Prevention and the Biden Administration's Office of Gun Violence Prevention warned that the ghost gun industry continues to shift its focus to selling products and services designed to facilitate unlicensed individuals' illegal manufacture of ghost guns, machine gun conversion devices, and other unlawful weapons, using consumer-level 3D-printers and CNC milling machines. Some ghost gun industry members have operated websites designed to sell or facilitate the distribution and use of the digital code used to program these machines to print or mill firearms, machine gun conversion devices, and other dangerous firearm accessories. Some sell largely unregulated parts and kits that may, in isolation, be legal for sale, but in practice are often used to unlawfully manufacture ghost guns, finish illegal 3-D printed weapons, or convert firearms into assault weapons or machine guns. Some have announced plans to develop AI models and chatbots to guide users through the process of completing a 3-D printed or CNC-milled ghost gun and generate digital firearm manufacturing code on demand. Companies selling these products and services often fail to meaningfully inform California purchasers that it is a crime to use their products for their logical intended purpose. These business practices are unfair both to California consumers and to other responsible firearm industry businesses that sell regulated firearm products pursuant to background checks and other basic safety requirements. These business practices also encourage illegal ghost gun manufacturing and trafficking and represent a dangerous threat to public safety.

"AB 1263 would build on California's recent highly effective ghost gun reforms and continue to bolster our progress in stopping the proliferation of ghost guns in crime, strengthen accountability tools against the skip-the-background-check ghost gun industry, and strengthen gun violence victims' ability to hold ghost gun companies and ghost gun traffickers accountable for their harmful unlawful conduct."

5) **Argument in Opposition**: According to *Gun Owners of America,* "This bill is a solution in search of a problem; it seeks to make the dissemination of digital instructions and computer code regarding the manufacturing of firearms and accessories illegal. This poses a problem, however, as the banning of digital code has been deemed by the federal courts to be a violation of First Amendment and therefore unconstitutional. It also creates the ability for someone hurt in California to file a private right of action against someone – even if they are not from the Golden State. This is dubious at best and presents a highly questionable legal quagmire since such actions could be perfectly legal in other states.

"Additionally, by defining firearm accessories to include anything that could increase a firearm's rate of fire or reloading speed is a gross overreach and demonstrates a misunderstanding of appropriate firearm use. There is an unfortunate assumption that making a firearm more efficient will only benefit those who may misuse it; why not consider the benefit to how it would serve responsible, lawful gunowners?

"In closing, the bill also requires that any seller of a firearm barrel, a firearm accessory and a CNC machine to inform prospective purchasers that it *could* be a crime to misuse these particular products. Put simply, it is not the responsibility of any seller to inform any purchaser that what they may do in the future with said product may be illegal. CNC milling machines and 3-D printers are ubiquitous and valued tools used by individuals and industry alike; to put limits on their use is patently unfair and will do nothing but put a chill on innovation. For these reasons, Gun Owners of California opposes AB 1263."

6) **Related Legislation**:

a) SB 15 (Blakespear), would authorize the Department of Justice to remove a person from the centralized list of licensees 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) AB 1127 (Gabriel), would prohibit a licensed firearms dealer to sell, offer for sale, exchange, give, transfer, or deliver any semiautomatic convertible pistol, except as specified. This bill is set to be heard today in the Assembly Public Safety Committee.

7) **Prior Legislation**:

a) 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.

b) AB 1089 (Gipson), Chapter 243, Statutes of 2023, requires anybody who uses a three-dimensional printer or CNC milling machine to manufacture a firearm to be a state-licensed manufacturer

c) 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.

d) AB 1594 (Ting), Chapter 98, Statutes of 2022, prohibits a firearm industry member from manufacturing, marketing, importing, offering for wholesale sale, or offering for retail sale a firearm-related product that is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety in California

e) AB 1621 (Gipson), Chapter 76, Statutes of 2022, redefines a firearm precursor part as any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed

or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.

f) AB 2156 (Wicks), Chapter 142, Statutes of 2022, expands the firearms manufacturing prohibition to prohibit any person, regardless of federal licensure, from manufacturing firearms in the state without being licensed by the state.

g) AB 1869 (Rodriguez), of the 2021-2022 Legislative Session, makes the possession of an unserialized firearm or possession of a firearm with an altered, removed, or obliterated serial number punishable as a felony. This bill was held in the Assembly Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Department of Justice

Oppose

Gun Owners of California, INC.

1 private individual

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

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

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1269 (Bryan) – As Amended March 28, 2025

SUMMARY: Requires county and city jails, within 24 hours, to notify all people covered by the medical release of information and next of kin form of the hospitalization or death of a person incarcerated in county or city jail. Specifically, **this bill**:

1) States that this bill shall be known as Wakiesha's Law.

2) Requires within 24 hours of an incarcerated person being hospitalized for a serious or critical medical condition, the county or city jail to inform all people covered by the current medical release of information form about the incarcerated person's health status.

3) Requires county and city jails to facilitate telephone calls between the incarcerated person and all people covered by the current medical release of information form if the incarcerated person consents.

4) Provides that a serious or critical medical condition may include any of the following:

   a) A medical professional has determined that the incarcerated person needs medical treatment for a terminal disease;

   b) A medical professional has determined that the incarcerated person needs to receive life-sustaining medical treatment; or,

   c) The incarcerated person has been admitted to a public or community hospital.

5) Requires that if an incarcerated person has died, the county or city jail to notify all people covered by the current medical release of information form and next of kin form within 24 hours.

EXISTING LAW:

1) Provides that the Board of State and Community Corrections (BSCC) shall establish minimum standards for local correctional facilities. The board shall review those standards biennially and make any appropriate revisions. (Pen. Code, § 6030, subd. (a).)

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

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

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

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

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

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

3) Requires, at intake, the Department of Corrections and Rehabilitation (CDCR) to ask every incarcerated person whom they want covered by the following documents and shall be assisted in completing the necessary paperwork for the following documents:

   a) Approved visitor list. If the incarcerated person would like to add a visitor, CDCR shall provide a visitor application form for the incarcerated person to sign and send to the potential visitor, who may then complete and submit it to the visiting department of the facility;

   b) Medical release of information form;

   c) Medical power of attorney form; and,

   d) Next of kin form authorizing control over body and possessions in case of death. (Pen. Code, § 6401, subd. (a).)

4) Provides that incarcerated persons shall have the ability to update the forms in subparagraphs (a) to (d) of Pen. Code, § 6401, subd. (a) at any time. At least once a year, CDCR shall offer incarcerated persons the opportunity to review and update, as necessary, these forms. (Pen. Code, § 6401, subd. (a)(2).)

5) Requires CDCR, within 24 hours of an incarcerated person being hospitalized for a serious or critical medical condition, to inform all persons covered by the current medical release of information form about the incarcerated person's health status, and to facilitate telephone calls between the incarcerated person and those persons if the incarcerated person consents. A serious or critical medical condition may include any of the following:

   a) A medical professional has determined that the incarcerated person needs medical treatment for a terminal disease;

   b) A medical professional has determined that the incarcerated person needs to receive life-sustaining medical treatment; or,

   c) The incarcerated person has been admitted to a public or community hospital. (Pen. Code, § 6401, subd. (b).)

6) Requires CDCR, if an incarcerated person has died, to notify all persons covered by the current medical release of information form and next of kin form within 24 hours. (Pen. Code, § 6401, subd. (b).)

7) Requires CDCR to obtain from an incarcerated person, upon entry and annually, the name and last known address and phone number of any person or persons to be notified in the event of the person's death or serious illness or serious injury, as determined by the physician in attendance. Requires the persons be notified in the order of the incarcerated person's preference. Requires the incarcerated person be provided with the opportunity to modify or amend his or her notification list at any time. (Pen. Code, § 5022, subd. (a).)

8) Requires CDCR to use all reasonable means to contact the person or persons set forth in the notification list upon the death or serious illness or serious injury, as determined by the physician in attendance, of the incarcerated person. (Pen. Code, § 5022, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "No family should have to wait days to find out if their loved one has been harmed or killed in law enforcement custody. Wakiesha's Law will finally bring parity across systems of incarceration and prioritize family notification"

2) **Intake Forms and Records**: Existing Law requires that BSCC shall establish minimum standards for local correctional facilities. The board shall review those standards biennially and make any appropriate revisions. (Pen. Code, § 6030, subd. (a).) Existing Law also states that each facility administrator of a county and city jail to develop written policies and procedures for the maintenance of individual records for each incarcerated person which shall include, but not be limited to, intake information, personal property receipts, commitment papers, court orders, reports of disciplinary actions taken, medical orders issued by the responsible physician and staff response, and non-medical information regarding disabilities and other limitations. (Cal. Code Regs., tit. 15, § 1041, subd. (a).)

   Currently there are no regulations in existing law that require county or city jails to inform all persons covered by the current medical release of information form about the incarcerated person's health status. This bill would rectify this by requiring county and city jails to inform all people covered by the current medical release of information form, within 24 hours, if an incarcerated person being hospitalized for a serious or critical medical condition and to facilitate telephone calls between the incarcerated person and those people if the incarcerated person consents.

3) **In-Custody Deaths**: The Department of Justice (DOJ) Criminal Justice Statistics Center (CJSC) collects information on deaths in custody (DIC) in California. The DIC data are reported by law enforcement agencies in compliance with California Government Code (GC) section 12525.[1] There have been multiple reports and news articles that provide data on the increase of in-custody jail inmate deaths across California counties. The California State

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[1] Death in Custody

Auditor conducted an audit that stated that between 2006 and 2020, 85 people died in San Diego County jails – one of the highest totals among counties in the State.[2] In 2022, the San Diego Sheriff's Department reported 19 deaths in custody, as well as 8 so far in 2023.[3] San Diego jails have the highest number of "unexplained deaths" out of California's 12 largest counties.[4] LA times reported that in March 2023, three individuals incarcerated in Los Angeles County died in just a nine-day period, and for Los Angeles County deaths in custody in 2022, autopsies had only been completed in roughly a third of the 44 cases.[5]

According to the Department of Justice, "Since the passage of Public Safety Realignment in 2011 - which mandated that individuals sentenced for specific non-violent offenses be housed in county jails rather than state prisons - the share of deaths in custody reported from county sheriff's departments (who manage county jail systems) has grown from 17.1 percent in 2010 to 22.2 percent in 2014 while CDCR has dropped from 59.3 percent to 47.1 percent during the same timeframe. In 2019, the percentage of county jail deaths grew to 20.6 percent and the percentage of CDCR deaths decreased to 52.8 percent."[6]

As there are growing concerns over the increase of in-custody deaths in California county jails, it is imperative that the family members of these individuals be kept in the loop regarding the status of their health. AB 1269 will require that if an incarcerated person has died, the county or city jail to notify all people covered by the current medical release of information form and next of kin form within 24 hours.

4) **Argument in Support**: According to the *Ella Baker Center for Human Rights*, "The Ella Baker Center supports Assemblymember Bryan's eff orts to achieve medical transparency. County jails should not be able to leave families in the dark regarding their loved one's medical status. Uncertainty around a loved ones medical status or location status can cause undue stress on families and children. This uncertainty can have precipitating effects on families leading them disengage with work or other familial responsibilities, leading to additional financial ramifications on already impacted families.

"Family connection is essential for children whose loved ones are incarcerated. While the system should do more to preserve family connections, knowing where your loved one is, is the very baseline respect that families deserve. California has seen a growing increase in jail deaths, and families deserve transparency around the status of their loved one2. Regardless of the reasons for medical release or change in status, we must treat families with humanity and

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[2] (California State Auditor, Report 2021-109, San Diego County Sheriff's Department – It Has Failed to Adequately Prevent and Respond to the Deaths of Individuals in Its Custody (Feb. 3, 2022) http://www.auditor.ca.gov/reports/2021-109/index.html (Last accessed April 2nd, 2025)
[3] San Diego County Sheriff's Department, Homicide, In-Custody Deaths, Officer Involved Shootings <https://www.sdsheriff.gov/resources/transparency-reports> (Last Accessed on April 2nd, 2025)
[4] (San Diego Citizens Law Enforcement Review Board, San Diego In-Custody Death Study <https://www.sandiegocounty.gov/content/dam/sdc/clerb/docs/in-custody-death-study/Att.G-CLERB%20In-Custody%20Death%20Study.pdf> (Last Accessed on April 2nd, 2025)
[5] Los Angeles Times, Three Inmates Died in Los Angeles County Jails in Just Over a Week (March 28, 2023) <https://www.latimes.com/california/story/2023-03-28/three-inmates-died-in-the-los-angeles-county-jails-in-just-over-a-week> (Last Accessed on April 2nd, 2025)
[6] (DOJ, Death in Custody from 2010 to 2019 <https://openjustice.doj.ca.gov/data-stories/2019/death-custody-2010-2019>

extend the same curteousy we would expect in their shoes." (Citations omitted)

5) **Argument in Opposition**: According to the *California State Sheriffs' Association*, "While we understand the desire to facilitate contact with loved ones when an incarcerated person becomes seriously ill, the bill leaves many open questions. The definition of a serious or critical medical condition may include a situation when an incarcerated person needs to receive "life-sustaining medical treatment." Does a patient receiving oxygen for chronic emphysema constitute life-sustaining medical treatment? Does an insulin-dependent diabetic patient hospitalized for edema qualify? We do not argue that these are serious conditions, but should statute mandate contact be facilitated within 24 hours?

   "In addition to these questions and others, we are concerned that even technical non-compliance, like a phone call that comes ten minutes after the 24-hour period has run, would subject a jail and the county to liability. For this reason, and those stated above, CSSA must oppose AB 1269."

6) **Related Legislation**: H.R. 10367 (Kamlager-Dove), of the 2024 118th Congress, would establish Federal policies and procedures to notify the next-of-kin or other emergency contact upon the death, or serious illness or serious injury, of an individual in Federal custody, to provide model policies for States, units of local government, and Indian Tribes to implement and enforce similar policies and procedures. This bill is currently in the Congressional Committee of the Judiciary.

