California State Assembly

PUBLIC SAFETY

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

AGENDA

Tuesday, June 17, 2025
9 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

1.	SB 4	Cervantes	Missing and Murdered Indigenous Persons Justice Program.
2.	SB 221	Ochoa Bogh	Crimes: stalking.
3.	SB 229	Alvarado-Gil	Peace officers: deputy sheriffs.
4.	SB 281	Pérez	Pleas: immigration advisement.
5.	SB 337	Menjivar	Prisons.
6.	SB 379	Jones	Sexually violent predators.(Urgency)
7.	SB 385	Seyarto	Peace officers.(Urgency)
8.	SB 459	Grayson	Peace officers: confidential communications: group peer support services.
9.	SB 551	Cortese	Corrections and rehabilitation: state policy.
10.	SB 553	Cortese	Prisons: clearances.
11.	SB 734	Caballero	Criminal procedure: discrimination.

Date of Hearing: June 17, 2025
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 4 (Cervantes) – As Amended May 23, 2025

SUMMARY: Establishes a Missing and Murdered Indigenous Persons Justice Program (MMIPJP) within the Department of Justice (DOJ) that would impose specified responsibilities, including facilitating collaboration and acting as a liaison between tribal entities and federal, tribal, state, and out-of-state law enforcement agencies. Specifically, **this bill**:

1) Establishes MMIPJP and states that the MMIPJP has all of the following responsibilities:

    a) Facilitate collaboration and act as a liaison between tribal victims' families, tribal governments, and federal, tribal, state, and out-of-state law enforcement agencies, where appropriate, regarding active and inactive cases involving missing and murdered indigenous persons in California, including cases involving human trafficking;

    b) Provide technical assistance to law enforcement agencies already engaged in investigating cases involving missing and murdered indigenous persons in California, including cases of human trafficking; and,

    c) Publish data on the number of, and facts about, cases involving missing and murdered indigenous persons in California, where appropriate.

2) Requires submission of an annual report to both houses of the Legislature containing all of the following:

    a) The cases DOJ acted as a liaison and provided technical assistance to law enforcement, as defined;

    b) The information published on cases involving missing and murdered indigenous persons in California, as defined; and,

    c) An analysis of all appropriate data, and any recommendations to assist or improve upon necessary collaboration and coordination between local, state, and tribal governments in addressing missing and murdered indigenous persons in California.

3) Provides that the requirement for submitting a report is inoperative on and after January 1, 2028.

EXISTING FEDERAL LAW:

1) Provides concurrent California and Tribal jurisdiction over criminal offenses committed by or against Indians in the areas of Indian country, as specified. Provides that the Indian

Country affected within California includes all Indian Country within the state. (18 U.S.C. § 1162.)

2) Defines "Indian country" as:

   a) All land within the limits of any Indian reservation under the jurisdiction of the U.S. Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

   b) All dependent Indian communities within the borders of the U.S. whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and,

   c) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. (18 U.S.C. § 1151.)

EXISTING LAW:

1) Provides that murder is the unlawful killing of a human being, or a fetus, with malice aforethought. (Pen. Code, § 187, subd. (a).)

2) Requires the Attorney General to establish and maintain the Violent Crime Information Center to assist in the identification and the apprehension of persons responsible for specific violent crimes and for the disappearance and exploitation of persons, particularly children and at-risk adults. (Pen. Code, § 14200, subd. (a).)

3) Requires all local police and sheriffs' departments to accept any report, by any party, including any telephonic report, of a missing person, including runaways, without delay and to give priority to the handling of these reports over the handling of reports relating to crimes involving property. (Pen. Code, § 14211, subd. (a).)

4) Requires the local police or sheriff's department, in cases of reports involving missing persons, including, but not limited to, runaways, to immediately take the report and make an assessment of reasonable steps to be taken to locate the person by using the required report forms, checklists, and guidelines. (Pen. Code, § 14211, subd. (c).)

5) Establishes the "feather alert," a notification system designed to issue and coordinate alerts with respect to endangered indigenous people, specifically indigenous women or indigenous people, who are reported missing. (Gov. Code, § 8594.13, subd. (a).)

6) Provides that a law enforcement agency or Tribe of California may directly request the California Highway Patrol (CHP) to activate a Feather Alert. (Gov. Code, § 8594.13, subd. (c)(1).)

7) Specifies that a law enforcement agency may request that a Feather Alert be activated if that agency determines a Feather Alert would be an effective tool in the investigation of missing and murdered indigenous persons, including young women or girls. (Gov. Code, § 8594.13, subd. (e).)

8) Requires the law enforcement agency to consider the following factors to make that determination:

a) The missing person is an indigenous woman or an indigenous person;

b) The investigating law enforcement agency has utilized available local and tribal resources;

c) The law enforcement agency determines that the person is missing;

d) The law enforcement agency or tribe believes that the person is in danger and is missing under circumstances that indicate that: the missing person's physical safety may be endangered; the missing person may be subject to trafficking; or the missing person suffers from a mental or physical disability, or a substance use disorder; and,

e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person. (Gov. Code, § 8594.13, subd. (e).)

9) Establishes the Rural Indian Crime Prevention Program within the Office of Emergency Services, the purpose of which is to provide financial and technical assistance for local law enforcement. (Pen. Code, § 13847, subd. (a).)

10) Requires the program to target the relationship between law enforcement and Native American communities to encourage and to strengthen cooperative efforts and to implement crime suppression and prevention programs. (Pen. Code, § 13847, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "It is an unfortunate truth that across the United States, including in California, there is an ongoing crisis of persistent violence levied committed against Indigenous people, especially women and girls. The Sovereign Bodies Institute (SBI) began tracking the number of murdered and missing Indigenous people (MMIP) in California in 2015 and found that there are approximately 18 new MMIP cases documented per year. Cases were documented in 42 of California's 58 counties. According to SBI, 91 percent of murdered and missing Indigenous children in Southern California are girls, and the lack of thematic issues among these cases suggests these girls are targeted because they are both Indigenous and girls.

   "Senate Bill 4, a reintroduction of my Assembly Bill 2279 from 2024, will continue this effort by establishing the Missing and Murdered Indigenous Persons Justice Program within the Department of Justice. The Program would be empowered to facilitate collaboration and act as a liaison between tribal victims' families; tribal governments; and state, federal, and out-of-state law enforcement agencies. The Program would also provide technical advice to law enforcement agencies investigating MMIP cases in California when appropriate. Finally, to further improve transparency regarding the ongoing MMIP crisis, the Program would be required to publish data on the number of MMIP cases and facts about those cases, as well as submit an annual report to the Legislature. This bill will help provide a coordinated state response to MMIP cases, as well as shine a light on a crisis affecting our Indigenous communities that has not received nearly the attention it deserves."

2) **Effect of the Bill:** This bill would establish the Missing and Murdered Indigenous Persons Justice Program "within and under the discretion" of DOJ. The use of the word "discretion" in the context of DOJ's role creates some ambiguity about the extent of DOJ's responsibility to the program beyond the requirement that the program exist within its department. Black's Law Dictionary defines "discretion" as "wise conduct and management, cautious discernment, prudence . . . the power of free decision-making."[1] The California Supreme Court has used this definition as well. (See *People v. Rodriguez* (2016) 1 Cal. 5th 676, 685.) Given the language of the bill and the definitions of a key word in the bill, it is not clear whether DOJ would have the authority, for example, to simply house the program in name only but direct no funding or resources to its operation.

   Assuming an operational program, this bill would also include additional responsibilities for DOJ to facilitate collaboration with law enforcement agencies and tribal entities regarding active and inactive cases of missing and murdered indigenous persons in California, provide technical assistance to law enforcement agencies already investigating cases of missing and murdered indigenous persons in California, publish data about missing and murdered indigenous persons in California, and submit an annual report to both houses of the California legislature.

   The goals of this bill appear to align with some of the gaps in justice for missing and murdered indigenous persons detailed in the Urban Indian Health Institute (UIHI) report discussed below.

3) **Background**: In 2018, UIHI published a report after conducting a study "aimed at assessing the number and dynamics of cases of missing and murdered American Indian and Alaska Native women and girls in cities across the United States."[2] In its report, UIHI cited a National Crime Information Center statistic that there were 5,712 reports of missing American Indian and Alaska Native women and girls made in 2016 although the United States Department of Justice's (US DOJ) federal missing persons database only had 116 cases.[3] That discrepancy as well as the lack of research on rates of violence among American Indian and Alaska Native women living in urban areas—where nearly three quarters of the Indigenous population lives—led UIHI to conduct its study.[4]

   In describing its methodology to collect data on cases of missing and murdered Indigenous women and girls, the UIHI stated:

   > As demonstrated by the findings of this study, reasons for the lack of quality data include underreporting, racial misclassification, poor relationships between law enforcement and American Indian and Alaska Native communities, poor record-keeping protocols, institutional racism in the media, and a lack of substantive relationships between journalists and American Indian and Alaska Native communities. In an effort to collect as much case data as possible and to be able to compare the five data sources used, UIHI

---

[1] *Discretion,* Black's Law Dict., 9th ed., at p. 564
[2] *Missing and Murdered Indigenous Women & Girls: A snapshot of date from 71 urban cities in the United States*, Urban Indian Health Institute (2018) at p. 2 <https://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf> [as of June 9, 2025].
[3] *Ibid.*
[4] *Ibid.*

> collected data from Freedom of Information Act (FOIA) requests to law enforcement agencies, state and national missing persons databases, searches of local and regional news media online archives, public social media posts, and direct contact with family and community members who volunteered information on missing or murdered loved ones.[5]

The report concluded:

> UIHI discovered a striking level of inconsistency between community, law enforcement, and media understandings of the magnitude of this violence. If this report demonstrates one powerful conclusion, it is that if we rely solely on law enforcement or media for an awareness or understanding of the issue, we will have a deeply inaccurate picture of the realities, minimizing the extent to which our urban American Indian and Alaska Native sisters experience this violence. This inaccurate picture limits our ability to address this issue at policy, programing, and advocacy levels.[6]

This bill seeks to address some of the issues outlined in the report. However, it is not evident to what extent this bill would generate duplicative or superfluous efforts already undertaken at the federal and state levels.

4) **Existing Efforts to Address Missing and Murdered Indigenous Persons**: At the federal level, Public Law 116-165, also known as Savanna's Law, was enacted to direct the US DOJ to review, revise, and develop law enforcement and justice protocols to address missing or murdered Native Americans. (25 U.S.C. § 5701 et seq.)

   Savanna's Law requires the US DOJ to:

   - provide training to law enforcement agencies on how to record tribal enrollment for victims in federal databases;
   - develop and implement a strategy to educate the public on the National Missing and Unidentified Persons System;
   - conduct specific outreach to tribes, tribal organizations, and urban Indian organizations regarding the ability to publicly enter information through the National Missing and Unidentified Persons System or other non-law enforcement sensitive portal;
   - develop regionally appropriate guidelines for response to cases of missing or murdered Native Americans;
   - provide training and technical assistance to tribes and law enforcement agencies for implementation of the developed guidelines; and
   - report statistics on missing or murdered Native Americans. (*Ibid.*)

   Tribes may submit their own guidelines to US DOJ that respond to cases of missing or murdered Native Americans. (*Ibid.*) Additionally, the law authorizes US DOJ to provide grants for the purposes of (1) developing and implementing policies and protocols for law enforcement regarding cases of missing or murdered Native Americans, and (2) compiling and annually reporting data relating to missing or murdered Native Americans. (*Ibid.*)

---

[5] *Id.* at p. 4.
[6] *Id.* at p. 20

At the state level, the Missing and Murdered Indigenous Persons Grant Program provides funding through competitive grants to federally recognized tribes "to support efforts to identify, collect case-level data, publicize, and investigate and solve cases involving missing and murdered indigenous people. Grants should focus on activities including, but not limited to, developing culturally based prevention strategies, strengthening responses to human trafficking, and improving cooperation and communication on jurisdictional issues between state, local, federal, and tribal law enforcement in order to investigate and solve cases involving missing and murdered indigenous people."[7]

This bill is substantially similar to AB 2279 of the 2023-2024 legislative session, which was vetoed. In addition to the requirements in this bill, AB 2279 would have required the program to provide grants to local and tribal law enforcement agencies to support investigatory activities.

In his veto message of AB 2279, Governor Newsom wrote:

> I appreciate the author's commitment to addressing the ongoing MMIP crisis. My administration continues to prioritize policies that increase collaboration between law enforcement and tribal communities to bring justice to those impacted. In partnership with the Legislature, we increased funding in this year's budget for the MMIP Grant Program, which has awarded millions of dollars to support tribes' efforts to identify, publicize, investigate, and solve MMIP cases.
>
> This measure is duplicative of those efforts and creates a new, unfunded grant program not included in the 2024 Budget Act. In partnership with the Legislature this year, my Administration has enacted a balanced budget that avoids deep program cuts to vital services and protected investments in education, health care, climate, public safety, housing, and social service programs that millions of Californians rely on. It is important to remain disciplined when considering bills with significant fiscal implications that are not included in the budget, such as this measure.

The Cohort 3 cycle for this grant program is expected to commence on August 1, 2025 with funding in the amount of $12.9 million dollars to be distributed throughout the cycle.[8] Absent additional clarification on how this bill is distinguishable from current programs, the bill could face a veto from the Governor.

With these federal and state programs in place, it is not clear to what extent this bill will provide additional, useful resources to further aid the problem of under-resourcing cases involving missing and murdered indigenous persons.

5) **Argument in Support**: According to the *California District Attorneys Association*, "The disproportionate rates of violence, human trafficking, and disappearance among Indigenous individuals demand urgent and sustained action. SB 4 takes a crucial step in strengthening investigative coordination, improving data collection, and enhancing law enforcement's ability to address these tragic cases effectively. By providing a dedicated program within the

---

[7] *Missing and Murdered Indigenous People Grant*, Board of State and Community Corrections (2025), <https://www.bscc.ca.gov/missing-and-murdered-indigenous-people-grant-program/> [as of June 10, 2025].
[8] *Ibid.*

Department of Justice, the bill ensures that resources and expertise are directed toward resolving cases that have too often gone without justice.

"Additionally, SB 4's requirement for annual reporting will enhance transparency and accountability, allowing stakeholders to assess the effectiveness of collaborative efforts while identifying areas for improvement. The California District Attorneys Association recognizes the importance of these measures in building trust with Indigenous communities and ensuring that every missing or murdered person receives the investigative attention they deserve."

6) **Related Legislation**:

a) AB 977 (Ramos), would require, as part of the California Native American Graves Protection and Repatriation Act of 2001, the California State University, in consultation with tribes, to identify California State University-owned land for the burial of Native American human remains and designate three burial sites statewide. AB 977 is pending referral in the Senate Rules Committee.

b) AB 1321 (Castillo), would require the Attorney General to establish, in consultation with specified groups, agencies, and organizations, an electronic database and support system, as specified, for the public to report and search for missing children. AB 1321 is pending hearing in the Assembly Public Safety Committee.

7) **Prior Legislation**:

a) AB 2279 (Cervantes), of the 2023-24 Legislative Session, was substantially similar to this bill. The Governor vetoed AB 2279.

b) AB 2944 (Waldron), of the 2023-24 Legislative Session, would have authorized the Governor to appoint a Red Ribbon Panel to address the murdered or missing indigenous persons crisis, consisting of specified members. This bill was held in the Assembly Appropriations Committee. AB 2944 was held in suspense in the Assembly Appropriations Committee.

c) AB 1314 (Ramos), Chapter 476, Statutes of 2022, authorized a law enforcement agency to request CHP to activate a "Feather Alert," as defined, if specified criteria are satisfied with respect to an endangered indigenous person who has been reported missing under unexplained or suspicious circumstances.

d) AB 3099 (Ramos), Chapter 170, Statutes of 2020, required DOJ to provide technical assistance to local law enforcement agencies, as specified, and tribal governments with Indian lands, relating to tribal issues, including providing guidance for law enforcement education and training on policing and criminal investigations on Indian lands, and facilitating and supporting improved communication between local law enforcement agencies and tribal governments.

REGISTERED SUPPORT / OPPOSITION:

Support

3strands Global Foundation
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Civil Liberties Advocacy
California Coalition of School Safety Professionals
California Coastkeeper Alliance
California District Attorneys Association
California Environmental Voters
California Faculty Association
California Narcotic Officers' Association
California Reserve Peace Officers Association
California State Pta
California State Sheriffs' Association
California Tribal Business Alliance
California Trout
California Valley Miwok Tribe Aka Sheep Ranch Rancheria
Claremont Police Officers Association
Cleanearth4kids.org
Corona Police Officers Association
Courage California
Crime Victims United of California
Culver City Police Officers' Association
Democrats of Rossmoor
Environmental Protection Information Center
Friends of the Eel River
Fullerton Police Officers' Association
Habematolel Pomo of Upper Lake
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Morongo Band of Mission Indians
Mount Shasta Bioregional Ecology Center
Murrieta Police Officers' Association
Newport Beach Police Association
North Fork Rancheria of Mono Indians of California
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Planning and Conservation League
Pomona Police Officers' Association
Riverside County District Attorney
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association
Scotts Valley Band of Pomo Indians
Smart Justice California, a Project of Tides Advocacy
Trust for Public Land
Yurok Tribe

Opposition

None submitted.

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

Date of Hearing: June 17, 2025
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 221 (Ochoa Bogh) – As Introduced January 23, 2025

SUMMARY: Expands the crime of stalking to include making a credible threat with the intent to place a person in reasonable fear for the safety of their pet, service animal, emotional support animal, or horse.

EXISTING LAW:

1) States that any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of their immediate family is guilty of stalking. (Pen. Code, § 646.9, subd. (a).)

2) Punishes stalking by imprisonment in county jail for not more than one year, or by imprisonment in the state prison. (Pen. Code, § 646.9, subd. (a.).)

3) Provides that a person who commits stalking while there is a temporary restraining order, injunction, or any other court order in effect prohibiting stalking behavior against the same party shall be punished by imprisonment in the state prison for 2, 3, or 4 years. (Pen. Code, § 646.9, subd. (b).)

4) Provides that a person who commits stalking after having been convicted of domestic violence, violation of a protective order, or of criminal threats shall be punished by imprisonment in the state prison for 2, 3 or 5 years. (Pen. Code, § 646.9, subd. (c)(1).)

5) Provides that a person who commits stalking after previously having been convicted of felony stalking shall be punished by imprisonment in the state prison for 2, 3, or 5 years. (Pen. Code, § 646.9, subd. (c)(2).)

6) Authorizes the sentencing court to order a person convicted of felony stalking to register as a sex offender. (Pen. Code, § 646.9, subd. (d).)

7) Requires the sentencing court to consider issuing a restraining order valid for up to 10 years when a defendant is convicted of stalking, regardless of whether the defendant is placed on probation or sentenced to state prison or county jail. (Pen. Code, § 646.9, subd. (k).)

8) Defines the following terms as it relates to the elements of the crime of stalking:

   a) "Harass" means "engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that

serves no legitimate purpose." (Pen. Code, § 646.9, subd. (e).)

b) "Course of conduct" means "two or more acts occurring over a period of time, however short, evidencing a continuity of purpose." Constitutionally protected activity is not included within the meaning of "course of conduct." (Pen. Code, § 646.9, subd. (f).)

c) "Credible threat" means "a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. The present incarceration of a person making the threat shall not be a bar to prosecution under this section." Constitutionally protected activity is not included within the meaning of "credible threat." (Pen. Code, § 646.9, subd. (g).)

d) "Immediate family" means "any spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household." (Pen. Code, § 646.9, subd. (l).)

9) Provides that a person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of animal cruelty. (Pen. Code, § 597, subd. (a).)

10) Punishes a violation of animal cruelty as a felony with imprisonment in the county jail under realignment, or by a fine of not more than $20,000, or by both; or alternatively, as a misdemeanor with imprisonment in a county jail for not more than one year, or by a fine of not more than $20,000, or by both. (Pen. Code, § 597, subd. (d).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's Statement**: According to the author, "Senate Bill 221 would amend Penal Code section 646.9 to conform to the federal stalking statute by including threats to a victim's pet as a component of threatening behavior. According to the Bureau of Justice Statistics Special Report, Stalking Victimization in the US, about four in 10 stalkers threaten a "victim or the victim's family, friends, co-workers, or family pet," with 87,020 threats to harm a pet being reported. Women are stalked at a higher rate than men.

"Victims of stalking have an increased risk of experiencing depression and anxiety, with some studies indicating nearly 75% report mental health effects. This can be further exacerbated by the injury to or death of a pet. Not updating state statute to conform to federal anti-stalking law leaves victims and their pets vulnerable to threats and attacks by a stalker. Because humans and animals form strong bonds that induce strong feelings of affection and connection, this can make a pet an easy target for threats and physical harm. California's law

ignores how powerful a threat or injury to a beloved pet can be. It is critical that California's anti-stalking law is updated in order to better protect victims and their pets.

2) **Stalking**: Stalking requires a person to engage in **willful, malicious**[1], and **repeated** harassment or credible threats with the specific intent to place someone in fear **for their safety or the safety of their family**. (See CALCRIM No. 1301; see also *People v. Falck* (1997) 52 Cal.App.4th 287, 297-298.) Stalking is an alternate misdemeanor-felony with a maximum penalty of three years in state prison. If a person violates a restraining order to engage in stalking, the maximum penalty is four years in state prison. The penalty for stalking is understandably very serious since in some instances, stalking escalates to violence and even homicide. According to the Stalking Prevention Awareness Resource Center, approximately 25 percent of stalking cases result in violence, including homicides.[2]

Stalking requires either repeated following or harassment which necessarily includes multiple acts. (*People v. Jantz* (2006) 137 Cal.App.4th 1283, 1292-1293; *People v. Heilman* (1994) 25 Cal.App.4th 391, 400) "Repeated . . . simply means the perpetrator must follow the victim more than one time. The word adds to the restraint police officers must exercise, since it is not until a perpetrator follows a victim more than once that the conduct rises to a criminal level." (*People v. Heilman, supra*, 25 Cal.App.4th at 400.)

This bill would expand the offense stalking to include situations where the perpetrator threatens the safety of another's pet, service animal, emotional support animal, or horse. The background provided by the author notes that the federal stalking statute protects the pet, service animal, emotional support animal, or horse of that person. (18 USCS § 2261A.) However, the federal statute is a bit more specific in nature than the state statute and of course, requires interstate travel or internet contact. Stalking under the federal statute includes "the intent to kill, injure, harass, intimidate, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel or presence engages in [specified conduct"].) (18 U.S.C. § 2261A, subd. (a).)

It is arguable under California's statute that if a person threatens a pet with harm, it may still constitute stalking because there is a credible reason to think the harm will escalate to a person. For instance, if someone threatens to shoot a person's service dog, with the intent to cause fear, it seems reasonable to fear the perpetrator will shoot them. Additionally, stalking, specifically federal stalking, may be taken cumulatively. (United States v. Shrader (4th Cir. 2012) 675 F.3d 300, 311.)

Multiple instances of threats to a pet and one threat to a family member or the victim, would constitute federal stalking. The federal statute was amended to include pets in 2018 and, following an exhaustive review of federal case law, there does not appear to be any judicial application or interpretation on point. (See also *People v. Ibarra* (2007) 156 Cal.App.4th 1174, 1198; *People v. Jantz* (2006) 137 Cal.App.4th 1283, 1292-1293.) A prosecutor in California may already argue that any person would reasonably fear for their own safety (as opposed to that just of their pet) if the perpetrator was threating a person's pet in addition to committing other harassing or threatening behavior against that person. As such, this bill

---

[1] Webster Merriam defines "malicious" as a "desire to cause harm to someone."
[2] www.stalkingawareness.org

appears unnecessary.

Furthermore, there are many instances where California law is not coextensive with federal law. Moreover, existing state law criminalizes harm to animals under animal cruelty laws. Expanding the stalking statute to pets and other animals creates a slippery slope for significant expansion of other crimes such as criminal threats and domestic violence. It also places pets on the same legal footing as a human family members. While most people view pets as members of the family and may depend on them for their day to day survival, the law provides more protection to humans than animals. While that may be disagreeable to some, our jurisprudence is anthropocentric. This bill would place threats to pets and threats to someone's child or parent on the same legal footing for purposes of demonstrating stalking.

