California State Assembly

PUBLIC SAFETY

NICK SCHULTZ
CHAIR

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AGENDA

Tuesday, January 13, 2026
9 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

1.	AB 256	DeMaio	Crimes: intoxication and firearms
2.	AB 277	Alanis	Behavioral health centers, facilities, and programs: background checks
3.	AB 292	Patterson	Violent felonies: domestic violence
4.	AB 767	Alanis	Sexually violent predators: schools
5.	AB 1281	DeMaio	Vehicles: leaving the scene of an accident

VOTE ONLY

6.	AB 1092	Castillo	Firearms: concealed carry licenses

Date of Hearing: January 13, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 256 (DeMaio) – As Amended January 5, 2026

SUMMARY: Establishes a one-year sentencing enhancement for committing, or attempting to commit, a felony while armed with a firearm and under the influence of a controlled substance. Specifically, **this bill**:

1) Establishes a one-year enhancement for any person who, while armed with a firearm and under the influence of a controlled substance they are not supposed to possess, commits a felony or attempts to commit a felony.

2) States that a search warrant may be issued when a sample of the blood of a person constitutes evidence that tends to show a defined violation, with the sample required to be drawn from the person in a reasonable, medically approved manner.

3) Provides that search warrants which may be issued under this subsection are not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

4) Requires a one-year enhancement for defined conduct be punished by an additional and consecutive term of imprisonment, as defined, for one year.

EXISTING FEDERAL LAW:

1) States that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (U.S. Const. amend. IV.)

2) Provides that a person is barred from shipping, transporting, receiving, or possessing firearms or ammunition who is an unlawful user of or addicted to any controlled substance, as defined. (18 U.S.C. 922(g)(3).)

EXISTING LAW:

1) States that a search warrant may be issued when a sample of the blood of a person constitutes evidence that tends to show a defined violation and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis. (Pen. Code, § 1524, subds. (a)(13), (a)(17).)

2) Provides that a felony is a crime punishable with death, by imprisonment in the state prison, or, notwithstanding any other law, by imprisonment in a county jail under the provisions of subdivision (h) of Section 1170. (Pen. Code § 17, subd. (a).)

3) States that a person who is armed with a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment, as defined, for one year, unless the arming is an element of that offense, except as provided.

4) Provides that the above additional term shall apply to a person who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with a firearm, whether or not the person is personally armed with a firearm. (Pen. Code, § 12022, subd. (a)(1).)

5) States that a person who personally uses a deadly or dangerous weapon in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for one year, unless use of a deadly or dangerous weapon is an element of that offense. (Pen. Code, § 12022, subd. (b)(1).)

6) States that a person who is personally armed with a firearm in the commission of a violation or attempted violation of defined violations of the Controlled Substances Act (CSA) shall be punished by an additional and consecutive term of imprisonment in the state prison for three, four, or five years. (Pen. Code, § 12022, subd. (c)(1).)

7) Provides that a person who is not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission of an offense or attempted offense, as specified, shall be punished by an additional and consecutive term of imprisonment, as defined, for one, two, or three years, except as provided. (Pen. Code, § 12022, subd. (d).)

8) States that any person who, during the commission or attempted commission of a felony, furnishes or offers to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony shall, in addition and consecutive to the punishment prescribed by the felony or attempted felony of which the person has been convicted, be punished by an additional term of one, two, or three years in the state prison. (Pen. Code, § 12022.4.)

9) Provides that any person who personally uses a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for 3, 4, or 10 years, unless use of a firearm is an element of that offense, except as provided. (Pen. Code, § 12022.5, subd. (a).)

10) States that any person who personally uses an assault weapon, as specified, or a machinegun, as defined, in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years, except as provided. (Pen. Code, § 12022.5, subd. (b).)

11) Provides that a person who, in the commission of a specified felony who personally uses a firearm, shall be punished by an additional and consecutive term of imprisonment in the state

prison for 10 years, except as provided. The firearm need not be operable or loaded for this enhancement to apply. (Pen. Code, § 12022.53, subds. (b).)

12) States that a person who, in the commission of a specified felony who personally and intentionally discharges a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 20 years, except as provided. (Pen. Code, § 12022.53, subds. (c).)

13) Provides that a person who, in the commission of a specified felony who personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined, or death, to a person other than an accomplice, shall be punished by an additional and consecutive term of imprisonment in the state prison for 25 years to life, except as provided. (Pen. Code, § 12022.53, subds. (d).)

14) Specifies that any person who, with the intent to inflict great bodily injury or death, inflicts great bodily injury, as defined, or causes the death of a person, other than an occupant of a motor vehicle, as a result of discharging a firearm from a motor vehicle in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years. (Pen. Code, § 12022.55.)

15) Specifies that every person who possesses any specified controlled substance, or any controlled substance, as defined and classified, which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in a county jail for not more than one year, except that such person shall instead be punished for 16 months, 2, or 3 years if that person has one or more prior convictions for a defined offense or for an offense requiring registration, as defined, except as otherwise provided. (Health & Saf. Code, § 11350.)

16) States that every person who possesses for sale or purchases for purposes of sale any defined controlled substance specified or any defined and classified controlled substance, which is a narcotic drug, shall be punished by imprisonment for two, three, or four years, except as provided. (Health & Saf. Code, § 11351.)

17) States that every person who unlawfully possesses any amount of a substance containing cocaine base, a substance containing cocaine, a substance containing heroin, a substance containing methamphetamine, a substance containing fentanyl, a crystalline substance containing phencyclidine, a liquid substance containing phencyclidine, plant material containing phencyclidine, or a hand-rolled cigarette treated with phencyclidine while armed with a loaded, operable firearm is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years. (Health & Saf. Code, § 11370.1, subd. (a).)

18) Provides that any person convicted of a defined violation or conspiracy thereof, shall receive, in addition to any other punishment authorized by law, a full, separate, and consecutive three-year term for each prior felony conviction of, or for each prior felony conviction of conspiracy to violate, whether or not the prior conviction resulted in a term of imprisonment. (Health & Saf. Code, § 11370.1, subds. (b)-(c).)

19) Defines "controlled substance," as, unless otherwise specified, a drug, substance, or immediate precursor which is listed in any schedule, as defined. (Health & Saf. Code, § 11007.)

20) Defines "armed with" to mean having available for immediate offensive or defensive use. (Health & Saf. Code, § 11370.1, subd. (a).)

21) Defines "firearm" to mean a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion, and which includes the frame or receiver of the weapon, including both a completed frame or receiver, or a firearm precursor part. (Pen. Code, § 16520, subds. (a)-(b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Mass shootings have become a plague in the United States, and it is a constant debate as to why these crimes are being committed on such a frequent scale. This bill will add a year to crimes involving firearms if they are found to be using a controlled substance but will more importantly allow for blood toxicology screenings of these criminals that will show if there is a connection between the increased use of controlled substances and mass shootings."

2) **Effect of the Bill:** This bill would authorize a one-year sentence enhancement for any person who, while armed with a firearm and under the influence of a controlled substance they are prohibited from possessing, commits a felony or attempts to commit a felony.

   Put simply, to qualify for the one-year sentence enhancement, a crime under this bill would require proving beyond a reasonable doubt that a person did three things: 1) The person during the act was armed with a firearm, 2) the person during the act was under the influence of a controlled substance they were prohibited from possessing, and 3) the person's act was a felony or an attempt to commit a felony.

   A person is armed with a firearm if they knowingly carry a firearm or have a firearm available as a means of offense or defense. (*People v. Bland* (1995) 10 Cal.4th 991, 998.) The ready access or availability of the firearm constitutes arming. (*Ibid.*) A burglar who leaves a firearm on a wall outside the garage of a home while entering the house is considered armed. (*Ibid,* see also *People v. Garcia* (1986) 183 Cal.App.3d 335, 340-51.). Likewise, a drug dealer who sold from his car with a loaded firearm in an unlocked compartment in the back of his car is also considered armed. (*Ibid,* see also *People v. Searle* (1989) 213 Cal.App.3d 1091, 1099.)

   The term "under the influence" is slightly less clear but has sufficient development in relevant case law. "The term 'under the influence' differs for the purposes of section 23152, subdivision (a) of the Vehicle Code and Health and Safety Code section 11550. '[B]eing under the influence' within the meaning of Health and Safety Code [] merely requires that the person be under the influence in any detectable manner." (*People v. Enriquez* (6th Dist. 1996) 42 Cal.App.4th 661, 665.). In a statement echoed by our Supreme Court, "[t]he

symptoms of being under the influence within the meaning of [section 11550] are not confined to those commensurate with misbehavior, nor to those which demonstrate impairment of physical or mental ability." (*Ibid*, see also *People v. Canty* (2004) 32 Cal.4th 1266, 1278.)

Juries are also instructed in the definition of "under the influence" at trial. California's jury instructions state that "[s]omeone is under the influence of a controlled substance if that person has taken or used a controlled substance that has appreciably affected the person's nervous system, brain, or muscles or has created in the person a detectable abnormal mental or physical condition." (CALCRIM. 2400.)