7) **Prior Legislation**:

   a) SB 519 (Atkins), Chapter 306, Statues of 2023, made records relating to an investigation conducted by a local detention facility into a death incident available to the public.

   b) SB 1139 (Kamlager), Chapter 837, Statues of 2022, required CDCR to make emergency phone calls available to an incarcerated person and specified people outside of CDCR when the incarcerated person has been hospitalized for a serious medical reason or when the incarcerated person's family member has become critically ill or died.

   c) H.R. 6296 (Bass), of the 2021-2021 117th Congress, would enact the Family Notification of Death, Injury, or Illness in Custody Act of 2021, to establish federal policies and procedures to notify the next-of-kin or other emergency contact upon the death, or serious illness or serious injury, of an individual in federal, state and local custody.

   d) SB 555 (Mitchell), of the 2017-2018 Legislative Session, would have prohibited a county jail from collecting commission fees for providing telephone services to inmates, and would have imposed other restrictions on a county's ability to contract for commissary and communication services. SB 555 was vetoed by the governor.

REGISTERED SUPPORT / OPPOSITION:

Support

A New Way of Life Re-entry Project
California Public Defenders Association (CPDA)
Drug Policy Alliance
Ella Baker Center for Human Rights
LA Defensa

1 private individual

Oppose

California State Sheriffs' Association
Riverside County Sheriff's Office

Analysis Prepared by: Samarpreet Kaur / 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 1279 (Sharp-Collins) – As Introduced February 21, 2025

SUMMARY: Prohibits a prior juvenile adjudication or prior conviction for an offense committed when the person was under 18 years of age from constituting a prior "strike" for purposes of the Three Strikes Law. **Specifically**, this bill:

1) States that a prior juvenile adjudication or prior conviction for an offense committed when the person was less than 18 years of age shall not constitute a prior "serious" or "violent" felony for purposes of the Three Strikes alternative sentencing scheme.

2) Authorizes a person who was convicted of a felony who had their sentence enhanced because of a prior juvenile adjudication or a conviction for an offense committed when the person was less than 18 years of age to file a petition with the court that sentenced the petitioner to have their prior conviction vacated and to be resentenced on any remaining counts when all of the following apply:

   a) A complaint, information, or indictment was filed against the petitioner that alleged the petitioner had suffered a prior "serious" or "violent felony" or adjudication for a minor 16 years of age or older for qualifying offenses;

   b) The offense underlying the prior conviction or juvenile adjudication occurred when the petitioner was less than 18 years of age;

   c) The fact of the prior conviction alleged was either admitted or found true by a judge or jury after a conviction on the underlying charge or charges in the complaint, information, or indictment; and,

   d) The petitioner's sentence was actually enhanced due to this prior conviction being found true.

3) Requires the petition to be filed with the sentencing court and served by the petitioner on the district attorney, or on the agency that prosecuted the petitioner, and on the attorney who represented the petitioner in the trial court, or on the public defender of the county where the petitioner was convicted.

4) States that if the judge that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition.

5) Requires the petition to include all of the following and states that if any required information is missing and cannot be readily ascertained by the court, the court may deny the petition without prejudice to the filing of another petition:

a) A declaration by the petitioner that they are eligible for relief under this section, based on all of the specified requirements;

b) The superior court case number and year of the petitioner's conviction; and,

c) Whether the petitioner requests the appointment of counsel.

6) Provides that the court shall review the petition and determine if the petitioner has made a prima facie showing that the petitioner is eligible for relief and if the court determines a prima facie case has been made, the court shall appoint counsel if requested.

7) States that if the court determines that a prima facie case has not been made, and the petitioner has requested counsel, the court may, in its discretion, appoint counsel for the purpose of investigating the petitioner's eligibility for relief pursuant to this section and to represent the petitioner in attendant proceedings.

8) States that if the court determines that the petitioner has made a prima facie showing that they are eligible for relief, the court shall issue an order to show cause why relief should not be granted and give the prosecutor 60 days of service of the petition to file and serve a response and the petitioner may file and serve a reply within 30 days after the prosecutor response is served.

9) Requires the court, within 60 days of the order to show cause, to hold a hearing to determine whether to recall the sentence and resentence the petitioner on any remaining counts and enhancements provided that the new sentence is not greater than the initial sentence.

10) States that at the hearing to determine whether the petitioner is entitled to relief, the burden of proof is on the prosecution to prove, beyond a reasonable doubt that the petitioner is ineligible for resentencing. If the prosecution fails to sustain its burden of proof, the prior sentence shall be recalled and the petitioner shall be resentenced.

11) Provides that the prosecution and petitioner may rely only on the record of conviction in arguing the petitioner's eligibility for resentencing, but may offer new or additional evidence relating to the determination of a new sentence.

12) States that if the court determines that the petitioner is eligible for relief and the prosecutor does not object, it may grant relief without a hearing on the order to show cause and instead proceed directly to a resentencing hearing.

13) Authorizes any deadlines above to be extended upon a showing of good cause.

14) Clarifies that the provisions of this bill do not diminish or abrogate any rights or remedies otherwise available to the petitioner.

15) States that a person who is resentenced shall be given credit for time served, and the judge may order the petitioner to be subject to parole supervision for up to three years following the completion of the sentence.

16) Contains Legislative findings and declarations about the fundamental difference of juveniles from adults in their decisionmaking, culpability, and capacity for rehabilitation.

EXISTING LAW:

1) Defines a "strike" prior as "serious" felonies and "violent" felonies, as specified, including specified juvenile adjudications that occurred when the defendant was 16 years of age or older. (Pen. Code, §§ 667, subd. (d) and 1170.12, subd. (b).)

2) Provides that if a defendant is convicted of a felony offense and it is pled and proved that the defendant has been convicted of one prior "serious" or "violent" offense as defined, the term of imprisonment is twice the term otherwise imposed for the current offense. (Pen. Code, §§ 667, subd. (e)(1) and 1170.12, subd. (c)(1).)

3) Provides that a defendant, who is convicted of a "serious" or "violent" felony offense or a specified sex offense, and it is pled and proved that the defendant has been convicted of two or more prior violent or serious offenses, the term is life in prison with a minimum term of 25 years. (Pen. Code, §§ 667, subds. (a) & (d)(2)(i); 1170.12, subd. (c)(2)(A).)

4) Requires a defendant affected by a prior "strike" to be committed to state prison, and disallows diversion or probation. (Pen. Code, §§ 667, subd. (c) and 1170.12, subd. (a).)

5) Requires consecutive rather than concurrent sentencing for multiple offenses committed by a defendant affected by a prior "strike," unless the current felony convictions arise out of the same set of operative facts. (Pen. Code, §§ 667, subd. (c)(6) and 1170.12, subd. (a)(6).)

6) States that a prior juvenile adjudication constitutes a "strike" for Three Strikes sentencing if it meets all of the following:

   a) The juvenile was 16 years of age or older at the time the juvenile committed the prior offense;

   b) The prior offense is listed in subdivision (b) of Section 707 of the Welfare and Institutions Code or described as a "serious" or "violent" felony;

   c) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law; and,

   d) The juvenile was adjudged a ward of the court under Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code. (Pen. Code, § 667, subd. (d)(3) and 1170.12, subd. (b)(3).)

7) Provides, generally, that a minor who is between 12 years of age and 17 years of age, inclusive, when the minor violates any law defining a crime, is subject to the jurisdiction of the juvenile court and to adjudication as a ward. (Welf. & Inst. Code, § 602, subd. (a).)

8) Establishes criteria to determine whether to transfer a minor from juvenile court to adult criminal court. (Welf. & Inst. Code, § 707.)

9) States that in a case in which a minor is alleged to have committed any felony or any of the enumerated felonies in subdivision (b), when the minor was 16 years of age or older, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(1).)

10) States that in a case in which a minor is alleged to have committed any of the enumerated felonies in subdivision (b) when the minor was 14 or 15 years of age, but was not apprehended prior to the end of juvenile court jurisdiction, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(2).)

11) States that in order to find that the minor should be transferred to a court of criminal jurisdiction, the court shall find by clear and convincing evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. In making its decision, the court shall consider the following criteria, inclusive:

    a) The degree of criminal sophistication exhibited by the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense; the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior; the effect of familial, adult, or peer pressure on the minor's actions; the effect of the minor's family and community environment; the existence of childhood trauma; the minor's involvement in the child welfare or foster care system; and the status of the minor as a victim of human trafficking, sexual abuse, or sexual battery on the minor's criminal sophistication;

    b) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction. The juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature;

    c) The minor's previous delinquent history. The juvenile court shall give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior;

    d) Success of previous attempts by the juvenile court to rehabilitate the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs; and,

    e) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development. The court shall consider evidence offered that indicates that the person against whom the minor is accused of committing an offense trafficked, sexually abused, or sexually battered the minor. (Welf. & Inst. Code, § 707, subd. (a)(3).)

7) Enumerates the following predicate offenses which permit transfer of a juvenile to adult court and also constitutes a prior strike for Three Strikes sentencing if other requirements are met:

   a) Murder;
   b) Arson;
   c) Robbery;
   d) Rape with force, violence, or threat of great bodily harm;
   e) Sodomy by force, violence, or threat of great bodily harm;
   f) A lewd or lascivious act on a minor under 14 years of age by force, violence, or threat of great bodily harm;
   g) Oral copulation by force, violence, duress, menace, or threat of great bodily harm;
   h) Sexual penetration by force, violence, duress, menace, or threat of great bodily harm;
   i) Kidnapping for ransom;
   j) Kidnapping for purposes of robbery;
   k) Kidnapping with bodily harm;
   l) Attempted murder;
   m) Assault with a firearm or destructive device;
   n) Assault by means of force likely to produce great bodily injury;
   o) Discharge of a firearm into an inhabited or occupied building;
   p) Causing great bodily injury in the commission of specified offenses against a person who is 60 years of age or older; or against a person who is blind, a paraplegic, a quadriplegic, or a person confined to a wheelchair;
   q) Personal use of a firearm during the commission of a felony;
   r) Person use of a weapon;
   s) Dissuading a witness or influencing testimony;
   t) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a specified controlled substance;
   u) A "violent" felony committed for the benefit of a criminal street gang;
   v) Escape, by use of force or violence, from a county juvenile hall, home, ranch, camp or forestry camp if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the escape;
   w) Torture;
   x) Aggravated mayhem;
   y) Carjacking while armed with a dangerous and deadly weapon;
   z) Kidnapping for purposes of sexual assault;
   aa) Kidnapping in the course of a carjacking;
   bb) Drive by shooting;
   cc) Exploding a destructive device with intent to commit murder; and,
   dd) Voluntary manslaughter. (Welf. & Inst. Code, § 707, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California's juvenile justice system is designed to rehabilitate young people, yet the Three Strikes law imposes severe, punitive consequences that disproportionately affect youth of color. Treating juvenile adjudications as equivalent to adult strike convictions contradicts the rehabilitative purpose of the juvenile

system. This inconsistency leads to excessively long sentences for individuals convicted of adult strike offenses, undermining efforts to support rehabilitation and instead reinforcing cycles of incarceration.

"AB 1279 seeks to address this injustice by eliminating juvenile strikes, ensuring that the justice system prioritizes rehabilitation over punishment and upholds principles of fairness, equity, and dignity—especially for communities of color disproportionately affected by these policies. Additionally, allowing individuals to petition for resentencing and have prior juvenile strike enhancements reevaluated would help correct systemic inequities that have unfairly extended adult sentences based on juvenile adjudications.

"By addressing this disparity, AB 1279 moves California toward a justice system that treats all individuals equitably rather than perpetuating racial and economic disparities through punitive sentencing policies. This reform is a critical step in ensuring that juvenile court remains focused on its intended mission of rehabilitation, rather than serving as a pipeline to excessively harsh sentences in adulthood."

2) **Three Strikes Law**: In 1994, California voters passed Proposition 184, knowns as the "Three Strikes and You're Out" law that defined qualifying "strikes" as those felonies listed as "serious" or "violent" on June 30, 1993. That same year, the California Legislature passed similar legislation that was signed into law. (AB 971 (Jones), Chapter 12, Statutes of 1994.) Collectively, Proposition 184 and AB 971 became known as California's Three Strikes law which imposes longer prison sentences for certain repeat offenders. Proposition 21 of the March 2000 primary election added to the lists of serious and violent felonies and defined qualifying prior strikes as a felony listed as "serious" or "violent" felonies as of March 8, 2000, the date that the Proposition 21 took effect.

   The Three Strikes law requires a person who is convicted of a felony and who previously has been convicted of one or more "violent" or "serious" felonies, known as strikes, to be subject to enhanced penalties. Specifically, if the person has one prior strike, the sentence on any new felony conviction must be double what is specified by statute. If the person has two prior strikes, the sentence on any new felony conviction was 25 years to life, although this provision was amended by Proposition 36, approved by voters in 2012, to require that the third strike must be a "serious" or "violent" felony in order to impose the life term.

   The Three Strikes law also applies to crimes committed by juveniles. Specifically, the law states that a prior adjudication shall constitute a serious or violent felony conviction for purposes of Three Strikes sentencing enhancement if:

   a) The juvenile was 16 years of age or older at the time the prior offense was committed;

   b) The prior offense is listed in subdivision (b) of Section 707 of the Welfare and Institutions Code or described in statute as a "serious" or "violent felony;"

   c) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law; and,

d) The juvenile was adjudged a ward of the juvenile court because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code. (Pen. Code, §§ 667, subd. (d)(3) and 1170.12, subd. (b)(3).

Proponents of the original Three Strikes law argued that the law would "reduce crime by incapacitating and deterring people who committed repeat offenses by dramatically increasing punishment for people previously convicted of a "serious" or "violent" offense."[1] However, research shows that a decline in crime rates already began prior to the passage of the law. According to a 2005 report by the Legislative Analyst's Office[2]:

> The overall crime rate in California, as measured by the Department of Justice's California Crime Index, began declining before the passage of the Three Strikes law. In fact, the overall crime rate declined by 10 percent between 1991 and 1994. The crime rate continued to decline after Three Strikes, falling by 43 percent statewide between 1994 and 1999, though it has risen by about 11 percent since 1999. Similarly, the violent crime rate declined by 8 percent between 1991 and 1994 and then fell an additional 43 percent between 1994 and 2003. It is important to note that these reductions appear to be part of a national trend of falling crime rates. National crime rates-as reported by the Federal Bureau of Investigation's Uniform Crime Report-declined 31 percent between 1991 and 2003, with violent crime declining 37 percent over that period. Researchers have identified a variety of factors that likely contributed to these reductions in national crime rates during much of the 1990s including a strong economy, more effective law enforcement practices, demographic changes, and a decline in handgun use.

