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California State Assembly

PUBLIC SAFETY

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AGENDA

Tuesday, April 22, 2025
8:30 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

LIMITED TESTIMONY FOR SUPPORT AND OPPOSITION

TWO WITNESSES - TWO MINUTES EACH

1.	AB 22	DeMaio	Crime.
2.	AB 47	Nguyen	Elderly Parole Program.
3.	AB 82	Ward	Health care: legally protected health care activity.
4.	AB 284	Alanis	Law enforcement: stop data and reporting.
5.	AB 324	Sanchez	California Values Act: exception.
6.	AB 331	Pellerin	Elections: duties of election officials: voter information guides.
7.	AB 366	Petrie-Norris	Ignition interlock devices.
8.	AB 653	Lackey	Child abuse: mandated reporters: talent agents, managers, and coaches.
9.	AB 847	Sharp-Collins	PULLED BY THE COMMITTEE.
10.	AB 848	Soria	Sexual battery.
11.	AB 879	Patterson	Firearms: unsafe handguns.
12.	AB 897	DeMaio	Trespassing: removal of trespassers on residential property.
13.	AB 946	Bryan	Chief probation officer: designee.
14.	AB 981	Gipson	Vehicles: active intelligent speed assist devices.
15.	AB 983	Macedo	Vehicles: removal and impoundment.
16.	AB 992	Irwin	Peace officers.
17.	AB 994	Hadwick	County jails.
18.	AB 1071	Kalra	Criminal procedure: discrimination.
19.	AB 1087	Patterson	Crimes: vehicular manslaughter while intoxicated.
20.	AB 1097	Ávila Farías	Trespass.
21.	AB 1178	Pacheco	Peace officers: confidentiality of records.
22.	AB 1229	Schultz	Adult Reentry Grant Program.

23.	AB 1376	Bonta	PULLED BY THE AUTHOR.
24.	AB 1396	Macedo	Crimes: sexual assault.
25.	AB 1437	Macedo	PULLED BY THE AUTHOR.
26.	AB 1483	Haney	Supervision: violations.
27.	AB 1488	Flora	Self-defense.
28.	AB 1489	Bryan	Peace officers.

Date of Hearing: April 22, 2025
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 22 (DeMaio) – As Amended April 1, 2025

SUMMARY: This bill would: 1) repeal existing procedures on transferring juveniles to adult court enacted by Proposition 57, approved by voters in the 2016 general election; 2) repeal specified exemptions that exist under the Sex Offender Registration Act for non-forcible conduct involving a minor and a person not more than 10 years older than the minor; and 3) place additional restrictions on the placement of a conditionally released sexually violent predator, as specified. Specifically, **this bill**:

1) Repeals existing law that states that the jurisdiction of the juvenile court is of a minor between 12 and 17 years of age when he or she violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime and instead provides that a person who is under 18 years of age when they violate a law is within the jurisdiction of the juvenile court, which may adjudge a person to be a ward of the court, except as specified.

2) Removes from the juvenile court's jurisdiction a person who is alleged, when they are 14 years of age or older, to have committed one of the following offenses to be prosecuted in adult court:

    a) Murder if the prosecutor alleges special circumstances and if the minor personally killed the victim;

    b) The following sex crimes, if the prosecution alleges the minor personally committed the offense and either one of the circumstances enumerated in the One Strike Sex Law:

        i) Rape by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another;

        ii) A forcible sex offense in concert with another;

        iii) A forcible lewd and lascivious act on a child under 14 years of age;

        iv) Forcible sexual penetration;

        v) Sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; or,

        vi) A lewd and lascivious act on a child under 14 years of age unless the defendant qualifies for probation.

3) Repeals existing law that prohibits minors under the age of 16 to be tried in adult court, except as specified.

4) Repeals existing procedures that require a court to conduct a transfer hearing, upon a motion of the district attorney or other appropriate prosecuting officer, to determine whether to transfer the minor from juvenile court to a court of criminal jurisdiction.

5) Repeals existing exemptions under the Sex Offender Registration Act that make registration discretionary, rather than mandatory, when specified acts of non-forcible oral copulation, sexual penetration or sodomy are committed by a person who participates in the act with a minor over 14 years of age if, at the time of the offense, the person was not more than 10 years older than the minor.

6) States that notwithstanding any other law, a person determined to be a sexually violent predator who is ordered by the court to be conditionally released shall not be placed as follows, in addition to existing placement restrictions:

   a) Within an area zoned for residential use in the general plan of a city or county; and

   b) Within 3 miles of tribal land, as defined, except that a member of a specific Indian tribe shall not be prohibited from being placed on tribal land.

7) Defines "tribal land" to mean land that is, with respect to a specific tribe and the members of that tribe, "Indian country" as defined in existing law.

8) Requires the Department of State Hospitals (DSH) to require proof of housing before conditionally releasing a person.

9) Specifies that DSH shall ensure that department vendors consider public safety in the placement of a sexually violent predator that is ordered to be conditionally released.

10) Requires DSH to approve a potential placement before a department employee or vendor proposes a potential placement to a court, including signing a lease or rental agreement regarding the placement to a court, including signing a lease or rental agreement regarding the placement of a sexually violent predator who is scheduled to be conditionally released into the community.

11) Provides that the above provision does not prohibit the placement of a financial hold on a residence for purposes of assessing suitability and public safety considerations for the prospective placement of a person committed as a sexually violent predator.

12) Requires the provisions in this bill that repeal laws enacted by Proposition 21, approved by voters at the March 7, 2000 primary election, and Proposition 57, approved by voters at the November 8, 2016 general election, to be submitted to the voters for their approval at the June 2, 2026 statewide primary election.

EXISTING LAW:

Relevant to Juvenile Court Jurisdiction and Transfer Hearings:

1) 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).)

2) Establishes criteria to determine whether to transfer a minor from juvenile court to adult criminal court. (Welf. & Inst. Code, § 707.)

3) 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).)

4) 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).)

5) 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).)

6) Enumerates the following specified offenses which permit transfer of a juvenile to adult court:

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).)

Relevant to the Sex Offender Registration Act:

1) Requires a sex offender to register for ten years, 20 years, or for a lifetime, depending on the offense. (Pen. Code, § 290, subd. (c)(1-2), (d).)

2) Requires persons convicted of specified sex offenses to register a sex offender, or re-register if the person has been previously registered, upon release from incarceration, placement, commitment, or release on probation. States that the registration shall consist of all of the following:

   a) A statement signed in writing by the person, giving information as shall be required by DOJ and giving the name and address of the person's employer, and the address of the person's place of employment, if different from the employer's main address;

   b) Fingerprints and a current photograph taken by the registering official;

   c) The license plate number of any vehicle owned by, regularly driven by or registered in the name of the registrant;

   d) Notice to the person that he or she may have a duty to register in any other state where he or she may relocate; and, Copies of adequate proof of residence, such as a California driver's license or identification card, recent rent or utility receipt or any other information that the registering official believes is reliable. (Pen. Code, § 290.015, subd. (a).)

2) Exempts from the mandatory registration requirement a person convicted of participating in an act of oral copulation, sodomy, or sexual penetration with a minor if, at the time of the offense, the person is not more than 10 years older than the minor, as specified. This paragraph does not preclude the court from requiring the person to register under the discretionary sex offender registration statute. (Pen. Code, § 290, subd. (c)(3).)

3) Provides that willful violation of any part of the registration requirements constitutes a misdemeanor if the offense requiring registration was a misdemeanor, and constitutes a felony of the offense requiring registration was a felony or if the person has a prior conviction of failing to register. (Pen. Code, § 290.018, subd. (a) and (b).)

4) Provides that within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice (DOJ). (Pen. Code, § 290.015, subd. (b).)

5) States that a misdemeanor failure to register shall be punishable by imprisonment in a county jail not exceeding one year, and a felony failure to register shall be punishable in the state prison for 16 months, two or three years. (Pen. Code, § 290.018, subd. (a) and (b).)

6) Provides that a court can require a person not otherwise required to register if the court finds at the time of conviction or sentencing that the person committed the offense as a result of

sexual compulsion or for the propose of sexual gratification. (Pen. Code, § 290.006)

7) States that the DOJ is required to make information about registered sex offenders available to the public via an Internet Web site, as specified. (Pen. Code, § 290.46.)

8) Provides that DOJ is required to include on this web site a registrant's name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, any other information that the Department of Justice deems relevant unless expressly excluded under the statute. (*Id.*) Requires DOJ to include on its Internet Web site either the home address or zip code of residence of persons who are required to register as sex offenders based upon their registration offense (Pen. Code, §§ 290.46, subd. (b)(2); 290.46, subd. (d)(2).)

9) Requires people who are sex offender registrants to disclose this status to the licensee of a community care facility before becoming a client of that facility. (Health and Safety Code § 1522.01.)

10) Imposes specified restrictions on persons registered as sex offenders with respect to employment in certain areas, such as in education (Education Code §§ 35021, 44345), community care facilities (Health and Safety Code § 1522), residential care facilities (Health and Safety Code § 1568.09), residential care facilities for the elderly (Health and Safety Code § 1569.17), day care facilities (Health and Safety Code § 1596.871), engaging in the business of massage (Government Code § 51032), physicians and surgeons (Business and Professions Code § 2221), registered nurses (Business and Professions Code § 2760.1), and others.

Relevant to Sexually Violent Predators and the Conditional Release Program:

1) Provides for the civil commitment for psychiatric and psychological treatment of a prison inmate found to be an SVP after the person has served their prison commitment. This is known as the Sexually Violent Predator Act ("SVPA"). (Welf. & Inst. Code, § 6600, et seq.)

2) Defines a "sexually violent predator" (SVP) as "a person who has been convicted of a sexually violent offense against at least one victim, and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior." (Welf. & Inst. Code, § 6600, subd. (a)(1).)

3) Permits a person committed as an SVP to be held for an indeterminate term upon commitment. (Welf. & Inst. Code, §§ 6604 & 6604.1.)

4) Establishes a process whereby a person committed as an SVP can petition for conditional release or an unconditional discharge any time after one year of commitment, notwithstanding the lack of recommendation or concurrence by the Director of DSH. (Welf. & Inst. Code, § 6608, subds. (a), (f) & (m).)

5) Provides that if the petition is made without the consent of the director of the treatment facility, no action may be taken on the petition without first obtaining the written recommendation of the director of the treatment facility. (Welf. & Inst. Code, § 6608, subd.

(e).)

6) Provides that before actually placing a person on conditional release, the community program director designated by the DSH must recommend the program most appropriate for supervising and treating the person. (Welf. & Inst. Code, § 6608, subd. (h).)

7) Provides that a person who is conditionally released shall be placed in the county of domicile of the person prior to the person's incarceration, unless both of the following conditions are satisfied:

   a) The court finds that extraordinary circumstances require placement outside the county of domicile; and

   b) The designated county of placement was given prior notice and an opportunity to comment on the proposed placement of the committed person in the county. (Welf. & Inst. Code, 6608.5, subd. (a).)

8) States that the county of domicile shall designate a county agency or program that will provide assistance and consultation in the process of locating and securing housing within the county for persons committed as SVPs who are about to be conditionally released. (Welf. & Inst. Code, § 6608.5, subd. (d).)

9) Specifies that in recommending a specific placement for community outpatient treatment, the DSH or its designee shall consider all of the following:

   a) The concerns and proximity of the victim or the victim's next of kin; and

   b) The age and profile of the victim or victims in the sexually violent offenses committed by the person subject to placement. The "profile" of a victim includes, but is not limited to, gender, physical appearance, economic background, profession, and other social or personal characteristics. (Welf. & Inst. Code, § 6608.5, subd. (e)(1)-(2).)

10) Prohibits a conditionally released SVP from being placed within one-quarter mile of any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if either of the following conditions exist:

   a) The person has previously been convicted of child molestation or continuous sexual abuse of a child; or

   b) The court finds that the person has a history of improper sexual conduct with children. (Welf. & Inst. Code, § 6608.5, subd. (f)(1-2).)

11) States that if the court determines that placement of a person in the county of their domicile is not appropriate, the court shall consider the following circumstances in designating his or her placement in a county for conditional release:

   a) If and how long the person has previously resided or been employed in the county; and,

b) If the person has next of kin in the county. (Welf. & Inst. Code, § 6608.5, subd. (g)(1)-(2).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California citizens showed their overwhelming support of Proposition 36, which has given power back to police and prosecutors to ensure criminals are arrested, but we must ensure that criminals serve their sentences. AB 22 will repeal Proposition 57 which allows for violent offenders to be released early, improves sex offender registry, and prohibits the placement of Sexually Violent Predators in residential neighborhoods or near tribal lands."

2) **Jurisdiction of the Juvenile Court**: Existing law gives juvenile courts jurisdiction over minors 12 years of age and older who are alleged to have committed crimes, except a minor under 12 may come under the juvenile court's jurisdiction for committing murder or specified forcible sex crimes. (Welf. & Inst. Code, §§ 601, 602.) The minimum age of 12 was added to the juvenile court's jurisdictional statutes in 2018 in recognition that generally a child under 12 who exhibits delinquent behavior would be better served outside of the juvenile justice system.[1] Prior to 2018, there was no minimum age specified in the juvenile court's jurisdictional statutes, however a separate statute established a presumption that a child under 14 is not capable of committing a crime unless there is clear proof that at the time of committing the alleged act, the child knew of its wrongfulness. (Pen. Code, § 26.)

   When the issue of a child's capacity to commit a crime arises, the juvenile court holds a *Gladys R.* hearing. (*In re Gladys R.* (1970) 1 Cal.3d 855.) The standard of proof is clear and convincing evidence, rather than proof beyond a reasonable doubt. (*In re Manuel L.* (1994) 7 Cal.4th 229, 234.)

   In determining whether the child knew of the wrongfulness, the court must consider the child's age, experience, and understanding. Additionally, the minor's knowledge of the wrongfulness of the act may be inferred from the circumstances, such as the method of its commission or concealment of the act. (*In re Marven C.* (1995) 33 Cal.App.4th 482, 487; *In re James B.* (2003) 109 Cal.App.4th 826.) There are no statutory restrictions on presenting psychiatric testimony on the issue of showing whether the child knew of the act's wrongfulness. (Pen. Code, § 21, subd. (b).)

   This bill would remove the minimum age that was enacted in 2018. This bill would also specifically remove from the juvenile court's jurisdiction a minor who is alleged, when they were 14 years of age or older, to have committed murder, a one-strike sex offense, or forcible sex offenses and require the minor to be tried in adult court.

3) **Juvenile Transfer Process**: Starting with Proposition 21 in March 2000 and continuing until the passage of Proposition 57, which was approved by voters in 2016, the prosecution was authorized in specified circumstances to file a criminal action against a minor directly in

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[1] SB 439 (Mitchell), Ch. 1006, Stats. 2018.

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 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).)

According to data in the Department of Justice's (DOJ) annual report on juvenile justice, the number of transferred youth has seen a noticeable decrease in recent years. In 2021, 78

transfer hearings were held and 28 youth were actually transferred.[2] In 2022, 45 transfer hearings were held and 12 youth were actually transferred.[3] In 2023, 36 transfer hearings were held and 12 youth were actually transferred.[4]

This bill repeals the juvenile transfer process enacted by Proposition 57 and puts back into law the provisions that existed prior to its passage authorizing prosecutors to directly file juvenile cases in adult court.

4) **California Constitutional Limitations on Amending a Voter Initiative:** Because Proposition 57 was a voter initiative, the Legislature may not amend the statute without subsequent voter approval unless the initiative permits such amendment, and then only upon whatever conditions the voters attached to the Legislature's amendatory powers. (*People v. Superior Court (Pearson)* (2010) 48 Cal.4th 564, 568; see also Cal. Const., art. II, § 10, subd. (c).) The California Constitution states, "The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval." (Cal. Const., art. II, § 10, subd. (c).) Therefore, unless the initiative expressly authorizes the Legislature to amend, only the voters may alter statutes created by initiative.

   The purpose of California's constitutional limitation on the Legislature's power to amend initiative statutes is to protect the people's initiative powers by precluding the Legislature from undoing what the people have done, without the electorate's consent. Courts have a duty to jealously guard the people's initiative power and, hence, to apply a liberal construction to this power wherever it is challenged in order that the right to resort to the initiative process is not improperly annulled by a legislative body. (*Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473.)

   As to the Legislature's authority to amend the initiative, Proposition 57 states:

   > This act shall be broadly construed to accomplish its purposes. The provisions of Section 4.1 and 4.2 of this act may be amended so long as such amendments are consistent with and further the intent of this act by a statute that is passed by a majority vote of the members of each house of the Legislature and signed by the Governor.

   Because this bill repeals provisions enacted by Proposition 57, it is inconsistent with the act, thus, pursuant to the above-referenced amendment clause of the initiative, only the voters may authorize the provisions.

   This bill, if approved by the Legislature, requires the Secretary of State to submit the affected provisions to the voters for their approval at the June 2, 2026, statewide primary election.

5) **Sex Offender Registration Act**: California was the first state to require sex offender registration in 1947. The stated purpose for sex offender registration is to deter offenders

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[2] *2021 Juvenile Justice in California*, California DOJ, p. 38.
[3] *2022 Juvenile Justice in California*, California DOJ, p. 38.
[4] *2023 Juvenile Justice in California*, California DOJ, p. 38.

from committing future crimes, provide law enforcement with an additional investigative tool, and increase public protection. (*Wright v. Superior Court* (1997) 15 Cal.4th 521, 526; Alissa Pleau (2007) *Review of Selected 2007 California Legislation: Closing a Loophole in California's Sex Offender Registration Laws*, 38 McGeorge L.Rev. 276, 277; *Hatton v. Bonner* (2004) 365 F.3d 955, 961.) California's sex offender registration law historically required lifetime registration by persons convicted of specified sex crimes. (Pen. Code, § 290 subd. (a).)

In 1996, California enacted "Megan's Law" allowing the public to access an address list of registered sex offenders. Before 2003, members of the public could only obtain the information on the Megan's Law list by calling a "900" number or visiting certain designated law enforcement agencies and reviewing a CD-ROM. However, in 2003, California required the DOJ to put the Megan's Law list of offenders on a public access website with the offender's address, photo and list of offenses. (See Pen. Code, § 290.46, subd. (a).) For some offenders with less serious offenses, only their ZIP code is listed. Now, a citizen can enter their address and see if there are registered sex offenders living in the community or even next door.

In 2017, California modified its sex registry to a three-tiered registration system based on seriousness of the crime, risk of sexual reoffending, and criminal history. (SB 384 (Wiener), Ch. 541, Stats. 2017.) The recommendation to move to a tiered system came from the California Sex Offender Management Board's 2010 recommendations report.[5]According to the committee's analysis for the bill which started off as SB 421 (Wiener) of that same year:

> Based on a survey of several municipal law enforcement agencies in California, it is estimated that local law enforcement agencies spend between 60-66% of their resources dedicated for sex offender supervision on monthly or annual registration paperwork because of the large numbers of registered sex offenders on our registry. If we can remove low risk offenders from the registry it will free up law enforcement officers to monitor the high risk offenders living in our communities. Law enforcement cannot protect the community effectively when they are in the office doing monthly or annual paperwork for low risk offenders, when they could be out in the community monitoring high risk offenders. Furthermore, the public is overwhelmed by the number of offenders displayed online in each neighborhood and do not know which offenders are considered low risk and which offenders are considered high risk and therefore truly dangerous.

(Sen. Com. on Public Safety, Analysis of Senate Bill No. 421 (2017-18 Reg. Sess.) as amended Apr. 17, 2017, p. 9.) A tier one offender is someone who is required to register for a misdemeanor sex offense or a felony conviction that is not a serious or violent felony. Tier one requires a person to register for a minimum of 10 years. (Pen. Code, § 290, subd. (d)(1).) A tier two offender is a person who is required to register for a felony that is defined as a serious or violent felony or other specified sex offenses, unless the person is otherwise required to register under tier three. Tier two requires a person to register for a minimum of 20 years. (Pen. Code, § 290, subd. (d)(2).) A tier three offender is a person who is convicted

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[5] See https://casomb.org/docs/CASOMB%20Report%20Jan%202010_Final%20Report.pdf (Jan. 2010), p. 50 (accessed Apr. 14, 2025).

of a specified offense or under the One-Strike Sex Law, or is designated as a sexually violent predator or habitual sex offender, in addition to other qualifying offenses and circumstances. (Pen. Code, § 290, subd. (d)(3).)

Sex offenders are required to register annually within five working days of their birthday. (Pen. Code, § 290, subd. (b).) If the offender has no fixed address, they are required to register every 30 days. (Pen. Code, § 290.011, subd. (a).) A person is also required to notify law enforcement of any change of address within five days of moving. (Pen. Code, § 290.013.) A person who fails to register as a sex offender within the period required by law is guilty of a felony punishable by 16 months, 2 or 3 years. (Pen. Code, § 290.018, subd. (b).) A person who changes their name is required to inform law enforcement within five working days. (Pen. Code, § 290.14, subd. (a).)

The minimum time for completion of the required registration period in tier one or tier two begins on the date of the person's release from incarceration or other commitment on the registerable offense. The time period is tolled during any period of subsequent incarceration or commitment, except that arrests not resulting in conviction, adjudication or revocation of supervision shall not toll the registration period. The minimum time period shall be extended by one year for each misdemeanor conviction of failing to register under this act, and by three years for each felony conviction of failing to register under this act, without regard to the actual time served in custody for the conviction (Pen. Code, § 290, subd. (e).)

Although most registerable offenses are felonies, there are some alternate felony/misdemeanor penalties and a few straight misdemeanors. (See Pen. Code, § 243.4 (sexual battery); Pen. Code, § 266c (obtaining sexual consent by fraud); Pen. Code, §§ 311.1, 311.2, subd. (c), 311.4, 311.11 (child pornography); Pen. Code § 647.6 (annoying or molesting a child); and, Pen. Code, § 314, (1)(2) (indecent exposure).) Certain offenses where the act was engaged in voluntarily, albeit without consent because minors cannot legally consent, only require sex offender registration when there is more than a 10-year age gap between the defendant and the minor. (Pen. Code, § 290, subd. (c)(2).)

Generally, a court may also order a person not otherwise required to register as a sex offender to register if they find that the person committed the offense as a result of sexual compulsion or for the purposes of sexual gratification. (Pen. Code, § 290.006.)

As discussed above, there is an exemption for mandatory registration in existing law for a person who is convicted of participating in non-forcible acts (i.e. voluntary) of oral copulation, sodomy, or sexual penetration with a minor (15 years or older) providing that registration is not required if the difference between their ages is 10 years or less. (Pen. Code, § 290, subd. (c)(2).) The law clarifies that the court may still require the person to register as a sex offender under its discretionary powers. (Pen. Code, § 290.006.) This exemption was enacted in 2019 with the intent of addressing the disparate treatment of sex acts that originated from the criminalization of gay sex. According to the Assembly Committee on Public Safety's analysis of the bill:

> This bill specifies that the offenses of non-forcible sodomy, oral copulation, and sexual penetration with a minor would no longer require mandatory sex offender registration unless there is a ten year gap between the minor and the perpetrator. These offenses, when committed without force, where the minor was a willing participant and over the

age of 14 are sometimes referred to colloquially as "Hofsheier offenses." The reason for this is that a California Supreme Court decision in 2006, *People v. Hofsheier*, found that requiring mandatory sex offender registration for one such an offense – oral copulation – was unconstitutional if the state did not also require registration for a person convicted of the offense of non-forcible sexual intercourse with a minor. (37 Cal. 4th 1185.) Offenses in which the victim is under the age of 14 are not considered Hofsheier offenses and they are typically prosecuted as a "lewd and lascivious act with a minor" under a separate penal code section. Lewd and lascivious acts refer to any sort of touching of a person with the intent to sexually arouse the perpetrator or the minor. (Pen. Code § 288; CALCRIM No. 1060.) Sex offender registration is mandatory for lewd and lascivious acts with minors, even if the conduct was non-forcible and the minor was a willing participant.[6]

This bill repeals the above exemption, requiring everyone convicted of these offenses, regardless age difference or voluntariness, to register as a sex offender.

6) **Sexually Violent Predator Act (SVPA)**: Enacted in 1996, the SVPA authorizes an involuntary civil commitment of any person "who has been convicted of a sexually violent offense … and who has a diagnosed mental disorder that **makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior**." (Emphasis added.) (Welf. & Inst. Code, § 6601, subd. (a).) The SVPA was designed to accomplish the dual goals of protecting the public, by confining violent sexual predators likely to reoffend, and providing treatment to those offenders. "Those committed pursuant to the SVPA **are to be treated not as criminals, but as sick persons. They are to receive treatment for their disorders and must be released when they no longer constitute a threat to society**." (Emphasis added.) (*People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774, 783, citing Welf. & Inst. Code, § 6250.)