3) **Counterman v. Colorado:** In *Counterman v. Colorado,* in 2023, the U.S. Supreme Court required criminal threats to include some subjective intent to threaten in order to avoid running afoul of the First Amendment. **The Court held the state must show the defendant's subjective intent to threaten in order to impose criminal penalties, however, a showing of a mental state of recklessness is sufficient**. (See *Counterman v. Colorado* (2023) 143 S.Ct. 2106, 2112.)

> "Again, guided by our precedent, we hold recklessness standard is enough. Given that a subjective standard here shields speech not independently entitled to protection – and indeed posing real dangers – we do not require that the State prove the defendant had any more specific intent to threat the victim." (*Counterman, supra*, at 143 S.Ct. at 2113.)

The Court considered whether the defendant was aware of the threatening nature of the comments he made online to a local musician or whether his conduct was sufficiently reckless. (See *Counterman*, 143 S.Ct. at 2113.)

> "…Recklessness offers the right path forward. We have so far mostly focused on the constitutional interest in free expression, and on the correlative need to take into account threat prosecutions' chilling effect. But the precedent we have relied on has always recognized and insisted on accommodating the competing value in regularly historically unprotected speech. … [The] standard again, is recklessness. It offers enough breathing space for protected speech without sacrificing too many of the benefits of enforcing laws against true threats. (*Counterman, supra*, at 2116.)

The defendant in *Counterman*, was convicted under Colorado's stalking statute and was based on hundreds of messages sent to the victim over Facebook. Counterman never met the victim and she never responded to any of his messages. While some of the messages were benign, others suggested Counterman might be surveilling the victim, and others expressed anger and threats of harm. The conviction was based solely on the repeated Facebook communications. (*Counterman, supra,* at 2112-13.) Counterman argued that the conviction should be overturned because the statements were not true threats and so were protected under the First Amendment. (*Id.* at 2114.)

The Supreme Court noted that the Colorado courts had used an objective, reasonable person standard to determine if Counterman had made a threat. (Id. at 2114.) The question before the Court was "whether the First Amendment still requires proof that the defendant had some subjective understanding of the threatening nature of his statements." (Id. at 2111.) The Court answered the question in the affirmative. (Id. at 2115-16.) The Court reasoned that reliance on an objective standard would sometimes result in self-censorship because people would be worried about how their statements would be perceived. (*Ibid.*) To prove this subjective understanding, the Court further held that a mental state of recklessness is sufficient. In the threats context, recklessness means "that a speaker is aware 'that others could regard his statements as' threatening violence and 'delivers them anyway.'" (*Id.* at 2117.)

While the Supreme Court overturned Counterman's conviction, it did not overturn the Colorado stalking statute. Rather, what is affected going forward is the evidence prosecutors must prove to establish a conviction under the statute. Under the new U.S. Supreme Court precedent, going forward prosecutors will have to show that the defendant knew that others could perceive a statement made threatened violence and yet the defendant uttered it anyway.

As in Colorado, California courts have applied an objective reasonable-person standard to determine if statements constitute a credible threat. The California stalking statute itself notes that the person that is the target of the threat must have reasonable fear for their safety. (Pen. Code, § 646.9, subd. (g).) However, under California law, prosecutors also have had to prove subjective *mens rea* for stalking based on threats, namely that "the defendant made a credible threat with the intent to place the other person in reasonable fear for their safety, or for the safety of their immediate family." (See CALCRIM No. 1301; see also *People v. McCray* (1997) 58 Cal.App.4th 159, 172 ["The crimes with which appellant was charged required proof of his intent to place Michelle in fear for her safety or that of her family.... (§ 646.9, subd. (a))."].) Threats to a pet may be harder to demonstrate the intent requirement.

4) **Argument in Support**: According to the *Berkeley Animal Rights Center*: "Stalking is a pattern of repeated behavior that includes unwanted attention, contact, harassment, or other conduct towards a specific person. An estimated one in three women (31.2%) and one in six men (16.1%) in the United States report enduring stalking at some point in their lives while one in 15 women (8.6 million) and one in 24 men (4.8 million) in the United States report being stalked in last 12 months. Stalking behaviors may be committed in person, by following the victim, or by monitoring and harassing the victim electronically. It is a crime of power and control that causes victims to fear for their safety, or the safety of their loved ones.

"Perpetrators of stalking tend to damage their victim's property, even going as far as to target their loved ones, including pets. One National Crime Victimization Survey estimated that four in 10 stalkers threaten a "victim or the victim's family, friends, co-workers, or family pet," with 87,020 threats to harm a pet being reported. Unfortunately, stalking victims are unprotected by state law when it comes to their pets. Under existing state anti-stalking law, a stalker can threaten harm to a victim's pet without consequences.

"Current California statute ignores animal abuse as a means to terrorize stalking victims. The relationship between animal cruelty and violent behavior, often referred to as "The Link," has been widely studied. The abuse of animals is often an indicator of an escalation of

violence towards a human. Cruelty towards animals is a means to "perpetuate terror" towards a targeted individual.

"In one such California case, a victim ended a short-term romantic relationship with the defendant. The defendant became upset and began to insult the victim. One evening, the victim left her residence and shortly thereafter received a message from the defendant that stated her dog was "gone." Upon the victim's return, she determined that her dog was in fact gone and contacted the authorities. The victim advised law enforcement she was fearful of what the defendant would do to her pet in retaliation of her not continuing the romantic relationship. Under existing California statutory language, prosecutors were unable to formally charge the defendant with stalking despite the implied threat to the victim's pet.

"SB 221 would amend Penal Code 646.9 to conform with the federal stalking statute to make a person guilty of stalking if the person with the intent to kill, injure, harass, or intimidate another person, or with the intent to place another person under surveillance for the purpose of killing, injuring, harassing, or intimidating that person, engages in conduct that either places that person in reasonable fear of death or serious bodily injury to themselves, a close family member, or a pet, service animal, emotional support animal, or horse that belongs to that person, or causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to one of the above.

"The emotional bond between humans and their companion animals is a source of vulnerability for victims of stalking. A pet is an easy target for threats and physical harm. Both threats and injuries to pets send a strong message to stalking victims about their own helplessness. This bill will send an equally strong message that California recognizes the bond between pets and their guardians as sacred and shall not be threatened as a way to harass a person."

5) **Argument in Opposition**: According to *ACLU California Action*: "Criminalizing behavior that is insensitive is not only impractical, but dangerous. Over-criminalization exacerbates existing racial and economic disparities in the justice system, while also disproportionately affecting individuals who are low-income and unable to afford legal representation or pay fines. This expansion of criminal activity can ensnare individuals in the criminal justice system for relatively minor infractions, leading to long-term consequences such as loss of employment, housing and civil liberties. We must be mindful of these impacts when considering legislation that seeks to expand crimes.

"Moreover, existing law already provides protections to animals under animal cruelty laws at the State and Federal level. In 2016, AB 494 amended Code of Civil Procedure 527.6 (civil harassment), Welfare and Institutions Code sections 213.5 (juvenile) and 15657.03 (elder and dependent adult abuse) to permit a court to issue a protective order for animals to keep a person away from them, and restrain from conduct including making threats. California also allows domestic violence protective orders to include pets. In addition, Federal law includes the crime of stalking and actions that make the victim fear that the stalker will hurt the victim's pet, service or emotional support animal, or horse (18 U.S.C. § 2261A (2019))."

6) **Related Legislation**: SB 19 (Rubio), would create a new crime of threatening to commit a crime that will result in death or great bodily injury at a school or place of worship, punishable as an alternate felony-misdemeanor, or as an infraction when committed by a

juvenile. SB 19 is pending in this committee.

7) **Prior Legislation**: SB 89 (Ochoa-Bogh), was identical to this bill and failed passage in this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

American Kennel Club, INC.
American Society for the Prevention of Cruelty to Animals
Angel's Furry Friends Rescue
Animal Legal Defense Fund
Animal Rescue Mission
Animal Rescuers for Change
Animal Wellness Action
Arcadia Police Officers' Association
Berkeley Animal Rights Center
Better Together Forever
Born Again Animal Rescue and Adoption
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Claremont Police Officers Association
Compassionate Bay
Concerned Citizens Animal Rescue
Corona Police Officers Association
Culver City Police Officers' Association
Feline Lucky Adventures
Fullerton Police Officers' Association
Giantmecha Syndicate
Greater Los Angeles Animal Spay Neuter Collaborative
Latino Alliance for Animal Care Coalition
Latino Alliance for Animal Care Foundation
Leaders for Ethics, Animals, and the Planet (LEAP)
Los Angeles Democrats for the Protection of Animals
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Michelson Center for Public Policy
Multiple Individuals (488)
Murrieta Police Officers' Association
Newport Beach Police Association

NY 4 Whales
Palos Verdes Police Officers Association
Pibbles N Kibbles Animal Rescue
Placer County Deputy Sheriffs' Association
Plant-based Advocates
Pomona Police Officers' Association
Project Minnie
Real Good Rescue
Riverside County District Attorney
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association
Seeds 4 Change Now Animal Rescue
Seniors Citizens for Humane Education and Legislation
Social Compassion in Legislation
Start Rescue
Students Against Animal Cruelty Club - Hueneme High School
The Canine Condition
The Pet Loss Support Group
The Spayce Project
Underdog Heroes, INC.
Women United for Animal Welfare (WUFAW)
World Animal Protection

Oppose

ACLU California Action
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Initiate Justice
Legal Services for Prisoners With Children
Local 148 LA County Public Defenders Union
San Francisco Public Defender

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

Date of Hearing: June 17, 2025
Counsel: Samarpreet Kaur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 229 (Alvarado-Gil) – As Introduced January 28, 2025

SUMMARY: This bill would add the counties of Amador and Nevada to a list of counties in which deputy sheriffs are considered peace officers. Specifically, **this bill** states that a deputy sheriff within these counties, who performs duties exclusively or initially related to custodial assignments are peace officers whose authority extends to any place in California while engaged in the performance of duties related to their employment, including other law enforcement duties directed by the officer's employing agency during a local state of emergency.

EXISTING LAW:

1) Provides that any deputy sheriff of the Counties of Los Angeles, Butte, Calaveras, Colusa, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Mariposa, Mendocino, Modoc, Plumas, Riverside, San Benito, San Diego, San Luis Obispo, Santa Barbara, Santa Clara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, and Yuba who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in California only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to custodial assignments or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency. (Penal (Pen.) Code, § 830.1, subd. (c).)

2) Provides that all cities and counties are authorized to employ custodial officers who are public officers but not peace officers for the purpose of maintaining order in local detention facilities. Custodial officers under this section do not have the right to carry or possess firearms in the performance of his or her duties. However, custodial officers may use reasonable force to establish and maintain custody and may make arrests for misdemeanors and felonies pursuant to a warrant. (Pen. Code, § 831.)

3) Provides that notwithstanding existing law, law enforcement agencies in counties with a population of 425,000 or less and the Counties of San Diego, Fresno, Kern, Napa, Riverside, Santa Clara, and Stanislaus may employ custodial officers with enhanced powers. The enhanced powers custodial officers are empowered to serve warrants, writs, or subpoenas within the custodial facility and, as with regular custodial officers, use reasonable force to establish and maintain custody. (Pen. Code, § 831.5, subd. (a).)

4) Provides that custodial officers with enhanced powers may carry firearms under the direction of the sheriff while fulfilling specified job-related duties such as while assigned as a court bailiff, transporting prisoners, guarding hospitalized prisoners, or suppressing jail riots, escapes, or rescues. (Pen. Code, § 831.5, subd. (b).)

5) Requires a peace officer to be present in a supervisorial capacity whenever 20 or more custodial officers are on duty. (Pen. Code, § 831.5, subd. (d).)

6) Provides that enhanced powers custodial officers may also make warrantless arrests within the facility. (Pen. Code, § 831.5, subd. (f).)

7) Provides that custodial officers employed by the Santa Clara County, Napa County, and Madera DOC's are authorized to perform the following additional duties in the facility:

   a) Arrest a person without a warrant whenever the custodial officer has reasonable cause to believe that the person to be arrested has committed a misdemeanor or felony in the presence of the officer that is a violation of a statute or ordinance that the officer has the duty to enforce;

   b) Search property, cells, prisoners, or visitors;

   c) Conduct strip or body cavity searches of prisoners as specified;

   d) Conduct searches and seizures pursuant to a duly issued warrant;

   e) Segregate prisoners; and,

   f) Classify prisoners for the purpose of housing or participation in supervised activities. (Pen. Code, § 831.5, subds. (g)-(i).)

8) Provides that Penal Code §831.5 does not authorize a custodial officer to carry or possess a firearm when the officer is not on duty. (Pen. Code, §831.5, subd. (j).)

9) States that it is the intent of the Legislature, as it relates to Santa Clara, Madera, and Napa Counties, to enumerate specific duties of custodial officers and to clarify the relationship of correctional officers and deputy sheriffs in Santa Clara County. And, that it is the intent of the Legislature that all issues regarding compensation for custodial officers remain subject to the collective bargaining process. The language is, additionally, clear that it should not be construed to assert that the duties of custodial officers are equivalent to the duties of deputy sheriffs or to affect the ability of the county to negotiate pay that reflects the different duties of custodial officers and deputy sheriffs. (Pen. Code, § 831.5, subd. (k).)

10) Provides that every peace officer shall satisfactorily complete an introductory course of training prescribed by the Commission on Peace Officer Standards and Training (POST) and that, after July 1, 1989, satisfactory completion of the course shall be demonstrated by passage of an appropriate examination developed or approved by POST. (Pen. Code, § 832, subd. (a).)

11) Provides that prior to the exercise of peace officer powers, every peace officer shall have satisfactorily completed the POST course. (Pen. Code, § 832, subd. (b).)

12) Provides that a person shall not have the powers of a peace officer until he or she has satisfactorily completed the POST course. (Pen. Code, § 832, subd. (c).)

13) Provides that any person completing the POST training who does not become employed as a peace officer within three years from the date of passing the examination, or who has a three-year or longer break in service as a peace officer, shall pass the examination prior to the exercise of powers as a peace officer. This requirement does not apply to any person who meets specified requirements. (Pen. Code, § 832, subd. (e)(1).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's Statement**: According to the author, "This bill adds the Counties of Amador and Nevada to the list of specified counties within which deputy sheriffs assigned to perform duties exclusively or initially relating to specified custodial assignments are peace officers whose authority extends to any place in California while engaged in the performance of the duties of their employment. Providing the best performing and best-prepared local law enforcement should be the top priority and allowing small communities such as Amador and Nevada to have the authority granted in Penal Code 830.1 helps to ensure that goal is met and a high level of safety and compassion is always provided in any setting."

2) **Designating Custodial Deputy Sheriffs as Peace Officers**: Penal Code section 830.1 subdivision (c), custodial deputy sheriffs classification, is part of a continuum of classifications of custodial officers in county jails and other local detention facilities. Custodial officers under Penal Code sections 831 and 831.5 are not peace officers, whereas a section 830.1 subdivision (c) custodial deputy sheriff is a peace officer, "who is employed to perform duties exclusively or initially relating to custodial assignments." (Pen. Code, § 830.1, subd. (c).) One of the most significant differences between the section 830.1 subdivision (c) custodial deputy sheriffs and section 831 and 831.5 custodial officers is that as "peace officers" the section 830.1, subdivision (c) custodial deputy sheriffs are granted all the rights and protections contained in the Public Safety Officers Procedural Bill of Rights (POBOR). (See Gov. Code, § 3301 et seq.)

   This bill would add custodial deputy sheriffs in Amador and Nevada County to that classification. With one limitation, deputies granted authority by this bill are limited in their authority as a peace officer "only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency." (Pen. Code, § 830.1, subd. (c).)

3) **Peace Officer Bill of Rights (POBOR)**: The POBOR provides peace officers with procedural protections relating to investigation and interrogations of peace officers, self-incrimination, privacy, polygraph exams, searches, personnel files, and administrative appeals. *Binkley v. City of Long Beach* (1993) 16 Cal.App.4th 1795, explains:

   > [T]he Act: (1) secures to public safety officers the right to engage in political activity, when off duty and out of uniform, and to seek election to or serve as a member of the governing board of a school district; (2) prescribes certain protections which must be afforded officers during interrogations which could lead to punitive action; (3) gives the right to review and respond in writing to

adverse comments entered in an officer's personnel file; (4) provides that officers may not be compelled to submit to polygraph examinations; (5) prohibits searches of officers' personal storage spaces or lockers except under specified circumstances; (6) gives officers the right to administrative appeal when any punitive action is taken against them, or they are denied promotion on grounds other than merit; and (7) protects officers against retaliation for the exercise of any right conferred by the Act. (*Id.* at p. 1805, fn. 5, citations omitted.)

Under current law, the custodial deputy sheriffs of Amador and Nevada County are not included within POBOR. This bill would give them POBOR protections.

4) **Argument in Support**: According to the *Nevada County Board of Supervisors*, "Currently, state law categorizes peace officers with varying degrees of authority, including the power to make arrests and carry firearms. In multiple counties across California, deputy sheriffs assigned to custodial duties—such as maintaining jail operations and overseeing inmate custody, care, supervision, and transportation—are recognized as peace officers. However, under existing law, deputies in Nevada County are excluded from this designation. Their authority is limited to custodial assignments and specific law enforcement duties during local emergencies. SB 229 seeks to rectify this inconsistency by formally recognizing deputy sheriffs in these counties as peace officers.

"By expanding peace officer designation to include these deputy sheriffs, SB 229 will:

- Provide clarity regarding the roles and responsibilities of custodial deputies, ensuring they have the necessary authority to perform their duties effectively.

- Strengthen public safety by allowing these officers to respond more efficiently to emergencies and critical incidents.

- Improve law enforcement operations in Nevada County by ensuring parity with other counties where similar deputies are already recognized as peace officers."

5) **Prior Legislation**:

a) AB 2974 (Dahle), Chapter 18, Statutes of 2024, provided peace officer status to deputy sheriffs employed in the County of Modoc.

b) AB 2735 (Gray), Chapter 416, Statutes of 2022, provided peace officer status to deputy sheriffs employed in Merced County.

c) AB 779 (Bigelow), Chapter 558, Statutes of 2021, provided peace officer status to deputy sheriffs employed by the Counties of Del Norte, Madera, Mono, and San Mateo.

d) AB 524 (Bigelow), of the 2019-2020 Legislative Session, would have provided peace officer status to deputy sheriffs employed by the Counties of Del Norte, Mono, and San Mateo. AB 524 was vetoed by the Governor.

e) SB 1254 (La Malfa), Chapter 66, Statutes of 2012, provided peace officer status to deputy sheriffs in Trinity and Yuba Counties employed to provide custodial care and supervision of inmates in the county jail and related facilities.

f) SB 490 (Maldonado), Chapter 52, Statutes of 2009, provided peace officer status and protections to deputy sheriffs employed in San Luis Obispo and Colusa Counties.

g) AB 2215 (Berryhill), Chapter 15, Statutes of 2008, provided peace officer status and protections to deputy sheriffs employed in Lake, Calaveras, Mariposa, and San Benito Counties.

h) AB 151 (Berryhill), Chapter 84, Statutes of 2007, provided peace officer status and protections to deputy sheriffs employed in Glenn, Lassen, and Stanislaus Counties.

i) AB 272 (Parra), Chapter 127, Statutes of 2006, provided peace officer status and protections to deputy sheriffs employed in Inyo, Kings, and Tulare Counties.

j) AB 1931 (La Malfa), Chapter 516, Statutes of 2004, provided peace officer status and protections to deputy sheriffs employed in Butte and Tuolumne Counties.

k) AB 1254 (La Malfa), Chapter 70, Statutes of 2003, and SB 570 (Chesbro), Chapter 710, Statutes of 2003, provided peace officer status and protections to deputy sheriffs employed in Shasta and Solano Counties.

l) AB 2346 (Dickerson), Chapter 185, Statutes of 2002, extended peace officer status and protections to deputy sheriffs in Kern, Humboldt, Imperial, Mendocino, Plumas, Santa Barbara, Siskiyou, Sonoma, Sutter, and Tehama Counties.

REGISTERED SUPPORT / OPPOSITION:

Support

Amador County Sheriff's Office
California State Sheriffs' Association
County of Nevada
County of Nevada, California
Nevada County Deputy Sheriff's Association

Opposition

None submitted.

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

Date of Hearing: June 17, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 281 (Pérez) – As Introduced February 5, 2025

SUMMARY: Requires the immigration advisement that must be administered by a court, prior to accepting a plea of guilty or nolo contendere to any crime under state law, except for infractions, to be administered verbatim as it appears in the statute.

EXISTING FEDERAL LAW:

1) Subjects a non-citizen to removal from the United States they are convicted of certain crimes, including crimes of moral turpitude, aggravated felonies, high speed flight, specified drug offenses, specified firearm offenses, and domestic violence offenses, among other offenses. (8 U.S.C. § 1227, subd. (a)(2).)

2) Makes a non-citizen inadmissible to be admitted into the United States if they have been convicted or admit to committing acts which contain the essential elements of crimes of moral turpitude, where there is reason to believe the person has engaged in specified drug offenses, or has engaged in prostitution, among other offenses. (8 U.S.C. § 1182, subd. (a)(2).)

3) Renders an asylum applicant statutorily ineligible for political asylum if convicted of an aggravated felony. (8 U.S.C. § 1158(b).)

EXISTING STATE LAW:

1) Requires defense counsel to provide accurate and affirmative advice about the immigration consequences of a proposed disposition, and when consistent with the goals of and with the informed consent of the defendant, and consistent with professional standards, defend against those consequences. (Pen. Code, § 1016.3, subd. (a).)

2) Requires the prosecution, in the interests of justice, and in furtherance of specified Legislative findings and declarations, to consider the avoidance of adverse immigration consequences in the plea negotiation process as one factor in an effort to reach a just resolution. (Pen. Code, § 1016.3.)

3) Requires, prior to acceptance of a plea of guilty or nolo contendere to any offense punishable as a crime under state law, except offenses designated as infractions, the court to administer the following advisement (hereafter "immigration advisement") on the record to the defendant: "If you are not a citizen, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States." (Pen. Code, § 1016.5, subd. (a).)

4) States that upon request, the court shall allow the defendant additional time to consider the appropriateness of the plea in light of the immigration advisement. (Pen. Code, § 1016.5, subd. (b).)

5) Provides that if, after January 1, 1978, the court fails to advise the defendant as required and the defendant shows that conviction of the offense to which defendant pleaded guilty or nolo contendere may have the consequences for the defendant of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States, the court, on defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea of guilty or nolo contendere, and enter a plea of not guilty. (Pen. Code, § 1016.5, subd. (b).)

6) States that absent a record that the court provided the immigration advisement, the defendant shall be presumed not to have received the required advisement. (Pen. Code, § 1016.5, subd. (b).)

7) Provides that with respect to pleas accepted prior to January 1, 1978, it is not the intent of the Legislature that a court's failure to provide the immigration advisement should require the vacation of judgment and withdrawal of the plea or constitute grounds for finding a prior conviction invalid, and that none of the above shall be deemed to inhibit a court, in the sound exercise of its discretion, from vacating a judgment and permitting a defendant to withdraw a plea. (Pen. Code, § 1016.5, subd. (c).)

8) Finds and declares that in many instances involving an individual who is not a citizen of the United States charged with an offense punishable as a crime under state law, a plea of guilty or nolo contendere is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the Legislature in enacting the above laws to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea or plea of nolo contendere be preceded by an appropriate warning of the special consequences for such a defendant which may result from the plea. It is also the intent of the Legislature that the court in such cases shall grant the defendant a reasonable amount of time to negotiate with the prosecuting agency in the event the defendant or the defendant's counsel was unaware of the possibility of deportation, exclusion from admission to the United States, or denial of naturalization as a result of conviction. It is further the intent of the Legislature that at the time of the plea no defendant shall be required to disclose his or her legal status to the court. (Pen. Code, § 1016.5, subd. (d).)