Research also shows that the Three Strikes Law disproportionately impacts people of color. According to the Committee on the Revision of the Penal Code's (CRPC) 2021 annual report[3]:

> More than 33,000 people in prison are serving a sentence lengthened by the Three Strikes law — including more than 7,400 people whose current conviction is neither serious nor violent. The population sentenced under the Three Strikes law is a third of the total prison population.
>
> 80% of people sentenced under the Three Strikes law are people of color. As with the entire prison population, the racial disparities are even more prevalent for young people sentenced under the law: 90% of those who were 25 or younger at the time of the offense and serving a sentence under the Three Strikes law are people of color.
>
> People of color, particularly Black people, are arrested and prosecuted at disproportionate rates, and the Three Strikes law perpetuates these disparities by subjecting people to harsher penalties once they become justice-involved. While

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[1] Proposition 184, Voter Information Guide, 1994 General Election.
[2] LAO, *A Primer: Three Strikes - The Impact After More Than a Decade* (Oct. 2005) https://www.lao.ca.gov/2005/3_strikes/3_strikes_102005.htm (accessed Mar. 5, 2025].)
[3] *Annual Report and Recommendations 2021*, Committee on Revision of the Penal Code, pp. 43-46, fn. omitted.

> Black people account for less than 30% of the entire prison population, they account for 45% of people serving a third strike sentence.

Based on CRPC's findings, the committee recommended eliminating or substantially limiting the use of the Three Strikes law.[4]

This bill would eliminate Three Strikes sentencing for a person whose crime was committed when the person was under the age of 18, including both juvenile adjudications and convictions. Applying the Three Strikes law to juveniles is even less likely to serve the penological goals of deterrence and rehabilitation that are often used as justification for imposing longer terms of incarceration[5]:

> National studies similarly find no credible statistical evidence that passage of three strikes laws reduces crime by deterring potential criminals. Further, adolescents are much less susceptible to deterrence than adults. They tend to act impulsively, making impetuous decisions. They do not tend to engage in a cost-benefits analysis prior to deciding to commit a crime.[6]
>
> . . . .
>
> Furthermore, mandating a penalty for a juvenile in the form of strike records that follow him for the rest of his life indicates a sense of disbelief in the capacity for these young offenders to change. Imposing permanent punishments upon juvenile offenders sends the signal that they are not capable of rehabilitation and thus runs counter to this penological goal.[7]

3) **Juvenile Transfer Process**: Starting with Proposition 21 in March 2000 and continuing until the passage of Proposition 57 in 2016, the prosecution was authorized in specified circumstances to file a criminal action against a minor directly in adult court. Proposition 57 eliminated direct filing in adult court, amending Welfare and Institutions Code section 707 to require a transfer hearing before a minor can be prosecuted in adult court.

   The issue in a juvenile transfer hearing "is not whether the minor committed a specified act, but rather whether [they are] amendable to the care, treatment and training program available through the juvenile court facilities...." (*People v. Chi Ko Wong* (1976) 18 Cal.3d 698, 717, disapproved on another point in *People v. Green* (1980) 27 Cal.3d 1, 33.) Under current law, the prosecution may move to transfer to adult court any minor 16 years of age or older alleged to have committed a felony criminal offense. (Welf. & Inst. Code, § 707, subd. (a)(1).) The prosecution may also move to transfer to adult court a person who was 14 or 15 years of age at the time the person was alleged to have committed a specified serious or violent felony, but who was not apprehended prior to the end of juvenile court jurisdiction. (Welf. & Inst. Code, §§ 707, subd. (a)(2) & 707, subd. (b).) Existing law requires the juvenile court to find by clear and convincing evidence that the minor is not amenable to

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[4] *Id.* at p. 47.
[5] Caldwell, *Twenty-Five to Life for Adolescent Mistakes: Juvenile Strikes as Cruel and Unusual Punishment* (2012) 46 U.S.F. L.Rev. 581.)
[6] *Ibid* at p. 633, fn. omitted.
[7] *Id.* at p. 636.

rehabilitation while under the jurisdiction of the juvenile court in order to find that the minor should be transferred to adult criminal court. (Welf. & Inst. Code § 707, subd. (a)(3).)

In making its transfer decision, the court must consider the following: the minor's degree of criminal sophistication, whether the minor can be rehabilitated in the time before the juvenile court would lose jurisdiction over the minor, the minor's prior history of delinquency, the success of prior attempts by the juvenile court to rehabilitate the minor, and the circumstances and gravity of the charged offense. (Welf. & Inst. Code, § 707, subd. (a)(3)(A)-(E).) Existing law provides guidance to the juvenile court when considering each of these criteria. Existing law specifies that when evaluating the degree of criminal sophistication exhibited by the minor, the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication. (Welf. & Inst. Code § 707, subd. (a)(3)(A)(ii).) Existing law additionally specifies that when evaluating the minor's previous delinquent history, the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior. (Welf. & Inst. Code § 707, subd. (a)(3)(C)(ii).) Existing law states that in evaluating the circumstances and gravity of the offense alleged in the petition to have been committed by the minor, the juvenile court shall give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development. The court shall consider evidence offered that indicates that the person against whom the minor is accused of committing an offense trafficked, sexually abused, or sexually battered the minor. (Welf. & Inst. Code, § 707, subd. (a)(3)(E).)

If a minor is transferred to adult criminal court, the minor is entitled to a jury trial instead of a bench trial and faces a conviction and traditional sentencing, which may constitute a "strike" for future sentencing. This bill would prohibit a prior conviction for offenses from being as a "strike" if committed when the person was under 18.

4) **Retroactivity**: Retroactivity[8] means whether a change in sentencing or constitutional interpretation should be applied to cases where the penalty may already be imposed and appeals exhausted. As a general matter, Penal Code section 3 states "No part of it (meaning the codes) is retroactive, unless expressly so declared." If retroactivity is not specified, the

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[8] The California Supreme Court in *People v. Burgos* (2024) 16 Cal.5th 1 ruled that a defendant was not eligible for a bifurcated trial on a gang enhancement pursuant to Penal Code section 1109, as enacted in 2021 (Stats. 2021, ch. 699, § 5.) The Court correctly rejected *Estrada* as applied to the defendant's case because Penal Code section 1109 was not a criminal penalty reduction, but rather a "prophylactic rule of criminal procedure...." Accordingly, the general rule rejecting retroactivity unless otherwise specified by the statute controlled. In his concurrence, Justice Gorban asked the Legislature to consider the retroactive application of new laws, particularly where the statute is not a clear reduction of a criminal penalty, and to express their intent regarding whether any changes in that kind of legislation should be applied retroactively.

law is not applied retroactively. However, beginning in 1965, ***if a defendant's case is still pending at the time of the change and the law seeks to lessen a criminal penalty, they may be eligible for application of the new law.*** (*In re Estrada* (1965) 63 Cal.2d 740, 746 (hereinafter "*Estrada*").) This is known as the "final judgement rule."

Estrada and other cases since 1965 have held "new laws that reduce the punishment for a crime are presumptively to be applied to defendants whose judgments are not yet final." (*People v. Conley* (2016) 63 Cal.4th 646, 656, citing *Estrada*, 63 Cal.2d at 746).).

> The *Estrada* presumption [of retroactivity] stems from our understanding that when the Legislature determines a lesser punishment is appropriate for a particular offense or class of people, **it generally does not wish the previous, greater punishment—which it now deems too severe—to apply going forward. We presume the Legislature intends the reduced penalty to be used instead in all cases in which there is no judgment or a nonfinal one,** and in which it is constitutionally permissible for the new law to control. (*People v. Padilla* (2022) 13 Cal.5th 152, 162, emphasis added.)

Finality is broadly construed by the courts, but generally means where a criminal proceeding has not yet reached final disposition in the highest court authorized to review it. (*People v. Esquivel* (2021) 11 Cal.5th 671, 677.)

> Recently, we held that 'a convicted defendant who [was] placed on probation after imposition of sentence [was] suspended, and who [did] not timely appeal from the order granting probation, [could] take advantage of ameliorative statutory amendments that [took] effect during a later appeal from a judgment revoking probation and imposing sentence.' We reasoned that the defendant's "prosecution had not been 'reduced to final judgment at the time the ameliorative legislation was enacted as the criminal proceeding … [meaning it] ha[d] not yet reached final disposition in the highest court authorized to review it (Internal citations omitted)." (*People v. Esquivel, supra,* 11 Cal.5th at 677, *citing People v. McKenzie* (2020) 9 Cal.5th 40, 43-45.)[9]

Estrada's inference of retroactivity has been applied when the Legislature creates "a concrete avenue for certain individuals charged with a criminal offense to be treated more leniently or to avoid punishment altogether." (*Burgos, supra in footnote*, 16 Cal.5th at p. 13 *citing People v. Frahs* (2020) 9 Cal.5th 618, 624; see also *People v. Wright* (2006) 40 Cal.4th 81 [newly enacted affirmative defense applies retroactively].)

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[9] See also *Padilla, supra,* 13 Cal.5th at 161 (holding that "non-final" includes any case remanded following a habeas petition.)

This bill would prohibit prior adjudications or convictions for crimes committed while under 18 years of age from counting as "strike" priors. Because this would treat juveniles more leniently than adults who commit the same conduct, *Estrada's* inference of retroactivity would apply to nonfinal cases without specific direction from the Legislature.

This bill would also create a petition process for persons who have had their sentences increased due to a prior strike for an offense committed as a minor. The intent of that provision is so that the changes made by this bill would retroactively apply to any case, including final cases.

5) **Argument in Support**: According to *All of Us or None*, a cosponsor of this bill, "California's 1994 'Three Strikes' law was born out of America's 'tough on crime' era that led to the United States having the largest prison population in the world. California's Three Strikes law affects how adults are sentenced if they were previously convicted of a serious or violent felony, commonly referred to as a 'strike,' and claims to deter crime with harsher sentences. A three-strikes sentence means that the court sentences a person to life in prison, with the minimum term being 25 years or triple the normal term for the crime, whichever is longer.

"Despite the well-recognized differences between adult and juvenile court, the Three Strikes law does not distinguish between juvenile 'strike' adjudications and adult 'strike' convictions. Under existing law, a juvenile strike increases adult sentencing exposure exactly the same as an adult strike. Yet because juvenile delinquency proceedings are not criminal proceedings, kids are not entitled to a trial by jury of their peers – among the most fundamental of our constitutional rights. Moreover, the primary purpose of juvenile court proceedings is rehabilitation, and the punitive use of juvenile adjudications as adult "strikes" is wholly inconsistent with this rehabilitative purpose.

"It is now well recognized that the brain is not fully developed in adolescence; cognitive brain development continues well beyond age 18 and into early adulthood. The parts of the brain that are still developing during this process affect judgment and decision-making, making them highly relevant to culpability. Kids under 18 years of age have a lack of maturity and an underdeveloped sense of responsibility that leads to reckless and impulsive decisions, particularly when it comes to committing crimes. Conversely, the fact that kids are still developing makes them especially capable of personal growth and development. As kids mature into adulthood, further brain development improves communication between the prefrontal cortex and the emotional centers of the brain so emotion regulation and behavioral control increase, and impulsivity and sensation seeking decrease. These developmental differences between kids and adults render youth 'strikes' not only unjust, but also a uniquely poor tool to advance rehabilitation and public safety.

"Youth strikes also disproportionately impact kids of color. Black kids are more likely to face strike charges, and Black adults are more likely to have longer sentences because of having sustained juvenile strikes in the past. Under current law, a former youth could face a 25-life sentence as an adult based on two prior juvenile adjudications -- even if neither of those adjudications was for a violent offense. At its essence, the application of the Three Strikes law to youth under 18 -- including a potential life sentence -- is inherently unjust.

"This bill does not change a judge's discretion as to how to sentence a child for their crimes, nor does it affect a judge's discretion to transfer a child to criminal court to be tried as an adult if the crime is egregious."

6) **Argument in Opposition**: According to the *California District Attorneys Association*, "Prohibiting the use of juvenile strikes would allow repeat, violent offenders to receive lighter sentences that could increase the risk to public safety.

"An example of the importance of allowing prosecutors the discretion to allege juvenile strike priors was seen in the Los Angeles Superior Court case of In re J.Y. In 2017, a seventeen year old 17-year-old shot and killed a 40-year-old man as he stood on the side of a Los Angeles freeway awaiting AAA assistance. Minor killed the man because he was standing on a freeway in rival gang territory. The District Attorney at the time, initially filed a petition in juvenile court and filed a motion to transfer the case from juvenile court to adult. A subsequent District Attorney withdrew the motion to transfer to adult court, as well as dismissing all special allegations. In 2021, the minor admitted the murder charge in juvenile court and was released from custody two years later.

"In 2023, the same juvenile, now an adult, Yoakum Amir Yoakum, was arrested for a robbery with the use of a firearm. While in custody, Yoakum committed another serious crime by stabbing another inmate. In 2025, Yoakum was out on bond from the prior robbery and stabbing when he was arrested in Ventura County for a theft, high-speed pursuit, and possession of a loaded firearm. Yoakum is currently pending criminal charges for the 2025 crimes in the Ventura County Superior Court. The Ventura County Superior Court complaint alleges Yoakum's prior juvenile strike murder prior. AB 1279 would have prohibited the use of Yoakum's prior murder strike from being alleged in the adult criminal case.

"Additionally, this bill would ignore Section 707(a) of the Welfare and Institution Code that permits a juvenile court to determine if youthful offenders who commit serious and violent crimes are fit to be rehabilitated under juvenile court jurisdiction. AB 1279 would prohibit the use of a conviction secured after a minor has been found unfit for juvenile court and transferred to the criminal courts."