Civil commitment is not a prison sentence. Once a person has been deemed no longer a threat to public safety, they must, as a matter of law, be released from custody. Involuntary commitment under the SVPA only begins after a person has completed their prison sentence. Originally, the SVP laws provided for an initial commitment of two years and then a review every two years thereafter. However, effective September 20, 2006, the law now provides for indeterminate commitments for persons found to be sexually violent predators. (Welf. & Inst. Code, § 6604.) A SVP is a person convicted of specified sex offenses against at least one person and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. (Welf. & Inst. Code, § 6600, subd. (a)(1).)[7] The SVPA has survived due process challenges because the committed person "may not be held in civil commitment when he or she no longer meets the requisites of such commitment" (i.e., the person has the opportunity for release). (See *People v. McKee* (2010) 47 Cal.4th 1172, 1193; see also *Kansas v. Hendricks* (1997) 521 U.S. 346; *People v. McKee* (2012) 207 Cal.App.4th 1325; *People v.*

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[6] Assem. Comm. on Public Safety, Analysis of Senate Bill No. 145 (2019-20 Reg. Sess.) as amended May 21, 2019, pp. 4-5.

[7] Sexually violent offenses include: rape, rape with a foreign object, aggravated sexual assault of a child, sodomy, forcible oral copulation, child molestation, continuous sexual abuse of a child, sexual penetration, kidnapping with the intent to commit a listed sex offense, and assault with intent to commit a listed sex offense. (Welf. & Inst. Code, § 6600, subd. (b).)

Superior Court (Karsai) (2013) 213 Cal.App.4th 774.)

Due to the significant deprivation of a person's liberty while SVP proceedings are conducted, and potentially indefinitely after being committed as an SVP, the California Supreme Court recently held that all trial courts in the state are required to advise criminal defendants prior to accepting a plea to an offense enumerated in the SVPA, or in cases where the court is aware that the defendant has a prior conviction for such an offense, of potential consequences related to the SVPA. (*In re Tellez* (2024) 17 Cal.5th 77, 92.)

a. Process of SVP designation:

When the Department of Corrections and Rehabilitation (CDCR) determines that an inmate "may be a sexually violent predator," the CDCR Secretary refers the inmate to the DSH for a thorough evaluation. (*Hubbart v. Superior Court* (1999) 19 Cal.4th 1138, 1145; Welf. & Inst., § 6601, subd. (b).) A "diagnosed mental disorder" for purposes of determining whether someone is a SVP means a "congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others." (Welf. & Inst. Code, § 6600, subd. (c).)

An evaluation "must be conducted by at least two practicing psychiatrists or psychologists in accordance with a standardized assessment protocol[.]" (Welf. & Inst. Code, § 6601, subd. (c)-(d).) If the two evaluators agree the inmate is likely to reoffend without treatment or custody due to their mental disorder, the Director of DSH must request a petition for commitment pursuant to the Welfare and Institutions Code section 6602 to the county in which the inmate was last convicted. (Welf. & Inst. Code, § 6601, subd. (d).) Thereafter, the county district attorney will file a petition for civil commitment. Due process requires any deprivation of liberty by the state requires notice and a meaningful opportunity to be heard.

Accordingly, a court then reviews the petition and determines whether there is probable cause to believe the inmate "is likely to engage in sexually violent predatory criminal behavior upon their release. If the court or jury determines that the person is a sexually violent predator, the person [is] committed for an indeterminate term" to a state mental hospital "for appropriate treatment and confinement." (Welf. & Inst. Code, § 6604.)

The burden then shifts to the "offender seeking his or her release from an SVPA commitment" to prove he or she is no longer a significant risk to society.[8]

If the Director of DSH determines that the inmate's diagnosed mental disorder has so changed that the inmate is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the Director will forward a report and recommendation for conditional release. If the court at the hearing determines that the SVP would not be a danger to others due to his or her diagnosed mental disorder while under supervision and treatment in the community, the court will order the person placed with an

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[8] Ashley Felando (2012) *California's Sexually Violent Predator Act and the Dangerous Patient Exception*, 40 W.St. U. L.Rev. 73, 76; Note (2014) *Examining the Conditions of Confinement for Civil Detainees under California's Sexually Violent Predators Act*, 68 Hastings L.J. 1441, 1444-1446.

appropriate forensic conditional release program operated by the state for one year, a substantial portion of which is required to include outpatient supervision and treatment. (Welf. & Inst. Code § 6608, subd. (f).)

After a judicial determination that a person would not be a danger to the health and safety of others (i.e., in that it is not likely that the person will engage in sexually violent criminal behavior due to the person's diagnosed mental disorder while under supervision and treatment in the community), they will be placed in their pre-incarceration county of domicile, unless the court finds that extraordinary circumstances require placement outside the county domicile. (Welf. & Inst. Code § 6608.5, subd. (a); see Welf. & Inst. Code § 6608.5, subd. (b).)

b. Restrictions on Conditionally Released SVPs

A conditionally released SVP is deemed by DSH and the courts to no longer pose a danger to the community and may be treated in the community rather than confinement in the state hospital. However, a conditionally released SVP is tightly monitored and supervised in the community. A person released as an SVP may not be released to any residence that is within one-quarter mile of any public or private school providing instruction in kindergarten or any grades 1 through 12, inclusive, if the person has been previously convicted of child molestation or continuous sexual abuse of a child or if the court finds the person has a history of improper sexual conduct with children. (Welf. & Inst. Code, § 6608.5, subd. (f)(1)-(2).) Additionally, a conditionally released SVP must be monitored by a global positioning system (GPS) until they are unconditionally released. (Welf. & Inst. Code, § 6608.1.)

7) **DSH Conditional Release Program (CONREP)**: When patients civilly committed under the SVPA are granted conditional release by a court, they will enter community treatment and supervision under CONREP. Placing a person who will be conditionally released is strictly regulated by law, and is determined on an individual basis, with community safety being the top priority. Only about 5% of SVPs have been conditionally released, and to date not a single person who has been released has committed a sexual contact offense while in the program.[9]

CONREP consists of intensive community based treatment with 24-hour electronic monitoring, with gradual steps towards increased community integration, depending on treatment progress. It is designed in accordance with best practices. It relies on a broad range of services that are flexibly applied based on each patient's risk-assessment profile and treatment needs. Some of the tools used include polygraph examinations, covert surveillance, announced and unannounced home visits, electronic monitoring, monitoring of approved electronic devices, drug testing, property searched, banking and expense reviews, approval of travel (including routes of travel) for all time outside the residence, assessments of sexual arousal (plethysmography) and sexual interest (Abel assessments), collateral contacts with significant people in the patient's life, chaperone training, and life skills training.[10]

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[9] See DSH Fact Sheet on SVP CONREP, March 2025, https://dsh.ca.gov/Treatment/docs/SVP_Conrep_Fact_Sheet_March2025.pdf, (accessed Apr. 15, 2025.)
[10] *Ibid.*

DSH contracts with Liberty Health Care to provide SVP CONREP services throughout the state.[11] The placement process for a CONREP participant begins when a court orders conditional release. This process is guided by both statutory law and court oversight.

A person eligible for conditional release must be placed in the county of domicile prior to the person's incarceration unless the court finds that extraordinary circumstances require placement outside the county of domicile and the designated county of placement was given prior notice and an opportunity to comment on the proposed placement of the committed person in the county. (Welf. & Inst. Code, § 6608.5, subd. (a).) A person eligible for conditional release who has a history of sexual conduct with children "shall not be placed within one-quarter mile of any public or private school providing instruction in kindergarten or any grades 1 to 12, inclusive." (Welf. &Inst. Code, § 6608.5, subd. (f).) This includes home schools. (*People v. Superior Court (Cheek)* (2023) 87 Cal.App.5th 373, 380-382.)

SB 1034 (Atkins), Chapter 880, Statutes of 2022, established a process for finding housing for an SVP who has been found to no longer be a danger and sets forth what a court must do in order to determine extraordinary circumstances exist so that an SVP cannot be placed in their county of domicile. DSH is required to convene a housing committee consisting of the committed person's attorney, the sheriff or the chief of police of the locality for placement, the county counsel, and the district attorney from the county of domicile, and the housing committee is required to provide assistance and consultation in DSH's process of locating and securing housing. (Welf. & Inst. Code, § 6608.5, subd. (d)(1).) DSH must consider a number of factors when locating housing, including statutory residency restrictions, the concerns or proximity to the victim or victim's next of kin, and the age and profile of the victim or victims of the sexually violent offenses committed by the person subject to placement. (Welf. & Inst. Code, § 6608.5, subds. (e) & (f).)

If a property seems to meet both the statutory criteria and the court-ordered requirements, Liberty Health Care submits the potential placement location to undergo a three-level review process with DSH. Through this three-level review process, DSH staff (including clinical, legal, leadership and DSH's Director's Office) review both the potential placement and forensic risk factors to evaluate suitability. DSH staff work closely with Liberty Health Care to ensure that all information is included in each relevant document. If a property completes the three-level review process, DSH approves Liberty Health Care to present the potential placement location to Housing Committee members for discussion and additional feedback. (See DSH Fact Sheet on SVP CONREP, March 2025, *supra.*)

After seeking input from the housing committee, potential residences are submitted to the court for approval. DSH must provide notice to both local law enforcement and the district attorney in that community. The law provides for 30-day notice to notify the public, with case specific information. Local law enforcement and the district attorney may provide written comments, which must be submitted to the court, and which the court must consider. (Welf. & Inst. Code, § 6609.1; see also DSH Fact Sheet on SVP CONREP, *supra.*) If the court approves of the placement, the patient will be placed at that residence. If the court denies the placement, the housing search continues.

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[11] *Ibid.*

The average time from when a court orders conditional release to actual placement in the community is over 300 days. Notably, if no housing placement has been found and the court has ordered the person to conditional release, the person can be released as a transient. (*Karsai*, *supra*, 213 Cal.App.4th 774, 788-89.)

This bill would prohibit transient release and place further restrictions on where an SVP may be placed by prohibiting placement in an area zoned for residential use or within 3 miles of tribal land. As discussed above, existing law prohibits placement of an SVP within one-quarter mile of any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has previously been convicted of child molestation or continuous sexual abuse of a child, or the court finds that the person has a history of improper sexual conduct with children. (Welf. & Inst. Code, § 6608.5, subd. (f)(1) & (2).) Additionally, DSH is required to consider a number of factors when locating housing, including statutory residency restrictions, the concerns or proximity to the victim or victim's next of kin, and the age and profile of the victim or victims of the sexually violent offenses committed by the person subject to placement. (Welf. & Inst. Code, § 6608.5, subd. (e).) Prohibiting placement in a residential area or within 3 miles of tribal land makes it more likely that a person will not be able to be placed in fixed housing, meaning that transient release would be the alternative, albeit less desirable, option because it is harder to closely monitor and provide services to a person that is not in fixed housing. However, this bill also prohibits transient release. Thus, this bill will likely result in extended commitment of persons who the court has already found to not be a danger to the health and safety of others (i.e., in that it is not likely that the person will engage in sexually violent criminal behavior due to the person's diagnosed mental disorder while under supervision and treatment in the community). (Welf. & Inst. Code, § 6608.5.)

Holding a person in civil commitment beyond what is judicially determined to be necessary for the health and safety of others raises serious constitutional issues:

> Once a court has determined that a particular SVP would not be a danger to the health and safety of others in that it is not likely that he or she would engage in sexually violent criminal behavior due to his or her diagnosed mental disorder if under supervision and treatment in the community, that person unquestionably has a significant liberty interest in being released. To authorize an unspecified delay in that release by implying in the SVPA a requirement that the person must have a specific residence before release, when under the statutory scheme the securing of a specific residence is not a prerequisite to a finding that the person would pose no danger to others if under outpatient supervision and treatment, would run the risk that a person who is no longer dangerous will nonetheless have to remain in custody in a secure facility indefinitely simply because of some extraneous factor, such as public outrage, that interferes with finding and securing a fixed residence for that person.

(*Karsai*, *supra*, 213 Cal.App.4th at pp. 788-789.) Because this bill would further restrict placement options for SVPs that have been deemed by the court to no longer pose a danger to the health and safety of others if released into CONREP and those additional restrictions would likely result in extended commitment of the person, this would likely face constitutional challenges.

This bill would additionally require in statute that DSH ensure that department vendors consider public safety in the placement of an SVP that is ordered to be conditionally released. As to the public safety consideration, it is clear from the rigorous process that currently exists for placement of an SVP, described above, that public safety is already a top consideration.

8) **Arguments in Opposition**:

a) According to *Smart Justice*, "We have serious concerns and oppose these provisions in AB 22:

"AB 22 would allow young children under age 12 to be handled in the juvenile justice system rather than the child welfare system as is now the case. Prosecuting young children in juvenile court runs contrary to scientific research and court decisions that recognize that children are inherently less culpable than adults. This bill could result in children as young as five effectively facing criminal prosecution

"AB 22 would allow prosecutors to directly file into adult court to prosecute youth as young as 14 in the adult system, eliminating judicial oversight and discretion. Current law properly places the decision of whether a youth should be tried as an adult in the hands of the judge.

"AB 22 would expand the sex offender registry to include individuals convicted of minor behavior. Under prior law, California's sex offender registry became so bloated with minor offenders that it was no longer a useful law enforcement tool. At the request of law enforcement, the system was revised through several carefully tailored bills. AB 22 seeks to undo this progress.

"AB 22 would make it effectively impossible to release an individual who had been treated in civil commitment following a sex offense conviction. Preventing release of individuals who have completed their treatment program would make the program unconstitutional."

b) According to *Human Rights Watch*, "For most of California's juvenile court history, the decision to transfer a minor to adult court has rested rightly with judges. As the California Supreme Court noted in its unanimous 2021 decision upholding protections for youth under 16, "a child could be tried in criminal court only after a judicial determination…that he or she was unfit to be dealt with under juvenile court law.'" However, in 1995, California began to erode these protections in reaction to exaggerated fears of rising youth crime and panic fueled largely by the widely spread "super-predator" myth, a racially-charged narrative which falsely suggested that a new generation of remorseless, violent youth posed an unprecedented threat to public safety. The now decisively-discredited theory was amplified by elected officials from both parties and the media, and led to draconian policy changes, including Proposition 21 in 2000. Proposition 21 enacted laws bypassing judicial review and led to direct filing in adult court the cases of youth as young as 14. This launched a period of indiscriminate prosecution of children as adults.

"Adult court prosecution disproportionately impacts children of color and result in disproportionate rates of adult incarceration. In California, prior to Proposition 57 (2016),

which eliminated many of the laws AB 22 now seeks to reinstate, youth of color were significantly more likely to be prosecuted in adult court. In 2016, Black youth were 8.5 times more likely than White youth to be tried as adults, and Latino youth were almost 3 times more likely.

"Advances in adolescent brain science began to transform understanding of youth behavior, decisionmaking, and development, showing that the adolescent brain is fundamentally different from that of an adult. Brain science confirms that adolescents differ significantly from adults in their capacity for impulse control, risk assessment, and long-term planning. These developmental characteristics not only explain why young people may make impulsive decisions, but also affirm their extraordinary capacity for growth, change, and rehabilitation. In response to this research, California has enacted reforms that prioritize judicial oversight in transfer decisions and require the court to evaluate a number of factors including a youth's background, the circumstances of the offense, and the potential for rehabilitation. These reforms align our state's policies with science and constitutional principles, while strengthening public safety by reducing recidivism.

"In some cases, AB 22 would eliminate the role of the judge entirely and require cases to be filed automatically in adult court. In other cases, the bill seeks to dramatically reduce the decision-making authority of judges, limiting their ability to weigh whether a young person is amenable to rehabilitation in the juvenile system."

9) **Related Legislation**: ACA 10 (DeMaio) would repeal the California Constitutional provision authorizing the Department of Corrections to award credits to inmates for good behavior and rehabilitative or educational achievements enacted by Proposition 57, approved by voters in 2016. ACA 10 is pending referral.

10) **Prior Legislation**:

a) SB 145 (Wiener), Chapter 79, Statutes of 2020, exempted from mandatory sex offender registration a person convicted of non-forcible sexual conduct involving minors if the person is not more than 10 years older than the minor.

b) SB 439 (Mitchell), Chapter 1006, Statutes of 2018, established a minimum age of 12 years old for a minor to come within the jurisdiction of the juvenile court, except the court would continue to have jurisdiction over a minor under 12 who committed murder or specified forcible sex crimes.

c) SB 1319 (Lara), Chapter 1012, Statutes of 2018, repealed the authority of a district attorney to make a motion to transfer a minor from juvenile court to a court of criminal jurisdiction in a case in which a minor is alleged to have committed a specified serious offense when he or she was 14 or 15 years of age, unless the individual was not apprehended prior to the end of juvenile court jurisdiction.

REGISTERED SUPPORT / OPPOSITION:

Support

None submitted.

Oppose

ACLU California Action
Alameda County Public Defender's Office
All of US or None (HQ)
Alliance for Boys & Men of Color
Alliance for Boys and Men of Color
Alternate Public Defender
Asian American Criminal Trial Lawyers Association
Black Parallel School Board
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Public Defenders Association (CPDA)
Californians for Justice
Californians United for A Responsible Budget
Center for Public Interest Law/children's Advocacy Institute/university of San Diego
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice (CURYJ)
Community Interventions
Contract Public Defenders Del Norte County
Court Appointment Programs, Lawyer Referral & Information Service, Bar Association of San Francisco
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Freedom 4 Youth
Fresh Lifelines for Youth
Haywood Burns Institute
Human Rights Watch
Initiate Justice
Initiate Justice Action
Justice2jobs Coalition
LA Defensa
Law Office of Monika Y. Loya
Law Office of Victoria Don
Legal Services for Prisoners With Children
Legal Services for Prisoners With Children / All of Us or None
Local 148 LA County Public Defenders Union
Merced County Public Defender
National Center for Youth Law (NCYL)
Peace and Justice Law Center
Sacramento County Public Defender
San Diego Public Defender
San Francisco Public Defender

San Mateo County Bar Association, Private Defender Program
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
Underground Grit
Universidad Popular
Vera Institute of Justice
Young Womens Freedom Center
Youth Law Center
Youth Leadership Institute

5 Private Individuals

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

Date of Hearing: April 22, 2025
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 47 (Nguyen) – As Introduced December 2, 2024

As Proposed to be Amended in Committee

SUMMARY: Provides that a person sentenced for a one-strike sex offense or as a habitual sex offender is ineligible for elderly parole until the person is 60 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence.

EXISTING LAW:

1) Establishes the Elderly Parole Program, to be administered by the Board of Parole Hearings (BPH), for purposes of reviewing the parole suitability of any inmate who is 50 years of age or older and has served a minimum of 20 years of continuous incarceration on the inmate's current sentence, serving either a determinate or indeterminate sentence. (Pen. Code, § 3055, subd. (a).)

2) Requires BPH, when considering the release of an inmate, as specified, to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence. (Pen. Code, § 3055, subd. (c).)

3) Requires BPH, when scheduling a parole consideration hearing date or when considering a request for an advance hearing, as specified, to consider whether the inmate meets or will meet the age and time-served criteria. (Pen. Code, § 3055, subd. (d).)

4) States that an individual who is subject to this section shall meet with BPH pursuant to subdivision (a) of Section 3041. (Pen. Code, § 3055, subd. (e).)

5) Requires BPH, if an inmate is found suitable for parole under the Elderly Parole Program, to release the individual on parole, as specified. (Pen. Code, § 3055, subd. (e).)

6) Requires BPH, if parole is not granted, to set the time for a subsequent elderly parole hearing, as specified, and provides that no subsequent elderly parole hearing shall be necessary if the offender is released pursuant to other statutory provisions prior to the date of the subsequent hearing. (Pen. Code, § 3055, subd. (f).)

7) Provides the following exceptions to the Elderly Parole Program:

   a) Persons who had a prior conviction for a serious or violent felony;

   b) Persons who were sentenced to life in prison without the possibility of parole or death; or,

c) Persons convicted of first-degree murder of a peace officer, as defined, who was killed while engaged in the performance of their duties, and the individual knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of their duties, or the victim was a peace officer or a former peace officer and was intentionally killed in retaliation for the performance of their official duties. (Pen. Code, § 3055, subd. (g) & (h).)

8) Provides that the provisions of the Elderly Parole Program do not alter the rights of victims at parole hearings. (Pen. Code, § 3055, subd. (i).)

9) Required BPH, by December 31, 2022, to complete all elderly parole hearings for individuals who were sentenced to determinate or indeterminate terms and who, on the effective date of the bill that added this subdivision, are or will be entitled to have their parole suitability considered at an elderly parole hearing before January 1, 2023. (Pen. Code, § 3055, subd. (j).)

10) Defines "elderly parole eligible date" as the date on which an inmate who qualifies as an elderly offender is eligible for release from prison. (Pen. Code, § 3055, subd. (b)(1).)

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

12) Provides that, upon a grant of parole, the inmate shall be released subject to all applicable review periods, except an inmate shall not be released before reaching his or her minimum eligible parole date, as specified, unless the inmate is eligible for earlier release under their youth offender parole eligibility date or elderly parole eligibility date. (Pen. Code, § 3041, subd. (a)(4).)

13) Requires BPH to grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)

14) Provides, under the One Strike Sex Offense statute, for a mandatory sentence of 15-years-to-life or 25-years-to-life if a person is convicted of one of the several specified felony sex offenses under one or more circumstances, as provided. (Pen. Code, § 667.61, subds. (b)-(e).)

15) Provides that a habitual sexual offender is a person who has previously been convicted of one or more of the following offenses and who is convicted in the present proceeding of one of these offenses:

a) Rape by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury, or threat to retaliate in the future;

b) Rape of a spouse by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury, or threat to retaliate in the future;

c) Rape or sexual penetration, in concert;

d) Lewd or lascivious act on a child under 14, and lewd or lascivious act on a child under 14 by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury;

e) Sexual penetration, by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury or sexual penetration of a person who is under 14 years of age and who is more than 10 years younger;

f) Continuous sexual abuse of a child;

g) Sodomy of a person who is under 14 years of age and more than 10 years younger, or in concert;

h) Oral copulation of a person who is under 14 years of age and more than 10 years younger, or in concert;

i) Kidnapping with intent to commit a lewd and lascivious act on a child under 14;

j) Kidnapping to commit specified sex offenses;

k) Kidnapping with intent to commit rape, oral copulation, sodomy, or other specified sex offense;

l) Aggravated sexual assault of a child; or,

m) An offense committed in another jurisdiction that includes all of the elements of one of the above offenses. (Pen. Code, § 667.71, subds. (a), (c).)

16) Provides that a habitual sexual offender shall be punished by imprisonment in the state prison for 25-years-to-life. (Pen. Code, § 667.71, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 47 is about restoring integrity to our justice system and protecting victims. I introduced this bill because people convicted of rape, child molestation, or other violent crimes should never be eligible for early release just because they've turned 50. That's not justice — it's re-traumatizing survivors. Throughout my career — whether in local government or authoring legislation to combat human trafficking — I've worked to ensure victims aren't forgotten. And as the wife of a police officer, I've seen firsthand how these crimes devastate families and communities. AB 47 draws a clear line: some crimes are simply too severe for second chances."

2) **Elderly Parole Program:** As the result of severe prison overcrowding, the Three-Judge Court ordered CDCR to implement several population reduction measures, including to

"[f]inalize and implement a new parole process whereby inmates who are 60 years of age or older and have served a minimum of twenty-five years of their sentence will be referred to the Board of Parole Hearings to determine suitability for parole." (February 10, 2014 Order, 2:90-cv-0520 LKK DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown*) In response to the order, BPH created the Elderly Parole Program and began holding elderly parole hearings on October 1, 2014. Inmates with determinate terms as well as those sentenced to life with the possibility of parole are eligible for the program. (https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview/) Inmates who are sentenced to life without the possibility of parole, or who are sentenced to death are not eligible for the program. (*Id.*)

AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program. However, AB 1448 narrowed the eligibility criteria by excluding individuals who were sentenced pursuant to "Three Strikes" or who were convicted of first-degree murder of a peace officer from the Elderly Parole Program. (Pen. Code, § 3055, subds. (g) & (h).) AB 3234 (Ting), Chapter 334, Statutes of 2020, expanded the eligibility criteria for elderly parole. Specifically, AB 334 lowered the minimum age at which an incarcerated individual is eligible for elderly parole from 60 to 50 and the amount of time that must be served from 25 years to 20 years. Incarcerated individuals who meet the eligibility criteria of the court-ordered Elderly Parole Program but who are excluded from the statutory Elderly Parole Program are eligible for elderly parole consideration under the court-ordered program. (BPH, *Elderly Parole Fact Sheet* (Mar. 2022), p. 1 available at <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2022/03/Elderly-Parole-Fact-Sheet3_18-1.pdf>.)

3) **Analogous Provision in Youth Offender Parole Statute Pertaining to One-Strike Sex Offenses:** Proponents of this bill argue that One Strike sex offenses should be excluded from Elderly Parole eligibility, in part to align the elderly parole process with the youth offender parole process as codified in Penal Code section 3051. Penal Code section 3051 generally provides that an individual who was 25 years of age or younger at the time of his or her controlling offense, or under 18 years of age if the person was sentenced to life without the possibility of parole, is eligible for release on parole at the 15th, 20th, or 25th year of incarceration depending on the sentence imposed. As is the case with the Elderly Parole Program, the youth offender parole process affords some incarcerated individuals an opportunity to parole at an earlier date than would otherwise be the case. Both parole processes also require the BPH to consider additional factors when making a parole suitability determination.

