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California State Assembly

PUBLIC SAFETY

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AGENDA

Tuesday, April 29, 2025
8:30 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

LIMITED TESTIMONY FOR SUPPORT AND OPPOSITION

1.	AB 46	Nguyen	Diversion.
2.	AB 284	Alanis	Law enforcement: stop data and reporting.
3.	AB 366	Petrie-Norris	Ignition interlock devices.
4.	AB 433	Krell	Mental health diversion.
5.	AB 461	Ahrens	Truancy: CalWORKs: school attendance.
6.	AB 476	Mark González	Metal theft.
7.	AB 619	Ransom	California Conservation Corps: training programs: formerly incarcerated individuals: reporting.(Urgency)
8.	AB 634	Jeff Gonzalez	Controlled substances: tianeptine.
9.	AB 746	McKinnor	Inmate Cooperative Program.
10.	AB 847	Sharp-Collins	Peace officers: confidentiality of records.
11.	AB 922	Hoover	University of California: employees, volunteers, and contractors: background checks.
12.	AB 970	McKinnor	PULLED BY THE AUTHOR.
13.	AB 1097	Ávila Farías	Trespass.
14.	AB 1107	Flora	Cigarette and Tobacco Products Licensing Act of 2003: nitrous oxide: licensure.
15.	AB 1192	Carrillo	Child abuse or neglect: reporting.
16.	AB 1218	Soria	Copper theft.
17.	AB 1239	Dixon	Human trafficking: data.
18.	AB 1376	Bonta	Wards: probation.
19.	AB 1380	Elhawary	Wildland firefighters: Formerly Incarcerated Firefighter Certification and Employment Program.

20.	AB 1388	Bryan	Law enforcement: settlement agreements.
21.	AB 1489	Bryan	Peace officers.
22.	ACR 60	Pacheco	Peace officers: disability-informed response programs.

Date of Hearing: April 29, 2025
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 46 (Nguyen) – As Amended March 10, 2025

As Proposed to be Amended in Committee

SUMMARY: Makes various changes to mental health diversion program including modifying the public safety consideration in determining suitability of a particular defendant for diversion. Specifically, **this bill**:

1) Amends the suitability criteria that a court must consider when determining whether to grant diversion in existing law that requires a court to find that the defendant will not pose an unreasonable risk of danger to public safety, as defined, and instead requires that the defendant will not endanger public safety, as defined.

2) Defines "endanger public safety" to mean that the person's treatment in the community would likely result in physical injury or other serious danger to others.

3) Clarifies that a defendant shall have been diagnosed with a mental disorder within the prior 5 years in order for the presumption to apply that the defendant's diagnosed mental disorder was a significant factor in the commission of the offense.

4) Specifies that the court shall consider the victim's rights under Marsy's Law.

5) Restates that diversion is discretionary in all cases.

EXISTING LAW:

1) States that the purpose of mental health diversion is to promote the following:

   a) Increased diversion of individuals with mental disorders to mitigate the individuals' entry and reentry into the criminal justice system while protecting public safety;

   b) Allowing local discretion and flexibility for counties in the development and implementation of diversion for individuals with mental disorders across a continuum of care settings; and,

   c) Providing diversion that meets the unique mental health treatment and support needs of individuals with mental disorders. (Pen. Code, § 1001.35.)

2) Authorizes a court to, after considering the positions of the defense and prosecution, grant pretrial mental health diversion to defendant charged with a misdemeanor or a felony if the defendant meets the following eligibility and suitability requirements:

a) The defendant suffers from a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality disorder, borderline personality disorder, and pedophilia, and the defense produces evidence of the defendant's mental disorder which must include a diagnosis by a qualified mental health expert *within the last five years*;

b) The defendant's mental disorder was a significant factor in the commission of the charged offense, as provided;

c) In the opinion of a qualified mental health expert, the defendant's symptoms of the mental disorder motivating the criminal behavior would respond to mental health treatment;

d) The defendant consents to diversion and waives their right to a speedy trial, unless a defendant has been found to be an appropriate candidate for diversion in lieu of commitment due to the their mental incompetence and cannot consent to diversion or give a knowing and intelligent waiver of their right to a speedy trial;

e) The defendant agrees to comply with treatment as a condition of diversion; and,

f) The defendant will not pose an unreasonable risk of danger to public safety, as defined, if treated in the community. In making this determination, the court may consider the opinions of the district attorney, the defense, or a qualified mental health expert, and may consider the defendant's treatment plan, violence and criminal history, the current charged offense, and any other factors that the court deems appropriate. (Pen. Code, § 1001.36, subds. (a)-(c).)

3) Contains a presumption that the defendant's mental disorder was a significant factor in the commission of the offense, which can be rebutted with clear and convincing evidence. (Pen. Code § 1001.36, subd. (b)(2).)

4) Excludes defendants from mental health diversion eligibility if they are charged with murder, voluntary manslaughter, an offense requiring sex-offender registration (except for indecent exposure), or offenses involving weapons of mass destruction. (Pen. Code, § 1001.36, subd. (d).)

5) States that at any stage of the proceedings, the court may require the defendant to make a prima facie showing that the defendant will meet the minimum requirements of eligibility for diversion and that the defendant and the offense are suitable for diversion. (Pen. Code, § 1001.36, subd. (e).)

6) Provides that the hearing on the prima facie showing shall be informal and may proceed on offers of proof, reliable hearsay, and argument of counsel. If a prima facie showing is not made, the court may summarily deny the request for diversion or grant any other relief as may be deemed appropriate. (*Ibid.*)

7) Defines "pretrial diversion" for purposes of mental health diversion as the postponement of prosecution, either temporarily or permanently, at any point in the judicial process from the point at which the accused is charged until adjudication, to allow the defendant to undergo mental health treatment, subject to the following conditions:

   a) The court is satisfied that the recommended inpatient or outpatient program of mental health treatment will meet the specialized mental health treatment needs of the defendant;

   b) The defendant may be referred to a program of mental health treatment utilizing existing inpatient or outpatient mental health resources. Before approving a proposed treatment program, the court shall consider the request of the defense, the request of the prosecution, the needs of the defendant, and the interests of the community. The treatment may be procured using private or public funds, and a referral may be made to a county mental health agency, existing collaborative courts, or assisted outpatient treatment only if that entity has agreed to accept responsibility for the treatment of the defendant, and mental health services are provided only to the extent that resources are available and the defendant is eligible for those services;

   c) The provider of the mental health treatment program in which the defendant has been placed shall provide regular reports to the court, the defense, and the prosecutor on the defendant's progress in treatment. (Pen. Code, § 1001.36, subd. (f).)

8) States that an offense may be diverted no longer than two years if it is a felony, and one year if it is a misdemeanor. (Pen. Code, § 1001.36, subd. (f)(1)(C).)

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

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

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

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

   d) A qualified mental health expert opines that:

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

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

10) Requires the court to dismiss the criminal charges if the defendant has performed satisfactorily in diversion. A court may conclude that the defendant has performed satisfactorily if the defendant has substantially complied with the requirements of diversion,

has avoided significant new violations of law unrelated to the defendant's mental health condition, and has a plan in place for long-term mental health care. (Pen. Code, § 1001.36, subd. (h).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 46 is about restoring balance to the court's decision-making process. Judges should have the discretion to decide when mental health diversion is appropriate in each case, especially in serious cases where public safety is at stake. Right now, the law ties their hands.

   "In *People v. Whitmill* (2022), the court of Appeal made it clear:

   'The statute clearly limits the discretion of courts to find in any particular case that mental health diversion creates a public safety risk… Our decision is compelled by the policy decision made by our elected representatives. We are duty-bound to enforce the law as written, whether or not we agree with the public safety risk the law accepts as permissible.'

   "As it stands, even if a judge believes diversion is not appropriate, they may still be forced to grant it. That's not justice. It's not fair to victims, and it's not fair to communities who expect the courts to keep them safe. I support mental health treatment and second chances, but I also believe judges need the ability to look at the facts, consider the seriousness of the case, and make a decision that reflects both accountability and rehabilitation.

   "AB 46 puts that trust back in the courts. It says we believe in judicial discretion, and it says that when the stakes are this high, we need to make sure judges are equipped to do their job."

2) **Incarceration of Offenders with Mental Disorders**: Studies show that people with mental disorders are overrepresented in jails and prisons.[1] According to a 2019 study, more than 30% of the state's prison and 23 % of the jail populations have a mental illness.[2] Not only have the numbers of inmates with mental illness increased, the severity of psychiatric symptoms among inmates is also on the rise.[3] This population tends to serve longer sentences than the general population[4] and have a higher recidivism rate. Promoting treatment over incarceration has shown positive results in reducing recidivism:

   "To avoid incarceration, individuals with serious mental illness need to be diverted from the legal system and offered rehabilitative resources. The homeless comprise a significant share of individuals who come to the attention of law enforcement. A recent review revealed that lifetime arrest rates of homeless individuals with serious mental illness ranged from 62.9% to 90.0%, compared with approximately 15.0% in the general population. For this population,

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[1] Seth J. Prins, *The Prevalence of Mental Illnesses in U.S. State Prisons: A Systemic Review* (Jul. 2015).
[2] Stanford Justice Advocacy Project, *Confronting California's Continuing Prison Crisis: The Prevalence And Severity Of Mental Illness Among California Prisoners On The Rise* https://law.stanford.edu/wp-content/uploads/2017/05/Stanford-Report-FINAL.pdf [accessed Feb. 26, 2025].)
[3] *Id.* at p. 2.
[4] *Id.* at p. 1.

stable housing is a major issue. A recent randomized trial comparing housing first with assertive community treatment with treatment as usual demonstrated significantly decreased rates of arrest among those receiving assertive community treatment at 2 years. These results suggest that efforts to provide stable, affordable, and safe shelter for homeless individuals may lead to lower rates of involvement in the justice system...

"When individuals with serious mental illness are brought to court attention, several models have demonstrated positive outcomes, including mental health courts, drug courts, and Veterans Treatment Courts. Although they serve different populations, the common goal of all these court formats is to address the causes of behavior that brought an offender to police attention. Mental health courts are becoming more common in different communities, each with slight variations; however, common features include a specialized court docket that emphasizes problem solving, community-based treatment plans that are designed and supervised by judicial and clinical staff, regular follow-up with incentives and sanctions related to treatment adherence, and clearly defined "graduation" criteria. A recent prospective study of 169 individuals showed that the likelihood of perpetrating violence during the following year was significantly lower among participants processed through a mental health court than among individuals in a matched comparison group who were processed through traditional courts (odds ratio, 0.39; 95% CI, 0.16-0.95; P = .04)."[5]

3) **Mental Health Diversion**: Diversion is the suspension of criminal proceedings for a prescribed time period with certain conditions. A defendant may not be required to admit guilt as a prerequisite for placement in a pretrial diversion program. If diversion is successfully completed, the criminal charges are dismissed and the defendant may, with certain exceptions, legally answer that he or she has never been arrested or charged for the diverted offense. If diversion is not successfully completed, the criminal proceedings resume, however, a hearing to terminate diversion is required.

   In 2018, the Legislature enacted a law authorizing pretrial diversion of eligible defendants with mental disorders. Under the mental health diversion law, in order to be eligible for diversion, 1) the defendant must suffer from a mental disorder, except those specifically excluded, 2) that played a significant factor in the commission of the charged offense; 3) in the opinion of a qualified mental health expert, the defendant's symptoms of the mental disorder causing, contributing to, or motivating the criminal behavior would respond to mental health treatment; 4) the defendant must consent to diversion and waive the right to a speedy trial; 5) the defendant must agree to comply with treatment as a condition of diversion; and 6) the court is satisfied that the defendant will not pose an unreasonable risk of danger to public safety, as defined, if treated in the community. (Pen. Code, § 1001.36, subds. (b)-(c).) The law also states that a defendant is not eligible if they are charged with specified crimes, including murder, voluntary manslaughter, specified sex crimes and any crime requiring sex offender registration. (Pen. Code, § 1001.36, subd. (d).)

   In 2022, the Legislature amended the mental health diversion law to, among other things restate that granting diversion is in the trial court's discretion in subdivision (a) (the original law provided the court's discretion in subdivision (h)) and to require the court to find that the

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[5] Hirschtritt & Binder, Interrupting the Mental Illness–Incarceration-Recidivism Cycle (Feb. 21, 2017) 317 JAMA 695-696, fn. omitted.

defendant's mental disorder was a significant factor in the commission of the offense unless there is clear and convincing evidence that it was not.[6] The cited reason for this change was a recommendation from the Committee on the Revision of the Penal Code.[7] One of the Committee's recommendations, after staff's exhaustive research and receiving public testimony from expert witnesses including crime victims, law enforcement leaders, judges, and criminal defense experts and advocates, was to strengthen the mental health diversion law by increasing its use in appropriate cases, with include consideration of risk to public safety. Specifically, the Committee recommended that the law be changed to simplify the procedural process for obtaining diversion by presuming that a defendant's diagnosed "mental disorder" has a connection to their offense. A judge could deny diversion if that presumption was rebutted or for other reasons currently permitted under the law, including finding that the individual would pose an unreasonable risk to public safety if placed in a diversion program.[8]

In addition to the eligibility requirements of the defendant, mental health treatment program must meet the following requirements: 1) the court is satisfied that the recommended inpatient or outpatient program of mental health treatment will meet the specialized mental health treatment needs of the defendant; 2) the defendant may be referred to a program of mental health treatment utilizing existing inpatient or outpatient mental health resources; 3) and the program must submit regular reports to the court and counsel regarding the defendant's progress in treatment. (Pen. Code, § 1001.36, subd. (f).) The court has the discretion to select the specific program of diversion for the defendant. The county is not required to create a mental health program for the purposes of diversion, and even if a county has existing mental health programs suitable for diversion, the particular program selected by the court must agree to receive the defendant for treatment. (Pen. Code, § 1001.36, subd. (f)(1)(A).)

The diversion program cannot last more than two years for a felony and cannot last for more than a year on a misdemeanor. (Pen. Code, § 1001.36, subd. (f)(1)(C).) If there is a request for victim restitution, the court shall conduct a hearing to determine whether restitution is owed to any victim as a result of the diverted offense and, if owed, order its payment during the period of restitution. (Pen. Code, § 1001.36, subd. (f)(1)(D).)

The stated purpose of the diversion program is "to promote all of the following: . . . Allowing local discretion and flexibility for counties in the development and implementation of diversion for individuals with mental disorders across a continuum of care settings." (Pen. Code, § 1001.35, subd. (b).) The law states that courts have discretion to grant diversion if the minimum standards are met, and, correspondingly, refuse to grant diversion even though the defendant meets all of the requirements[9]:

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[6] SB 1223 (Becker), Ch. 735, Stats. 2022.
[7] The Committee on the Revision of the Penal Code was established within the Law Review Commission through SB 94, Ch. 25, Stats. 2019 to study the Penal Code and recommend statutory reforms.
[8] *Annual Report and Recommendations 2021*, Committee on Revision of the Penal Code, http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2021.pdf, p. 17 (accessed Apr. 9, 2025).
[9] J. Couzens, *Memorandum RE: Mental Health Diversion Under Penal Code Sections 1001.35-1001.36* [revised] (May 2024), p. 14.

> There may be times because of the defendant's circumstances, where the interests of justice do not support diversion of the case. The defendant's criminal or mental health history may reflect an unsuitability of the crime or the defendant for diversion. It may be that because of the defendant's level of disability there is no reasonably available and suitable treatment program for the defendant. The defendant's treatment history may indicate the prospect of successfully completing a program is quite poor. Conduct in prior diversion programs may indicate the defendant is now unsuitable. (See § 1001.36, subd. (k) [the court may consider past performance on diversion in determining suitability].) The court may consider whether the defendant and the community will be better served by the regimen of mental health court. (See §1001.36, subd. (f)(1)(A)(ii)) [the court may consider interests of the community in selecting a program].) The court is not limited to excluding persons only because of the risk of committing a "super strike." (*Qualkinbush*, *supra*, 79 Cal.App.5th at pp. 888-889.) In exercising its discretion to grant or deny mental health diversion under subdivision (a), the court may consider any factor relevant to whether the defendant is suitable for diversion.4 (See *Qualkinbush*, *supra*, 79 Cal.App.5th at pp. 889-890.)

(J. Couzens, *Memorandum RE: Mental Health Diversion* (Penal Code §§ 1001.35-1001.36) (AB 1810 & SB 215) [revised] (May 2024), p. 4, fn. omitted.) While the court retains discretion to deny or grant diversion even where the defendant meets the threshold requirements for diversion (Pen. Code, § 1001.36, subd. (a)), this discretion must be exercised "consistent with the principles and purpose of the governing law." (*Sarmiento v. Superior Court* (2024) 98 Cal.App.5th 882, 892.)

In *Sarmiento*, the defendant requested mental health diversion after she was charged with attempted robbery. (*Id.* at p. 886.) Although the trial court found defendant met many of the requirements for diversion, it denied her request, finding her inability to remain drug free after prior treatment indicated she would not respond well to mental health treatment. (*Id.* at pp. 887, 890.) However, the undisputed evidence indicated the defendant never received any coordinated treatment for her two primary mental health diagnoses (PTSD and major depressive disorder from childhood sexual abuse), and the doctor's report submitted in support of her request for diversion made clear that defendant was unable to remain sober because her underlying mental health conditions were never addressed. The prosecutor presented no evidence to the contrary. (*Id.* at pp. 887-889.) Thus, there was insufficient evidence to conclude defendant's symptoms would not respond to treatment. The evidence was also insufficient to support the trial court's finding that defendant's recommended treatment plan would not meet her "specialized mental health treatment needs" (§ 1001.36, subd. (f)(1)(A)(i)) because she had a history of receiving prior substance abuse treatment and then reoffending. The court found that this does not rationally support a conclusion that mental health treatment coupled with substance abuse treatment would not be sufficient, and the alleged failure of prior *drug* treatment plans says nothing about the adequacy of the current proposed treatment plan. (*Id.* at p. 893-895.)