9) Authorizes a person who is no longer in criminal custody to file a motion to vacate a conviction or sentence for any of the following reasons:

   a) Newly discovered evidence of actual innocence exists that requires vacation of the conviction or sentence as a matter of law or in the interests of justice. (Pen. Code, § 1473.7, subd. (a)(2).)

   b) A conviction or sentence was unlawfully sought, obtained, or imposed on the basis of race, ethnicity, or national origin, as specified. (Pen. Code, § 1473.7, subd. (a)(3).)

c) The conviction or sentence is legally invalid due to prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence, subject to the following:

i) A finding of legal invalidity may, but need not, include a finding of ineffective assistance of counsel. (Pen. Code, § 1473.7, subds. (a)(1).)

ii) Except as specified in the subsequent paragraph, a motion shall be deemed timely filed at any time in which the individual filing the motion is no longer in criminal custody. (Pen. Code, § 1473.7, subd. (b)(1).)

iii) The motion may be deemed untimely filed if it was not filed with reasonable diligence after the later of the following:

(1) The moving party receives a notice to appear in immigration court or other notice from immigration authorities that asserts the conviction or sentence as a basis for removal or the denial of an application for an immigration benefit, lawful status, or naturalization.

(2) Notice that a final removal order has been issued against the moving party, based on the existence of the conviction or sentence that the moving party seeks to vacate. (Pen. Code, § 1473.7, subd. (b)(2).)

iv) The court shall grant a motion to vacate the conviction or sentence on this basis if the moving party: 1) establishes by a preponderance of the evidence, the existence of prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence; and 2) the moving party shall also establish that the conviction or sentence being challenged is currently causing or has the potential to cause removal or the denial of an application for an immigration benefit, lawful status, or naturalization. (Pen. Code, § 1473.7, subd. (e)(1).)

v) There is a presumption of legal invalidity of a conviction or sentence if the moving party pleaded guilty or nolo contendere pursuant to a statute that provided that, upon completion of specific requirements, the arrest and conviction shall be deemed never to have occurred, where the moving party complied with these requirements, and where the disposition under the statute has been, or potentially could be, used as a basis for adverse immigration consequences. (Pen. Code, § 1473.7, subd. (e)(2).)

vi) In ruling on the motion, the only finding that the court is required to make is whether the conviction is legally invalid due to prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence. (Pen. Code, § 1473.7, subd. (e)(4).)

vii) A court may only issue a specific finding of ineffective assistance of counsel if the attorney found to be ineffective was given timely advance notice of the motion

hearing by the moving party or the prosecutor, as specified. (Pen. Code, § 1473.7, subd. (g).)

d) If the court grants a motion to vacate a conviction or sentence obtained through a plea of guilty or nolo contendere, the court shall allow the moving party to withdraw the plea. (Pen. Code, § 1473.7, subd. (e)(3).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "I'm authoring SB 281 to ensure there is consistency in California Courts when offering plea agreements. Sometimes when judges are reciting plea agreements they will switch the word 'may' to 'will.' By the slight word change from 'may' to 'will' it can greatly affect a person's understanding of the plea agreement once they enter into said agreement based on the court's interpretation of the two words. While they are similar in nature, the court's interpretation of 'may' means something is a possibility versus 'will' meaning for certain. By clarifying in statute we will create parity across the board when people are offered plea agreements. Everyone has a right to know what they are entering into."

2) **Defense Counsel's Duty to Advise on Immigration Consequences.** A non-citizen is subject to removal from the United States, among other immigration consequences, if they are convicted of certain crimes. (8 U.S.C. §§ 1227(a)(2), 1182(a)(2).) The duty to advise a criminal defendant of the potential consequences of entering a guilty plea generally lies with defense counsel. Defense counsel must provide accurate and affirmative advice about the immigration consequences of a proposed disposition. (Pen. Code, § 1016.3, subd. (a).) When doing so is consistent with professional standards and the goals of the defendant, defense counsel must defend against those consequences. (*Ibid.*)

   In *Padilla v. Kentucky* (2010), 559 U.S. 356, the United States Supreme Court held that the Sixth Amendment requires defense counsel to inform their client whether their plea carries a risk of deportation. (*Id.* at p. 374.) The Supreme Court found that for noncitizens, deportation is an integral part, and sometimes the most important part, of the penalty that may be imposed on noncitizens who plead guilty to specified crimes. (*Id.* at p. 364.) As stated by the Court, "the severity of deportation--'the equivalent of [] banishment [] or exile,' [] --only underscores how critical it is for counsel to inform her noncitizen client that he faces a risk of deportation." (*Id.* at p. 373) (citation omitted). This conforms with California court decisions, which have held that defense counsel must investigate, advise regarding, and defend against, potential adverse immigration consequences of a proposed disposition. (See *People v. Bautista* (2004) 115 Cal.App.4th 229, *People v. Barocio* (1989) 216 Cal.App.3d 99, *People v. Soriano* (1987) 194 Cal.App.3d 1470.)

   The *Padilla* Court found that immigration consequences of a guilty or nolo contendere plea are too difficult to classify as either direct or collateral consequences, and that a defendant may contest a guilty plea based on defense counsel's failure to advise or giving mis-advisement on those consequences of the plea. (*Padilla*, *supra*, 559 U.S. at pp. 366-371.) As a result the Supreme Court established the following duty for defense counsel: 1) if the immigration consequences can be easily determined from the text of the federal deportation

statutes, defense counsel must advise the defendant of the immigration consequences of the plea; and 2) if the law is not succinct and straightforward regarding the immigration consequences, defense counsel must advise the noncitizen defendant that pending criminal charges may carry a risk of adverse immigration consequences. (*Id.* at pp. 368-370.)

3) **Court-Mandated Immigration Advisements:** In addition to the defense counsel obligation to advise a defendant of the potential immigration ramifications of the plea, California law additionally requires a court, prior to accepting a plea from a defendant, to advise the defendant of the potential immigration consequences of a guilty plea. (Pen. Code, § 1016.5, subd. (a).) Particularly, the court must administer the following advisement, on the record, to the defendant: "If you are not a citizen, you are hereby advised that conviction of the offense for which you have been charged *may have* the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States." (*Ibid.*) (emphasis added). The advisement must be on the record, and may be verbal or contained in a written plea form that contains the minimum required language. (*People v. Gutierrez* (2003) 106 Cal.App.4th 169, 173; *People v. Ramirez* (1999) 71 Cal.App.4th 519, 521-522.) Upon receiving the advisement, the court must allow, if requested, the defendant additional time to consider the appropriateness of the plea. (Pen. Code, § 1016.5, subd. (b).) In accepting the plea, the trial court may not inquire into the defendant's legal immigration status. (Pen. Code, § 1016.5, subd. (d).)

If a court fails to give this advisement, a defendant may bring a motion to withdraw their plea. (Pen. Code, § 1016.5, subd. (b).) Particularly, if, after January 1, 1978, the court does not administer the advisement and the defendant shows that conviction of the offense to which they pleaded guilty or no contest may result in adverse immigration consequences, the court, on the defendant's motion, is required to vacate the judgment and allow the defendant to withdraw the plea. (Pen. Code, § 1016.5, subd. (b).) If there is no record that the advisement was given, it shall be presumed that the defendant was not adequately advised. (Pen. Code, § 1016.5, subd. (b).) In order to vacate the judgement and withdraw a plea, the defendant's motion under Penal Code section 1016.5 must establish: 1) the trial court failed to advise of one or more immigration consequences required to be identified (deportation, exclusion from admission to the U.S., or denial of naturalization); 2) the defendant faces one or more of the specified immigration consequences; and 3) the defendant was prejudiced by the courts incomplete advisement. (*People v. Superior Court (Zamudio)* (2000) 23 Cal.4th 183. A showing of prejudice requires proof that it was reasonably probable the defendant would not have entered the plea if properly advised. (*People v. Martinez* (2013) 57 Cal.4th 555, 559.)

A defendant that is no longer in criminal custody may also bring a motion to vacate a conviction or sentence on the grounds that it is legally invalid due to prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence. (Pen. Code, § 1473.7, subd. (a)(1).) The court shall grant a motion to vacate the conviction or sentence on this basis if the moving party establishes by a preponderance of the evidence, the existence of prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence. (Pen. Code, § 1473.7, subd. (e)(1).) The moving party shall also establish that the conviction or sentence being challenged is

currently causing or has the potential to cause removal or the denial of an application for an immigration benefit, lawful status, or naturalization. (*Ibid.*)

4) **Effect of this Bill:** This bill requires the court to provide their statutorily mandated immigration advisement *verbatim* as it appears in the statute. The bill stems from the admitted practice of certain courts advising defendants that their plea "will" result in adverse immigration consequences. Opponents of the bill acknowledge the frequency of this practice.[1] This is in contrast to the text of the statute which simply requires courts to advise defendants that their plea "may have" adverse immigration consequences. Under existing law, the immigration advisement is not outlined in quotations or explicitly required to be administered verbatim. (Pen. Code, § 1016.5, subd. (b).)

A judicially administered admonition to a defendant that their plea "will" result in adverse immigration ramifications raises several concerns. Particularly, it creates an appearance that adverse immigration consequences are inevitable, even if in fact they are not. This may create confusion for defendants whose plea do not carry immigration consequences and are being advised as such by their defense counsel, and could deter noncitizen defendants from accepting otherwise favorable plea bargains. Informing a defendant that their plea "will" result in adverse immigration consequences may also mislead the defendant's into believing that the judge has thoroughly analyzed the immigration consequences of the defendant's plea, which is not the intended function of the judicially mandated immigration advisement. Rather, this general admonition serves to give defendants "some advice regarding immigration consequences – a general warning of three immigration consequences that 'may' occur." (*People v. Patterson* (2017) 2 Cal.5th 885, 896.) Rather than relying on the judicial admonition, the defendant can be expected to rely on their counsel's independent evaluation of the charges, and the risks and probable outcome of trial. (*Ibid.*) Indeed, one of the functions of this advisement is to prompt noncitizen defendants to seek additional information from their defense counsel about the immigration consequences associated with the plea. (*Ibid*; Pen. Code, § 1016.5, subd. (b).)

Requiring courts to strictly adhere to statutory use of "may" rather than "will" may more accurately encompass the broad range of immigration consequences that can result from a plea. Since "may have" only reflects the possibility of immigration consequences, it accurately applies to defendants whose pleas do not carry immigration ramifications or where immigration consequences are uncertain, while also providing general notice to noncitizen defendants whose pleas will certainly result in adverse immigration consequences.

In *People v. Patterson* (2017) 2 Cal.5th 885, the California Supreme Court emphasized the important distinction between the possibility versus the certainty, of adverse immigration consequences. As stated by the Court:

> A defendant entering a guilty plea may be aware that some criminal convictions may have immigration consequences as a general matter, and yet be unaware that a conviction for a specific charged offense will render the defendant subject to mandatory removal. [T]he standard section 1016.5 advisement that a criminal

---

[1] *See* Los Angeles County District Attorney's Office, SB 281 Oppose Unless Amended Letter (June 8, 2025) ("There is good reason why for many years, courts and prosecutors taking pleas throughout Los Angeles, and elsewhere in the State, have advised defendants that their plea "will" result in immigration consequences.")

> conviction "may" have adverse immigration consequences "cannot be taken as placing [the defendant] on notice that, owing to his particular circumstances, he faces an actual risk of suffering such." And for many noncitizen defendants deciding whether to plead guilty, the "actual risk" that the conviction will lead to deportation—as opposed to general awareness that a criminal conviction "may" have adverse immigration consequences—will undoubtedly be a "material matter[]" that may factor heavily in the decision whether to plead guilty.... [for noncitizens, "[t]here is a clear difference ... between facing possible deportation and facing certain deportation"] (*People v. Patterson* (2017) 2 Cal.5th 885, 896) (citation omitted).

Ultimately, the *Patterson* Court found that a defendant that received the standard immigration advisement that their plea "may have" adverse immigration consequences was not barred from seeking to withdraw a plea on the grounds of mistake or ignorance under Penal Code section 1018 (*Id.* at p. 896.)

Some appellate courts have found, however, that an admonition that a plea "may have" immigration consequences is not an appropriate advisement in cases where such consequences are mandatory (e.g. aggravated felonies). In *People v. Ruiz* (2020) 49 Cal.App.5th 1061, for example, the Second District Court of Appeal interpreted *Patterson* to mean that "the words 'may have' in a section 1016.5 immigration advisement are not an adequate immigration advisement for defendants charged with serious controlled substance offenses." (*Id.* at p. 1065). Rather, the *Ruiz* court stated that such defendants "must be advised that they *will be* deported, excluded, and denied naturalization as a *mandatory* consequence of the conviction." (*Ibid.*) As such, the court found that the admonition given to a defendant that plead guilty to sale of a controlled substance in 1991 (permanently rendering her ineligible to become a legal resident in the U.S.), which stated that her conviction "may result in deportation," was not valid, and therefore the trial court erred in ruling she was properly advised. (*Id.* at pp. 1065-1066). The Court remanded the case to the trial court with instructions to consider the defendant's Penal Code Section 1473.7 motion to vacate the prior conviction.

Similarly, in *People v. Bravo* (2021) 69 Cal.App.5th 1063, the Fourth District Court of Appeal cited *Ruiz* finding that the immigration advisement given to the defendant, which used the word "may have," was not an adequate advisement because the defendant was pleading to an aggravated felony, which is presumptively deportable. (*Id.* at p. 1073.) Although, the Court proceeded to find that the defendant's Section 1473.7 motion to vacate failed due to lack of prejudice. (*Ibid.*) Phrased differently, the inadequate advisement was insufficient in and of itself to vacate the conviction. Most recently, in *People v. Lopez* (2022) 83 Cal.App.5th 698, the Second District Court of Appeal found that the judicial advisement that the defendant "may" face certain adverse immigration consequences was insufficient to inform defendant that his second-degree robbery conviction would subject him to mandatory deportation and permanent exclusion from the United States. (*Id.* at 712.)

Opponents of the bill cite the concern that requiring strict adherence to the words "may have" in the immigration advisement "will have the unintended consequence of resulting in valid convictions getting reversed on appeal because defendants did not understand the

immigration consequences of their guilty or no contest plea."[2] Judicial advisements that a given plea *will* result in adverse immigration consequences appear more likely to survive challenges on appeal. (*People v. Tapia* (2018) 26 Cal.App.5th 942, 953; *see also People v. Olvera* (2018) 24 Cal.App.5th 1112, 1115-1116.) However, while this practice may contribute to judicial economy, it may also unfairly impact noncitizen defendants seeking to vacate convictions because they genuinely did not understand the immigration consequences of their pleas.

The author may wish to clarify whether this bill is intended to have retroactive application. When Penal Code Section 1016.5 was adopted in 1977 it stated that it would not be retroactive. (Pen. Code, § 1016.5, subd. (c); *People v. Perez* (2018) 19 Cal.App.5th 818, 825.) Particularly, it stated that if a court fails to properly administer the immigration advisement *on or after January 1, 1978*, and the defendant shows that the conviction to which they pleaded guilty or no contest may result in adverse immigration consequences and that they that they would not have entered the plea if properly advised, the court, on the defendant's motion, is required to vacate the judgment and allow the defendant to withdraw the plea. (Pen. Code, § 1016.5, subd. (b); *People v. Martinez* (2013) 57 Cal.4th 555, 559.)

This can be contrasted with AB 813 (Gonzalez Fletcher) Chapter 739, Statutes of 2016, which authorized a person to bring a motion to vacate a conviction or sentence on the grounds that it is legally invalid due to prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the adverse immigration consequences of a conviction. (Pen. Code, § 1473.7, subd. (a)(1).) This post-conviction mechanism has been interpreted to apply retroactively to guilty pleas that occurred prior to the statute's effective date. (*Perez, supra*, 19 Cal.App.5th at pp. 826-827.) The passage of AB 2867 (Gonzalez), Chapter 825, Statutes of 2018, has since made it even easier to retroactively challenge convictions due to inadequate immigration advisements. (*Ruiz, supra*, 49 Cal.App.5th at p. 1066.)

Because Penal Code Section 1016.5 currently provides that inadequate advisements given after January 1, 1978 must be vacated, as specified, requiring this advisement to be made verbatim, without additional clarification, could lead to challenges to non-verbatim immigration advisements given prior to this bill's effective date. In such cases, defendants would still be required to show they were prejudiced by the advisement, a showing that may be difficult for challenges to judicial advisements that deviated from the statutory language in minor or purely technical ways.

5) **Argument in Support**: According to the *California Attorneys for Criminal Justice*, "Penal Code section 1016.5 describes the specific immigration advisement to be given by judges in California whenever they accept a plea deal. The statute has been on the books for many years and is a key component of the legal proceeding. Unfortunately, judges have not consistently followed the actual language of the statute. Most pronounced, is the problem of judges telling individuals that there 'will' be adverse immigration consequences in every case. Not only is this incongruent with the language of section 1016.5, it also runs afoul of the clear judicial and legal doctrine that judges are not allowed to dispense legal advice to those who appear before them in court.

---

[2] *See* Los Angeles County District Attorney's Office, SB 281 Oppose Unless Amended Letter (June 8, 2025).

"By stating that there 'will' be adverse immigration consequences, instead of the statutorily described "may," these judges are mistakenly giving the impression that a thorough review of the applicable immigration law has taken place, and the judge has reached a legal conclusion; a conclusion which they are not allowed to provide, and a conclusion that cannot be reached because judges have not reviewed applicable immigration law in every case that is presented before them. SB 281 achieves this goal by simply clarifying the statutory admonition is to be given 'verbatim' as described in Penal Code 1016.5 and judges cannot substitute their own language.

"Another additional concern for CACJ is that judges are unintentionally giving the impression that individuals need not seek out legal advice from their defense attorneys and/or immigration counsel to obtain specific legal advice. Immigration law is complex, ever-changing, and has many layers. For example, someone with legal permanent resident status may face adverse immigration consequences, but there may be a variety of available legal options that could be exercised in order to resolve an immigration matter without exclusion. Each case is different and it is imperative, legally required, and most effective when an individual consults appropriate legal counsel for legal advice on his/her case. SB 281 will make this clear, and ensure that judges in every courtroom in California follow the same law, in the same way."

6) **Argument in Opposition**: According to the *Los Angeles County District Attorney's Office*, "SB 281 would mandate courts taking a plea to advise defendants verbatim of the immigration consequences language delineated in section 1016.5 of the Penal Code which says that a conviction 'may' result in their deportation, exclusion from admission, or denial of naturalization. While this bill may look innocuous with its one-word amendment, 'verbatim,' to an existing Penal Code advisement, it will have the unintended consequence of resulting in valid convictions getting reversed on appeal because defendants did not understand the immigration consequences of their guilty or no contest plea.

"There is good reason why for many years, courts and prosecutors taking pleas throughout Los Angeles, and elsewhere in the State, have advised defendants that their plea 'will' result in immigration consequences. That is because defendants who suffer immigration consequences often make a motion to vacate their plea, arguing that they did not think the advisement applied to them, and use of the 'may' language during pleas has proven problematic on appeals brought pursuant to section 1473.6 of the Penal Code.

"Proponents of this bill have argued that when judges replace the word 'may' with the word 'will,' they are giving defendants the impression that a thorough review of the applicable immigration law has taken place, and the judge has reached a legal conclusion about the immigration issues in a particular defendant's situation. They have also argued that judges are giving defendant's the impression that they don't have to seek out specific legal advice from their defense attorneys or their immigration attorneys. However, this is incorrect. Courts routinely advise defendants to speak with their attorneys about the immigration consequences of their plea.

"The Los Angeles County District Attorney's Office agrees with and fully supports the well-intentioned goal of this bill, which is to ensure that defendants entering guilty, or no contest pleas fully understand the immigration consequences of their plea. However, a verbatim recitation of the advisement in the existing statute is, and has proven to be, insufficient to

satisfy this goal. To that end, we propose the following amendment to Penal Code section 1016.5:

> "If you are not a citizen of the United States, your plea may have adverse immigration consequences. Before entering the plea, you should consult with your attorney, or an immigration attorney, to obtain full, accurate advice about the immigration consequences of your plea. The court will give you time to do so if you wish. If you are unsure about the immigration consequences, you should assume that your plea will result in deportation, exclusion from the United States, or denial of naturalization or amnesty."

"Our proposed amendment strikes a fair balance between making sure defendants enter their plea with a full understanding of their rights and collateral consequences, and the public safety goal of ensuring that legitimate convictions are preserved on appeal."

7) **Prior Legislation**:

a) AB 2867 (Gonzalez), Chapter 825, Statutes of 2018, clarifies the timing and procedural requirements of motions for post-conviction relief that are based on either a prejudicial error regarding a defendant's comprehension of immigration consequences stemming from his or her conviction, or newly discovered evidence of actual innocence.

b) AB 813 (Gonzalez Fletcher) Chapter 739, Statutes of 2016, created a mechanism of post-conviction relief for a person to vacate a conviction or sentence based on error damaging their ability to meaningfully understand, defend against, or knowingly accept the immigration consequences of the conviction.

c) AB 1343 (Thurmond), Chapter 705, Statutes of 2015, requires defense counsel to provide accurate advice on the potential immigration consequences of a proposed plea agreement and attempt to defend against those consequences, consistent with the goals of the defendant, and requires the prosecution and defense counsel to contemplate immigration consequences in the plea negotiation process.

d) AB 1352 (Eggman), Chapter 646, Statutes of 2015, specified that the statutory statement that completion of a deferred entry of judgment program shall not be used in any way that could result in the denial of any employment, benefit, license, or certificate constitutes misinformation about the actual consequences of the plea underlying DEJ, because the plea may cause adverse consequences, including adverse immigration consequences.

e) SB 653 (Knight), of the 2013-2014 Legislative Session, would have provided that the motion to set aside a plea because the advisement on immigration consequences was not given must be brought within the statutory time frame in which the records must be kept. SB 653 failed passage in the Senate Public Safety Committee.

f) AB 142 (Fuentes), of the 2011-2012 Legislative Session, would have provided for an additional advisement when a non-citizen pleads guilty so that the person is aware that if they are deported and return to the United States, they could be charged with a separate federal offense. AB 142 was vetoed.

g) SB 1566 (Ashburn), of the 2007-2008 Legislative Session would have, among other changes, required a defendant to bring a motion to vacate a judgment on the basis of failure to administer an immigration advisement within 5 years of the date of the plea and would specify findings that a court would be required to make in order to grant a motion to vacate the judgment and permit a change of plea. SB 1566 was never heard in Senate Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
California Attorneys for Criminal Justice
California Civil Liberties Advocacy
California Federation of Labor Unions, Afl-cio
California Public Defenders Association (CPDA)
California State Council of Service Employees International Union (seiu California)
Ella Baker Center for Human Rights
Friends Committee on Legislation of California
Local 148 LA County Public Defenders Union
Prosecutors Alliance Action
Secure Justice

Opposition

California District Attorneys Association
Los Angeles County District Attorney's Office
Riverside County District Attorney
San Diego County District Attorney's Office

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

Date of Hearing: June 17, 2025
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 337 (Menjivar) – As Amended May 23, 2025

SUMMARY: Make a number of changes to existing law designed to prevent sexual abuse of incarcerated individuals and increase accountability when sexual abuse occurs, including requiring the California Department of Corrections and Rehabilitation (CDCR) to establish policies and procedures relating to the implementation and operation of body-worn cameras; establishing the right of an incarcerated person to request the presence of an advocate during searches; requiring documentation of any physical or visual body cavity search, strip search, or body scan of an incarcerated person; prohibiting the appointing or hiring of, or contracting with, individuals engaged in sexual abuse in a correctional setting; and prohibiting the hiring or reinstatement of a former CDCR employee who was terminated following confirmation that the person sexually abused an incarcerated person. Specifically, **this bill**:

1) Provides that an individual incarcerated in a state prison shall have the right to request the presence of an advocate, who is not an employee of the Department of Corrections and Rehabilitation, during a physical or visual body cavity search, strip search, or body scan; and, requires CDCR to accommodate the request to the best of its ability.