   Both the elderly parole statute and youth offender parole statute contain categorical exclusions. Subdivisions (g) and (h) of Penal Code section 3055 exclude from elderly parole eligibility a person sentenced under the Three Strikes law, a person sentenced to death or life in prison without the possibility of parole, and a person convicted of the first-degree murder of a peace officer. Subdivision (h) of Penal Code section 3051 excludes from youth offender parole eligibility, a person sentenced under the Three Strikes law, under the One Strike law, or to life without the possibility of parole for an offense committed after the person turned 18.

   The exclusion of One Strike sex offenses from youth offender parole eligibility was challenged on Equal Protection grounds. (See *People v. Edwards* (2019) 34 Cal.App.5th 183; *People v Williams* (2020) 47 Cal.App.5th 475.) After the two appellate courts reached

different conclusions regarding the constitutionality of this exclusion, the California Supreme Court granted the *Williams* appellant's petition for review in 2020.

In its 2024 decision, the Court upheld the exclusion of One Strike sex offenses from youth offender parole eligibility finding that there was no equal protection violation. (*People v. Williams* (2024) 17 Cal.5th 99.) Applying the rational basis standard, the Court found:

> The Legislature could rationally conclude, based on its view that a One Strike sex offender's risk of recidivism is high, that rehabilitation is unlikely, and therefore these offenders would not likely be eligible for parole, much less early parole under section 3051. With this understanding, the Legislature crafted section 3051(h), balancing a young adult's capacity for growth and rehabilitation against the set of concerns that had prompted the enactment and amendment of the One Strike law and ultimately deciding that those concerns militate against offering the possibility of early parole under section 3051. (Internal citations omitted.) (*Id.* at p. 130.)

4) **Effect of this Bill:** This bill limits the eligibility criteria for the Elderly Parole Program requiring individuals sentenced pursuant to Penal Code sections 667.61 and 667.71—the One Strike Sex Offense statute or habitual sex offender statute—to be 60 years old or older and to have served at least 25 years of continuous incarceration on their current sentence.

   It is worth noting that some incarcerated individuals who are currently eligible for elderly parole were already in the parole suitability hearing cycle based on their original minimum eligible parole date (MEPD). The parole eligibility of these individuals is not based on their inclusion in the Elderly Parole Program as their sentences have always permitted an opportunity for parole. Similarly, there are incarcerated individuals who are eligible for parole but not yet in the parole suitability hearing cycle because they have not reached their MEPD. Irrespective of inclusion in the Elderly Parole Program, these individuals will have an opportunity for parole once they have reached their MEPD. This means that even if certain categories of offenders are excluded from the Elderly Parole Program, the incarcerated individual will have parole hearings upon reaching their MEPD if the person otherwise has a sentence that permits parole (i.e., a sentence other than life without the possibility of parole or death).

   Inclusion in the Elderly Parole Program may affect when an incarcerated individual has their initial parole hearing. However, inclusion in the Elderly Parole Program does not mean that an incarcerated individual will automatically be released from prison solely because the person meets the eligibility criteria for the program.

5) **Overview of the Parole Process:** This bill would delay the time persons convicted of one-strike sex offenses or convicted as a habitual sex offender are eligible for elderly parole. Notably, a person eligible for elderly parole does not mean they are suitable for parole, but rather that they are eligible for a hearing to determine their suitability.

   BPH is required to hold a hearing on a person's suitability for parole one year before the person's MEPD to determine if the person should be released from prison. (Pen. Code, § 3041, subd. (a)(2).) Existing law requires BPH to grant parole unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a

more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).) The Elderly Parole Program requires BPH "to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence, when considering the release of an inmate." (Pen. Code, § 3055, subd. (c).) BPH can consider all relevant, reliable information available. (15 Cal. Code Regs., tit. 15, § 2281, subd. (b).) Factors showing unsuitability include, among others, whether the person abused their victim during the offense or the offense was exceptionally cruel or callous; and, whether the person has an unstable social history, committed a sadistic sexual offense, demonstrates a lack of remorse, or has engaged in serious misconduct while incarcerated. (15 Cal. Code Regs., tit. 15, § 2281, subd. (c).) However, regardless of the length of time served, a person must be found unsuitable for and denied parole if BPH determines that the person poses an unreasonable risk of danger to society if released from prison. (Cal. Code Regs., tit. 15, § 2281, subd. (a).)

Existing law also requires a person convicted of sexually violent offense and up for parole to undergo a comprehensive risk assessment for sexual offenders. (Pen. Code, § 3053.9.) The risk assessment is conducted by licensed psychologist employed by BPH who consider factors impacting the person's risk of violence. (*Ibid.*)

Even if found suitable for parole, a person released from custody is still subject to supervision. Persons who are eligible for release under this bill are subject to parole supervision for at least 10 years, and could even receive lifetime parole under certain circumstances. (Pen. Code, §§ 3000, subd. (b)(3); 3001.01, subd. (d)(1); 3000.1, subd. (a)(2).) Existing law requires BPH, within 10 days following any decision granting parole, to send the inmate a written statement setting forth the reason or reasons for granting parole, the conditions the person must meet in order to be released, and the consequences of failure to meet those conditions. (Pen. Code, § 3041.5, subd. (b)(1).) Existing law provides that the parole agency can impose additional and appropriate conditions of supervision if the person violated a parole condition. (Pen. Code, § 3000.08, subd. (d).) Failure to comply with the conditions of parole could result in parole revocation and return to custody. (Pen. Code, § 3000.08, subd. (f)(1).)

6) **Argument in Support**: According to the *Office of the District Attorney of Orange County*, the bill's sponsor: "California's parole laws provide opportunities for parole consideration based on age and the length of incarceration. Specifically, Elder Parole allows for parole consideration for individuals who have served at least 20 years of incarceration and are at least 50 years old. This process does not address the elevated recidivism risk posed by sex offenders, particularly those who have committed severe crimes including child sexual assault or violent sexual offenses. Research has consistently shown that, even in their later years, sex offenders are more likely to reoffend than individuals convicted of other crimes. These high-risk individuals pose a significant threat to public safety, including to vulnerable populations such as minors and those who have been previously victimized.

"The California Supreme Court, in the case of People v. Williams (2024), affirmed the exclusion of One Strike offenders from Youthful Offender Parole under PC 3051, recognizing the increased risk to public safety that these offenders represent. Given the gravity of their crimes, it is crucial that such individuals remain incarcerated for their full term and are not granted early parole consideration that could jeopardize community safety.

"AB 47 is a sensible step toward ensuring that individuals convicted of particularly violent or predatory sexual offenses are not prematurely released into society, where they may reoffend and inflict further harm. The bill maintains the integrity of California's parole system by ensuring that individuals who have been convicted of heinous crimes are not excluded from long-term accountability, and that victims' voices are respected in the parole process."

7) **Argument in Opposition**: According to the *San Francisco Public Defender's Office*, "In 2014, the court in the *Plata* and *Coleman* class action lawsuits mandated that the state create a geriatric parole consideration process, recognizing that elderly people are the safest to release while posing the highest financial burden given their medical needs. The Legislature agreed with this assessment and codified the program in 2018, and later modified the criteria in 2021 so that people aged 50 or older who have served at least 20 years of incarceration are eligible (while keeping in place exclusions for those sentenced to LWOP, death, under the Three Strikes Law, and for first-degree murder of a peace officer).

"This bill is unnecessary for many reasons, the first being that the Legislature thoroughly reassessed the program's eligibility criteria in 2021 and determined it was unnecessary to public safety to create new exclusions. **This is due to the exceptionally low risk posed by people currently eligible for the Elderly Parole program**. One study found that recidivism rates drop to just 2% for people ages 50 to 65, and nearly zero for those older than 65. While recidivism risk decreases with age, the cost of incarcerating older individuals rises significantly. For example, healthcare costs for elderly incarcerated people are up to nine times higher than for younger people. This amounts to an enormous financial burden in California, where it costs on average $133,000 annually to incarcerate a single person. In addition, the recidivism rate for people released through California's parole hearing process—regardless of conviction—is just 2.2%, and only 0.2% for violent felonies.3 The 3-year recidivism rate for people released through California's Elderly Parole hearing process is just as low, at 2.4%. Data also contradicts the notion embedded in this bill that people convicted of sexual offenses pose a higher risk upon release. In fact, CDCR's own recidivism research shows that the three-year conviction rate for sex registrants is significantly lower than non-sex registrants.

"Finally, multiple rigorous safeguards are already in place within the Elderly Parole program. Eligibility does not guarantee release; it merely allows the parole board to conduct a comprehensive hearing to determine if an individual can be safely released on parole supervision. If granted parole, the decision is further reviewed by the Board's legal division and the Governor's office. However, most Elderly Parole hearings don't even get that far—between 2021 and 2023, only 16.6% of Elderly Parole hearings resulted in a parole grant, with just 10% of first-time Elderly Parole hearings leading to a grant. For elderly people who are granted and released, they are placed on mandated parole supervision with both general and individualized supervision requirements. The supervision requirements are extremely stringent for those with sex offenses, including mandatory sex offense treatment in the community. Furthermore, the Board of Parole Hearings thoroughly screens people with violent and sexual offenses before authorizing their release on parole, referring cases as needed to the Department of State Hospitals for further evaluation, after which civil commitment to receive treatment can be mandated. The Elderly Parole program as it currently exists is extremely conservative and poses no public safety issue that warrants legislative modification.

"In conclusion, AB 47 would result in more elderly individuals serving excessively long sentences despite their readiness for supervised release, leading to wasted resources that could be better utilized for other purposes, including vital social service programs. We urge you to oppose this bill in favor of policies that promote rehabilitation, public safety, and fiscal responsibility."

8) **Related Legislation**:

a) SB 286 (Jones) would exclude from Elderly Parole eligibility individuals convicted of murder or specified felony sex offenses, or sentenced as a habitual sex offender or under the One Strike Sex Offense statute. SB 286 is pending a hearing in the Senate Appropriations Committee.

b) SB 537 (Archuleta) excludes a person sentenced to first- or second-degree murder with a maximum term of life imprisonment from the required 3-year parole period applicable to any person released from state prison on or after July 1, 2020. SB 537 is scheduled for hearing today in the Senate Public Safety Committee.

9) **Prior Legislation**:

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

b) AB 3234 (Ting), Chapter 334, Statutes of 2020, lowered the minimum age limitation for the Elderly Parole Program to inmates who are 50 years of age and who have served a minimum of 20 years.

c) SB 411 (Jones), of the 2019-2020 Legislative Session, was nearly identical to SB 445 above. SB 411 did not receive a hearing in the Senate Public Safety Committee.

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

e) SB 224 (Liu), of the 2015-2016 Legislative Session, was substantially similar to AB 1448 above. SB 224 was ordered to the Inactive File on the Senate Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Narcotic Officers' Association
California Police Chiefs Association

California Reserve Peace Officers Association
California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
County of Orange, Through its Office of the District Attorney/public Administrator
Crime Victims United of California
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Placer County District Attorney's Office
Pomona Police Officers' Association
Riverside County District Attorney
Riverside Police Officers Association
Riverside Sheriffs' Association
San Diego County District Attorney's Office
Santa Ana Police Officers Association

Oppose

ACLU California Action
Alliance for Constitutional Sex Offense Laws
California Coalition for Women Prisoners
California Public Defenders Association (CPDA)
Californians United for a Responsible Budget
Communities United for Restorative Youth Justice (CURYJ)
Ella Baker Center for Human Rights
Fair Chance Project
Felony Murder Elimination Project
Humane Prison Hospice Project
Initiate Justice
Initiate Justice Action
LA Defensa
Local 148 LA County Public Defenders Union
Post-conviction Justice Project
Prison Law Office
Prison Yoga Project
San Francisco Public Defender
Silicon Valley De-bug
Smart Justice California, a Project of Tides Advocacy
Uncommon Law
Universidad Popular

3 Private Individuals

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

Amended Mock-up for 2025-2026 AB-47 (Nguyen (A))

Mock-up based on Version Number 99 - Introduced 12/2/24
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 3055 of the Penal Code is amended to read:

3055. (a) The Elderly Parole Program is hereby established, to be administered by the Board of Parole Hearings, for purposes of reviewing the parole suitability of any inmate who is 50 years of age or older and has served a minimum of 20 years of continuous incarceration on the inmate's current sentence, serving either a determinate or indeterminate sentence.

(b) (1) For purposes of this code, the term "elderly parole eligible date" means the date on which an inmate who qualifies as an elderly offender is eligible for release from prison.

(2) For purposes of this section, "incarceration" means detention in a city or county jail, local juvenile facility, a mental health facility, or a Department of Corrections and Rehabilitation facility for adults or juveniles.

(c) When considering the release of an inmate specified by subdivision (a) pursuant to Section 3041, the board shall give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence.

(d) When scheduling a parole consideration hearing date pursuant to subdivision (b) of Section 3041.5 or when considering a request for an advance hearing pursuant to subdivision (d) of Section 3041.5, the board shall consider whether the inmate meets or will meet the criteria specified in subdivision (a).

(e) An individual who is subject to this section shall meet with the board pursuant to subdivision (a) of Section 3041. If an inmate is found suitable for parole under the Elderly Parole Program, the board shall release the individual on parole as provided in Section 3041.

(f) If parole is not granted, the board shall set the time for a subsequent elderly parole hearing in accordance with paragraph (3) of subdivision (b) of Section 3041.5. A subsequent elderly parole hearing shall not be necessary if the offender is released pursuant to other statutory provisions prior to the date of the subsequent hearing.

(g) This section does not apply to cases in which sentencing occurs pursuant to Section 1170.12, subdivisions (b) to (i), inclusive, of Section 667, or in cases which an individual was sentenced to life in prison without the possibility of parole or death.

(h) **Notwithstanding subdivision (a), a person sentenced pursuant to Section 667.61 or 667.71 shall not be suitable under this section unless the person is 60 years of age or older and has served a minimum of 25 years of continuous incarceration on their current sentence.** ~~This section does not apply to cases in which sentencing occurs pursuant to Section 667.61 or 667.71, or cases where an individual is required to register pursuant to subdivision (c) of Section 290~~.

(i) This section does not apply if the person was convicted of first-degree murder if the victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who was killed while engaged in the performance of their duties, and the individual knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of their duties, or the victim was a peace officer or a former peace officer under any of the above-enumerated sections, and was intentionally killed in retaliation for the performance of their official duties.

(j) This section does not alter the rights of victims at parole hearings.

(k) By December 31, 2022, the board shall complete all elderly parole hearings for individuals who were sentenced to determinate or indeterminate terms and who, on the effective date of the bill that added this subdivision, are or will be entitled to have their parole suitability considered at an elderly parole hearing before January 1, 2023.

Date of Hearing: April 22, 2025
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 82 (Ward) – As Amended April 10, 2025

SUMMARY: Expands existing protections for reproductive health care services to include gender-affirming health care services. Specifically, **this bill**:

1) Prohibits a state or local law enforcement agency or officer from doing either of the following:

   a) Arresting or knowingly participating in the arrest of any person for performing, supporting, or aiding in the performance of a legally protected health care activity in this state, or obtaining legally protected health care activity in this states, if the activity is lawful in this state; or,

   b) Cooperating with or providing information to any individual or agency or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency regarding a legally protected health care activity that is lawful in this state and performed in this state.

2) Provides that a law of another state that authorizes the imposition of civil or criminal penalties related to an individual performing, supporting, or aiding in the performance of a legally protected health care activity in this state, or an individual obtaining a legally protected health care activity in this state, if lawful in this state, is against the public policy of this state.

3) Prohibits a state court, judicial officer, or court employee or clerk, or authorized attorney from issuing a subpoena pursuant to any state law in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of a legally protected health care activity in this state, or an individual obtaining a legally protected health care activity in this state, if lawful under the laws of this state.

4) Provides that an the investigation of any criminal activity in this state that may involve the performance of a legally protected health care activity is not prohibited, provided that information relating to any medical procedure performed on a specific individual is not shared with an agency or individual from another state for the purpose of enforcing another state's law involving a legally protected health care activity.

5) Expands the requirement that a countywide bail schedule set $0 bail for any person arrested in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of abortion specifically to reproductive health care services, gender-affirming health care services, and gender-affirming mental health care

services.

6) Makes it a crime for a person to post on the internet or social media, with the intent that another person imminently use that information to commit a crime involving violence or threat of violence against a gender-affirming health care or gender-affirming mental health care patient, provider, or assistant, or other individuals residing at the same home address, the personal information or image of the patient, provider, or assistant, or other individuals residing at the same home address.

7) Provides that the above crime is an alternate felony-misdemeanor is punishable by a fine of up to $10,000 per violation, imprisonment in a county jail for up to one year or by imprisonment for 16 months, two years, or three years, or by both a fine and imprisonment.

8) Makes the above crime a felony punishable by a fine of up to $50,000, by imprisonment of 16 months, two years, or three years, or by both a fine and imprisonment, if the violation leads to bodily injury to a gender-affirming health care or gender-affirming mental health care patient, provider, or assistant, or other individuals residing at the same home address.

9) Provides that a prescription for or the dispensing of testosterone or mifepristone shall not be reported to the Department of Justice (DOJ), Controlled Substance Utilization Review and Evaluation System (CURES), or a contracted prescription data processing vendor.

10) Authorizes DOJ, in consultation with the California Health and Human Services Agency, health care providers, and clinicians, to add medications for legally protected health care activity, as defined, to the list of medications prohibited from being reported to DOJ, CURES, or a contracted prescription data processing vendor.

11) Expands the authority of specified adults, domiciled in California, to apply to the Secretary of State to have an address designated by the Secretary as their address or the address of a minor or incapacitated person of who they are an acting guardian to include circumstances where the applicant, or person on whose behalf the application was made, is a gender-affirming health care provider or volunteer who is fearful of their safety.

12) Expands the prohibition on a person or covered entity from knowingly publicly displaying, disclosing, or distributing on internet websites or social media, the personal information or image of any reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address, to also apply to those people with regards to gender-affirming health care.

13) Establishes the following definitions:

    a) "Covered health care services" as gender-affirming health care services or reproductive health care services.

    b) "Covered health care services provider, employee, volunteer, or patient" as a gender-affirming health care or a gender-affirming mental health care provider, employee, volunteer, or patient, or a reproductive health care services provider, employee, volunteer, or patient.

c) "Covered health care services facility" as a gender-affirming health care services facility or a reproductive health care services facility.

d) "Gender-affirming health care" and "gender-affirming mental health care" shall have the same meaning as medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient, and may include, but is not limited to, interventions to suppress the development of endogenous secondary sex characteristics; interventions to align the patient's appearance or physical body with the patient's gender identity; and intervention to alleviate symptoms of clinically significant distress resulting from gender dysphoria, as defined in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition.

e) "Gender-affirming health care and gender-affirming mental health care provider, employee, volunteer, or patient" as a person who obtains, provides, or assists, at the request of another person, in obtaining or providing gender-affirming health care services, or a person who owns or operates a gender-affirming health care services facility.

f) "Gender-affirming health care services facility" to include a hospital, an office operated by a licensed physician and surgeon, a licensed clinic, or other licensed health care facility that provides gender-affirming health care services and includes only the building or structure in which the gender-affirming health care services are actually provided.

14) Contains a severability clause.

15) Makes conforming changes.

EXISTING LAW:

1) Defines "legally protected health care activity" as any of the following:

a) The exercise and enjoyment, or attempted exercise and enjoyment, by a person of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California or the provision by a health care service plan contract or a policy, or a certificate of health insurance, that provides for such services.

b) An act or omission undertaken to aid or encourage, or attempt to aid or encourage, a person in the exercise and enjoyment or attempted exercise and enjoyment of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California.

c) The provision of reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services by a person duly licensed under the laws of California or the coverage of, and reimbursement for, those services or care by a health care service plan or a health insurer, if the service or care is lawful under the laws of California, regardless of the patient's location. (Pen. Code, § 1549.15, subd. (b)(1)(A)-(C).)

2) Provides that "gender-affirming health care" and "gender-affirming mental health care" shall have the same meaning as medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient, and may include, but is not limited to, interventions to suppress the development of endogenous secondary sex characteristics; interventions to align the patient's appearance or physical body with the patient's gender identity; and intervention to alleviate symptoms of clinically significant distress resulting from gender dysphoria, as defined in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition. (Pen. Code, § 1549.15, subd. (a).)

3) States that "reproductive health care services" means and includes all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the constitution and laws of this state, whether provided in person or by means of telehealth services which includes, but is not limited to, all services, care, and products relating to pregnancy, the termination of a pregnancy, assisted reproduction, or contraception. (Pen. Code, § 1549.15, subd. (c).)

4) Provides that it is the duty of the superior court judges in each county to prepare, adopt, and annually revise a uniform countywide schedule of bail for all bailable felony offenses and for all misdemeanor and infraction offenses except Vehicle Code infractions. (Pen. Code, § 1269b, subd. (c).)

5) Authorizes a court, by local rule, to prescribe the procedure by which the uniform countywide schedule of bail is prepared, adopted, and annually revised by the judges. If a court does not adopt a local rule, the uniform countywide schedule of bail shall be prepared, adopted, and annually revised by a majority of the judges. (Pen. Code, § 1269b, subd. (d).)

6) Requires the countywide bail schedule to contain a list of the offenses and the amounts of bail applicable for each as the judges determine to be appropriate; and requires the schedule, if the schedule does not list all offenses specifically, to contain a general clause for designated amounts of bail as the judges of the county determine to be appropriate for all the offenses not specifically listed in the schedule. (Pen. Code, § 1269b, subd. (f)(1).)

7) Requires the countywide bail schedule to set $0 bail for an individual who has been arrested in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state. (Pen. Code, § 1269b, subd. (f)(2).)

8) Prohibits a state or local law enforcement agency or officer from knowingly arresting or knowingly participating in the arrest of any person for performing, supporting, or aiding in the performance of an abortion in this state, or obtaining an abortion in this state, if the abortion is lawful under the laws of this state. (Pen. Code, § 13778.2, subd. (a).)

9) Prohibits a state or local public agency, or any employee thereof acting in their official capacity, from cooperating with or providing information to any individual or agency or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency regarding an abortion that is lawful under the laws of this state and that is performed in this state. (Pen. Code, § 13778.2, subd. (b).)

10) Provides that a law of another state that authorizes the imposition of civil or criminal penalties related to an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state, is against the public policy of this state. (Pen. Code, § 13778.2, subd. (c)(1).)

11) Prohibits a state court, judicial officer, or court employee or clerk, or authorized attorney from issuing a subpoena pursuant to any state law in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state. (Pen. Code, § 13778.2, subd. (c)(2).)

12) Provides that the investigation of any criminal activity in this state that may involve the performance of an abortion is not prohibited, provided that information relating to any medical procedure performed on a specific individual is not shared with an agency or individual from another state for the purpose of enforcing another state's abortion law. (Pen. Code, § 13778.2, subd. (d).)

13) Prohibits a person shall from posting on the internet or social media, with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against a reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address, the personal information or image of a reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address. (Gov. Code, § 6218.01, subd. (a)(1).)

14) Provides that the above is punishable by a fine of up to $10,000 per violation, imprisonment of either up to one year in a county jail or by imprisonment for 16 months, two years, or three years, or by both that fine and imprisonment. (Gov. Code, § 6218.01, subd. (a)(2).)

15) Provides that a violation the above that leads to the bodily injury of a reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address, is a felony punishable by a fine of up to $50,000, imprisonment for 16 months, two years, or three years, or by both that fine and imprisonment. (Gov. Code, § 6218.01, subd. (a)(2).)

16) Establishes CURES, a prescription drug monitoring program (PDMP) maintained by the DOJ, for the purposes of collecting records of dispensed controlled substances for review by licensed prescribers and dispensers, regulatory investigators, law enforcement, and statistical researchers. (Health & Saf. Code, § 11165, subd. (a).)

17) Requires pharmacists and other dispensers to report information to CURES within seven days relating to prescriptions of Schedule II, III, and IV controlled substances. (Health & Saf. Code, § 11165, subd. (d).)

18) Places testosterone on Schedule III of the California Uniform Controlled Substances Act. (Health & Saf. Code, § 11056, subd. (f)(30).)

19) Requires the DOJ to upgrade CURES to allow health information technology systems that meet certain patient privacy and data security requirements to interoperate with the database,

allowing prescribers and dispensers to make queries through their electronic health record applications. (Health & Saf. Code, § 11165.1.)

20) Requires the CURES database to comply with all applicable federal and state privacy and security laws and regulations and requires the DOJ to establish policies, procedures, and regulations regarding the use, access, evaluation, management, implementation, operation, storage, disclosure, and security of the information within CURES. (Health & Saf. Code, § 11165, subd. (c).)

21) Specifies that a prescription for a controlled substance shall only be issued for a legitimate medical purpose and establishes responsibility for proper prescribing on the prescribing practitioner. A violation shall result in imprisonment for up to one year or a fine of up to $20,000, or both. (Health & Saf. Code, § 11153.)