The trial court in *Sarmiento* also relied on its discretion to find that the defendant posed an "unreasonable risk to public safety," although it recognized that the term was expressly defined in the statute to mean a likelihood that if the defendant is granted diversion, she will commit one of the enumerated "super strike" violent felonies. (*Id.* at 895.) The court did not make a finding of such a likelihood and instead relied purely on its discretion without any further analysis. (*Ibid.*) In defining the parameters of the court's discretion, the court held:

> [W]hile it is clear a trial court retains "residual" discretion to deny diversion even if all the threshold requirements are met, that does not mean, as the court suggested here, that it could reject a request for diversion based on an alternative meaning of "public safety" inconsistent with the specific statutory definition in section 1001.36, subdivision (c)(4). In the guise of exercising its "residual" discretion, a court is not permitted to redefine public safety in a manner inconsistent with the Legislature's expressed intent.

(*Id.* at p. 896.) Thus, when exercising its discretion to deny diversion, the court's conclusion that a defendant is not suitable for diversion must be supported by substantial evidence based on the individual facts of the case. If the facts do not support such a conclusion, the court's denial may be overturned under an abuse of discretion standard which is a deferential standard: "A court abuses its discretion when it makes an arbitrary or capricious decision by applying the wrong legal standard, or bases its decision on express or implied factual findings that are not supported by substantial evidence." (*Id.* at pp. 901-901, citing *People v. Moine* (2021) 62 Cal.App.5th 440, 449.)

4) **Effect of this bill**: This bill would amend the standard of risk to public safety for purposes of determining a defendant's suitability for diversion. Under existing law, the standard is "unreasonable risk of public safety" which currently requires a showing that there is a likelihood that if the defendant is granted diversion, they will commit one of the enumerated "super strike" violent felonies. This bill would instead provide that a defendant could be found unsuitable for diversion if that the person's treatment in the community would "endanger public safety" which is defined to mean that the person's treatment in the community would "likely result in physical injury or other serious danger to others." By providing a redefined risk to public safety standard, the bill will give courts more discretion to determine suitability of a person who otherwise meets the statutory eligibility requirements.

   This bill would also provide that the defendant must have been diagnosed with a mental disorder within 5 years prior to the offense for the presumption to apply that the mental disorder was a significant factor in the commission of the offense. This is intended to align the presumption with the requirement in existing law that in order to be eligible for diversion, the defendant must have been diagnosed with a mental disorder, as specified, and evidence in support of that shall be provided by the defendant that includes a diagnosis or treatment for a diagnosis within the last five years by a qualified mental health expert.

   This bill provides that that the court shall consider the victim's rights under Marsy's Law. Under Marsy's Law, the California Constitution article I, § 28, section (b), victims are provided with enumerated rights, such as the right to be informed of proceedings, the right to restitution, and the right to be heard upon request at proceedings. Since Marsy's Law is enshrined in the California Constitution, courts are already required to consider victim's rights.

   This bill also restates that the court has discretion to grant or deny diversion in all cases, which is already expressly included in the statute, as amended in 2022.[10] Because this is

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[10] *Supra*, footnote 1.

already stated in the law, it is unclear what the effect of adding this to the statute will be or if it will cause confusion with the courts.

As stated by the proponents of this bill, these changes are intended to make denying diversion easier for judges, which may ultimately result in less people being diverted.

5) **Competency in Criminal Proceedings and Growing Incompetent to Stand Trial (IST) Population**: The Due Process Clause of the United States Constitution prohibits the criminal prosecution of a defendant who is not mentally competent to stand trial. Existing law provides that if a person has been charged with a crime and is not able to understand the nature of the criminal proceedings and/or is not able to assist counsel in his or her defense, the court may determine that the offender is IST. (Pen. Code § 1367.) When the court issues an order for a hearing into the present mental competence of the defendant, all proceedings in the criminal prosecution are suspended until the question of present mental competence has been determined. (Pen. Code, §1368, subd. (c).)

In order to determine mental competence, the court must appoint a psychiatrist or licensed psychologist to examine the defendant. If defense counsel opposes a finding on incompetence, the court must appoint two experts: one chosen by the defense, one by the prosecution. (Pen. Code, § 11369, subd. (a).) The examining expert(s) must evaluate the defendant's alleged mental disorder and the defendant's ability to understand the proceedings and assist counsel, as well as address whether antipsychotic medication is medically appropriate. (Pen. Code, § 1369, subd. (a).)

Both parties have a right to a jury trial to decide competency. (Pen. Code, § 1369.) A formal trial is not required when jury trial has been waived. (*People v. Harris* (1993) 14 Cal.App.4th 984.) The burden of proof is on the party seeking a finding of incompetence. (*People v. Skeirik* (1991) 229 Cal.App.3d 444, 459-460.) In order to be competent to stand trial, "a defendant must have sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and a rational as well as factual understanding of the proceedings against him or her." (*People v. Oglesby* (2008) 158 Cal.App.4th 818, 827 citing *People v. Ramos* (2004) 34 Cal.4th 494, 507.) Because a defendant is initially considered competent to stand trial (*Medina v. California* (1992) 505 U.S. 437), usually this means that the defense bears the burden of proof to establish incompetence. Therefore, defense counsel must first present evidence to support mental incompetence. However, if defense counsel does not want to offer evidence to have the defendant declared incompetent, the prosecution may. Each party may offer rebuttal evidence. Final arguments are presented to the court or jury, with the prosecution going first, followed by defense counsel. (Pen. Code, § 1369, subds. (b)-(e).)

If after an examination and hearing the defendant is found IST, the criminal proceedings are suspended and the court shall order the defendant to be referred to DSH, or to any other available public or private treatment facility, including a community-based residential treatment system if the facility has a secured perimeter or a locked and controlled treatment facility, approved by the community program director that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status, except as specified. (Pen. Code § 1368, subd. (c) and 1370, subd. (a)(1)(B).) The court may also make a determination as to whether the defendant is an appropriate candidate for mental health diversion pursuant to Penal Code section 1001.36.

California, similar to the rest of the nation, has seen a significant increase over the last decade in the number of individuals with serious mental illness who become justice-involved and deemed IST on felony charges. A 2017 study conducted by the National Association of State Mental Health Program Directors Research Institute found that from 1999 to 2014, the overall number of forensic patients in state hospitals increased by 74% while the number of IST patients increased by 72% during that same period.[11] Due to increasingly long waiting period to be admitted to the Department of State Hospitals (DSH) for treatment, in 2015, the American Civil Liberties Union sued DSH. (See *Stiavetti v. Clendenin* (2021) 65 Cal.App.5th 691.) In *Stiavetti*, the appellate court held that the long waitlist for competency restoration treatment violates the due process rights of people found to be IST. (Id. at p. 737.) The Court ordered that DSH must begin substantive restoration services within 28 days of being placed on the list. (*Id.* at p. 730.) The court's order is being implemented in phases, with the original target date being set on February 27, 2024 to meet the 28 day standard.

However, on October 6, 2023, the court modified the interim benchmarks and final target date for compliance with the 28 day standard as follows: March 1, 2024 – provide substantive treatment services within 60 days; July 1, 2024 – within 45 days; November 1, 2024 – within 33 days; and March 1, 2025 – within 28 days.[12]

In 2021, the Legislature charged the California Health & Human Services Agency and the DSH to convene an IST Solutions Workgroup to identify actionable solutions that address this increasing population.[13] The IST Workgroup released a report in November 2021 that outlined system improvements and one of the changes discussed was mental health diversion[14]:

> By FY 2017-18, DSH recognized that the demand for IST treatment services was not going to be met by capacity created within the State Hospital system. At this time the department began working to establish treatment pathways in the community with the long-term goal of decreasing demand for State Hospital services by connecting more people with Serious Mental Illness into ongoing community care. The Budget Act of 2018 included funding for two major new programs to help DSH realize this vision.
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> The Budget Act of 2018 allocated $13.1million for DSH to contract with the Los Angeles County Office of Diversion and Reentry (ODR) for the first community-based restoration (CBR) program in the state. In this program, ODR subcontracts for housing and treatment services for IST patients in the community. Most IST patients in this program live in unlocked residential settings with wraparound treatment services provided on site. The original CBR program provided funding for 150 beds; investments in the LA program since 2018 has increased the program size to 515 beds. In addition, DSH has received funding to implement additional CBR programs across the state. The Budget Act of 2021 included ongoing funding to add an additional 252 CBR beds in counties outside of Los Angeles, bringing the total number of funded CBR beds to 767.

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[11] Wik, A., Hollen, V., Fisher, W.H. (2017) Forensic Patients in State Psychiatric Hospitals: 1999-2016.
[12] See 24-25 Governor's Budget Estimate: Department of State Hospitals (Jan. 10, 2025), p. 2.
[13] AB 133 (Committee on Budget), Chapter 143, Statutes of 2021.
[14] *IST Solutions Workgroup Report of Recommended Solutions*, A report of recommended solutions presented to the California Health and Human Services Agency and the California Department of Finance in Accordance with Section 4147 of the Welfare and Institutions Code (Nov. 2021) pp. 17-18.

The Budget Act of 2018 also allocated DSH $100 million (one-time) to establish the DSH Felony Mental Health Diversion (Diversion) pilot program. Of this funding, $99.5 million was earmarked to send directly to counties that chose to contract with DSH to establish a pilot Diversion program (the remaining $500,000 was for program administration and data collection support at DSH). Assembly Bill 1810 (2018) established the legal (Penal Code (PC) 1001.35-1001.36) and programmatic (Welfare & Institutions Code (WIC) 4361) infrastructure to authorize general mental health diversion and the DSH-funded Diversion program. The original Diversion pilot program includes 24 counties who have committed to serving up to 820 individuals over the course of their three-year pilot programs.

The report noted that IST restoration of competency is not an adequate long-term treatment plan. The Workgroup looked at the 3-year post discharge recidivism rates using the Department of Justice's criminal offender record information data and found that recidivism rates are still high – about 70% rearrest post discharge – which shows that whatever circumstances led to an individual's prior arrest have likely not hcanged and most IST patients are stuck looping through the criminal justice system and DSH.[15] The solutions identified by the report included expanding community-based treatment and diversion options for felony ISTs that will help end the cycle of criminalization by connecting patients to comprehensive behavioral health treatment.[16]

This bill would give courts broader authority to deny diversion by loosening the public safety standard in existing law. As discussed above, mental health diversion is an alternative to an IST finding. Removing diversion as an option will likely result in more people proceeding with the IST process with the goal of restoration of competency. This will place more burdens on an already overburdened system that are currently under a court order to provide services within a shortened time frame in order to meet constitutional standards that has already been shown to not be a long-term solution for the individual or the community in addressing public safety.

6) **Argument in Support**: According to the *Sacramento County District Attorney*, the sponsor of this bill, "Changes to Mental Health Diversion under Penal Code section 1001.36 are needed as recent amendments have led to disastrous results that have undermined public safety.

"Courts have repeatedly expressed frustration at their lack of ability to exercise their judicial discretion when determining a defendant's amenability for the diversion program. Furthermore, upon acceptance into the program, defendants are released back into the community with minimal supervision and high likelihood of recidivism. Despite these flaws with the Mental Health Diversion program, the result can still lead to the expungement of their criminal records. The victims receive no protection or assurance they will ever be free from further victimization.

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[15] *Id.* at p. 11.
[16] *Id.* at p. 28.

"AB 46 is a commonsense solution to the negative consequences the Mental Health Diversion statute has created. It gives discretion back to the court to determine an individual defendant's amenability to treatment. It allows prosecutors the ability to object to applicants that pose a risk to public safety and changes the unfair presumption of amenability for every applicant with a mental health diagnosis."

7) **Argument in Opposition**: According to *Ella Baker Center for Human Rights*, "We oppose AB 46 because it will limit access to California's existing mental health diversion program, regardless of the circumstances of the case or of the person.

"California should continue to provide judges and prosecutors discretion to offer diversion in as wide a variety of cases as possible so that they can ensure safety, justice, and accountability. Diversion may not be suitable in many cases charged as an attempted murder, but removing the option is a step backward for California, eliminating much-needed flexibility and discretion. California already has rigorous screening factors in Penal Code 1000.36(c), including that the person does not present an unreasonable risk to public safety. This allows judges and prosecutors to make safer, more informed decisions than if their options were to be more broadly determined by charge type.

"Research shows diversion programs serve to reduce recidivism overall, which keeps us all safer. Diversion focuses on the drivers behind people's conduct, and it provides resources to address their unmet needs. Services such as treatment for substance use and mental health, job training, housing support, or education provide people with the means to thrive so that they are less likely to come into contact with the criminal legal system in the future. Diversion programs are particularly effective in cases of people suffering from mental illness. If someone with mental illness is a good candidate for diversion, judges and prosecutors should be allowed to pursue that option for the sake of public safety.

. . . .

"Finally, diversion programs reduce racial disparities in convictions and incarceration. Black and brown Californians remain more likely to be arrested because of over-policing, but if judges choose to extend the option to qualified candidates, diversion programs allow successful participants to avoid conviction histories. This means avoiding the long-term collateral consequences of incarceration includes difficulties accessing housing, employment, and education—consequences that are shown to increase recidivism in the United States."

8) **Related Legislation**:

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

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

9) **Prior Legislation**:

a) AB 1412 (Hart), Chapter 687, Statutes of 2023, removed borderline personality disorder as an exclusion for mental health diversion.

b) AB 1323 (Menjivar), Chapter 646, Statutes of 2024, required a court to determine whether the restoration of the defendant's mental competence is in the interests of justice, and if it finds that it is not in the interests of justice, to hold a hearing to consider granting mental health diversion or other programs to the defendant.

c) AB 455 (Quirk-Silva), Chapter 236, Statutes of 2023, authorized the prosecution to request an order from the court to prohibit a defendant subject to pretrial diversion from owning or possessing a firearm because they are a danger to themselves or others until they successfully complete diversion or their firearm rights are restored.

d) SB 1223 (Becker), Chapter 735, Statutes of 2022, added a presumption for purposes of mental health diversion eligibility that the defendant's mental disorder was a significant factor in the commission of the offense which could be overcome by clear and convincing evidence that it was not a motivating factor, causal factor, or contributing factor to the defendant's involvement in the alleged offense.

e) SB 666 (Stone), of the 2019-2020 Legislative Session, would have added offenses which would preclude an individual from being eligible for mental health diversion. SB 666 was held in the Senate Public Safety Committee.

f) SB 215 (Beall), Chapter 1005, Statutes of 2018, specified ineligible offenses for mental health diversion and required the court to determine whether restitution is owed to any victim of the diverted offense.

g) AB 1810 (Committee on Budget), Chapter 34, Statutes of 2018, created mental health diversion in statute and specified that when a defendant is determined to be IST, the court can find that they are an appropriate candidate for mental health diversion.

REGISTERED SUPPORT / OPPOSITION:

Support

Sacramento County District Attorney's Office (Sponsor)
California Police Chiefs Association
California State Sheriffs' Association
Crime Victims United of California
San Diego County District Attorney's Office

Opposition

ACLU California Action
California Attorneys for Criminal Justice
California Public Defenders Association (CPDA)
Californians United for a Responsible Budget
Ella Baker Center for Human Rights

Fair Chance Project
Friends Committee on Legislation of California
Initiate Justice
Initiate Justice Action
Justice2jobs Coalition
LA Defensa
Local 148 LA County Public Defenders Union
National Alliance on Mental Illness (NAMI-CA)
San Francisco Public Defender
Silicon Valley De-bug
Smart Justice California, a Project of Tides Advocacy
Universidad Popular
Vera Institute of Justice
1 Private Individual

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

Date of Hearing: April 29, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

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

As Proposed to be Amended in Committee

SUMMARY: Adds the President of the California District Attorneys Association to the Racial and Identity Profiling Act (RIPA) Board, and authorizes a member of the RIPA Board to include a dissenting opinion in the annual RIPA Board report. Specifically, **this bill:**

1) Adds the President of the California District Attorneys Association, or their designee, to the RIPA Board.

2) Provides that irrespective of the requirement that any RIPA action be agreed to by a majority of the RIPA Board, any member of the RIPA Board may cause a dissenting opinion to be included in the annual RIPA Board report that includes conclusions or recommendations, or both, that are in addition to, or differ from, the report that is agreed to by a majority of the members.

3) Authorizes the annual RIPA Board report to include a response to any dissenting opinion that may be included in the report.

EXISTING LAW

1) Requires each state and local agency that employs peace officers to annually report to the Attorney General (AG) data on all stops conducted by that agency's peace officers. (Gov. Code, § 12525.5, subd. (a)(1).)

2) Sets forth a timeline for the reporting of stop data by law enforcement agencies to the AG, with larger agencies required to begin reporting by 2018, and progressively smaller agencies required to begin reporting on an annual basis until the smallest agencies are required to report by 2023. (Gov. Code, § 12525.5, subd. (a)(2).)

3) Requires the reporting to include the following information for each pedestrian, traffic, or any other type of stop:

   a) The time, date, and location of the stop.

   b) The reason for the stop.

   c) The reason given to the person stopped at the time of the stop.

   d) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.

e) If a warning or citation was issued, the warning provided or violation cited.

f) If an arrest was made, the offense charged.

g) The perceived race or ethnicity, gender, and approximate age of the person stopped. The identification of these characteristics shall be based on the observation and perception of the peace officer making the stop. For auto stops, this paragraph only applies to the driver, unless actions taken by the officer apply in relation to a passenger, in which case their characteristics shall also be reported.

h) Actions taken by the peace officer during the stop, including, but not limited to, the following:

i) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.

ii) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.

iii) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property. (Gov. Code, § 12525.5, subd. (b).)