A controlled substance is "a drug, substance, or immediate precursor which is listed in any schedule," unless otherwise specified or defined. (Health & Saf. Code, § 11007.)

A felony is a crime punishable with death, by imprisonment in the state prison, or, notwithstanding any other law, by imprisonment in a county jail under the provisions of subdivision (h) of Section 1170. (Pen. Code § 17, subd. (a).) There are more than 1,400 felonies in the California codes.[1] Under this bill, any person who commits one of these 1,400 offenses, or attempts to, while being armed with a firearm and under the influence of a controlled substance they are not supposed to possess, would be subject to a one-year enhancement. This includes a rather broad range of potential acts where an enhancement would be authorized.

Moreover, it is unclear why a sentence enhancement is justified for only being under the influence of a controlled substance the person is "not supposed to possess" and armed with a firearm during the commission or attempted commission of a felony. Surely, there is a cognizable and potentially serious public safety or public health risk from a person undertaking these acts regardless of whether the controlled substance for which they are under the influence is lawfully or unlawfully possessed. It is understandable for the law to treat these differently in certain contexts, but it is difficult to understand why the difference should exist for the conduct this bill is trying to penalize with an enhancement.

The author offers "mass shootings" as at least implied support in justifying the need for this law. It strains credulity that imposition of a one-year sentence enhancement would have any impact on mass shootings. Additionally, mass shootings in California are at an approximate 20-year low.[2] In 2025, California saw a 24 percent drop in mass shootings compared to 2024, which already was a 20 percent drop from 2023.[3] Mass shootings are undoubtedly a serious, daunting, and deadly public safety and public health problem, but using the issue of mass shootings as an imprimatur for advancing a law imposing a one-year sentence enhancement seems inapt.

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[1] Nosewicz and Pickard, *Felony Offenses and Sentencing Triads in California*, Cal. Policy Lab (Oct. 2023) <https://www.capolicylab.org/wp-content/uploads/2023/12/Felony-Offenses-and-Sentencing-Triads-in-California.pdf> [as of Jan. 7, 2026].
[2] *California shooting marks 20-year low in US mass killings – but the bigger picture is complex*, The Guardian (Dec. 2, 2025) https://www.theguardian.com/us-news/2025/dec/02/mass-killings-database> [as of Jan. 7, 2026].
[3] *Ibid.*

There is also already a wealth of data on the connections between controlled substance use, and other behaviors, and crime. Previous programs have collected this data. A 2020 nationwide report found that two-thirds of mass shooters in some way communicated threatening or concerns messages before carrying out their attacks.[4] Nearly half had histories of violence with almost 40 percent having a history of domestic violence.[5] Likewise, almost half used firearms for which they were unauthorized to possess.[6] In the three years predating the report, they found approximately 25 percent subscribed to extremist or hateful viewpoints.[7] Another study found evidence of controlled substance use being associated with increased interpersonal violence and suicide.[8] But, the evidence regarding the relationship between specific substances and violence was mixed.[9]

In one an expansive study, where data was collected on 172 public mass shooters over 53 years and which of 166 psychosocial traits applied to each shooter, the most prominent psychosocial factors appear not to involve controlled substance use.[10] Rather, the most common factors identified were trauma, suicidality, crisis, mental health, motivation over time, and use of warning signs.[11] They found more than 30 percent experienced severe childhood trauma and were suicidal before or during the shooting, more than 50 percent had a mental health history, and more than 20 percent either studied mass shooters or left behind a legacy token like a manifesto.[12]

In addition to research, huge amounts of data was collected on drug use among arrestees in some fashion, in multiple locations across the country, from 1987-2013.[13] What began as the Drug Use Forecasting (DUF) program through the U.S. Department of Justice in 1987 became two successive programs named the Arrestee Drug Abuse Monitoring program (ADAM and ADAM II).[14] Arrestee participation was voluntary and data collected included urinalyses, interview responses, questionnaire responses, and details of the drug markets and transactions used.[15] A number of California cities participated in this program.[16]

Arguably, the data from the DUF and ADAM programs are outdated in 2026. The public having experienced yet another crisis in the capital and job markets and a pandemic in the past 12 years, it is understandable to want updated data on these issues. This bill's approach

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[4] *Mass Attacks in Public Spaces – 2019*, United States Secret Service National Threat Assessment Center (2020) < https://www.secretservice.gov/sites/default/files/reports/2020-09/MAPS2019.pdf> [as of Jan. 7, 2026].
[5] *Ibid.*
[6] *Ibid.*
[7] *Ibid.*
[8] McGinty, et al., *The Relationship Between Controlled Substances and Violence*, Epidemiologic Reviews (2016) <https://academic.oup.com/epirev/article-abstract/38/1/5/2754864?redirectedFrom=PDF> [as of Jan. 7, 2026].
[9] *Ibid.*
[10] Peterson, J., *A Multi-Level, Multi-Method Investigation of the Psycho-Social Life Histories of Mass Shooters*, U.S. Department of Justice, Office of Justice Programs (Sept. 2021) <https://www.ojp.gov/pdffiles1/nij/grants/302101.pdf> [as of Jan. 7, 2026].
[11] *Ibid.*
[12] *Ibid.*
[13] *NIJ's Drugs and Crime Research: Arrestee Drug Abuse Monitoring Programs*, U.S. Department of Justice's National Institute of Justice (May 2012) <https://nij.ojp.gov/topics/articles/nijs-drugs-and-crime-research-arrestee-drug-abuse-monitoring-programs> [as of Jan. 7, 2026].
[14] *Ibid.*
[15] *Ibid.*
[16] *Ibid.*

to securing this data, however, appears more expensive and more punitive than needed, particularly given the availability of viable and successful methods. If the author's most important object of this law is to improve our understanding of a possible link between controlled substance use and crime, or even just gun violence, it may be worth considering legislation that more directly aims to achieve that goal.

3) **The Fourth Amendment:** The Fourth Amendment protects individuals from unlawful searches and seizures by government actors. (See U.S. Const. amend. IV.) Constitutional rights supersede any contrary provisions of state law. (U.S. Const. art. VI, cl. 2, see also *Montgomery v. Louisiana* (2016), 577 U.S. 190, 228.)

Taking a blood sample is governed by the Fourth Amendment. *(Skinner v. Railway Labor Executives' Assn.* (1989), 489 U.S. 602, 616-617.) Blood draws are significant intrusions to the body. (*Missouri v. McNeely* (2013), 569 U.S. 141, 174, Roberts, C.J., dissenting.) A blood test is uniquely intrusive because it gives law enforcement authorities a sample that can be preserved and makes it possible to extract further information. (*Birchfield v. North Dakota* (2016) 579 U.S. 438, 464.) Even if the law enforcement agency is precluded from testing the blood for any purpose other than to measure BAC, the potential remains, and the blood draw could generate anxiety for the person tested. (*Ibid.*)

The author notes that "more importantly", this bill will "allow for blood toxicology screenings that might show a connection between the increased use of controlled substances and mass shootings." There are two nearly identical provisions already in the search warrant statute that provide for warrants under these conditions. (See Pen. Code §§ 1524, subds. (a)(13), (a)(17).) Those subsections, however, are tied to driving under the influence (DUI) and boating under the influence (BUI)—where intoxication is an element of the crime. Those subsections also critically include that a warrant for a blood test may issue only if the person has refused other alcohol concentration tests as all motorists are statutorily required to do in the State of California. (See Veh. Code § 23612, Harbors and Nav. Code § 655.1.) A refuse to comply clause is not present in this bill.

Automatic issuance of a search warrant for a blood draw could be constitutionally dubious under some fact patterns that give rise to prosecution under this bill. With so many potential felonies in California codes, it is perhaps overbroad to include all possible felony conduct as justifying issuance of a blood draw. For example, a person in California can be charged with a felony for attempting to marry someone who is already married. (Pen. Code, § 284.) A person in California can be charged with a felony for producing spurious heirs in estate inheritance claims. (Pen. Code, § 156.) Presenting a false claim to a public official is yet another possible felony in California. (Pen. Code, § 72.) Our Superintendent of State Printing must not have a conflict of interest during their employment because that, too, is a potential felony. (Pen. Code, § 99.) It is almost inconceivable that a one-year sentence enhancement is justified for this conduct even if the person is armed with a firearm and under the influence of a controlled substance. Authorizing a blood draw by statute under these conditions, and many others like them, present real constitutional concerns.

The Fourth Amendment is a vital protection of individual liberty against unlawful intrusions by the state into a person's affairs. We have long been counseled against wading into unnecessary legal terrain. Indeed, as Montesquieu wrote centuries ago, "useless laws weaken necessary laws."

4) **Sentence Enhancements:** This bill would authorize sentence enhancements for those who, while armed with a firearm and under the influence of a controlled substance they are prohibited from possessing, commit a felony or attempt to commit a felony.