22) Prohibits licensing boards from disciplining healthcare providers based on out-of-state judgments related to sensitive services like reproductive or gender-affirming healthcare, protects personal information at family planning centers, and blocks enforcement of certain out-of-state laws against individuals or providers offering such services. (Bus. & Prof. Code, § 852.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "It is imperative that we support the privacy and safety of patients and their families – whose basic obligation is to ensure the utmost health for themselves and loved ones – as well as the safety of health professionals – whose basic obligation is to provide necessary care for their patients as they were trained to do. Reports not only highlight hostile entities utilizing our data systems to target those who are accessing legal health care services, but also illuminate a rise in harassment and violence directed towards those who work in health care settings or seek necessary health services for themselves or their loved ones. As such, AB 82 shores up existing state law by protecting the privacy of Californians' health data and expanding existing protections to uphold the safety of patients, their families, and health professionals."

2) **Shield Laws:** Even before the overturn of *Roe v. Wade* in 2022, abortion access has been under attack. The *Dobbs v. Jackson Women's Health Organization* decision, coupled with a federal administration hostile to reproductive health access creates new and emerging legal threats to access, even in California. For instance, a pending lawsuit challenges the FDA's approval of mifepristone (*Missouri et al. v. FDA; Alliance for Hippocratic Medicine v. FDA*) and Texas has sued a NY healthcare provider for proscribing abortion pills to a patient. This bill proposes to protect access to medication abortion for Californians by shielding the transporting, distributing, and administering of this vital and safe product.

   Access to medication abortion plays an important role in reducing barriers and promoting equitable access to healthcare, particularly for those who live in rural and underserved communities. According to the Guttmacher Institute, 60% of individuals who seek abortions are people of color, and half live below the poverty line. Communities of color continue to

get worse medical care overall, including worse reproductive health care with less access to contraception, and are more likely to be uninsured than white individuals. About 19% of American Indian and Alaska Native communities and about 18% of Hispanic or Latino people are uninsured, compared with less than 6% of non-Hispanic white people. Therefore, making access to reproductive care is an equity issue, and especially critical for underserved communities.

Since the overturn of *Roe v. Wade*, eight states (California, Colorado, Maine, Massachusetts, New York, Rhode Island, Vermont and Washington) have passed shield laws, which say that the state government will not comply with civil or criminal prosecutions targeting health care providers who perform abortions from their home states, including mailing medication to patients in places where the procedure is outlawed. Recently a doctor in New York was sued for mailing medication abortion to patients in Louisiana and Texas, two states in which abortion is heavily restricted.

This bill would seek to protect reproductive health care patients and providers by providing that a prescription for or the dispensing of mifepristone, a medication abortion drug, shall not be reported to DOJ, CURES, or a contracted prescription data processing vendor.

3) **CURES:** A PDMP is "an electronic database that tracks controlled substance prescriptions in a state. PDMPs can provide health authorities timely information about prescribing and patient behaviors."[1] Forty-nine states currently have monitoring programs (Missouri is the only state currently without a PDMP). Of the 50 programs throughout the nation, only four are housed at the state's Department of Justice, 17 are housed at a state Department of Health or substance abuse agency, 19 are housed at a state Board of Pharmacy, and 7 are housed state professional licensing agency.[2] California is one of only four states that houses its PDMP within a law enforcement agency.

CURES. The CURES database was first established in 1996 as a "technologically sophisticated" database containing prescription records collected through California's Triplicate Prescription Program, which provided the DOJ with copies of all Schedule II drug prescriptions. Subsequent legislation made CURES the state's sole prescription record repository and added Schedule III, IV, and V drugs to the database. In 2008, CURES was upgraded to function as a PDMP, allowing health professionals, regulators, and law enforcement to conduct web-based searches of the system to inform prescribing practices and support investigations.

Budget problems later plagued the database as the elimination of the DOJ's Bureau of Narcotics Enforcement effectively defunded the CURES program. Users of the system complained that the PDMP offered insufficient client support and was plagued with technical issues. In response, Attorney General Kamala Harris sponsored legislation to overhaul the database with revenue newly derived from a license fee charged to healing arts professionals. The resulting system, commonly referred to as "CURES 2.0," was considered to be a significantly improved, state-of-the-art tool for addressing the abuse and diversion of opioids and other prescription drugs.

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[1] https://www.cdc.gov/drugoverdose/pdmp/states.html.)
[2] http://www.pdmpassist.org/content/prescription-drug-monitoring-frequently-asked-questions-faq

Every dispenser of controlled substances and every health practitioner authorized by the DEA to prescribe controlled substances is required to obtain a login for access to CURES. For each dispensed Schedule II, III, IV, or V drug, pharmacists are required to report basic information about the patient and their prescription within one working day. This information is then made available to other system users in a variety of possible contexts. For example, physicians may query a patient's prescription history prior to writing a new prescription; pharmacists can check the system before agreeing to fill a prescription for a controlled substance; regulators may review a licensee's prescribing practices as part of a disciplinary investigation; and law enforcement can incorporate a search of the system into a potential criminal case of drug diversion.

The vast majority of these searches (over 99%) are made by prescribers and dispensers seeking to review a patient's prescription history as a component of exercising informed clinical judgment before providing access to opioids or other controlled substances. As of October 2018, health practitioners are required to consult the CURES database prior to writing a prescription for a Schedule II, III, or IV drug for the first time, and then at least once every six months as long as the prescription continues to be renewed. There are a number of existing exceptions to this requirement, including exemptions for pharmacists, veterinarians, and prescribers working in specified settings.

Placement of CURES Database. California is one of only four states that houses its PDMP within a law enforcement agency. This is because the database traces its origins back to the TPP, created in 1939 within the Bureau of Narcotics Enforcement, which was principally considered a tool for law enforcement to investigate cases of criminal drug diversion. The earliest iterations of prescription monitoring in California were not available to health professionals, but served to aid law enforcement in cracking down on illicit drug activity.

As national attention to combatting the opioid crisis has grown, experts have established that abuse and addiction are best addressed through a public health lens, rather than through criminal prosecution. While regulatory investigators and local law enforcement may still utilize PDMP data, prescription drug misuse and diversion by patients should be treated by medical professionals rather than stigmatized as a chiefly criminal concern. This paradigm shift has led most states away from housing their PDMPs within a justice department, with some states having transitioned their own databases away from their Department of Justice in recent years.

Most states house their PDMP within either their state's health department or a licensing agency. Over half of all states currently have their PDMP within either their Board of Pharmacy or their licensing department (equivalent to the DCA in California). The majority of other states house their PDMP within either their Department of Health or their Department of Human Services. While proposals have been introduced to relocate California's CURES database from the DOJ to another department, none have been successful and DOJ continues to operate the system.

Privacy and Security of CURES Data. A number of state and federal privacy laws apply to information contained in CURES. This includes the federal Health Insurance Portability and Accountability Act (HIPAA), the California Medical Information Act, and the Information Practices Act. Whether law enforcement use of the system implicates the Fourth

Amendment's protections against unreasonable searches has historically been a topic of discussion. In 2017, the Supreme Court of California ruled in *Lewis v. Superior Court* that privacy interests are justified by the state's interest in preventing drug diversion.

CURES access is also subject to specific privacy and security regulations that have evolved as the state has modernized and expanded its PDMP. In 2013, SB 809 required the DOJ to develop regulations to implement access and use protocols for CURES, which DOJ formally promulgated in 2016. These regulations established clear standards for system access, data use, user eligibility, and interagency and interstate data sharing. In 2018, Assembly Bill 1751 (Low) mandated the DOJ to adopt additional regulations governing access to and use of CURES information. These regulations, effective July 1, 2020, delineate additional processes for approving or denying access requests, specify permissible purposes for health care practitioners to access CURES, establish protocols for using CURES data in education, research, or peer review, and outline conditions under which law enforcement must obtain warrants or subpoenas to access CURES data as part of an investigation into a patient or prescriber.

Interstate PDMP Datasharing. Currently, all 50 states and the District of Columbia have some form of PDMP. Many of these states participate in one of several interstate data share hubs that allow for the exchange of prescription information. For example, the National Association of Boards of Pharmacy administers PMP InterConnect, a technology solution developed in partnership with Bamboo Health that currently connects 48 state PDMPs. Another interstate data share hub, RxCheck, has historically been operated by the federal Bureau of Justice Assistant using Prescription Monitoring Information Exchange National Architecture specifications developed by a PDMP Training and Technical Assistance Center housed within Brandeis University.

As of April, 2025, California does not participate in any major interstate data share hubs. AB 1751 was enacted in 2018 to authorize, but not require, the DOJ to share prescription records between the CURES PDMP and other databases across state lines, with a requirement that other states meet California's patient privacy and data security standards. To date, DOJ has not reached an agreement to share prescription data with PMP InterConnect or RxCheck in a manner consistent with California's privacy and security requirements. However, DOJ does currently have a direct interstate data-sharing agreement with the State of Oregon, which allows for prescription data to be shared between CURES and Oregon's PDMP.

Federal vs. State Controlled Substances Scheduling. The federal Controlled Substances Act classifies a number of drugs and chemicals into one of five schedules. Drugs falling within Schedules II through V may be prescribed only by health practitioners in possession of a DEA registration and are ranked according to the drug's potential for abuse, with lower numbered schedules representing drugs with a higher risk of abuse or dependence. Schedule I drugs have been determined to have no currently accepted medical use and a high potential for abuse. Schedule I drugs may not be prescribed by any health practitioner in the United States. Examples of Schedule I drugs include cannabis, LSD, peyote, heroin, and ecstasy.

California also has its own schedule of controlled substances under the Uniform Controlled Substances Act. While the federal and state schedules are typically aligned in regards to how medications are classified, there have been conflicts between the federal and state acts, typically when the federal government reschedules a substance or exempts a specific drug

from the Controlled Substances Act. When this occurs, statute in California typically must be legislatively amended to reconcile the differences.

For purposes of reporting to the CURES database, subdivision (d) of Section 11165 of the Health and Safety Code specifically references the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15, respectively, of Title 21 of the Code of Federal Regulations. This would mean that if the federal government were to add a drug like mifepristone to a schedule within the federal Controlled Substances Act that is not currently considered a controlled substance in California, prescriptions for that drug would be required for reporting to CURES. Meanwhile, testosterone is listed as a Schedule III substance in both the state and federal acts.

4) **Mifepristone:** According to a March 20, 2024 Kaiser Family Foundation (KFF) issue brief, *"The Availability and Use of Medication Abortion,"* medication abortion, also known as medical abortion or abortion with pills, is a pregnancy termination protocol that involves taking two different drugs: mifepristone and misoprostol. Mifepristone, also known as the abortion pill, or RU-486, is sold under the brand name Mifeprex and through a generic manufactured by GenBioPro in the United States. Mifepristone works by blocking progesterone, a hormone essential to the development of a pregnancy, and thereby preventing an existing pregnancy from progressing. Misoprostol, taken 24 to 48 hours after mifepristone, works to empty the uterus by causing cramping and bleeding, similar to an early miscarriage. A follow-up visit can be scheduled a week or two later, to confirm that the pregnancy was terminated via ultrasound or blood test. The federal Food and Drug Administration (FDA) has found that medication abortion is a safe and highly effective method of pregnancy termination. When taken, medication abortion successfully terminates the pregnancy 99.6% of the time, with a 0.4% risk of major complications, and an associated mortality rate of less than 0.001 percent (0.00064%).

   The FDA first approved Mifeprex in 2000. In 2016, the FDA updated and approved a new evidence-based regimen and drug label. This regimen approves use of medical abortions for up to 70 days (10 weeks) of pregnancy. Until 2019, mifepristone was only sold under the brand name Mifeprex, manufactured by Danco Laboratories. In 2019, the FDA approved GenBioPro, Inc.'s application for generic mifepristone. In 2021, the FDA announced they would not enforce the in-person dispensing requirement that had been in effect since the approval of mifepristone.

   This bill would provide that a prescription for or the dispensing of mifepristone shall not be reported to DOJ, CURES, or a contracted prescription data processing vendor.

5) **Testosterone:** Testosterone is a Schedule III controlled substance under California's Uniform Controlled Substances Act. (Health & Saf. Code, § 11056, subd. (f)(30). Testosterone is used in hormone replacement therapy. According to the Mayo Clinic:

   > Masculinizing hormone therapy typically begins by taking testosterone. A low dose of testosterone is prescribed. Then the dose is slowly increased over time. Testosterone usually is given through a shot, also called an injection, or through a gel or patch applied to the skin. Other forms of testosterone that may be appropriate for some people include testosterone pellets placed under the skin, a prolonged action injection and an oral

capsule taken twice a day.

The testosterone that's used for masculinizing hormone therapy is identical to the hormone that the testicles and ovaries make naturally. Don't use synthetic androgens, such as oral methyl testosterone or anabolic steroids. They can harm your liver and cannot be accurately monitored.[3]

Like with mifepristone, this bill would provide that a prescription for or the dispensing of testosterone not be reported to DOJ, CURES, or a contracted prescription data processing vendor.

6) **Argument in Support**: According to *Equality California*, a cosponsor of the bill: "In recent years, we have witnessed an alarming rise in coordinated attacks on the rights of LGBTQ+ people, especially transgender individuals. More than 500 anti-LGBTQ+ bills have been introduced nationwide this year alone. Many of these harmful efforts specifically target access to healthcare for transgender people—including attempts to criminalize providers and restrict medically necessary, evidence-based care. At the federal level, the Trump administration has issued executive actions to restrict basic healthcare access for transgender youth and threaten healthcare providers who offer this care.

"California's Controlled Substance Utilization Review and Evaluation System (CURES)—our state's Prescription Drug Monitoring Program (PDMP)—contains sensitive data on prescriptions for controlled substances. While CURES plays an important role in safeguarding public health, current law allows for data sharing with out-of-state law enforcement agencies, which creates significant safety and privacy risks for patients and healthcare providers.

"Because testosterone, a medication commonly prescribed as part of gender-affirming care, is a controlled substance, there are mounting concerns that out-of-state actors hostile to transgender rights could misuse CURES data to identify and target transgender patients and their providers. Similarly, states that are criminalizing abortion care are using PDMP data to monitor prescriptions of mifepristone—posing a threat to reproductive healthcare access as well.

"Although California leads the nation in protecting access to reproductive and gender-affirming care, more must be done to ensure the privacy and safety of all who seek and provide these services. AB 82 provides essential safeguards by:

- Prohibiting the reporting of testosterone and mifepristone prescriptions to the CURES database;
- Expanding the Safe at Home Program to include gender-affirming care providers, shielding their personal information from public access;
- Strengthening anti-doxing protections for both patients and providers of gender-affirming care; and
- Expanding safe haven protections against adverse action for aiding and assisting the access of legally protected health services in California.

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[3] https://www.mayoclinic.org/tests-procedures/masculinizing-hormone-therapy/about/pac-20385099

"By advancing these protections, AB 82 ensures that individuals accessing and providing essential healthcare in California can do so without fear of surveillance, retaliation, or harassment."

7) **Argument in Opposition**: None on file.

8) **Related Legislation**:

a) AB 45 (Bauer-Kahan) would, similar to the provisions of the CMIA, prohibit the release of research records, in a personally identifying form, developed or acquired by a person in the course of conducting research relating to anyone seeking or obtaining health care services, or relating to personal information, in response to a subpoena or a request or to law enforcement if that subpoena, request, or the purpose of law enforcement for the medical information is based on, or for the purpose of enforcement of, either another state's laws that interfere with a person's rights to choose or obtain an abortion or a foreign penal civil action, among other provisions. AB 45 is pending a hearing in the Assembly Privacy and Consumer Protection Committee.

b) AB 54 (Krell) would set forth provisions regarding the lack of civil or criminal liability, or professional disciplinary action, for accessing or administering mifepristone or misoprostol, among other certain conduct. AB 54 is pending a hearing in the Assembly Judiciary Committee.

c) AB 260 (Aguiar-Curry) would prohibit subjecting a healing arts practitioner who is authorized to prescribe, furnish, order, or administer dangerous drugs to civil, criminal, disciplinary, or other administrative action for prescribing, furnishing, ordering, or administering mifepristone or other medication abortion drugs for a use that is different from the use for which that drug has been approved for marketing by the FDA or that varies from an approved risk evaluation and mitigation strategy under federal law, among other provisions. AB 260 is pending a hearing in the Assembly Business and Professions Committee.

d) SB 497 (Wiener) would safeguard sensitive patient data by requiring warrants for out-of-state law enforcement to access the state's prescription drug monitoring program database, and establish criminal penalties for accessing or sharing information from the database without a warrant, among other provisions. SB 497 is pending a hearing in the Senate Public Safety Committee.

9) **Prior Legislation**:

a) AB 2099 (Bauer-Kahan and McCarty), Chapter 821, Statutes of 2024, increased penalties for violations of the California Freedom of Access to Clinics and Church Entrances ("FACCE") Act, including but not limited to penalties for doxing of reproductive health care providers and patients.

b) SB 487 (Atkins), Chapter 261, Statutes of 2023, prohibited health plans and health insurers from terminating, discriminating against, or otherwise penalizing a provider based on a civil judgment, criminal conviction, or another disciplinary action in another

state if the judgment, conviction, or disciplinary action is solely based on the application of another state's law that interferes with a person's right to receive care that would be lawful if provided in California, among other provisions.

c) SB 345 (Skinner), Chapter 260, Statutes of 2023, enacted various safeguards against the enforcement of other states' laws that prohibit, criminalize, sanction, authorize civil liability against, or otherwise interfere with a person, provider, or other entity in California that offers reproductive health care services or gender-affirming health care services.

d) AB 1707 (Pacheco), Chapter 258, Statutes of 2023, protected licensed health care professionals, clinics, and health facilities from being denied a license or subjected to discipline on the basis of a civil judgment, criminal conviction, or disciplinary action imposed by another state based solely on the application of a law that interferes with a person's right to receive sensitive services that would be lawful in California.

e) AB 352 (Bauer-Kahan), Chapter 255, Statutes of 2023, required specified businesses that electronically store or maintain medical information on the provision of sensitive services, as specified, on or before July 1, 2024, to enable certain security features, including limiting user access privileges and segregating medical information related to gender affirming care, abortion and abortion-related services, and contraception, among other provisions.

f) AB 254 (Bauer-Kahan), Chapter 254, Statutes of 2023, prohibited businesses that provide digital health services from intentionally sharing, selling, and/or otherwise using users' medical information for any purpose not necessary to provide health care services to the user, among other provisions.

g) AB 1731 (Santiago), Chapter 144, Statutes of 2023 exempted a health care practitioner who prescribes, orders, administers, or furnishes buprenorphine in the emergency department of a hospital from the duty to consult CURES.

h) SB 107 (Wiener), Chapter 810, Statutes of 2022, enacted various safeguards against the enforcement of other states' laws that purport to penalize individuals from obtaining gender-affirming care that is legal in California.

i) AB 2091 (Bonta), Chapter 628, statutes of 2022, prohibited providers, health care service plans, contractors, employers from releasing medical information related to abortion services or information related to a person allowing a minor to receive gender-affirming health care and gender-affirming mental health care in response to a subpoena/investigation-related request seeking to impose liability under another state's law for an abortion lawful in CA or for allowing minor to receive gender-affirming health care and gender-affirming mental health care, among other provisions.

j) AB 1242 (Bauer-Kahan), Chapter 627, Statutes of 2022, prohibited law enforcement from cooperating with, or providing information to, out-of-state entities regarding a lawful abortion under California law, and from knowingly arresting a person for performing or aiding in the performance of a lawful abortion or for obtaining an abortion, and prohibited specified corporations from providing information to out-of-state entities

regarding an abortion that is lawful under California law, except as specified.

k) AB 2626 (Calderon), Chapter 565, Statutes of 2022, prohibited specified licensing boards from suspending, revoking, or denying a license solely for performing an abortion that is lawful in California in accordance with the licensee's practice act.

l) AB 1666 (Bauer-Kahan), Chapter 42, Statutes of 2022, prohibited California courts from applying another state's laws authorizing civil action for receiving, seeking, providing, and/or aiding abortion in deciding the cases before them or from enforcing civil judgments under those laws, and thus designates those laws contrary to California public policy, among other provisions.

m) AB 528 (Low), Chapter 677, Statutes of 2019 reduced the required timeframe in which pharmacists are required to report dispensed prescriptions to CURES from seven days to the following business day, added Schedule V drugs to CURES, and changed the requirement for health practitioners to continue consulting the CURES database from every four months to every six months beginning July 1, 2021.

n) AB 1751 (Low), Chapter 478, Statutes of 2018, authorized the California Department of Justice (DOJ) to share prescription records between the state's prescription drug monitoring program (PDMP), Controlled Substance Utilization Review and Evaluation System (CURES), and other databases across state lines, with a requirement that other states meet California's patient privacy and data security standards>

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance for Transyouth Liberation
American College of Obstetricians & Gynecologists - District Ix
Asian Americans Advancing Justice-southern California
California Legislative Lgbtq Caucus
California Lgbtq Health and Human Services Network
California Psychological Association
Calpride
Calpride Sierras
Calpride Stanislaus
Courage California
Electronic Frontier Foundation
Ella Baker Center for Human Rights
Equality California
Essential Access Health
Family Violence Appellate Project
LA Defensa
Oakland Privacy
Oasis Legal Services
Parivar Bay Area

Parivarbayarea
Pflag Fresno
Pflag Los Angeles
Planned Parenthood Affiliates of California
Pride At the Pier
Rainbow Families Action Bay Area
Sacramento Lgbt Community Center
The Children's Partnership
The Lgbt Asylum Project
The San Diego Lgbt Community Center
Trans Family Services
Transgender Law Center
West Hollywood/hernan Molina, Governmental Affairs Liaison
Western Center on Law & Poverty, INC.

Opposition

One private individual

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

Date of Hearing: April 22, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 284 (Alanis) – As Amended March 24, 2025

PULLED BY THE AUTHOR

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

Date of Hearing: April 22, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 324 (Sanchez) – As Introduced January 27, 2025

SUMMARY: States that the California Values Act does not prohibit a law enforcement agency (LEA) in California from performing any responsibilities under the scope of its jurisdiction, including, but not limited to, conducting enforcement or investigative duties regarding any person who is alleged to have violated, or who has been previously convicted of human trafficking of a minor, as specified.

EXISTING FEDERAL LAW

1) Prohibits the federal government from "conscripting" the states to enforce federal regulatory programs. (U.S. Const., 10th Amend.)

2) Authorizes an immigration officer to issue at any time an Immigration Detainer-Notice of Action, to any other federal, state, or local LEA. A detainer serves to advise another LEA that the Department of Homeland Security (DHS) seeks custody of a non-citizen presently in the custody of that agency, for the purpose of arresting and removing the non-citizen. The detainer is a request that such agency advise DHS, prior to release of the non-citizen, in order for DHS to arrange to assume custody in situations when gaining immediate physical custody is either impracticable or impossible. (8 C.F.R § 287.7(a).)

3) States that, upon a determination by DHS to issue a detainer for a non-citizen not otherwise detained by a criminal justice agency, such agency shall maintain custody of the non-citizen for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by DHS. (8 C.F.R § 287.7(d).)

4) Authorizes the U.S. Attorney General to enter into agreements that delegate immigration powers to local police. The negotiated agreements between the U.S. Immigration and Customs Enforcement (ICE) and the local police are documented in memorandum of agreements. (8 U.S.C. § 1357(g).)

5) Prohibits a federal, state, or local government entity or official from prohibiting, or in any way restricting, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual. (8 U.S.C. §§ 1373, 1644.)

EXISTING STATE LAW

1) Provides that a person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of the offense to engage in a commercial sex act, with the intent to commit specified crimes including procurement, pimping, pandering,

abduction of a minor for the purpose of prostitution, or child pornography, is guilty of human trafficking, punishable by imprisonment in state prison as follows:

a) Five, 8, or 12 years and up to a $500,000 fine; or

b) Fifteen years to life and up to a $500,000 fine if the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or another person. (Pen. Code, § 236.1, subds. (b) & (c).)

2) Prohibits LEAs from using agency or department money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes. Restrictions include:

a) Inquiring into an individual's immigration status.

b) Detaining a person based on a hold request issued by ICE, United States Customs and Border Protection or any other immigration authorities.

c) Providing information regarding a person's release date or responding to requests for notification from immigration authorities by providing release dates or other information, unless that information is available to the public or the person has been convicted of specified crimes.

d) Providing personal information, as specified, about an individual, including, but not limited to, the individual's name, social security number, home or work addresses, physical description, home telephone number, unless that information is available to the public.

e) Making or intentionally participating in arrests based on civil immigration warrants.

f) Participating in border patrol activities, including warrantless searches.

g) Performing the functions of an immigration agent whether through specified agreements or any program that deputizes police as immigration agents, whether formal or informal.

h) Placing peace officers under the supervision of federal agencies or employ peace officers deputized as special federal officers or special federal deputies for purposes of immigration enforcement.

i) Using ICE agents as interpreters for law enforcement matters relating to individuals in agency or department custody.

j) Transferring an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination or the person has been convicted of specified crimes.

k) Providing office space exclusively dedicated for immigration authorities in a city or county law enforcement facility.

l) Contracting, after June 15, 2017, with the federal government for use of California LEA facilities to house or detain non-citizens in a locked detention facility for purposes of civil immigration custody. (Gov. Code, § 7284.6, subd. (b).)