4) Provides that if more than one peace officer performs a stop, only one officer is required to collect and report the necessary information. (Gov. Code, § 12525.5, subd. (c).)

5) Prohibits state and local law enforcement agencies from reporting the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, and notwithstanding any other law, the data reported shall be made available to the public to the extent that release is permissible under this provision, with the exception of badge number, or other unique identifying information of the officer involved. (Gov. Code, § 12525.5, subd. (d).)

6) Defines "stop" to mean any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control. (Gov. Code, § 12525.5, subd. (g)(2).)

7) Prohibits a peace officer from engaging in racial or identity profiling, as defined. (Pen. Code, § 13519.4, subd. (f).)

8) Establishes the RIPA Board, for the purpose of eliminating racial and identity profiling, and improving diversity and racial and identity sensitivity in law enforcement. (Pen. Code, § 13519.4, subd. (j)(1).)

9) Requires the RIPA Board to include representatives from the following persons and entities: the AG, California Public Defenders Association, California Police Chiefs Association, California State Sheriff's Association, Peace Officers Research Association, the California Highway Patrol (CHP), a professor who specializes in policing and racial and identity equity, two representatives of human or civil rights tax-exempt organizations who specialize in civil

or human rights, two representatives of community organizations who specialize in civil or human rights and criminal justice, and work with victims of racial and identity profiling (one of which shall be between 16 and 24 years of age), two religious clergy members who specialize in addressing and reducing racial and identity bias toward individuals and groups, up to two other members that the Governor may prescribe, up to two other members that the President pro Tempore of the Senate may prescribe, up to two other members that the Speaker of the Assembly may prescribe. (Pen. Code, § 13519.4, subd. (j)(2).)

10) Requires the RIPA Board to do the following on an annual basis.

a) Analyze specified data, including peace officer stop data, and data pertaining to civilian complaints against law enforcement agencies, as specified.

b) Analyze the POST training on racial, identity, and cultural diversity.

c) Work in partnership with state and local law enforcement agencies to review and analyze racial and identity profiling policies and practices across geographic areas in California.

d) Conduct, and consult available, evidence-based research on intentional and implicit biases, and law enforcement stop, search, and seizure tactics.

e) Issue a publicly available report containing RIPA's analysis as described above, containing detailed findings on the status of racial and identity profiling, and making policy recommendations for eliminating racial and identity profiling.

f) Hold at least three public meetings annually to discuss racial and identity profiling, and potential reforms to prevent racial and identity profiling. (Pen. Code, §13519.4 (j) (3).)

11) Specifies that no action of RIPA shall be valid unless agreed to by a majority of its members. (Pen. Code, §13519.4, subd. (j)(6).)

12) Requires the AG to publish specified information on the Open Justice Web portal, including the total number of **c**ivilian complaints alleging racial or identity profiling, which shall be disaggregated by the specific type of racial or identity profiling alleged. (Pen. Code, § 13012, subd. (a)(5)(iii).)

13) Requires the RIPA Board to analyze data pertaining to civilian complaints, including complaints of racial profiling, categorized by disposition, and the Board's analysis of the complaints shall be incorporated into its annual report, and published on the Open Justice Web portal. (Pen. Code, § 13012, subd. (c).)

14) Requires the AG, in consultation with stakeholders, including the RIPA Board, federal, state and local law enforcement agencies, and community, professional, academic, research, and civil and human rights organizations, to issue regulations for the collection and reporting of the required data by January 1, 2018. The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications to ensure uniform reporting practices. To the extent possible, the regulations should also be compatible with any similar federal data collection or reporting program. (Gov. Code, § 12525.5, subd. (e).)

15) Defines, through AG regulations, specified RIPA stop data collection terms, such as "type of stop," "date, time, and duration of stop," and "location of stop," among other terms. (Cal. Code Regs., tit. 11, § 999.226, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Confronting and eliminating bias in policing is a shared goal among communities and law enforcement agencies alike. How to achieve that is the challenge. AB 953 (Weber, 2015) set out to establish a new standard of reporting on racial bias in law enforcement through the Racial Identity Profiling Act (RIPA) with the intent of determining where police bias may exist through the collection of information and observations from police contacts with the public. While well intended, in practice, the collection and accuracy of the data has been called into question by many in the law enforcement community. AB 284 tries to address unresolved concerns around RIPA in hopes of supporting the goals of providing fair and accurate data and that lawmakers can use in furtherance of combatting racial bias in policing state-wide."

2) **The Racial and Identity Profiling Act:** In 2015, the Legislature passed AB 953 (Weber, Ch. 466, Stats. of 2015), also known as the Racial and Identity Profiling Act of 2015, which expressly prohibited racial and identity profiling by law enforcement and required law enforcement agencies to annually report vehicle and pedestrian stop data to the DOJ. Under AB 953, agencies were required to begin reporting on a staggered timeline, with the largest agencies required to submit their first reports to DOJ by April 1, 2019, and the smallest agencies submitting by April 1, 2023. (Gov. Code, §12525.5, subd. (a)(2).) For the latest RIPA report, published January 1, 2024 and marking the fifth year of RIPA stop data reporting, all 560 law enforcement agencies in California were required to report data. (*Ibid.*) A total of 535 law enforcement agencies in California collected data on 4,575,725 pedestrian and vehicle stops conducted from January 1 to December 31, 2022, and the remaining 25 law enforcement agencies reported zero stops for the 2022 reporting year.[1]

   Law enforcement agencies are required to report the following information for each pedestrian, traffic, or any other type of stop: 1) the time, date, and location of the stop; 2) reason for the stop, and reason given to the person stopped; 3) result of the stop; 4) the warning provided, violation cited, or offense charged, if any; 5) the perceived race or ethnicity, gender, and approximate age of the person stopped; and 6) actions taken by the peace officer during the stop, including whether the officer asked for consent to search the person, whether the person was searched and the basis for the search, and whether the officer seized any property, and the basis for the seizure. (Gov. Code, § 12525.5 (b).)

3) **Racial Profiling by Law Enforcement:** Existing law prohibits law enforcement officers from engaging in racial or identity profiling. (Pen. Code, § 13519.4, subd. (f).) "Racial or identify profiling" is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or

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[1] Department of Justice, *Racial and Identity Profiling Advisory Board Annual Report 2024* (Jan 1, 2024), at p. 29, available at: https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf

in deciding upon the scope or substance of law enforcement activities following a stop." (Pen. Code, § 13519.4, subd. (e).)

While racial profiling is prohibited, reports have consistently shown that racial profiling by law enforcement does occur. Prior to the passage of AB 953 (Weber, Ch. 466, Stats. of 2015), 2014 data from the Oakland Police Department found that African-Americans, who compose 28 percent of Oakland's population, accounted for 62 percent of police stops from April to November of 2013.[2] The data also showed that stops of African-Americans were more likely to result in felony arrests.[3] And, while African-Americans were more likely to be searched after being stopped, police were no more likely to find contraband from searching African-Americans than members of other racial groups.[4]

Likewise, in 2010, *The Los Angeles Times* reported that "The U.S. Department of Justice has warned the Los Angeles Police Department that its investigations into racial profiling by officers are inadequate and that some cops still tolerate the practice...."[5] The article noted, "Profiling complaints typically occur after a traffic or pedestrian stop, when the officer is accused of targeting a person solely because of his or her race, ethnicity, religious garb or some other form of outward appearance. About 250 such cases arise each year, but more damaging is the widely held belief, especially among black and Latino men, that the practice is commonplace."[6]

Evidence of racial profiling may also present in the most recent data on law enforcement stops in California. The 2024 RIPA report analyzed the 4,575,725 stops that occurred in 2022.[7] Notable findings from the report include:

a) Black individuals were stopped 131.5 percent more frequently than expected, given their relative proportion of the California population.[8]

b) Officers searched individuals perceived to be Black (+8.2%), Hispanic/Latine(x) (+2.5%), and Multiracial (+1.8%) more often than stopped individuals perceived to be White.

c) Search discovery rates (i.e. the rate at which contraband or evidence of a crime was discovered) did not vary widely across racial or ethnic groups. However, discovery rates were lower during stops with searches of all racial or ethnic groups of color compared to individuals perceived to be White.

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[2] Mercury News, *Report: African-Americans compose 28 percent of Oakland's population, 62 percent of police stops* (March 24, 2014), available at: https://www.mercurynews.com/2014/03/24/report-african-americans-compose-28-percent-of-oaklands-population-62-percent-of-police-stops/
[3] *Ibid.*
[4] *Ibid.*
[5] Joel Rubin, *Justice Department warns LAPS to take stronger stance against racial profiling* (Nov. 14, 2010), Los Angeles Times, available at: https://www.latimes.com/archives/la-xpm-2010-nov-14-la-me-lapd-bias-20101114-story.html
[6] *Ibid.*
[7] Department of Justice, *Racial and Identity Profiling Advisory Board Annual Report 2024* (Jan 1, 2024), at p. 29, available at: https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf
[8] This is consistent with the findings from the first wave of RIPA data from 2018, which found that Black individuals were "notably overrepresented in police stops." *See* PPIC, *African Americans Are Notably Overrepresented in Police Stops* (August 13, 2020), available at: https://www.ppic.org/blog/african-americans-are-notably-overrepresented-in-police-stops/

d) Relative to other groups, individuals perceived to be Native American had the highest rate of being handcuffed (17.8%) among all racial and ethnic groups, while individuals perceived to be Black had the highest rates of being detained curbside or in a patrol car (20.2%) and ordered to exit a vehicle (7.1%). [9]

4) **Effect of this Bill:** Existing law establishes the RIPA Board, for the purpose of eliminating racial and identity profiling, and improving diversity and racial and identity sensitivity in law enforcement. (Pen. Code, § 13519.4 (j) (1).) Board responsibilities including analyzing stop data and POST trainings, and issuing an annual report containing the Board's analysis of stop data, findings on the status of racial and identity profiling, and policy recommendations for eliminating racial and identity profiling. (Pen. Code, §13519.4 (j) (3).) The Board is currently comprised of 18 members (and may include up to 19 members), which include representatives from the AG, public defenders, law enforcement, academia, community organizations, clergy members, and appointees by the Governor, Speaker of the Assembly, and the Senate Pro Tem. (Pen. Code, § 13519.4 (j) (2).) Action from the Board requires agreement from a majority of members. (Pen. Code, §13519.4 (j) (6).) This bill expands the membership of the RIPA Board to include the President of the California District Attorneys Association, or their designee.

   As noted above, one of the Board's primary responsibilities is issuing an annual report containing the Board's analysis of stop data, findings on the status of racial and identity profiling, and policy recommendations for eliminating racial and identity profiling. (Pen. Code, §13519.4, subd. (j)(3).) Here, AB 284 authorizes a member of the RIPA Board to cause a dissenting opinion to be included in the report that includes conclusions or recommendations, or both, that are in addition to, or differ from, the report that is agreed to by a majority of the members. Similarly, it authorizes the RIPA Board to include a response to any dissenting opinion that may be included in the report.

5) **Argument in Support**: According to the *Peace Officer's Research Association of California*, "Law enforcement fully supports efforts to eliminate bias in policing and has embraced training, transparency, and accountability reforms across the board. However, the current implementation of RIPA is not meeting its intended goals. Instead, the process has become burdensome, expensive, and often misleading.

   "A major concern is the requirement to report non-discretionary stops—those where officers have no choice in how they respond, such as calls for service or incidents they witness in real time. Including these in the data pool distorts the findings and creates significant administrative costs without advancing our understanding of biased policing.

   "In addition, the analysis and reporting process lacks the academic rigor and independent review needed to produce credible conclusions. At present, a single academic institution reviews the data, and there's no mechanism for dissenting opinions to be included in the official report. This is particularly concerning given the flawed population comparison methods currently used. Agencies' stop data is being compared to census populations of

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[9] Department of Justice, *Racial and Identity Profiling Advisory Board Annual Report 2024* (Jan 1, 2024), at pp. 6-20, available at: https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf

cities or counties, even though a significant percentage of those stopped—especially in high-commuter areas—do not live in the jurisdiction being evaluated.

"The structure of the RIPA Board itself also limits meaningful dialogue, with only four of its 18 members required to represent law enforcement. As a result, frontline perspectives are often overlooked or excluded from final recommendations.

"AB 284 provides common-sense solutions. It removes the requirement to collect data for nondiscretionary stops; requires peer review by multiple academic institutions with independent analysis; ensures dissenting RIPA Board opinions can be formally included in reports; mandates better comparison methods using local census tract data; and balances the Board's composition to include more law enforcement representation."

6) **Argument in Opposition**: According to *Californians for Safety and Justice*, "Since enacted, RIPA has been a nation-leading model for states and localities seeking to address biases in law enforcement patrol activities. RIPA modernized California's definition of profiling to include not only race, but also other identity characteristics that serve as bases for biased stops–including national origin, religion, gender identity or expression, sexual orientation, or mental or physical disability. It also created a uniform system for reporting basic information about law enforcement interactions with community members so that our state could shift from anecdotal to evidence-based assessments of profiling. Finally, it required the Attorney General to establish the RIPA Board to analyze stop data and annually publish a report with recommendations to the Legislature. Over time, RIPA has been pivotal to increasing transparency, accountability, and equity in law enforcement, and served as the centerpiece of California's framework to combat profiling.

"AB 284 is a direct attack on RIPA. It would make police-community interactions less transparent by eliminating the collection of basic information for encounters where community safety is often most at risk— including calls for service, and when there is serious bodily injury or death. It would also exclude a broad amount, *if not all*, data collection on stops by law enforcement (i.e., stating that a "stop" would no longer include "a situation in which a peace officer is required by state or local law to respond" and "a situation in which a peace officer is directed by their employing agency to respond to a particular situation.").

"AB 248 also aims to weaken the RIPA Board by significantly reducing representation of stakeholders closely connected to communities most impacted by racial and identity profiling while simultaneously increasing seats for law enforcement representatives. This would diminish the Board's ability to meaningfully apply an equity-centered lens to stop data, policy issues, and recommendations for the Legislature. In addition, AB 248 attempts to shift the Board's analysis of stop data away from standardized methods in ways that may weaken the data analysis and findings in the Board's annual reports and negatively affect the field more generally.

"If enacted, AB 248 would undermine community safety, and threaten current and future police reform efforts. It is an attack on law enforcement transparency and accountability that California communities have spent decades fighting for."

7) **Related Legislation**: None

8) **Prior Legislation**:

a) AB 459 (Kalra), of the 2023-2024 Legislative Session, would have modified the timeline that law enforcement agencies must adhere to when reporting stop data to the DOJ and to specify that data reported in an open text or narrative field is only available from the reporting agency and not from DOJ, except as specified. AB 459 was held in Senate Appropriations Committee.

b) AB 2773 (Holden), Chapter 805, Statutes of 2022, requires, beginning January 1, 2024, a peace officer making a traffic or pedestrian stop to state the reason for the stop before asking any questions related to a criminal investigation or traffic violation, unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat.

c) AB 2285 (Smith), of the 2021-2022 Legislative Session, would have clarified that a "stop" for the purposes of RIPA does not include circumstances upon which a peace officer is dispatched to a call for service or a medical emergency. AB 2285 failed passage in this Committee.

d) AB 1775 (Jones-Sawyer), Chapter 327, Statutes of 2020, made a number of changes in criminal and civil law to discourage individuals from using 911 or other communications with law enforcement to harass a person because that person belongs to a protected class.

e) AB 1147 (Obernolte), of the 2019-2020 Legislative Session, was substantially similar to AB 2285 (Smith). AB 1147 failed passage in this committee.

f) AB 2918 (Holden), Chapter 723, Statutes of 2018, required the DMV to include within the Handbook a section on a person's civil rights during a traffic stop.

g) AB 953 (Weber), Chapter 466, Statutes of 2015, required local law enforcement agencies to report specified information on stops conducted by peace officers to the AG, and establishes the RIPA.

h) AB 2133 (Torrico), of the 2005-2006 Legislative session, would have created a state policy of prohibiting racial profiling and provided for required information to be gathered and tracked regarding the specifics of traffic stops. AB 2133 was never heard by this Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Association for Los Angeles Deputy Sheriffs (ALADS)
Auburn Police Department
California Association of Highway Patrolmen
California Peace Officers Association
California Police Chiefs Association
California State Sheriffs' Association

City of Roseville Police Department
Fresno Police Department
Los Banos Police Department
Madera Police Department
Peace Officers Research Association of California (PORAC)
Simi Valley Police Department
Woodlake Police Department

Oppose

ACLU California Action
All of US or None Los Angeles
Alliance San Diego
Anti Police-terror Project
California Bicycle Coalition
California Public Defenders Association (CPDA)
California Secretary of State
California Walks
Californians for Safety and Justice (CSJ)
Californians United for a Responsible Budget
Cancel the Contract
Catalyst California
Center for Policing Equity
Communities United for Restorative Youth Justice (CURYJ)
Community Coalition
Courage California
Debt Free Justice California
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Fresh Lifelines for Youth
Friends Committee on Legislation of California
Glide
Initiate Justice
Initiate Justice Action
Justice2jobs Coalition
LA Defensa
Law Enforcement Action Partnership
Legal Services for Prisoners With Children
Local 148 LA County Public Defenders Union
National Police Accountability Project
Oakland Privacy
Pillars of the Community
Policing Project At Nyu Law School
Rubicon Programs
San Francisco Public Defender
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
The W. Haywood Burns Institute
Universidad Popular

University of San Francisco School of Law | Racial Justice Clinic
Vera Institute of Justice
Walk Bike Berkeley
Western Center on Law & Poverty, INC.
2 Private Individuals

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

Amended Mock-up for 2025-2026 AB-284 (Alanis (A))

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

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

SECTION 1. Section 12525.5 of the Government Code is amended to read:

12525.5. (a) (1) Each state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year.

(2) Each agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019. Each agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020. Each agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022. Each agency that employs 1 or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

(b) The reporting shall include, at a minimum, the following information for each pedestrian, traffic, or any other type of stop:

(1) The time, date, and location of the stop.