Enhancements have been widely used in California.[17] Indeed, already more than half of currently incarcerated women and more than two-thirds of currently incarcerated men have at least one sentence enhancement.[18] Sentence enhancements increase an individual's prison sentence, which then increases the size of our prison population.[19] These enhancements are applied disproportionately to Black men.[20] A 2023 study found, "Black people are over-represented among the currently incarcerated with sentence enhancements while Hispanic people are slightly under-represented.[21] Among those without a sentence enhancement, 49% are Hispanic while 19% are Black.[22] Individuals serving a sentence with an enhancement are "overwhelmingly male."[23]

Sentence enhancements increase the average sentence by nearly 2 years for all admissions.[24] Confinement length for those with a sentence enhancement is approximately 5 years longer compared to those without an enhancement.[25] Approximately 40 percent of prison admissions since 2015 have been lengthened by a sentence enhancement.[26]

There is also reason to doubt the effectiveness of enhancements. Reliable evidence shows increased penalties generally fail to deter criminal behavior.[27] Instead, data shows a rise in deterrence linked with the likelihood of being caught and the perception of being caught.[28] In contrast, the act of punishment and the length of punishment largely do not increase deterrence.[29]

The enhancement and conduct this bill addresses appears well covered by existing law. Among many others, the law already provides for enhancements for commission or attempted commission of a felony with a firearm (Pen. Code § 12022, subd. (a)(1)), commission or attempted commission of a defined violation of the CSA while armed with a firearm (Pen. Code § 12022, subd. (c)(1)), knowing another person is armed during commission or attempted commission of a felony (Pen. Code § 12022, subd. (d)), use of a firearm during commission or attempted commission of a felony (Pen. Code § 12022.53, subds. (b).), discharge of a firearm during commission or attempted commission of a felony

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[17] Bird, *et al., Sentence Enhancements in California*, Cal. Policy Lab (Mar. 2023) <https://www.capolicylab.org/wp-content/uploads/2023/03/Sentence-Enhancements-in-California.pdf> [as of Jan. 9, 2026].
[18] *Ibid.*
[19] *Ibid.*
[20] *Ibid.*
[21] *Ibid.*
[22] *Ibid.*
[23] *Ibid.*
[24] *Ibid.*
[25] *Ibid.*
[26] *Ibid.*
[27] *Five Things About Deterrence* (May 2016) National Institute of Justice <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [as of Jan. 9, 2026].
[28] *Ibid.*
[29] *Ibid.*

(Pen. Code § 12022.53, subds. (c).), furnishing a firearm to another during commission or attempted commission of a felony (Pen. Code § 12022.4.). (See also Pen. Code § 12022.2, subd. (b)., Pen. Code § 12022.6., Pen. Code § 12022.65, subd. (a).) Enhancements under these statutes can extend up to 20 years. (See Pen. Code, § 12022.53, subds. (c).)

Enhancements are available for conduct relating to controlled substances as well. Violating or conspiring to violate defined sections of the Health and Safety Code with a prior felony conviction as well as enhancements based on the weight of specified substances in one's possession. (Health & Saf. Code, § 11370.1, subd. (b)-(c); Health & Saf. Code, § 11370.4, subds. (c)(1)(A)-(I).). Not to mention the penalties for possession of defined controlled substances while in possession of a firearm. (Health & Saf. Code, § 11370.1, subd. (a).) With the number of enhancements already codified in California law for acts relating to firearms, use and possession of controlled substances, and commission or attempted commission of felonies, it is difficult to imagine the fact patterns for which conduct under only this law could be penalized.

Given the questionable effectiveness of enhancements on criminal deterrence, one might reasonably question whether this proposed enhancement would meaningfully deter people from committing the crime proposed in this bill.

5) **Costs of Incarceration:** This bill would increase sentence lengths for those who, while armed with a firearm and under the influence of a controlled substance they are prohibited from possessing, commit a felony or attempt to commit a felony.

The effect of this bill, among other things, would produce longer terms of confinement. More people sentenced to county jails or state prisons for longer terms of confinement means larger carceral populations. In 2011, the U.S. Supreme Court ordered California to reduce its prison population because of overcrowding. (*Brown, et al. v. Plata, et al.* (2011) 463 U.S. 593.) The costs of incarcerating a person have also risen dramatically in recent years—from $91,000 per person in 2019 to $133,000 per person in 2024.[30]

The passage of Proposition 36 has caused the Legislative Analyst's Office (LAO) to project an increase of more than 4,000 people in confinement over the next two years.[31] Higher carceral populations create the conditions for prison overcrowding. This bill would increase those projections. Therefore, one might reasonably question whether adding another sentence enhancement is sound public policy.

6) ***U.S. v. Hemani*:** The U.S. Supreme Court will hear a case this term that is likely to have implications for this bill, specifically for the firearm and under the influence elements contained in the bill.

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[30] Harris, et al., *California's Prison Population (Sept. 2024) Public Policy Institute of California* <https://www.ppic.org/publication/californias-prison-population/> [as of Jan. 9, 2026].
[31] *The 2025-26 Budget: California Department of Corrections and Rehabilitation* (Feb. 25, 2025) Legislative Analyst's Office https://lao.ca.gov/Publications/Report/4986> [as of Jan. 9, 2026].

The Court is expected to hear oral arguments this March in *U.S. v. Hemani*.[32] In the petitioner's brief requesting certiorari, which the Court ultimately granted, the question the Court is being asked to resolve is whether 18 U.S.C. 922(g)(3), the federal statute that prohibits the possession of firearms by a person who "is an unlawful user of or addicted to any controlled substance," violates the Second Amendment as applied to Hemani.[33]

The law captured in 18 U.S.C. 922(g)(3) is part of the Gun Control Act (GCA) (See 18 U.S.C. 922 et seq.) The GCA was originally passed in 1968.[34] The GCA includes categories of persons who are barred from shipping, transporting, receiving, or possessing firearms or ammunition, including those convicted of a crime punishable by imprisonment for a term exceeding one year, fugitives from justice, unlawful users of controlled substances, persons "adjudicated as a mental defective" or who have been committed to mental institutions, and persons subject to certain court orders relating to domestic violence or who have committed domestic violence misdemeanors among others.[35] Subsection (g)(3) defines the ban against those who are unlawful users of controlled substances. (See 18 U.S.C. 922(g)(3).)

The disposition in *Hemani* could impact this bill. If the Court decides to resolve the question presented purely as a matter of statutory law interpretation and/or invoke the constitutional avoidance doctrine,[36] this bill may not be impacted. If the Court, however, decides to address or resolve the controversy as a matter of constitutional law,[37] the restrictions in this bill could be impacted. Given the strong likelihood that the Court will issue a decision in this case before a version of this bill could get through the legislative process, the author may want to consider postponing consideration of this bill.

7) **Argument in Support**: None submitted.

8) **Argument in Opposition**: According to *Universidad Popular*, "From both a policy and community impact perspective, this proposal is unnecessary and unsupported by research.

"Creating an additional, duplicative enhancement does not fill a legal gap and instead contributes to excessive sentencing. The existing statute, Penal Code section 12022(a)(1), imposes a one-year sentence enhancement for individuals armed with a firearm during the commission of a felony, in addition to penalties associated with the underlying offense.

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[32] *Supreme Court of the United States October 2025 Term*, For the Session Beginning February 26, 2026, United States Supreme Court (Jan. 2, 2026) <https://www.supremecourt.gov/oral_arguments/argument_calendars/MonthlyArgumentCalFebruary2026.pdf> [as of Jan. 8, 2026].
[33] Br. For Petitioner at I, U.S. v. Hemani, United States Supreme Court (June 2, 2025) <https://www.supremecourt.gov/DocketPDF/24/24-1234/362144/20250602174403309_HemaniPetition.pdf> [as of Jan. 8, 2026].
[34] *U.S. Gun Policy: Framework and Major Issues*, United States Congress (Sept. 12, 2025) <https://www.congress.gov/crs-product/IF11038#:~:text=The%20GCA%20sets%20forth%20requirements,the%20FFL%27s%20state%20of%20business.> [as of Jan. 8, 2026].
[35] *Ibid.*
[36] Willinger, A., *Should Hemani be Decided as a Statutory Case?* Duke Center for Firearms Law and Policy (Nov. 20, 2025) <https://firearmslaw.duke.edu/2025/11/should-hemani-be-decided-as-a-statutory-case> [as of Jan. 8, 2026].
[37] *Ibid.*

"Expanding sentence enhancements that already exist in law does not improve public safety and does not prevent future harm. Instead, it risks deepening cycles of incarceration that disproportionately impact low-income communities and communities of color, including the families Universidad Popular works alongside every day.

"AB 256 also represents a continued erosion of privacy protections embedded in California's warrant statutes. Penal Code section 1524 was intentionally drafted with narrow limits to safeguard individuals from unnecessary government intrusion. Over time, repeated amendments have steadily expanded its scope beyond its original intent. Allowing additional warrantless or coerced bodily searches further undermines constitutional protections without clear public safety benefit."