3) Permits LEA cooperation with immigration authorities subject to the following:

a) States that a law enforcement official has discretion to cooperate with immigration authorities, only if doing so would not violate any federal, state, or local law, or local policy, and where permitted by the Values Act. (Gov. Code, § 7282.5, subd. (a).)

b) Gives LEAs discretion to transfer an individual to immigration authorities or honor a notification request from immigration authorities only if :

i) The individual has been convicted of a serious or violent felony, such as human trafficking of a minor;

ii) The individual has been convicted of any felony punishable by imprisonment in state prison;

iii) The individual has been convicted within the last five years of a misdemeanor for a crime that is punishable either as a felony or misdemeanor;

iv) The individual has been convicted within the past 15 years for any one of a list of specified felonies, including an offense involving human trafficking;

v) The individual is a current registrant on the California Sex and Arson Registry;

vi) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as specified in the federal Immigration and Nationality Act; or

vii) The individual is identified by ICE as the subject of an outstanding federal felony arrest warrant for any federal crime.

viii) This does not apply to individuals arrested, detained, or convicted of misdemeanors that were previously felonies, or were previously crimes punishable as either misdemeanors or felonies, prior to passage of Proposition 47 in 2014. (Gov. Code, § 7282.5, subd. (a).)

c) Authorizes LEAs to honor a notification request from immigration authorities for an individual arrested on a charge involving a serious or violent felony, or a felony that is punishable by state prison, and based on finding of probable cause by a magistrate as to that charge. (Gov. Code, § 7282.5, subd. (b).)

d) States that LEAs have discretion to do any the following if doing so would not violate any policy of the LEA or any local law or policy of the jurisdiction in which the LEA is operating:

i) Investigate, enforce, or detain, upon reasonable suspicion of, or arrest, an undocumented person who enters the U.S. after being deported, and may be subject to

an enhancement for a prior aggravated felony, as specified, that is detected during an unrelated law enforcement activity.

ii) Respond to a request from immigration authorities for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information accessed through the California Law Enforcement Telecommunications System, where otherwise permitted by state law.

iii) Conduct enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other LEAs for purposes of task force investigations, as long as 1) the primary purpose of the task force is not immigration enforcement; 2) the enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement; and 3) participation in the task force does not violate any governing local law or policy.

iv) Making inquiries into information necessary to certify an individual for a visa, as specified, who has been identified as a potential victim of crimes such as trafficking, domestic violence, or sexual assault.

v) Giving immigration authorities access to interview an individual in agency or department custody, subject to the requirements of the TRUTH Act. (Gov. Code, § 7284.6, subd. (b).)

e) Subjects LEAs to several reporting requirements pertaining to immigration enforcement, including requiring LEAs to annually report to the California Department of Justice (DOJ) the number of transfers of persons to immigration authorities and the applicable crime authorizing the transfer. (Gov. Code, § 7284.6, subd. (c).)

f) Requires the DOJ to annually report the total number of arrests made by joint law enforcement task forces, and the total number of arrests made for the purpose of immigration enforcement by all task force participants, including federal LEAs, subject to certain exemptions. (Gov. Code, § 7284.6, subd. (d).)

4) Provides that the Values Act does not restrict any government entity or official from sending to, or receiving from, federal immigration authorities information regarding the citizenship or immigration status of an individual, as specified. (Gov. Code, § 7284.6, subd. (e).)

5) Provides that the Values Act does not prohibit a LEA from asserting its own jurisdiction over criminal law enforcement matters. (Gov. Code, § 7284.6, subd. (f).)

6) Provides individuals who are in the custody of local LEAs with information about their procedural and legal rights in the event that immigration authorities want to contact them. These provisions are commonly referred to as the TRUTH Act. (Gov. Code, §§ 7283, 7283.1, & 7283.2.)

7) Defines the below terms as follows:

a) "Immigration enforcement" means any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the U.S. (Gov. Code, § 7284.4, subd. (f).)

b) "Hold request" means an ICE request that an LEA maintain custody of an individual currently in its custody beyond the time they would otherwise be eligible for release in order to facilitate transfer to ICE. (Gov. Code, § 7283, subd. (b).)

c) "Notification request" means an ICE request that an LEA inform ICE of the release date and time, in advance of the public, of an individual in its custody. (Gov. Code, § 7283, subd. (f).)

d) "Transfer request" means an ICE request that an LEA facilitate the transfer of an individual in its custody to ICE. (Gov. Code, § 7283, subd. (g).)

e) "Judicial warrant" means a warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant. (Gov. Code, § 7284.4, subd. (i).)

f) "California law enforcement agency" means a state or local LEA, including school police or security departments, and excluding the Department of Corrections and Rehabilitation (CDCR).

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "In California, human trafficking is tearing apart families, exploiting the vulnerable, and robbing young people of their freedom. Human trafficking is modern day slavery that thrives in border states due to heightened transnational criminal activity. This is why I introduced AB 324, which will enhance the coordination between state and federal authorities so that they can identify and dismantle trafficking networks that operate in our state."

2) **Effect of this Bill**: The California Values Act, which became effective on January 1, 2018, limits the involvement of state and local LEAs in federal immigration enforcement. It prohibits LEAs (including school police and security departments) from using resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes. Prohibited cooperative activities include: 1) inquiring into an individual's immigration status; 2) detaining a person based on an ICE hold request; 3) providing information regarding a person's release date, except for persons convicted of specified crimes; 4) providing personal information about an individual; 5) participating in arrests based on civil immigration warrants; 6) participating in border patrol activities; 7) performing the functions of an immigration agent; 8) placing peace officers under federal agency supervision for purposes of immigration enforcement; 9) using ICE agents as interpreters for law enforcement matters, as specified; 10) transferring an individual to immigration authorities, as specified, unless authorized by a judicial warrant or the person

has been convicted of specified crimes; 11) providing office space exclusively for immigration authorities; and 12) contracting with the federal government for use of LEA facilities to detain non-citizens for civil immigration custody purposes. (Gov. Code, § 7284.6, subd. (a).)

The Values Act contains several exceptions that permit LEAs to cooperate with immigration authorities to the extent such cooperation would not violate federal, state, or local law. These include: 1) detaining an undocumented person re-entering the U.S. after deportation who may be subject to an aggravated enhancement and who was detected in an unrelated law enforcement activity; 2) responding to a request from immigration authorities for information about a person's criminal history; 3) participating in a joint law enforcement task force as long as the primary purpose of the task force is not immigration enforcement; 4) making inquiries into information necessary to certify an individual for a visa, as specified, who has been identified as a potential victim of crimes such as human trafficking; and 5) giving immigration authorities access to interview an individual in agency or department custody, as specified. (Gov. Code, § 7284.6, subd. (b).) To comply with federal law, the Values Act also does not prohibit a governmental entity from sharing information regarding the citizenship or immigration status of an individual. (Gov. Code, § 7284.6, subd. (e); 8 U.S.C. §§ 1373 (a), 1644.)

Additionally, LEAs have discretion to transfer an individual to immigration authorities, or provide ICE with information about an in-custody individual's release date for individuals arrested or convicted for certain crimes. (Gov. Code, § 7282.5, subds. (a) (1) & (2), (b).) As discussed more below, the applicable crimes permitting this type of cooperation includes human trafficking of a minor.

This bill would add an exemption to the Values Act. It provides that the Values Act does not prevent an LEA from performing any responsibilities under the scope of its jurisdiction, including, but not limited to, conducting enforcement or investigative duties regarding any person who is alleged to have violated, or who has been previously convicted of, human trafficking of a minor, as specified. Any enforcement or investigative duties authorized by this bill would be subject to any additional restrictions outlined in the policy of the LEA or any local law or policy of the jurisdiction in which the LEA is operating.

3) **The Need for this Bill is Unclear**: The Values Act does not prevent LEAs from enforcing human trafficking violations. First, the Values Act does not prohibit LEAs from investigating, arresting, detaining, or otherwise enforcing human trafficking violations. Rather, it prohibits LEAs from using resources to investigate, interrogate, detain, detect, or arrest people *for immigration enforcement purposes*. (Gov. Code, § 7284.6, subd. (a).) Accordingly, the Values Act's exemptions outline specific scenarios where law enforcement interactions with undocumented persons are permissible. For example, these include providing information about an undocumented person's criminal history or giving immigration authorities access to interview an undocumented individual in custody. (Gov. Code, § 7284.6, subd. (b)(2) & (5).) Strangely, this bill makes no reference to undocumented persons and does not create any new type of permitted cooperation. Instead it adds broad language to the list of specific exemptions in the Values Act that states that the Values Act does not prohibit LEAs from performing responsibilities under the LEAs jurisdiction or investigating persons alleged to have engaged in the crime of human trafficking of a minor.

The author claims this is necessary to enhance coordination between state and federal authorities to combat human trafficking. However, joint law enforcement task forces are already exempt from the Values Act, subject to the following: 1) the primary purpose of the task force is not immigration enforcement; 2) any enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement; and 3) participation in the task force must not violate any applicable local law or policy. (Gov. Code, § 7284.6, subd. (b)(3).)

Joint state-federal human trafficking task forces are currently in operation in California. For example, the San Diego Human Trafficking Task Force is a cooperative anti-human trafficking task force that involves state and local agencies such as DOJ, the California Highway Patrol, and the San Diego District Attorney's Office, as well as federal agencies such as the Federal Bureau of Investigation, Homeland Security Investigations, and the U.S. Attorney's Office.[1] Indeed, the Values Act does not prevent LEAs from enforcing human trafficking violations and the author has presented no evidence to the contrary.

Second, certain types of LEA-ICE cooperation is already permitted for undocumented persons who have been arrested or convicted of certain crimes, including human trafficking of a minor. In terms of convictions, LEAs may transfer to, or provide release date information with, ICE if an individual has been convicted of a serious or violent felony, or a felony punishable by state prison. (Gov. Code, § 7282.5, subd. (a)(1) & (2).) Human trafficking of a minor is a felony punishable by state prison, as well as a serious felony. (Pen. Code, §§ 236.1, subd. (c), 1192.7, subd. (c)(1).) LEAs also may share release date information for a person in custody in response to an ICE request if an individual is arrested and taken before a magistrate on a charge involving a serious or violent felony, or a felony that is punishable by imprisonment in state prison, and the magistrate makes a finding of probable cause as to that charge. (Gov. Code, § 7282.5, subd. (b).)

Third, the Values Act already contains a provision that ensures that its restrictions do not prevent LEAs from investigating and enforcing human trafficking violations, making this bill redundant. The jurisdiction of peace officers extends to any place in the state as follows: 1) as to a public offense committed or for which there is probable cause to believe has been committed in the political subdivision that employs the peace officer; 2) if the peace officer has prior consent, as specified; and 3) as to a public offense committed, or there is probable cause to believe was committed in the officer's presence, and there is immediate danger, as specified, or of the escape of the offender (Pen. Code, § 830.1, subd. (a)(1).) The Values Act provides that "Nothing in [the Values Act] shall prohibit a California [LEA] from asserting its own jurisdiction over criminal law enforcement matters." (Gov. Code, § 7284.6, subd. (f).) Human trafficking of a minor is a felony under state law, giving law enforcement officers the authority to enforce this crime in their respective jurisdictions. (Pen. Code, § 236.1, subds. (b) & (c).)

This bill provides that the Values Act "does not prevent any LEA [from] [p]erforming any responsibilities under the scope of its jurisdiction…" including enforcement or investigations into the crime of human trafficking of a minor. Given that the Values Act already explicitly provides that it does not prevent LEAs from asserting their own jurisdiction over criminal

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[1] DOJ, *San Diego Human Trafficking Task Force (HTTF)* <https://oag.ca.gov/bi/httf> (as of Apr. 7, 2025).

enforcement matters, such as enforcing human trafficking violations, adding another provision to this effect is unnecessary.

4) **Authorizes Cooperation with ICE Based on Allegations Alone**: This bill's expansive and inclusive language, and the creation of an exemption in the Values Act that can be triggered by allegations alone, could undermine the Values Act's protections. This bill states that the Values Act does not prohibit an LEA from "*performing any responsibilities under the scope of its jurisdiction, including, but not limited to*, conducting enforcement or investigative duties regarding any person who *is alleged* to have [engaged in human trafficking of a minor.]" It could be argued this is a clarifying, albeit redundant, statement that the Values Act does not prohibit an LEA from enforcing human trafficking violations. Alternatively, by creating an exemption based on mere allegations of criminal conduct, it could be argued this is an exemption that swallows the rule.

   As previously noted, the Values Act permits LEAs to provide release date information with, and/or transfer individuals to, ICE only when an undocumented person is found culpable of certain crimes. Such culpability may be demonstrated by a conviction for that crime, or by an arrest for that crime supported by a magistrate's finding of probable cause as to the charge. (Gov. Code, § 7282.5, subds (a) & (b).) This bill could be interpreted to broadly permit LEAs to cooperate with ICE upon receiving speculative allegations that a person has engaged in human trafficking of a minor, irrespective of whether there is any evidence of culpability. Authorizing severe immigration consequences without requiring any evidence of criminal conduct is inconsistent with the narrowly tailored criminal-conduct exemptions in the Values Act. Further, this could contribute to existing anti-immigrant hostilities by incentivizing individuals to make unfounded or fake claims that an undocumented person is human trafficking a minor for the purpose of getting that person deported.

5) **ICE Involvement Can Impede Cooperation Between Law Enforcement and the Community**: A study by the University of Illinois – Chicago sought to assess how police involvement in immigration enforcement impacted public safety and police-community relations.[2] Latinos in Cook (Chicago), Harris (Houston), Los Angeles, and Maricopa (Phoenix) counties were surveyed on their perception of local law enforcement when there is police involvement in immigration enforcement. The study found that 44 percent of Latinos surveyed reported they are less likely to contact police officers if they have been the victim of a crime because they fear that police officers will use this interaction as an opportunity to inquire into their immigration status or that of people they know.[3] Likewise, 45 percent of Latinos surveyed stated that they are less likely to voluntarily offer information about crimes, and 45 percent are less likely to report a crime because they are afraid the police will ask them or people they know about their immigration status.[4] And while undocumented immigrants are particularly fearful to contact law enforcement authorities if they were victims of a crime or to offer information relating to a crime, fear of police contact is not confined to immigrants; rather, it is shared by US-born Latinos.[5]

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[2] Theodore, et. al., *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* (May 2013), available at: http://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF
[3] *Id.* at p. 6.
[4] *Ibid.*
[5] *Ibid.*

6) **Argument in Support**: According to the *Peace Officers' Research Association of California (PORAC)*, "The California Values Act generally prohibits California law enforcement agencies from investigating, interrogating, detaining, detecting, or arresting individuals for immigration enforcement purposes. Current law provides limited exceptions to this prohibition, such as transfers pursuant to a judicial warrant or sharing certain information with federal authorities in cases involving human trafficking. This bill would expand those exceptions to allow law enforcement to act within their jurisdiction when a person is alleged to have committed, or has been previously convicted of, specific sex trafficking-related offenses.

   "Sex trafficking is a serious and violent crime, often involving highly vulnerable victims. PORAC believes AB 324 provides a reasonable and narrowly tailored exception to the California Values Act that allows law enforcement agencies to fully investigate and respond to these cases. Ensuring that officers can act within their full legal authority when it comes to identifying and stopping sex trafficking is a critical public safety priority."

7) **Argument in Opposition:** According to the *Immigrant Legal Resource Center (ILRC)*, "This bill would allow local law enforcement to turn people over to ICE based on an allegation alone. AB 324 opens the door to large-scale racial profiling that will harm and tear families apart, and make it harder for immigrant survivors of trafficking to come forward to get the support they need for fear of discrimination or deportation.

   "California is home to more immigrants than any other state in the country. Nearly half of working households in California include immigrants and over half of all California workers are immigrants or children of immigrants. Immigrants are an integral part of the fabric of Californian society, contributing to the economy, culture, and workforce. Immigrants bring innovation, productivity, and enrichment to our workplaces, schools, faith communities, and neighborhoods.

   "Existing state law already permits ICE notifications and transfers for people with certain convictions, including human trafficking offenses, and in particular, offenses under Cal. Penal Code 236.1. See Cal. Gov't Code § 7282.5(a)(3)(T). AB 324 would extend this exception to individuals 'alleged to have violated' Cal. Penal Code 236.1, which would open the door to racial profiling, discriminatory treatment, and family separation.

   "This bill would create more loopholes and opportunities for backdoor deportations that will result in the devastating separation of breadwinners, parents, caretakers, essential workers, and community members from their families. It also would create more distrust and fear of local and state governments in the immigrant community, which is under attack by the current federal administration.

   "This bill would not protect survivors of human trafficking; rather, it will utilize state resources to scapegoat a group of people who are falsely being accused by the federal administration of committing crimes. We have known for years that increased deportations do not reduce crime or improve public safety."

8) **Related Legislation**:

a) AB 85 (Essayli), would repeal part of the California Values Act by requiring LEAs to detain an individual on the basis of an ICE hold request, provide release date information to immigration authorities, and transfer persons to immigration authorities when requested, for any individual who has ever been convicted of a felony. AB 85 is pending a hearing in this committee.

b) AB 421 (Solache), would expand the California Values Act by prohibiting California LEAs from collaborating with immigration authorities regarding immigration actions that may be taking place within one mile of a childcare facility, place of worship, hospital, or medical office. AB 421 is pending a hearing in this committee.

c) SB 48 (Gonzalez) would, among other things, prohibit school districts, county offices of education, or charter schools from granting permission to an immigration authority to access a school site, producing a pupil for questioning by an immigration authority at a school site, or consenting to a search of any kind at a school site by an immigration authority, unless the immigration authority presents a valid judicial warrant or court order. SB 48 is pending a hearing in the Senate Judiciary Committee.

9) **Prior Legislation**:

a) AB 2209 (Sanchez), of the 2023-2024 Legislative Session, would have stated that the Values Act does not prohibit an LEA from performing any responsibilities under the scope of its jurisdiction, including, but not limited to, conducting enforcement or investigative duties regarding any person who is alleged to have violated, or who has been previously convicted of, possession of fentanyl for sale or selling, furnishing, administering, giving away or transporting fentanyl. AB 2209 failed passage in this committee.

b) AB 1708 (Kiley), of the 2021-2022 Legislative Session, would have repealed portions of the Values Act and required an LEA to cooperate with federal immigration officials by detaining a person for an immigration hold if a person has a qualifying criminal conviction or arrest. AB 1708 failed passage in this committee.

c) AB 222 (Voepel), of the 2019-2020 Legislative Session, would have allowed information regarding the release or transfer of an individual to be provided to immigration authorities if the individual has been convicted of misdemeanor or felony assault or battery against a peace officer or firefighter. The hearing on AB 222 in this committee was canceled at the request of the author.

d) SB 429 (Nielsen), of the 2019-2020 Legislative Session, would have given law enforcement discretion to cooperate with federal immigration authorities regarding an undocumented individual if the individual has been convicted of driving under the influence of alcohol or drugs and an active warrant has been issued for the individual's arrest. SB 429 failed passage in the Senate Public Safety Committee.

e) AB 1408 (Mathis), of the 2019-2020 Legislative Session, would have allowed LEA cooperation with immigration authorities whenever an agency deems it necessary for public safety. The hearing on AB 1408 in this committee was canceled at the request of

the author.

f) AB 298 (Gallagher), of the 2017-2018 Legislative Session, would have repealed the TRUST Act and required law enforcement to cooperate with federal immigration by detaining an individual convicted of a felony for up to 48 hours on an immigration hold after the person became eligible for release from custody. AB 298 failed passage in this Committee.

g) AB 2948 (Allen), of the 2017-2018 Legislative Session, would have repealed the Values Act. AB 2948 failed passage in this committee.

h) AB 2931 (Jim Patterson), of the 2017-2018 Legislative Session, would have expanded the list of qualifying criminal convictions which permit law enforcement to cooperate with federal immigration authorities. AB 2931 failed passage in this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Narcotic Officers' Association
California Reserve Peace Officers Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside County Sheriff's Office
Riverside Police Officers Association
Riverside Sheriffs' Association
San Bernardino County Sheriff's Department
Santa Ana Police Officers Association
1 Private individual

Oppose

18 Million Rising
A New Path
ACLU California Action
Alianza
Asian Americans Advancing Justice-southern California
Asian Law Alliance
Asian Law Caucus
Asian Prisoner Support Committee
Bend the Arc: Jewish Action California
Buen Vecino
California Coalition for Women Prisoners
California Faculty Association
California Immigrant Policy Center
California Public Defenders Association (CPDA)
Californians United for a Responsible Budget
Center for Human Rights and Constitutional Law
Chinese for Affirmative Action/aacre
Chispa, a Project of Tides Advocacy
Coalition for Humane Immigrant Rights (CHIRLA)
Communities United for Restorative Youth Justice (CURYJ)
Democracy Beyond Bars
Democratic Socialists of America San Diego
Ella Baker Center for Human Rights
Empowering Marginalized Asian Communities (EMAC)
Felony Murder Elimination Project
Freedom for Immigrants
Glide
Harbor Institute for Immigrant and Economic Justice
Human Impact Partners
Immigrant Legal Resource Center
Immigrants' Rights Policy Clinic, Ucla School of Law
Immigration Resource Center of San Gabriel Valley
Indivisible CA Statestrong
Initiate Justice
Initiate Justice Action
Inland Coalition for Immigrant Justice
Interfaith Movement for Human Integrity
Justice2jobs Coalition
Kehilla Community Synagogue
LA Defensa
Legal Services for Children
Legal Services for Prisoners With Children
Local 148 LA County Public Defenders Union
Local 148 Los Angeles County Public Defender's Union
Los Angeles Center for Law and Justice
Matlin Legal
Mission Action
New Light Wellness
Norcal Resist

Oakland Privacy
Oasis Legal Services
Orale: Organizing Rooted in Abolition, Liberation, and Empowerment
Orange County Equality Coalition
Pacific Juvenile Defender Center
Public Counsel
San Diego Immigrant Rights Consortium
San Francisco Public Defender
Services, Immigrant Rights and Education Network (SIREN)
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
Southeast Asia Resource Action Center
Universidad Popular
Western Center on Law & Poverty

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

Date of Hearing: April 22, 2025
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 331 (Pellerin) – As Amended April 21, 2025

SUMMARY: Requires the Secretary of State (SOS) and county elections officials to prepare voter information guides for county jail facilities and to make the guide available to registered voters in each jail, as specified. Specifically, **this bill**:

1) Requires the SOS to prepare a state voter information guide for each county jail in the state, and county election officials to prepare county voter information guides for each county jail within their jurisdiction, in a format that will be accepted by county jail facilities and to make that guide available to registered voters with a mailing address in a county jail facility.

2) Establishes that the number of state and county voter information guides shall be equal to either of the following, as applicable:

   a) At least 30 percent of the number of registered voters inside the facility, if the guides will be in a location accessible by all registered voters.

   b) Equal to the number of registered voters inside the facility, if the guides will be delivered individually to each registered voter.

3) Requires county jail officials to work in good faith with the SOS and county election officials to ensure delivery of state and county voter information guides to their facilities for each primary and general election.

4) Expands the crime, punishable by a $1,000 fine or as a felony, or both, for displaying a container for the purpose of collecting or returning ballots, with the intent to deceive a voter into casting a ballot in an unofficial ballot box, to include providing an envelope for the purpose of returning ballots with the intent to deceive a voter into returning a ballot in an unofficial ballot return envelope.

5) Establishes that the duties involved in reporting the vote, certifying the statement of election results, sending to the SOS one complete copy of the election results in electronic format imposed on election officials, as defined, are ministerial and nondiscretionary.

6) Establishes that it is the ministerial and nondiscretionary duty of the governing body to declare elected or nominated to each office voted on at each election under its jurisdiction the person having the highest number of votes for that office, or who was elected or nominated under defined exceptions; and the results of each election under its jurisdiction as to each measure voted on at the election.

7) Provides that if the elections official fails to prepare a certified statement of the results of the election, as specified, the Secretary of State shall call the violation to the attention of the district attorney of the county or to the Attorney General and may assist the county elections official in discharging the officer's duties.

8) Makes conforming changes.

EXISTING LAW:

1) Provides that every person is punishable by a fine not exceeding $1,000, or by imprisonment for 16 months, two years, or three years, or by both that fine and imprisonment, as specified, who does either of the following:

   a) Displays a container for the purpose of collecting ballots, with the intent to deceive a voter into casting a ballot in an unofficial ballot box. Evidence of intent to deceive may include using the word "official" on the container, or otherwise fashioning the container in a way that is likely to deceive a voter into believing that the container is an official collection box that has been approved by an elections official.

   b) Directs or solicits a voter to place a ballot in an unofficial ballot box prohibited as described above. (Elec. Code, § 18568, subds. (g)-(h).)

2) Requires the SOS to produce a state Voter Information Guide (VIG) that contains specified information, including, but not limited to, arguments and rebuttals for and against each state ballot measure, and an analysis of each state ballot measure. (Elec. Code, §§ 9081, 9084.)

3) Requires a state VIG be mailed to every postal address at which one or more persons are registered to vote starting the 29th day before a statewide election. (Elec. Code, § 13300.)

4) Requires the SOS to establish a process that allows a voter to choose to opt out of receiving a paper copy of the state VIG, and instead to receive it by electronic mail, as specified. (Elec. Code, §§ 9094.5, 13300.7.)