2) Requires CDCR, when an individual incarcerated in state prison is subject to any physical or visual body cavity search, strip search, or body scan of their person using a contraband or metal detection device or an electronic drug detection device, including, but not limited to, ION scanners and low-dose, full-body x-ray scanners, to document all of the following:

   a) The date and time of the search or scan, the officer who performed the search or scan, the reason for the search or scan, and whether the presence of an advocate was requested by the incarcerated individual pursuant to Section 2608;

   b) The advocate's identifying information if the request for an advocate was granted; and,

   c) The reason for denial if the request for an advocate was denied.

3) Requires CDCR, during a medical appointment, if an individual incarcerated in state prison requests the presence of an advocate who is not a CDCR employee, to document all of the following:

   a) The request for the presence of an advocate during the medical appointment;

   b) The advocate's identifying information if the request for an advocate was granted; and,

   c) The reason for denial if the request for an advocate was denied.

4) Defines "identifying information" to include name, contact information, and affiliation or organization.

5) Provides that notwithstanding existing regulations, an incarcerated person must submit a grievance no later than 120 calendar days after discovering an adverse policy, decision, action, condition, or omission by the department.Requires CDCR to adopt, and update regularly, a Prison Rape Elimination policy.

6) Requires CDCR, as part of the policy, to outline all of the following principles:

   a) The department maintains zero tolerance for sexual violence, staff sexual misconduct, and sexual harassment in its institutions, community correctional facilities, and conservation camps, and for all offenders under its jurisdiction;

   b) All sexual violence, staff sexual misconduct, and sexual harassment is strictly prohibited. This policy applies to all incarcerated persons and persons employed by the department, including volunteers and independent contractors assigned to an institution, a community correctional facility, a conservation camp, or parole;

   c) Retaliatory measures against employees or incarcerated persons who report incidents of sexual violence, staff sexual misconduct, or sexual harassment as well as retaliatory measures against those who cooperate with investigations shall not be tolerated and shall result in disciplinary action and possible referral for criminal prosecution. Retaliatory measures include, but are not limited to, coercion, threats of punishment, or any other activities intended to discourage or prevent a staff member or incarcerated person from reporting the incident or cooperating with investigation of an incident; and,

   d) To ensure that the department maintains zero tolerance for sexual violence, staff sexual misconduct, and sexual harassment, the department shall ensure that the definitions and terms used by the department, including, but not limited to, terms such as sexual violence, abusive sexual contact, nonconsensual sex acts, and sexual harassment, are updated regularly and consistent with federal and state law, are culturally competent and gender inclusive, and are internally consistent.

7) Provides that, if an investigation into allegation of sexual abuse confirms that any employee has sexually abused an inmate or ward, the employee is not eligible to be hired or reinstated by CDCR.

8) Clarifies that CDCR administrators must report any known or suspected sexual abuse by staf to a local law enforcement agency.

9) Requires CDCR to establish policies and procedures relating to the implementation and operation of a body-worn camera system that include circumstances under which a body-worn camera may be deactivated. Those circumstances may include, but are not limited to, restroom breaks and confidential departmental meetings or training.

10) Requires CDCR to ensure that its policies and procedures prohibit a body-worn camera from being deactivated only because there is no incarcerated person present or if the correctional

staff member is not interacting with an incarcerated person.

11) Provides that CDCR's policies and procedures shall authorize the deactivation of a body-worn camera during a confidential medical, dental, or mental health assessment, appointment, or consultation.

12) Requires CDCR staff, prior to deactivating a body-worn camera, to do both of the following:

    a) Inform the subject that they are deactivating the body-worn camera and the reason for the deactivation; and

    b) Document the time the body-worn camera was deactivated, the reason for the deactivation, and the time the body-worn camera was reactivated.

13) Prohibits CDCR from appointing or promoting an individual to a position that may involve contact with incarcerated persons, and from engaging a contractor for services that may involve contact with incarcerated persons, if that individual or contractor has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other correctional institution.

14) Prohibits CDCR from appointing or promoting an individual to a position that may involve contact with incarcerated persons, and from engaging a contractor for services that may involve contact with incarcerated persons, if that individual or contractor has been convicted of engaging or attempting to engage in any of the following offenses, as specified: murder, kidnapping, rape, lewd acts on a child under 14 years of age, any felony punishable by death or imprisonment in state prison for life, any sex offense requiring registration as a sex offender, or any offense involving domestic violence.

15) Prohibits CDCR from appointing or promoting an individual to a position that may involve contact with incarcerated persons, and from engaging a contractor for services that may involve contact with incarcerated persons, if that individual or contractor has been civilly or administratively adjudicated to have engaged in any of the offenses described above.

16) Requires CDCR to consider any substantiated incidents of sexual harassment, including any complaint or allegation of sexual harassment, in determining whether to appoint or promote an applicant, or to enlist the services of any contractor, who may have contact with incarcerated persons.

17) Requires CDCR, before appointing new employees to any position that may involve contact with incarcerated persons, to do both of the following:

    a) Perform a criminal background records check; and

    b) Consistent with federal, state, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

18) Requires CDCR to perform a criminal background records check before enlisting the services of any contractor who may have contact with incarcerated persons.

19) Requires CDCR to either conduct criminal background records checks every five years of employees and contractors who may have contact with incarcerated persons or implement a system to otherwise capture that information for current employees and contractors.

20) Requires CDCR to ask all applicants and employees who may have contact with incarcerated persons directly about previous misconduct, as specified, in written applications or interviews for appointment or promotion and in any interviews or written self-evaluations conducted as part of reviews of employees.

21) Requires CDCR to impose upon employees a continuing affirmative duty to disclose any such misconduct.

22) Provides that material omissions regarding the misconduct, as specified, or the provision of materially false information, are grounds for termination.

23) Requires CDCR, unless prohibited by law, to provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom that individual has applied to work.

24) Provides that, to ensure that CDCR investigations are conducted by appropriately trained personnel, the following conditions, among others, must be met:

    a) An investigator shall disclose an actual or potential conflict of interest they may have in an investigation in which they are participating, and the CDCR shall take appropriate action to remedy the conflict;

    b) An investigator shall recuse themselves from participating in an investigation or a decision related to an investigation if they have a conflict of interest involving a staff member with whom they have a personal relationship; and,

    c) Defines a "personal relationship" as a relationship that interferes with an investigator's ability to assess the facts of the investigation in an objective manner, including with a person who is related by blood or marriage to, is a domestic partner of, is a cohabitant with, or is a relative within the third degree of the investigator.

25) Authorizes an incarcerated person to file an anonymous grievance relating to an allegation of sexual violence directly to the Office of the Inspector General.

26) Authorizes the Inspector General to review any grievance filed from an incarcerated person, whether or not that grievance had been previously filed with the institution or hiring authority where the grievance occurred.

27) Provides that a person who is convicted of engaging in sexual activity with a consenting adult, confined in specified facilities, who is employed by a public entity health facility shall be terminated and shall not be eligible to be hired or reinstated by a public entity health facility.

EXISTING FEDERAL LAW: Establishes, through the Prison Rape Elimination Act (PREA), a zero-tolerance standard for the incidence of prison rape in prisons in the United States, provides for the development and implementation of national standards for the detection, prevention, reduction, and punishment of prison rape, and mandates the review and analysis of the incidence and effects of prison rape. (34 U.S.C. § 30301 et seq.)

EXISTING STATE LAW:

1) Requires CDCR to develop policies and operational practices that are designed to ensure a safe and productive institutional environment for women incarcerated in the state's prisons. (Pen. Code, § 3430, subd. (b).)

2) Provides guidance to CDCR for developing its protocols for responding to sexual abuse, requires certain standards be implemented to reduce the impact of sexual abuse on incarcerated individuals, and requires certain procedures are performed in the investigation and prosecution of sexual abuse incidents. (Pen. Code, §§ 2637-2639.)

3) Requires that a CDCR employee, confirmed by an investigation to have sexually abused an incarcerated person, is terminated. Requires administrators to report criminal sexual abuse by staff to law enforcement authorities. (Pen. Code, § 2639, subd. (e).)

4) Prohibits a male correctional officer from conducting a pat down search of a female incarcerated individual unless the incarcerated person presents a risk of immediate harm to herself or others or risk of escape and there is not a female correctional officer available to conduct the search. (Pen. Code, § 2644, subd. (a).)

5) Prohibits a male correctional officer from entering into an area of the institution where female incarcerated individuals may be in a state of undress, or be in an area where they can view female incarcerated individuals in a state of undress, including, but not limited to, restrooms, shower areas, or medical treatment areas, unless an incarcerated person in the area presents a risk of immediate harm to herself or others or if there is a medical emergency in the area. Specifies that a male correctional officer cannot enter into a prohibited area if there is a female correctional officer who can resolve the situation in a safe and timely manner without his assistance. Requires staff of the opposite sex to announce their presence when entering a housing unit to prevent incidental viewing. (Pen. Code, § 2644, subd. (b).)

6) Requires, if a male correctional officer conducts a pat down search or enters a prohibited area, the circumstances for and details of the exception to be documented within three days of the incident. Requires the documentation to be reviewed by the warden and retained by the institution for reporting purposes. (Pen. Code, § 2644, subd. (c).)

7) Provides that an employee or officer of a public entity health facility, or an employee, officer, or agent of a private person or entity that provides a health facility or staff for a health facility under contract with a public entity, who engages in sexual activity with a consenting adult who is confined in a health facility is guilty of a public offense. (Pen. Code, § 289.6, subd. (a)(1).)

8) Provides that any employee, officer, agent, staff, or volunteer of a detention facility, and any peace officer who engages in sexual activity with a consenting adult who is confined in a detention facility is guilty of a public offense. (Pen. Code, § 289.6, subd. (a)(2).)

9) Defines "sexual activity" for purposes of this offense as sexual intercourse, sodomy, oral copulation, sexual penetration, and the rubbing or touching of the breasts or sexual organs of another, or of oneself in the presence of and with knowledge of another, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of oneself or another. (Pen. Code, § 289.6, subd. (d)(1)-(5).)

10) Provides that a person who commits the above described offense by rubbing or touching of the breasts or sexual organs of another, or of oneself in the presence of and with knowledge of another, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of oneself or another, is guilty of a misdemeanor. (Pen. Code, § 289.6, subd. (g).)

11) Provides that a person who commits the above described offense by committing sexual intercourse, sodomy, oral copulation, or sexual penetration, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year, or of a felony punishable by imprisonment in the state prison, or by a fine of not more than $10,000, or by both. (Pen. Code, § 289.6, subd. (h).)

12) Provides that any person previously convicted of a violation of the above described offense shall, upon a subsequent violation, be guilty of a felony. (Pen. Code, § 289.6, subd. (i).)

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

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

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

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

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

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

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

14) Establishes the independent Office of the Inspector General (OIG). (Pen. Code, § 6125.)

15) Provides that the Inspector General (IG) is responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process of CDCR under policies to be developed by the IG. (Pen. Code, § 6126, subd. (a).)

16) Requires that the IG provide contemporaneous oversight of grievances that fall within CDCR's process for reviewing and investigating allegations of staff misconduct and other specialty grievances, examining compliance with regulations, department policy, and best practices. Requires the IG to issue annual reports on this topic. (Pen. Code, § 6126, subd. (i).)

17) Authorizes the OIG to investigate all staff misconduct cases that involve sexual misconduct with an incarcerated person, and authorizes the OIG to monitor and investigate a complaint involving sexual misconduct with an incarcerated person. (Pen. Code, § 6133, subd. (a)(5), (6).)

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

19) Requires the OIG, to facilitate oversight of CDCR's internal affairs investigations, to have staff physically co-located with the CDCR's Office of Internal Affairs, within a reasonable timeframe and without undue delays. (Pen. Code, § 6133, subd. (a)(2).)

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

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

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

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

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

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

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

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

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

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

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

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

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's Statement**: According to the author, "CDCR has been plagued for decades with substantiated claims of sexual misconduct and cultivating a culture of fear and abuse within its facilities. Last year I championed legislation to make sure that when abuse happens, our Office of the Inspector General has the ability to step in and ensure the situation is handled correctly and unbiased. While some of SB 337 is following up on that important work. The spirit behind SB 337 is to focus on the preventative side and ensure that abuse does not happen in the first place. Everyone in the custody of CDCR has the right to a safe place with which to engage in rehabilitation and self-reflection. The punishment is the imprisonment, not constant sexual assault, harassment, and fear of abuse. If we want folks to do their time and come back into society reformed, then we have to make sure our prisons do not perpetuate the very violence and harm that put them there in the first place."

2) **Prison Rape Elimination Act (PREA):** PREA was passed by Congress in 2003. It applies to all correctional facilities, including prisons, jails, and juvenile facilities. Among the many stated purposes for PREA are to establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States; to develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape; to increase the available data and information on the incidence of prison rape to improve the management and administration of correctional facilities; and to increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape.[1] PREA also created the National Prison Rape Elimination Commission and charged it with developing standards for the elimination of prison rape.

---

[1] 34 U.S.C. § 30301 et seq. (previously classified as 42 U.S.C. § 15601 et seq.)

The PREA standards developed by the National Prison Rape Elimination Commission were issued as a final rule by the U.S. Department of Justice in 2012.[2] Among other things, the standards require each agency and facility to designate a PREA point person to coordinate compliance efforts; develop and document a staffing plan, taking into account a set of specified factors, that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse; and train staff on key topics related to preventing, detecting, and responding to sexual abuse. In addition, the standards provide requirements regarding the avenues for reporting sexual abuse, investigation of sexual abuse, and access to medical and mental health care for inmate victims of sexual abuse.

3) **CDCR PREA Policy:** AB 550 (Goldberg, Chapter 303, Statutes of 2005) established the Sexual Abuse in Detention Elimination Act. The Act requires CDCR to adopt specified policies, practices, and protocols related to the placement of inmates, physical and mental health care of inmate victims, and investigation of sexual abuse. CDCR's PREA policy provides guidelines for the prevention, detection, response, investigation, and tracking of sexual violence, staff sexual misconduct, and sexual harassment against CDCR inmates.[3] The policy applies to all offenders and persons employed by CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole.

4) **Sexual Abuse of Incarcerated Persons in California Prisons:** California's prisons—and the women's prisons in particular—have been plagued with allegations of staff sexual assault and sexual misconduct for years.[4] In 2024, 130 individuals formerly incarcerated at the California Institution for Women (CIW) and the Central California Women's Facility (CCWF) filed a lawsuit against CDCR and 30 current and former correctional officers alleging that they were sexually abused while in prison. (*Id.*) The lawsuit alleges that the sexual abuse occurred throughout the prisons, including in cells, closets, and storage rooms, and alleges a variety of sexual abuse, including groping, forced oral copulation, and rape. (*Id.*)

   In 2023, the then-acting warden of CCWF was moved to another prison after being implicated in sexual harassment and abuse cases involving other staff.[5] The same year, a former correctional officer at CCWF was arrested for sexually assaulting 13 incarcerated individuals over nine years and charged with 96 counts of rape, sodomy, sexual battery, and rape under color of authority.[6] He was found guilty on 59 of those counts earlier this year.[7]

---

[2] 77 F.R.D. 37106.
[3] DOM §§ 5404.1-5404.22.
[4] See Richard Winton, *'Every woman's worst nightmare': Lawsuit alleges widespread sexual abuse at California prisons for women* (Jan. 18, 2024) available at <https://www.latimes.com/california/story/2024-01-18/every-womans-worst-nightmare-lawsuit-alleges-widespread-sexual-abuse-at-californias-womens-prisons>.
[5] Stanton, *Warden at troubled California women's prison faced sexual harassment, misconduct lawsuits*, Sacramento Bee (Jan. 21, 2023) available at <https://www.sacbee.com/news/politics-government/the-state-worker/article271879907.html>.
[6] Childs, *Ex-corrections officer accused of raping 13 inmates in California women's prison*, L.A. Times (May 25, 2023) available at <https://www.latimes.com/california/story/2023-05-25/ex-corrections-officer-accused-of-raping-inmates-at-california-womens-prison>.)
[7] Manoukian, *Former guard at California women's prison found guilty of 59 counts of sexual abuse*, KQED (Jan. 15, 2025) available at <https://www.kqed/com/news/12022075/former-guard-california-womens-prison-found-guilty-59-counts-sexual-abuse>.)

Six women additionally filed a lawsuit in early 2025 alleging that the sole gynecologist at CIW abused them.[8] The women claim that they "endured abusive pap smears and biopsies and coerced exams, including breast and anal examinations, and that those who crossed him…faced retaliation, including withholding of medical treatment." (*Id.*)

5) **Sexual Assault Response and Prevention Working Group**: The 2023-2024 Budget Act established "a sexual assault response and prevention working group and ambassador program" and allocated funds to CDCR as well as the Sister Warriors Freedom Coalition to support the working group in identifying best practices for whistleblower protections and trauma-informed care and support to survivors. The working group consisted of CDCR leadership and staff, correctional officers, community-based organizations led by formerly incarcerated people, representatives from the Sister Warriors Freedom Coalition, and individuals who have survived sexual assault while in custody. The working group met over a six-month period. Two reports were produced as a result of the working group: one authored by CDCR required by the Budget Act and one authored by the community-based organizations that were members of the working group.

   The community report on the working group primarily focused on the women's prisons, CIW and CCWF.[9] The report made several recommendations fitting into five categories: expedited release of survivors, culture shifting, services for survivors, the investigation and reporting process, and accountability. (*Id.* at p. 6.) Among its many recommendations, the report provided the following:

   - Allowing for increased anonymity and confidentiality in reporting.
   - More robust monitoring of gynecological or obstetric exams and strip searches.
   - Revising local body worn camera policies, particularly the deactivation of cameras, use of audits, and access to footage. (*Id.* at pp. 38-48.)

   SB 1069 (Menjivar), Chapter 1012, Statutes of 2024, adopted elements of some of the report's recommendations related to the investigation and reporting process. Specifically, SB 1069 gave the OIG investigatory authority over all staff misconduct cases that involve sexual misconduct with an incarcerated person, and authorized the OIG to monitor and investigate a complaint involving sexual misconduct with an incarcerated person. SB 1069 also required the OIG to prepare and submit a report following the completion of an investigation to the appropriate hiring authority. This bill expands on those efforts.

6) **Argument in Support**: According to the *California Coalition for Women Prisoners*, one of the bill's sponsors: "Staff sexual assault has had devastating effects on our members and we strongly believe that SB 337 will help protect incarcerated people and increase reporting.

---

[8] Sosa, *Lawsuit accuses gynecologist at California women's prison of abusing patients for years*, L.A. Times (Feb. 5, 2025) available at <https://www.latimes.com/california/story/2025-02-05/gynecologist-womens-prison-abuse-lawsuit>.

[9] Sister Warriors Freedom Coalition et al., *California Women's Prisons—Sexual Abuse Response and Prevention Working Group, Community Report to the Legislature* (Mar. 2024) available at <https://assets.nationbuilder.com/swactionfund/pages/342/attachments/original/1709747546/CA_Women's_Prisons_—_Sexual_Abuse_Response_and_Prevention_Working_Group.pdf?1709747546>.

"CDCR has been plagued with staff sexual misconduct that has cultivated a culture of fear and abuse within its prisons. Staff abuses and staff abuse culture have been particularly concentrated at the Central California Women's Facility (CCWF) and the California Institution for Women (CIW). Just two years ago, wardens at both institutions were relieved of duty following reports of widespread sexual abuse and unprecedented rates of suicide In February of this year several women incarcerated at CIW filed a class action lawsuit reporting years of systematic sexual abuse at the hands of the sole gynecologist on staff, even aided at times by his medical assistant. Not only were years of complaints ignored, but victims of his abuse were routinely retaliated against for their complaints.

"Despite the attention these scandals have received, systemic change is still desperately needed to effectuate true access to justice for incarcerated survivors of sexual abuse. The solutions to this crisis laid out in SB 337 directly address the concerns of individuals with lived experience of staff abuse while incarcerated in CDCR facilities. The bill reflects numerous recommendations by the CA Sexual Abuse Response and Prevention Working Group, created by the 2023 Budget Act, in our March 2024 Community Report. This report made policy recommendations for CDCR facilities based on the insights and analysis from over 700 people incarcerated at CCWF and CIW whose lived experiences provide invaluable perspective about which corrective and protective actions create safety or generate harm.

"SB 337 seeks to address deficiencies in the reporting and investigation of staff sexual misconduct in several meaningful ways. First, many survivors of staff abuse in CDCR facilities have found that by the time they have recovered sufficiently to consider taking on the risk and labor that comes along with reporting a staff member, the deadline to file a grievance has passed. SB 337 would expand the window that incarcerated people have to file a grievance from 60 to 120 days. It would also allow incarcerated people to file grievances anonymously and directly with the Office of the Inspector General (OIG), reducing some of the risk of retaliation that they experience when reporting staff abuse to CDCR and ensuring that their report will receive external oversight. Finally, it seeks to address the recurring issue of CDCR investigators downplaying the severity reports of sexual abuse by requiring CDCR staff to disclose personal relationships that may interfere with an investigation and recuse themselves if necessary.

"The bill also seeks to ensure that abusers cannot evade accountability. Staff who are found to be abusive during investigations are often merely transferred to different posts or prisons, where they continue to interact with incarcerated people. SB 337 would ensure that when CDCR staff or applicants are found guilty of violent or sexual crimes, they cannot be hired in the first place, and if they commit those crimes on the job or in the community, they are fired and never rehired. The bill would also ensure that abusive medical staff employed within the prison, like the gynecologist described above, cannot be rehired.

"Finally, SB 337 seeks to prevent sexual abuse from happening in the first place by increasing the oversight. Incarcerated people consistently report that custody staff improperly deactivate their body worn cameras (BWC) frequently, including during assaults or other staff misconduct. SB 337 would remove loopholes in CDCR's Body Worn Camera policy that staff utilize to avoid detection of their abuse.

"SB 337 also seeks to reduce opportunities for abuse during strip searches. Strip searches are a routine and violating practice within CDCR, and a site of sexual misconduct. Strip searches

can occur on a daily basis for incarcerated individuals and are required to access medical care and visiting. Traumatizing strip searches are a common experience reported by incarcerated people. Incarcerated individuals frequently report that abusive strip searches related to visits lead individuals to avoid visits with loved ones. SB 337 would require that CDCR document every search and body scan and allow for 3rd party advocates to be requested during the search.

"SB 337 takes necessary steps toward preventing further sexual abuse in California prisons, while holding CDCR accountable when abuses do occur."

7) **Argument in Opposition**: According to *Our Duty*, "The bill has the commendable goal of "zero tolerance for sexual violence, staff sexual misconduct, and sexual harassment in its institutions, community correctional facilities, and conservation camps, and for all offenders under its jurisdiction." Yet, in California, there are incarcerated women who spend twenty-four hours a day with trans-identified males who have been convicted of violent and sexual crimes. Unbelievably, these men share showers, bathrooms and small, locked cells with vulnerable, incarcerated females.

"SB337 must close the obvious gap in protection, created by the ill-conceived and anti-female law SB132, that paved the way for men who identify as women to terrorize, rape and sexually assault female inmates who have nowhere to hide. Since SB132 passed, not only have there been sexual assaults and rapes but the incarcerated females live with constant fear and humiliation. SB337 needs to protect the female inmates from these trans-identified males who are steadily infiltrating the female prisons…

"In its August 2023 special review, the California Office of the Inspector General recognized the obvious fact that female inmates would be harmed by males identifying as women.1 The OIG documented significant safety concerns since SB 132's implementation. Nearly two-thirds of women interviewed reported fearing for their safety around some or all of the male transferees, with over one-quarter reporting negative experiences, including sexual assault…

"The women in California's prison system, the vast majority of whom have had life histories of victimization at the hands of men, are being mercilessly subjected to predatory males in a context in which they are powerless to defend themselves. The need to protect male inmates from assault by other men does not justify subjecting vulnerable women to predatory men. The cycle of cruelty towards women, especially black and Hispanic females, continues unabated. Placing male sex-offenders regardless of their inner belief regarding their gender is harming the most oppressed and vulnerable population of females who have no way to protect themselves."