9) **Prior Legislation**:

a) AB 991 (Essayli), of the 2025-2026 Legislative Session, would have made the provision relating to the dismissal of enhancements inapplicable to firearms-related enhancements, but would allow the court to dismiss these firearm-related enhancements pursuant to the court's general authority to dismiss an action. AB 991 bill did not receive a hearing in the Assembly Public Safety Committee.

b) AB 27 (Ta), of the 2023-2024 Legislative Session, would have prohibited courts from dismissing firearms enhancements. AB 27 bill was held in the Assembly Appropriations Committee.

c) AB 337 (Essayli), of the 2023-24 Legislative Session, would have prohibited a court from striking an allegation or a finding that would make a crime punishable pursuant to those enhancement provisions, except that a court could strike or dismiss an enhancement when the person did not personally use or discharge the firearm or when the firearm was unloaded. AB 337 bill was held in the Assembly Appropriations Committee.

d) AB 484 (Gabriel), of the 2023-24 Legislative Session, would have, until January 1, 2028, authorized the court, if a person takes, damages, or destroys property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, to impose an additional term of imprisonment of up to 2 years if the property loss exceeds $275,000, an additional term of imprisonment of up to 3 years if the property loss exceeds $1,750,000, or an additional term of imprisonment of up to 4 years if the property loss exceeds $4,400,000. AB 484 died in the Assembly Appropriations Committee.

e) AB 1960 (Rivas), Chapter 220, Statutes of 2024, until January 1, 2030, creates sentencing enhancements for taking, damaging, or destroying property in the commission or attempted commission of a felony, as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

None submitted

Opposition

ACLU California Action
California Public Defender's Association
Californians United for a Responsible Budget
Initiate Justice
Legal Services for Prisoners with Children
San Francisco Public Defender
Smart Justice California
Universidad Popular

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

Date of Hearing: January 13, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 277 (Alanis) – As Amended January 5, 2026

SUMMARY: Requires a person who provides "behavioral health treatment," as defined in existing law, for a behavioral health center, facility, or program, to undergo a background check. Specifies that this requirement does not apply to a person who holds a current and valid license issued by a California state licensing board, if the licensure process includes a finger-print based background check and the license is in good standing.

EXISTING LAW:

1) Defines "behavioral health treatment" to mean professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and that meet all of the following criteria (Health & Saf. Code, § 1374.73, subd. (c)(1):

    a) The treatment is prescribed by a physician and licensed surgeon or is developed by a licensed psychologist;

    b) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by a qualified autism service provider or qualified autism service professional or paraprofessional supervised by a qualified autism service provider or professional; and,

    c) The treatment plan has measurable goals over a specific timeline that is developed and approved by the qualified autism service provider for the specific patient being treated and periodically reviewed and modified whenever appropriate. Requires the treatment plan to do all of the following:

        i) Describes the patient's behavioral health impairments or developmental challenges that are to be treated;

        ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported;

        iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism; and,

iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.

2) Requires the Department of Justice (DOJ) to maintain state summary criminal history information, as defined, and to furnish this information to various state and local government officers, officials, and other prescribed entities, if needed in the course of their duties. (Pen. Code, §11105, subds. (a)-(b).)

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

4) Specifies that a fingerprint-based criminal history information check that is required pursuant to any statute to be requested from the DOJ. When a government agency or other entity requests such a criminal history check for purposes of employment, licensing, or certification, existing law requires the DOJ to disseminate specified information in response to the request, including information regarding convictions and arrests for which the applicant is presently awaiting trial. (Pen. Code, § 11105, subd. (u).)

5) States, notwithstanding any other law, a human resource agency or an employer may request from DOJ records of all convictions or any arrest pending adjudication involving specified offenses of a person who applies for a license, employment, or volunteer position, in which they would have supervisory or disciplinary power over a minor or any person under their care. DOJ shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant. (Pen. Code, § 11105.3, subd. (a).)

6) Provides that a request for records pursuant to the above provision shall include the applicant's fingerprints and any other data specified by DOJ. (Pen. Code, § 11105.3, subd. (b).)

7) States that the determination of whether the criminal history record shows that the applicant, employee, or volunteer has been convicted of, or is under the pending indictment for, any crime that bears upon the fitness of the individual to have responsibility for the safety and well-being of children, the elderly, the handicapped, or the mentally impaired shall solely be made by the human resource agency or employer. DOJ is not required to make such a determination on behalf of any human resource agency or employer. (Pen. Code, § 11105.3, subd. (b)(2)(E).)

8) Defines the following terms for purposes of a background check pursuant to Penal Code section 11105.3:

   a) "Employer" means any nonprofit corporation or other organization specified by the Attorney General that employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

b) "Human resource agency" agency means a public or private entity, excluding any agency responsible for licensing of facilities pursuant to the California Community Care Facilities Act, the California Residential Care Facilities for the Elderly Act, and the California Child Day Care Facilities Act, responsible for determining the character and fitness of a person who is:

   i) Applying for a license, employment, or as a volunteer within the human services field that involves the care and security of children, the elderly, the handicapped, or the mentally impaired;

   ii) Applying to be a volunteer who transports individuals impaired by drugs or alcohol; or,

   iii) Applying to adopt a child or to be a foster parent. (Pen. Code, § 11105.3, subd. (f).)

9) Prohibits employers with five or more employees from asking a job candidate about conviction history before making a job offer and requires an employer who intends to deny an applicant a position of employment solely or in part because of the applicant's conviction history to make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job, and to consider certain topics when making that assessment, as described. (Gov. Code, § 12952.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California has been a long-time advocate for those with disabilities, but there is still work to be done. ASD [autism spectrum disorder] has become increasingly prevalent among people of color and lower-income communities while rates of child abuse have stayed high among females and Hispanic children. The ongoing phenomenon of child abuse – specifically against children with developmental disabilities – is unacceptable, and AB 277 is an important stepping stone to prevent bad actors from being in close proximity to vulnerable children."

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

   DOJ is tasked with maintaining state summary criminal history information and requires the Attorney General to furnish state summary criminal history information only to statutorily

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

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

A separate existing statute states, notwithstanding any other law, that an employer or human resources agency may request from DOJ criminal records of a person involving specified offenses who applies for a license, employment, or volunteer position, in which they would have supervisory or disciplinary power over a minor or any person under their care, and further requires DOJ to furnish this information to the requester and applicant. (Pen. Code, § 11105.3, subd. (a).) The list of specified convictions includes sexual battery, a sex offense against a minor, or of any felony that requires sex offender registration, or if within the last 10 years the person was convicted or arrested for child abuse, elder abuse, or as the result of committing theft, burglary, or any felony. (Welf. & Inst. Code, § 15660, subd. (a).)

This bill would require a person who provides "behavioral health treatment," as defined in existing law, for a behavioral health center, facility, or program, to undergo a background check pursuant to Penal Code section 11105.3, described above, which authorizes employers to request background check information for prospective employees who would have supervisory or disciplinary power over a minor or any person under their care. This bill excludes persons who hold a license with a state licensing agency and have already undergone a criminal background check during the licensing process.

3) **Protections for Job Applicants with Criminal Histories**: About one in five Californians has a criminal record of some kind. Having such a record can be a significant barrier to getting a job, making it harder for these Californians to move forward with their lives. In 2017, California mandated new hiring procedures intended to ensure that job applicants with criminal records get a fair chance by: (1) requiring most employers to make conditional job offers before initiating background checks; (2) limiting the types of criminal history employers can consider; (3) obligating employers to identify a nexus between the criminal history and the job duties before rescinding an offer; and (4) giving applicants an opportunity to present mitigating information. (See Gov. Code, § 12952.)

As specified above, existing law provides for specified procedures including notice and an opportunity to respond when an employer is considering rejection of a job applicant based on criminal history information. These provisions are expressly exempted when an employer is statutorily required to conduct a criminal background check. (Gov. Code, § 12952, subd. (d).) By requiring this category of prospective employees to be background checked, they would be exempt from the protections described above.

4) **Registered Behavior Technicians**: This bill would apply to persons who provide "behavioral health treatment," as defined in existing law, for a behavioral health center, facility, or program who is not licensed by a California licensing board. Generally, psychiatrists, psychologists, social workers, counselors, and peer support specialists work at behavioral health centers to provide the range of services clients need. In order to provide treatment, a person must generally be licensed by their respective professional licensing board. Licensees are currently required to undergo a fingerprint criminal history check prior to a license being issued. Licensees can be denied a license when: The applicant was convicted of a crime within the seven years preceding the date of application; and, that crime is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made. (Bus. & Prof. Code, § 480.) There are two exceptions to the seven-year lookback: A serious felony conviction or a crime for which registration as a sex offender is required. (*Ibid.*)

   This bill specifies that a person who holds a current and valid license issued by a California state licensing board, if the licensure process includes a finger-print based background check and the license is in good standing, is not required to undergo another background check.