5) Requires the SOS to send one copy of the state VIG by mail to each city and county elections official, each member of the Legislature, the proponents of each statewide ballot measure, each public library, and specified educational institutions. (Elec. Code, § 9096.)

6) States that upon completion of the count, the elections official shall add to the results as so determined, the results of the write-in votes and any paper ballots used as certified by the precinct board, and thereupon shall declare the vote, and forthwith post one copy at the counting place for public inspection. (Elec. Code, § 15371.)

7) Requires the elections official to prepare a certified statement of the results of the election and submit it to the governing body within 30 days of the election or, in the case of school district, community college district, county board of education, or special district elections conducted on the first Tuesday after the first Monday in November of odd-numbered years, no later than the last Monday before the last Friday of that month. (Elec. Code, § 15372, subd. (a).)

8) Provides that the elections official shall post the certified statement of the results of the election on the elections official's internet website in a downloadable spreadsheet format. The certified statement of the election results shall be posted and maintained on the elections official's Internet Web site for at least 10 years following the election. (Elec. Code, § 15372, subd. (b).)

9) States the elections official shall send to the Secretary of State within 31 days of the election in an electronic format in the manner requested one complete copy of all election results, as specified. (Elec. Code, § 15375, subds. (a)-(f).)

10) Requires a governing body to declare elected or nominated to each office voted on at each election under its jurisdiction the person having the highest number of votes for that office, and to declare the results of each election under its jurisdiction as to each measure voted on at the election. (Elec. Code, § 15400.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 331 makes technical changes to the Elections Code to ensure timely certification of results, provide voter guides to eligible voters in jails, and clarify that all materials distributed with the intention to mislead voters are unlawful. By clearly defining elections officials' certification duties as ministerial, AB 331 removes any ambiguity that could be potentially exploited by bad actors. Furthermore, AB 331 makes it clear that it is the duty of county elections officials and the Secretary of State to provide voter information guides in a format accepted by jails. These changes will ensure that the Department of Justice, under the Attorney General, can more easily enforce California's voter protection laws."

2) **Effect of the Bill:** This bill would, among other things, require voter information guides (VIG's) to be produced in a format that will be accepted by county jails and clarify the prohibition on unauthorized use of ballot drop boxes or envelopes.

   The author cites reports made to the Department of Justice regarding voters in county jails not receiving VIG's because the guides are traditionally held together by staples, which jail policies prohibit. This bill requires elections officials to make guides available to registered voters within jails in an acceptable format. By allowing for a centralized location in the county jail for VIG's, however, this bill could at least help address the shortage of voter information guides available in county jails during election season.

   According to an October 12, 2020, advisory from the SOS, the SOS's office sent cease and desist letters to local officials regarding the use of unauthorized and non-official vote-by-mail (VBM) drop boxes being used throughout the state.[1] According to the memo, examples that were provided to the SOS's office included boxes or containers labeled misleadingly as

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[1] *Secretary of State Alex Padilla and Attorney General Xavier Becerra Send Cease and Desist Letters on Ballot Drop Boxes* (Oct. 12, 2024) California Secretary of State <https://www.sos.ca.gov/administration/news-releases-and-advisories/2020-news-releases-and-advisories/ap20094> [as of Apr. 15, 2025].

"secure" or "official" ballot drop boxes.[2] SB 35 (Umberg), Chapter 318, Statutes of 2021, was enacted to prohibit displaying a ballot collection container with the intent to deceive a voter into casting a ballot in an unofficial ballot box and directing or soliciting a voter to cast a ballot into an unofficial ballot collection container. (Elec. Code, § 18568.) SB 35 established that evidence of an intent to deceive may include using the word "official" on the container, or otherwise fashioning the container in a way that is likely to deceive a voter into believing that the container is an official collection box that has been approved by an elections official. (Elec. Code, § 18568, subd. (g).) Violation of this section of the Elections Code is punishable by a fine not to exceed $1,000, or by imprisonment for 16 months, or two or three years. (*Ibid.*) In order to further protect voters and deter this type of conduct from occurring, this bill expands current prohibitions on the use of unauthorized and non-official VBM drop boxes to include the use of unauthorized and non-official VBM ballot return envelopes.

The author notes, "counties in eight different states have delayed certification of their election results" since November 2020. However, none of these counties were in California.[3] "Across the country — in Arizona, Colorado, Georgia, Michigan, Nevada, New Mexico, North Carolina, and Pennsylvania — Republican officials have refused to certify or delayed certification of results for the election of local, state, and national candidates."[4] While concerns have been raised in California about certification timelines, those concerns appear to have been grounded in various issues with mail ballots, ballot curing, evaluating provisional ballots, final canvassing, and eventual certification.[5] AB 3184 (Berman), Chapter 437, Statutes of 2024, appears to have addressed some of these concerns by setting county certification for 28 days after the election. (Elec. Code, § 15391, subd. (a).) While the issue with certain county election officials refusing to certify election results has not yet squarely impacted California elections, this bill attempts to prevent certification refusal from becoming an issue at all in California elections.

3) **Election Certification Remedies**: State law has long established that officials have a mandatory, nondiscretionary duty to certify elections. State officials already have several legal tools available to respond to and protect against future election certification issues. One report outlines legal remedies available to state and federal authorities to protect certification at the county level.[6]

State election boards, secretaries of state, attorneys general, and local prosecutors can explicitly advise county officials of their non-discretionary certification duties and the penalties for non-compliance, which is functionally part of this bill. State authorities can also bring expedited mandamus litigation, which takes the form of a remedy through judicial

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[2] *Ibid.*
[3] Glawe, *Potential 2024 'Chaos': Election Deniers Refusing to Certify Results* (Mar. 17, 2024) Rolling Stone <https://www.rollingstone.com/politics/politics-features/election-deniers-refuse-certify-chaos-2024-1234988747/> [as of Apr. 15, 2025].
[4] *Ibid.*
[5] Lemus-Ceballos, *California Counties Certify Election Results for the First Time on Unified Deadline* (Dec. 3, 2024) Action News Now <https://www.actionnewsnow.com/news/california-counties-certify-election-results-for-the-first-time-on-unified-deadline/article_89856ae4-b1e5-11ef-9beb-c7c95d331b6d.html> [as of Apr. 15, 2025].
[6] *Election Certification Under Threat* (Aug. 12, 2024) Center for Responsibility and Ethics in Washington <https://www.citizensforethics.org/reports-investigations/crew-reports/election-certification-under-threat/> [as of Apr. 15, 2025].

order directing an entity to perform an obligated act to resolve certification disputes.[7]

Other remedies for combatting certification refusal can include removal or replacement of obstinate election officials, in addition to pursuing civil penalties or criminal penalties, where available.[8] This bill clarifies that elections officials involved in certification are not actually free to make a choice about the results being certified, which could contribute to ensuring California remains free from formal disputes over certification.

4) **Voting Barriers for Incarcerated Individuals**: This bill could help improve voter participation among incarcerated populations who remain eligible to vote.

A Prison Policy Initiative report highlighted that while most individuals in local jails are legally eligible to vote, many are unable to exercise those rights.[9] The report notes that most people in jail have not been convicted of the charges on which they are being held and pretrial detention does not disqualify someone from voting; people in jail who are serving post-conviction sentences have typically been convicted of misdemeanors and few states disenfranchise people serving time for misdemeanor convictions; and not all states disenfranchise individuals on probation or parole.[10]

The report also discusses several barriers that prevent those in jail from voting. These barriers include confusion about voter eligibility requirements and deadlines for registering to vote and casting a ballot.[11] Moreover, incarcerated people have limited or no access to the internet or various paper resources, making it challenging to access voting forms, election resources, or to confirm election officials have received ballots.[12]

Additionally, the report discusses high population turnover rates in jails. According to the report, the average jail stay is between three to four weeks, however, many people are incarcerated for much shorter periods of time.[13] An individual may register to vote, but end up in jail on Election Day; or an individual may register to vote while in jail, but be released prior to casting a ballot.[14] So, a person's registration information will not match their status on Election Day, and thus the person may be unable to vote.[15]

Other barriers to county jail inmates receiving VIG's have been reported, including lengthy mail processing times at jails, page limits on mail, and a prohibition on outside groups distributing the guides.[16] Some counties, like Humboldt County, already achieved success here by "facilitating the delivery of same-day provisional ballots on Election Night" and

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[7] *Ibid.*
[8] *Ibid.*
[9] Jackson-Gleich, *Eligible but Excluded: A Guide to Removing the Barriers to Jail Voting* (Oct. 2020) Prison Police Initiative <https://www.prisonpolicy.org/reports/jail_voting.html> [as of Apr. 15, 2025].
[10] *Ibid.*
[11] *Ibid.*
[12] *Ibid.*
[13] *Ibid.*
[14] *Ibid.*
[15] *Ibid.*
[16] Greenson, *'Exceptional Work' Allowed Eligible Humboldt Jail Inmates to Cast Ballots* (Jan. 7, 2025) North Coast Journal <https://www.northcoastjournal.com/NewsBlog/archives/2025/01/07/exceptional-work-allowed-eligible-humboldt-jail-inmates-to-cast-ballots> [as of Apr. 15, 2025].

working "together to create a first-of-its-kind inmate Voter Information Guide for Humboldt County, [which] compiled all the ballot-specific information from the 39 versions of the county voter guide, ensuring inmates had access to materials tailored to their registration address."[17]

While this bill does not appear to tackle every barrier, this bill could help getting voter information to eligible voters in county jails, which could increase participation and contribute to replicating Humboldt County's success across other California counties.

5) **Argument in Support**: According to *California Attorney General Rob Bonta*, one of the bill's sponsors, "Since November 2020, counties in eight states have experienced delayed certification because officials have refused to certify the vote. Due to the tight certification deadlines at the local, state and federal levels, it is crucial that California's results are certified on time. Clarity in the law would be beneficial to ensure officials are aware of their nondiscretionary obligation to certify. Additionally, DOJ received reports that registered voters in jails are not receiving voter information guides because these publications are almost always held together by staples, which often are not allowed in the jails. Lastly, DOJ received a report of a potentially misleading ballot return envelope being delivered to a voter and recommends an expansion of California's ballot return protections to establish consequences to deter this type of conduct.

"To address certification delays, AB 331 would 1) ensure counties certify elections as required under current law by (A) clarifying existing law that a county's duty to certify and report their election results is ministerial and nondiscretionary, (B) requiring any county that fails to timely certify and report its election results to transmit all election materials to the custody of the Secretary of State in Sacramento, to facilitate the timely tabulation of ballots, (C) imposing financial liability on counties for refusal to certify election results, which would both deter counties from failing to certify election results and compensate the State if it is forced to intervene.

"To ensure registered voters in jail receive voter information guides required under current law, the bill would 2) require delivery of voter information guides to jails in a form that those institutions are able to accept.

"To ensure unofficial ballot return envelopes are not used to mislead voters, AB 331 would 3) expand rules that currently prohibit intentionally misleading voters into depositing their ballots in unofficial ballot collection containers to also prohibit the use of misleading unofficial ballot return envelopes.

"The right to vote is sacred, and AB 331 protects this right through several critical, common-sense refinements to California election law. Attorney General Bonta is proud to sponsor this measure."

6) **Related Legislation**:

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[17] *Ibid.*

a) SB 407 (Choi) would reduce deadlines to 10 days for counting all ballots and preparing the certified statement of the results of the election, and 11 days for sending the Secretary of State a complete copy of all election results. SB 407 was held in held Senate Elections and Constitutional Amendments Committee.

b) AB 930 (Ward) would allow a voter requesting a recount to specify the order in which votes are recounted by the batch in which ballots were scanned or, in the case of a recount that involves more than one county, the order in which counties will conduct the recount within the jurisdiction. AB 930 is set to be heard in the Assembly Elections Committee.

c) AB 1214 (Patterson) would require elections officials to count all ballots and prepare the certified statement of the results of the election within 21 days of the election, and to send the SOS a complete copy of all election results within 22 days of the election. AB 1214 failed passage in the Assembly Elections Committee.

7) **Prior Legislation**:

a) AB 3197 (Lackey), Chapter 120, Statutes of 2024, authorized a county elections official who verifies signatures on petitions or papers that are required to be signed by voters of a county, city, school district, or special district subject to petitioning to establish and require the use of a standardized petition form for distribution within and submission to the county.

b) AB 544 (Bryan), of the 2023-24 Legislative Session, would have operated a pilot program to provide grants to county election offices in the County of San Benito, the County of San Mateo, and the County of Santa Cruz to improve voter participation in jail facilities. AB 544 was vetoed by the Governor.

c) AB 1559 (Berman), of the 2023-24 Legislative Session, would have added paper cast vote records to the list of materials county elections officials are required to keep. The bill would have also required county elections officials to keep certain electronic data for 22 months for elections involving a federal office or for six months for all other elections. AB 1559 was held in the Senate Appropriations Committee.

d) AB 37 (Berman), Chapter 312, Statutes of 2021, requires any county that does not conduct an all-mailed ballot election to provide at least two vote by mail ballot drop-off locations within the jurisdiction where the election is held, or at least one vote by mail ballot drop-off location for every 30,000 registered voters within the jurisdiction where the election is held, whichever results in more vote by mail ballot drop-off locations.

REGISTERED SUPPORT / OPPOSITION:

Support

Attorney General Rob Bonta
California Common CAUSE
Ella Baker Center for Human Rights

Indivisible CA Statestrong
Initiate Justice

LA Defensa
League of Women Voters of California

Opposition

None submitted.

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

Date of Hearing: April 22, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

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

SUMMARY: Removes the discretion of courts to determine if a first-time DUI offender must install an ignition interlock device (IID) on every vehicle they operate, and makes permanent certain provisions of the IID pilot program currently in place. Specifically, **this bill**:

1) Removes the discretion of courts to make an individualized determination of whether a person convicted of a first-time DUI that did not cause bodily injury to another person must install an IID, by requiring courts to order all first-time DUI offenders to install, maintain, and service an IID for up to six months on every vehicle they operate.

2) Makes permanent the rest of the provisions of the IID pilot program created by SB 1046 (Hill), Chapter 783, Statutes of 2016, which required courts, from January 1, 2019 to January 1, 2026, to order the installation of IIDs for repeat DUI offenders and DUIs causing bodily injury to another person, as follows:

   a) For a period of one year for a person convicted of a DUI with one prior[1], or a first-time DUI causing bodily injury to another person;

   b) For a period of two years for a person convicted of a DUI with two priors, or a DUI causing bodily injury to another person with one prior;

   c) For a period of three years for a person convicted of a DUI with three or more priors, a DUI causing bodily injury to another person with two priors, or a prior specified DUI conviction punishable as a felony; or,

   d) For a period of four years for a person convicted of a DUI causing bodily injury to another person with one prior punishable as a specified felony.

3) Removes data reporting requirements as follows:

   a) Removes the requirement that the California Transportation Agency (CalSTA) submit a report to the California Legislature analyzing the implementation and effectiveness of the above pilot program.

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[1] For purposes of this analysis and unless otherwise specified, a "prior" means a separate DUI conviction under Vehicle Code sections 23152 (DUI), 23153 (DUI causing bodily injury), or a "wet reckless" conviction under 23103.5 (plea to reckless driving in satisfaction of an original DUI charge) that occurred within 10 years of the current violation.

b) Removes the requirement that the California Department of Motor Vehicles (DMV) include in its annual report to the Legislature an evaluation of the effectiveness of specified DUI offenders' participation in certain alcohol and drug educational programs.

EXISTING LAW:

1) Makes it unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle. (Veh. Code, § 23152 subds. (a), (f), & (g).)

2) Makes it unlawful for any person, while having 0.08 percent or more, by weight, of alcohol in their blood to drive a vehicle. (Veh. Code, § 23512, subd. (b).)

3) Requires a person convicted of driving when their license is suspended or revoked because that person has either one, two, or three or more priors, to install an IID in all vehicles operated by that person for one, two, or three years, respectively. (Veh. Code, § 23573, subd. (j).)

4) Provides that IID installation requirements generally apply to all vehicles an offender operates including vehicles not owned by that person. (Veh. Code, § 13353.6, subd. (g)(3).)

5) Establishes an ignition interlock device pilot program until January 1, 2026, as follows:

   a) Authorizes a court to order a person convicted of their first DUI offense (involving alcohol) to install a functioning, certified IID on any vehicle that the person operates and prohibit that person from operating a motor vehicle for up to six months unless that vehicle is equipped with a functioning, certified IID. (Veh. Code, § 23575.3, subd. (h)(1)(A)(i).)

   b) Provides that for a person convicted of a first time DUI (involving alcohol) offense, only one of the following may occur:

      i) The court may order installation of an IID, as specified above; or

      ii) The person may apply to DMV for a restricted license permitting limited driving to and from their work and their DUI program) upon proof of enrollment in a DUI program, proof of financial responsibility, and payment of fees. (Veh. Code, § 23575.3, subd. (h)(1)(A).).

   c) Requires a court, from January 1, 2019 to January 1, 2026, to order the installation of an IID for repeat DUI offenders and DUIs causing bodily injury to another person, as follows:

      i) For a period of one year for a person convicted of a DUI involving alcohol (or both alcohol and drugs) with one prior, or a first-time DUI causing bodily injury to another person.

ii) For a period of two years for a person convicted of a DUI involving alcohol (or both alcohol and drugs) with two priors, or a DUI causing bodily injury to another person with one prior.

iii) For a period of three years for a person convicted of a DUI involving alcohol (or both alcohol and drugs) with three or more priors, a DUI causing bodily injury to another person with two priors, or a prior specified DUI conviction punishable as a felony.

iv) For a period of four years for a person convicted of a DUI causing bodily injury to another person with one prior punishable as a specified felony. (Veh. Code, §§ 23575.3, subd. (h); 13352; 13352.4; 13353.3; 13353.6; & 13353.75.)

d) Requires the DMV, if a court orders the installation of an IID, to place a restriction on the person's license stating the driver is restricted to only driving vehicles equipped with an IID for the applicable term. (Veh. Code, § 23575.3, subd. (h)(1)(A)(i), 23575).

e) Requires a person subject to an IID to arrange for each vehicle they operate to be equipped with a functioning, certified IID by a certified provider, provide proof of installation to the DMV, and pay a fee, determined by the DMV, sufficient to cover the costs of administering the pilot program. (Veh. Code, § 23575.3, subd. (d).)

f) Requires IID manufacturers to adopt a fee schedule under which the manufacturer will absorb a varying amount of an offender's cost for the IID based on the offender's income, relative to the federal poverty level, as follows.

i) A person with an income at 100 percent of the federal poverty level or below and who provides income verification is responsible for 10 percent of the cost of the manufacturer's standard IID program costs, and any additional costs associated with non-compliance.

ii) A person with an income at 101 to 200 percent of the federal poverty level and who provides income verification is responsible for 25 percent of the cost of the manufacturer's standard IID program costs, and any additional costs associated with non-compliance.

iii) A person with an income at 201 to 300 percent of the federal poverty level and who provides income verification is responsible for 50 percent of the cost of the manufacturer's standard IID program costs, and any additional costs associated with non-compliance.

iv) A person who is receiving CalFresh benefits and who provides proof of those benefits to the manufacturer or manufacturer's agent or authorized installer is responsible for 50 percent of the cost of the manufacturer's standard IID program costs, and any additional costs associated with non-compliance.

v) A person with an income at 301 to 400 percent of the federal poverty level and who provides income verification is responsible for 90 percent of the cost of the manufacturer's standard IID program costs, and any additional costs associated with non-compliance. (Veh. Code, § 23575.3, subd. (k).)

g) Provides that the above IID pilot program shall sunset on January 1, 2026. (Veh. Code, §§ 13352; 13352.4; 13353.3; 13353.6; & 13353.75.)

6) Specifies that upon the expiration of the above pilot program, and beginning January 1, 2026, a court may order a person convicted of their first DUI offense involving drugs or alcohol, or a DUI offense involving bodily injury, to install an IID on any vehicle that the person operates for up to three years. The court shall give heightened consideration to ordering an IID for a first offense violator: 1) with 0.15 percent BAC; 2) with two or more prior moving traffic violations; or 3) persons who refused a chemical test at arrest. (Veh. Code, § 23575.)

7) Requires a person ordered to install an IID to arrange for each vehicle with an IID to be serviced by the installer at least once every 60 days in order for the installer to recalibrate and monitor the operation of the device. (Veh. Code, § 23573, subd. (e)(1).)

8) Makes it a misdemeanor, punishable by up to six months in county jail, a $5,000 fine, and a one-year license suspension from the conviction date (for persons subject to an IID installation order), to:

   a) Willfully fail to install an IID during the applicable time period;

   b) Operate a vehicle not equipped with an IID;

   c) Knowingly lend or rent a vehicle to a person known to have their driving privileges restricted, unless the vehicle is equipped with an IID;

   d) Blow into, or request or solicit another person to blow into, an IID or start a motor vehicle equipped with an IID for the purpose of providing the person with a restricted license with an operable motor vehicle;

   e) Remove, bypass, or tamper with, an IID. (Veh. Code, §§ 23573, subd. (i), 23247, subds. (a)-(g).)

9) Permits a person required to operate a motor vehicle in the course and scope of employment, where the vehicle is owned by the employer, to operate that vehicle without an IID if the employer has been notified by the person that the person's driving privilege has been restricted. (Veh. Code, § 23576, sub. (a).)

10) Requires the license suspension of a person with a medical problem that prevents breathing with sufficient force to activate an IID. (Veh. Code §§ 23575, subd. (h), 23575.3, subd. (i).)

11) Provides that a person convicted of their first DUI (not involving injury), and given probation, is subject to the following penalties:

   a) Possible two days to six months in county jail.

   b) A fine of $390 to $1,000, plus penalty assessments;

c) Six-month license suspension or a 10-month suspension if a 9-month DUI program is ordered; and

d) In counties with approved programs, completion of a 3-month (30 hour) DUI treatment program, or a 9-month (60 hour) program if the person's BAC was .20% or more or they refused to take a chemical test. (Veh. Code, §§ 13352, subd. (a)(1); 13352.1, subd. (a); 23536, subds. (a) & (c); 23538, subds. (a) & (b).)

12) Provides that a person convicted of their first DUI offense may be issued a restricted license upon proof of enrollment in a DUI program, proof of financial responsibility, and payment of fees, unless a court has ordered the installation of an IID or a court has disallowed a restricted license. (Veh. Code, § 13352.4.)

13) Provides that a person convicted of a first DUI causing bodily injury, if not given probation, faces 90 days to one year in county jail or 16 months, two or three years state prison (five days to one year in jail if given probation), a $390 to $1,000 fine plus penalty assessments, suspension of driving privileges for one year and applicable DUI programs. (Veh. Code, §§ 13352 subd. (a)(2), 23554, 23556.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Every day, drunk drivers kill 37 people in the United States, that's one life lost every 39 minutes. In August, a study showed that California is at the epicenter of the DUI crisis in the United States, with 8 of the 10 cities with the worst DUI rates in the nation. These cities are: Sacramento, Los Angeles, San Jose, Bakersfield, Fresno, San Diego, Long Beach, and Oakland.

"Deaths because of drunk drivers have gone up by 53% in California over the past 5 years. These aren't just statistics; they represent lives lost, families devastated, and communities impacted.

"Current law in California requires Judges to order Ignition Interlock Devices (IIDs) only for all repeat (2nd or more) offenders. This is despite the fact that, a California DMV study from 2016 found that ignition interlocks are 74% more effective in reducing DUI recidivism than license suspension alone for first offenders during the first 6 months after conviction. In addition, 35 other states plus Washington D.C. require IIDs for all offenders.

"AB 366 will align California's laws with these other states and require that first time DUI offenders be required to install an Ignition Interlock Device on their vehicle for a period of 6 months. This is an important step in our fight against drunk driving and will help keep our roads safe."

2) **What is an IID?**: IID technology has been around since the 1960s and has been authorized for use in California since the 1980s.[2] California regulations define an IID as "a device designed to allow a vehicle ignition switch to start the engine when the breath alcohol concentration test result is below the alcohol set point, while locking the ignition when the breath test results is at or above the alcohol setpoint." (Cal. Code Regs., tit. 13, § 125.00, subd. (a).) In practice, "[a]n IID is about the size of a cell phone and wired to your vehicle's ignition. After installation, the IID requires you to provide a breath sample before the engine will start. If the IID detects alcohol on your breath, the engine will not start."[3]

   Notably, persons subject to an IID are subject to multiple re-test requirements while driving. The first re-test must occur at a random interval ranging from five to 15 minutes after passing the first test, while subject re-tests must occur at random intervals ranging from 15 to 45 minutes from the prior test. (Cal. Code Regs., tit. 13, § 125.02, subd. (a)(1).)

3) **Effect of this Bill:** Under existing law, a court may order a first-time DUI offender (not causing bodily injury), in addition to all other penalties (jail, fines, license suspension, and DUI programs) to install an IID on any vehicle they operate for up to six months. If a court finds that an IID is not appropriate for a particular person, that person may apply to the DMV for a restricted driver's license upon proof of enrollment in a DUI program, proof of financial responsibility, and payment of fees, unless a restricted license is disallowed. (Veh. Code, § 23575.3, subd. (h)(1)(A).) Courts are required to order an IID for almost all other DUI offenders, including: 1) a first-time DUI that causes bodily injury; 2) repeat DUI offenders; and 3) a person convicted of driving with a revoked or suspended license due to a prior DUI conviction. (Veh. Code, §§ 23575.3, subd. (h), 13352, 13352.4, 13353.3, 13353.6, 13353.75.)