7) **Related Legislation**: None

8) **Prior Legislation**:

a) AB 2631 (M. Bonta), Chapter 330, Statutes of 2022, requires the court to find by clear and convincing evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to find that the minor should be transferred to a court of criminal jurisdiction.

b) AB 1127 (Santiago), of the 2021-2022 Legislative Session, would have prohibited a prior juvenile adjudication from counting as a prior strike for Three Strikes enhanced sentencing. AB 1127 was held on the Assembly Floor.

c) SB 439 (Mitchell), Chapter 1006, Statutes of 2018, prohibited the prosecution of children under the age of 12 years in the juvenile court, except when a minor is alleged to have committed murder or specified sex offenses.

d) SB 1391 (Lara) Chapter 1012, Statutes of 2018, repealed the authority of a prosecutor to make a motion to transfer a minor from juvenile court to adult criminal court if the minor was alleged to have committed certain serious offenses when he or she was 14 or 15 years old, unless the minor was not apprehended prior to the end of juvenile court jurisdiction.

REGISTERED SUPPORT / OPPOSITION:

Support

All of Us or None (Co-sponsor)
Pacific Juvenile Defender Center (Co-sponsor)
A New Path
A New Way of Life Re-entry Project
ACLU California Action
All of Us or None Orange County
Alliance for Boys and Men of Color
Alliance San Diego
Back to The Start
Bend the Arc: Jewish Action California
Buen Vecino
C.h.a.n.g.e.s
California Alliance for Youth and Community Justice
California Black Power Network
California for Safety and Justice
California Public Defenders Association (CPDA)
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice (CURYJ)
Democracy Beyond Bars
Ella Baker Center for Human Rights
Empowering Women Impacted by Incarceration
Families Inspiring Reentry & Reunification 4 Everyone (FIR4E)
Felony Murder Elimination Project
Freedom 4 Youth
Fresh Lifelines for Youth
Fresno County Public Defender's Office
Friends Committee on Legislation of California
Grip Training Institute
Initiate Justice
Initiate Justice Action
Jesse's Place Org
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 LA County Public Defenders Union
Milpa Collective
National Center for Youth Law (UNREG)

Peace and Justice Law Center
Pillars of The Community
Prison Ftio
Restoring Hope California
Reversion 36
Riverside All of Us or None
Ryse Center
San Francisco Public Defender
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
Starting Over INC.
Starting Over Strong
The Change Parallel Project
The Place4grace
The W. Haywood Burns Institute
Vera Institute of Justice
Viet Voices
Youth Alive!
Youth Forward

Oppose

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
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
Murrieta Police Officers' Association
Newport Beach Police Association
Orange County Sheriff's Department
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

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

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

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1344 (Irwin) – As Amended March 24, 2025

SUMMARY: Authorizes the Counties of El Dorado and Ventura to establish a pilot program to permit a district attorney to request that the court issue a temporary emergency gun violence restraining order (GVRO), as specified. Specifically, **this bill**:

1) Authorizes El Dorado and Ventura counties, until January 1, 2032, to establish a pilot program to permit a district attorney to request that the court issue a temporary emergency gun violence restraining order, until January 1, 2032.

2) States that a district attorney may file a petition requesting that the court issue an *ex parte* GVRO enjoining the subject of the petition from having in their custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition.

3) Provides that before issuing an *ex parte* GVRO, the court may examine under oath the district attorney or the law enforcement officer who signed the written affidavit and any witness the district attorney may produce.

4) Authorizes the court, in lieu of examining the district attorney or a witness produced by the district attorney, to require the district attorney or witness to submit a written affidavit signed under oath.

5) Requires the court, in determining whether grounds for a GVRO exist, to consider specified evidence.

6) Establishes that a district attorney may request that a court, after notice and a hearing, issue a gun violence restraining order enjoining the subject of the petition from having in their custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition for a period of time between one to five years, as defined.

7) Requires the court, in determining whether to issue a GVRO, to comply with defined requirements.

8) States that a district attorney may request a renewal of a GVRO at any time within the three months before the expiration of a GVRO, as defined.

9) Requires the district attorney, if a district attorney has reasonable cause to believe that the return of a firearm or other deadly weapon seized would be likely to result in endangering the victim or the person who reported the assault or threat, to advise the owner of the firearm or other deadly weapon of the belief, and within 60 days after the date of seizure, shall initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

10) Authorizes the district attorney to make an *ex parte* application stating good cause for an order extending time to file a petition.

11) Provides that, including any extension of time granted in response to an *ex parte* request, a petition shall be filed within 90 days after the date of the seizure of the firearm or other deadly weapon.

12) Requires the district attorney, if a petition is filed, to inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address, by registered mail, that the person has 30 days from the date of receipt to respond to the court clerk to confirm a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon, as defined.

13) Provides that the person's last known address shall be presumed to be the address provided to the district attorney or law enforcement officer at the time the firearm or other deadly weapon was seized.

14) Provides that, if the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to ascertain the whereabouts of the person and to comply with the specified notification requirements.

15) Requires the court to follow specified procedures if the person who receives the petition requests a hearing.

16) Authorizes the district attorney, if the person who receives a petition does not request a hearing or does not otherwise respond within 30 days after the receipt of the notice, to file a petition for an order of default and may dispose of the firearm or other deadly weapon.

17) Requires the court, if the court orders a firearm to be disposed of or orders a default, to transmit a copy of the order to the Department of Justice (DOJ).

18) Provides that a petition brought by a district attorney shall be brought in the name of the people of the State of California.

19) States that a county that establishes a pilot program shall, commencing April 1, 2027, annually submit data regarding the pilot program to the California Firearm Violence Research Center (CFVRC) at UC Davis. The data submitted shall include all of the following:

    a) The number of petitions filed and the outcome of the petitions, if any.

    b) Demographic data for the restrained individuals.

    c) The reasons that the petition was filed.

    d) Areas of success and areas for improvement in subsequent years.

20) Authorizes CFVRC to conduct an evaluation of a pilot program's impact and effectiveness. If the center conducts an evaluation of a pilot project, the evaluation shall include, but not be limited to, the data.

21) Authorizes CFVRC, if it conducts an evaluation of more than one pilot program, to combine the evaluations into a comprehensive report and may submit the report, commencing on or before July 1, 2027, and annually thereafter, to the Assembly and Senate Committees on Public Safety.

22) Establishes a sunset date for the above provisions of January 1, 2034.

23) Requires the court to transmit a copy of the order of default to DOJ if the person who receives a petition does not request a hearing or does not respond within 30 days of notice.

24) States that if the court orders a firearm to be disposed of, as defined, the court shall transmit a copy of the order to the DOJ.

EXISTING LAW:

1) Requires a petition for a GVRO to describe the number, types, and locations of any firearms and ammunition presently believed by the petitioner to be possessed or controlled by the subject of the petition. (Pen. Code, § 18107.)

2) Requires the court to notify DOJ when a GVRO is issued, renewed, dissolved, or terminated. (Pen. Code, § 18115.)

3) Prohibits a person that is subject to a GVRO from having in his or her custody any firearms or ammunition while the order is in effect. (Pen. Code, § 18120, subd. (a).)

4) Provides that the court order the restrained person to surrender all firearms and ammunition in their control, or which the person possesses or owns, and requires the law enforcement officer serving a GVRO to request that all firearms and ammunition be immediately surrendered. (Pen. Code, § 18120, subd. (b)(1) & (2).)

5) Requires, if the request is not made by a law enforcement officer, the surrender to occur within 24 hours of being served with the order, as specified. (Pen. Code, § 18120, subd. (b)(3).)

6) Authorizes law enforcement to obtain a temporary GVRO if the officer asserts, and the court finds, that there is reasonable cause to believe the following:

   a) The subject of the petition poses an immediate and present danger of causing injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition; and,

   b) A temporary emergency GVRO is necessary to prevent personal injury to the subject of the order or another because less restrictive alternatives have been tried and been ineffective or have been determined to be inadequate or inappropriate under the circumstances. (Pen. Code, § 18125, subd. (a).)

7) States a temporary emergency GVRO and an *ex parte* GVRO expire after 21 days. (Pen. Code, §§ 18125, subd. (b); 18155, subd. (c).)

8) Requires a law enforcement officer who requests a temporary GVRO do all of the following:

   a) If the request is made orally, sign a declaration under penalty of perjury reciting the oral statements provided to the judicial officer and memorialize the order of the court on the form approved by the Judicial Council;

   b) Serve the order on the restrained person, if the restrained person can reasonably be located;

   c) File a copy of the order with the court as soon as practicable, but not later than 3 court days, after issuance; and,

   d) Have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice. (Pen. Code, § 18140.)

9) Allows only specified individuals to file a petition requesting that the court issue an *ex parte* GVRO enjoining a person from having in his or her custody or control, owning, purchasing, or receiving a firearm or ammunition, including, among others, an immediate family member of the subject of the petition, a law enforcement officer, and an employer of the subject of the petition. (Pen. Code, § 18150, subd. (a)(1).)

10) Authorizes a court to issue an *ex parte* GVRO if an affidavit, made in writing and signed by the petitioner under oath, or an oral statement, and any additional information provided to the court shows there is a substantial likelihood that both of the following are true:

   a) The subject of the petition poses a significant danger, in the near future, of causing personal injury to himself, herself, or another by having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm as determined by balancing specified factors.

   b) An *ex parte* GVRO is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition. (Pen. Code, §§ 18150, subd. (b) & 18155.)

11) States that a law enforcement officer to serve the *ex parte* GVRO on the restrained person, if the restrained person can reasonably be located. Requires the law enforcement officer to inform the restrained person that he or she is entitled to a hearing and provide the date of the scheduled hearing when serving a gun violence restraining order. (Pen. Code, § 18160.)

12) Requires the court that issued the order, within 21 days after the date on the temporary GVRO order or the *ex parte* GVRO order, to hold a hearing to determine if a GVRO should be issued after notice and hearing. (Pen. Code, §§ 18148 and 18165.)

13) Authorizes defined persons to file a petition requesting that the court issue a GVRO after notice and a hearing enjoining a person from having in his or her custody or control, owning, purchasing, or receiving a firearm or ammunition. (Pen. Code, § 18170.)

14) States that at the hearing, the petitioner has the burden of proof, which is to establish by clear and convincing evidence that a GVRO is necessary, as specified. (Pen. Code, § 18175, subd. (b).)

15) Provides that in determining whether grounds for a GVRO exist, the court *shall* consider all evidence of the following:

   a) A recent threat of violence or act of violence by the subject of the petition directed toward another;

   b) A recent threat of violence or act of violence by the subject of the petition directed toward himself or herself;

   c) A violation of an emergency protective order issued that is in effect at the time the court is considering the petition;

   d) A recent violation of an unexpired protective order;

   e) A conviction for a misdemeanor offense that results in firearm prohibitions; or,

   f) A pattern of violent acts or violent threats within the past 12 months, including, but not limited to, threats of violence or acts of violence by the subject of the petition directed toward himself, herself, or another. (Pen. Code, § 18155, subd. (b)(1).)

16) States that in determining whether grounds for a GVRO exist, the court *may* consider any other evidence of an increased risk for violence, including, but not limited to, evidence of any of the following:

   a) The unlawful and reckless use, display, or brandishing of a firearm by the subject of the petition;

   b) The history of use, attempted use, or threatened use of physical force by the subject of the petition against another person;

   c) A prior arrest of the subject of the petition for a felony offense;

   d) A history of a violation by the subject of the petition of an emergency protective order;

   e) A history of a violation by the subject of the petition of a protective order;

   f) Documentary evidence, including, but not limited to, police reports and records of convictions, of either recent criminal offenses by the subject of the petition that involve controlled substances or alcohol or ongoing abuse of controlled substances or alcohol by the subject of the petition; or,

   g) Evidence of recent acquisition of firearms, ammunition, or other deadly weapons. (Pen. Code, § 18155, subd. (b)(2).)

17) Defines a "GVRO" as an order in writing, signed by the court, prohibiting and enjoining a named person from having in his or her custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition. (Pen. Code, § 18100.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "As Californians continue to endure the trauma of gun violence, I am dedicated to finding every opportunity we can to continue to make a difference in this fight. In 2019, with AB 12 and AB 339, I worked to improve Gun Violence Restraining Orders and require every law enforcement agency to create policies to use them, in hopes of increasing the awareness and use of this lifesaving tool. However we have yet to see widespread use of GVROs, with only small upticks in GVROs in areas where the State has invested in a City Attorney to provide legal assistance for petitions. District Attorneys across the state are willing to step up and provide the legal expertise to petition and defend GVROs in court. As a result of their limited jurisdiction however they have been precluded from joining City Attorneys and County Counsels. AB 1344 will create a pilot program to authorize the District Attorneys of Ventura County and El Dorado County to directly petition for GVROs, adding many attorneys to the fight against gun violence in California and allowing us to truly test whether their addition will meaningfully impact GVRO petition rates."

2) **Effect of the Bill**: This bill would create a pilot program for El Dorado and Ventura counties to permit a district attorney to petition the court for a temporary emergency GVRO.

   This bill retains much of the underlying structure for GVRO's as applied to law enforcement officers, which are the only group statutorily authorized to petition the court for this specific type of GVRO, including judicial discretion to review under oath the information provided in the affidavit or information from witnesses and the option for the district attorney to renew the petition within three months of the GVRO's expiration.

   Under this proposal, any of the two counties that establishes this pilot program shall begin reporting data annually regarding the pilot program to the California Firearm Violence Research Center at UC Davis. The data submitted shall include the number of petitions filed and the outcome of the petitions, if any, demographic data for the restrained individuals, the reasons that the petition was filed, and areas of success and areas for improvement in subsequent years.

   By extending the petitioning power to district attorneys for temporary emergency GVRO's, this bill likely operates as a narrow expansion of our state's red flag laws, which could have additional impacts on public safety in the pilot counties.

3) **Gun Violence Restraining Orders**: California's GVRO laws, modeled after domestic violence restraining order laws, went into effect on January 1, 2016. A GVRO will prohibit the restrained person from purchasing or possessing firearms or ammunition and authorizes law enforcement to remove any firearms already in the individual's possession.