8) **Related Legislation**: AB 464 (Aguiar-Curry), would require CDCR to monitor an incarcerated person who is reported to have suffered sexual assault for 90 days following the report of sexual assault, and require CDCR to report that allegation to the Office of Internal Affairs. The suspense hearing on AB 464 was postponed by the committee.

9) **Prior Legislation**:

   a) SB 1069 (Menjivar), Chapter 1012, Statutes of 2024, granted the Office of Inspector General (OIG) investigatory authority over all staff misconduct cases that involve sexual

misconduct with an incarcerated person, and authorized the OIG to monitor and investigate a complaint that involves sexual misconduct with an incarcerated person.

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

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

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

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

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

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
An Individual
Black Women for Wellness Action Project
California Coalition for Women Prisoners
California Latinas for Reproductive Justice
California Public Defenders Association (CPDA)
Californians for Safety and Justice
Californians United for a Responsible Budget
Chispa
Citizens for Choice
Coalition to Abolish Slavery and Trafficking
Communities United for Restorative Youth Justice

Courage California
Critical Resistance, Los Angeles
Disability Rights California
El/la Para Translatinas
Ella Baker Center for Human Rights
Equality California
Fair Chance Project
Flying Over Walls
Friends Committee on Legislation of California
Initiate Justice
Initiate Justice Action
Just Detention International
Justice2jobs Coalition
LA Defensa
Local 148 LA County Public Defenders Union
Orthwein Law, P.c.
Pflag Los Angeles
Pflag San Jose/peninsula
Rainbow Families Action Bay Area
San Francisco Public Defender
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
Survived & Punished
The W. Haywood Burns Institute
Transgender Law Center
Universidad Popular
Valor US
Women's Foundation California
Youth Leadership Institute

Opposition

Our Duty

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

Date of Hearing: June 17, 2025
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 379 (Jones) – As Introduced February 13, 2025

SUMMARY: States that the Department of State Hospitals (DSH) is responsible for ensuring that department vendors consider public safety in the placement of a conditionally released sexually violent predator (SVP). Specifically, **this bill**:

1) Specifies that DSH is responsible for ensuring that department vendors consider public safety in the placement of a SVP conditionally released.

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

3) Provides that the provisions of this bill do not prohibit the placement of a financial hold on a residence for purposes of assessing suitability and public safety considerations for the prospective placement of a person committed as a SVP.

4) States that this act shall be known, and may be cited, as the Sexually Violent Predator Accountability, Fairness, and Enforcement Act.

5) Contains an urgency clause so that the bill may go into immediate effect.

EXISTING LAW:

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

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

3) States that when the Secretary of the Department of Corrections and Rehabilitation (CDCR) determines that an individual who is in custody serving a determinate prison sentence or whose parole has been revoked, may be a SVP, the secretary shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation by DSH. (Welf. & Inst. Code, § 6601, subd. (a)(1).)

4) Requires DSH to evaluate the person in accordance with a standardized assessment protocol, which shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder. (Welf. & Inst. Code, § 6601, subd. (c).)

5) Provides that the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of DSH. If both evaluators concur that the person has a diagnosed mental disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of DSH shall forward a request for a petition for commitment. (Welf. & Inst. Code, § 6601, subd. (d).)

6) States that no person may be placed in a state hospital pursuant to the SVPA until there has been a determination that there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior. (Welf. & Inst. Code, § 6602.5, subd. (a) and (g).)

7) Entitles a person subject to SVP petition to a trial by jury and unanimous verdict, to the assistance of counsel, to the right to retain experts or professional persons to perform an examination on the person's behalf, and to have access to all relevant medical and psychological records and reports. If the person is indigent, the court shall appoint counsel to assist that person and, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf. (Welf. & Inst. Code, § 6603, subd. (a).)

8) States that if DSH determines that the person is a SVP as defined in this article, the Director of DSH shall forward a request for a petition to be filed for commitment to the designated county no less than 20 calendar days prior to the scheduled release date of the person. Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county who may file a petition for commitment in the superior court if they concur with the recommendation. (Welf. & Inst. Code, § 6601, subd. (h).)

9) Requires a court to shall notify DSH of the outcome of the trial by forwarding to the department a copy of the minute order of the court within 72 hours of the decision. (Welf. & Inst. Code, § 6603, subd. (h).)

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

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

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

(e).)

13) Provides that if the Director of DSH determines that the inmate's diagnosed mental disorder has so changed that the inmate is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the Director will forward a report and recommendation for conditional release. (Welf. & Inst. Code, § 6604.)

14) States that a hearing upon the petition for conditional release shall not be held until the person who is committed has been under commitment for confinement and care in a facility designated by the Director of DSH for not less than one year from the date of the order of commitment. A hearing upon the petition shall not be held until the community program director designated by DSH submits a report to the court that makes a recommendation as to the appropriateness of placing the person in a state-operated forensic conditional release program. (Welf. & Inst. Code, § 6608, subd. (f).)

15) Requires the court to hold a hearing to determine whether the person committed would be a danger to the health and safety of others in that it is likely that the person will engage in sexually violent criminal behavior due to the person's diagnosed mental disorder if under supervision and treatment in the community. (Welf. & Inst. Code, § 6608, subd. (g).)

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

17) Provides that if the court determines that the person should be transferred to a state-operated forensic conditional release program, the community program director, or their designee, shall make the necessary placement arrangements and, within 30 days after receiving notice of the court's finding, the person shall be placed in the community in accordance with the treatment and supervision plan unless good cause for not doing so is presented to the court. (Welf. & Inst. Code, § 6608, subd. (i).)

18) States that in a conditional release hearing, the committed person shall have the burden of proof by a preponderance of the evidence, unless the report required by Section 6604.9 determines that conditional release to a less restrictive alternative is in the best interest of the person and that conditions can be imposed that would adequately protect the community, in which case the burden of proof shall be on the state to show, by a preponderance of the evidence, that conditional release is not appropriate. (Welf. & Inst. Code, § 6608, subd. (k).)

19) Requires a person who is released on outpatient status or granted conditional release shall be monitored by a global positioning system (GPS) until the person is unconditionally discharged. (Welf. & Inst. Code, § 6608.1.)

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

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

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

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

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

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

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

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

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

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

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

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

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

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's Statement**: According to the author, "

2) **Sexually Violent Predator Act (SVPA)**: Enacted in 1996, the SVPA authorizes an involuntary civil commitment of any person "who has been convicted of a sexually violent offense … and who has a diagnosed mental disorder that *makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior*." (Emphasis added.) (Welf. & Inst. Code, § 6601, subd. (a).) The SVPA

was designed to accomplish the dual goals of protecting the public, by confining violent sexual predators likely to reoffend, and providing treatment to those offenders. "Those committed pursuant to the SVPA *are to be treated not as criminals, but as sick persons. They are to receive treatment for their disorders and must be released when they no longer constitute a threat to society.*" (Emphasis added.) (*People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774, 783, citing Welf. & Inst. Code, § 6250.)

Civil commitment is not a prison sentence. Once a person has been deemed no longer a threat to public safety, they must, as a matter of law, be released from custody. Involuntary commitment under the SVPA only begins after a person has completed their prison sentence. Originally, the SVP law provided for an initial commitment of two years and then a review every two years thereafter. However, the law was amended in 2006 through enactment of Proposition 83 ("Jessica's Law") and now provides for indeterminate commitments for persons found to be a SVP. (Welf. & Inst. Code, § 6604.)

A SVP is a person convicted of specified sex offenses against at least one person and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. (Welf. & Inst. Code, § 6600, subd. (a)(1).)[1] The SVPA has survived due process challenges because the committed person "may not be held in civil commitment when he or she no longer meets the requisites of such commitment" (i.e., the person has the opportunity for release). (See *People v. McKee* (2010) 47 Cal.4th 1172, 1193; see also *Kansas v. Hendricks* (1997) 521 U.S. 346; *People v. McKee* (2012) 207 Cal.App.4th 1325; *People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774.)

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

a. Process of SVP designation:

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

---

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

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

Accordingly, a court then reviews the petition and determines whether there is probable cause to believe the inmate "is likely to engage in sexually violent predatory criminal behavior upon their release. (Welf. & Inst. Code, § 6602.5.) A person subject to a SVP petition is entitled to a jury trial and unanimous verdict. Similarly, the county prosecutor has the right to demand a jury trial. (Welf. & Inst. Code, § 6603.) If a jury trial is not demanded, the trial shall be before the court. (*Ibid.*) If the court or jury determines beyond a reasonable doubt that the person is a sexually violent predator, the person [is] committed for an indeterminate term" to a state mental hospital "for appropriate treatment and confinement." (Welf. & Inst. Code, § 6604.)

DSH must conduct a yearly examination of a SVP's mental condition and submit an annual report to the court. This annual review includes an examination by a qualified expert. (Welf. & Inst. Code, § 6604.9.)

If the Director of DSH determines that the inmate's diagnosed mental disorder has so changed that the inmate is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the Director will forward a report and recommendation for conditional release. (Welf. & Inst. Code, § 6604.) If the court at the hearing determines that the SVP would not be a danger to others due to his or her diagnosed mental disorder while under supervision and treatment in the community, the court will order the person placed with an appropriate forensic conditional release program operated by the state for one year, a substantial portion of which is required to include outpatient supervision and treatment. (Welf. & Inst. Code § 6608, subd. (f).)

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

b. Restrictions on Conditionally Released SVPs

A conditionally released SVP is deemed by DSH and the courts to no longer pose a danger to the community and may be treated in the community rather than confinement in the state hospital. However, a conditionally released SVP is tightly monitored and supervised in the community. A person released as an SVP may not be released to any residence that is within one-quarter mile of any public or private school providing instruction in kindergarten or any

grades 1 through 12, inclusive, if the person has been previously convicted of child molestation or continuous sexual abuse of a child or if the court finds the person has a history of improper sexual conduct with children. (Welf. & Inst. Code, § 6608.5, subd. (f)(1)-(2).) Additionally, a conditionally released SVP must be monitored by a global positioning system (GPS) until they are unconditionally released. (Welf. & Inst. Code, § 6608.1.) Violations of the terms and conditions of release set by the court may result in revocation of conditional release and return to the hospital.

3) **DSH Conditional Release Program (CONREP)**: When patients civilly committed under the SVPA are granted conditional release by a court, they will enter community treatment and supervision under CONREP. Placement of a person who will be conditionally released is strictly regulated by law, and is determined on an individual basis, with community safety being the top priority.[2] Only about 5% of SVPs have been conditionally released, and to date not a single person who has been released has committed a sexual contact offense while in the program.[3]

   CONREP consists of intensive community based treatment with 24-hour electronic monitoring, with gradual steps towards increased community integration, depending on treatment progress. It is designed in accordance with best practice standards. It relies on a broad range of services that are flexibly applied based on each patient's risk-assessment profile and treatment needs. Some of the tools used include polygraph examinations, covert surveillance, announced and unannounced home visits, electronic monitoring, monitoring of approved electronic devices, drug testing, property searched, banking and expense reviews, approval of travel (including routes of travel) for all time outside the residence, assessments of sexual arousal (plethysmography) and sexual interest (Abel assessments), collateral contacts with significant people in the patient's life, chaperone training, and life skills training.[4]

   DSH contracts with Liberty Health Care to provide SVP CONREP services throughout the state.[5] The placement process for a CONREP participant begins when a court determines that the person meets the legal criteria for CONREP and orders conditional release. This process is guided by both statutory law and court oversight.

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

---

[2] See DSH Fact Sheet on SVP CONREP, March 2025, https://dsh.ca.gov/Treatment/docs/SVP_Conrep_Fact_Sheet_March2025.pdf, (accessed June 9, 2025.)
[3] *Ibid.*
[4] *Ibid.*
[5] *Ibid.*

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

If a property seems to meet both the statutory criteria and the court-ordered requirements, Liberty Health Care submits the potential placement location to undergo a three-level review process with DSH. Through this three-level review process, DSH staff (including clinical, legal, leadership and DSH's Director's Office) review both the potential placement and forensic risk factors to evaluate suitability. DSH staff work closely with Liberty Health Care to ensure that all information is included in each relevant document. If a property completes the three-level review process, DSH approves Liberty Health Care to present the potential placement location to Housing Committee members for discussion and additional feedback.[6]

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

The average time from when a court orders conditional release to actual placement in the community is one year or longer.[7] Notably, if no housing placement has been found and the court has ordered the person to conditional release, the person can be released as a transient, such as an RV or motel instead of fixed housing. (*Karsai*, *supra*, 213 Cal.App.4th 774; Defendant was ordered to be released transient after Liberty Health Care reviewed more than 1,830 potential placements and only identified two potentially compliant placements when those turned out to not be suitable.) The court reiterated in *Karsai* that holding a person in civil commitment beyond what is judicially determined to be necessary for the health and safety of others raises serious constitutional issues:

> Once a court has determined that a particular SVP would not be a danger to the health and safety of others in that it is not likely that he or she would engage in sexually violent criminal behavior due to his or her diagnosed mental disorder if under supervision and treatment in the community, that person unquestionably has a significant liberty interest in being released. To authorize an unspecified delay in that

---

[6] *Ibid.*
[7] *Ibid.*

> release by implying in the SVPA a requirement that the person must have a specific residence before release, when under the statutory scheme the securing of a specific residence is not a prerequisite to a finding that the person would pose no danger to others if under outpatient supervision and treatment, would run the risk that a person who is no longer dangerous will nonetheless have to remain in custody in a secure facility indefinitely simply because of some extraneous factor, such as public outrage, that interferes with finding and securing a fixed residence for that person.

(*Id.* at 788-89.) This bill would place in statute that DSH shall ensure that department vendors consider public safety in the placement of an SVP that is ordered to be conditionally released. As evidenced by the rigorous placement process for CONREP described above, public safety is already a top consideration that currently exists for placement of a SVP.

This bill additionally requires DSH to approve a potential placement before a department employee or vendor proposes a potential placement to the court. As discussed above, this process seems to already be in place under existing practices. When housing assessments are made by DSH staff and Liberty Healthcare and when a potential placement is found, the placement undergoes a three-level review process with DSH to evaluate suitability and risk factors. If the proposed housing is approved through this three-level review, DSH then approves the placement to be submitted to the court for consideration.[8]

4) **Argument in Support**: According to *California State Sheriffs' Association*, "Currently, when a sexually violent predator (SVP) is recommended for the Forensic Conditional Release Program (CONREP), the Department of State Hospitals (DSH) is responsible for notifying the county of domicile, coordinating their release placement, and overseeing their treatment. DSH then engages an independent contractor to provide all services for the CONREP throughout California.

   "Unfortunately, over the past few years, the placement process has proven to be challenging, and to protect the public's safety, the courts have had to intervene and require the contractor to identify and arrange other residential options, which wastes resources and causes delays in the finding a prospective residential option.

   "Establishing a process whereby the State is ultimately held responsible for arranging the most appropriate and safe housing for an SVP will improve transparency and accountability leading to well-being of affected Californians."

5) **Argument in Opposition**: According to Initiate Justice Action, "Finding placement in any community for a formerly incarcerated person who is conditionally released and labeled as an "SVP" patient is particularly challenging, no matter what county the person is returning to.

   "As context to the housing barriers that conditionally released patients already experience, in most cases, the residence must comply with Jessica's Law (residency must be more than 2,000 feet from a school), and there must be a landlord willing to rent to them. Many counties struggle with finding housing that is compliant with Jessica's Law, based on the

---

[8] *Ibid.*

number of schools and parks in many of our California cities. When compliant housing is located, public pressure is often placed on landlords willing to rent properties to conditionally-released patients, which often comes by way of public shaming and harassment. Public hearings bring negative media attention which ignites and fosters collective efforts to block a patient's release back into the community. The negative media attention, coupled with the public shaming and harassment, leads many landlords to back out of rental contracts. When this happens, Liberty Healthcare is required to start their housing search over again. This can go on in perpetuity, all the while, conditionally released patients must remain confined at Coalinga State Hospital, even though they have been deemed safe to return to the community under treatment and supervision.

"SB 379 seeks to make the process of releasing an individual who has already been found to be safe under supervision even more difficult, by requiring the Director of State Hospitals, a political appointee, to personally approve each placement before a lease is signed, and to verify with the county's executive officer which supervisorial district the proposed placement is in."

6) **Related Legislation**: SB 380 (Jones) would require DSH to, on or before January 1, 2027, conduct an analysis of the benefits and feasibility of establishing transitional housing facilities for the conditional release program, and to submit the findings of the analysis in a report to the Legislature. SB 380 is currently pending referral in the Assembly.

7) **Prior Legislation**:

   a) SB 1074 (Jones), of the 2023-24 Legislative Session, was substantially similar to this bill. SB 1074 was held in Assembly Appropriations.

   b) SB 832 (Jones), of the 2023-24 Legislative Session, would have prohibited the placement of SVPs within five miles of federal land and to require DSH to take specified actions before placing a sexually violent predator in the community. SB 832 failed passage in Senate Public Safety Committee.

   c) SB 841 (Jones), of the 2021-22 Legislative Session, was substantially similar to SB 832. SB 841 failed passage in Senate Public Safety Committee.

   d) AB 1835 (Lackey), would have required, if reasonably possible, a person to be placed at a location within the person's city of domicile, if any, or within a close geographic location within the county of domicile in which the person has family, social ties, or economic ties, and access to reentry services, unless placement within that city or location would pose a risk to the person's victim or victim's next of kin. AB 1835 was not heard in Assembly Public Safety.

   e) SB 1034 (Atkins), Chapter 880, Statutes of 2022, established a process for finding housing for a SVP who has been found to no longer be a danger and set forth what a court must do in order to determine extraordinary circumstances exist so that a sexually violent predator cannot be placed in the county of domicile and required DSH to convent a housing committee with specified participants in order secure suitable housing for the person to be conditionally released.

REGISTERED SUPPORT / OPPOSITION:

Support

California Police Chiefs Association
California State Sheriffs' Association

Oppose

California Attorneys for Criminal Justice
Ella Baker Center for Human Rights
Initiate Justice Action
Survivor Policy Coalition

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

Date of Hearing: June 17, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 385 (Seyarto) – As Amended April 10, 2025

SUMMARY: Removes the requirement that the Commission on Peace Officer Standards and Training (POST) approve and adopt specified education criteria for peace officers within two years of the Office of the Chancellor of the California Community Colleges (OCCC) submitting a report to the Legislature outlining a plan to implement a modern policing degree program.

EXISTING LAW:

1) Establishes POST to set minimum standards for the recruitment and training of peace officers, develop training courses and curriculum, and establish a professional certificate program that awards different levels of certification based on training, education, experience, and other relevant prerequisites. (Pen. Code, §§ 830-832.10; 13500 et seq.)

2) Establishes the powers of POST, among others, to develop and implement programs to increase the effectiveness of law enforcement, and to secure the cooperation of state-level peace officers, agencies, and bodies having jurisdiction over systems of public higher education in continuing the development of college-level training and education programs. (Pen. Code, §§ 830-832.10; 13500 et seq.)

3) Requires every peace officer in the state to satisfactorily complete an introductory training course prescribed by POST. (Pen. Code, § 832, subd. (a).)

4) Provides that each class of public officers or employees declared by law to be peace officers shall meet specified minimum standards, including that they be a high school graduate, pass the General Education Development Test or other high school equivalency test, or have attained a two-year, four-year, or advanced degree from an accredited college or university, as specified. (Gov. Code, § 1031.)

5) Specifies that the above paragraph shall not be construed to preclude the adoption of additional or higher standards. (Gov. Code, § 1031, subd. (g).)

6) Requires any person designated as a peace officer, notwithstanding designated exceptions, or any peace officer employed by an agency that participates in a POST program to be at least 21 years of age at the time of appointment. (Gov. Code, § 1031.4, subd. (a).)

7) Provides that any person, who as of December 31, 2021, is currently enrolled in a basic academy or is employed as a peace officer by a public entity in California is not subject to the age requirement of 21 years of age. (Gov. Code, § 1031.4, subd. (b).)

8) Requires representatives from POST, stakeholders from law enforcement, the California State University, and community organizations to serve as advisors to the OCCC to develop a modern policing degree program. (Pen. Code, § 13511.1, subd (a).)

9) Requires the OCCC to report recommendations to the Legislature outlining a plan to implement the modern policing degree program on, or by, June 1, 2023. (Pen. Code, § 13511.1, subd (a).)

10) Requires the recommendations in the OCCC report to meet the following:

    a) Focus on courses pertinent to law enforcement including, but not limited to, psychology, communications, history, ethnic studies, law, and those determined to develop necessary critical thinking skills and emotional intelligence.

    b) Include allowances for prior law enforcement experience, appropriate work experience, postsecondary education experience, or military experience to satisfy a portion of the employment eligibility requirements.

    c) Include both the modern policing degree program and bachelor's degree program in the discipline of their choosing as minimum education requirements for employment as a peace officer.

    d) Include recommendations to adopt financial assistance for students of historically underserved and disadvantaged communities with barriers to higher education access to fulfill the minimum requirements to be adopted for employment as a peace officer. (Pen. Code, § 13511.1, subd (a)(1)-(4).)

11) Requires POST to approve and adopt the education criteria for peace officers, based on the recommendations in OCCC report, within two years of the submission of the report to the Legislature and in consultation with specified stakeholders. (Pen. Code, § 13511.1, subd (c).)

12) Requires POST to adopt rules establishing minimum standards relating to the recruitment, training and fitness of state and local law enforcement officers. (Pen. Code, §§ 13510 & 13510.5.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "SB-385 Adds clarity to education requirements for Peace Officer Candidates including the timeline for completion of upcoming degree requirements under the PEACE Act. Currently police officers would be required to complete a bachelor and associate degree within 24 months of their appointment as a Peace Officer. Adding flexibility to the timeline for completion allows officers to secure their employment and establish their career before being required to complete a degree. As California faces law enforcement shortages in rural and urban areas adding more flexibility will aid the hiring of more high quality officers."

2) **Law Enforcement Hiring and Staffing:** In the past several years, law enforcement agencies have struggled to recruit and retain sworn personnel. A survey conducted by the Police Executive Research Forum in June 2021 found that the departments surveyed were, on average, filling only 93% of the authorized number of positions available.[1] California has not been immune from officer recruitment and retention challenges. Between September 2021 and February 2022, San Diego lost over 100 officers, and in 2022 the city expected retirements and departures to outpace new hires.[2] Similarly, as of August 2021, the Los Angeles Police Department had 296 empty officer positions and almost 500 fewer officers on duty than it did the previous year; and as of November 2021, San Francisco was short 533 officers relative to full staffing levels.[3] According to a study conducted by the Public Policy Institute of California, between 2020 and 2022, the state lost 3,563 sworn and 1,240 civilian staff, and staffing levels are down by 3.2% compared to 2020.[4] In 2021, the number of officers per 100,000 residents was the lowest since 1995.[5] Staffing levels increased in 2023, but still remain lower than in 2020.[6]

   To address the staffing shortfall, law enforcement agencies have pursued a variety of potential solutions, such as increasing pay and benefits, scaling back job requirements, and hiring more non-sworn support staff. Some states, including California, have sought to address the problem and expand the applicant pool by removing or modifying officer citizenship requirements or raising the maximum age for eligibility.[7]

3) **Academic Requirements for Law Enforcement**: Law enforcement education requirements vary by jurisdiction and depending on the type and level of peace officer position. In California, prospective officers are required to have no more than a high school diploma or GED and complete a certain number of training hours through POST. (Gov. Code, § 1031; Pen. Code, § 832, subd. (a).) California law enforcement officers are already more likely to have some college education or an associate degree compared to full-time workers in other occupations, and California has more college-educated officers than all but three states.[8]

   Increased focus on incidents of excessive force by peace officers have led to growing efforts to establish higher baseline educational requirements for officers. Research suggests that attaining college education significantly reduces the likelihood of force occurring, that

---

[1] Police Executive Research Forum, *Survey on Police Workforce Trends* (June 11, 2021), available at: https://www.policeforum.org/workforcesurveyjune2021

[2] The San Diego Tribune, *San Diego facing new police officer vacancy crisis blamed partly on vaccine mandate* (Feb. 3, 2022), available at: https://www.sandiegouniontribune.com/news/politics/story/2022-02-03/san-diego-facing-new-police-officer-vacancy-crisis-blamed-partly-on-vaccine-mandate

[3] Los Angeles Daily News, *LAPD is short about 300 officers but the chief hopes to fill the gap* (Aug. 20, 2021), available at: https://www.dailynews.com/2021/08/20/lapd-is-short-about-300-officers-but-the-chief-plans-to-fill-the-gap/; Sierra, *SFPD could be short 533 officers amid staffing strains from the vaccine mandate*, ABC 7 News, (Nov. 1, 2021), available at: https://abc7news.com/san-francisco-vaccine-mandate-sfpd-sf-city-workers-on-leave/11188916/

[4] Lofstrom et. al., *Law Enforcement Staffing in California*, Public Policy Institute of California (Feb. 2025), available at: https://www.ppic.org/publication/law-enforcement-staffing-in-california/

[5] Public Policy Institute of California, *California's Notable Decliens in Law Enforcement Staffing* (Feb. 14, 2023), available at: https://www.ppic.org/blog/californias-notable-declines-in-law-enforcement-staffing/

[6] Lofstrom et. al., *supra.*

[7] See SB 960 (Skinner, Ch. 825, Stats. of 2022), and AB 1435 (Lackey, 2023), vetoed by the Governor.