   According to information provided by the author's office, registered behavior technicians provide behavioral health treatment but are not licensed through a state licensing board. Rather, they are certified and registered with the Behavior Analyst Certification Board (BACB), a national non-profit corporation founded in 1988 whose primary function is to operate certification programs for people in the applied behavior analysis field. In this role, BACB establishes entry–level eligibility standards for education and training AND provides a mechanism to address behavior analysis practitioners who violate BACB ethics codes.[1]

   According to BACB, "a registered behavior technician is a paraprofessional certified in behavior analysis. RBTs assist in delivering behavior-analytic services and practice under the direction and close supervision of an RBT Supervisor and/or an RBT Requirements Coordinator, who are responsible for all work RBTs perform." Additionally, BACB's Registered Behavior Technician Handbook lists eligibility requirements for obtaining an RBT certification which includes completing and passing a criminal background check and an abuse registry check no more than 180 days prior to paying for the RBT certification application, but notes that the BACB does not require fingerprinting and this requirement may vary by state and organization. (*RBT Handbook*, Behavior Analyst Certification Board, p. 3, updated January 2026.)

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[1] See The BACB: What It Is, What It Does, and Why., BACB (July 9, 2020) <https://www.bacb.com/the-bacb-what-it-is-what-it-does-and-why/> [last visited Jan. 8, 2026].

This bill would require persons who provide behavioral health treatment at a behavioral health center, facility, or program, who are not otherwise licensed through a state licensing agency to undergo a background check pursuant to existing Penal Code section 11105.3, which governs background checks not otherwise required by statute of persons who would have supervisory or disciplinary power over a minor or any person under their care. As discussed above, it appears that a registered behavior technician has to undergo a criminal background check as a part of their certification application however, it is unclear whether this is fingerprint-based and where the information is being pulled from. This bill would require the employer to also conduct a background check.

5) **Double-Referral**: This bill has been double-referred to this committee and the Human Services Committee. Should this bill pass out of this committee, it will be referred to Human Services Committee where it will be analyzed for issues pertaining to that committee's jurisdiction.

6) **Argument in Support**: According to *California Association for Behavior Analysis*, "This critical measure will help ensure the safety and well-being of vulnerable individuals receiving care by preventing those with a history of crimes involving minors from working in these settings.

"The California Association for Behavior Analysis (CalABA) is the professional membership association representing over 31,000 practitioners of behavior analysis in California. Our mission is to advance, promote, and protect the science and practice of behavior analysis. Many of our members provide behavioral health treatment to individuals with developmental disabilities such as autism and intellectual disabilities. We recognize the importance of implementing clear and enforceable safety measures within behavioral health services to protect the individuals we serve, particularly children and individuals with disabilities.

"By requiring employers to conduct background checks, AB 277 aligns behavioral health settings with the existing standards of other healthcare and educational institutions. This legislation will promote employer accountability, strengthen public trust, and, most importantly, enhance consumer protection."

7) **Related Legislation**: None

8) **Prior Legislation**: AB 1715 (Holden), of the 2015-16 Legislative session, would have established a Behavior Analyst category of licensure to be administered by the Board of Psychology. AB 1715 was held in the Senate Committee on Business, Professions, and Economic Development.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Regional Center Agencies
Autism Speaks
Autism Spectrum Therapies
California Association for Behavior Analysis

Counsel of Autism Service Providers
The Arc and United Cerebral Palsy California Collaboration

Opposition

None received

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

Date of Hearing: January 13, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 292 (Patterson) – As Introduced January 22, 2025

SUMMARY: Adds the crime of felony domestic violence to the list of "Violent Felonies" that subjects a defendant to additional penalties, including under California's "Three Strikes" Law, and reduces the custody credits that a defendant may receive.

EXISTING LAW:

1) Provides that willfully inflicting corporal injury resulting in a traumatic condition upon a victim, as specified, is a felony punishable by two, three, or four years in state prison, or a misdemeanor punishable by up to one year in county jail, or by a fine of up to $6,000, or by both a fine and imprisonment. (Pen. Code, § 273.5, subd. (a).)

2) Provides, for purposes of domestic violence, a victim is the offender's spouse or former spouse; the offender's cohabitant or former cohabitant; the offender's fiancé, or someone with whom the offender has, or previously had, and engagement or dating relationship, as specified; or, the mother or father of the offender's child. (Pen. Code, § 273.5, subd. (b)(1)-(4).)

3) Defines "traumatic condition" as a condition of the body, such as a wound, or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force. (Pen. Code, § 273.5, subd. (c).)

4) Defines a "violent felony" as any of the following:

   a) Murder or voluntary manslaughter;

   b) Mayhem;

   c) Rape or spousal rape accomplished by means of force or threats of retaliation;

   d) Sodomy by force or fear of immediate bodily injury on the victim or another person;

   e) Oral copulation by force or fear of immediate bodily injury on the victim or another person;

   f) Lewd acts on a child under the age of 14 years, as defined;

   g) Any felony punishable by death or imprisonment in the state prison for life;

h) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice, or any felony in which the defendant has used a firearm, as specified;

i) Any robbery;

j) Arson of a structure, forest land, or property that causes great bodily injury;

k) Arson that causes an inhabited structure or property to burn;

l) Sexual penetration accomplished against the victim's will by means of force, menace or fear of immediate bodily injury on the victim or another person;

m) Attempted murder;

n) Explosion or attempted explosion of a destructive device with the intent to commit murder;

o) Explosion or ignition of any destructive device or any explosive which causes bodily injury to any person;

p) Explosion of a destructive device which causes death or great bodily injury;

q) Kidnapping;

r) Assault with intent to commit mayhem, rape, sodomy or oral copulation;

s) Continuous sexual abuse of a child;

t) Carjacking, as defined;

u) Rape or penetration of genital or anal openings by a foreign object;

v) Felony extortion;

w) Threats to victims or witnesses, as specified;

x) First degree burglary, as defined, where it is proved that another person other than an accomplice, was present in the residence during the burglary;

y) Use of a firearm during the commission of specified crimes; and,

z) Possession, development, production, and transfers of weapons of mass destruction.

aa) Rape of an intoxicated person, as specified. (Pen. Code, § 667.5(c)(1)-(24).)

2) Provides that when a defendant is convicted on a new felony offense and has a prior conviction for a specified violent felony, the defendant shall receive a consecutive three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies specified, unless the defendant meets certain conditions. (Pen.

Code, § 667.5, subd. (a).)

3) States that a conviction of a violent felony counts as a prior conviction for sentencing under the two and three strike law. (Pen. Code, § 667.)

4) Provides that if a defendant is convicted of a felony offense and it is pled and proved that the defendant has been convicted of one prior serious or violent offense as defined, the term of imprisonment is twice the term otherwise imposed for the current offense. (Pen. Code, § 667.)

5) Specifies that notwithstanding any other law, any person who is convicted of a felony that is contained in the "violent" felony list shall accrue no more than 15% of work-time credit. (Pen. Code, § 2933.1, subd. (a).)

6) Defines a "serious felony" as any of the following: murder or manslaughter; mayhem; rape; sodomy; oral copulation; lewd acts on a child under the age of 14; any felony punishable by death or imprisonment for life; any felony in which the defendant inflicts great bodily injury; attempted murder; assault with the intent to commit rape or robbery; assault with a deadly weapon or instrument on a peace officer; assault by a life prisoner on a non-inmate; assault with a deadly weapon by an inmate; arson; exploding a destructive devise with the intention to commit murder or great bodily injury; first-degree burglary; armed robbery or bank robbery; kidnapping; holding of a hostage by a person confined to a state prison; attempting to commit a felony punishable by death or life in prison; any felony where the defendant personally used a dangerous or deadly weapon; selling or otherwise providing heroin, PCP or any type of methamphetamine-related drug; forcible sexual penetration; grand theft involving a firearm; carjacking; assault with the intent to commit mayhem, rape, sodomy or forcible oral copulation; throwing acid or other flammable substance; assault with a deadly weapon on a peace officer; assault with a deadly weapon on a member of the transit authority; discharge of a firearm in an inhabited dwelling or car; rape or sexual penetration done in concert; continuous sexual abuse of a child; shooting from a vehicle; intimidating a victim or witness; any attempt to commit the above-listed crimes except assault or burglary; and using a firearm in the commission of a crime and possession of weapons of mass destruction. (Pen. Code § 1192.7, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "By definition, domestic violence is violent; however, under current California law, in most instances, felony domestic abuse convictions are considered "nonviolent offenders and are eligible for early release under Prop. 57 after serving only 50% of their sentence. Additionally, nonviolent felonies are not considered strikes under California's three strikes law, which limits prosecutors from seeking longer sentences for repeat offenders. This reality has resulted in the perpetuation of domestic abuse, and in some cases the loss of life. According to research compiled by USA Today, the Associated Press, and Northwestern University, more than 68% of mass shooters have a documented history of domestic violence or have killed a family member. Whether you're a Republican, Independent, or Democrat, you can't argue with the data. Statistics show that violent domestic abusers are the individuals most likely to commit mass shootings. If we

hold them accountable, we will reduce mass shootings."

2) **Existing Penalties for Domestic Violence:** Existing penalties for domestic violence can be serious. Domestic violence is currently punishable by imprisonment in the state prison for up to four years or by imprisonment in a county jail. A second offense within seven years of a prior conviction is punishable by up to five years in prison. (Pen. Code, § 273.5, subd. (b).) There is an enhancement of up to five more years if great bodily injury is inflicted. (Pen. Code, § 12022.7, subd. (e).) Under existing law, a felony domestic violence conviction for a person with a prior strike also doubles the maximum term of incarceration. (Pen. Code, § 667, subd. (e)(1).)