   The statutory scheme establishes three types of GVRO's: a temporary emergency GVRO

(Pen. Code, § 18125), an ex parte GVRO (Pen. Code, § 18150), and a GVRO issued after notice and hearing (Pen. Code, § 18170). A law enforcement officer may seek a temporary emergency GVRO by submitting a written petition to or calling a judicial officer to request an order at any time. (Pen. Code, § 18125).

In contrast, an immediate family member, an employer, a coworker, an employee or teacher of a secondary or post-secondary school, law enforcement officer, a roommate, an individual who has a dating relationship or a child in common with the subject of the petition can petition for either an ex parte GVRO or a GVRO after notice and a hearing. (Pen. Code, § 18150, subds. (a)-(b).)

An ex parte GVRO is based on an affidavit filed by the petitioner, which sets forth the facts establishing the grounds for the order. The court will determine whether good cause exists to issue the order. If the court issues the order, it can remain in effect for 21 days. (Pen. Code, § 18165.). Within that time frame, the court must provide an opportunity for a hearing. (*Ibid.*)

If the court issues a GVRO after notice and hearing has been provided to the person to be restrained, this more permanent order can last for up to five years. (Pen. Code, § 18170, subd. (a)(1).) In determining for how long to issue the GVRO the court will be required to consider two things: (1) whether the person poses a significant danger of causing injury to self or others; and, (2) whether the GVRO is necessary to prevent such injury. (Pen. Code, § 18175, subd. (a).) To balance the due process rights of the individual restrained the person is allowed to request a hearing for termination of the order on an annual basis. (Pen. Code, § 18175, subd. (e)(1).)

In determining for how long to issue a GVRO renewal, the court is required to consider two things: (1) the length of time that a person poses a significant danger of causing injury to self or others by owning, purchasing, or possessing a firearm; and (2) that the GVRO is necessary to prevent that injury because less restrictive alternatives either have been tried and been ineffective, or are inadequate or inappropriate for the circumstances. (Pen. Code, § 18190, subds. (b) & (d).)

This bill purports to establish a pilot program modestly extending the petitioning power, which could provide more insight into the costs and benefits of our current GVRO regime.

4) **The *Bruen* Analysis:** This bill would disarm persons of firearms and ammunition where they are subject to GVRO's. 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.*)

The US Supreme Court has already ruled on a related 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 ammunition with firearms as required items to relinquish upon issuance of a protective order appears consistent with current Second Amendment jurisprudence.

Since this bill proposes comparable burdens for comparable justifications on Second Amendment conduct, which is temporary disarmament of dangerous people, this bill constitutionally seems to fit within the nation's historical tradition of Second Amendment regulations.

5) **Additional Considerations:**

a) One case making its way through the courts now, *Brownstein*, could implicate the language of this bill with an adverse disposition. The court in this case appears to be evaluating whether our GVRO regime, particularly those orders that can be issued *ex parte*, violate procedural due process rights of individuals who, in these cases, were not given notice or an opportunity for a hearing. (See *Brownstein v. Orange County Sheriff's Dept.*, C.D. Cal. No. 24-cv-00970.)

AB 1078, which is set to be heard on the same day as this bill in the Assembly Public Safety Committee, currently proposes changes of the Penal Code to attempt to address this issue.

b) Given the potential for adverse judicial action in an area of the law implicated in this bill, the author may wish to consider including a severability provision to this bill.

6) **Argument in Support**: According to the *California District Attorneys Association* (CDAA), "GVROs are a means of intervening in potentially dangerous situations before the worst can occur. They permit a court to temporarily seize a person's firearms but only after a court process that requires proof that the person is likely to use those weapons against themselves or others. The system for GVROs provides an opportunity for the restrained person to appear and object, as well as opportunities to lift the GVRO once it is imposed.

"Currently GVROs may be sought by law enforcement officers, family members, employers, or coworkers, of the person to be restrained. But district attorneys are not included in this list. CDAA believes this is a significant omission. District attorneys are often in the best position to spot dangerous and escalating patterns of conduct and to act to protect victims and other community members from gun violence.

"AB 1344 builds upon California's existing GVRO framework by allowing prosecutors to intervene before a firearm-related tragedy occurs. El Dorado and Ventura Counties will collect and report data, analyze progress, and develop best practices in the hopes of eventually expanding this pilot program statewide."

7) **Argument in Opposition**: According to the *National Rifle Association (NRA),* "Denial of constitutional rights is a serious matter that requires proper due process and strong objective supporting data. Currently GVRO's can be issued for a period of one to five years and

extended without limitation. The unfortunate reality is that an individual can be placed in a constant restrained state without ever being convicted of a crime or adjudicated mentally ill, but based on third party allegations.

"A foundational principle of the American judicial system is to assure that an individual is entitled to judicial due process – including notice of the relevant accusations, opportunity to appear at a hearing before a neutral judge, to present evidence in his or her favor, and access to legal representation – before the individual is denied a constitutional right. As such, individuals are entitled to judicial due process before they can be declared legally ineligible to possess firearms or forced to surrender any firearms the individual owns.

"It should also be noted that if an individual is truly dangerous, existing law already provides a variety of mechanisms to deal with the individual, all of which can lead to firearm prohibitions in appropriate cases. The issuance of a protective order does nothing to deal with the underlying cause of dangerousness, nor does it subject the person to any actual physical restraint, ongoing reporting or monitoring requirements, or treatment for any underlying mental health condition."

8) **Related Legislation**:

a) AB 824 (Stefani) would make clarifying changes to the procedures relating to the protective or restraining orders by explicitly requiring the restrained person to relinquish, in addition to any firearm, any ammunition in that person's immediate possession or control. This bill is set for hearing in the Assembly Appropriations Committee.

b) AB 1078 (Berman), would require the review of the California Restraining and Protective Order System to include information concerning whether the applicant is reasonably likely to be a danger to self, others, or the community at large. AB 1078 is scheduled for hearing today in this committee.

c) SB 320 (Limon) would require the DOJ to develop and launch a system to allow a person who resides in California to voluntarily add their name to, and subsequently remove their name from, the California Do Not Sell List, to prevent the sale or transfer of a firearm to a person who adds their name. SB 320 is pending hearing in the Senate Public Safety Committee.

9) **Prior Legislation**:

a) AB 2621 (Gabriel), Chapter 532, Statutes of 2024, expands the requirement for law enforcement agencies to have written policies and standards for gun violence to also maintain them in accordance with changes to statute, and also expands to scope of the policies to other firearm prohibiting emergency protective orders.

b) AB 301 (Bauer-Kahan), Chapter 234, Statutes of 2023, authorizes the court to consider evidence of acquisition of body armor when determining whether grounds for a GVRO exist.

c) AB 667 (Maienschein), of the 2023-2024 Legislative Session, would have required a court to issue a GVRO for a duration of five years if the subject of the petition displayed

an extreme risk of violence, as specified, within the prior 12 months. The hearing on AB 667 in the Senate Public Safety Committee was canceled at the request of the author.

d) AB 36 (Gabriel), of the 2023-2024 Legislative Session, would have provided that any person subject to a civil or criminal protective order issued on or after July 1, 2024, shall not own, possess, purchase, or receive a firearm or ammunition within three years after expiration of the order. AB 36 was held in the Assembly Appropriations Committee.

e) AB 2870 (Santiago), Chapter 974, Statutes of 2022, allows a petition for a GVRO to be made by an individual who has a child in common with the subject, an individual who has a dating relationship.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
El Dorado County District Attorney's Office
Giffords Law Center to Prevent Gun Violence
Ventura County Office of The District Attorney

1 private individual

Oppose

ACLU California Action
National Rifle Association - Institute for Legislative Action

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

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

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1387 (Quirk-Silva) – As Amended March 17, 2025

SUMMARY: Authorizes counties to establish a mental health multidisciplinary personnel team. Specifically, **this bill**:

1) Allows a county to establish a mental health multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of justice-involved (JI) persons diagnosed with a mental illness to supportive services within that county while incarcerated and upon release from county jail and to allow provider agencies and members of the personnel team to share confidential information for the purpose of coordinating supportive services to ensure continuity of care.

2) Defines the following terms:

   a) "Justice-involved person" as "an individual who is currently incarcerated within a county jail or who has been incarcerated in an county jail";

   b) "Mental health multidisciplinary personnel team" as "any team of two or more persons who are trained in the identification and treatment of individuals with mental illness, and who are qualified to provide a broad range of services related to mental health." The team may include, but not be limited to, all of the following:

      i) Mental health and substance abuse services personnel and practioners or other trained counseling personnel;

      ii) Medical personnel with sufficient training to provide health services;

      iii) Social services workers with experience or training in the provision of services to adults with mental illness and eligibility for services; and,

      iv) Case managers or case coordinators responsible for referral, linkage, or coordination of care and services provided to adults

   c) "Provider agency" as "any governmental or other agency that has, as one of its purposes, the identification, assessment, and linkage of housing or supportive services to individuals with mental illness." The provider agencies serving adults that may share information under this section include, but are not limited to, all of the following entities or service agencies:

      i) Social services;

ii) Health services;

iii) Mental health services;

iv) Substance abuse services;

v) Probation;

vi) Law enforcement;

vii) Legal counsel for the adult or family representing them in a criminal matter;

viii) Veterans services and counseling; and,

ix) Homeless services.

3) Authorizes members of a mental health multidisciplinary personnel team to disclose and exchange information and writings with one another that relate to any information that may be designated as confidential under state law if the member of the team reasonably believes it is generally relevant to the identification of mental illness and the provision of services.

4) Provides that any discussion between team members, is confidential and, notwithstanding any other law, testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding.

5) Provides that the disclosure and exchange of information of the multidisciplinary personnel team may occur electronically if there is adequate verification of the identity of the mental health multidisciplinary personnel who are involved in that disclosure or exchange of information.

6) Requires that the disclosure and exchange of information between the multidisciplinary personnel team not be made to anyone other than members of the mental health multidisciplinary personnel team, and designated persons qualified to receive information by the team.

7) Allows a multidisciplinary personnel team to designate persons qualified to be a member of the team for a particular case.

8) Permits a person designated as a team member to receive and disclose relevant information and records, subject to confidentiality provisions, as specified.

9) Requires the sharing of information permitted, as specified, to be governed by protocols developed in each county describing how and what information may be shared by the mental health multidisciplinary personnel team to ensure that confidential information gathered by the team is not disclosed in violation of state or federal law.

10) Requires a copy of the protocols be distributed to each participating agency and to persons in those agencies who participate in the multidisciplinary personnel team, and be posted on the

county's website within 30 days of adoption.

11) Requires each participating county to provide a copy of its protocols to the State Department of Healthcare Services (DHCS).

12) States the sharing of information by mental health multidisciplinary personal team members shall not be construed to require the DHCS to review or approve any multidisciplinary personnel team county protocols it receives.

13) Requires a protocol developed in a county, as specified, to include, but not be limited to, all of the following:

    a) The items of information or data elements that will be shared;

    b) The participating agencies;

    c) A description of how the information shared will be used by the mental health multidisciplinary personnel team only for the intended purposes as specified;

    d) The information retention schedule that participating agencies shall follow;

    e) A requirement that no confidential information or writings be disclosed to persons who are not members of the multidisciplinary personnel team except to the extent required or permitted under applicable law;

    f) A requirement that participating agencies develop uniform written policies and procedures that include security and privacy awareness training for employees who will have access to information pursuant to this protocol;

    g) A requirement that all persons who have access to information shared by participating agencies sign a confidentiality statement that includes, at a minimum, general use, security safeguards, acceptable use, and enforcement policies;

    h) A requirement that participating agencies employ security controls that meet applicable federal and state standards, including reasonable administrative, technical, and physical safeguards to ensure data confidentiality, integrity, and availability and to prevent unauthorized or inappropriate access, use, or disclosure; and,

    i) A requirement that participating agencies take reasonable steps to ensure information is complete, accurate, and up to date to the extent necessary for the agency's intended purposes and that the information has not been altered or destroyed in an unauthorized manner.

14) Subjects every member of the mental health multidisciplinary personnel team members who receives information or records regarding a JI person in that member's capacity as a member of the team to be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records.

15) Requires the information obtained to be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

16) Provides that these provisions shall not be construed to restrict guarantees of confidentiality provided under state or federal law.

17) Requires information and records communicated or provided to the team members by all providers and agencies to be deemed private and confidential and to be protected from discovery or disclosure by all applicable statutory and common law protections.

18) States that existing civil and criminal penalties shall apply to the inappropriate disclosure of information held by the team members.

EXISTING LAW:

1) Defines "multidisciplinary personnel" as any team of three or more persons who are trained in the prevention, identification, management, or treatment of child abuse or neglect cases, and who are qualified to provide a broad range of services related to child abuse or neglect, and may include but not be limited to psychiatrists, police officers, medical personnel, and social workers, among others. (Welf. & Inst. Code, § 18951, subd. (d).)

2) Provides that each county may use a children's advocacy center to implement a coordinated multidisciplinary response to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment and sets forth standards that a children's advocacy center must meet. (Pen. Code, § 11166.4.)

3) Allows a city, county, city and county, or community-based nonprofit organization to establish a domestic violence multidisciplinary personnel team consisting of two or more persons who are trained in the prevention, identification, management, or treatment of domestic violence cases and who are qualified to provide a broad range of services related to domestic violence. (Pen. Code, § 13752, subd. (a).)

4) States that a domestic violence multidisciplinary team may include, but need not be limited to, any of the following: law enforcement personnel, medical personnel, domestic violence counselors, and other personnel as specified. (Pen. Code, § 13752, subd. (b)(1)-(14).)

5) Provides that every member of the domestic violence multidisciplinary personnel team who receives information or records regarding children or families in his or her capacity as a member of the team shall be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records. (Pen. Code, § 13752, subd. (f).)

6) Authorizes an area agency on aging or a county, or both, to establish an aging multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of older adults to services and to allow provider agencies and members of the personnel team to share confidential information for the purpose of coordinating services. (Welf. & Inst. Code, § 9450 subd. (a)(1).)