[8] Public Policy Institute of California, *New Law Raises Standards for Police Officers* (Jan. 26, 2022), available at: https://www.ppic.org/blog/new-law-raises-standards-for-police-officers/#:~:text=Last%20fall%2C%20Governor%20Newsom%20signed,enforcement%20from%2018%20to%2021; Cal Matters, *Mandate higher education for California police officers* (March 26, 2021), available at: https://calmatters.org/justice/2021/03/mandate-higher-education-for-california-police-officers/

officers with a college degree may be less likely to discharge their firearms, and that better educated officers may use force less often.[9]

In 2021, multiple bills were introduced which would have increased educational requirements for prospective California peace officers. Ultimately, AB 89 (Jones-Sawyer), Chapter 405, Statutes of 2021, was enacted, which required prospective peace officers to be at least 21 years of age, and to require the OCCC to develop a modern policing degree program with POST and other stakeholders. (Pen. Code, § 13511.1, subd (a).) AB 89 also required that stakeholder group to submit a report to the Legislature outlining a plan to implement that program by June 1, 2023. (*Ibid.*) That bill further specified that the OCCC's recommendations must include both the modern policing degree program and bachelor's degree in the discipline of the work group's choosing as minimum education requirements for employment as a peace officer. (*Ibid.*) Finally, AB 89 required POST to approve and adopt the education criteria for peace officers, based on the recommendations in the report, within two years from the submission of the report to the Legislature. (Pen. Code, § 13511.1, subd (c).)

In early 2023, AB 458 (Jones-Sawyer), Chapter 440, Statutes of 2023, as originally introduced, would have codified that expected recommendation and required prospective officers, by January 1, 2028, to obtain either a modern policing degree or bachelor's degree prior to receiving their basic certificate from POST, unless the officer was already employed by a public agency or enrolled in a basic academy. AB 458 was later amended into a bill unrelated to peace officer education requirements.

In November 2023, the OCCC task force released its final report and recommendations.[10] As part of this broader recommendation, the OCCC task force proposed a modern policing degree as either an Associate of Arts or Associate of Sciences in Policing to be completed prior to obtaining a POST basic certificate or within 24 months of initial appointment as a peace officer.[11] Notably, the OCCC task force recommended the inclusion of "both the modern policing degree program and bachelor's degree in the discipline of their choosing as minimum education requirements for employments as a peace officer."[12] Further, the report recommended that "the California Community Colleges should develop the Modern Policing Degree with transferability into a baccalaureate degree in mind," and should "develop a baccalaureate degree in Policing."[13] Given the other recommendations regarding minimum educational standards, the OCCC task force likely did not intend to require prospective officers to obtain *both* an associate's degree *and* a bachelor's degree.

---

[9] Rydberg and Terril, *The Effect of Higher Education on Police Behavior*, Police Quarterly (13 (1), 92-120, at pp. 92, 99, available at: https://www.researchgate.net/publication/247748841_The_Effect_of_Higher_Education_on_Police_Behavior; Mcelvain and Kposowa, *Police Officer Characteristic and the Likelihood of Using Deadly Force*, Criminal Justice Behavior 25(4): 505-521, at p. 505, available at: https://www.researchgate.net/publication/247745141_Police_Officer_Characteristics_and_the_Likelihood_of_Using_Deadly_Force

[10] California Community Colleges Chancellor's Office, *California Assembly Bill 89 Modern Policing Degree Task Force Report and Recommendations* (Nov. 6, 2023), available at: https://www.cccco.edu/-/media/CCCCO-Website/docs/report/2023-AB-89-Task-Force-Report-to-Legislature---FINAL.pdf?la=en&hash=734BC84521A88B49A0ADAD91AE1E289D031937C9&hash=734BC84521A88B49A0ADAD91AE1E289D031937C9

[11] *Id.* at p. 8.

[12] *Ibid.*

[13] *Id.* at p. 9.

In response to the OCCC report, SB 1122 (Seyarto) of the 2023-2024 Legislative Session, sought to clarify that any requirement for the completion of a bachelor's degree or associate's degree adopted pursuant to the recommendations of the OCCC may be satisfied after the completion of the POST program, and that an individual may complete a bachelor's or associate's degree within 36 months of their employment as a peace officer. This bill was passed by both houses of the Legislature but was recalled from Engrossing and Enrolling due to a fatal typographical error. AB 852 (Jones-Sawyer) of the 2023-2024 Legislative Session, similarly would have required a peace officer to attain a modern policing degree, or a bachelor's or other advanced degree from an accredited college or university, within 36 months of commencing their employment as a peace officer. AB 852 similarly was passed by both houses of the Legislature but was never sent to the Governor.

4) **Effect of this bill.** This bill would remove the requirement that POST approve and adopt education criteria for peace officers based on, and within two years of the submission of, the OCCC report to the Legislature. The OCCC report was released in November of 2023. POST is thereby required to adopt peace officer education criteria by the end of this year. This bill removes that requirement. AB 992 (Irwin) of the 2025-2026 Legislative Session similarly strikes this requirement, however, SB 385 additionally includes an urgency provision to ensure this statutory deadline is removed in advance of POST's end of year mandate. With a proposed urgency clause, this bill would require a 2/3 majority on the floor.

   Effectively, this not only removes POST's deadline to adopt peace officer education criteria, but POST's responsibility to develop such criteria more generally. It may be helpful to consider this bill alongside AB 992 (Irwin), which is pending a hearing in the Senate Public Safety Committee. While this bill removes the requirement that POST adopt peace officer education criteria by the end of the year, AB 992 (Irwin) would require a peace officer to obtain either an associate's degree, bachelor's degree, modern policing degree, professional policing certificate, or otherwise have specified military or out-of-state law enforcement experience, within 36 months of receiving their basic certificate from POST. If both bills are enacted into law, this would shift responsibility for developing peace officer minimum education standards from POST to the Legislature, which is distinct from the process initially proposed by AB 89 (Jones-Sawyer) Chapter 405, Statutes of 2021.

5) **Argument in Support**: [will add once received]

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

7) **Related Legislation**: AB 992 (Irwin), of the 2025-2026 Legislative Session, would require a peace officer to obtain either an associate's degree, bachelor's degree, modern policing degree, professional policing certificate, or otherwise have specified military or out-of-state law enforcement experience, within 36 months of receiving their basic certificate from POST. AB 992 is pending a hearing in Senate Public Safety Committee.

8) **Prior Legislation**:

   a) SB 1122 (Seyarto), of the 2023-2024 Legislative Session, would have clarified that a bachelor's or associate's degree required for employment as a peace officer may be obtained after the completion of the POST program and within 36 months of employment

as a peace officer. SB 1122 recalled from Engrossing and Enrolling due to a typographical error.

b) AB 852 (Jones-Sawyer), of the 2023-2024 Legislative Session, would have required a peace officer who is hired on or after January 1, 2029 to attain a modern policing degree, or a bachelor's or other advanced degree from an accredited college or university within 36 months of commencing their employment as a peace officer. AB 852 passed the Assembly and Senate but was never sent to the Governor.

c) AB 458 (Jones-Sawyer), Chapter 440, Statutes of 2023, requires an officer to attain either of the following degrees prior to receiving a basic certificate beginning on January 1, 2028: a modern policing degree from a California Community College; or, a bachelor's degree or other advanced degree from an accredited college or university. AB 458 was gutted and amended in the Senate.

d) AB 89 (Jones-Sawyer), Chapter 405, Statutes of 2021, requires all peace officers employed by agencies that participate in the POST program, who are not employed in or enrolled in academy for that position as of 2024, to be at least age 21 and meet specified education requirements.

e)

REGISTERED SUPPORT / OPPOSITION:

Support

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

Riverside Sheriffs' Association
Santa Ana Police Officers Association

Opposition

None submitted.

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

Date of Hearing: June 17, 2025
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 459 (Grayson) – As Amended May 8, 2025

As Proposed to be Amended in Committee

SUMMARY: Expands the confidentiality protections for law enforcement personnel receiving group peer support services. Specifically, **this bill:**

1) Expands the right of law enforcement personnel to refuse to disclose, and prevent another from disclosing, a confidential communication between the law enforcement personnel and a peer support team member made while the peer support team member was providing peer support services, to include:

   a) A confidential communication made between that law enforcement personnel and a peer support team member during group peer support services; and,

   b) A confidential communication between law enforcement personnel recipients of group peer support services made while a peer support team member or mental health professional provides group peer support services to those recipients.

2) Specifies that the definition of "confidential communication," for purposes of communications in peer support services, also includes communications, as specified, between law enforcement personnel recipients of group peer support services while a peer support team member or mental health professional provides group peer support services to those recipients, subject to the requirements, exclusions, and exceptions that apply to peer support service confidential communications more generally.

3) Defines "group peer support services" to mean peer support services, as defined, comprised of at least one peer support team member or mental health professional and more than one recipient of group peer support services.

EXISTING LAW:

1) Establishes the Law Enforcement Peer Support and Crisis Referral Program (Gov. Code, § 8669.1 et. seq.)

2) Authorizes a local or regional law enforcement agency to establish a peer support and crisis referral program, which shall be responsible for providing an agency-wide network of peer representatives who are available to come to the aid of their fellow employees on a broad range of emotional or professional issues. (Gov. Code, § 8669.2, subd. (a).)

3) Provides that the peer support and crisis referral program may provide employee support and referral services for matters including, but not limited to substance use and substance abuse, critical incident stress, family issues, grief support, legal issues, line of duty deaths, serious

injury or illness, suicide, victims of crime, and workplace issues. (Gov. Code, § 8669.2, subd. (b).)

4) Gives a law enforcement personnel, whether or not a party to an action, the right to refuse to disclose, and to prevent another from disclosing, a confidential communication between the law enforcement personnel and a peer support team member made while the peer support team member was providing peer support services, or a confidential communication made to a crisis hotline or crisis referral service. (Gov. Code, § 8669.4, subd. (a).)

5) Provides that notwithstanding the above confidentiality protection, a confidential communication may be disclosed under the following circumstances:

   a) To refer a law enforcement personnel to receive crisis referral services by a peer support team member.

   b) During a consultation between two peer support team members.

   c) If the peer support team member reasonably believes that disclosure is necessary to prevent death, substantial bodily harm, or commission of a crime.

   d) If the law enforcement personnel expressly agrees in writing that the confidential communication may be disclosed.

   e) In a criminal proceeding.

   f) If otherwise required by law. (Gov. Code, § 8669.4, subd. (b).)

6) Prohibits a peer support team member who provides peer support services and has completed an approved peer support training course, and the law enforcement agency that employs them, from being liable for specified damages that occur from performing peer support services, unless the act, error, or omission constitutes gross negligence or intentional misconduct. (Gov. Code, § 8669.5, subds. (a).)

7) Prohibits a peer support team member from providing peer support services in any of the following circumstances:

   a) If the peer support team member's relationship with a law enforcement personnel could be reasonably expected to impair objectivity, competence, or effectiveness in providing peer support, or would risk exploitation or harm to the law enforcement personnel.

   b) If the peer support team member and law enforcement personnel receiving peer support services were involved as participants or witnesses to the same traumatic incident.

   c) If the peer support team member and law enforcement personnel receiving peer support services are both involved in a shared active or ongoing investigation. (Gov. Code, § 8669.5, subd. (c).)

8) Requires peer support team members to complete specified training in order to be eligible for confidentiality protections, as specified. (Gov. Code, § 8669.6.)

9) Provides except as otherwise provided, a law enforcement personnel has a right to refuse to disclose, and to prevent another from disclosing, a confidential communication between the law enforcement personnel and a crisis hotline or crisis referral service in a civil, administrative, or arbitration proceeding, although the crisis hotline or crisis referral service may disclose confidential information communicated by a law enforcement personnel to prevent reasonably certain death, substantial bodily harm, or the commission of a crime. (Gov. Code, § 8669.7, subds. (a) & (b).)

10) Provides the following definitions:

a) "Peer support program" means a program administered by a law enforcement agency to deliver peer support services to law enforcement personnel.

b) "Peer support team member" means a law enforcement agency employee who has completed a peer support training course or courses, as specified.

c) "Peer support services" means authorized peer support services provided by a peer support team member to law enforcement personnel and their immediate families affected by a critical incident or the cumulative effect of witnessing multiple critical incidents, and assist those affected by a critical incident in coping with critical incident stress and mitigating reactions to critical incident stress. This may include one or more of the following:

i) Precrisis education.

ii) Critical incident stress defusings.

iii) Critical incident stress debriefings.

iv) On-scene support services.

v) One-on-one support services.

vi) Consultation.

vii) Referral services.

viii) Confidentiality obligations.

ix) The impact of toxic stress on health and well-being.

x) Grief support.

xi) Substance abuse awareness and approaches.

xii) Active listening skills.

d) "Confidential communication" means any information, including, but not limited to, written or oral communication, transmitted between a law enforcement personnel, a peer support team member, or a crisis hotline or crisis referral service staff member while the peer support team member provides peer support services or the crisis hotline or crisis

referral service staff member provides crisis services, and in confidence by a means that, as far as the law enforcement personnel is aware, does not disclose the information to third persons other than those who are present to further the interests of the law enforcement personnel in the delivery of peer support services or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the peer support team member is providing services. This does not include a communication in which the law enforcement personnel discloses the commission of a crime or a communication in which the law enforcement personnel's intent to defraud or deceive an investigation into a critical incident is revealed.

e) "Critical incident" means an event or situation that involves crisis, disaster, trauma, or emergency.

f) "Critical incident stress" means the acute or cumulative psychological stress or trauma that law enforcement personnel may experience in providing emergency services in response to a critical incident. The stress or trauma is an unusually strong emotional, cognitive, behavioral, or physical reaction that may interfere with normal functioning and could lead to post-traumatic stress injuries, including, but not limited to, one or more of the following: physical and emotional illness, failure of usual coping mechanisms, loss of interest in the job or normal life activities, personality changes, loss of ability to function, psychological disruption of personal life, including their relationship with a spouse, child, or friend. (Gov. Code, § 8669.3.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Current law does not clearly safeguard the privacy of communications made during group peer support sessions. This gap in confidentiality protection can discourage officers from fully participating in group settings out of fear that their statements or those of their colleagues may later be disclosed in legal proceedings."

2) **Peace Officer Mental Health and Wellness.** The duties required of law enforcement officers can take a significant toll on their health and wellness. A 2019 report to Congress from the Office of Community Oriented Policing Services in the U.S. Department of Justice aptly describes the mental health issues facing law enforcement officers:

> Officers anticipate and accept the unique dangers and pressures of their chosen profession. However, people under stress find it harder than people not experiencing stress to connect with others and regulate their own emotions. They experience narrowed perception, increased anxiety and fearfulness, and degraded cognitive abilities. This can be part of a healthy fight-or-flight response, but it can also lead to significantly greater probabilities of errors in judgment, compromised performance, and injuries. Failing to address the mental health and wellness of officers can ultimately undermine community support for law enforcement and result in officers being less safe on the job.

> Psychological stress may also have serious consequences for the individual officer's health. In particular, traumatic law enforcement work has been shown to increase officers' risk of developing post-traumatic stress disorder (PTSD) symptoms.5 PTSD is associated with major depression, panic attacks, phobias, mania, substance abuse, and increased risk of suicide. PTSD can increase the risk of cardiovascular disease, hypertension, heart disease, and possibly stroke as well.
>
> With a professional suicide rate estimated at 28.2/100,000 for men and 12.2/100,000 for women, officer mental health and wellness needs to be discussed openly and honestly by the law enforcement field.[1]

The California Commission on Peace Officer Standards and Training (POST) has acknowledged this need and currently provides various training courses and other resources related to officer health and wellness, including providing agencies and trainers with pertinent information, research, and training through the POST Organizational Wellness Program.[2]

3) **Law Enforcement Peer Support Services:** In 2019, the Legislature enacted AB 1117 (Grayson), Chapter 621, Statutes of 2019, which created a Law Enforcement Peer Support and Crisis Referral Services Program. This authorized a local or regional law enforcement agency to establish a peer support and crisis referral program to provide employee support and referral services for issues relating to substance abuse, critical incident stress, family issues, grief support, legal issues, line of duty deaths, serious injury or illness, suicide, victims of crime, and workplace issues. (Gov. Code, § 8669.2, subds. (a) & (b).) A peer support team member may not provide peer support services if: 1) the peer support team member's relationship with the personnel member receiving services could be reasonably expected to impair objectivity, competence, or effectiveness, as specified; 2) the peer support team member and personnel member receiving peer support services were participants or witnesses to the same traumatic incident or are both involved in a shared active or ongoing investigation. (Gov. Code, § 8669.4, subd. (c).)

   AB 1117 made certain communications by law enforcement personnel participating in peer support services confidential. Particularly, it gave law enforcement personnel the right to refuse to disclose, and to prevent another from disclosing, a confidential communication between the law enforcement personnel and a peer support team member made while the peer support team member was providing peer support services. (Gov. Code, § 8669.4, subd. (a).) A "confidential communication" means any information transmitted between a law enforcement personnel and a peer support team member while the peer support team member provides peer support services, and in confidence by a means that, as far as the law enforcement personnel is aware, does not disclose the information to third persons other than those who are present to further the interests of the law enforcement personnel in the delivery of peer support services or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the peer support team member is providing services. (Gov. Code, § 8669.3, subd. (a).) This does not include a communication in which the law enforcement personnel discloses the commission

---

[1] U.S. Department of Justice: Community Oriented Policing Services, *Law Enforcement Mental Health and Wellness Act: Report to Congress* (March 2019), at p. 1, available at: https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-p370-pub.pdf
[2] POST, *Post Organizational Wellness Program* (accessed June 11, 2025), available at: https://post.ca.gov/Wellness

of a crime or a communication in which the law enforcement personnel's intent to defraud or deceive an investigation into a critical incident is revealed. (*Ibid.*)

Confidential communications may additionally be disclosed in the following circumstances: 1) to refer a law enforcement personnel to receive crisis referral services; 2) during a consultation between two peer support team members; 3) if the peer support team member reasonably believes that disclosure is necessary to prevent death, substantial bodily harm, or commission of a crime; 4) if the law enforcement personnel expressly agrees in writing that the confidential communication may be disclosed; 5) in a criminal proceeding; or 6) if otherwise required by law. (Gov. Code, § 8669.4, subd. (b).) In order to be eligible for such confidentiality protections, a peer support team members must complete a training course or courses approved by the law enforcement agency, as specified. (Gov. Code, § 8669.6.)

4) **Effect of this Bill:** SB 459 expands the confidentiality protections available to law enforcement members participating in peer support services in two ways.

First, it expands the right of law enforcement personnel to refuse to disclose, and prevent another from disclosing, a confidential communication between the law enforcement personnel and a peer support team member made while the peer support team member was providing peer support services, by specifying that this right applies to confidential communications made between that law enforcement personnel and a peer support team member during *group* peer support services. The bill defines "group peer support services" to mean peer support services that comprise at least one peer support team member or mental health professional and more than one recipient of group peer support services. This clarifies that existing peer support confidentiality protections are not only available during one-on-one peer support services, but also during those peer support services that are provided to more than one recipient officer. Such confidentiality protections may already be available to officers receiving peer support services in groups. Under existing law, the definition of "peer support services" is not strictly limited to "one-on-one" peer support sessions. (Gov. Code, § 8669.3, subd. (h).) Rather, "one-on-one support services" is just one example of what "[p]eer support services *may* include." (Gov. Code, § 8669.3, subd. (h) (3).)

Second, this bill applies peer support service confidentiality protections not only to communications between a peer support team member and a recipient officer, but also those communications *between different recipients* of group peer support services that occur within the confines of group sessions. Particularly, it expands the right of law enforcement personnel to refuse to disclose, and prevent another from disclosing specified confidential communications to include a confidential communication between law enforcement personnel recipients of group peer support services made while a peer support team member or mental health professional provides group peer support services to those recipients. Accordingly, it modifies the definition of "confidential communication" to include communications, as specified, between law enforcement personnel recipients of group peer support services while a peer support team member or mental health professional provides group peer support services to those recipients, subject to the requirements, exclusions, and exceptions that apply to peer support services confidential communications more generally.

5) **Argument in Support**: According to the *Peace Officers' Research Association of California*, "Law enforcement personnel face unique challenges in the line of duty, including frequent exposure to critical incidents and traumatic events. These experiences can lead to

significant mental health impacts, making access to peer support services vital for officer wellness and resilience. While existing law provides confidentiality protections for one-on-one peer support interactions and crisis hotlines, it does not extend those same protections to group peer support settings.

"Group peer support sessions are a proven and increasingly utilized tool that allows officers to process their experiences in a collective, supportive environment. Unfortunately, the absence of explicit confidentiality protections for group sessions creates hesitation among officers to fully participate, undermining the effectiveness of these critical services.

"SB 459 addresses this gap by ensuring that communications made during group peer support sessions are treated with the same level of confidentiality as one-on-one interactions. Additionally, the bill prevents group participants from being compelled to disclose information shared by others without consent. These changes will bolster officer trust in peer support programs, encourage participation in group settings, and ultimately improve the mental health and overall well-being of California's law enforcement community."

6) **Prior Legislation**:

a) AB 1836 (Maienschein), of the 2021-2022 Legislative Session, would have, upon appropriation of funding, established the Officer Wellness and Mental Health Grant Program within the Board of State and Community Corrections (BSCC) for the purpose of improving officer wellness and expanding mental health resources and suicide prevention. AB 1836 was held in Senate Appropriations Committee.

b) AB 1117 (Grayson), Chapter 621, Statutes of 2019, enacted the Law Enforcement Peer Support and Crisis Referral Services Program authorizing a local or regional law enforcement agency to establish a peer support and crisis referral program.

c) AB 1116 (Grayson), of the 2017-2018 Legislative Session, would have enacted the Peer Support (PS) and Crisis Referral Services Pilot Program to provide peer support and crisis referral services for California's correctional peace officers, parole officers, and firefighters. AB 1116 was vetoed.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Highway Patrolmen
California State Sheriffs' Association
Los Angeles County Professional Peace Officers Association
Peace Officers Research Association of California (PORAC)

Opposition

None submitted.