   This bill removes the discretion of courts to make an individualized determination of whether a person convicted of a first-time DUI that did not cause bodily injury should be ordered to install an IID, by *requiring courts to order all first-time DUI offenders to install, maintain, and service an IID* for up to six months on every vehicle they operate. Courts would be required to order an IID regardless of fact-specific circumstances, such as the person's BAC level at the time of the offense, whether the offender is a new driver who shares a vehicle with their parents, or whether that person can afford to comply with that order. This bill also makes permanent the rest of the current pilot program, which requires courts to order the installation of IIDs for repeat DUI offenders and first-time DUIs causing bodily injury.

   Additionally, this bill opts to remove certain DMV data reporting requirements. This bill removes all sunset dates on the current statewide program and opts not to require any new report to the Legislature on the efficacy of the mandate. Further, this bill repeals existing law's requirement that the DMV include in its annual report an evaluation of the effectiveness of specified DUI offenders' participation in certain alcohol and drug educational programs.

   The impact of this bill likely will be significant. First-time DUI convictions comprise

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[2] DMV, *An Evaluation of the Implementation of Ignition Interlock in California* (May 2002) p. ii, available at: https://www.dmv.ca.gov/portal/file/an-evaluation-of-the-implementation-of-ignition-interlock-in-california/

[3] DMV, *Ignition Interlock Devices* (accessed February 26, 2025), available at: https://www.dmv.ca.gov/portal/driver-education-and-safety/educational-materials/fast-facts/ignition-interlock-devices-ffdl-31/

approximately 40% of all misdemeanor convictions in a given year,[4] and misdemeanor DUIs make up the vast majority of DUIs, comprising 95.6% of the 95,957 total DUI arrests in 2020.[5] First-time DUI convictions represent the vast majority of DUI convictions, comprising 72.5% of the 93,926 DUI convictions in 2018, and 72.8% of the 88,043 DUI convictions DUI convictions 2019.[6] As such, this bill likely will require annually tens of thousands of first-time misdemeanor DUI offenders to install IIDs on their vehicle.

4) **Eliminates Judicial Discretion for IID Installation for First-Time DUI Offenders**: This bill would remove judicial discretion to order an IID for first-time DUI offenders, discretion that has been preserved for decades despite repeated efforts to remove it.

Multiple legal and statutory bases give courts discretion to impose IIDs for first-time DUI offenses not causing bodily injury. (Veh. Code, § 23575.3.) IIDs are mandated for almost all other DUI offenders. Under the current pilot program, a court has the option to order an IID for a first-time DUI offender. A court can also impose an IID as a condition of probation, which is commonly given to first-time DUI offenders; courts have broad discretion to fashion and impose additional probation conditions that are particularized to the defendant. (*People v. Smith* (2007) 152 Cal.App.4th 1245, 1249.) A valid condition must be reasonably related to the offense and aimed at deterring misconduct in the future. (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1121.)[7]

Judicial discretion permits courts to tailor the sentence in the appropriate manner to the facts of the crime, the person's history, and the person's current circumstances. As stated by the California Supreme Court, "Society receives maximum protection when the penalty, treatment or disposition of the offender is tailored to the individual case." (*People v. Williams* (1970) 30 Cal.3d 470, 482 [citation and internal quotation marks omitted].) "Only the trial judge has the knowledge, ability and tools at hand to properly individualize the treatment of the offender." (*Ibid.*)

Judicial discretion may be particularly important for first-time misdemeanor DUI offenses. First, misdemeanor DUIs encompass a broad range of circumstances and behavior, including, for example, a minor who miscalculated the size of a single drink, has the bare minimum .08% BAC and is pulled over for a non-moving offense, showing no signs of impairment, and who has no history alcohol abuse or poor judgment. Alternatively, this could apply to a person who has been binge drinking, has a BAC significantly over the limit, and who's judgment and motor skills are extensively impaired. This bill would require installation of an IID in both cases. Moreover, given that courts must already order IIDs for repeat DUI offenders and DUIs causing bodily injury, this bill proposes to treat first-time DUIs not

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[4] Committee on the Revision of the Penal Code, Annual Report and Recommendations (Dec. 2024), available at: https://clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2024.pdf. *See also* Judicial Council of California, 2021 Court Statistics Report, Tables 9a & 9c (212,291 misdemeanor guilty pleas in traffic and non-traffic cases occurred in Fiscal Year 2019–20); DUI MIS Report, 25, Table 5b (in 2019, there were 83,512 misdemeanor DUI convictions and 12,552 alcohol- or mdrug-involved reckless driving convictions).

[5] DMV, *2022 Annual Report of the California DUI Management Information System* (2023), DUI Summary Statistics, available at: https://qr.dmv.ca.gov/portal/uploads/2023/09/2022-DUI-MIS-Report.pdf.

[6] DMV, *2021 Annual Report of the California DUI Management Information System* (2022), p. iv, available at: https://www.dmv.ca.gov/portal/uploads/2022/09/2021-Annual-Report-of-the-California-DUI-Management-Information-System-1.pdf; Department of Motor Vehicles, *2022 Annual Report of the California DUI Management Information System* (2023), p. iv, available at: https://qr.dmv.ca.gov/portal/uploads/2023/09/2022-DUI-MIS-Report.pdf.

involving injury similarly to serial DUI offenders and well as DUI offenders involving crashes and injury.

Second, judicial discretion is uniquely important as applied to first-time DUI offenses since an IID burdens persons other than the offender. IIDs are required to be installed on every vehicle an offender operates, including vehicles to which they may have access but do not own. (Veh. Code, § 23575.3, subd. (o)(2).) As such, a court might find that the imposition of an IID is not the best remedy where a single car is shared between family members and requiring an IID on that car will burden persons that have engaged in no wrongdoing. This concern may be most applicable to parents of young drivers, given that younger drivers are overrepresented in DUI arrests.[8] For example, a DUI conviction given to a new and financially dependent driver who was using their parent's car would require their parents to install IIDs on every vehicle their child operates, as well as incur the financial burden associated with installing, and routinely servicing the IID on behalf of their child.

Third, courts can already order IIDs for first-time DUI offenders where a judge deems an IID an appropriate remedy. There is little to no evidence that courts are using this discretion improperly and, as such, the need for this bill is unclear.

5) **California's IID Pilot Programs and Associated Statistical Studies**: Since 1989 there have been at least ten legislative efforts to make IIDs mandatory statewide for first-time DUI offenders. None of have been successful, in part due to the many concerns identified in this analysis.[9] During that time, the Legislature has enacted four pilot programs creating various IID installation requirements, and commissioned five statistical studies analyzing the effectiveness of IIDs in California. These reports have generated many recommendations and findings on how to maximize the use of IIDs as a DUI countermeasure and reduce the harms associated with drunk driving.

The first pilot program was enacted in 1986 and established a four county pilot program authorizing judges to order DUI offenders to install IIDs as a condition of probation.[10] The associated study found "there was no statistically significant difference in the subsequent DUI conviction rate between DUI offenders who installed IIDs and DUI offenders who did not."[11] *The second pilot program* was enacted in 1998 and authorized the use of IIDs for first-time offenders for up to three years, especially when aggravating factors such as a high BAC are present, and required IIDs for repeat offenders and drivers convicted of driving on a DUI suspended license.[12] The findings of the pilot program study were mixed. It found that IIDs can be effective in reducing DUI recidivism, particularly when they are actually installed. However, it emphasized that IIDs are "not the 'silver bullet' that will solve the DUI problem" and are not effective "in all situations or for all offenders."[13] Importantly, while the

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[8] DMV, *2022 Annual Report of the California DUI Management Information System*, 2023, available at: https://qr.dmv.ca.gov/portal/uploads/2023/09/2022-DUI-MIS-Report.pdf.
[9] Among others, these include AB 762 (Torlakson), Chapter 756, Statutes of 1998 (amended into pilot program), SB 1361 (Correa) of the 2007-2008 Legislative Session (amended to change restricted license rules and later vetoed), SB 1046 (Hill), Chapter 783, Statutes of 2016 (amended into pilot program), SB 434 (Hill) of the 2019-2020 Legislative Session, and most recently, AB 211 (Petrie-Norris) of the 2023-2024 Legislative Session.
[10] California Department of Motor Vehicles, *An Evaluation of the Effectiveness of Ignition Interlock in California* (Sept. 2005), p. 4, available at: https://www.dmv.ca.gov/portal/file/an-evaluation-of-the-effectiveness-of-ignition-interlock-in-california/
[11] *Id.* at p. 2.
[12] *Ibid.*
[13] *Id.* at p. 61-62.

report found that IIDs can reduce DUI recidivism, it also found that IIDs are "linked with an increase in crash risk" and as such "the overall traffic safety effect of IIDs are mixed, even when installed."[14] As applied to first-time DUI offenders, the study explicitly discouraged the use of IIDs for first-time DUI offenders, asserting that "use of the devices should not be emphasized, even for those first offenders with high BACs at the time of arrest."[15]

The third pilot program was created by AB 91, Chapter 217, Statutes of 2009, which required first-time and repeat DUI offenders, in four counties, to install IIDs in order to obtain a restricted driver's license, from 2010-2016. This is the only pilot program that mandated IIDs for first-time DUI offenders, and accordingly is the most informative for the purposes of analyzing this bill.

The DMV conducted two studies of this pilot program. The first was a general deterrent study that the program "was not associated with a reduction in the number of first-time and repeat DUI convictions in pilot counties" and as such, "no evidence was found that the pilot program has a general deterrence effect"[16] The second study was a specific deterrent study, which found that pilot participants, including first-time offenders, had lower DUI recidivism rates than other DUI offenders.[17] However, these lower rates significantly diminished over time, particularly for first time offenders.[18] Second, it found that obtaining an IID-restricted license was associated with a substantial increase in subsequent crashes compared to DUI offenders whose licenses remained suspended or revoked.[19] Notably, this higher crash risk for first and second time DUI offenders increased over time relative to those with a suspended license.[20] As a result, the DMV found that the benefits of IIDs "are *potentially marginalized by the greater safety toll of an increased propensity for traffic crash involvement*."[21] Based on these findings, the DMV made several recommendations, none of which included mandating IIDs for first time offenders.

The *fourth pilot program* was created by SB 1046 (Hill), Chapter 783, Statutes of 2016, and is the pilot program that is currently in place. This pilot program refrained from mandating IIDs for first-time offenders, and instead gave courts discretion to determine if an IID is appropriate for a first-time DUI conviction, while requiring courts to order IIDs for specified repeat DUI offenders and DUIs causing bodily injury.

CalSTA submitted their assessment of the current pilot program last month. The report's findings are partially consistent with the prior pilot programs, although CalSTA emphasized that the overlap between the pilot program and the pandemic made it difficult to effectively assess the pilot program data.[22] Specifically, it found that installing an IID within two years

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[14] *Ibid.*
[15] *Id.* at p. 64.
[16] California Department of Motor Vehicles, *General Deterrent Evaluation of the Ignition Interlock Pilot Program in California* (Jan. 2015), Report Documentation Page, available at: https://www.dmv.ca.gov/portal/file/general-deterrent-evaluation-of-the-ignition-interlock-pilot-program-in-california/
[17] California Department of Motor Vehicles, *Specific Deterrent Evaluation of the Ignition Interlock Pilot Program in California* (June 17, 2016), at xiv, available at: https://www.dmv.ca.gov/portal/uploads/2021/12/s5-251.pdf
[18] *Id.* at xiv-xv.
[19] *Id.* at xv.
[20] *Ibid.*
[21] *Ibid.* (emphasis added).
[22] CalSTA, *An Evaluation of an Expansion of the Use of Ignition Interlock Devices through California Senate Bill 1046* (Dec. 31, 2024), available at: https://calsta.ca.gov/-/media/calsta-media/documents/ignition_interlock_evaluation-11-a11y.pdf

of arrests reduces recidivism rates, whether measured by future DUI arrests, crashes, or crashes involving injury.[23] Although it noted that alcohol related crashes, injuries and fatalities increase in the post-SB 1046 period relative to the pre-SB 1046 period, in part due to changes in alcohol-related fatalities during the pandemic.[24] Contrary to prior reports, it found the effects of installing an IID on future DUI arrests is greatest for people arrested for the first time.[25] Given the data issues created by the pandemic, in its transmittal to the Legislature, CalSTA's recommendations focused on the need for additional data pertaining to post-pandemic driving trends and behaviors, further evaluation of safety outcomes while an IID is installed, and the continuing effects of DUI recidivism once an IID is removed.[26]

In sum, none of the findings and recommendations from the four IID pilot programs include mandating IIDs for first time offenders. Rather, while these studies have found that IIDs can reduce DUI recidivism, they have emphasized that IIDs 1) may have limited effectiveness for first-time offenders and 2) are associated with substantial increases in subsequent crashes compared to DUI offenders with suspended or revoked licenses. As such, the studies have either explicitly discouraged the use of IIDs for first-time DUI offenders or emphasized the need for additional research regarding subsequent crash involvement.

What is the value of a Legislature-commissioned report if its findings and recommendations aren't going to be utilized?

6) **Unintended Consequences**: IIDs can be effective at reducing DUI recidivism for certain offenders.[27] However, this benefit is offset by troubling public safety harms. Specifically, mandating IIDs after a DUI conviction, rather than utilizing other DUI countermeasures such as license suspension or revocation, may result in hundreds of subsequent crashes. A California pilot program study that mandated IIDs for first-time DUI offenders found that obtaining an IID-restricted license was associated with substantial increases in subsequent crashes, including fatal/injury crashes, compared to DUI offenders whose licenses remained suspended or revoked.[28] This increased crash risk associated with an IID was present for all DUI offenders, including both first-time and repeat offenders.[29] The higher crash risk for first- and second-time DUI offenders increased over time relative to those with a suspended license and "a substantial proportion of these crashes are those involving injuries and/or fatalities."[30]

The DMV predicted that if the pilot program were implemented more broadly it may result in an increase in potentially hundreds of crashes. Consistent with an earlier study, the DMV found that although the "pilot program is associated with an increase in crash risk among DUI offenders who complied with…program requirements and obtained an IID-restricted

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[23] *Id.* at p. 31.
[24] *Id.* at pp. 31, 60.
[25] *Id.* at p. 31.
[26] CalSTA, *SB 1046 Transmittal Letter* (March 19, 2024), available at: https://calsta.ca.gov/-/media/calsta-media/documents/sb_1046_transmittal_3_21_2025-a11y.pdf
[27] *Ibid.*; Elder et. al., *Effectiveness of ignition interlocks for pre-venting alcohol-impaired driving and alcohol-related crashes, a community guide systemic review*, American Journal of Preventative Medicine (40)(4): 362-376, at p.1, available at: https://stacks.cdc.gov/view/cdc/31167
[28] California Department of Motor Vehicles, *Specific Deterrent Evaluation of the Ignition Interlock Pilot Program in California* (June 17, 2016), at xv, available at: https://www.dmv.ca.gov/portal/uploads/2021/12/s5-251.pdf.
[29] *Ibid.*
[30] *Ibid.*

license when compared to drivers with a suspended or revoked license, the traffic safety benefits of this program are potentially marginalized by the greater safety toll of an increased propensity for traffic crash involvement."[31] This is not a one time finding. The DMV study of the 1998 pilot program also found that while IIDs can reduce DUI recidivism, they are "linked with an increase in crash risk" and as such the overall traffic safety effect of IIDs are mixed, even when installed."[32] Further, a study of an IID program in Oregon also found that "IIDs were associated with an increase in crashes."[33]

These findings are supported by independent reports that IIDs have caused dozens of accidents, include many deaths, while a person subject to an IID is attempting to complete a required "retest" (i.e., blow into the breathalyzer while driving). A person with an IID is repeatedly required to re-test while driving to ensure the continued absence of alcohol in their system. Failure to re-test may result in alarms or other notifications. For example, "[i]f the driver fails or doesn't comply, the car goes into panic mode: Its headlights flash and its horn honks until the driver turns off the engine."[34] A 2019 *New York Times* review of accident reports and lawsuits associated with IIDs found that this re-test requirement contributed to many crashes, including fatal accidents. According to *The New York Times:*

> A review by The New York Times of accident reports and lawsuits turned up dozens of examples of collisions in which the devices played a role. A Pennsylvania driver trying to complete a test blew so hard that he blacked out and crashed into a tree, nearly severing his left hand. Another in rural New Hampshire struck a telephone pole. And in California, a man attempting a rolling retest on a busy highway crossed the dividing line and hit another car, badly injuring a woman and killing her husband....
>
> One driver told local police that he had reached for his beeping interlock, missed a curve in the road and "woke up to someone saying he had been in an accident." Two drivers rear-ended stopped cars during rolling retests. A fourth driver hit a sheriff's vehicle. A fifth veered off the road and into a field, where he hit a calf.[35]

The concern that IID re-testing may contribute to distracted-driving has similarly been echoed by federal regulators.[36] According to *The New York Times*:

> When regulatory warnings about rolling tests have come up, Interlock companies have pushed back.
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> In 2006, the National Highway Traffic Safety Administration, the federal regulator in charge of setting vehicle safety equipment standards, began revising its 14-year-old guidelines for how interlock devices should work. A 2010 draft of the document said the

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[31] *Ibid.*
[32] *Ibid.*
[33] DMV, *An Evaluation of the Effectiveness of Ignition Interlock in California* (Sept. 2005), p. 62, available at: https://www.dmv.ca.gov/portal/file/an-evaluation-of-the-effectiveness-of-ignition-interlock-in-california/. *See also* Jones, B. (1992). *The effectiveness of Oregon's ignition interlock program.* Salem, OR: Motor Vehicle Division.
[34] St. Cowley et al., *The Unforeseen Dangers of a Device that Curbs Drunk Driving*, N.Y. Times (Nov. 10, 2021), available at: https://www.nytimes.com/2019/12/23/business/drunk-driving-interlock-crash.html.
[35] *Ibid.*
[36] Federal Register; Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs) (May 8, 2013), at p. 26852, available at: https://www.federalregister.gov/documents/2013/05/08/2013-10940/model-specifications-for-breath-alcohol-ignition-interlock-devices-baiids

> agency "does not intend" that users perform rolling retests and said they should be performed while stopped on the side of the road.
>
> The interlock industry and others objected, arguing that rolling retests were safe and that, in any case, it was impractical to expect drivers to pull over...
>
> The regulator backed down. In its final guidance, published in 2013, it wrote that it was "very concerned about distracted driving" but would not specify how retests should be conducted. The agency also said that was "more appropriately a function for states and local jurisdictions."[37]

Indeed, both Legislature-commissioned studies and independent reporting has suggested that the public safety impacts of mandating IIDs for first-time offenders are mixed. Given DUI countermeasures available that do not create additional public safety harms, judicial discretion to determine which countermeasure is most appropriate appears justified.

Supporters of this bill cite an Insurance Institute for Highway Safety study that analyzed IIDs in other states that is partially inconsistent with the above studies.[38] That study found that mandating IIDs for every DUI offender was associated with 16% fewer drivers with at least a .08% BAC involved in fatal crashes compared to no law.[39] However, that study specifically excluded California from its analysis.[40] Further, the Insurance Institute finding resulted from comparing state laws mandating IIDs for all offenders with laws that did not mandate IIDs for any specific class of offender.[41] However, California requires IIDs for almost all DUI offenders other than first-time offenders, and as such is unlike the comparison group in the Insurance Institute study.

7) **First-Time DUI Offenders Have Low One-Year Recidivism Rates**: First-time DUI offenders generally have low DUI recidivism rates. The one-year re-offense rate for first-time DUI offenders arrested in 2018 and 2019 was 3.7% and 4%, respectively.[42] Moreover, first-time offenders reoffend at lower rates than repeat offenders.[43] Given that first-time DUI offenders are highly unlikely to re-offender within one year and that an IID issued to first-time offenders cannot exceed six months, the deterrence benefits of this bill may be minimal.

8) **Penalties in Addition to the Cost of an IID**: A person convicted of their first DUI is subject to a wide range of sanctions, irrespective of whether they are ordered to install an IID. If a person is given probation, which is typical for a first-time DUI, they face two days to six months in jail, a fine of $390 to $1,000, plus penalty assessments, up to a 10-month license suspension, and up to a 9-month DUI treatment program in order to get relicensed. (Veh.

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[37] St. Cowley et al., *supra.*
[38] Insurance Institute for Highway Safety, *State alcohol ignition interlock laws and fatal crashes* (March 2018), available at: https://interlockciim.org/wp-content/uploads/IIHSIIDstudy0318.pdf
[39] *Id.* at p. 2
[40] *Id.* at p. 5.
[41] *Ibid.*
[42] DMV, *2022 Annual Report of the California DUI Management Information System* (2023), DUI Summary Statistics, available at: https://qr.dmv.ca.gov/portal/uploads/2023/09/2022-DUI-MIS-Report.pdf; Department of Motor Vehicles, *2021 Annual Report of the California DUI Management Information System* (2022), p. iv, available at: https://www.dmv.ca.gov/portal/uploads/2022/09/2021-Annual-Report-of-the-California-DUI-Management-Information-System-1.pdf
[43] DMV, *General Deterrent Evaluation of the Ignition Interlock Pilot Program in California* (Jan. 2015), p. viii, available at: https://www.dmv.ca.gov/portal/file/general-deterrent-evaluation-of-the-ignition-interlock-pilot-program-in-california/

Code, §§ 13352, subd. (a)(1), 13352.1, subd. (a), 23536, subds. (a) & (c), 23538, subds. (a) & (b).) Additionally, in order to reinstate their license after a DUI conviction, that person must acquire additional insurance in the form of an SR-22 insurance certificate.[44]

Failure to comply with an IID mandate can lead to a variety of misdemeanor charges, punishable by up to six months in county jail, a $5,000 fine, and a one year license suspension from the conviction date. Misdemeanor conduct includes: 1) willful failure to install an IID when required to do so; 2) operating a vehicle not equipped with an IID when required to install an IID; 3) knowingly lending or renting a vehicle not equipped to an IID to a person known to have their driving license restricted; 4) requesting another person to blow into an IID to provide a restricted person with an operable vehicle; 5) blowing into an IID for the purpose of providing a restricted person with an operable vehicle; and 6) removing, bypassing, or tampering with an IID. (Veh. Code §§ 23247, subds. (a)-(g), 23573, subd. (i).)

Notably, the financial costs of a first-time DUI is considerably higher than the base fine. For example, a base fine of $390 would be subject to the following additional fees and assessments:

> Penal Code section 1464 state penalty on fines: $390 ($10 for every $10)
> Penal Code section 1465.7 state surcharge: $78 (20% surcharge)
> Penal Code section 1465.8 court operation assessment: $40 ($40 fee per criminal offense)
> Government Code section 70372 court construction penalty: $195 ($5 for every $10)
> Government Code section 70373 assessment: $35 ($35 for each infraction)
> Government Code section 76000 penalty: $273 ($7 for every $10)
> Government Code section 76000.5 EMS penalty: $78 ($2 for every $10)
> Government Code section 76104.6 DNA fund penalty: $39 ($1 for every $10)
> Government Code section 76104.7 additional DNA fund penalty: $156 ($4 for every $10)

As such, after additional fees and assessments, the minimum fine for a first-time DUI could end up costing $1,674. This amount does not include the cost of the required DUI program, lasting either three or nine months depending on the person's blood alcohol level. (Veh. Code, § 23538, subd. (b).) A 3 months DUI program generally costs between $500 and $900, while a 9-month program can cost upwards of $1,500. Most programs charge for missed activities, transfers, and late payments.[45] A DUI program participant may receive a program fee reduction after a financial assessment.[46] For a restricted license with an IID, there are additional DMV fees associated with reissuing the license.[47]

In addition to the base fine and the cost of a DUI program, this bill would impose several new fees on a person convicted of their first DUI. First, such a person would have to pay a

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[44] DMV, *DUI First Offenders* (June 2020), available at: https://www.dmv.ca.gov/portal/uploads/2020/06/1st_Offender_Alcohol_Non-Injury.pdf
[45] HCS, *Driving Under the Influence Program Fees* (accessed March 5, 2025), available at: https://www.dhcs.ca.gov/individuals/Pages/DUI-Program-Fees.aspx
[46] *Ibid.*
[47] DMV, *Statewide Ignition Interlock Device Pilot Program* (accessed April 17, 2025), available at: https://www.dmv.ca.gov/portal/driver-education-and-safety/dmv-safety-guidelines-actions/driving-under-the-influence/statewide-ignition-interlock-device-pilot-program/

fee "sufficient to cover the costs of administration of [the IID program]." (Veh. Code, § 23575.3, subd. (d)(3).) Second, a first-time DUI offender would have to pay for "the costs of the certified ignition interlock device, subject to a fee scale that limits 'program costs' based on a person's income. (Veh. Code, § 23575.3, subd. (k)(1).) Additionally, that person would have to arrange for each vehicle with an IID to be serviced by the installer at least once every 60 days in order for the installer to recalibrate and monitor the operation of the device. (Veh. Code, § 23573, subd. (e)(1).) In practice, it is unclear if the "program costs" fee scale includes the cost of installing an IID and ongoing costs for calibration and maintenance of the device.