(2) The reason for the stop.

(3) The reason given to the person stopped at the time of the stop.

(4) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.

(5) If a warning or citation was issued, the warning provided or violation cited.

(6) If an arrest was made, the offense charged.

(7) The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. For motor vehicle stops, this paragraph only applies to the driver, unless any actions

specified under paragraph (8) apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for that passenger.

(8) Actions taken by the peace officer during the stop, including, but not limited to, the following:

(A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.

(B) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.

(C) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.

(c) If more than one peace officer performs a stop, only one officer is required to collect and report to the officer's agency the information specified under subdivision (b).

(d) State and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section. Notwithstanding any other law, the data reported shall be available to the public, except for the badge number or other unique identifying information of the peace officer involved. Law enforcement agencies are solely responsible for ensuring that personally identifiable information of the individual stopped or any other information that is exempt from disclosure pursuant to this section is not transmitted to the Attorney General in an open text field.

(e) Not later than January 1, 2018, the Attorney General, in consultation with stakeholders, including the Racial and Identity Profiling Advisory Board (RIPA) established pursuant to paragraph (1) of subdivision (j) of Section 13519.4 of the Penal Code, federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations, shall issue regulations for the collection and reporting of data required under subdivision (b). The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies. To the best extent possible, the regulations should be compatible with any similar federal data collection or reporting program.

(f) All data and reports made pursuant to this section are public records within the meaning of Section 7920.530 and are open to public inspection pursuant to Sections 7922.500 to 7922.545, inclusive, 7923.000, and 7923.005.

(g) (1) For purposes of this section, "peace officer," as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university

educational institutions. "Peace officer," as used in this section, does not include probation officers and officers in a custodial setting.

(2) For purposes of this section, "stop" means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.

(h) This section shall become operative on January 1, 2024.

SEC. 2. Section 13519.4 of the Penal Code is amended to read:

13519.4. (a) The commission shall develop and disseminate guidelines and training for all peace officers in California as described in subdivision (a) of Section 13510 and who adhere to the standards approved by the commission, on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines shall stress understanding and respect for racial, identity, and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a diverse racial, identity, and cultural environment.

(b) The course of basic training for peace officers shall include adequate instruction on racial, identity, and cultural diversity in order to foster mutual respect and cooperation between law enforcement and members of all racial, identity, and cultural groups. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of racial, identity, and cultural awareness and diversity.

(c) For the purposes of this section the following shall apply:

(1) "Disability," "gender," "nationality," "religion," and "sexual orientation" have the same meaning as in Section 422.55.

(2) "Culturally diverse" and "cultural diversity" include, but are not limited to, disability, gender, nationality, religion, and sexual orientation issues.

(3) "Racial" has the same meaning as "race or ethnicity" in Section 422.55.

(4) "Stop" has the same meaning as in paragraph (2) of subdivision (g) of Section 12525.5 of the Government Code.

(d) The Legislature finds and declares as follows:

(1) The working men and women in California law enforcement risk their lives every day. The people of California greatly appreciate the hard work and dedication of peace officers in

protecting public safety. The good name of these officers should not be tarnished by the actions of those few who commit discriminatory practices.

(2) Racial or identity profiling is a practice that presents a great danger to the fundamental principles of our Constitution and a democratic society. It is abhorrent and cannot be tolerated.

(3) Racial or identity profiling alienates people from law enforcement, hinders community policing efforts, and causes law enforcement to lose credibility and trust among the people whom law enforcement is sworn to protect and serve.

(4) Pedestrians, users of public transportation, and vehicular occupants who have been stopped, searched, interrogated, and subjected to a property seizure by a peace officer for no reason other than the color of their skin, national origin, religion, gender identity or expression, housing status, sexual orientation, or mental or physical disability are the victims of discriminatory practices.

(5) It is the intent of the Legislature in enacting the changes to this section made by the act that added this paragraph that additional training is required to address the pernicious practice of racial or identity profiling and that enactment of this section is in no way dispositive of the issue of how the state should deal with racial or identity profiling.

(e) "Racial or identity profiling," for purposes of this section, is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.

(f) A peace officer shall not engage in racial or identity profiling.

(g) Every peace officer in this state shall participate in expanded training as prescribed and certified by the Commission on Peace Officers Standards and Training.

(h) The curriculum shall be evidence-based and shall include and examine evidence-based patterns, practices, and protocols that make up racial or identity profiling, including implicit bias. This training shall prescribe evidence-based patterns, practices, and protocols that prevent racial or identity profiling. In developing the training, the commission shall consult with the Racial and Identity Profiling Advisory Board established pursuant to subdivision (j). The course of instruction shall include, but not be limited to, significant consideration of each of the following subjects:

(1) Identification of key indices and perspectives that make up racial, identity, and cultural differences among residents in a local community.

(2) Negative impact of intentional and implicit biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations and contributed to injury, death, disparities in arrest detention and incarceration rights, and wrongful convictions.

(3) The history and role of the civil and human rights movement and struggles and their impact on law enforcement.

(4) Specific obligations of peace officers in preventing, reporting, and responding to discriminatory or biased practices by fellow peace officers.

(5) Perspectives of diverse, local constituency groups and experts on particular racial, identity, and cultural and police-community relations issues in a local area.

(6) The prohibition against racial or identity profiling in subdivision (f).

(i) Once the initial basic training is completed, each peace officer in California as described in subdivision (a) of Section 13510 who adheres to the standards approved by the commission shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing racial, identity, and cultural trends.

(j) (1) Beginning July 1, 2016, the Attorney General shall establish the Racial and Identity Profiling Advisory Board (RIPA) for the purpose of eliminating racial and identity profiling, and improving diversity and racial and identity sensitivity in law enforcement.

(2) RIPA shall include the following members:

(A) The Attorney General, or their designee.

(B) The President of the California Public Defenders Association, or their designee.

(C) The President of the California Police Chiefs Association, or their designee.

(D) The President of the California State Sheriffs' Association, or their designee.

(E) The President of the Peace Officers Research Association of California, or their designee.

(F) The Commissioner of the California Highway Patrol, or their designee.

(G) The President of the California District Attorneys Association, or their designee.

(H) A university professor who specializes in policing, and racial and identity equity.

(I) Two representatives of a human or civil rights tax-exempt organization who specialize in civil or human rights.

(J) Two representatives of a community organization who specialize in civil or human rights and criminal justice, and work with victims of racial and identity profiling. At least one representative shall be between 16 and 24 years of age.

(K) Two religious clergy members who specialize in addressing and reducing racial and identity bias toward individuals and groups.

(L) Up to two other members that the Governor may prescribe.

(M) Up to two other members that the President pro Tempore of the Senate may prescribe.

(N) Up to two other members that the Speaker of the Assembly may prescribe.

(3) Each year, on an annual basis, RIPA shall do the following:

(A) Analyze the data reported pursuant to Section 12525.5 of the Government Code and Section 13012 of this code.

(B) Analyze law enforcement training under this section.

(C) Work in partnership with state and local law enforcement agencies to review and analyze racial and identity profiling policies and practices across geographic areas in California.

(D) Conduct, and consult available, evidence-based research on intentional and implicit biases, and law enforcement stop, search, and seizure tactics.

(E) (i) Issue a report that provides RIPA's analysis under subparagraphs (A) to (D), inclusive, and detailed findings on the past and current status of racial and identity profiling, and makes policy recommendations for eliminating racial and identity profiling. RIPA shall post the report on its internet website. Each report shall include disaggregated statistical data for each reporting law enforcement agency. The report shall include, at minimum, each reporting law enforcement agency's total results for each data collection criterion under subdivision (b) of Section 12525.5 of the Government Code for each calendar year. The report may include a response to any dissenting opinion included in the report pursuant to subparagraph (E) (ii), of paragraph (3) of this subdivision. The reports shall be retained and made available to the public by posting those reports on the Department of Justice's OpenJustice web portal. The first annual report shall be issued no later than January 1, 2018. The reports are public records within the meaning of Section 7920.530 of the Government Code and are open to public inspection pursuant to Sections 7922.500 to 7922.545, inclusive, 7923.000, and 7923.005 of the Government Code.

(ii) Notwithstanding paragraph (6), any member of RIPA may cause a dissenting opinion to be included in the report that includes conclusions or recommendations, or both, that are in addition to, or differ from, the report that is agreed to by a majority of the members.

(F) Hold at least three public meetings annually to discuss racial and identity profiling, and potential reforms to prevent racial and identity profiling. Each year, one meeting shall be held in northern California, one in central California, and one in southern California. RIPA shall provide the public with notice of at least 60 days before each meeting.

(4) Pursuant to subdivision (e) of Section 12525.5 of the Government Code, RIPA shall advise the Attorney General in developing regulations for the collection and reporting of stop data, and ensuring uniform reporting practices across all reporting agencies.

(5) Members of RIPA shall not receive compensation, nor per diem expenses, for their services as members of RIPA.

(6) No action of RIPA shall be valid unless agreed to by a majority of its members.

(7) The initial terms of RIPA members shall be four years.

(8) Each year, RIPA shall elect two of its members as cochairpersons.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Date of Hearing: April 29, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

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

As Proposed to be Amended in Committee

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 certain 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) Requires every manufacturer certified by the DMV to provide IIDs to adopt the following fee schedule that provides for the payment of the costs of the IID, the administration of the program, installation of the device, service, maintenance and recalibration of the device, and any other costs associated with the device by persons subject to this chapter in amounts commensurate with that person's income relative to the federal poverty level, as defined, as follows:

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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.

a) A person with an income at 125 percent of the federal poverty level and below is responsible for 10 percent of the costs associated with the IID, and the IID provider is responsible for absorbing the cost of the IID that is not paid by the person.

b) A person with an income at 126 to 225 percent of the federal poverty level is responsible for 25 percent of the costs associated with the IID, and the IID provider is responsible for absorbing the cost of the IID that is not paid by the person.

c) A person with an income at 226 to 325 percent of the federal poverty level is responsible for 50 percent of the costs associated with the IID, and the IID provider is responsible for absorbing the cost of the IID that is not paid by the person.

d) 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 costs associated with the IID, and any additional costs accrued by the person for noncompliance with program requirements.

e) A person with an income at 326 to 425 percent of the federal poverty level and who provides income verification, as specified, is responsible for 90 percent of the costs associated with the IID, and any additional costs accrued by the person for noncompliance with program requirements.

f) Makes all other persons responsible for 100 percent of the costs associated with the IID.

g) Makes the manufacturer responsible for the percentage of costs that the person ordered to install an IID is not responsible for, as specified.

h) Requires the IID provider to verify the income of the person ordered to install an IID to determine the costs associated with the IID by verifying any of the following documents from the person:

   i) The previous year's state or federal income tax return.

   ii) The previous three months of weekly or monthly income statements.

   iii) Employment Development Department verification of unemployment benefits.

i) Provides that at any point during which an IID is installed and in use, an individual shall be permitted to apply for reduced costs, and shall be credited for any previously paid costs that were in excess of the above fee schedule, as specified. An individual shall also be permitted to apply for reduced costs based on a change of income.

4) Requires an IID provider to post conspicuously on its internet website and contracts, the fee schedule information established above, and prior to an individual's execution of a contract for an IID, the provider shall also give verbal notification of the fee schedule and how to apply for reduced costs.

5) Requires installation service and repair providers to post conspicuously in their place of business and verbally inform a person of the fee schedule information established above, prior to installation and servicing of the device.

6) Clarifies that the requirement that an individual who is required to install an IID must arrange for each vehicle with an IID to be serviced by an installer every 60 days, and pay a fee, determined by the DMV that is sufficient to cover the costs of administering the IID program, is subject to the fee schedule described above.

7) Specifies, for purposes of the above fee to be determined by the DMV, that the DMV shall not charge any person a fee amount that is more than that payor's burdens on the DMV's administration of the IID program, consistent with Section 3 of Article XIII A of the California Constitution and, in that regard, fee payors who do not receive a waiver of the fee or a reduced fee shall not subsidize the loss of revenue from those waivers and reduced fees.

8) Requires a copy of the above fee schedule information to also be provided to an individual together with the court order requiring the installation of an IID.

9) Requires the DMV to publish and share such fee schedule information, as follows:

   a) Requires the DMV to post the fee schedule information described above on its internet website.

   b) Requires the DMV to include the fee schedule information described above in any mailed notice of revocation or suspension that notifies an individual of the requirement to install an IID.

10) Requires the DMV to annually report to the Legislature the following information:

   a) The number of first time DUI offenders with no priors, as specified, who were required to have an IID installed as a result of the IID program established by this bill, who killed or injured anyone in a crash while they were operating a vehicle under the influence of alcohol.

   b) The number of first time DUI offenders with no priors, as specified, who were required to have an IID installed as a result of the IID program established by this bill, who killed or injured anyone in a crash while they were operating a vehicle and were not under the influence of alcohol.

   c) The number of first time DUI offenders with no priors, as specified, who were required to have an IID installed as a result of the IID program established by this bill, who were convicted of specified offenses including a DUI, a DUI where the person is under 21 years of age, a DUI causing bodily injury to another person, a "wet reckless" offense, gross vehicular manslaughter while intoxicated, vehicular manslaughter while intoxicated, or vehicular manslaughter, during the term in which the person was required to have the IID installed.

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]

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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/

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.)

   Most notably, 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 certain provisions 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.

   This bill would require manufactures to adopt a fee schedule that requires a convicted person's payment of all costs associated with an IID to be in amounts commensurate with that person's income relative to the federal poverty level. Similarly, it clarifies that the requirement that an individual subject to an IID order must arrange for each vehicle with an IID to be serviced by an installer every 60 days, as well as the requirement that the individual pay a fee, determined by the DMV that is sufficient to cover the costs of administering the IID program, is subject to this fee schedule. Further, it requires the DMV to publish such fee schedule information on its internet website, and requires the DMV to include such fee schedule information in any mailed notice of revocation or suspension that notifies an individual of the requirement to install an IID.

   Finally, in an effort to collect data pertaining to this IID expansion, this bill requires the DMV to collect and annually report to the Legislature the following information: 1) the number of first time DUI offenders required to install an IID under this bill, who killed or injured anyone in a crash while they were operating a vehicle under the influence of alcohol; 2) the number of first time DUI offenders required to install an IID under this bill, who killed or injured anyone in a crash while they were operating a vehicle and were *not* under the influence of alcohol; and 3) the number of first time DUI offenders required to install an IID under this bill, who were convicted of specified offenses during the term in which the person was required to have the IID installed, including a DUI, a DUI causing bodily injury, a "wet reckless" offense, as well as specified vehicular manslaughter convictions.

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

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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.

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 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

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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.*

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 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

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[13] *Id.* at p. 61-62.
[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).

assess the pilot program data.[22] Specifically, it found that installing an IID within two years 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

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[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
[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.*

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 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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[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

> 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 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 the availability of DUI countermeasures 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

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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/

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. 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]

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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/

In addition to the base fine and the cost of a DUI program, this bill would impose additional costs on a person convicted of their first DUI. First, such a person would have to pay a fee "sufficient to cover the costs of administration of [the IID program]." (Veh. Code, § 23575.3, subd. (d).) Second, a first-time DUI offender may be subject to a variety of different costs pertaining to installing, servicing, and maintaining the IID, subject to a fee schedule commensurate with that person's income relative to the federal poverty level (Veh. Code, § 23575.3, subd. (k)(1).)

Committee amendments seek to alleviate some of the financial burdens on individuals required to install an IID. However, in practice, people may still 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

Amended Mock-up for 2025-2026 AB-366 (Petrie-Norris (A) , Ransom (A))

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

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

SECTION 1. Section 13352 of the Vehicle Code, as amended by Section 1 of Chapter 611 of the Statutes of 2021, is amended to read:

13352. (a) The department shall immediately suspend or revoke the privilege of a person to operate a motor vehicle upon the receipt of an abstract of the record of a court showing that the person has been convicted of a violation of Section 23152 or 23153, subdivision (a) of Section 23109, or Section 23109.1, or upon the receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153, subdivision (a) of Section 23109, or Section 23109.1. If an offense specified in this section occurs in a vehicle defined in Section 15210, the suspension or revocation specified in this subdivision applies also to the noncommercial driving privilege. The commercial driving privilege shall be disqualified as specified in Sections 15300 to 15302, inclusive. For the purposes of this section, suspension or revocation shall be as follows:

(1) (A) Except as provided in this subparagraph, or as required under Section 13352.1 or 13352.4, upon a conviction or finding of a violation of Section 23152 punishable under Section 23536, the privilege shall be suspended for a period of six months. The privilege shall not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code described in subdivision (b) of Section 23538 of this code. If the court, as authorized under paragraph (3) of subdivision (b) of Section 23646, elects to order a person to enroll in, participate in, and complete either program described in subdivision (b) of Section 23542, the department shall require that program in lieu of the program described in subdivision (b) of Section 23538. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall occur subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. Except when the court has ordered installation of a functioning, certified ignition interlock device pursuant to Section 23575.3, the department shall advise the person that they may apply to the department for a restricted driver's license if the person meets all of the following requirements:

(i) The underlying conviction was not only for the use of drugs, as defined in Section 312, at the time of the violation.

(ii) The person satisfactorily provides to the department, subsequent to the violation date of the current underlying conviction, enrollment in, or completion of, a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23538 of this code.

(iii) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in clause (ii).

(iv) The person does both of the following:

(I) Submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(II) Agrees to maintain the functioning, certified ignition interlock device as required under subdivision (i).

(v) The person provides proof of financial responsibility, as defined in Section 16430.

(vi) The person pays all reissue fees and any restriction fee required by the department.

(vii) The person pays to the department a fee sufficient to cover the reasonable costs of administering the requirements of this paragraph, as determined by the department.