   Depending on the conduct involved, domestic violence includes or can be charged as other crimes, including strikeable offenses. For example, a husband who punches his wife may be charged with assault likely to produce great bodily injury, even where the victim did not suffer great bodily injury. (Pen. Code, § 245, subd. (a)(4); see *People v. Medellin* (2020) 45 Cal.App.5th 519, 528; *In re Nirran W.* (1989) 207 Cal.App.3d 1157, 1161.) A mother who causes a traumatic injury to her child's father and prevents him from leaving her residence can be charged with kidnapping, which is classified as a "serious" and "violent" felony, and domestic violence. (See *People v. Delacerda* (2015) 236 Cal.App.4th 282; Pen. Code, § 667.5, subd. (14); Pen. Code, § 1192.7, subd. (c)(20)) A man who threatens to blow up his boyfriend's car and home can be charged and convicted of criminal threats, a serious felony. (Pen. Code, § 422, subd. (a); Pen. Code, § 1192.7, subd. (c)(38); see *People v. Martinez* (1997) 53 Cal.App.4th 1212.) A person who prevents their partner from calling the police during or after an incident involving domestic violence can be charged with a felony for dissuading or preventing a victim from making a report to law enforcement, also a serious felony. (Pen. Code, § 136.1, subd. (b)(1); Pen. Code, § 1192.7, subd. (c)(38).*People v. McElroy* (2005) 126 Cal.App.4th 874).

   Moreover, domestic violence is a wobbler. A "wobbler" is a crime that can charged as, and result in a conviction for, a felony or a misdemeanor. Wobblers give prosecutors and judges a measure of discretion in case dispositions. A district attorney has the discretion to charge a "wobbler" as a felony or a misdemeanor. If a defendant is charged with a felony for a crime that is a "wobbler," a judge can, under certain circumstances, reduce the charge to a misdemeanor or sentence the defendant to a misdemeanor. Every offense on the violent felony is a straight felony. Adding felony domestic violence to that list would be unprecedented.

3) **Domestic Violence as a Violent Felony**: This bill would add felony domestic violence to the violent felony list. Domestic violence that results in great bodily injury is already a violent felony. (Pen. Code, § 667.5, subd. (c)(3).) Great bodily injury is a significant or substantial bodily injury—an injury resulting in greater than moderate harm. (Pen. Code, § 12022.7, subd. (f)(1); CALCRIM 3163.) "An examination of California case law reveals that some physical pain or damage, such as lacerations, bruises, or abrasions is sufficient for a finding of 'great bodily injury.'" (*People v. Washington* (2012) 210 Cal.App.4th 1042, 1047.)

   Felony domestic violence, however, does not require great bodily injury. Domestic violence is willfully inflicting corporal injury resulting in a traumatic condition upon a victim, which is defined to include a "[minor] external or internal injury…caused by a physical force."

(Pen. Code, § 273.5, subds. (a) & (d).) As one court explained:

> "It is *injury* resulting in a traumatic condition that differentiates this crime from lesser offenses. Both simple assault [citation] and misdemeanor battery [citation] are included in a prosecution of section 273.5....
>
> "Some other offenses do require higher degrees of harm to be inflicted before the crime denounced by them is committed: felony battery…requires 'serious bodily injury'; and, felony assault…requires 'force likely to produce great bodily injury.' But, the Legislature has clothed persons of the opposite sex in intimate relationships with greater protection by requiring less harm to be inflicted before the offense is committed. Those special relationships form a rational distinction which has a substantial relation to the purpose of the statute. [Citations.]" (*People v. Abrego* (1993) 21 Cal.App.4th 133, 137, citing *People v. Gutierrez* (1985) 171 Cal.App.3d 944, 952) (internal citations omitted).)

An "injury resulting in traumatic condition" is a lower level of harm than "great bodily injury." A traumatic condition may be found when the victim suffered "redness about [the] face and nose" and soreness of nose and neck. (*People v. Wilkins* (1993) 14 Cal.App.4th 761, 771.) The California District Attorney Association (CDAA) confirms that "[b]ruising is a 'traumatic condition.'"[1] CDAA also reports, "Fortunately, prosecutors across California are reporting successful felony [domestic violence] prosecutions with minimal external visible injury."[2] And a traumatic condition can be found even in the absence of a visible injury.[3]

In other words, the bill would affect felony domestic violence convictions resulting in harms dissimilar from those caused by crimes already on the list, such as murder, mayhem, rape, continuous sexual abuse of a child, or exploding a destructive device with the intent to commit murder. And, as previously noted, domestic violence incidents often already involve conduct for which one can be convicted of a strikeable offense.

4) **Credit Limitations for Violent Felonies with State Prison Sentences**: Under Penal Code section 2933.1, a defendant convicted of a "violent felony" as defined by Penal Code section 667.5, subdivision (c), has their presentence conduct credits limited to 15 percent of actual confinement time. (Cal. Code Regs., tit. 15, § 3043.1; *People v. Brown* (2012) 54 Cal.4th 314, 321.)

A violent felony conviction also affects post-sentence credits. As previously discussed, Proposition 57 gave incarcerated persons in state prison the ability to earn additional, nonstatutory credits for sustained good behavior and for approved rehabilitative or educational achievements. The increased credit-earning opportunities incentivizes incarcerated people to take responsibility for their own rehabilitation.[4] Under the California Department of Corrections and Rehabilitation (CDCR) regulations, a violent felony limits

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[1] CDAA, Investigation & Prosecution of Domestic Violence Cases (2020) at p. II-6 <https://www.cdaa.org/wp-content/uploads/DV_book_print.pdf>

[2] CDAA, Investigation and Prosecution of Strangulation Cases (2020) at p. 26 <https://www.cdaa.org/wp-content/uploads/Strangulation_2020-Online-Version.pdf>. See also, id. at p. 32 (

[3] CDAA, Investigation & Prosecution of Domestic Violence Cases (2020) at p. II-6 <https://www.cdaa.org/wp-content/uploads/DV_book_print.pdf>

[4] (https://www.cdcr.ca.gov/proposition57/, *supra.*)

good conduct credits (GCC) to 33.3 percent of the total incarceration time, as opposed to 50 percent for a non-violent felony.[5] (*Ibid*; 15 Cal. Code of Regs. § 3043.2.)

Additionally, under CDCR regulations, persons convicted of nonviolent crimes earn 66.6 percent GCC while housed in camp or Minimum Support Facility (MSF) settings. People convicted of violent crimes, however, earn 50 percent GCC in fire camp settings and 33.3 percent in MSF settings.

By adding this offense to the list of violent felonies in Penal Code section 667.5, subdivision (c), this offense would be subject to the violent felony credit limitations.

5) **Three Strikes Implications**: In general, violent felonies as specified in Penal Code section 667.5 are considered "strikes" for purposes of California's Three Strikes law. However, Proposition 36, which was passed by California voters on November 6, 2012, specifies that only the crimes that were included in the "violent felonies" list as of November 7, 2012, shall be treated as strikes for purposes of the Three Strikes law.

> Notwithstanding subdivision (h) of Section 667, for all offenses committed on or after November 7, 2012, but before January 1, 2024, all references to existing statutes in subdivisions (c) to (g), inclusive, of Section 667 (Three Strikes Law), are to those statutes as they existed on November 7, 2012.

(Pen. Code, § 667.1; see also Pen. Code, § 1170.125 ["Notwithstanding Section 2 of Proposition 184, as adopted at the November 8, 1994, General Election, for all offenses committed on or after November 7, 2012, but before January 1, 2024, all references to existing statutes in Sections 1170.12 and 1170.126 are to those sections as they existed on November 7, 2012].)

This bill would make this offense a strike under California law because this bill would amend the date which defines the list of strikes to include the provisions of this bill.

6) **Proposition 20**: Proposition 20 was a November 2020 ballot initiative election that, among other things, would have defined 51 crimes and sentence enhancements as "violent felony offenses" in order to exclude them from Proposition 57's nonviolent offender parole program. The list included felony domestic violence. Californians voters overwhelming rejected Proposition 20.[6]

7) **Increased Penalties and Lack of Deterrent Effect:** This bill would add felony domestic violence to the list of "Violent Felonies" that subject a defendant to additional penalties, including under California's "Three Strikes" Law. As a result, people convicted of felony domestic violence would receive fewer custody credits while incarcerated, resulting in longer prison terms. However, there is reason to doubt that longer prison terms will meaningfully deter future criminal conduct.

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[5] (See (https://www.cdcr.ca.gov/proposition57/, *supra*.)

[6] (https://ballotpedia.org/California_Proposition_20,_Criminal_Sentencing,_Parole,_and_DNA_Collection_Initiative_(2020), *supra*.)