7) States that if a city within the service area of an area agency on aging or a county that has established an aging multidisciplinary personnel team pursuant to this section requests to participate in that team, participation of appropriate city personnel shall be allowed, as determined by the area agency on aging or county, unless the area agency on aging or county determines that participation by the city would hinder compliance with the requirements and obligations set forth in this section or would otherwise conflict with the goals and objectives of the area agency on aging or county. (Welf. & Inst. Code, § 9450, subd. (a)(2).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California's justice system cannot achieve true rehabilitation without addressing the mental health crisis in our correctional facilities. More than half of those incarcerated struggle with mental health challenges, yet too many do not receive the care they need. AB 1387 ensures that every individual receives consistent, coordinated treatment from the beginning of incarceration through release. By breaking down barriers to information-sharing and prioritizing continuity of care, this bill strengthens public safety, reduces recidivism, and upholds our commitment to a more just and effective rehabilitation system"

2) **California Advancing and Innovating Medi-Cal (CalAIM):** According to California Healthcare Foundation: "CalAIM is a once-in-a-generation opportunity to improve care and outcomes for millions of Medi-Cal enrollees. It's also complicated, given its incredible scope and reach and the fragmented system that it strives to improve. Over a span of five years, CalAIM will introduce a myriad of new programs and make important reforms to many existing programs.

"CalAIM builds on prior initiatives, like the Whole Person Care pilots, Health Homes program, Drug Medi-Cal Organized Delivery System, and the Coordinated Care Initiative. Even so, successfully implementing these reforms will not be easy and will depend on several factors. Among them, the expansion of the community-connected workforce, the ability to share data across different care and social service entities, and the ability of many different organizations to work together in new and equitable ways on behalf of patients and clients they share. DHCS also maintains a CalAIM website and timeline outlining when different reforms will go live."[1]

CalAIM includes an initiative for medical and mental healthcare for JI individuals. JI individuals means anyone who is now, or has spent time, in jails, youth correctional facilities, or prisons. According to the California Department of Healthcare Services (DHCS):

"JI individuals are at higher risk for poor health outcomes, injury, and death than the general public. They face disproportionate risk of trauma, violence, overdose, and suicide. People of color are disproportionately represented in the Justice-Involved population due to systemic inequities in the criminal justice system, as well as a higher likelihood of incarceration due to mental health issues and the criminalization of substance use disorders."

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[1] https://www.chcf.org/resource/calaim-in-focus/calaim-explained/

Incarcerated individuals in California jails with an active mental health case rose by 63 percent over the last decade. 66% of Californians in jails or prisons have moderate or high need for substance use disorder treatment. Overdose is the leading cause of death for people recently released from incarceration, and people in California jails or prisons have a drug overdose death rate more than three times that of incarcerated people nationwide.[2]

In California, nearly 29 percent of incarcerated men are Black, while Black men make up only 5.6 percent of the state's total population. Through its JI Initiative, California is taking significant steps to improve poor health outcomes in this population as they prepare to re-enter their community. In 2023, California became the first state in the nation approved to offer a targeted set of Medicaid services to youth and adults in state prisons, county jails, and youth correctional facilities for up to 90 days prior to release.

Through a federal Medicaid "Section 1115 demonstration waiver"[3] approved by the Centers for Medicare & Medicaid Services (CMS), DHCS will partner with state agencies, counties, and community-based organizations to establish a coordinated community reentry process that will assist people leaving incarceration to connect to the physical and mental health services they need prior to release. This will help to ensure continuity of health care coverage after incarceration, enabling access to programs and services like Enhanced Care Management (ECM) and Community Supports, linkages to medical and mental health services, and prescription medications in hand upon release.

DHCS estimates that CalAIM's JI initiative will be rolled out over the course of approximately five years, budget contingent. According to DSCH: "Medi-Cal transformation is driven by far-reaching initiatives, including those that are part of the CalAIM waiver, to broadly reform Medi-Cal's programs and systems. These changes will span a multi-year period, with the first reforms implemented in January 2022 and additional reforms phased in through 2027. Together, they will create a more coordinated, person-centered, and equitable health system."

This bill is mostly identical to AB 1788 (Quirk-Silva) last year. This bill was vetoed by the Governor, wherein he stated:

> "My Administration is supportive of policies that can improve equity and supportive services to justice-involved (JI) individuals. The Department of Health Care Services (DHCS) is currently implementing the CalAIM JI Initiative, which

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[2] https://www.dhcs.ca.gov/Pages/CalAIM-Behavioral-Health-Initiative-Frequently-Asked-Questions.aspx

[3] See 42 U.S.C. § 1315. Section 1115 of the Social Security Act gives the Secretary of Health and Human Services authority to approve experimental, pilot, or demonstration projects that are found by the Secretary to be likely to assist in promoting the objectives of the Medicaid program. The purpose of these demonstrations, which give states additional flexibility to design and improve their programs, is to demonstrate and evaluate state-specific policy approaches to better serving Medicaid populations.

CMS performs a case-by-case review of each proposal to determine whether its stated objectives are aligned with those of Medicaid. CMS also considers whether proposed waiver and/or expenditures authorities are appropriate and consistent with federal policies, including the degree to which they supplant state-only costs for existing programs or services and can and should be supported through other federal and non-Federal funding sources.

> provides pre-release Medi-Cal enrollment to ensure JI individuals have continuity of coverage upon release and access essential health services that will help them successfully return to their communities. For this reason, this bill is premature and may be duplicative. It would be more timely [sic] to assess this proposal following the full implementation of the DHCS CalAIM JI Initiative and the ability to evaluate data and identify any remaining gaps."

In response, the author notes:

> Orange County is one of the counties that have been selected for the pilot to this program. However, with all the information they received including regulations, county-letters, etc., they were still unsure how they can make sure all justice-involved persons were assessed, provided needed mental health services from the start. The CalAIM initiative only allows Medi-Cal eligible (about 80% of the population) and only begins 90 days before their scheduled release. During the fall, we reached out to DHCS and met with their CalAIM team along with the Orange County Sheriff's Office. They provided us with a lot of background information on the initiative to review because they felt that OC Sheriffs can do this without the legislation. Our team, the Sheriff's team and lawyers reviewed everything. OC Sheriff's team felt that they were unable to go forth with the ability to provide assessment and services through a multidisciplinary team without a bill.

It is unclear how this disagreement will be reconciled, however, the author may wish to include a delayed implementation date to ensure that this program does not interfere with the CalAIM JI Initiative. If, as the Administration alleges, this bill is duplicative, the author could add a delayed implementation date to ensure there is no overlapping mandates.

3) **Confidentiality of Medical Information:** This bill authorizes specific disclosure of medical information for JI individuals to members of a mental health multidisciplinary personnel team member subject to legal exceptions. Both state and federal law prohibit disclosure of medical information. The Confidentiality of Medical Information Act ("CMIA") is designed "to provide for the confidentiality of individually identifiable medical information, while permitting certain reasonable and limited uses of that information." (*Heller v. Norcal Mutual Ins. Co.* (1994) 8 Cal.4th 30, 38.) The CMIA acts independently of other evidentiary privileges or statutory protections of the same information. (See Civ. Code, § 56.29, subd. (a), (c); Civ. Code, § 1798 et seq. [Information Practices Act]; Public Law 104-191 [Health Insurance Protection and Portability Act]; Civ. Code, § 1798.100, et seq., [California Consumer Protection Act].)

The CMIA imposes civil and criminal liability upon health care providers and others if they disclose "medical information" other than through the statutorily authorized means. (Civ. Code, § 56.35 [authorizing award of compensatory damages and punitive damages up to

$3,000, attorney's fees up to $1,000, and costs]; *Regents of University of California v. Superior Court [Melinda Platter]* (2013) 220 Cal.App.4th 549, 553; Civ. Code, § 56.36, subd. (a) [Misdemeanor liability if patient suffers "economic loss or personal injury"].) The CMIA applies when a person—including the prosecution and defense—seeks to obtain "medical information" from a "provider of health care," "health care service plan," or contractor regarding a patient. (Civ. Code, § 56.10, subd. (a).)

This bill states that existing confidentiality provisions still apply. However, the program established in this bill is unique to individual counties and requires counties to establish protocols demonstrating compliance with confidentiality laws. While it requires counties to submit their protocols to DHCS, it does not require DHCS to approve the regulations despite its expertise in application of existing confidentiality provisions. Some counties may have sufficient expertise to navigate implementation of this program, others may have fewer resources and experience in large scale application of confidential information. It may make more sense to allow DHCS to approve the protocols before the county may establish its mental health multidisciplinary personnel team. As noted above, the consequences for violating state confidentiality laws can be quite serious even when accidental.

Finally, this bill also states that any information shared among the team members regarding the JI person's mental illness may not be used in court against a defendant. This likely would not violate Proposition 8's (1982) Truth in Evidence requirement. California Constitution Article I, section 28, subdivision (f)(2) states:

> "… [R]elevant evidence shall not be excluded in any criminal proceeding, including pretrial and post-conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court. Nothing in this section shall affect any existing statutory rule of evidence relating to privilege or hearsay, or … Evidence Code sections regarding admissibility of character evidence. …" (Cal. Const., art. I, § 28, subd. (f)(2).)

Medical information is not admissible generally unless the defendant raises it as an issue, i.e., claims of incompetence or insanity. (*Oiye v. Fox* (2012) 211 Cal.App.4th 1036, 1070.)

4) **Argument in Support**: According to the *California State Sheriffs' Association*: In recent years, the initiative known as California Advancing and Innovating Medi-Cal (CalAIM) was introduced to improve health outcomes for Medi-Cal enrollees, including those with complex health and behavioral health needs. A key component of CalAIM is the Prerelease/In-reach Care initiative, which allows Medi-Cal to provide limited services to incarcerated individuals for up to 90 days before their release.

While CalAIM seeks to improve outcomes for justice-involved individuals and focuses on a limited set of Medi-Cal services in the 90 days before release, AB 1387 ensures continuous mental health assessment and treatment from the start of incarceration through release. Unlike CalAIM's traditional service model, AB 1387 facilitates real-time, legally compliant information sharing between mental health and correctional staff, ensuring timely interventions and more effective treatment. Additionally, this proposal grants local control to

counties, allowing them to tailor services beyond Medi-Cal eligibility constraints.

5) **Prior Legislation**:

a) AB 785 (Rivas), of the 2023-24 Legislative Session, would have established Mental Health Response and Treatment Challenge Grant Pilot Program, which would have provided grants to cities, counties, cities and counties, and other local government agencies, for the purpose of providing mental health treatment to people in the justice system, among other services. AB 785 was never heard in committee.

b) AB 1788 (Quirk-Silva), of the 2023-24 Legislative Session, was identical to this bill and was vetoed by the Governor.

c) AB 728 (Santiago), Chapter 337, Statutes of 2019, established, until January 1, 2025, a pilot program in the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Clara, and Ventura that allows homeless adult and family multidisciplinary teams (MDTs) established in these counties to have the goal of facilitating expedited identification, assessment, and linkage of individuals at risk of homelessness to housing and supportive services, and the goal of facilitating the expedited prevention of homelessness for those individuals.

d) AB 998 (Grayson), Chapter 802, Statutes of 2018, authorized a city, county, city and county, or a nonprofit organization to establish domestic violence and human trafficking multidisciplinary personnel teams trained in the prevention, identification, management, or treatment of those cases.

e) AB 210 (Santiago), Chapter 514, Statutes of 2017, allows counties to develop a homeless adult, child, and family multidisciplinary team in order to facilitate identification and assessment of homeless individuals, and link homeless individuals to housing and supportive services, and to allow service providers to share confidential information to ensure continuity of care.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Sheriffs' Association

Opposition

None on file.

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

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

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1424 (Celeste Rodriguez) – As Amended March 24, 2025

SUMMARY: Requires the California Department of Corrections and Rehabilitation (CDCR) to make infrastructure upgrades to CDCR facilities to mitigate the effects of excessive weather and natural disasters. Specifically, **this bill**:

1) Requires CDCR to do all of the following:

    a) Ensure that all living quarters, work areas, and recreational spaces at correctional facilities are equipped with adequate cooling systems, including, but not limited to, air conditioning and proper ventilation;

    b) Consider issuing appropriate clothing during summer months, including issuing shorts as part of a standard uniform;

    c) Install temperature monitoring systems, prioritizing sensors that continuously measure and transmit data in all living quarters, work areas, and recreational spaces;

    d) Add shade structures to every yard at each facility, prison, or institution;

    e) Allow incarcerated individuals increased access to showers and to personal fans;

    f) Establish a working group, as specified, to ensure regular maintenance, upkeep, accessibility of use, and implementation of this bill's provisions.

2) Requires CDCR, on January 1, 2027, and each year thereafter, to submit an annual report to the Governor, the Legislature, and the Office of Emergency Services, detailing the progress in implementing climate resilience measures, the effectiveness of those measures and evacuation plans in response to extreme weather events, the number of climate hazards experienced at each facility, and any additional resources required to protect incarcerated individuals from excessive weather.

3) Provides that fans shall not count towards an incarcerated person's appliance limit and multiple fans shall be allowed for each individual during extreme heat or wildfire events.

4) Requires CDCR to ensure that all correctional facilities update heating, ventilation, and air conditioning systems, and issue appropriate accommodations for colder climates.

5) Requires CDCR to implement protocols to monitor air quality during wildfire events and other air quality emergencies.

6) Requires CDCR facilities to have transparent air filtration systems to provide clean air to incarcerated individuals during poor air quality events.

7) Requires CDCR to develop and implement a comprehensive flood and storm preparedness plan for all facilities, particularly those in flood-prone areas, that includes provisions for evacuation, emergency shelter, and access to clean water.

8) Requires CDCR to establish and regularly update, at least every five years, an emergency response and evacuation plan for each correctional facility to protect the safety of incarcerated individuals during extreme weather events.

9) Requires the evacuation plan to include procedures for the safe and timely evacuation of incarcerated individuals in the event of natural disasters, including, but not limited to, wildfires, floods, and severe storms.

10) Requires medical staff to conduct regular health assessments to identify individuals at greater risk for heat-related illnesses, including, but not limited to, the elderly or those with preexisting health conditions, and those on heat medications.

11) Requires medical staff to monitor symptoms of heat-related illnesses among incarcerated individuals and to provide prompt medical attention as necessary.