As such, in practice, people may fail to install an IID when required or fail to service their IID as frequently as required, purely because they cannot afford to. If someone is unable to afford an IID and is pulled over, they will likely be found to have violated their probation and will be subject to potential jail time as well as additional costs. Given that misdemeanor first-time DUI convictions are one of the most common crimes in California, the existence of numerous misdemeanors associated with IID non-compliance, and the cost-burden associated with an IID, this bill can reasonably be expected to significantly increase the criminal penalties associated with IID non-compliance. Such additional costs, criminal penalties, and potential license suspensions carry employment and housing consequences, and may contribute to the affordability and unhoused persons crisis in this state.[48]

9) **IID Mandate for Every DUI Offender Likely Benefits IID Manufacturers**: The California Public Defenders Association assert in their opposition letter that IIDs are a "Windfall for IID Manufacture[r]s at the Expense of the Poor," noting that "mandatory IID installation would add additional monthly fees to the already burdensome fees that first-time DUI offenders are ordered to pay. When SB 1021 (another 1st time IID bill) failed in 2022, it was noted that only 2.5% of first-time DUI offenders were then required to install an IID…and therefore, requiring all first-time DUI offenders to install an IID would create an extraordinary windfall for the IID manufacturers[.]"[49]

The financial incentives present in mandating IIDs have been independently emphasized in the context of the safety risks associated with the IID re-test requirement, and efforts made by IID manufacturers to resist concerns that IIDs cause distracted driving. According to *The New York Times*:

> [The fees associated with IIDs have] created a lucrative industry. Smart Start, based in Texas, estimated its interlock revenue last year at $150 million — nearly double its revenue from four years ago — according to its chief executive. Dräger, a German company that is among the leading manufacturers of breathalyzer machines, now makes twice as much money from interlocks in the United States as it does from its traditional breath-test business. Private equity firms looking to cash in have bought several interlock makers, including Smart Start, and are circling others…[50]

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[48] Cuellar and Perez, *An Update on Homelessness in California*, PPIC (March 21, 2024), available at: https://www.ppic.org/blog/an-update-on-homelessness-in-california/
[49] CPDA, *AB 366 (Petrie-Norris) – OPPOSE* (March 11, 2024), at p. 2.
[50] St. Cowley et al., *supra*.

The IID industry has grown significantly in recent years as many states have adopted IID mandates for all DUI offenses with support from manufacturers.[51] Mandating IIDs for first-time DUIs in the most populous state in the country can reasonably be expected to significantly increase the demand for this technology.

10) **Argument in Support**: According to *Automobile Club of California | AAA Northern California, Nevada & Utah*: "California experienced 3,737 fatalities in 2020, which included 1,226 alcohol-involved incidents. This means nearly one-third of all statewide fatalities were attributable to drinking and driving. There have been significant improvements since the mid-1980s when annual fatalities from alcohol-impaired driving reached a peak in the state at around 2,700. However, the number of such fatalities plateaued at too high of an amount in the mid-1990s and has since been steady at around 1,200 per year in California. Most agree that the death toll is too high. According to the AAA Foundation for Traffic Safety (AAAFTS), 94% of people surveyed think driving after drinking is a very or extremely dangerous action. In addition, it is important to keep in mind that impaired driving is an underlying factor for other highly dangerous traffic offenses as well, like extreme speeding, aggressive driving, and wrong way driving. AAA research shows that the odds of being a wrong-way driver increases as blood alcohol content (BAC) levels rises. This study found 60% of nearly 3,000 wrong-way drivers involved in fatal collisions had a BAC .08 or higher....

IIDs remain one of the most common and well-accepted countermeasures for impaired driving. IIDs are breathalyzers installed on the steering wheel of vehicles and required to start cars. Thirty-one states plus Washington, D.C. have all-offender ignition interlocks laws that apply to everyone. In addition, all 50 states have laws requiring or authorizing the use of IID for certain drunk driving offenses, from drivers who refuse to submit to an impaired driving chemical test to first-time to repeat and/or highly impaired offenders. On the federal level, Congress has also incentivized states to enact all-offender IID laws. Only states with all-offender mandates are eligible to apply for certain impaired driving grant funds through Infrastructure Investment and Jobs Act (IIJA). Most importantly, IIDs are also a well-accepted and understood countermeasure by the public. Per the AAAFTS, 80% support use of IIDs for first time offenders. California's IID laws are far less protective than most state and federal policies and recommendations from traffic safety experts.

AB 366 closes a critical loophole in state efforts to deter impaired driving and alcohol-involved traffic fatalities. California would join 31 other states in requiring all-offenders IID laws if this bill is enacted, which the Insurance Institute for Highway Safety found can help reduce fatal crashes by an estimated 26% compared to having no interlock laws. The AAA Clubs agree this state cannot adequately protect any road user, from pedestrians to drivers, without exploring serious solutions for impaired driving. Accordingly, we appreciate Assembly Member Petrie-Norris' commitment to traffic safety. Removing impaired drivers from roads has been a pressing issue for us since the start of our traffic safety programs over 100 years ago. We hope you join us in this cause and vote YES on AB 366."

11) **Argument in Opposition**: According to the *California Public Defenders Association*, "AB 366 would strip away judicial discretion by requiring the court to order installation of an

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[51] *Ibid.*

ignition interlock device ("IID") upon the person's first criminal conviction for driving under the influence. The bill would extend the operation of existing ignition interlock devices provisions indefinitely and would repeal related reporting requirements.

"AB 366 seeks to deny judges the discretion to exercise their wisdom and good judgment in a myriad of individual, and sometimes extraordinary, circumstances to vary from the inflexible norm to fashion just sentences as they see fit. This bill removes the court's discretion, in appropriate cases, to delete what may be, for some individuals, an unduly harsh and counterproductive penalty in favor of a more measured and effective condition.

"AB 366 is not evidence based. As explained above, the 2016 DMV Report concluded that the pilot program should not be extended statewide, and that further study was warranted. The report noted that over the short term (six months) the pilot program resulted in fewer DUI convictions. However, the report found the reduced risk of recidivism disappeared before the two-year mark.

"Even more worrisome, the 2016 DMV report found that the pilot program showed higher odds of crashes verses the comparison group:

- For the first 300 days after a DUI conviction and installation of the IID, the incidence of crashes was virtually equal between the pilot program and the comparison groups.
- But between 300 and 730 days afterwards, it was 58% higher
- And after 730 days, it was 116% higher.

"Finally, the authors of the 2016 DMV report did not recommend that the pilot program be extended statewide and did not believe the evidence justified such a course. As a matter fact, the report stated that the pilot program showed "mixed traffic safety results."

"Instead, the authors recommended that the matter be studied further and gave several concrete steps in furtherance thereof. The authors found that license suspensions and revocations provide the best deterrent effect, and that cumulative and progressively more onerous punitive measures had the tendency to produce a negative effect because some drivers became overwhelmed and gave up trying to satisfy all those conditions, thus voiding the deterrent effect that more measured, and achievable, sanctions could provide.

"While we believe IIDs for first offenders was imprudently permitted without sufficient supporting evidence of need, we recognize that is now history. What we urge is that this current bill be rejected because it imposes a "one size fits all" form of justice and removes a very modest and measured form of alternative, discretionary justice. As the DMV report notes, such measured justice may very well be a more effective deterrent than more inflexible and onerous provisions."

12) **Related Legislation**: AB 71 (Lackey), would extend the sunset date of the IID pilot program from January 1, 2026, to January 1, 2033, and require CalSTA to report to the Legislature on the outcomes of the pilot program by July 1, 2031. AB 71 is has been referred to the suspense file in the Assembly Appropriations Committee.

13) **Prior Legislation**:

a) AB 2210 (Petrie-Norris) of the 2023-2024 Legislative Session would have required the DMV to operate a five-county pilot project for installation of an IID in the vehicle of a first-time DUI offender. AB 211 was held in Assembly Appropriations.

b) SB 545 (Hill) of the 2019-2020 legislative session, would have required IIDs to be installed for a period of six months for first time convicted DUI offenders. The hearing SB 545 in the Assembly Public Safety Committee was cancelled at the request of the author.

c) SB 1046 (Hill), Chapter 783, Statutes of 2016, extended the IID pilot program in certain counties and required installation of IIDs for specified DUI offenses.

d) SB 61 (Hill), Chapter 350, Statutes of 2015, extended the IID pilot project in Alameda, Los Angeles, Sacramento, and Tulare Counties until July 1, 2017.

e) SB 55 (Hill), of the Legislative Session of 2013-2014, would have required, as a condition of being issued a restricted driver's license, being reissued a driver's license, or having the privilege to operate a motor vehicle reinstated for a 2nd or subsequent conviction for a DUI offense, installation for a specified period of time an ignition interlock device on all vehicles a person owns or operates. SB 55 was held in the Assembly Appropriations Committee.

f) SB 598 (Huff), Chapter 193, Statutes of 2009, allowed individual convicted of more than one DUI within a 10-year period to get a restricted driver's license upon installation of an IID, enrolling in DUI class, and meeting other specified criteria.

g) AB 91 (Feuer), Chapter 217, Statutes of 2009, established a pilot program in Alameda, Los Angeles, Sacramento, and Tulare Counties, administered by DMV to require the installation of IIDs on the vehicles of all persons convicted of a DUI, as specified.

h) AB 2784 (Feuer), of the 2007-08 Legislative Session, would have required a person convicted of a DUI, as specified, to install an IID, as specified, in order to be reissued a license, receive a restricted license, or receive a reinstated license. AB 2784 was gutted, amended, and subsequently vetoed.

i) SB 177 (Migden) of the 2007-08 Legislative Session, would have, among other things, recast and revised provisions of law authorizing restricted licenses and imposing additional requirements with respect to IIDs on those restricted licenses and established the Ignition Interlock Device Assistance Fund in the State Treasury. SB 177 was never heard in the Senate Committee on Public Safety.

j) SB 1361 (Correa), of the 2007-08 Legislative Session, would have required installation of an IID, as specified, for all offenders convicted of a DUI under certain conditions. Those conditions included where there is a high BAC for a first offender and for a second or subsequent offender. SB 1361's provisions amended relevant portions of the Vehicle Code to authorize the DMV to reinstate the offender's license earlier than provided in existing law if he or she shows proof of installation of an IID. SB 1361 was vetoed.

k) SB 1388 (Torlakson), Chapter 404, Statutes of 2008, required that a person immediately install a certified IID on all vehicles he or she owns or operates for a period of one to three years when he or she has been convicted of violating specified provisions relating to DUI and driving a motor vehicle when his or her license has been suspended or revoked as a result of a DUI-related conviction.

REGISTERED SUPPORT / OPPOSITION:

Support

AAA Northern California, Nevada & Utah
Active San Gabriel Valley
Advocates for Highway and Auto Safety
Alcohol Justice
American Automobile Association of Northern California, Nevada & Utah
American College of Surgeons, California Chapters
American College of Surgeons, Southern California Chapter
American College of Surgeons: San Diego-imperial Chapter
Arcadia Police Officers' Association
Automobile Club of Southern California
Bike Long Beach
Brea Police Association
Burbank Police Officers' Association
California Alcohol Policy Alliance
California Association of Highway Patrolmen
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Contract Cities Association
California Medical Association (CMA)
California Narcotic Officers' Association
California Professional Firefighters
California Reserve Peace Officers Association
City of Norwalk
Claremont Police Officers Association
Coalition of Safe California Roads
Consumers for Auto Reliability & Safety
Culver City Police Officers' Association
Families for Safe Streets San Diego
Families for Safe Streets USA
Fullerton Police Officers' Association
Los Angeles Neighborhood Initiative
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Mothers Against Drunk Driving
Move Santa Barbara County
Murrieta Police Officers' Association

National Coalition for Safer Roads
National Safety Council
National Transportation Safety Board
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Safety and Advocacy for Empowerment (SAFE)
Santa Ana Police Officers Association
Santa Monica Safe Streets Alliance
Street Racing Kills
Streets are for Everyone (SAFE) (ORG)
Streets for All
Vision Zero Network
Walk San Francisco
Yolo County District Attorney

Oppose

ACLU California Action
All of US or None Los Angeles
California Attorneys for Criminal Justice
California Public Defenders Association (CPDA)
Californians United for A Responsible Budget
Initiate Justice
LA Defensa
Legal Services for Prisoners With Children
San Francisco Public Defender
Western Center on Law & Poverty, INC.

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

Date of Hearing: April 22, 2025
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 653 (Lackey) – As Amended April 21, 2025

SUMMARY: Makes talent agents, talent managers, and talent coaches working with minors mandated reporters. Specifically, **this bill**:

1) Adds a talent agent, talent manager, or talent coach, who provides services to a minor, to the list of individuals defined as mandated reporters.

2) Defines "talent agent" as an individual whose employment duties include procuring, offering, promising, or attempting to procure employment or engagements for an artist or performer.

3) Defines "talent manager" as an individual whose employment duties include managing, advising, or guiding the career of artists or performers.

4) Defines "talent coach" as an individual whose employment duties include developing skills in clients within the entertainment industry, including, but not limited to, an acting coach, voice coach, or dialogue coach.

EXISTING LAW:

1) Defines mandatory reporter to include:

   a) A teacher.

   b) An instructional aide.

   c) A teacher's aide or teacher's assistant employed by a public or private school.

   d) A classified employee of a public school.

   e) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.

   f) An administrator of a public or private day camp.

   g) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.

   h) An administrator, board member, or employee of a public or private organization whose duties require direct contact and supervision of children, including a foster family agency.

i) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.

j) A licensee, an administrator, or an employee of a licensed community care or child daycare facility.

k) A Head Start program teacher.

l) A licensing worker or licensing evaluator employed by a licensing agency, as defined.

m) A public assistance worker.

n) An employee of a childcare institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.

o) A social worker, probation officer, or parole officer.

p) An employee of a school district police or security department.

q) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.

r) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed to represent a minor, as specified.

s) A peace officer, as specified.

t) A firefighter, except for volunteer firefighters.

u) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed, as specified.

v) An emergency medical technician I or II, paramedic, or other specified certified persons.

w) A registered psychological assistant, as specified.

x) A marriage and family therapist trainee, as defined.

y) An registered unlicensed associate marriage and family therapist, as specified.

z) A state or county public health employee who treats a minor for venereal disease or any other condition.

aa) A coroner.

bb) A medical examiner or other person who performs autopsies.

cc) A commercial film and photographic print or image processor, as specified.

dd) A child visitation monitor, as specified.

ee) An animal control officer or humane society officer.

ff) A clergy member, as specified.

gg) Any custodian of records of a clergy member, as specified.

hh) An employee of any police department, county sheriff's department, county probation department, or county welfare department.

ii) An employee or volunteer of a Court Appointed Special Advocate program, as defined.

jj) A custodial officer, as defined.

kk) A person providing services to a minor child, as specified.

ll) An alcohol and drug counselor.

mm) A clinical counselor trainee, as defined.

nn) An registered associate professional clinical counselor, as defined.

oo) An employee or administrator of a public or private postsecondary educational institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution.

pp) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades one to 12, inclusive.

qq) A commercial computer technician, as specified.

rr) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary educational institutions.

ss) An individual certified by a licensed foster family agency as a certified family home, as defined.

tt) An individual approved as a resource family, as defined.

uu) A qualified autism service provider, a qualified autism service professional, or a qualified autism service paraprofessional, as defined.

vv) A human resource employee of a business that employs minors, as specified.

ww) An adult person whose duties require direct contact with and supervision of minors in the performance of the minors' duties in the workplace of a business, as specified, is a mandated reporter of sexual abuse. (Pen. Code, § 11165.7, subd. (a).)

2) States that volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to a specified agency. (Pen. Code, § 11165.7, subd. (b).)

3) Provides that employers are strongly encouraged to provide their employees who are mandated reporters with training in the imposed duties, as specified, including training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required as specified. (Pen. Code, § 11165.7, subd. (c)(1).)

4) Requires specified employers to provide their employees who are mandated reporters with training in the imposed duties , including training in child abuse and neglect identification and training in child abuse and neglect reporting. The training requirement may be met by completing the general online training for mandated reporters offered by the Office of Child Abuse Prevention in the State Department of Social Services. (Pen. Code, § 11165.7, subd. (c)(2).)

5) Requires school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools, to annually train their employees and persons working on their behalf in the duties of mandated reporters under the child abuse reporting laws, including, but not necessarily limited to, training in child abuse and neglect identification and child abuse and neglect reporting. (Pen. Code, § 11165.7, subd. (d).)

6) Requires a childcare licensee applicant to take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a childcare administrator or an employee of a licensed child daycare facility to take training in the duties of mandated reporters during the first 90 days when that administrator or employee is employed by the facility. (Pen. Code, § 11165.7, subd. (e)(1).)

7) Requires specified persons who become licensees, administrators, or employees of a licensed child daycare facility to take renewal mandated reporter training every two years following the date on which they completed the initial mandated reporter training including, but not necessarily limited to, training in child abuse and neglect identification and child abuse and neglect reporting. (Pen. Code, § 11165.7, subd. (e)(2).)

8) Provides that the absence of training shall not excuse a mandated reporter from their duties. (Pen. Code, § 11165.7, subd. (f).)

9) States that public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect. (Pen. Code, § 11165.7, subd. (g).)
10) States that a mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars ($1,000) or by both that imprisonment and fine. (Pen. Code, § 11166, subd. (c).)

11) Defines the term "child abuse or neglect" as physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse, the willful harming or injuring of a child or the endangering of the person or health of a child, and unlawful corporal punishment or injury, all as defined. Child abuse or neglect does not include a mutual affray between minors. Child abuse or neglect does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer. (Pen. Code, § 11165.6.)

12) Defines "neglect" as the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person. (Pen. Code, § 11165.2.)

13) Defines "severe neglect" as the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. Severe neglect also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that their person or health is endangered, as defined, including the intentional failure to provide adequate food, clothing, shelter, or medical care. (Pen. Code, § 11165.2, subd. (a).)

14) Defines "general neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred but the child is at substantial risk of suffering serious physical harm or illness. General neglect does not include a parent's economic disadvantage. (Pen. Code, § 11165.2, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 653 is an important child protection measure for children in the entertainment industry. This bill creates a greater safeguard by having talent agents, talent managers and talent coaches be mandated reporters. No child should ever be subjected to any form of abuse, and this bill creates a system to protect them from it."

2) **Effect of this Bill:** This bill would create a 50th group of mandated reporters of child abuse or neglect. It is not clear whether another defined classification is necessary. The Child Abuse and Neglect Reporting Act (CANRA) permits any person that is not a mandated reporter, who has knowledge of, or reasonably suspects that a child has been a victim of child

abuse or neglect to report the known or suspected instance of child abuse or neglect. (Pen. Code, § 11166, subd. (g).) The Penal Code mandates that the identity of "all persons" who report shall be confidential and may be disclosed only to specified agencies, prosecutors, and counsel in connection with investigations of child abuse and child dependency proceedings. (Pen. Code, § 11167, subd. (d)(1).) State law also specifically prohibits an investigator of a report from disclosing the identity to the subject of an investigation and prohibits any agency from disclosing the identity of any person who reports to that person's employer, except with the employee's consent or by court order. (Pen. Code, §§ 11167, subds. (e) & (d)(2).) There are known issues, however, with relying on the discretionary and inexperienced authority of untrained people to report child abuse or neglect.[1]

Even in the most well-intended cases of child abuse and neglect reporting, one significant flaw is that the general public is not trained on what specifically to report.[2] Lay people have a higher probability of making baseless reports simply because they do not understand the signs and definitions of child maltreatment.[3] With this risk, it is arguably valuable to include certain additional groups of people as mandated reporters, since inclusion as reporters would require training and a nondiscretionary duty to report suspicions of child abuse and neglect.

This bill appears to expand the responsibilities of talent personnel. Here, the law states, "An adult person whose duties require direct contact with and supervision of minors in the performance of the minors' duties in the workplace…is a mandated reporter of *sexual abuse*, as defined." (Pen. Code, § 11165.5, subd. (a)(49).) The law goes on to state that "[n]othing in this paragraph shall be construed to modify or limit the person's duty to report known or suspected child abuse or neglect when the person is acting *in some other capacity* that would otherwise make the person a mandated reporter." (*Ibid.*) Based on the law, as currently written, an adult talent manager would be a mandatory reporter as to sexual abuse only, but not necessarily to abuse or neglect, unless that same talent manager otherwise already qualified as a mandatory reporter under some other provision of law.. This bill could help clarify the reporting responsibilities of talent personnel working with minors.

3) **The Child Abuse and Neglect Reporting Act (CANRA):** This bill would add another classification of mandated reporters under CANRA. CANRA was enacted to address the problem where many instances of child abuse were going unreported. (*B.H. v. County of San Bernardino* (2015) 62 Cal.4th 168, 190.) Oftentimes, reporting by third parties is the only way the proper authorities become aware of an incident of child abuse. (*Ibid.*) The mandatory reporting statute was renamed the Child Abuse and Neglect Reporting Act (CANRA) in 1987. (*Matthews v. Becerra* (2019) 8 Cal.5th 756, 763.)

The law imposes duties on mandated reporters to report known or suspected instances of child abuse within defined periods and specifies further details of an individual's reporting obligations. (*B.H., supra,* at p. 193.) CANRA categorizes reports of child abuse and neglect into three areas: unfounded, inconclusive, and substantiated. (*In re D.P.* (2023) 14 Cal.5th 266, 279.) Mandated reporters' reporting duties are governed by an objective standard. (*B.H.,*

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[1] Worley and Melton, *Mandated Reporting Laws and Child Maltreatment: The Evolution of a Flawed Policy Response* (2013) American Psychological Association <https://psycnet.apa.org/record/2012-23088-013> [as of Apr. 16, 2025].
[2] *Ibid.*
[3] *Ibid.*

supra, at p. 193.) In other words, "the duty to report arises not on the basis of the mandated reporter's personal assessment of the facts known, but on the basis of what a reasonable person would suspect based on those facts." (*Ibid.*) The existence of sufficiently suspicious circumstances produces the mandatory duty to report the circumstances to a designated outside agency. (*Ibid.*) The outside agency receiving the report is required to investigate suspected abuse and make a determination of whether abuse occurred. (*Ibid.*) CANRA also imposes on law enforcement agencies the duty to cross-report reports they receive from other agencies. (*Id.* at p. 190.)

CANRA identifies over 40 separate categories of mandated reporters. (Pen. Code, § 11165.7, subd. (a)(1)-(49).) Failure to make the required report is a misdemeanor. (Pen. Code, § 11166, subd. (c).) This bill would create a 50th category of mandatory reporters, which would include talent representatives who work with minors, specifically talent coaches, talent agents, and talent managers.

4) **Argument in Support**: According to the *Screen Actors Guild-American Federation of Televison and Radio Artists (SAG-AFTRA),* "AB 653 would add talent agents, talent managers and talent coaches who work with children in the entertainment industry to be mandated reporters.

"California has a strong history of creating child protection measures such as having an extended list of professionals who are mandated reporters, however, there is a gap for similar obligations in the entertainment industry. Every child has the right to feel safe and protected, especially child performers who face unique vulnerabilities such as long hours, high-pressure environments, and close interactions with adults in power. Over the last few years, more and more former child performers are coming forward with their stories about how they were abused by director or other artists during their childhood. The one thing they all have in common is that they had no one to turn to with an obligation to report the abuse.

"AB 653 changes this by requiring talent agents, talent managers, and talent coaches to be mandated reporters. By including them in the long list of mandated reporters, they will be required to report whenever they have knowledge of or observe a child suspected to be a victim of child abuse or neglect."

5) **Related Legislation**: AB 871 (Stefani) requires a financial institution to provide annual training to its mandated reporters on how to report suspected financial abuse of an elder or a dependent adult to both local and federal authorities, as specified. AB 871 is set to be heard in the Assembly Banking and Finance Committee.

6) **Prior Legislation**:

   a) AB 391 (Jones-Sawyer), Chapter 434, Statutes of 2023, requires an agency receiving a report from a nonmandated reporter to ask the reporter to provide specified information, including their name, telephone number, and the information that gave rise to the knowledge or reasonable suspicion of child abuse or neglect.

   b) AB 1028 (McKinnor), of the 2023-24 Legislative Session, would have required a health practitioner who suspects that a patient has suffered physical injury that is caused by domestic violence, as defined, to, among other things, provide brief counseling,

education, or other support. AB 1028 was held in the Senate Appropriations Committee.

c) AB 3127 (McKinnor), of the 2023-24 Legislative Session, would have required a health practitioner who suspects that a patient has suffered physical injury that is caused by domestic violence, as defined, to provide brief counseling and a referral to local and national domestic violence or sexual violence advocacy services, as specified. AB 3127 was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Sag-aftra

Opposition

None submitted.

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

Date of Hearing: April 22, 2025
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 847 (Sharp-Collins) – As Amended March 28, 2025

PULLED BY THE COMMITTEE.

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