The National Institute of Justice (NIJ) has looked into the concept of improving public safety through increased penalties.[7] As early as 2016, the NIJ has been publishing its findings that increasing punishment for given offenses does little to deter criminals from engaging in that behavior.[8] The NIJ has found that increasing penalties are generally ineffective and may exacerbate recidivism and actually reduce public safety.[9] These findings are consistent with other research from national institutions of renown.[10] Rather than penalty increases, the NIJ, advocates for polices that "increase the perception that criminals will be caught and punished" because such perception is a vastly more powerful deterrent than increasing the punishment.[11]

8) **Argument in Support**: According to the *California State Sheriffs Association*, the bill's sponsor, "Within existing statutes, domestic violence is generally not considered a violent felony despite the inherently violent nature of the offense. The sole exception is if, in commission of an offense, great bodily injury is inflicted. The current statutory composition defies logic and ignores the seriousness and impact of domestic violence offenses.

"Domestic violence continues to create victims across our state. This crime has long-term effects on abused persons, their families, and their communities. It is time that the California criminal justice system re-examine and modify its response to this abhorrent behavior.

"By adding felony domestic violence to the state's list of violent felonies, domestic abusers can face increased penalties that appropriately reflect the severity of their crimes and lifelong harm they inflict upon their victims."

9) **Argument in Opposition**: According to *Smart Justice*, "We agree that the Legislature must enact new policies and programs to better prevent and respond to domestic violence (DV) and intimate partner violence (IPV). It is urgent that the legislature address the shortfall in funding for domestic violence shelters and sexual assault providers resulting from the reduction in federal funding through the Victims of Crime Act (VOCA). This bill, AB 292, however, will not improve public safety or help survivors of domestic violence.

"California law already provides sufficient and appropriate penalties for domestic violence, calibrated based on the facts of the case. If a domestic violence incident involves a deadly weapon or results in great bodily injury, then **the offense is a violent felony and a strike under California's Three Strikes Law**. Courts have held that abrasions or bruises are sufficient to constitute great bodily injury. (*People v. Hood* (2014) Cal.App.4th 1356.) The injury need not be permanent, prolonged or protracted to be considered great bodily injury. (*People v. Woods* (2015), 241 Cal.App.4th 461.) It is not necessary for the victim to seek medical treatment. (*People v. Quinonez* (2020) 260 Cal.Rptr.3d 86.) Indeed, one Court of Appeal has even held that physical force or affirmative action on the part of the convicted

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[7] (https://nij.ojp.gov/about-nij.)
[8] ("Five Things About Deterrence," NIJ, May 2016, available at: https://www.ojp.gov/pdffiles1/nij/247350.pdf].)
[9] (*Ibid.*)
[10] (See Travis, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, National Research Council of the National Academies of Sciences, Engineering, and Medicine, April 2014, at pp. 130 -150 available at: https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1026&context=jj_pubs, [as of Feb. 25, 2022].)
[11] ("Five Things About Deterrence," *supra*.)

person is not required to support a finding of great bodily injury. (*People v. Elder* (2014) 227 Cal.App.4th 411.)

"California law provides appropriate punishment for domestic violence, including categorizing the offense as a violent offense and a strike based on the circumstances of the case."

10) **Prior Legislation**:

a) AB 2470 (Joe Patterson) was identical to this bill. AB 2470 did not receive a hearing in this committee.

b) AB 229 (Joe Patterson) of the 2023-2024 Legislative Session, would have added several felonies to the "Violent Felony" list, including felony domestic violence. AB 229 failed passage in Assembly Public Safety Committee.

c) SB 75 (Bates), of the 2017-2018 Legislative Session, would have created an additional "violent felony" list that includes 20 felonies that are not on the existing list, including felony domestic violence. SB 75 failed passage in the Senate Public Safety Committee.

d) SB 770 (Glazer), of the 2017-2018 Legislative Session, would have created an additional "violent felonies" list with 30 felonies not on the existing list, including felony domestic violence. SB 770 was held in the Senate Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Sheriffs' Association (Sponsor)
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
Calegislation
California Association of School Police Chiefs
California Baptist for Biblical Values
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Reserve Peace Officers Association
Chief Probation Officers' of California (CPOC)
Claremont Police Officers Association
Crime Victims United of California
Culver City Police Officers' Association
Fullerton Police Officers' Association
Hilde B Foundation
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association

Newport Beach Police Association
Orange County Sheriff's Department
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
San Bernardino County Sheriff's Department
Santa Ana Police Officers Association

1 Private Individual

Oppose

ACLU California Action
All of Us or None Los Angeles
Alliance for Boys and Men of Color
Anti Police-terror Project
California Attorneys for Criminal Justice
California Black Power Network
California Public Defenders Association
California Public Defenders Association (CPDA)
Californians for Safety and Justice
Californians United for A Responsible Budget
Dignity and Power Now
Drug Policy Alliance
Ella Baker Center for Human Rights
Fair Chance Project
Freedom 4 Youth
Friends Committee on Legislation of California
Initiate Justice
Initiate Justice Action
Inland Coalition for Immigrant Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 LA County Public Defenders Union
Next Door Solutions to Domestic Violence
Orale: Organizing Rooted in Abolition, Liberation, and Empowerment
Rubicon Programs
Ryse Center
San Francisco Public Defender
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy
South Bay People Power
Uncommon Law
Universidad Popular

Vera Institute of Justice

1 Private Individual

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

Date of Hearing: January 13, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 767 (Alanis) – As Amended January 5, 2026

SUMMARY: Expands areas in which a sexually violent predator (SVP), as specified, may not reside to include within one-quarter mile of a child daycare facility and expands the definition of a private school. Specifically, **this bill**:

1) States that a SVP may not reside within one-quarter mile of a child day care facility if a SVP has been convicted of child molestation or continuous sexual abuse of a child.

2) Defines "private school" as a facility or home that has filed a private school affidavit with the State Department of Education (CDE) that provides private school instruction to any student between 6 to 18 years of age, inclusive, and is publicly listed on the directory maintained by CDE.

3) States a home shall be only considered a private school, as defined, if it was operating as a home school at the time of the SVP's placement. The subsequent establishment of a private school, including a private school that is a home, shall not render an existing placement of an SVP noncompliant.

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

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

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

5) Provides that if the petition is made without the consent of the director of the treatment facility, no action may be taken on the petition without first obtaining the written

recommendation of the director of the treatment facility. (Welf. & Inst. Code, § 6608, subd. (e).)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 767 aims to ensure that families have peace of mind by strengthening protections for all children, regardless of where they learn. Over the past year, I have witnessed firsthand how SVP placement laws have caused fear and anxiety in my district. Children are among our most vulnerable populations, and their safety must always be the top priority. Students who learn at home deserve the same level of protection as those in public schools. California families should feel secure in their own homes—not simply hope that the law will keep them safe. AB 767 is a critical step toward providing the certainty and protection our communities need."

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 laws provided for an initial commitment of two years and then a review every two years thereafter. However, effective September 20, 2006, the law now provides for indeterminate commitments for persons found to be sexually violent predators. (Welf. & Inst. Code § 6604.) A SVP is a person convicted of specified sex offenses against at least one person and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. (Welf. & Instit. Code, § 6600, subd. (a)(1).)[1]

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[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. & Instit. Code, § 6600, subd. (b).)

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. & Instit. Code, § 6600, subd. (c).)

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

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

The burden then shifts to the "offender seeking his or her release from an SVPA commitment" to prove he or she is no longer a significant risk to society. (Ashley Felando (2012) *California's Sexually Violent Predator Act and the Dangerous Patient Exception*, 40 W. St. U.L. Rev. 73, 76; Note (2014) *Examining the Conditions of Confinement for Civil Detainees under California's Sexually Violent Predators Act*, 68 Hastings L.J. 1441, 1444-1446.)

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

3) **DSH SVP Conditional Release Program (CONREP):** The DSH CONREP is described by DSH as follows:

> CONREP is DSH's statewide system of community-based services for court-ordered individuals. Mandated as a state responsibility, CONREP began on January 1, 1986. The SVP Act governs all SVP commitments and releases. Releases from the hospital to the community are either unconditional (direct community discharge) or conditional through CONREP and are court-ordered. CONREP is an intensive community-based treatment, and 24 hours per day monitoring program with gradual steps toward increased community re-entry depending on treatment progress. DSH contracts with Liberty Healthcare to provide SVP CONREP services across the state. SVP CONREP is designed in accordance with best practice standards, called the Risk, Needs, and Responsivity Principles. Research shows that interventions with sex offenders that follow these principles have the greatest reduction in re-offense rates.
>
> Use of a Community Safety Team (CST), a standard practice for providing community supervision and treatment, is the method by which the principles of Risks, Needs, and Responsivity and the Collaboration Model are applied for each patient. Members of the CST include the following: (a) CONREP Regional Coordinator; (b) CONREP Clinical Program Director; (c) Treatment Providers; (d) Victim Advocate; (e) Polygraph Provider; (f) Local law enforcement; (g) Defense attorney; (h) District Attorney; and (i) Others as needed for support, accountability, and/or clinical needs.
>
> The SVP CONREP program utilizes the following supervision and monitoring tools that are carried out by the CST: (a) unannounced and scheduled in person visits onsite and offsite from the residence; (b) collateral contacts and chaperone

> training with significant people in the patient's life; (c) covert surveillance; (d) 24-hour GPS monitoring; (e) monitoring of approved electronics (i.e. phone, computer); (f) random urine screens for illicit substances; (g) unannounced residence, vehicle, and personal property searches; (h) Banking and expense reviews; and (i) approval of schedules, locations of outings, and routes of travel for all time outside of residence. This is verified daily by review of GPS tracking. The GPS system also provides "real time" tracking with instant notification of any violations of the inclusion/exclusion zones developed for the patient. Life skills training, residential placement, and other services needed to support safe and successful community reintegration.