12) Requires medical staff to establish a protocol for documenting any heat-related illness, including the affected individual's symptoms and treatment received.

13) Requires CDCR to develop and implement annual training for all staff on preventing, identifying, and managing heat-related illnesses, and requires the training to include, but not be limited to, all of the following:

    a) Recognizing the signs and symptoms of heat-related illness;

    b) Protocols for responding to heat-related emergencies;

    c) Best practices for maintaining safe conditions during extreme heat; and,

    d) Reporting procedures.

14) Authorizes incarcerated individuals or their legal representatives to file a grievance with the Office of the Inspector General regarding unsafe conditions related to extreme weather events or noncompliance with the evacuation plan requirements.

15) Requires CDCR to establish a monitoring system for the purposes of this chapter.

16) Defines "climate resilience measures" as policies, procedures, and infrastructure upgrades that aim to reduce the adverse effects of climate change-related extreme weather on incarcerated individuals.

17) Defines "excessive weather" as weather conditions such as, but not limited to, extreme heat, extreme cold, wildfire smoke, flooding, or other weather-related events exacerbated by

climate change.

18) Defines "incarcerated individual" as any person confined in a state prison or other facility under the jurisdiction of CDCR.

19) Requires, by December 1, 2026, the Division of Occupational Safety and Health (CalOSHA) to submit a rulemaking proposal to the standards board for the board's review and adoption, specifically applicable to workers in any prison or institution under the jurisdiction of CDCR.

20) Requires CalOSHA, in preparing the proposed regulations, to consider all of the following:

    a) The standards proposed and adopted pursuant to the above provisions shall be consistent with existing laws and regulations, as specified.

    b) Maximum and minimum indoor temperatures;

    c) Installation of heating, ventilation, and air conditioning infrastructure;

    d) Protocols for CalOSHA to monitor indoor temperatures, inspect facilities, investigate heat-related incidents, and assess compliance with required standards;

    e) Emergency response protocols for immediate action during extreme weather events, including hazard assessments, evacuation, and strategies to protect workers from exposure to harsh conditions;

    f) Investigation and documentation of heat-related illness incidents among workers;

    g) Staff training and resources;

    h) Appropriate and necessary worker hydration requirements;

    i) Protocols for medical intervention;

    j) Annual reporting of heat-related illness incidents to CalOSHA; and,

    k) Protocols for CalOSHA to make recommendations for corrective actions to improve the safety of working conditions and work areas.

21) Requires CalOSHA to consider requiring CDCR to keep heat incident log records for every heat-related incident where the information in the log shall include all of the following:

    a) The date, time, and location of the incident;

    b) A description of the heat illness or injury; and,

    c) A detailed description of the incident.

22) Requires CalOSHA to consider requiring CDCR to maintain comprehensive records of indoor climate condition monitoring, hydration provisions, and health assessments for

incarcerated workers, making these records available for review during inspections by CalOSHA.

23) Requires CalOSHA to consider requiring that CDCR submit an annual report summarizing incidents of heat-related illnesses, cold exposure incidents, hydration efforts, and health monitoring practices to the division for evaluation and compliance verification.

24) Requires CDCR to comply with this section and any order, rule, or regulation adopted by the Occupational Safety and Health Standards Board, as specified.

25) Defines "heat illness" as a serious medical condition resulting from the body's inability to cope with a particular heat load, including heat cramps, heat exhaustion, heat syncope, and heat stroke.

26) Defines "indoor" as a space under a ceiling or overhead covering that restricts airflow and is enclosed along its entire perimeter by walls, doors, windows, dividers, or other barriers that restrict airflow, whether open or closed.

27) Contains legislative findings and declarations.

EXISTING LAW:

1) Prohibits cruel and unusual punishment. (Cal. Const., art. I, § 17.)

2) States that a person sentenced to imprisonment in a state prison may be deprived of such rights, and only such rights, as is reasonably related to legitimate penological interests. (Pen. Code, § 2600, subd. (a).)

3) Provides that it shall be unlawful to use in the prisons, any cruel, corporal or unusual punishment or to inflict any treatment or allow any lack of care whatever which would injure or impair the health of the prisoner, inmate or person confined. (Pen. Code, § 2652.)

4) Requires CDCR to provide each prisoner with a bed, sufficient covering of blankets, and with garments of substantial material and of distinctive manufacture, and with sufficient plain and wholesome food of such variety as may be most conducive to good health and that shall include the availability of plant-based meals. (Pen. Code, § 2084, subd. (a).)

5) Allows CDCR wardens to make temporary rules and regulations, in case of emergency, to remain in force until CDCR otherwise provides. (Pen. Code, § 2086.)

6) Requires CDCR to develop a voluntary work program and prescribe the rules and regulations regarding work and programming assignments for individuals incarcerated in facilities operated by CDCR. (Pen. Code, § 2700.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1424 seeks to preserve health and safety for employees and persons incarerated in state correctional facilities. As California faces increasing threats from floods, wildfires, heatwaves, and severe storms, the California Department of Corrections and Rehabilitation's facilities are not immune from the impacts of climate change, in fact, they are more vulnerable. AB 1424 will establish critical temperature safety standards, provide access to cooling mechanisms during extreme heat, and implement emergency response protocols for climate-related disasters."

2) **Need for this Bill**: This bill would require CDCR to make infrastructure upgrades to CDCR facilities to mitigate the effects of excessive weather. The bill defines "excessive weather" as weather conditions such as, but not limited to, extreme heat, extreme cold, wildfire smoke, flooding, or other weather-related events exacerbated by climate change.

   CDCR's current infrastructure is inadequate to protect the persons in its custody from extreme weather. "Incarcerated people are distinctly vulnerable to climate hazards because they are entirely reliant upon CDCR for preparedness, response, and recovery."[1] Last year, an incarcerated person at Central California Women's Facility in Chowchilla died during a heat wave.[2] According to CDCR,

   > Most of CDCR's institutions were built at a time in which the comfort level of the incarcerated population was not a consideration or priority. As such, many housing units and support buildings throughout the state were originally equipped with only air handling units or evaporative cooling systems; neither of which are sufficient to provide adequate relief from excessive heat during summer months. Although there have been efforts to retrofit several housing units and various buildings used for rehabilitative program at multiple institutions over the years, a significant number remain that require air-cooling upgrades or other alternatives to address rising indoor temperatures.[3]

   Many CDCR facilities are located in locations where extreme weather and natural disasters are not uncommon.[4] Indeed, a number of factors make California prisons "uniquely unprepared for climate change."[5] According to CDCR's most recent annual report,

   > The 2025 Governor's Budget includes a request for $23.6 million General Fund in 2025-26 and $45.4 million General Fund in 2026-27 for a pilot program to install and evaluate air cooling alternatives to improve indoor environments at CCWF, CMF, KVSP, and LAC. A subsequent analysis of the alternative used at the identified institutions will assist CDCR in developing a statewide effort to address the indoor temperatures at buildings that severely impact incarcerated individuals and staff.[6]

   But CDCR's actions may be insufficient. A recent report by the UCLA Luskin School of Public Affairs identified eight facilities that were prone to excessive heat.[7] In a survey of 600

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[1] https://ellabakercenter.org/wp-content/uploads/2023/06/Hidden-Hazards-Report-FINAL.pdf
[2] https://www.sacbee.com/news/california/article289867299.html
[3] CDCR, Master Plan: Annual Report For Calendar Year 2024 (Jan. 2025) at pp. 9-10.
[4] https://www.cdcr.ca.gov/green/cdcr-green/climate-change-adaptation/
[5] California prisons remain unprepared for extreme heat - Los Angeles Times
[6] CDCR, Master Plan: Annual Report For Calendar Year 2024 (Jan. 2025) at pp. 9-10.
[7] California prisons remain unprepared for extreme heat - Los Angeles Times

people, "Eighty-seven percent of respondents said the yard they use most frequently has no shade covering, while 60% said they have never had access to air-conditioned rooms during extremely hot days. About half, 47%, said they never had increased access to showers during heat events."[8]

This bill would require CDCR, among other things, to ensure that all living quarters, work areas, and recreational spaces at correctional facilities are equipped with adequate cooling systems, including, but not limited to, air conditioning and proper ventilation; install temperature monitoring systems, prioritizing sensors that continuously measure and transmit data in all living quarters, work areas, and recreational spaces; add shade structures to every yard at each facility, prison, or institution; and allow incarcerated individuals increased access to showers and to personal fans. It would also require medical staff to conduct regular health assessments to identify individuals at greater risk for heat-related illnesses, including, but not limited to, the elderly or those with preexisting health conditions, and those on heat medications; and to monitor symptoms of heat-related illnesses among incarcerated individuals and provide prompt medical attention as necessary.

3) **Constitutional Prohibition Against Cruel and Unusual Punishment**: The Eighth Amendment's prohibition against cruel and unusual punishment protects prisoners from inhumane conditions of confinement. (*Farmer v. Brennan* (1994) 511 U.S. 825, 832.) Prison officials therefore have a "duty to ensure that prisoners are provided with adequate shelter, food, clothing, sanitation, medical care, and personal safety." (*Johnson v. Lewis* (9th Cir. 2000) 217 F.3d 726, 731.)

   Although routine discomforts in prison are inadequate to show a violation of the Eighth Amendment, "those deprivations denying the minimal civilized measure of life's necessities are sufficiently grave to form the basis of an Eighth Amendment violation." (*Hudson v. McMillian* (1992) 503 U.S. 1, 9.) "The circumstances, nature, and duration of a deprivation of these necessities must be considered in determining whether a constitutional violation has occurred." (*Johnson v. Lewis*, *supra*, 217 F.3d at p. 731.)

   As temperatures become more extreme, it is possible that the failure to upgrade CDCR facilities in the near future with, among other things, adequate heating and cooling systems will result in a court ruling that conditions in CDCR facilities violate the Eighth Amendment.[9]

4) **Argument in Support**: According to *Worksafe*, one of the bill's sponsors: "As climate-related emergencies such as extreme heat, wildfire smoke, and severe storms grow more frequent and intense, incarcerated individuals—many of whom are people of color, low-income, or medically vulnerable—remain confined in outdated facilities with little to no access to cooling systems, clean air, or responsive emergency infrastructure. This is an urgent public health issue and a moral imperative.

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[8] California prisons remain unprepared for extreme heat - Los Angeles Times

[9] Note, *Violations of the Eighth Amendment: How Climate Change Is Creating Cruel and Unusual Punishment*, 22 Hastings Environment L.J. 213 (Summer 2022).

"AB 1424 enacts a comprehensive, systemic response by:

- **Directing Cal/OSHA** to adopt heat illness prevention standards specific to incarcerated workers, a population uniquely exposed to hazardous labor conditions.
- **Mandating infrastructure upgrades** in CDCR facilities to include functioning cooling and air quality systems in living, working, and recreational spaces, as well as temperature monitoring.
- **Establishing climate emergency protocols**, including staff training and facility-specific evacuation plans to protect lives during extreme events.
- **Creating an oversight working group** and requiring annual reporting to ensure implementation is transparent, accountable, and data-driven.
- **Empowering incarcerated individuals** and their legal representatives to file grievances for unsafe conditions and noncompliance—ensuring that those most affected have a formal mechanism to advocate for safety and health.

"This bill is not just reactive—it's proactive. It lays the foundation for a more just and resilient prison system that treats incarcerated people as human beings deserving of basic rights and protections. It is a critical step toward climate justice, racial equity, and humane incarceration."

5) **Related Legislation**: AB 701 (Ortega) would require the Department of Justice (DOJ) to study the use of solitary confinement in all jails, prisons, and private detention facilities operating within the State of California. AB 701 is pending a hearing in the Assembly Appropriations Committee.

6) **Prior Legislation**:

a) AB 280 (Holden), of the 2023-2024 Legislative Session, would have required all detention facilities to impose no limitation on services, treatment, or basic needs such as bedding, clothing and food for individuals in segregated confinement. AB 280 died on the inactive file in the Assembly.

b) AB 353 (Jones-Sawyer), Chapter 429, Statutes of 2023, would require incarcerated persons to be permitted to shower at least every other day, unless access to a shower is prohibited as specified.

c) AB 2321 (Jones-Sawyer), Chapter 781, Statutes of 2022, limits the use of juvenile room confinement and ensures that minors and wards confined at juvenile facilities are provided reasonable access to toilets at all hours.

d) AB 2632 (Holden), of the 2021-2022 Legislative Session, would have required all detention facilities to impose no limitation on services, treatment, or basic needs such as bedding, clothing and food for individuals in segregated confinement. AB 2632 was

vetoed.

REGISTERED SUPPORT / OPPOSITION:

Support

All of Us or None (HQ)
All of Us or None Orange County
California Public Defenders Association
Californians for Safety and Justice
Caravan 4 Justice
Carceral Ecologies
Communities United for Restorative Youth Justice
Ella Baker Center for Human Rights
Families Inspiring Reentry & Reunification 4 Everyone
Individual
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Numerous Individuals
Starting Over INC.
The Change Parallel Project
Ucla Heat Lab
Worksafe
Youth Forward

Opposition

None

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

Date of Hearing: April 8, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1488 (Flora) – As Amended March 24, 2025

SUMMARY: Expands when lawful self-defense is permitted to include a party who reasonably perceives an imminent threat of bodily harm, and provides for the purpose of lawful self-defense, that a person does not have to wait until a physical attack has begun before taking reasonable defensive action, among other changes. Specifically, **this bill**:

1) Defines "imminent threat of bodily harm," for the purpose of when a person may lawfully resist a public offense, to mean an action that reasonably indicates a physical attack is about to occur, including, but not limited to, a deliberate feint, fake strike, or other aggressive movement intended to provoke a reaction or create fear of an immediate attack.

2) Provides that a party resisting an imminent threat of bodily harm, as defined, shall not be required to wait until a physical attack has begun before taking reasonable defensive action.

3) Provides that in determining whether a party has taken reasonable defensive action, the party's background, training, and professional fighting skills shall not be taken into account.

4) Specifies that lawful resistance may be made by the party about to be injured to prevent an offense against a member of their family.