(B) The restrictions described in this paragraph shall remain in effect for the period required in subdivision (e).

(2) (A) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23554, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in subdivision (b) of Section 23556 of this code. If the court, as authorized under paragraph (3) of subdivision (b) of Section 23646, elects to order a person to enroll in, participate in, and complete either program described in subdivision (b) of Section 23542, the department shall require that program in lieu of the program described in Section 23556. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall occur subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that they may apply to the department for a restricted driver's license if the person meets all of the following requirements:

(i) The underlying conviction was not only for the use of drugs, as defined in Section 312, at the time of the violation.

(ii) The person satisfactorily provides, subsequent to the violation date of the current underlying conviction, either of the following:

(I) Proof of enrollment in a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23556 of this code.

(II) Proof of enrollment in a program described in subdivision (b) of Section 23542, if the court has ordered the person to enroll in, participate in, and complete either program described in that section, in which case the person shall not be required to provide the proof described in subclause (I).

(iii) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in clause (ii).

(iv) The person complies with Section 23575.3.

(v) The person does both of the following:

(I) Submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(II) Agrees to maintain the functioning, certified ignition interlock device as required under subdivision (i).

(vi) The person provides proof of financial responsibility, as defined in Section 16430.

(vii) The person pays all reissue fees and any restriction fee required by the department.

(viii) The person pays to the department a fee sufficient to cover the reasonable costs of administering the requirements of this paragraph, as determined by the department.

(B) The restriction shall remain in effect for the period required in subdivision (e).

(3) (A) Except as provided in this paragraph or in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23540, the privilege shall be suspended for two years. The privilege shall not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in subdivision (b) of Section 23542 of this code. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall occur subsequent to the date of the current violation. Credit shall not be given to any program activities

completed prior to the date of the current violation. The department shall advise the person that they may apply to the department for a restricted driver's license if the person meets all of the following requirements:

(i) Completion of 12 months of the suspension period if the underlying conviction was only for the use of drugs, as defined in Section 312, at the time of the violation.

(ii) The person satisfactorily provides, subsequent to the violation date of the current underlying conviction, either of the following:

(I) Proof of enrollment in an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code if a 30-month program is unavailable in the person's county of residence or employment.

(II) Proof of enrollment in a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment.

(iii) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in clause (ii).

(iv) The person complies with Section 23575.3, if the underlying conviction involved the use of alcohol.

(v) The person does both of the following:

(I) Submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(II) Agrees to maintain the functioning, certified ignition interlock device as required under subdivision (i).

(vi) The person provides proof of financial responsibility, as defined in Section 16430.

(vii) The person pays all reissue fees and any restriction fee required by the department.

(viii) The person pays to the department a fee sufficient to cover the reasonable costs of administering the requirements of this paragraph, as determined by the department.

(B) The restriction shall remain in effect for the period required in subdivision (e).

(4) (A) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23560, the privilege shall be revoked for a period of three years. The privilege may not be reinstated until the person gives proof of financial responsibility, and the person gives proof satisfactory to the department of successful completion

of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in paragraph (4) of subdivision (b) of Section 23562 of this code. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall occur subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that they may apply to the department for a restricted driver's license if the person meets all of the following requirements:

(i) Completion of 12 months of the suspension period if the underlying conviction was only for the use of drugs, as defined in Section 312, at the time of the violation.

(ii) The person satisfactorily provides, subsequent to the violation date of the current underlying conviction, either of the following:

(I) Proof of enrollment in an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code if a 30-month program is unavailable in the person's county of residence or employment.

(II) Proof of enrollment in a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment.

(iii) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in clause (ii).

(iv) The person complies with Section 23575.3, if the underlying conviction involved the use of alcohol.

(v) The person does both of the following:

(I) Submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(II) Agrees to maintain the functioning, certified ignition interlock device as required under subdivision (i).

(vi) The person provides proof of financial responsibility, as defined in Section 16430.

(vii) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(viii) The person pays to the department a fee sufficient to cover the reasonable costs of administering the requirements of this paragraph, as determined by the department.

(B) The restriction shall remain in effect for the period required in subdivision (e).

(5) (A) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23152 punishable under Section 23546, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the person files proof of financial responsibility and gives proof satisfactory to the department of successful completion of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) or (c) of Section 23548 of this code, if a 30-month program is unavailable in the person's county of residence or employment, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall occur subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that they may apply to the department for a restricted driver's license if the person meets all of the following requirements:

(i) Completion of 12 months of the suspension period if the underlying conviction was only for the use of drugs, as defined in Section 312, at the time of the violation.

(ii) The person satisfactorily provides, subsequent to the violation date of the current underlying conviction, either of the following:

(I) Proof of enrollment in an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code if a 30-month program is unavailable in the person's county of residence or employment.

(II) Proof of enrollment in a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment.

(iii) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in clause (ii).

(iv) The person complies with Section 23575.3, if the underlying conviction involved the use of alcohol.

(v) The person does both of the following:

(I) Submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(II) Agrees to maintain the functioning, certified ignition interlock device as required under Section 23575.3, if applicable.

(vi) The person provides proof of financial responsibility, as defined in Section 16430.

(vii) An individual convicted of a violation of Section 23152 punishable under Section 23546 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(viii) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(ix) The person pays to the department a fee sufficient to cover the reasonable costs of administering the requirements of this paragraph, as determined by the department.

(B) The restriction shall remain in effect for the period required in subdivision (e).

(6) (A) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23550.5 or 23566, the privilege shall be revoked for a period of five years. The privilege may not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in subdivision (b) of Section 23568 of this code, or if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that they may apply to the department for a restricted driver's license if the person meets all of the following requirements:

(i) Completion of 12 months of the suspension period if the underlying conviction was only for the use of drugs, as defined in Section 312, at the time of the violation.

(ii) The person satisfactorily provides, subsequent to the violation date of the current underlying conviction, either of the following:

(I) Proof of enrollment in a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment.

(II) Proof of enrollment in an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if a 30-month program is unavailable in the person's county of residence or employment.

(iii) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in clause (ii).

(iv) The person complies with Section 23575.3, if the underlying conviction involved alcohol.

(v) The person does both of the following:

(I) Submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(II) Agrees to maintain the functioning, certified ignition interlock device as required under subdivision (i).

(vi) The person provides proof of financial responsibility, as defined in Section 16430.

(vii) An individual convicted of a violation of Section 23153 punishable under Section 23566 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(viii) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(ix) The person pays to the department a fee sufficient to cover the reasonable costs of administering the requirements of this paragraph, as determined by the department.

(B) The restriction shall remain in effect for the period required in subdivision (e).

(7) (A) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23152 punishable under Section 23550 or 23550.5, or of a violation of Section 23153 punishable under Section 23550.5, the privilege shall be revoked for a period of four years. The privilege shall not be reinstated until the person files proof of financial responsibility and gives proof satisfactory to the department of successful completion of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if a 30-month program is unavailable in the person's county of residence or employment, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall occur subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that they may apply to the department for a restricted driver's license if the person meets all of the following requirements:

(i) Completion of 12 months of the suspension period if the underlying conviction was only for the use of drugs, as defined in Section 312, at the time of the violation.

(ii) The person satisfactorily provides, subsequent to the violation date of the current underlying conviction, either of the following:

(I) Proof of enrollment in an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if a 30-month program is unavailable in the person's county of residence or employment.

(II) Proof of enrollment in a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment.

(iii) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in clause (ii).

(iv) The person complies with Section 23575.3, if the underlying conviction involved alcohol.

(v) The person does both of the following:

(I) Submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(II) Agrees to maintain the functioning, certified ignition interlock device as required under subdivision (i).

(vi) The person provides proof of financial responsibility, as defined in Section 16430.

(vii) An individual convicted of a violation of Section 23152 punishable under Section 23550 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(viii) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(ix) The person pays to the department a fee sufficient to cover the reasonable costs of administering the requirements of this paragraph, as determined by the department.

(B) The restriction shall remain in effect for the period required in subdivision (e).

(8) (A) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 that is punishable under subdivision (e) of that section or Section 23109.1, the privilege shall be suspended for a period of 90 days to six months, if ordered by the court. The privilege shall not be reinstated until the person gives proof of financial responsibility, as defined in Section 16430.

(B) Commencing July 1, 2025, upon a finding of a violation of subdivision (c) of Section 23109 for engaging in a motor vehicle exhibition of speed, as described in paragraph (2) of subdivision (i) of Section 23109, the privilege shall be suspended for a period of 90 days to six months, if ordered by the court. The privilege shall not be reinstated until the person gives proof of financial responsibility, as defined in Section 16430.

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 that is punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if ordered by the court. The privilege shall not be reinstated until the person gives proof of financial responsibility, as defined in Section 16430.

(b) For the purposes of paragraphs (2) to (9), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153, subdivision (a) of Section 23109, or Section 23109.1, as specified in subdivision (a) of this section, is a conviction.

(c) A judge of a juvenile court, juvenile hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or Canada that, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for the purposes of this section, and a conviction of an offense that, if committed in this state, would be a violation of Section 23153, is a conviction of Section 23153 for the purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of that conviction.

(e) (1) The restricted driving privilege shall become effective when the department receives all of the documents and fees required under paragraphs (1) to (7), inclusive, of subdivision (a) and, except as specified in paragraph (2) or (3), shall remain in effect until all reinstatement requirements are satisfied.

(2) For the purposes of the restriction conditions specified in paragraphs (1) to (7), inclusive, of subdivision (a), the department shall terminate the restriction imposed pursuant to this section and shall suspend or revoke the person's driving privilege upon receipt of notification from the driving-under-the-influence program that the person has failed to comply with the program requirements. The person's driving privilege shall remain suspended or revoked for the remaining period of the original suspension or revocation imposed under this section and until all reinstatement requirements described in this section are met.

(3) The department shall immediately suspend or revoke the privilege to operate a motor vehicle of a person who, with respect to an ignition interlock device installed pursuant to this section attempts to remove, bypass, or tamper with the device, has the device removed prior to the termination date of the restriction, or fails three or more times to comply with any requirement for the maintenance or calibration of the device. The privilege shall remain suspended or revoked for the remaining period of the originating suspension or revocation and until all reinstatement requirements in this section are satisfied, provided, however, that if the person provides proof to the satisfaction of the department that the person is in compliance with the restriction issued pursuant to this section, the department may, in its discretion, restore the privilege to operate a motor vehicle and reimpose the remaining term of the restriction.

(f) Notwithstanding the suspension periods specified in paragraphs (1) to (7), inclusive, of subdivision (a) or Section 13352.1, if the person maintains a functioning, certified ignition interlock device for the mandatory term required under Section 23575.3, inclusive of any term credit earned under Section 13353.6 or 13353.75, the department shall reinstate the person's privilege to operate a motor vehicle at the time the other reinstatement requirements are satisfied.

(g) For the purposes of this section, completion of a program is the following:

(1) Satisfactory completion of all program requirements approved pursuant to program licensure, as evidenced by a certificate of completion issued, under penalty of perjury, by the licensed program.

(2) Certification, under penalty of perjury, by the director of a program specified in Section 8001 of the Penal Code, that the person has completed a program specified in Section 8001 of the Penal Code.

(h) (1) The holder of a commercial driver's license who was operating a motor vehicle other than a commercial vehicle, or a driver who was operating a commercial vehicle, as defined in Section 15210, at the time of the violation that resulted in the suspension of that person's driving privilege pursuant to this section is not eligible for the restricted driver's license authorized under paragraphs (1) to (7), inclusive, of subdivision (a).

(2) Notwithstanding paragraph (1), as authorized under this section, the department shall issue the person a noncommercial driver's license restricted in the same manner and subject to the same conditions and requirements as specified in paragraphs (1) to (7), inclusive, of subdivision (a).

(i) A person whose driving privilege is restricted by the Department of Motor Vehicles pursuant to this section shall arrange for each vehicle with a functioning, certified ignition interlock device to be serviced by the installer at least once every 60 days in order for the installer to recalibrate the device and monitor the operation of the device. The installer shall notify the department if the device is removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device.

(j) The reinstatement of the driving privilege pursuant to this section does not abrogate a person's continuing duty to comply with any restriction imposed pursuant to Section 23575.3.

(k) For purposes of this section, "bypass" means either of the following:

(1) Failure to take any random retest.

(2) Failure to pass a random retest with a breath alcohol concentration not exceeding 0.03 percent, by weight of alcohol, in the person's blood.

(l) For purposes of this section, "random retest" means a breath test performed by the driver upon a certified ignition interlock device at random intervals after the initial engine startup breath test and while the vehicle's motor is running.

(m) The restriction conditions specified in paragraphs (1) to (7), inclusive, of subdivision (a) shall apply only to a person who is convicted for a violation of Section 23152 or 23153 that occurred on or after January 1, 2019.

SEC. 2. Section 13352 of the Vehicle Code, as amended by Section 2 of Chapter 611 of the Statutes of 2021, is repealed.

SEC. 3. Section 13352.1 of the Vehicle Code, as added by Section 5 of Chapter 485 of the Statutes of 2017, is amended to read:

13352.1. (a) Pursuant to subdivision (a) of Section 13352 and except as required under subdivision (c) of this section or Section 13352.4, upon a conviction or finding of a violation of Section 23152 punishable under Section 23536, if the court refers the person to a program pursuant to paragraph (2) of subdivision (b) of Section 23538, the privilege shall be suspended for 10 months.

(b) The privilege may not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code described in subdivision (b) of Section 23538 of this code. For the purposes of this subdivision, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit may not be given to any program activities completed prior to the date of the current violation.

(c) (1) Except when the court has ordered installation of a functioning, certified ignition interlock device pursuant to Section 23575.3, the department shall advise the person that they may apply to the department for a restricted driver's license if the person meets all of the following requirements:

(A) The underlying conviction was not only for the use of drugs, as defined in Section 312, at the time of the violation.

(B) The person satisfactorily provides to the department, subsequent to the violation date of the current underlying conviction, enrollment in, or completion of, a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in paragraph (2) of subdivision (b) of Section 23538 of this code.

(C) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in subparagraph (B).

(D) The person does both of the following:

(i) Submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(ii) Agrees to maintain the functioning, certified ignition interlock device as required under subdivision (e).

(E) The person provides proof of financial responsibility, as defined in Section 16430.

(F) The person pays all reissue fees and any restriction fee required by the department.

(G) The person pays to the department a fee sufficient to cover the reasonable costs of administering the requirements of this paragraph, as determined by the department.

(2) The restriction shall remain in effect for the period required in subdivision (d).

(d) (1) The restricted driving privilege shall become effective when the department receives all of the documents and fees required under subdivision (c) and, except as specified in paragraph (2) or (3), shall remain in effect until all reinstatement requirements are satisfied.

(2) For the purposes of the restriction conditions specified in subdivision (c), the department shall terminate the restriction imposed pursuant to this section and shall suspend or revoke the person's driving privilege upon receipt of notification from the driving-under-the-influence program that the person has failed to comply with the program requirements. The person's driving privilege shall remain suspended or revoked for the remaining period of the original suspension or revocation imposed under this section and until all reinstatement requirements described in this section are met.

(3) The department shall immediately suspend or revoke the privilege to operate a motor vehicle of a person who, with respect to an ignition interlock device installed pursuant to Section 23575.3, attempts to remove, bypass, or tamper with the device, has the device removed prior to the termination date of the restriction, or fails three or more times to comply with any requirement for the maintenance or calibration of the device. The privilege shall remain

suspended or revoked for the remaining period of the originating suspension or revocation and until all reinstatement requirements in this section are satisfied, provided, however, that if the person provides proof to the satisfaction of the department that the person is in compliance with the restriction issued pursuant to this section, the department may, in its discretion, restore the privilege to operate a motor vehicle and reimpose the remaining term of the restriction.

(e) A person whose driving privilege is restricted by the department pursuant to this section shall arrange for each vehicle with a functioning, certified ignition interlock device to be serviced by the installer at least once every 60 days in order for the installer to recalibrate the device and monitor the operation of the device. The installer shall notify the Department of Motor Vehicles if the device is removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device.

(f) (1) The holder of a commercial driver's license who was operating a motor vehicle other than a commercial vehicle, or a driver who was operating a commercial vehicle, as defined in Section 15210, at the time of the violation that resulted in the suspension of that person's driving privilege under paragraph (1) of subdivision (a) of Section 13352 or this section is not eligible for the restricted driver's license authorized under this section.

(2) Notwithstanding paragraph (1), as authorized under this section, the department shall issue the person a noncommercial driver's license restricted in the same manner and subject to the same conditions and requirements as specified in subdivision (c).

(g) For the purposes of this section, "bypass" means either of the following:

(1) Failure to take any random retest.

(2) Failure to pass a random retest with a breath alcohol concentration not exceeding 0.03 percent, by weight of alcohol, in the person's blood.

(h) For purposes of this section, "random retest" means a breath test performed by the driver upon a certified ignition interlock device at random intervals after the initial engine startup breath test and while the vehicle's motor is running.

(i) The restriction conditions specified in this section shall apply only to a person who is convicted for a violation of Section 23152, as specified in subdivision (a), that occurred on or after January 1, 2019.

SEC. 4. Section 13352.1 of the Vehicle Code, as added by Section 6 of Chapter 485 of the Statutes of 2017, is repealed.

SEC. 5. Section 13352.4 of the Vehicle Code, as amended by Section 7 of Chapter 485 of the Statutes of 2017, is amended to read:

13352.4. (a) Except as provided in subdivision (h), or when the court has ordered installation of a functioning, certified ignition interlock device pursuant to Section 23575.3, the department shall issue a restricted driver's license to a person whose driver's license was suspended under paragraph (1) of subdivision (a) of Section 13352 or Section 13352.1, if the person meets all of the following requirements:

(1) Submits proof satisfactory to the department of either of the following:

(A) Enrollment in a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23538 of this code.