Analysis Prepared by: Ilan Zur

Amended Mock-up for 2025-2026 SB-459 (Grayson (S))

Mock-up based on Version Number 98 - Amended Senate 5/8/25
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 8669.3 of the Government Code is amended to read:

8669.3. For purposes of this article, the following terms have the following meanings:

(a) "Confidential communication" means any information, including, but not limited to, written or oral communication, transmitted between a law enforcement personnel, a peer support team member, or a crisis hotline or crisis referral service staff member while the peer support team member provides peer support services or the crisis hotline or crisis referral service staff member provides crisis services, **or between law enforcement personnel recipients of group peer support services while a peer support team member or mental health professional provides group peer support services to those recipients,** and in confidence by a means that, as far as the law enforcement personnel is aware, does not disclose the information to third persons other than those who are present to further the interests of the law enforcement personnel in the delivery of peer support services, **including group peer support services,** or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the peer support team member is providing services. "Confidential communication" does not include a communication in which the law enforcement personnel discloses the commission of a crime or a communication in which the law enforcement personnel's intent to defraud or deceive an investigation into a critical incident is revealed.

(b) "Crisis referral services" include all public or private organizations that provide consultation and treatment resources for personal problems, including mental health issues, chemical dependency, domestic violence, gambling, financial problems, and other personal crises. Neither crisis referral services nor crisis hotlines include services provided by an employee association, labor relations representative, or labor relations organization, or any entity owned or operated by an employee association, labor relations representative, or labor relations organization.

(c) "Critical incident" means an event or situation that involves crisis, disaster, trauma, or emergency.

(d) "Critical incident stress" means the acute or cumulative psychological stress or trauma that law enforcement personnel may experience in providing emergency services in response to a

critical incident. The stress or trauma is an unusually strong emotional, cognitive, behavioral, or physical reaction that may interfere with normal functioning and could lead to post-traumatic stress injuries, including, but not limited to, one or more of the following:

(1) Physical and emotional illness.

(2) Failure of usual coping mechanisms.

(3) Loss of interest in the job or normal life activities.

(4) Personality changes.

(5) Loss of ability to function.

(6) Psychological disruption of personal life, including their relationship with a spouse, child, or friend.

(e) "Group peer support services" means peer support services, as defined in subdivision (h), comprised of at least one peer support team member or mental health professional and more than one recipient of group peer support services.

(f) "Law enforcement agency" means a local or regional department or agency, or any political subdivision thereof, that employs a peace officer, as defined in Section 830 of the Penal Code.

(g) "Law enforcement personnel" means an officer or employee of a local or regional law enforcement agency.

(h) "Peer support services" means authorized peer support services provided by a peer support team member to law enforcement personnel and their immediate families affected by a critical incident or the cumulative effect of witnessing multiple critical incidents. Peer support services assist those affected by a critical incident in coping with critical incident stress and mitigating reactions to critical incident stress. Peer support services may include one or more of the following:

(1) Precrisis education.

(2) Critical incident stress defusings.

(3) Critical incident stress debriefings.

(4) On-scene support services.

(5) One-on-one support services.

(6) Consultation.

(7) Referral services.

(8) Confidentiality obligations.

(9) The impact of toxic stress on health and well-being.

(10) Grief support.

(11) Substance abuse awareness and approaches.

(12) Active listening skills.

(i) "Peer support program" means a program administered by a law enforcement agency to deliver peer support services to law enforcement personnel.

(j) "Peer support team" means a law enforcement agency response team composed of peer support team members.

(k) "Peer support team member" means a law enforcement agency employee who has completed a peer support training course or courses pursuant to Section 8669.6. Agency selection criteria of peer support team members shall be incorporated into agency policies.

SEC. 2. Section 8669.4 of the Government Code is amended to read:

8669.4. (a) Except as provided in subdivision (b)~~:~~

~~(1) A~~ a law enforcement personnel, whether or not a party to an action, has a right to refuse to disclose, and to prevent another from disclosing, a confidential communication between the law enforcement personnel and a peer support team member made while the peer support team member was providing peer support services, including group peer support services, **a confidential communication between law enforcement personnel recipients of group peer support services made while a peer support team member or mental health professional provides group peer support services to those recipients,** or a confidential communication made to a crisis hotline or crisis referral service.

~~**(2) A recipient of group peer support services shall not be examined as to any knowledge gained from other recipients of group peer support services without the consent of the person to whom the information relates.**~~

(b) Notwithstanding subdivision (a), a confidential communication may be disclosed under the following circumstances:

(1) To refer a law enforcement personnel to receive crisis referral services by a peer support team member.

(2) During a consultation between two peer support team members.

(3) If the peer support team member reasonably believes that disclosure is necessary to prevent death, substantial bodily harm, or commission of a crime.

(4) If the law enforcement personnel expressly agrees in writing that the confidential communication may be disclosed.

(5) In a criminal proceeding.

(6) If otherwise required by law.

Date of Hearing: June 17, 2025
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 551 (Cortese) – As Amended June 10, 2025

SUMMARY: Codifies the principles of normalization and dynamic security, two of the four pillars of the California Department of Corrections and Rehabilitation's (CDCR) California Model. Specifically, **this bill**:

1) States that the Legislature finds and declares that the purpose of incarceration is rehabilitation accomplished only if the period of imprisonment is used to maximize personal growth for all residents and facilitate their reintegration into society upon release, enabling them to lead law-abiding and self-sufficient lives, reducing recidivism.

2) States that the Legislature finds and declares that community-based organizations are an integral part of achieving the state's objective of ensuring that all people incarcerated in a state prison have access to rehabilitative programs.

3) States that the Legislature recognizes that life in prison can never be the same as life in a free society. However, active steps should be taken to make conditions in prison as close to normal life as possible, aside from loss of liberty, and to ensure that this normalization does not lead to inhumane prison conditions.

4) Provides that it is the intent of the Legislature that CDCR integrate, to the extent possible, the principles of normalization and dynamic security to establish safer conditions for incarcerated persons and correctional staff.

5) Provides that the Legislature recognizes that the principle of dynamic security promotes a healthier environment for correctional officers, staff, and individuals within a correctional facility by improving the relationship between incarcerated individuals and staff. Improved communication, mentorship, and normalization improve health outcomes for department staff and incarcerated individuals by reducing risks such as violent behavior, recidivism, and stress.

6) Provides that the Legislature recognizes the principle of normalization, which states that life inside prison should be as close to life outside of prison as possible, and should prepare incarcerated persons to be productive and contributing members of society upon their release.

7) Requires CDCR to maintain a mission statement consistent with the principles of normalization and dynamic security, and to facilitate access for community-based programs.

8) Provides that CDCR should develop training for all correctional staff on the principles of normalization and dynamic security in order to meaningfully effectuate the principles set forth in this section.
9) Provides that, in implementing the objective of facilitating the successful reintegration of individuals in CDCR's care back into their communities, CDCR is encouraged to allow all

incarcerated persons the opportunity to enroll in programs that promote successful return to the community.

10) Contains other legislative findings and declarations.

EXISTING LAW:

1) Reaffirms a commitment to reducing recidivism among criminal offenders by reinvesting criminal justice resources to support community-based corrections programs and evidence-based practices. (Pen. Code, § 17.5, subd. (a)(1).)

2) Finds and declares that criminal justice policies that rely on building and operating more prisons to address community safety concerns are not sustainable, and will not result in improved public safety. (Pen. Code, § 17.5, subd. (a)(3).)

3) Declares that California must reinvest its criminal justice resources to support community-based corrections programs and evidence-based practices that will achieve improved public safety returns on this state's substantial investment in its criminal justice system. (Pen. Code, § 17.5, subd. (a)(4).)

4) Declares that strategies supporting reentering offenders, such as standardized risk and needs assessments, transitional housing, treatment, medical and mental health services, and employment, have been demonstrated to significantly reduce recidivism among offenders in other states. (Pen. Code, § 17.7, subd. (a).)

5) Declares that improving outcomes among offenders reentering the community after serving time in a correctional facility will promote public safety and will reduce California's prison and jail populations. (Pen. Code, § 17.7, subd. (b).)

6) Finds and declares that the purpose of sentencing is public safety, which is achieved through punishment, rehabilitation, and restorative justice. (Pen. Code, § 1170, subd. (a)(1).)

7) States that when a sentence includes incarceration, the deprivation of liberty satisfies the punishment purpose of sentencing. (Pen. Code, § 1170, subd. (a)(1).)

8) States that the purpose of incarceration is rehabilitation and successful community reintegration achieved through education, treatment, and active participation in rehabilitative and restorative justice programs. (Pen. Code, § 1170, subd. (a)(1).)

9) Finds and declares that programs should be available for incarcerated persons, including, but not limited to, educational, rehabilitative, and restorative justice programs that are designed to promote behavioral change and to prepare all incarcerated persons for successful reentry into the community. (Pen. Code, § 1170, subd. (a)(2).)

10) Encourages CDCR to allow all incarcerated persons the opportunity to enroll in programs that promote successful return to the community. (Pen. Code, § 1170, subd. (a)(2).)

11) Directs CDCR to maintain a mission statement consistent with these principles and shall facilitate access for community-based programs in order to meaningfully effectuate these

principles. (Pen. Code, § 1170, subd. (a)(2).)

12) Provides that the primary objective of adult incarceration in CDCR is to facilitate the successful reintegration of the individuals in the department's care back to their communities equipped with the tools to be drug-free, healthy, and employable members of society by providing education, treatment, and rehabilitative and restorative justice programs, all in a safe and humane environment. (Pen. Code, § 5000, subd. (b).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's Statement**: According to the author, "National research has shown that incarceration negatively impacts the physical and mental health of correctional officers, department of corrections staff, and incarcerated individuals. These effects are apparent in correctional officers whose average life expectancy is just 59 years old, 16 years shorter than those not working in corrections; for every year of imprisonment, an incarcerated individual's life expectancy decreases by two years.

   "It is imperative that we improve our correctional system to promote well-being and harm reduction. As 95 percent of incarcerated individuals are released from prison back into the community, we must work towards replicating conditions as close to normal life as possible to achieve safe reentry and reduce recidivism. SB 551 codifies the principles of normalization and dynamic security to foster a safer rehabilitative culture within California's Department of Corrections and Rehabilitation (CDCR). These principles are key components of the safest prisons in the world and encourage a healthier environment for both correctional staff and incarcerated individuals."

2) **The California Model**: On March 17, 2023, Governor Gavin Newsom announced a historic commitment to safety and justice, "the California Model," to include the transformation of San Quentin Rehabilitation Center. On April 4, 2023, the Secretary of CDCR and the federal Receiver who oversees prison medical care issued a joint memorandum expressing their concern that prison environments can be unfavorable to the health and well-being of the people who live and work in them and operate at cross purposes to rehabilitative efforts.[1] A multi-disciplinary Advisory Council was tasked with drafting and presenting recommendations to achieve cultural and transformational change within the prison and help inform CDCR's California Model.

   Working with these multidisciplinary experts and drawing from international best practices, CDCR has since begun implementing the California Model to transform the experience of living and working in CDCR facilities. The California Model is based on four foundational pillars meant to improve the health and well-being of people who live and work within CDCR institutions. These pillars are: dynamic security, normalization, peer-mentorship, and becoming a trauma-informed organization. Dynamic security is an approach that promotes positive relationships between staff and incarcerated people accomplished through

---

[1] See *The California Model Magazine*, Summer 2024, Issue No. 1, p. 5, <https://www.cdcr.ca.gov/wp-content/uploads/2024/09/CA-Model-Magazine_08212024-CR-v3.7.pdf> [as of June 12, 2025].

purposeful activities and professional, positive, and respectful communication. Normalization aims to bring life in prison as close as possible to life outside of prison because the more life in prison resembles life in the community, the easier it will be for people to transition and adjust to life in the community upon release. Peer mentorship seeks to train incarcerated individuals to use their lived experiences to mention and support their peers. Finally, the goal of becoming a trauma informed organization is to educate staff at all levels to recognize the impacts of trauma to ensure the physical and emotional safety of all staff and incarcerated individuals.[2] CDCR has partnered with the Amend program at the University of California, San Francisco, and has sent people in leadership positions to Norway to learn how their approach to normalcy and dynamic security in corrections and rehabilitation is lowering recidivism and expanding employee wellness.

This bill focuses on two of the California Model pillars, normalization and dynamic security. This bill would recognize and codify these principles. This bill directs CDCR to include the principles of normalization and dynamic security in its mission statement. This bill would also direct CDCR to develop training for all correctional staff to teach these principles.

In August 2023, staff from CA Model test sites received extensive introductory Resource Team training to develop operational skills and understand California Model safety requirements. In March 2024, all Resource Teams began activities with high-risk populations to reduce violence against staff and provide a safer environment for both the staff and population. The concepts of dynamic security, normalization, and progression were incorporated into required training for all staff in January 2024.[3] CDCR is also currently rolling out "contact staff training" which gives staff with tools, knowledge, and skills to more effectively engage in healthy communications and dynamic security. CDCR began contact staff training in January of 2025 and it will continue throughout the calendar year.

With regards to normalization, one of the California Model goals currently being is to house more incarcerated in individual cells. This approach allows for greater privacy, less interpersonal conflict, and better conditions for reflection and rehabilitation. The Governor's January budget proposes that CDCR offer increased levels of single-celled housing at the San Quentin Rehabilitation Center, the California Correctional Women's Facility, and the California Institution for Women. CDCR believes that single-celled housing will directly enhance the well-being of the incarcerated population by lessening the density housed within the prison and increasing access to programming opportunities.[4] Other ongoing normalization efforts include beautification projects, activities where staff and the population can participate together, improving visiting facilities, and construction of a new education center at San Quentin State Prison in order to expand rehabilitative programming opportunities.

As noted above, this bill would codify the principles of dynamic security and normalization. It is unclear why the two remaining pillars, peer mentorship and becoming a trauma-informed organization are not being codified. For example, many of the community based organizations who run programs within CDCR are peer mentors and that is one of the

---

[2] See https://www.cdcr.ca.gov/the-california-model/, [as of June 12, 2025].
[3] See *The California Model Magazine*, supra, p. 6.
[4] See Governor's Budget Summary 2025-26, at p. 62, <https://ebudget.ca.gov/2025-26/pdf/BudgetSummary/CriminalJusticeandJudicialBranch.pdf> [as of June 12, 2025].

reasons why these programs can be so effective. In addition, CDCR has created a Peer Support Specialist certification managed by the California Mental Health Services Authority. CDCR is training and paying incarcerated individuals to obtain that certification to support their peers as they cope with life in prison.[5] These principles also seem to be in line with the goals of this bill—to promote personal growth for all residents and ultimately reduce recidivism.

3) **Primary Objectives of Incarceration in State Prison:** Existing law provides that the primary objective of adult incarceration in CDCR is to facilitate the successful reintegration of the individuals in the department's care back to their communities equipped with the tools to be drug-free, healthy, and employable members of society by providing education, treatment, and rehabilitative and restorative justice programs, all in a safe and humane environment. (Pen. Code, § 5000, subd. (b).)

   This bill would provide that an additional primary objective is to promote personal growth for all CDCR residents.

4) **Argument in Support**: According to *Initiate Justice*, "National research shows the average life expectancy of correctional officers is 59 years old, 16 years shorter than those not working in corrections. Additionally, suicide rates of correctional officers are 39% higher than the national working age population. Among incarcerated individuals, every year of imprisonment decreases their life expectancy by two years. Further, in 2022, the suicide rate of incarcerated people increased 4.6 points.

   "SB 551 introduces the principles of Normality and Dynamic Security to CDCR. Normality not only emulates life outside of a facility on the inside, in the most secure manner possible, but prepares individuals for adequate civic engagement. Moreover, Dynamic Security creates a healthier prison environment through the use of ongoing, respectful communication between staff and residents—reducing the risk of stress, violence, and recidivism for greater public safety."

5) **Argument in Opposition**: According to *California Civil Liberties Advocacy*, "We respectfully object to one particular policy statement found in both the legislative findings and amended Penal Code §1170(a)(1), which reads:

   > "Active steps should be taken to make conditions in prison as close to normal life as possible, aside from loss of liberty."

   "This sentence, in our view, is vague, overbroad, and utopian in character. While well-meaning, it lacks definitional guardrails and measurable standards, leaving open a wide range of interpretations. The phrase "as close to normal life as possible" really is begging the question since the metric by which a "normal life" may be very different, depending on a person's individual background, economic status, housing, employment, geographical location, and et cetera.

   "Life outside prison in the modern era could include watching TikTok or Instagram

---

[5] *The California Model Magazine*, supra, p. 10.

videos, engaging on other social media platforms, planning social outings with friends, or participating in consumer-driven lifestyles that are inherently incompatible with correctional settings. Without clarification, the statement risks conflating rehabilitation with comfort or entitlement and may inadvertently erode public trust in the very legitimacy or purpose of incarceration itself.

"Another critical concern raised by the broad phrasing to "to make conditions in the prison as close to normal life as possible" is whether this aspirational policy would apply equally and without distinction to individuals convicted of the most serious and violent offenses, including murder, rape, kidnapping, and serial crimes. The bill does not make clear whether normalization principles would be tiered based on offense severity, custody level, or demonstrated rehabilitation progress. This opens the door to potential policy extensions that could normalize prison life even for high-risk offenders - many of whom pose ongoing safety concerns or have inflicted irreversible harm on victims and their families.

"While we affirm the right of all incarcerated individuals to basic human dignity, not all inmates are similarly situated, and the public has a right to expect that individuals convicted of the gravest offenses will face conditions appropriately distinct from everyday civilian life. Failing to draw this line risks undermining proportionality in sentencing and diminishing the seriousness with which our justice system treats the most egregious harms.

"We do not believe that prison should emulate civilian life broadly. We believe rehabilitation and accountability are compatible, but prison is still a form of consequence and should not become indistinguishable from freedom except in physical movement. Stripping liberty in not the only consequence of a criminal sentence – it is the organizing principle around which other consequences follow. To suggest that all other conditions should normalized minimizes the serious nature of the underlying offenses that led to incarceration."

6) **Related Legislation**:

a) AB 475 (Wilson) would have eliminated mandatory work assignments for most people incarcerated by the CDCR and instead require CDCR to develop a voluntary work program. AB 475 was held in suspense in the Assembly Appropriations Committee.

b) AB 701 (Ortega) would have required the Department of Justice (DOJ) to study the use of solitary confinement in all jails, prisons, and private detention facilities operating within the State of California. AB 701 was held in suspense in the Assembly Appropriations Committee.

c) AB 1140 (Connolly) would require the Secretary of CDCR to develop and implement a pilot program to house people who are incarcerated at four adult prison facilities in single-occupancy cells by January 1, 2027. AB 1140 is pending referral in the Senate Rules Committee.

7) **Prior Legislation**:

a) AB 628 (Wilson), Chapter 54, Statutes of 2024, was substantially the same as AB 475, but was contingent upon approval of ACA 8, of the 2023-24 Legislative Session, by the voters. ACA 8 would have amended the California constitution to prohibit slavery in all forms, but the measure was rejected by the voters in November 2024.

b) AB 1104 (Bonta), Chapter 560, Statutes of 2023, stated that the deprivation of liberty to due to incarceration, in and of itself, satisfies the punishment aspect of sentencing, and that the purpose of incarceration is to rehabilitate a person so they can be successfully reintegrated into the community.

c) ACA 3 (Kamlager), of the 2021-2022 Legislative Session, the "End Slavery for All Act" would have prohibited all forms of involuntary servitude, including those for punishment purposes.

d) AB 2590 (S. Weber), Chapter 696, Statutes of 2016, revised existing legislative declarations concerning the purpose of punishment to instead state that the purpose of sentencing is public safety achieved through accountability, rehabilitation, and restorative justice, as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

Amnesty International USA
California Public Defenders Association (CPDA)
Carry the Vision
Center for Employment Opportunities
Courage California
Creative Acts
Defy Ventures
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Grip Training Institute
Initiate Justice
Initiate Justice Action
National Association of Social Workers, California Chapter
Oakland Privacy
Opportunities for Change
Prison From-theinside-out, INC.
San Francisco Public Defender
Smart Justice California, a Project of Tides Advocacy
The Place4grace
Transformative Programming Works (TPW)

Opposition

California Civil Liberties Advocacy

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

Date of Hearing: June 17, 2025
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 553 (Cortese) – As Introduced February 20, 2025

SUMMARY: Requires the California Department of Corrections and Rehabilitation (CDCR) to provide standardized clearance forms for legal professionals and exempts specified persons from the requirement to apply for a CDCR clearance. Specifically, **this bill**:

1) Requires CDCR to provide standardized clearance forms for legal professionals to apply for annual clearances.

2) Requires a legal professional applying for an annual clearance to complete a standardized clearance form for approval to provide legal services at all institutions.

3) Requires a legal professional to renew their clearance annually.

4) Requires CDCR to notify all legal professional applicants for annual clearance of the decision to approve or disapprove the application within 30 days of receipt of the application.

5) Requires CDCR, if the department has not received the applicable information from the Department of Justice after 30 days, to provide an update to the applicant.

6) Requires CDCR to notify applicants of the decision to approve or disapprove the application within 30 days of receiving the applicable information from the Department of Justice.

7) Provides that the following persons shall be granted short-term clearance without the requirement to apply for a clearance for all CDCR facilities upon request:

   a) The Governor and all cabinet members;

   b) Members of the Legislature and legislative staff; and,

   c) Current judges of the State of California.

8) Defines "Legal professional" as an attorney or attorney representative.

9) Provides that an attorney representative is any of the following:

   a) A private investigator licensed by any state and sponsored by the attorney or appointed by the court;

b) An investigator who is employed by a government agency, public agency, or public institution;

c) A law student sponsored by the attorney;

d) A legal paraprofessional sponsored by the attorney or appointed by the court; or,

e) An employee of an attorney, legitimate legal service organization, or licensed private investigator who is sponsored by the attorney or licensed private investigator.

EXISTING LAW:

1) Enumerates civil rights held by incarcerated individuals, including the right to correspond, confidentially, with any member of the State Bar or holder of public office, provided that the prison authorities may open and inspect incoming mail to search for contraband. (Pen. Code, § 2601, subd. (b).)

2) Includes the following definitions:

   a) "Annual clearance" refers to a clearance allowing a program provider to enter one institution for a full calendar year.

   b) "Institution" refers to a California state prison.

   c) "Program provider" refers to an individual affiliated with a nonprofit organization or a volunteer that originates outside CDCR and provides rehabilitative programming to incarcerated people.

   d) "Program provider identification card" refers to an identification card that allows a program provider to enter a specified institution without a sponsor.

   e) "Short-term clearance" refers to a clearance that allows a program provider to enter an institution for three or fewer days per specific event.

   f) "Sponsor" refers to correctional staff at an institution assigned to escort program providers within the institution.

   g) "Statewide program provider clearance" refers to a clearance status provided to a program provider entering more than three institutions on a routine basis consistent with their program provider status and entitles them to a program provider identification card. (Pen. Code, § 7460.)

3) Requires CDCR to provide forms to the institution for short-term clearances for program providers. Requires an institution to use the forms provided by the department to process the short-term clearance and prohibits an institution from requiring additional institution-specific "local" forms. (Pen. Code, § 7461, subd. (a).)

4) Requires CDCR provide a standardized clearance packet to the institution for annual clearances. Requires an institution to use the clearance packet provided by the department, and prohibits an institution from requiring additional institution-specific "local" forms. (Pen. Code, § 7462, subd. (a).)
5) Delineates the process for a program provider to apply for short-term and annual clearance. (Pen. Code, §§ 7462, 7463, 7264.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's Statement**: According to the author, "An effective and accountable corrections system depends on ensuring efficient access for those responsible for shaping its policies and making informed decisions related to the criminal justice system. Currently, the California Department of Corrections and Rehabilitation (CDCR) requires state officials and legal professionals seeking prison entrance to undergo an extensive clearance process for each facility. This repetitive procedure creates administrative burdens and delays that hinder oversight. This bill will eliminate these barriers by granting seamless entry to trusted public officials and legal professionals upon request, removing redundant application requirements while maintaining essential security protocols. By streamlining this process, SB 553 will strengthen oversight, improve accountability, and support California's efforts to create more humane prison environments."