5) Specifies that any resistance used by a party about to be injured, to prevent an offense, must be proportional to the reasonably perceived threat and shall cease when the threat is no longer present.

6) Provides that there shall not be any civil liability on the part of, and no cause of action shall accrue against, a person who lawfully resists a public offense, as specified, except this does not apply to a person who was the primary aggressor and subsequently suffers injury or to a person who used force that was not proportional to the reasonably perceived threat.

7) Expands when lawful resistance to the commission of a public offense may be made, to include a party who reasonably perceives an imminent threat of bodily harm.

EXISTING LAW:

1) Provides that any necessary force may be used to protect from wrongful injury the person or property of oneself, or of a spouse, child, parent, or other relative, or member of one's family, or of a ward, servant, master, or guest. (Civ. Code, § 50.)

2) Permits lawful resistance to the commission of a public offense to be made: 1) by the party about to be injured; and 2) by other parties. (Pen. Code, § 692.)

3) Provides that resistance sufficient to prevent the offense may be made by the party about to be injured:

   a) To prevent an offense against their person, or their family, or some member thereof.

   b) To prevent an illegal attempt by force to take or injure property in their lawful possession. (Pen. Code, § 693.)

4) Authorizes any other person, in aid or defense of the person about to be injured, to make resistance sufficient to prevent the offense. (Pen. Code, § 694.)

5) States that homicide is justifiable when committed by any person in any of the following cases:

   a) When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person;

   b) When committed in defense of habitation, property, or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous, or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein;

   c) When committed in the lawful defense of such person, or of a spouse, parent, child, master, mistress, or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he or she was the assailant or engaged in mutual combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or,

   d) When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace. (Pen. Code, § 197)

6) Provides that any person using force intended or likely to cause death or great bodily injury within their residence shall be presumed to have held a reasonable fear of imminent peril of death or great bodily injury to self, family, or a member of the household when that force is used against another person, not a member of the family or household, who unlawfully and forcibly enters or has unlawfully and forcibly entered the residence and the person using the force knew or had reason to believe that an unlawful and forcible entry occurred. (Pen. Code, § 198.5.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California's self-defense laws should protect individuals who act reasonably to prevent violence against themselves. Under current law, a person must wait until an attack is physically underway before they can legally defend

themselves, even when the threat is clear and imminent. AB 1488 modernizes our self-defense statutes to reflect real-world scenarios, ensuring that individuals are not forced to endure harm before acting. By providing clarity in the law and reinforcing protections against civil liability, this bill helps make Californians safer and ensures that our justice system treats self-defense cases fairly and equitably."

2) **Utilizing Non-Lethal Force in Self Defense:** This bill modifies the provisions of the Penal Code that authorize non-lethal lawful resistance (i.e. self-defense) against "the commission of a public defense." (Pen. Code, § 692.) The lawful resistance statute states that resistance sufficient to prevent the offense may be made by the person about to be injured, as well as other persons, in defense of the person about to be injured. (Pen. Code, § § 693, 694.) Resistance is authorized to prevent an offense against the person, their family member, or that person's lawfully possessed property. (Pen. Code, § 693.) Use of deadly force in self-defense is authorized elsewhere in the Penal Code, and is not addressed by this bill.

This self-defense statute was adopted by the Legislature in 1872 and has not been substantively amended since. As such, the elements of self-defense has been extensively interpreted in case law. The standard to lawfully resist a public defense requires three elements: 1) the defendant reasonably believed that they or someone else was in imminent danger of suffering bodily injury or was in imminent danger of being touched unlawfully; 2) the defendant reasonably believed that the immediate use of force was necessary to defend against that danger; and 3) the defendant used no more force than was reasonably necessary to defend against that danger. (2 CALCRIM 3470 (2025); *People v. Moody* (1943) 62 Cal.App.2d; *People v. Myers* (1998) 61 Cal.App.4th 328, 335, 336; *People v. Sonier* (1952) 113 Cal. App. 2d 277, 278.)

In terms of the reasonable fear requirement, this is an objective and subjective standard – meaning, that a person must: 1) actually believe that danger is present; and 1) a reasonably person would similarly believe that force is necessary to prevent harm. (*People v. Fisher* (1948) 86 Cal. App. 2d 24, 34; *People v. Cruz-Partida* (2022) 79 Cal. App. 5th 197, 212.) Determining whether there are enough facts to show that a reasonable person would fear danger depends on the circumstances of each case and should be left for the jury to determine. (*People v. Leslie* (1935) 9 Cal. App. 2d 177, 181.)

In terms of the amount of force that can be used, a person may use all force and means which the person believes is necessary and which a reasonable person in similar circumstances would believe to be necessary to prevent an injury which appears to be imminent. (*People v. Walker* (1950) 99 Cal. App. 2d 238, 243–244.) For example, if an assailant assaults a person with their fist, without purpose to kill or cause great bodily harm, and the assault is not likely to produce harm, responsive deadly force is not justified. (*Ibid.*) Whether force used is excessive is generally a question of fact for the jury to decide. (*People v. Harris* (1971) 20 Cal. App. 3d 534, 537.)

In terms of deadly force, a person may only use deadly force for the purposes of self-defense when resisting an attempt to commit a violent felony. (Pen. Code § 197; *People v. Ceballos* (1974) 12 Cal. 3d 470, 477–478.) A person is presumed to have a reasonable fear of imminent death or great bodily harm when using deadly force against an intruder who has unlawfully and forcibly entered a residence. (Pen. Code § 198.5; *see also People v. Brown* (1992) 6 Cal. App. 4th 1489, 1494–1499.)

Notably, under California law, a person who reasonably believes someone is about to inflict bodily injury upon them has no duty to retreat. (*People v. Hughes* (1951) 107 Cal. App. 2d 487, 493; *People v. Dawson* (1948) 88 Cal. App. 2d 85, 95). Further, they may defend themselves, even if they could have gained access to safety by fleeing. (*Ibid.*)

3) **Effect of this Bill:** AB 1488 makes several changes to California criminal non-lethal self-defense statute. These changes include: 1) authorizing a party who reasonably perceives an imminent threat of bodily harm to use defensive force; 2) defining "imminent threat of bodily harm," for the purpose of when a person may lawfully resist a public offense, to mean an action that reasonably indicates a physical attack is about to occur, including, but not limited to, a deliberate feint, fake strike, or other aggressive movement intended to provoke a reaction or create fear of an immediate attack; 3) stating that defensive force must be proportional to the reasonably perceived threat and shall cease when the threat is no longer present; 4) prohibiting a party's background, training, and professional fighting skills from being considered in determining if use of force was reasonable; and 5) stating that a person may take reasonable defensive action before a physical attack has begun.

   Additionally, AB 1488 proposes to eliminate any potential civil liability against a person who lawfully uses defensive force, unless that person was the primary aggressor and subsequently suffers injury or if that person who used disproportionate force.

4) **This Bill Lowers the Standard to Use Self Defense and Creates Inconsistencies in the Lawful Self Defense Legal Framework.** AB 1488 undermines longstanding principles of self-defense and casts uncertainty over when lawful self-defense is permitted.

   First, stating that a person "is not required to wait until a physical attack has begun before taking reasonable defensive action" undermines a core premise of lawful self-defense; a person must reasonably believe they are in *imminent* danger of harm before using force. Existing law limits aggressors from claiming self-defense. *See* (People v. Garnier (1950) 95 Cal. App. 2d 489, 496; People v. Steskal (2021) 11 Cal. 5th 332, 277.) Specifically, a person cannot use force against someone else purely because they believe that the person will cause them harm. "Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be." (2 CALCRIM 3470 (2025). Rather "a defendant must have believed there was []*imminent* danger of bodily injury…" (*Ibid.*) (emphasis added). In other words, it is not enough for a person to fear that danger will become imminent, rather, the danger that justifies the defensive force must actually be imminent. *(People v. Steskal* (2021) 11 Cal. 5th 332, 345; *People v. Lucas* (1958) 160 Cal. App. 2d 305, 310; *People v. Keys* (1944) 62 Cal. App. 2d 903, 916; *People v. Trujeque* (2015) 61 Cal. 4th 227, 256.) Expanding lawful self-defense to include persons who strike or punch first, may incentivize violent physical confrontations.

   Second, stating that lawful resistance can be used by a party "who reasonably perceives an imminent threat of bodily harm" is redundant and confusing. The first element of lawful self-defense requires that the defendant subjectively and objectively *believed* that they or someone else was in imminent danger of suffering bodily injury. *People v. Fisher* (1948) 86 Cal. App. 2d 24, 34; *People v. Cruz-Partida* (2022) 79 Cal. App. 5th 197, 212.) This bill would state that self-defense may be used if a person has a reasonable *perception* of harm, which creates uncertainty surrounding whether a person must still subjectively believe that

imminent harm will occur, as currently required in case law. Further, this bill replaces the standard of reasonable fear of imminent *bodily harm* with reasonable perception of a *threat* of harm. This arguably lowers the standard of when self-defense may be used by authorizing defensive force based on a person's perceived threat of harm, rather than their actual subjective fear of harm.

Third, stating that any resistance must be "proportional to the reasonably perceived threat" is unnecessary. Courts already require that self-defense must be proportional to the feared danger. Specifically, a person may use all force and means which the person believes is necessary and which a reasonable person in similar circumstances would believe to be necessary to prevent an injury which appears to be imminent. (*People v. Walker* (1950) 99 Cal. App. 2d 238, 243–244.) *See also People v. Hatchett* (1944) 63 Cal. App. 2d 144, 157–158 (finding the degree of resistance must not be "clearly disproportionate to the nature of the injury offered or given" or "clearly greater than was apparently necessary.") Phrased differently, the amount of appropriate force is based on the amount a person reasonably believes is necessary to prevent an imminent injury. (*People v. Walker* (1950) 99 Cal. App. 2d 238, 243–244.) Here, stating that any defensive force must be proportional to "the reasonably perceived threat" is redundant and risks muddling an otherwise clear standard.

5) **Removes Jury Discretion:** This bill also unnecessarily removes from the jury's purview potential facts that may inform whether a certain person's use of force was reasonable. For example, it is not necessary to define "imminent threat of bodily harm" as "an action that reasonably indicates a physical attack is about to occur, including, but not limited to, a deliberate feint, fake strike, or other aggressive movement intended to provoke a reaction or create fear of an immediate attack." The question of whether the type of harm a person imminently feared was such that they lawfully utilized self-defense is a highly fact-specific matter left for the jury to determine. (*People v. Leslie* (1935) 9 Cal. App. 2d 177, 181.) Identifying specific conduct, such as a fake strike, as sufficient to establish imminent harm, may authorize use of force irrespective of whether a reasonable person would have actually feared imminent bodily harm.

   Similarly, AB 1488 prohibits a jury from considering a "party's background, training, and professional fighting skills" when determining if a person used reasonable force. Information regarding a person's physical condition or background can inform whether their fear of harm and subsequent use of force was reasonable. The need to remove this type of information from a jury's purview is unclear.

6) **Non-Criminal Conduct May Result In Civil Liability**: AB 1488 provides that if a person lawfully uses force to resist a public defense that there shall not be any civil liability on the part of, and no cause of action against, that person, unless that person was the primary aggressor and subsequently suffers injury or to a person who used disproportionate force. For example – take a person who charged with battery of another person, but who ultimately was not convicted because they were found to have acted in self-defense. Under this bill, the injured party could not sue that defendant for civil damages. Notably, the standard to convict a person under criminal law is higher than the standard to find a person liable in civil court. In a criminal case against a person who claims self-defense the prosecutor bears the burden of proving beyond a reasonable doubt that the defendant did not act in lawful self-defense, or lawful defense of another. (2 CALCRIM 3470 (2025). In contrast, most civil causes of action utilize a preponderance of the evidence standard. Phrased differently, just because the

prosecution cannot prove beyond a reasonable doubt that the defendant's use of force was unlawful does not mean that other civil remedies, which may be available under the preponderance of evidence standard, should be precluded.

7) **Argument in Opposition**: According to *La Defensa*, "Self Defense laws, more commonly referred to as "Stand Your Ground" laws, are rooted in the common law principle of "castle doctrine" which states that individuals have the right to use reasonable force, including deadly force, to protect themselves against an intruder in their home. Eight states, including California, permit the use of deadly force in self-defense if a judge or jury finds that the use of force was in accordance with state law and the circumstances of the use of lethal force. Additionally, some states, including California, have lowered the standard for justifiable deadly force to a "presumption of reasonableness," or "presumption of fear.

"AB 1488 lowers standards further by expanding civil immunity protections for self-defense in almost all circumstances. It allows preemptive acts of self-defense when the other party indicates an "imminent threat of bodily harm" through actions including a deliberate feint, fake strike, or other aggressive movement intended to provoke a reaction or create fear of an immediate attack.

"Finally, the bill does not allow for the background, training, and professional fighting skills of those who exercise lethal force to be taken into consideration when determining whether a party has taken reasonable defensive action. This could include law enforcement personnel who are supposed to be trained to deescalate situations rather than using lethal force.

"Expanding laws to use deadly force threatens public health and safety by encouraging the use of violence and vigilante justice and leads to racially disparate criminal justice outcomes. "Stand Your Ground" laws dramatically escalate violence, leading to increased homicides and violent crime overall. In states with Stand Your Ground laws, the odds that a white-on-black homicide is ruled to have been justified is more than 11 times the odds a black-on-white shooting is ruled justified."

8) **Related Legislation**: AB 1333 (Zbur), would have made specified that homicide is not justifiable when a person was outside their habitation or property and did not retreat when they could have safely done so, when a person used more force than a reasonable person would to defend against a danger, and when the person was the initial aggressor. AB 1333 is pending in Assembly Public Safety Committee.

9) **Prior Legislation**:

   a) SB 1005 (Jackson), Chapter 50, Statutes of 2016, made technical, non-substantive changes to this section.

   b) Chapter 612, Section 12, of the 1873-1874 Legislative Session.

REGISTERED SUPPORT / OPPOSITION:

Support

1 private individual

Oppose

Californians for Safety and Justice (CSJ)
Felony Murder Elimination Project
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Smart Justice California, a Project of Tides Advocacy
Universidad Popular

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