(B) Enrollment in a program described in subdivision (b) of Section 23542, if the court has ordered the person to enroll in, participate in, and complete either program described in that section, in which case the person shall not be required to provide proof of the enrollment described in subparagraph (A).

(2) Submits proof of financial responsibility, as defined in Section 16430.

(3) Pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(b) The restriction of the driving privilege shall become effective when the department receives all of the documents and fees required under subdivision (a) and shall remain in effect for a period of 12 months and until the date all reinstatement requirements described in Section 13352 or 13352.1 have been met.

(c) The restriction of the driving privilege shall be limited to the hours necessary for driving to and from the person's place of employment, driving during the course of employment, and driving to and from activities required in the driving-under-the-influence program.

(d) Whenever the driving privilege is restricted under this section, proof of financial responsibility, as defined in Section 16430, shall be maintained for three years. If the person does not maintain that proof of financial responsibility at any time during the restriction, the driving privilege shall be suspended until the proof required under Section 16484 is received by the department.

(e) For the purposes of this section, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit may not be given to a program activity completed prior to the date of the current violation.

(f) The department shall terminate the restriction issued under this section and shall suspend the privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 or Section 13352.1 immediately upon receipt of notification from the driving-under-the-influence program that the person has failed to comply with the program requirements. The privilege shall remain suspended until the final day of the original suspension imposed under

paragraph (1) of subdivision (a) of Section 13352 or Section 13352.1, or until the date all reinstatement requirements described in Section 13352 or 13352.1 have been met, whichever date is later.

(g) (1) The holder of a commercial driver's license who was operating a motor vehicle other than a commercial vehicle, or a driver who was operating a commercial vehicle, as defined in Section 15210, at the time of the violation that resulted in the suspension of that person's driving privilege under paragraph (1) of subdivision (a) of Section 13352 or Section 13352.1 is not eligible for the restricted driver's license authorized under this section.

(2) Notwithstanding paragraph (1), as authorized under this section, the department shall issue the person a noncommercial driver's license restricted in the same manner and subject to the same conditions and requirements as specified in subdivision (a).

(h) If, upon conviction, the court has made the determination, as authorized under Section 23536 or paragraph (3) of subdivision (a) of Section 23538, to disallow the issuance of a restricted driver's license, the department may not issue a restricted driver's license under this section.

SEC. 6. Section 13352.4 of the Vehicle Code, as added by Section 9 of Chapter 783 of the Statutes of 2016, is repealed.

SEC. 7. Section 13353.3 of the Vehicle Code, as amended by Section 9 of Chapter 485 of the Statutes of 2017, is amended to read:

13353.3. (a) An order of suspension of a person's privilege to operate a motor vehicle pursuant to Section 13353.2 shall become effective 30 days after the person is served with the notice pursuant to Section 13382 or 13388, or subdivision (b) of Section 13353.2.

(b) The period of suspension of a person's privilege to operate a motor vehicle under Section 13353.2 is as follows:

(1) (A) If the person has not been convicted of a separate violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, the person has not been administratively determined to have refused chemical testing pursuant to Section 13353 or 13353.1 of this code, or the person has not been administratively determined to have been driving with an excessive concentration of alcohol pursuant to Section 13353.2 on a separate occasion, which offense or occurrence occurred within 10 years of the occasion in question, the person's privilege to operate a motor vehicle shall be suspended for four months, except as provided in subparagraph (B).

(B) The four-month suspension pursuant to subparagraph (A) shall terminate if the person has been convicted of a violation arising out of the same occurrence and all of the following conditions are met:

(i) The person is eligible for a restricted driver's license pursuant to Section 13352 or 13352.1.

(ii) The person installs a functioning, certified ignition interlock device as required in Section 13352 or 13352.1 for that restricted driver's license.

(iii) The person complies with all other applicable conditions of Section 13352 or 13352.1 for a restricted driver's license.

(2) (A) If the person has been convicted of one or more separate violations of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, the person has been administratively determined to have refused chemical testing pursuant to Section 13353 or 13353.1 of this code, or the person has been administratively determined to have been driving with an excessive concentration of alcohol pursuant to Section 13353.2 on a separate occasion, which offense or occasion occurred within 10 years of the occasion in question, the person's privilege to operate a motor vehicle shall be suspended for one year, except as provided in subparagraph (B).

(B) The one-year suspension pursuant to subparagraph (A) shall terminate if the person has been convicted of a violation arising out of the same occurrence and all of the following conditions are met:

(i) The person is eligible for a restricted driver's license pursuant to Section 13352 or 13352.1.

(ii) The person installs a functioning, certified ignition interlock device as required in Section 13352 or 13352.1 for that restricted driver's license.

(iii) The person complies with all other applicable conditions of Section 13352 or 13352.1 for a restricted driver's license.

(3) Notwithstanding any other law, if a person has been administratively determined to have been driving in violation of Section 23136 or to have refused chemical testing pursuant to Section 13353.1, the period of suspension shall not be for less than one year.

(c) If a person's privilege to operate a motor vehicle is suspended pursuant to Section 13353.2 and the person is convicted of a violation of Section 23152 or 23153, including, but not limited to, a violation described in Section 23620, arising out of the same occurrence, both the suspension under Section 13353.2 and the suspension or revocation under Section 13352 shall be imposed, except that the periods of suspension or revocation shall run concurrently, and the total period of suspension or revocation shall not exceed the longer of the two suspension or revocation periods.

(d) For the purposes of this section, a conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or Canada that, if committed in this state, would be a violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, or Section 191.5 or subdivision (a) of

Section 192.5 of the Penal Code, is a conviction of that particular section of the Vehicle Code or Penal Code.

SEC. 8. Section 13353.3 of the Vehicle Code, as added by Section 12 of Chapter 783 of the Statutes of 2016, is repealed.

SEC. 9. Section 13353.4 of the Vehicle Code, as added by Section 14 of Chapter 783 of the Statutes of 2016, is amended to read:

13353.4. (a) Except as provided in Section 13353.3, 13353.6, 13353.7, or 13353.8, the driving privilege shall not be restored, and a restricted or hardship permit to operate a motor vehicle shall not be issued, to a person during the suspension or revocation period specified in Section 13353, 13353.1, or 13353.3.

(b) The privilege to operate a motor vehicle shall not be restored after a suspension or revocation pursuant to Section 13352, 13353, 13353.1, or 13353.2 until all applicable fees, including the fees prescribed in Section 14905, have been paid and the person gives proof of financial responsibility, as defined in Section 16430, to the department.

SEC. 10. Section 13353.4 of the Vehicle Code, as added by Section 15 of Chapter 783 of the Statutes of 2016, is repealed.

SEC. 11. Section 13353.5 of the Vehicle Code, as amended by Section 11 of Chapter 485 of the Statutes of 2017, is amended to read:

13353.5. (a) If a person whose driving privilege is suspended or revoked under Section 13352, Section 13352.1, former Section 13352.4, Section 13352.4, Section 13352.6, paragraph (1) of subdivision (g) of Section 23247, or paragraph (3) of subdivision (e) of Section 13352 is a resident of another state at the time the mandatory period of suspension or revocation expires, the department may terminate the suspension or revocation, upon written application of the person, for the purpose of allowing the person to apply for a license in their state of residence. The application shall include, but need not be limited to, evidence satisfactory to the department that the applicant now resides in another state.

(b) If the person submits an application for a California driver's license within three years after the date of the action to terminate suspension or revocation pursuant to subdivision (a), a license shall not be issued until evidence satisfactory to the department establishes that the person is qualified for reinstatement and no grounds exist including, but not limited to, one or more subsequent convictions for driving under the influence of alcohol or other drugs that would support a refusal to issue a license. The department may waive the three-year requirement if the person provides the department with proof of financial responsibility, as defined in Section 16430, and proof satisfactory to the department of successful completion of a driving-under-the-influence program described in Section 13352, and the driving-under-the-influence program is of the length required under paragraphs (1) to (7), inclusive, of subdivision (a) of Section 13352.

(c) For the purposes of this section, "state" includes a foreign province or country.

SEC. 12. Section 13353.5 of the Vehicle Code, as amended by Section 12 of Chapter 485 of the Statutes of 2017, is repealed.

SEC. 13. Section 13353.6 of the Vehicle Code is amended to read:

13353.6. (a) Notwithstanding any other law, a person whose driving privilege has been suspended under Section 13353.2 and who has not been convicted of, or found to have committed, a separate violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, and if the person's privilege to operate a motor vehicle has not been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense that occurred on a separate occasion within 10 years of the occasion in question, may apply to the department for a restricted driver's license on or after the effective date specified in Section 13353.3, if the person meets all of the following requirements:

(1) (A) The person satisfactorily provides proof of enrollment in a driving-under-the-influence program licensed under Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23538.

(B) The program shall report any failure to participate in the program to the department and shall certify successful completion of the program to the department.

(C) If a person who has been issued a restricted license under this section fails at any time to participate in the program, the department shall immediately terminate the restriction and reinstate the suspension of the privilege to operate a motor vehicle. The department shall give notice of the suspension under this paragraph in the same manner as prescribed in subdivision (b) of Section 13353.2 for the period specified in Section 13353.3, that is effective upon receipt by the person.

(D) For the purposes of this section, enrollment, participation, and completion of an approved program shall occur subsequent to the date of the current violation. Credit may not be given to a program activity completed prior to the date of the current violation.

(2) The person installs a functioning, certified ignition interlock device on any vehicle that the person operates and submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(3) The person agrees to maintain the functioning, certified ignition interlock device as required under subdivision (f).

(4) (A) The person was 21 years of age or older at the time the offense occurred and gives proof of financial responsibility, as defined in Section 16430.

(B) If the driving privilege is restricted under this section, proof of financial responsibility, as described in Section 16430, shall be maintained for three years. If the person does not maintain that proof of financial responsibility at any time during the restriction, the driving privilege shall be suspended until the proof required pursuant to Section 16484 is received by the department.

(5) The person pays all applicable reinstatement or reissue fees.

(b) The restriction under this section shall remain in effect for the remaining period of the original suspension period under Section 13353.3.

(c) The department shall terminate the restriction issued pursuant to this section and shall immediately reinstate the suspension of the privilege to operate a motor vehicle upon receipt of notification from the ignition interlock device installer that a person has attempted to remove, bypass, or tamper with the ignition interlock device, has removed the device prior to the termination date of the restriction, or fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device. The privilege shall remain suspended for the remaining mandatory suspension period imposed pursuant to Section 13353.3, provided, however, that if the person provides proof to the satisfaction of the department that the person is in compliance with the restriction issued pursuant to this section, the department may, in its discretion, restore the privilege to operate a motor vehicle and reimpose the remaining term of the restriction.

(d) Notwithstanding any other law, a person whose driving privilege has been suspended under Section 13353.2, who is eligible for a restricted driver's license as provided for in this section, and who installs a functioning, certified ignition interlock device pursuant to this section, shall receive credit towards the mandatory term the person is required to install a functioning, certified ignition interlock device pursuant to Section 23575.3 for a conviction of a violation arising out of the same occurrence that led to the person's driving privilege being suspended pursuant to Section 13352 equal to the period of time the person installs a functioning, certified ignition interlock device pursuant to this section or Section 13353.75.

(e) (1) The holder of a commercial driver's license who was operating a motor vehicle other than a commercial vehicle, or a driver who was operating a commercial vehicle, as defined in Section 15210, at the time of the violation that resulted in the suspension of that person's driving privilege pursuant to Section 13353.2 is not eligible for the restricted driver's license authorized under this section.

(2) Notwithstanding paragraph (1), as authorized under this section, the department shall issue the person a noncommercial driver's license restricted in the same manner and subject to the same conditions and requirements as specified in subdivision (a).

(f) A person whose driving privilege is restricted by the department pursuant to this section shall arrange for each vehicle with a functioning, certified ignition interlock device to be serviced by the installer at least once every 60 days in order for the installer to recalibrate the device and monitor the operation of the device. The installer shall notify the department if the device is

removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device.

(g) For the purposes of this section, the following definitions apply:

(1) "Bypass" means either of the following:

(A) Failure to take any random retest.

(B) Failure to pass a random retest with a breath alcohol concentration not exceeding 0.03 percent, by weight of alcohol, in the person's blood.

(2) "Operates" includes operating a vehicle that is not owned by the person subject to this section.

(3) "Owned" means solely owned or owned in conjunction with another person or legal entity.

(4) "Random retest" means a breath test performed by the driver upon a certified ignition interlock device at random intervals after the initial engine startup breath test and while the vehicle's motor is running.

(5) "Vehicle" does not include a motorcycle until the state certifies an ignition interlock device that can be installed on a motorcycle. A person subject to an ignition interlock device restriction shall not operate a motorcycle for the duration of the ignition interlock device restriction period.

(h) Notwithstanding subdivisions (a) and (b), and upon a conviction under Section 23152 or 23153 for the current offense, the department shall suspend or revoke the person's privilege to operate a motor vehicle under Section 13352 or 13352.1.

(i) The restriction conditions specified in this section shall apply only to a person who is suspended under Section 13353.2 for a violation that occurred on or after January 1, 2019.

SEC. 14. Section 13353.75 of the Vehicle Code is amended to read:

13353.75. (a) Subject to subdivision (d), a person whose driving privilege has been suspended under Section 13353.2, and who has been previously convicted of, or found to have committed, a separate violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, or whose privilege to operate a motor vehicle has been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense that occurred on a separate occasion within 10 years of the occasion in question may apply to the department for a restricted driver's license on or after the effective date specified in Section 13353.3, if the person meets all of the following requirements:

(1) (A) The person satisfactorily provides proof of enrollment in a driving-under-the-influence program licensed under Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23538 of this code.

(B) The program shall report any failure to participate in the program to the department and shall certify successful completion of the program to the department.

(C) If a person who has been issued a restricted license under this section fails at any time to participate in the program, the department shall immediately terminate the restriction and reinstate the suspension of the privilege to operate a motor vehicle. The department shall give notice of the suspension under this paragraph in the same manner as prescribed in subdivision (b) of Section 13353.2 for the period specified in Section 13353.3, that is effective upon receipt by the person.

(D) For the purposes of this section, enrollment, participation, and completion of an approved program shall occur subsequent to the date of the current violation. Credit may not be given to a program activity completed prior to the date of the current violation.

(2) (A) The person was 21 years of age or older at the time the offense occurred and gives proof of financial responsibility, as defined in Section 16430.

(B) If the driving privilege is restricted under this section, proof of financial responsibility, as described in Section 16430, shall be maintained for three years. If the person does not maintain that proof of financial responsibility at any time during the restriction, the driving privilege shall be suspended until the proof required pursuant to Section 16484 is received by the department.

(3) The person installs a functioning, certified ignition interlock device on any vehicle that the person operates and submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(4) The person agrees to maintain the functioning, certified ignition interlock device as required under subdivision (g).

(5) The person pays all applicable reinstatement or reissue fees.

(b) The restriction shall remain in effect for the remaining period of the original suspension period under Section 13353.3.

(c) Notwithstanding subdivisions (a) and (b), and upon a conviction under Section 23152 or 23153 for the current offense, the department shall suspend or revoke the person's privilege to operate a motor vehicle under Section 13352 or 13352.1.

(d) (1) The holder of a commercial driver's license who was operating a motor vehicle other than a commercial vehicle, or a driver who was operating a commercial vehicle, as defined in Section 15210, at the time of the violation that resulted in the suspension of that person's driving

privilege pursuant to Section 13353.2 is not eligible for the restricted driver's license authorized under this section.

(2) Notwithstanding paragraph (1), as authorized under this section, the department shall issue the person a noncommercial driver's license restricted in the same manner and subject to the same conditions and requirements as specified in subdivision (a).

(e) The department shall terminate the restriction issued pursuant to this section and shall immediately reinstate the suspension of the privilege to operate a motor vehicle upon receipt of notification from the ignition interlock device installer that a person has attempted to remove, bypass, or tamper with the ignition interlock device, has removed the device prior to the termination date of the restriction, or fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device. The privilege shall remain suspended for the remaining mandatory suspension period imposed pursuant to Section 13353.3. However, if the person provides proof to the satisfaction of the department that the person is in compliance with the restriction issued pursuant to this section, the department may, in its discretion, restore the privilege to operate a motor vehicle and reimpose the remaining term of the restriction.

(f) Notwithstanding any other law, a person whose driving privilege has been suspended under Section 13353.2, who is eligible for a restricted driver's license as provided for in this section, and who installs a functioning, certified ignition interlock device pursuant to this section, shall receive credit toward the mandatory term the person is required to install a functioning, certified ignition interlock device pursuant to Section 23575.3 for a conviction of a violation arising out of the same occurrence that led to the person's driving privilege being suspended pursuant to Section 13352 or 13352.1 equal to the period of time the person installs a functioning, certified ignition interlock device pursuant to this section or Section 13353.75.

(g) A person whose driving privilege is restricted by the department pursuant to this section shall arrange for each vehicle with a functioning, certified ignition interlock device to be serviced by the installer at least once every 60 days in order for the installer to recalibrate the device and monitor the operation of the device. The installer shall notify the department if the device is removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device.

(h) For the purposes of this section, the following definitions apply:

(1) "Bypass" means either of the following:

(A) Failure to take any random retest.

(B) Failure to pass a random retest with a breath alcohol concentration not exceeding 0.03 percent, by weight of alcohol, in the person's blood.

(2) "Operates" includes operating a vehicle that is not owned by the person subject to this section.

(3) "Owned" means solely owned or owned in conjunction with another person or legal entity.

(4) "Random retest" means a breath test performed by the driver upon a certified ignition interlock device at random intervals after the initial engine startup breath test and while the vehicle's motor is running.

(5) "Vehicle" does not include a motorcycle until the state certifies an ignition interlock device that can be installed on a motorcycle. A person subject to an ignition interlock device restriction shall not operate a motorcycle for the duration of the ignition interlock device restriction period.