2) **Attorney Visits to Incarcerated Clients in State Prisons:** Regulations outline the processes by which attorney visits are approved and conducted. An attorney visit is defined as "a private consultation between an incarcerated person and their attorney or attorney representative." (Cal. Code of Regs., tit. 15, § 3178, subd. (b).) Attorney visits must be conducted in a confidential area in the prison. (*Ibid.*) Regulations require attorney visiting to be accommodated during a prison's regularly scheduled visiting days and hours, and where regular visiting is scheduled on both weekdays and weekends, the scheduling preference is for weekdays. (*Ibid.*) When a prison's visiting schedule only provides for visiting on weekends, an attorney visit is required to be scheduled during normal weekday business hours upon written request of the attorney or attorney representative. (*Ibid.*) If an attorney or attorney representative does not desire private accommodations, the attorney or attorney representative may visit the incarcerated person on any scheduled visiting day and be provided the same accommodations as a regular visitor. (*Ibid.*)

   An attorney or court may designate other individuals to act on the attorney's behalf as attorney representatives. (Cal. Code of Regs., tit. 15, § 3178, subd. (c).) Regulations define attorney representatives as one of the following: a private investigator licensed by any state and sponsored by the attorney or appointed by the court; an investigator who is employed by a government agency, public agency, or public institution; a law student sponsored by the attorney, a legal paraprofessional sponsored by the attorney or appointed by the court; or an employee of an attorney, legitimate legal service organization, or licensed private investigator who is sponsored by the attorney or licensed private investigator. (Cal. Code of Regs., tit. 15, § 3178, subd. (c)(1).) Personnel retained by an attorney or attorney representative, including, but not limited to certified sign language interpreters, certified language interpreters, and court reporters may accompany the attorney or attorney representative during the private consultation. (Cal. Code of Regs., tit. 15, § 3178, subd.

(c)(2).) Licensed mental or medical health care professionals may also serve as attorney representatives and do not have to be accompanied by the attorney. (*Ibid.*) If a person is designated as an attorney representative, the designation must be in writing and signed by the attorney or judge. (Cal. Code of Regs., tit. 15, § 3178, subd. (c)(3).) Attorney representatives must be afforded the same accommodations and services, and are subject to the same rules and regulations, as an attorney. (Cal. Code of Regs., tit. 15, § 3178, subd. (c)(4).)

An attorney who wants to consult in person with an incarcerated person is required to contact the prison at which the incarcerated person is housed, and the request for the in-person consultation must be made by phone or in writing to the designated staff person at the prison. (Cal. Code of Regs., tit. 15, § 3178, subd. (d).) Regulations specify the information an attorney must provide in order to obtain approval and clearance to visit, including name, date of birth, and proof of current registry and good standing with a governing bar association, among other things. (*Ibid.*) Additionally, attorneys requesting an in-person consultation must also report any prior felony convictions, explain any prior suspension or exclusion from a correctional facility, and declare one or more of the following:

- They are the incarcerated person's attorney either by appointment by the court or at the incarcerated person's request;
- They have been requested by a judge to interview a named incarcerated person for purposes of possible appointment as counsel by the same court;
- They are requesting to visit an incarcerated person who may be a witness directly relevant to a legal process, purpose, or proceeding;
- They are seeking to interview a named incarcerated person, at the request of the incarcerated person, for the purpose of representation of the incarcerated person in a legal process, for a legal purpose or in a legal proceeding; or,
- They have been requested by a third party to consult with the incarcerated person when the incarcerated person cannot do so because of a medical condition, disability, or other circumstance.
  (Cal. Code of Regs., tit. 15, § 3178, subd. (d)(1)-(5).)

Any false statement or deliberate misrepresentation of facts specific to the required requested information is grounds for denying the request and is cause for subsequent suspension or exclusion from all state prisons. (Cal. Code of Regs., tit. 15, § 3178, subd. (e).) After a request for an attorney visit is made, a background check is performed and the attorney's state bar membership and status is verified. (Cal. Code of Regs., tit. 15, § 3178, subd. (f).) Once the clearance and state bar verification have been obtained and approved, the attorney is contacted to schedule the initial in-person visit with the specified incarcerated person. (*Ibid.*) Attorneys and attorney representatives are required to report any change in personal or professional information, arrest history, and declarations made to retain their approval and clearance. (*Ibid.*)

An approved attorney or approved attorney representative must provide a prison with no less than two business days' notice to schedule a private consultation with an incarcerated person.

(Cal. Code of Regs., tit. 15, § 3178, subd. (g).) In an emergency, appointment requests may be cleared through the institution head. (*Ibid.*) The approved attorney is processed into the prison in the same manner and under the same restrictions as regular visitors. (Cal. Code of Regs., tit. 15, § 3178, subd. (h).) Attorneys must present their state bar card or other similar documentation that they are currently registered in good standing with a state bar association. (*Ibid.*) Not more than two attorneys or attorney representatives may visit privately with an incarcerated person or witness at the same time but exceptions may be authorized by the official in charge of visiting commensurate with space and staff availability. (Cal. Code of Regs., tit. 15, § 3178, subd. (l).)

Conversations between an incarcerated person and an attorney or attorney representative are prohibited from being listened to or monitored, except visual observation by staff which is necessary for the safety and security of the prison. (Cal. Code of Regs., tit. 15, § 3178, subd. (m).) All items, including legal documents permitted into the security area, must be inspected for contraband or unauthorized items or substances, and the incarcerated person may retain and take any legal documents given to them by the attorney or attorney representative from the visiting area, provided that the incarcerated person consents to staff examination of the documents for contraband or unauthorized items or substances. (Cal. Code of Regs., tit. 15, § 3178, subd. (n).) Confidential privileges, including confidential visiting, mail, or phone privileges, or normal visiting privileges afforded an attorney or attorney representative may be taken by the institution head to restrict, where cause exists. (Cal. Code of Regs., tit. 15, § 3178, subd. (s).)

3) **Effect of the Bill:** The provisions in this bill were modeled after AB 581 (Carrillo), Chapter 335, Statutes of 2023, which established uniform standards for program providers to apply for and obtain annual and short-term clearances in order to visit the state's prisons. AB 581 was introduced, in part, due to the variation between different prisons with respect to the requirements for program providers seeking to obtain clearances.

   The proponents of this bill contend that there is a lack of uniformity regarding clearances for attorneys and attorney representatives which has created an unnecessary burden for obtaining approval for prison visits. To address that issue, this bill requires CDCR to provide standardized clearance forms for legal professionals to apply for annual clearances for approval to provide legal services at all state prisons. This bill defines legal professional as an attorney or attorney representative and adopts the department's definition of attorney representative as provided in its regulations. This bill also requires CDCR to notify all legal professional applicants for annual clearance of its decision to approve or deny the application within 30 days of receipt of the application, or within 30 days of receiving the necessary information from DOJ used to aid in making its determination.

   Finally, this bill requires the following individuals to be granted short-term clearance without the requirement to apply for a clearance for all CDCR facilities upon request: the Governor and all cabinet members, members of the Legislature and legislative staff, and sitting state judges. It is unclear that this provision of the bill is necessary given that some of the listed individuals do not currently need to obtain clearance at all (e.g., the Governor) and others face a fairly minimal burden in order to obtain clearance (e.g., legislative staff).

4) **Argument in Support**: According to *Smart Justice*, "The California Department of Corrections and Rehabilitation (CDCR) currently has three existing clearance levels: short-

term clearance, annual program provider clearance, and statewide program provider clearance. These longer-approval levels are exclusively available to community-based organization program providers upon a formal application procedure.

"If a legal professional would like to access a prison, they must follow the same extensive process for each facility. This system creates administrative burdens, logistical barriers, and delays as the cumulative workload overburdens prison staff.

"SB 553 provides seamless access upon request to legal professionals without the use of a formal application process each time, while upholding security protocols."

5) **Prior Legislation**:

a) AB 581 (Carrillo), Chapter 335, Statutes of 2023, established clearances for program providers that provide rehabilitative programming in state prisons.

b) AB 958 (Santiago), of the 2023-2024 Legislative Session, would have made the right to visitation in state and local correctional facilities a civil right, as specified. AB 958 was held in suspense in the Senate Appropriations Committee.

c) AB 1723 (Waldron), would allow individuals previously convicted of a felony, and employed by an organization that provides rehabilitative programming, or associated with an organization that provides mentorship to currently incarcerated individuals, to enter local detention facilities, as specified. AB 1723 was held in suspense in the Senate Appropriations Committee.

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

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
California Alliance for Youth and Community Justice
California Association of Licensed Investigators
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Innocence Coalition
California Public Defenders Association (CPDA)
Californians for Safety and Justice
Californians United for a Responsible Budget
Courage California
Ella Baker Center for Human Rights
Famm

Felony Murder Elimination Project
Grip Training Institute
Initiate Justice
Initiate Justice Action
Land Together
Legal Services for Prisoners With Children
Local 148 LA County Public Defenders Union
Prosecutors Alliance Action
Rubicon Programs
San Francisco Public Defender
Smart Justice California, a Project of Tides Advocacy
Uncommon Law
University of San Francisco School of Law, Racial Justice Clinic

Opposition

None submitted.

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

Date of Hearing: June 17, 2025
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 734 (Caballero) – As Amended May 8, 2025

SUMMARY: Amends the Public Safety Officer Procedural Bill of Rights ("POBOR") to prohibit a law enforcement officer from being subject to any punitive action, including reprimand, suspension, demotion, or termination, based on a court finding on a Racial Justice Act (RJA) claim. Specifically, **this bill**:

1) Prohibits a punitive action or denial of promotion against any public safety officer because of a court finding made in a challenge brought pursuant RJA.

2) Authorizes a public entity to take a punitive action against any public safety officer based on the underling acts or omissions which formed the basis of the action brought pursuant to the RJA if the officer is provided due process, as specified.

3) Forbids any evidence of a court finding of a violation of the RJA from being introduced in any administrative appeal of a punitive action.

4) States any prohibition regarding a court finding of a RJA violation does not grant any immunity for civil or criminal liability for the underlying acts or omissions forming the basis of the action brought pursuant to the RJA.

5) Requires if a RJA motion or habeas petition where a defendant is represented by counsel based in whole or in part of any law enforcement officer conduct serve a copy of the motion or petition on the law enforcement agency that employs the officer or officers.

6) Prohibits the Commission on Peace Officer Standards and Training (POST) from revoking an officer's certification because of court finding made on a RJA claim, but does not prohibit revocation for any act or omission by an officer forming the basis of the RJA claim.

EXISTING LAW:

1) Establishes the Racial Justice Act (RJA) which prohibits the state from seeking or obtaining a criminal conviction or seeking, obtaining or imposing a sentence on the basis of race, ethnicity, or national origin. (Pen. Code, § 745, subd. (a).)

2) Allows a defendant to file a motion in the trial court, or if judgement has been imposed, may file a petition for writ of habeas corpus or a motion to vacate the conviction or sentence in a court of competent jurisdiction alleging a violation of the RJA. (Pen. Code, § 745, subd. (b).)

3) Requires the defendant to prove the violation by a preponderance of the evidence. (Pen. Code, § 745, subd. (c)(2).)

4) States that the defendant does not need to prove intentional discrimination. (Pen. Code, § 745, subd. (c)(2).)

5) Establishes the Public Safety Officers Procedural Bill of Rights Act (POBOR). (Government (Gov.) Code, § 3300 et seq.)

6) States that, for purposes of the POBOR, "punitive action" means any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. (Gov. Code, § 3303.)

7) Prohibits any public agency from taking any punitive action against a public safety officer or denying a promotion on grounds other than merit of an officer because he or she is placed on a "Brady list," as specified. (Gov. Code, § 3305.5, subd. (a).)

8) States that this prohibition does not prohibit a public agency from taking punitive action, denying promotion on grounds other than merit, or taking other personnel action against a public safety officer based on the underlying acts or omissions for which that officer's name was placed on a "Brady list," or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (1963) 373 U.S. 83, if the actions taken by the public agency otherwise conform to this chapter and to the rules and procedures adopted by the local agency. (Gov. Code, § 3305.5, subd. (b).)

9) Requires the Commission on Peace Officer Standards and Training (POST) to establish a certification program for peace officers, as defined. (Pen. Code, § 13510.1, subd. (a).)

10) Gives POST the authority to suspend, revoke, or cancel any certification. (Pen. Code, § 13510.1, subd. (f).)

11) Allows POST to initiate proceedings to revoke or suspend a peace officer's certification for serious misconduct. (Pen. Code, § 13510.8.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's Statement**: According to the author, "In 2020, the California Legislature, concerned with complaints of systemic racism in the criminal justice system, passed the California Racial Justice Act (CRJA). The procedures and remedies created under the CRJA were created to give defendants an opportunity to be heard, and gave judges an opportunity to provide relief to defendants, not to label others as bad actors.

   "When a defendant raises a CRJA claim, they typically allege that someone involved in their case exhibited racial bias or animus towards them. When the person being accused of violating the CRJA is someone who is not involved in the daily activities of the trial, such as a witness or law enforcement officer, there is no legal obligation to inform them of the hearing. These individuals may be implicated and accused of bias without knowledge of the accusation and with no opportunity to respond.

"If a law enforcement officer is accused of racial bias or animus during the course of their work, they can be subject to decertification proceedings conducted by POST and could lose their right to work as a peace officer. If a finding that stems from a CRJA hearing can be used as the basis for decertification of a law enforcement officer the officer deserves basic due process protections such as notice, the right to cross examine, and the right to an attorney of their choice. SB 734 would ensure that law enforcement officers are provided with due process while maintaining the protections afforded to defendants under the CRJA.

2) **POBOR:** POBOR provides detailed due process rights to local and state peace officers and generally prohibits an employing agency from taking any "punitive" action against a peace officer without providing notice and meaningful opportunity to be heard. (Gov. Code, § 3303, subd. (a).) A punitive action includes any demotion, suspension, reprimand, termination, and, in some cases, transfers.

> "The purpose of [POBOR] is to maintain stable employer-employee relations [] between public safety employees and their employers. … [Internal citation omitted.] [T]he act is concerned primarily with affording individual police officers certain procedural rights during the course of proceedings which might lead to the imposition of penalties against them. While granting certain rights to police officers, [POBOR] balances the interests of the public in maintaining the integrity of the police force with the interest of the police officer in receiving fair treatment. (*City of L.A. v. Superior Court (Labio)* (1997) 57 Cal.App.4th 1506, 1512, *citing Los Angeles Police Protective League v. City of Los Angeles* (1995) 35 Cal. App. 4th 1535, 1540, quoting *White v. County of Sacramento* (1982) 31 Cal. 3d 676, 681.)

Procedural rights include the right to be advised of their rights before any questioning that may result in disciplinary action, the right to appeal, the right to limit interrogations to reasonable hours and limit the number of interrogators to two people, the right to timely issuance of discipline to no more than one year from the period when a person in a position to commence an investigation learns of the alleged misconduct, the right to be informed of the nature of the investigation, the right to review and comment on any adverse comments on their personnel file, among other rights. (See Gov. Code, §§ 3303, subds. (a)-(j); 3304, subd. (d)(1); See *Department of Corrections & Rehabilitation v. State Personnel Bd.* (2016) 247 Cal. App. 4th 700, 712.)

Peace officer misconduct is usually based on violations of public entity personnel rules or disciplinary rules set forth in a negotiated labor agreement such as a Memorandum of Understanding (MOU). Peace officers are also entitled to the same Labor Code protections as any other employee, including a prohibition against termination based simply on an arrest. (See Lab. Code, § 432.7, subd. (a).) A public entity must prove that the officer's conduct harms the public service, and the conduct is likely to be repeated. (See *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194.) Peace officers are held to the highest standards of conduct within the public service and discipline may only be imposed when a detailed explanation of the harm caused by their conduct is approved by a arbitrator or civil service commission.

> "A deputy sheriff's job is a position of trust. A deputy sheriff is held to the highest standards of behavior. His honesty and credibility are crucial to proper performance of his duties. (*Paulino v. Civil Serv. Com* (1985) 175 Cal.App.3d 962, 972, citing *Ackerman v. State Personnel Bd.* (1983) 145 Cal.App.3d 395, 400.)

As a practical matter, the entity will also need to demonstrate that discipline is consistent with actions taken against other peace officers in similar circumstances or at least other city or county employees.

Since the enactment of the RJA, claims based on alleged racial bias of a peace officer involved in the case have presented a few issues for public entities. First, demonstrable racial bias is now grounds for decertification and prevents a person who demonstrates racial bias from becoming a peace officer. (See Pen. Code, §13510.8, subd. (g); Gov. Code, § 1031, subd. (f).) If the RJA allegations are based on comments or conduct of racial bias by an officer involved the prosecution, that could constitute a violation of local anti-discrimination policies and personnel rules and result in discipline. If the allegations are based on racial bias by other members of the police department, it could negatively affect any officer's disciplinary appeal since the agency must prove harm to the public service. If local police agencies are already under fire for misconduct, any alleged misconduct touching on race may result in serious discipline.

Perhaps the best known instance of the interplay between the RJA and law enforcement played out in the City of Antioch and the City of Pittsburg between 2023 and January 2025.[1] The United States Department of Justice under President Biden filed indictments against at least ten Antioch and Pittsburg police officers for violation of suspects' civil rights, racial bias in communications, discriminatory policing, and corruption.[2] As a result, numerous RJA claims were filed alleging law enforcement racism resulted in unfair enforcement of laws or even allegations of false arrests based on the officer's racial bias.[3] Courts have granted some of these petitions resulting in dismissing enhancements and allowing defendants to plead to lesser charges.[4]

This bill does not appear to prohibit local agencies or POST from taking punitive action against officers whose conduct is directly at issue – only that if a court were to find a violation of the RJA without reference to a specific act or anything an identified officer did, that alone cannot used to discipline an officer.

3) **RJA and POBOR**: The RJA was initially enacted in 2020 and amended again in 2021. It generally authorizes a criminal defendant to file a motion in court alleging they suffered racial bias in the charging, or sentencing of a defendant. Specifically, the RJA allows racial

---

[1]https://www.cbsnews.com/sanfrancisco/news/department-justice-agreement-antioch-police-department-racism-investigation/

[2] https://www.kqed.org/news/11985781/antioch-police-targeted-black-people-with-dogs-and-40mm-launchers-suit-alleges

[3] https://www.nbcnews.com/news/us-news/justice-department-resolves-investigation-antioch-police-department-ra-rcna186218

[4] https://www.kqed.org/news/11975584/californias-groundbreaking-racial-justice-act-cuts-its-teeth-in-contra-costa

bias to be shown by, among other things, statistical evidence that convictions for an offense were more frequently sought or obtained against people who share the defendant's race, ethnicity or national origin than for defendants of other races, ethnicities, or national origin in the county where the convictions were sought or obtained; or longer or more severe sentences were imposed on persons based on their race, ethnicity or national origin or based on the victim's race, ethnicity or national origin. The defendant must demonstrate a prima facie case that defendants similarly situated of other races are less likely be charged or sentenced in a specific manner.[5]

Racial bias may also be shown by evidence that a prosecutor, police officer, expert witness, judge or attorney associated with the defendant's case, exhibited bias towards the defendant; or, in court and during the trial proceedings, used racially discriminatory language or otherwise exhibited bias or animus, based on the defendant's race, ethnicity or national origin. The RJA does not require the discrimination to have been purposeful or to have had a prejudicial impact on the defendant's case.

As noted above, POBOR requires that law enforcement be granted the right to appeal any disciplinary action from a written reprimand to a termination. (See *James v. City of Coronado* (2003) 106 Cal.App.4th 905, 912; *Riverside Sheriffs' Assn. v. County of Riverside* (2009) 173 Cal.App.4th 1410, 1426.) This bill arguably clarifies the rights at issue when a peace officer is accused of racial bias in an RJA claim. The officer is not a party to the action and does not receive notice. While it seems likely that the district attorney arguing the RJA motion would notify the officer, if that does not occur, the officer may be left with little remedy.

POBOR requires an officer be granted the opportunity to review and comment on any adverse comment placed in their file, but if such information is never included in their file, they may not know about the allegations levied against them. (See Gov. Code, § 3306.) While there are other actors in the criminal justice arena that do not receive notice when an attorney alleges they engaged in racial bias (including a defense attorney, juror, and expert witness), law enforcement have a staggering number of employment rights in this state. It makes sense to notify the agency to determine what, if any, action must be taken.

4) **Argument in Support**: According to the *County of Fresno*: Maintaining a fair and just criminal justice system is paramount for the County of Fresno. This includes ensuring that all participants, including law enforcement officers, are afforded appropriate due process. The California Racial Justice Act is a critical tool for addressing systemic bias and ensuring equitable outcomes. As this important law is implemented, it is essential to also ensure clarity and fairness in its application to all involved parties.

---

[5] See *Mosby v. Superior Court (People)* (2024) 99 Cal.App.5th 106 [holding a petition for relief under the RJA made a prima facie showing of a violation, thus requiring an evidentiary hearing, because statistical evidence showing a history of racial disparity in charges sought by the district attorney's office, in addition to evidence of similar conduct by similarly situated defendants of other races who were charged with lesser crimes, showed more than a mere possibility that a violation of [the RJA], had occurred; and statistical analysis of racial disparities alone did not suffice to establish a prima facie case because the plain statutory language required a petitioner to provide evidence of similar conduct and similarly situated defendants, after which the district attorney could present race-neutral reasons for the disparities by showing the factors relevant to the charging decisions.].)

"SB 734 addresses a procedural gap by requiring that law enforcement agencies receive formal notice when an officer's conduct is implicated in a CRJA claim. This provides a necessary opportunity for agencies to be aware of and respond to such allegations in a timely manner.

"SB 734's provisions regarding the use of CRJA court findings in subsequent punitive actions against officers are important for ensuring that disciplinary processes are conducted with full due process. By clarifying that a CRJA finding alone cannot be the sole basis for punitive action, but that the underlying conduct can still be investigated through proper administrative channels, SB 734 aims to strike a balance between accountability and individual rights. This clarity can help ensure that internal disciplinary actions by agencies like the Fresno County Sheriff's Office and local police departments are robust and legally sound. We believe that a well-defined and transparent process for addressing allegations of bias, while upholding due process for all, contributes to a more effective and trusted criminal justice system.

5) **Argument in Opposition**: According to Secure Justice: The California Police Officer's Bill of Rights ("POBR") has long been an obstacle towards holding accountable those that commit serious wrongdoing. The POBR has also helped obscure the records of problematic police officers that are able to move to a new police force that is ignorant of the past wrongdoing.

   "Former Senator Nancy Skinner was instrumental in narrowing the nondisclosure provisions of the POBR. Californians fought a multiyear battle to get the groundbreaking Racial Justice Act into law, and a similar lengthy battle for a decertification mechanism which most other states had long ago adopted. SB 734 is in opposition to all of the above victories and will only take California backwards.

6) **Related Legislation**: AB 1071 (Kalra) amends the Racial Justice Act of 2020 (RJA) to clarify when and how a defendant may file for relief depending on the procedural posture of the defendant's case, conviction, or sentence. AB 1071 is pending in the Senate Committee on Public Safety.

7) **Prior Legislation**:

   a) AB 2542 (Kalra), Chapter 317, Statutes of 2020 prohibits the state from seeking or obtaining a conviction or sentence on the basis of race, ethnicity, or national origin by establishing the Racial Justice Act of 2020.

   b) AB 256 (Kalra), Chapter 739, Statutes of 2022, makes the California Racial Justice Act of 2020 (CRJA), which prohibits the state from seeking or obtaining a conviction or sentence on the basis of race, ethnicity, or national origin, apply retroactively and makes other changes.

   c) SB 133 (Committee on Budget), Chapter 34, Statutes of 2023 require Judicial Council to promulgate standards for appointment of private counsel in superior court for claims where an individual has not been sentenced to death and require those standards to include a minimum requirement of 10 hours of training in the California Racial Justice Act of 2020 approved for Minimum Continuing Legal Education credit by the State Bar of California.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Highway Patrolmen
California District Attorneys Association
California Police Chiefs Association
County of Fresno
Peace Officers Research Association of California (PORAC)
San Francisco Police Officers Association

Oppose

Secure Justice

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