(i) The restriction conditions specified in this section shall apply only to a person who is suspended under Section 13353.2 for a violation that occurred on or after January 1, 2019.

SEC. 15. Section 13386 of the Vehicle Code, as added by Section 16 of Chapter 485 of the Statutes of 2017, is amended to read:

13386. (a) (1) The department shall certify or cause to be certified ignition interlock devices required by Article 5 (commencing with Section 23575) of Chapter 2 of Division 11.5 and publish a list of approved devices.

(2) (A) The department shall ensure that ignition interlock devices that have been certified according to the requirements of this section continue to meet certification requirements. The department may periodically require manufacturers to indicate in writing whether the devices continue to meet certification requirements.

(B) The department may use denial of certification, suspension or revocation of certification, or decertification of an ignition interlock device in another state as an indication that the certification requirements are not met, if either of the following apply:

(i) The denial of certification, suspension or revocation of certification, or decertification in another state constitutes a violation by the manufacturer of Article 2.55 (commencing with Section 125.00) of Chapter 1 of Division 1 of Title 13 of the California Code of Regulations.

(ii) The denial of certification for an ignition interlock device in another state was due to a failure of an ignition interlock device to meet the standards adopted by the regulation set forth in clause (i), specifically Sections 1 and 2 of the model specification for breath alcohol ignition interlock devices, as published by notice in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992, on pages 11774 to 11787, inclusive, or the model specifications for breath alcohol ignition interlock devices, as published by notice in the Federal Register, Vol. 78, No. 89, Wednesday, May 8, 2013, on pages 25489 to 26867, inclusive.

(C) Failure to continue to meet certification requirements shall result in suspension or revocation of certification of ignition interlock devices.

(b) (1) A manufacturer shall not furnish an installer, service center, technician, or consumer with technology or information that allows a device to be used in a manner that is contrary to the purpose for which it is certified.

(2) Upon a violation of paragraph (1), the department shall suspend or revoke the certification of the ignition interlock device that is the subject of that violation.

(c) An installer, service center, or technician shall not tamper with, change, or alter the functionality of the device from its certified criteria.

(d) The department shall utilize information from an independent, accredited (ISO/IEC 17025) laboratory to certify ignition interlock devices of the manufacturer or manufacturer's agent, in accordance with the guidelines. The cost of certification shall be borne by the manufacturers of ignition interlock devices. If the certification of a device is suspended or revoked, the manufacturer of the device shall be responsible for, and shall bear the cost of, the removal of the device and the replacement of a certified device of the manufacturer or another manufacturer.

(e) A model of ignition interlock device shall not be certified unless it meets the accuracy requirements and specifications provided in the guidelines adopted by the National Highway Traffic Safety Administration.

(f) All manufacturers of ignition interlock devices that meet the requirements of subdivision (e) and are certified in a manner approved by the department, who intend to market the devices in this state, first shall apply to the department on forms provided by that department. The application shall be accompanied by a fee in an amount not to exceed the amount necessary to cover the reasonable costs incurred by the department in carrying out this section.

(g) The department shall ensure that standard forms and procedures are developed for documenting decisions and compliance and communicating results to relevant agencies. These forms shall include all of the following:

(1) An "Option to Install," to be sent by the department to all offenders along with the mandatory order of suspension or revocation. This shall include the alternatives available for early license reinstatement with the installation of a functioning, certified ignition interlock device and shall be accompanied by a toll-free telephone number for each manufacturer of a certified ignition interlock device. Information regarding approved installation locations shall be provided to drivers by manufacturers with ignition interlock devices that have been certified in accordance with this section.

(2) A "Verification of Installation" to be returned to the department by the offender upon application for reinstatement. Copies shall be provided for the manufacturer or the manufacturer's agent.

(3) A "Notice of Noncompliance" and procedures to ensure continued use of the ignition interlock device during the restriction period and to ensure compliance with maintenance requirements. The maintenance period shall be standardized at 60 days to maximize monitoring checks for equipment tampering.

(h) The department shall develop rules under which every manufacturer and manufacturer's agent certified by the department to provide ignition interlock devices shall provide a fee schedule to the department of the manufacturer's standard ignition interlock device program costs, stating the standard charges for installation, service and maintenance, and removal of the manufacturer's device, and shall develop a form to be signed by an authorized representative of the manufacturer pursuant to which the manufacturer agrees to provide functioning, certified ignition interlock devices to applicants at the costs described in subdivision (k) of Section 23575.3. The form shall contain an acknowledgment that the failure of the manufacturer, its agents, or authorized installers to comply with subdivision (k) of Section 23575.3 shall result in suspension or revocation of the department's approval for the manufacturer to market ignition interlock devices in this state.

(i) A person who manufactures, installs, services, or repairs, or otherwise deals in ignition interlock devices shall not disclose, sell, or transfer to a third party any individually identifiable information pertaining to individuals who are required by law to install a functioning, certified ignition interlock device on a vehicle that the individual operates, except to the extent necessary to confirm or deny that an individual has complied with ignition interlock device installation and maintenance requirements.

SEC. 16. Section 13386 of the Vehicle Code, as added by Section 22 of Chapter 783 of the Statutes of 2016, is repealed.

SEC. 17. Section 13390 of the Vehicle Code is amended to read:

13390. A temporary license issued pursuant to Section 13382 or 13389 shall contain a notice that the person may be able to regain driving privileges with the installation of an ignition interlock device, that financial assistance may be available for that purpose, and a contact for obtaining more information regarding the ignition interlock program.

SEC. 18. Section 23103.5 of the Vehicle Code, as amended by Section 24 of Chapter 783 of the Statutes of 2016, is amended to read:

23103.5. (a) If the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of Section 23103 in satisfaction of, or as a substitute for, an original charge of a violation of Section 23152, the prosecution shall state for the record a factual basis for the satisfaction or substitution, including whether or not there had been consumption of an alcoholic beverage or ingestion or administration of a drug, or both, by the defendant in connection with the offense. The statement shall set forth the facts that show whether or not there was a

consumption of an alcoholic beverage or the ingestion or administration of a drug by the defendant in connection with the offense.

(b) The court shall advise the defendant, prior to the acceptance of the plea offered pursuant to a factual statement pursuant to subdivision (a), of the consequences of a conviction of a violation of Section 23103 as set forth in subdivision (c).

(c) If the court accepts the defendant's plea of guilty or nolo contendere to a charge of a violation of Section 23103 and the prosecutor's statement under subdivision (a) states that there was consumption of an alcoholic beverage or the ingestion or administration of a drug by the defendant in connection with the offense, the resulting conviction shall be a prior offense for the purposes of Section 23540, 23546, 23550, 23560, 23566, or 23622, as specified in those sections.

(d) The court shall notify the Department of Motor Vehicles of each conviction of Section 23103 that is required under this section to be a prior offense for purposes of Section 23540, 23546, 23550, 23560, 23566, or 23622.

(e) Except as provided in paragraph (1) of subdivision (f), if the court places the defendant on probation for a conviction of Section 23103 that is required under this section to be a prior offense for purposes of Section 23540, 23546, 23550, 23560, 23566, or 23622, the court shall order the defendant to enroll in an alcohol and drug education program licensed under Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code and complete, at a minimum, the educational component of that program, as a condition of probation. If compelling circumstances exist that mitigate against including the education component in the order, the court may make an affirmative finding to that effect. The court shall state the compelling circumstances and the affirmative finding on the record, and may, in these cases, exclude the educational component from the order.

(f) (1) If the court places on probation a defendant convicted of a violation of Section 23103 that is required under this section to be a prior offense for purposes of Section 23540, 23546, 23550, 23560, 23566, or 23622, and that offense occurred within 10 years of a separate conviction of a violation of Section 23103, as specified in this section, or within 10 years of a conviction of a violation of Section 23152 or 23153, the court shall order the defendant to participate for nine months or longer, as ordered by the court, in a program licensed under Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code that consists of at least 60 hours of program activities, including education, group counseling, and individual interview sessions.

(2) The court shall revoke the person's probation, except for good cause shown, for the failure to enroll in, participate in, or complete a program specified in paragraph (1).

(g) Commencing January 1, 2019, the court may require a person convicted on or after January 1, 2019, of a violation of Section 23103, as described in this section, to install a functioning, certified ignition interlock device on any vehicle that the person operates and prohibit that person

from operating a motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device. If the court orders the ignition interlock device restriction, the term shall be determined by the court for a period of at least three months, but no longer than the term specified in Section 23575.3 that would have applied to the defendant had the defendant instead been convicted of a violation of Section 23152, from the date of conviction. The court shall notify the Department of Motor Vehicles, as specified in subdivision (a) of Section 1803, of the terms of the restrictions in accordance with subdivision (a) of Section 1804. The Department of Motor Vehicles shall place the restriction in the person's records in the Department of Motor Vehicles. A person who is required to install a functioning, certified ignition interlock device pursuant to this subdivision shall submit the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386 and maintain the ignition interlock device as required under subdivision (f) of Section 23575.3. The department shall monitor the installation and maintenance of the ignition interlock device installed pursuant to this subdivision.

(h) The Department of Motor Vehicles shall include in its annual report to the Legislature under Section 1821 an evaluation of the effectiveness of the programs described in subdivisions (e) and (g) as to treating persons convicted of violating Section 23103.

SEC. 19. Section 23103.5 of the Vehicle Code, as added by Section 25 of Chapter 783 of the Statutes of 2016, is repealed.

SEC. 20. Section 23247 of the Vehicle Code, as amended by Section 21 of Chapter 485 of the Statutes of 2017, is amended to read:

23247. (a) It is unlawful for a person to knowingly rent, lease, or lend a motor vehicle to another person known to have had their driving privilege restricted as provided in Section 13352, 13352.1, 13353.6, 13353.75, 23575, 23575.3, or 23700, unless the vehicle is equipped with a functioning, certified ignition interlock device. A person, whose driving privilege is restricted pursuant to Section 13352, 13352.1, 13353.6, 13353.75, 23575, 23575.3, or 23700 shall notify any other person who rents, leases, or loans a motor vehicle to them of the driving restriction imposed under that section.

(b) It is unlawful for any person whose driving privilege is restricted pursuant to Section 13352, 13352.1, 13353.6, 13353.75, 23575, 23575.3, or 23700 to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(c) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to Section 13352, 13352.1, 13353.6, 13353.75, 23575, 23575.3, or 23700.

(d) It is unlawful to remove, bypass, or tamper with, an ignition interlock device.

(e) It is unlawful for any person whose driving privilege is restricted pursuant to Section 13352, 13352.1, 13353.6, 13353.75, 23575, 23575.3, or 23700 to operate any vehicle not equipped with a functioning ignition interlock device.

(f) Any person convicted of a violation of this section shall be punished by imprisonment in a county jail for not more than six months or by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment.

(g) (1) If any person whose driving privilege is restricted pursuant to Section 13352, 13352.1, 13353.6, or 13353.75 is convicted of a violation of subdivision (e), the court shall notify the Department of Motor Vehicles, which shall immediately terminate the restriction and shall suspend or revoke the person's driving privilege for the remaining period of the originating suspension or revocation and until all reinstatement requirements in Section 13352 or 13353.3 are met.

(2) If any person who is restricted pursuant to Section 23575.3, subdivision (a) or (i) of Section 23575, or Section 23700 is convicted of a violation of subdivision (e), the department shall suspend the person's driving privilege for one year from the date of the conviction.

(h) Notwithstanding any other law, if a vehicle in which a functioning, certified ignition interlock device has been installed is impounded, the manufacturer or installer of the device shall have the right to remove the device from the vehicle during normal business hours. No charge shall be imposed for the removal of the device nor shall the manufacturer or installer be liable for any removal, towing, impoundment, storage, release, or administrative costs or penalties associated with the impoundment. Upon request, the person seeking to remove the device shall present documentation to justify removal of the device from the vehicle. Any damage to the vehicle resulting from the removal of the device is the responsibility of the person removing it.

SEC. 21. Section 23247 of the Vehicle Code, as added by Section 28 of Chapter 783 of the Statutes of 2016, is repealed.

SEC. 22. Section 23573 of the Vehicle Code, as amended by Section 23 of Chapter 485 of the Statutes of 2017, is amended to read:

23573. (a) The Department of Motor Vehicles, upon receipt of the court's abstract of conviction for a violation listed in subdivision (j), shall inform the convicted person of the requirements of this section and the term for which the person is required to have a functioning, certified ignition interlock device installed. The records of the department shall reflect the mandatory use of the device for the term required and the time when the device is required to be installed pursuant to this code.

(b) The department shall advise the person that installation of a functioning, certified ignition interlock device on a vehicle does not allow the person to drive without a valid driver's license.

(c) A person who is notified by the department pursuant to subdivision (a) shall, within 30 days of notification, complete all of the following:

(1) Arrange for each vehicle operated by the person to be fitted with a functioning, certified ignition interlock device by a certified ignition interlock device provider under Section 13386.

(2) Notify the department and provide to the department proof of installation by submitting the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(3) Pay to the department a fee sufficient to cover the costs of administration of this section, including startup costs, as determined by the department.

(d) The department shall place a restriction on the driver's license record of the convicted person that states the driver is restricted to driving only vehicles equipped with a functioning, certified ignition interlock device.

(e) (1) A person who is notified by the department pursuant to subdivision (a) shall arrange for each vehicle with an ignition interlock device 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.

(2) The installer shall notify the department if the device is removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device.

(f) The department shall monitor the installation and maintenance of the functioning, certified ignition interlock device installed pursuant to subdivision (a).

(g) (1) A person who is notified by the department, pursuant to subdivision (a), is exempt from the requirements of subdivision (c) if all of the following circumstances occur:

(A) Within 30 days of the notification, the person certifies to the department all of the following:

(i) The person does not own a vehicle.

(ii) The person does not have access to a vehicle at their residence.

(iii) The person no longer has access to the vehicle being driven by the person when the person was arrested for a violation that subsequently resulted in a conviction for a violation listed in subdivision (j).

(iv) The person acknowledges that they are only allowed to drive a vehicle that is fitted with a functioning, certified ignition interlock device and that they are required to have a valid driver's license before they can drive.

(v) The person is subject to the requirements of this section when the person purchases or has access to a vehicle.

(B) The person's driver's license record has been restricted pursuant to subdivision (d).

(C) The person complies with this section immediately upon commencing operation of a vehicle subject to the required installation of a functioning, certified ignition interlock device.

(2) A person who has been granted an exemption pursuant to this subdivision and who subsequently drives a vehicle in violation of the exemption is subject to the penalties of subdivision (i) in addition to any other applicable penalties in law.

(h) This section does not permit a person to drive without a valid driver's license.

(i) A person who is required under subdivision (c) to install a functioning, certified ignition interlock device who willfully fails to install the ignition interlock device within the time period required under subdivision (c) is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than six months or by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment.

(j) In addition to all other requirements of this code, a person convicted of any of the following violations shall be punished as follows:

(1) Upon a conviction of a violation of Section 14601.2, 14601.4, or 14601.5 subsequent to one prior conviction of a violation of Section 23103.5, 23152, or 23153, within a 10-year period, the person shall immediately install a functioning, certified ignition interlock device, pursuant to this section, in all vehicles operated by that person for a term of one year.

(2) Upon a conviction of a violation of Section 14601.2, 14601.4, or 14601.5 subsequent to two prior convictions of a violation of Section 23103.5, 23152, or 23153, within a 10-year period, or one prior conviction of Section 14601.2, 14601.4, or 14601.5, within a 10-year period, the person shall immediately install a functioning, certified ignition interlock device, pursuant to this section, in all vehicles operated by that person for a term of two years.

(3) Upon a conviction of a violation of Section 14601.2, 14601.4, or 14601.5 subsequent to three or more prior convictions of a violation of Section 23103.5, 23152, or 23153, within a 10-year period, or two or more prior convictions of Section 14601.2, 14601.4, or 14601.5, within a 10-year period, the person shall immediately install a functioning, certified ignition interlock device, pursuant to this section, in all vehicles operated by that person for a term of three years.

(k) The department shall notify the court if a person subject to this section has failed to show proof of installation within 30 days of the department informing the person they are required to install a functioning, certified ignition interlock device.

(l) Subdivisions (g), (h), (j), (k), and (l) of Section 23575 apply to this section.

(m) The requirements of this section are in addition to any other requirements of law.

SEC. 23. Section 23573 of the Vehicle Code, as amended by Section 24 of Chapter 485 of the Statutes of 2017, is repealed.

SEC. 24. Section 23575 of the Vehicle Code, as amended by Section 26 of Chapter 485 of the Statutes of 2017, is amended to read:

23575. (a) The court shall require a person convicted of a violation of Section 14601.2 to install a functioning, certified ignition interlock device on any vehicle that the person operates and prohibit the person from operating a motor vehicle unless the vehicle is equipped with a functioning, certified ignition interlock device. The term of the restriction shall be determined by the court for a period not to exceed three years from the date of conviction. The court shall notify the Department of Motor Vehicles, as specified in subdivision (a) of Section 1803, of the terms of the restrictions in accordance with subdivision (a) of Section 1804. The Department of Motor Vehicles shall place the restriction in the person's records in the Department of Motor Vehicles.

(b) The court shall include on the abstract of conviction or violation submitted to the Department of Motor Vehicles under Section 1803 or 1816 the requirement and term for the use of a functioning, certified ignition interlock device. The records of the department shall reflect mandatory use of the device for the term ordered by the court.

(c) The court shall advise the person that installation of an ignition interlock device on a vehicle does not allow the person to drive without a valid driver's license.

(d) A person whose driving privilege is restricted by the court pursuant to this section shall arrange for each vehicle with a functioning, certified ignition interlock device 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. The installer shall notify the court if the device is removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device. There is no obligation for the installer to notify the court if the person has complied with all of the requirements of this article.

(e) The court shall monitor the installation and maintenance of a functioning, certified ignition interlock device restriction ordered pursuant to subdivision (a) or (i). If a person fails to comply with the court order, the court shall give notice of the fact to the department pursuant to Section 40509.1.

(f) Nothing in this section permits a person to drive without a valid driver's license.

(g) Pursuant to this section, an out-of-state resident who otherwise would qualify for an ignition interlock device restricted license in California shall be prohibited from operating a motor

vehicle in California unless that vehicle is equipped with a functioning, certified ignition interlock device. An ignition interlock device is not required to be installed on any vehicle owned by the defendant that is not driven in California.

(h) If a medical problem does not permit a person to breathe with sufficient strength to activate the device, that person shall only have the suspension option.

(i) This section does not restrict a court from requiring installation of a functioning, certified ignition interlock device and prohibiting operation of a motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device for a person to whom subdivision (a) does not apply. The term of the restriction shall be determined by the court for a period not to exceed three years from the date of conviction. The court shall notify the Department of Motor Vehicles, as specified in subdivision (a) of Section 1803, of the terms of the restrictions in accordance with subdivision (a) of Section 1804. The Department of Motor Vehicles shall place the restriction in the person's records in the Department of Motor Vehicles.

(j) For the purposes of this section, "vehicle" does not include a motorcycle until the state certifies an ignition interlock device that can be installed on a motorcycle. Any person subject to an ignition interlock device restriction shall not operate a motorcycle for the duration of the ignition interlock device restriction period.

(k) (1) For the purposes of this section, "owned" means solely owned or owned in conjunction with another person or legal entity.

(2) For purposes of this section, "operates" includes operating a vehicle that is not owned by the person subject to this section.

(l) For the purposes of this section, "bypass" means either of the following:

(1) Failure to take any random retest.

(2) Failure to pass any random retest with a breath alcohol concentration not exceeding 0.03 percent breath alcohol concentration.

(m) The department shall adopt regulations specifying the intervals between random retests.

(n) For purposes of this section, "random retest" means a breath test performed by the driver upon a certified ignition interlock device at random intervals after the initial engine startup breath test and while the vehicle's motor is running.

SEC. 25. Section 23575 of the Vehicle Code, as amended by Section 27 of Chapter 485 of the Statutes of 2017, is repealed.

SEC. 26. Section 23575.1 of the Vehicle Code is repealed.

SEC. 27. Section 23575.3 of the Vehicle Code is amended to read:

23575.3. (a) In addition to any other requirement imposed by law, a court shall notify a person convicted of a violation listed in subdivision (h) that they are required to install a functioning, certified ignition interlock device on any vehicle that the person operates and that they are prohibited from operating a motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device in accordance with this section.

(b) The Department of Motor Vehicles, upon receipt of the court's abstract of conviction for a violation listed in subdivision (h), shall inform the convicted person of the requirements of this section, including the term for which the person is required to have a certified ignition interlock device installed. The records of the department shall reflect the mandatory use of the device for the term required and the time when the device is required to be installed by this code.

(c) The department shall advise the person that installation of a functioning, certified ignition interlock device on a vehicle does not allow the person to drive without a valid driver's license.

(d) (1) A person who is notified by the department pursuant to subdivision (b) shall do all of the following:

(A) Arrange for each vehicle operated by the person to be equipped with a functioning, certified ignition interlock device by a certified ignition interlock device provider under Section 13386.

(B) Provide to the department proof of installation by submitting the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(C) Pay a fee, determined by the department, that is sufficient to cover the costs of administration of this section, subject to the fee schedule established in subdivision (k) of this section. The department shall not charge any person a fee amount that is more than that payor's burdens on the department's administration of this section, consistent with Section 3 of Article XIII A of the California Constitution and, in that regard, fee payors who do not receive a waiver of the fee or a reduced fee shall not subsidize the loss of revenue from those waivers and reduced fees.

(2) A person who is notified by the department pursuant to subdivision (b), is exempt from the requirements of this subdivision until the time the person purchases or has access to a vehicle if, within 30 days of the notification, the person certifies to the department all of the following:

(A) The person does not own a vehicle.

(B) The person does not have access to a vehicle at their residence.

(C) The person no longer has access to the vehicle they were driving at the time they were arrested for a violation that subsequently resulted in a conviction for a violation listed in subdivision (h).

(D) The person acknowledges that they are only allowed to drive a vehicle that is equipped with a functioning, certified ignition interlock device.

(E) The person acknowledges that they are required to have a valid driver's license before they can drive.

(F) The person acknowledges that they are subject to the requirements of this section when the person purchases or has access to a vehicle.

(e) In addition to any other restrictions the department places on the driver's license record of the convicted person when the person is issued a restricted driver's license pursuant to Section 13352 or 13352.4, the department shall place a restriction on the driver's license record of the person that states the driver is restricted to driving only vehicles equipped with a functioning, certified ignition interlock device for the applicable term.

(f) (1) A person who is notified by the department pursuant to subdivision (b) shall arrange for each vehicle with a functioning, certified ignition interlock device 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, subject to the fee schedule established in subdivision (k) of this section..

(2) The installer shall notify the department if the device is removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device.

(g) The department shall monitor the installation and maintenance of the ignition interlock device installed pursuant to subdivision (d).

(h) A person is required to install a functioning, certified ignition interlock device pursuant to this section for the applicable term, as follows:

(1) A person convicted of a violation of subdivision (a), (b), (d), (e), or (g) of Section 23152 shall be required to do the following, as applicable:

(A) Upon a conviction with no priors, punishable under Section 23536, the court shall order installation of a functioning, certified ignition interlock device on any vehicle that the person operates and prohibit that person from operating a motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device. The term shall be determined by the court for a period not to exceed six months from the date of conviction. The court shall notify the department of the conviction as specified in subdivision (a) of Section 1803 or Section 1816, and shall specify the terms of the ignition interlock device restriction in accordance with subdivision (a) of Section 1804. The department shall place the restriction on the driver's license record of the person that states the driver is restricted to driving only vehicles equipped with a functioning, certified ignition interlock device for the applicable term.

(B) Upon a conviction with one prior, punishable under Section 23540, the person shall install a functioning, certified ignition interlock device in the vehicle, as ordered by the court, that is operated by that person for a mandatory term of 12 months.

(C) Upon a conviction with two priors, punishable under Section 23546, the person shall install a functioning, certified ignition interlock device in the vehicle, as ordered by the court, that is operated by that person for a mandatory term of 24 months.

(D) Upon a conviction with three or more priors punishable under Section 23550, or a conviction punishable under Section 23550.5, the person shall install a functioning, certified ignition interlock device in the vehicle, as ordered by the court, that is operated by that person for a mandatory term of 36 months.

(2) A person convicted of a violation of subdivision (a), (b), (d), (e), or (g) of Section 23153 shall install a functioning, certified ignition interlock device, as follows:

(A) Upon a conviction with no priors, punishable under Section 23554, the person shall install a functioning, certified ignition interlock device in the vehicle, as ordered by the court, that is operated by that person for a mandatory term of 12 months.

(B) Upon a conviction with one prior, punishable under Section 23560, the person shall install a functioning, certified ignition interlock device in the vehicle, as ordered by the court, that is operated by that person for a mandatory term of 24 months.

(C) Upon a conviction with two priors, punishable under Section 23550 or 23566, the person shall install a functioning, certified ignition interlock device in the vehicle, as ordered by the court, that is operated by that person for a mandatory term of 36 months.

(D) Upon a conviction with one prior punishable under Section 23550.5, the person shall install a functioning, certified ignition interlock device in the vehicle, as ordered by the court, that is operated by that person for a mandatory term of 48 months.

(3) For the purposes of paragraphs (1) and (2), "prior" means a conviction for a separate violation of Section 23103, as specified in Section 23103.5, or Section 23152 or 23153, subdivision (a) or (b) of Section 191.5 of, or subdivision (a) of Section 192.5 of, the Penal Code, or subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, that occurred within 10 years of the current violation.

(4) The terms prescribed in this subdivision shall begin once a person has complied with subparagraph (B) of paragraph (1) of subdivision (d) and either upon the reinstatement of the privilege to drive pursuant to Section 13352 or the issuance of a restricted driver's license pursuant to Section 13352. A person shall receive credit for any period in which they had a restricted driver's license issued pursuant to Section 13353.6 or 13353.75.

(i) Subdivisions (g), (h), (j), and (k) of Section 23575 apply to this section.

(j) If a person fails to comply with any of the requirements regarding ignition interlock devices, the period in which the person was not in compliance shall not be credited towards the mandatory term for which the ignition interlock device is required to be installed.

(k) (1) Every manufacturer and manufacturer's agent certified by the department to provide ignition interlock devices, under Section 13386, shall adopt the following fee schedule that provides for the payment of the costs of the certified ignition interlock device, the administration of the program, installation of the device, service, maintenance and recalibration of the device as required by subdivision (f) of this section, and any other costs associated with the device by persons subject to this chapter in amounts commensurate with that person's income relative to the federal poverty level, as defined in Section 127400 of the Health and Safety Code:

(A) A person with an income at 125 percent of the federal poverty level and below is responsible for 10 percent of the costs identified in paragraph (1) of this subdivision. The ignition interlock device provider is responsible for absorbing the cost of the ignition interlock device that is not paid by the person.

(B) A person with an income at 126 to 225 percent of the federal poverty level is responsible for 25 percent of the costs identified in paragraph (1) of this subdivision. The ignition interlock device provider is responsible for absorbing the cost of the ignition interlock device that is not paid by the person.

(C) A person with an income at 226 to 325 percent of the federal poverty level is responsible for 50 percent of the costs identified in paragraph (1) of this subdivision. The ignition interlock device provider is responsible for absorbing the cost of the ignition interlock device that is not paid by the person.

(D) 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 costs identified in paragraph (1) of this subdivision, and any additional costs accrued by the person for noncompliance with program requirements.

(E) A person with an income at 326 to 425 percent of the federal poverty level and who provides income verification pursuant to paragraph (2) is responsible for 90 percent of the costs identified in paragraph (1) of this subdivision, and any additional costs accrued by the person for noncompliance with program requirements.

(F) All other persons are responsible for 100 percent of the costs identified in paragraph (1) of this subdivision.

(G) The manufacturer is responsible for the percentage of costs that the person ordered to install an ignition interlock device is not responsible for pursuant to subparagraphs (A) to (E), inclusive.

(2) The ignition interlock device provider shall verify the income of the person ordered to install an ignition interlock device to determine the costs identified in paragraph (1) of this subdivision by verifying any of the following documents from the person:

(A) The previous year's state or federal income tax return.

(B) The previous three months of weekly or monthly income statements.

(C) Employment Development Department verification of unemployment benefits.

(3) At any point during which a device is installed and in use, an individual shall be permitted to apply for reduced costs, and shall be credited for any previously paid costs that were in excess of the fee schedule set forth in paragraph (1). An individual shall also be permitted to apply for reduced costs based on a change of income.

(4) (A) The ignition interlock device provider shall post conspicuously on its internet website and contracts, the information set forth in this subdivision. Prior to an individual's execution of a contract for an ignition interlock device, the provider shall also give verbal notification of the fee schedule and how to apply for reduced costs.

(B) Installation service and repair providers shall post conspicuously in their place of business and verbally inform a person of the information set forth in this subdivision prior to installation and servicing of the device.

(C) A copy of this information set forth in this subdivision shall also be provided to an individual together with the court order requiring the installation of an ignition interlock device.

(D) The department shall post the information set forth in this subdivision on its internet website. The department shall also include the information included in this subdivision in any mailed notice of revocation or suspension that notifies an individual of the requirement to install an ignition interlock device.

(l) The Department of Consumer Affairs may impose a civil assessment not to exceed one thousand dollars ($1,000) upon a manufacturer or manufacturer's agent certified to provide ignition interlock devices who fails to inform an offender subject to this chapter of the provisions of subdivision (k), or who fails to comply with the provisions of subdivision (k).

(m) This section does not permit a person to drive without a valid driver's license.

(n) The requirements of this section are in addition to any other requirements of law.

(o) For the purposes of this section, the following definitions apply:

(1) "Bypass" means either of the following:

(A) Failure to take any random retest.

(B) Failure to pass a random retest with a breath alcohol concentration not exceeding 0.03 percent, by weight of alcohol, in the person's blood.

(2) "Operates" includes operating a vehicle that is not owned by the person subject to this section.

(3) "Owned" means solely owned or owned in conjunction with another person or legal entity.

(4) "Random retest" means a breath test performed by the driver upon a certified ignition interlock device at random intervals after the initial engine startup breath test and while the vehicle's motor is running.

(5) "Vehicle" does not include a motorcycle until the state certifies an ignition interlock device that can be installed on a motorcycle. A person subject to an ignition interlock device restriction shall not operate a motorcycle for the duration of the ignition interlock device restriction period.

(p) The requirements of this section shall apply only to a person who is convicted for a violation of Section 23152 or 23153 that occurred on or after January 1, 2019.

SEC. 28. Section 23575.4 is added to the Vehicle Code, to read:

(a) The Department of Motor Vehicles shall include in its annual report to the Legislature under Section 1821, the following information:

(1) The number of individuals with no priors, as described in subparagraph (A) of paragraph (1) of subdivision (h) of Section 23575.3, who were required to have a functioning, certified ignition interlock device installed as a result of the program, who killed or injured anyone in a crash while they were operating a vehicle under the influence of alcohol.

(2) The number of individuals with no priors, as described in subparagraph (A) of paragraph (1) of subdivision (h) of Section 23575.3, who were required to have a functioning, certified ignition interlock device installed as a result of the program, who killed or injured anyone in a crash while they were operating a vehicle and were not under the influence of alcohol.

(3) The number of individuals with no priors, as described in subparagraph (A) of paragraph (1) of subdivision (h) of Section 23575.3, who were required to have a functioning, certified ignition interlock device installed as a result of the program, who were convicted of an alcohol-related violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, or Section 191.5 of, or subdivision (a) of Section 192.5 of, the Penal Code during the term in which the person was required to have the ignition interlock device installed.

SEC. 29. Section 23575.5 of the Vehicle Code is repealed.

SEC. 30. Section 23576 of the Vehicle Code, as amended by Section 29 of Chapter 485 of the Statutes of 2017, is amended to read:

23576. (a) Notwithstanding Sections 13352, 13352.1, 13353.6, 13353.75, 23573, 23575, 23575.3, and 23700, if a person is required to operate a motor vehicle in the course and scope of their employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of a functioning, certified approved ignition interlock device if the employer has been notified by the person that the person's driving privilege has been restricted pursuant to Section 13352, 13352.1, 13353.6, 13353.75, 23573, 23575, 23575.3, or 23700 and if the person has proof of that notification in their possession, or if the notice, or a facsimile copy thereof, is with the vehicle.

(b) A motor vehicle owned by a business entity that is all or partly owned or controlled by a person otherwise subject to Section 13352, 13352.1, 13353.6, 13353.75, 23573, 23575, 23575.3, or 23700, is not a motor vehicle owned by the employer subject to the exemption in subdivision (a).

SEC. 31. Section 23576 of the Vehicle Code, as added by Section 39 of Chapter 783 of the Statutes of 2016, is repealed.

SEC. 32. Section 23597 of the Vehicle Code, as amended by Section 30 of Chapter 485 of the Statutes of 2017, is amended to read:

23597. (a) Notwithstanding Sections 13202.5, 13203, and 13352, a court may order a 10-year revocation of the driver's license of a person who has been convicted of three or more separate violations of Section 23152 or 23153, the last of which is punishable under Section 23546, 23550, 23550.5, or 23566. When making this order, the court shall consider all of the following:

(1) The person's level of remorse for the acts.

(2) The period of time that has elapsed since the person's previous convictions.

(3) The person's blood-alcohol level at the time of the violation.

(4) The person's participation in an alcohol treatment program.

(5) The person's risk to traffic or public safety.

(6) The person's ability to install a functioning, certified ignition interlock device in each motor vehicle that the person operates.

(b) Upon receipt of a duly certified abstract of the record of the court showing the court has ordered a 10-year revocation of a driver's license pursuant to this section, the department shall revoke the person's driver's license for 10 years, except as provided in subdivision (c).

(c) (1) Five years from the date of the last conviction of a violation of Section 23152 or 23153, a person whose license was revoked pursuant to subdivision (a) may apply to the department to have their privilege to operate a motor vehicle reinstated, subject to the condition that the person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386 and agrees to maintain a functioning, certified ignition interlock device as required under subdivision (f) of Section 23575.3. Notwithstanding Chapter 5 (commencing with Section 23700) or Section 23575.3, the ignition interlock device shall remain on the person's motor vehicle for two years following the reinstatement of the person's driving privilege pursuant to this section.

(2) The department shall reinstate the person's license pursuant to paragraph (1), if the person satisfies all of the following conditions:

(A) The person was not convicted of any drug- or alcohol-related offenses, under state law, during the driver's license revocation period.

(B) The person successfully completed a driving-under-the-influence program, licensed pursuant to Section 11836 of the Health and Safety Code, following the date of the last conviction of a violation of Section 23152 or 23153 of this code.

(C) The person was not convicted of violating Section 14601, 14601.1, 14601.2, 14601.4, or 14601.5 during the driver's license revocation period.

(3) The department shall immediately revoke the privilege to operate a motor vehicle of a person who attempts to remove, bypass, or tamper with the device, who has the device removed prior to the termination date of the restriction, or who fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device. The privilege shall remain revoked for the remaining period of the original revocation and until all reinstatement requirements are met, provided, however, that if the person provides proof to the satisfaction of the department that the person is in compliance with the restriction issued pursuant to this section, the department may, in its discretion, restore the privilege to operate a motor vehicle and reimpose the remaining term of the restriction.

SEC. 33. Section 23597 of the Vehicle Code, as added by Section 42 of Chapter 783 of the Statutes of 2016, is repealed.

SEC. 34. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.