Conditional release of an SVP is complex and time consuming and often engenders strong reactions from those in the community where the SVP will be placed. This complex process has been mired in delays for many years. While tight restrictions on conditionally released SVPs is critical, the number of laws that restrict housing has created an untenable reality where a court can no longer deprive someone of their constitutional liberty, but there is nowhere for an SVP t reside outside the facility.

4) **"County of Domicile":** An SVP conditionally released for outpatient supervision and treatment 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. (Welf. & Inst. Code, § 6608.5, subd. (a)(1).) The county of domicile is the county where the person has their true, fixed, and permanent home and principal residence and to which they have manifested the intention of returning whenever they are absent. (*Id.*)

   For purposes of determining the county of domicile, the court may consider information found on a California's driver's license, California identification card, recent rent or utilities receipt, printed personalized checks or other recent banking documents, or any arrest record. If no information can be verified, the county of domicile shall be considered the county in which the person was arrested and convicted or last returned on parole. (Welf. & Inst. Code, § 6608.5, subd. (b)(1).) If that county is not suitable, the court, DSH, and CDCR may choose alternative county for placement.

   Based on input from local law enforcement, a court may approve, modify, or reject the recommended or proposed specific address within that community or proposed specific address within that community. A court could approve a specific city but reject a specific address in that city. Therefore, simply having a verified address is not sufficient to satisfy the terms of a conditional release. The city and the address must be approved by the court. (See Welf. & Inst. Code, 6609.1, subd. (a)(5)A).) Furthermore, agencies receiving notice of an SVP's placement in a specific county may comment on the placement or location of release and may suggest alternative locations for placement within a community. (Welf. & Inst. Code, § 6609.1, subd. (a)(5)(A) and (b).)

   Based on the all the evidence, the court determines whether approve, reject, or modify the terms of conditional release. Welfare and Institutions Code section 6609.1 requires a community be given 30 days' notice if an SVP is pending conditional release in that

community. (Welf. & Inst. Code, § 6609.1, subd. (a)(4).) Notice includes the name and proposed placement address before an SVP is released into the community.

Identifying the county of domicile for an SVP is challenging because in many cases, these individuals have been incarcerated for years – first in state prison and then on civil commitment. There may be no evidence of county of domicile. The SVPA was enacted in 1996 – and used very heavily in the last 15 or 20 years. If an SVP was originally from Hancock Park in Los Angeles in the 1990s – returning to Los Angeles may not be an option because a SVP cannot live near a school or park, or be anywhere children regularly congregate. There may also be additional stay away orders in place that prevent placement in certain areas.

A finding that a person is eligible for conditional release really eliminates the legal grounds for holding the person in custody. Again, civil commitment is not a prison sentence wherein a grant of parole may be determined by examining the offender and the nature of the offense. It is a mental health diagnosis wherein the goal of commitment is to treat the mental illness so the person may ultimately be released into the community. (*Hubbart v. Superior Court* (1999) 19 Cal.4th 1138, 1171 ["Here, for instance, the Legislature disavowed any 'punitive purpose [],' and declared its intent to establish 'civil commitment' proceedings in order to provide 'treatment' to mentally disordered individuals who cannot control sexually violent criminal behavior. The Legislature also made clear that, despite their criminal record, those eligible for commitment and treatment as SVP's are to be viewed 'not as criminals, but as sick persons.' Consistent with these remarks, the SVPA was placed in the Welfare and Institutions Code, surrounded on each side by other schemes concerned with the care and treatment of various mentally ill and disabled groups."].)

Also, conditional release requires weekly individual contact with the SVP, group treatment, and weekly drug screening. It may also include polygraph examinations, anti-androgen therapy, GPS tracking, increased supervision through random visits, and community notification.

5) **California Sex Offender Management Board (CASOMB):** On September 20, 2006, Governor Schwarzenegger signed Assembly Bill 1015 (Chu), which created the CASOMB. The author of that bill proposed the CASOMB because after several years of contentious changes to the sex offender and SVP laws, California was left with a patchwork of standards that seemed to ignore best practices in offender management and ultimately, make communities less, not more, safe. The author of AB 1015 stated:

> "Sex offenders in California are currently managed through a complex system involving multiple state and local departments. Yet, there is no centralized infrastructure that coordinates communication, research or decision-making amongst the various agencies. … Almost all convicted sex offenders will eventually return to the community, with a short period of time under direct supervision, either on parole, probation or conditional release. It is integral that during this period of time when sex offenders are under direct supervision, there is a comprehensive and cohesive network of interventions available to control the behavior of sex offenders and prevent recidivism.

> This bill will bring the major participants in the management of sex offenders together to assess current practices in managing adult sex offenders under supervision, identify best practices and make recommendations on how to implement these changes. Efforts such as the one proposed in this bill has been met with much success in other states and within California counties, including San Diego County, Orange County, Colorado, Oregon, Connecticut and Pennsylvania."[2]

The CASOMB website summarizes its mission of addressing issues, concerns and problems related to community management of adult sex offenders by identifying and developing recommendations to improve policies and practices. CASOMB also notes that most of the time, the dangers of child sexual abuse is often living in their own homes or are part of their community.

While it is commonly believed that most sexual assaults are committed by strangers, the research suggests that the overwhelming majority of sex offenders victimize people known to them; approximately 90 percent of child victims know their offenders, as do 80 percent of adult victims.[3] The CASOMB issues annual reports to the Legislature on national best practices in the management of sex offenders in the community, including SVPs, and makes recommendations. As explained below, it has repeatedly warned against expanding residence restrictions.

6) **Issues Facing the SVPA:** This bill proposes to expand the existing residence restrictions for conditionally released SVPs to within one-quarter mile of a daycare and expands the definition of private school. As explained above, conditionally released SVPs are closely monitored in the community and may be returned to in-patient status for any violation of the conditions of release. Also explained above, existing law states an SVP may be placed on conditional release if the court determines a person would not present a danger to others due to their diagnosed mental disorder while under supervision and treatment in the community. Supervised community release is for an initial period of one year.

   Quite simply, once a person is deemed no longer a threat to public safety, constitutional due process largely demands that the person be released into the community. (See Welf. & Inst. Code, § 6608, subd. (d); *People v. Otto* (2001) 26 Cal.4th 200, 209.) Once the court determines an SVP should be placed in a conditional release program, the community program director must 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.

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[2] Assm. Com. on Public Safety, on AB 1015 (2006 Reg. Sess.), January 10, 2006, located at https://lis.calegis.net/LISWeb/faces/bills/billanalysis.xhtml;jsessionid=OMiBPf4b0n6klGVGgtZ6WdS4edZw7UvERft9bnurJBhA5f_7jQLf!93566180!33372586

[3] Kilpatrick, D.G., Edmunds, C.N., & Seymour, A.K. (1992) Rape in America: A Report to the Nation. Arlington, VA: National Victim Center.

The CASOMB pointed out that the inability to find suitable housing for conditionally released SVPs in their county of domicile only increases the chances that SVPs will be placed in other communities that may be more rural. Rural communities may present challenges in the effective monitoring of SVPs.[4]

In response to AB 201 (Brough), of the 2015-2016 Legislative Session, which proposed to let local agencies adopt their own residence restrictions, the CASOMB submitted a letter in opposition wherein it stated "Based upon knowledge of the research and scientific evidence related to policies such the ones proposed by AB 201, CASOMB has previously concluded that policies creating these types of restrictions are not effective and, in fact, actually increase the risk of sexual recidivism." CASOMB submitted a white paper outlining the research supporting their position.

In support of the statement that residence restrictions actually make communities less safe because they increase the risk of sexual recidivism, some yet-unpublished research recently conducted as part of a 2016 California study provides data showing that about 18% of sexual re-offenses in the probation group of registered sex offenders were committed by individuals who were registered as transients at the time of arrest on the new sex offense. Even more striking is the finding that 29% of sexual re-offenses in the parolee sex offender group were committed by individuals who were registered as transients at the time of re-arrest.

Since transient sex offenders make up only about 8% of the overall population of sex offenders living in California communities, it is obvious that the rate of reoffending among those who are transient seems disproportionately high. A substantial body of criminal justice research supports the fact that "lifestyle stability" is a "protective factor" and that anything which undermines such stability amplifies the risk of reoffending.[5]

As previously stated, once a court rules a person is no longer a danger to the community, they must be placed on conditional release even if the DSH has not been successful in finding appropriate housing. This catch-22 was demonstrated by *People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774, 784. In *Karsai*, the defendant was designated an SVP in 1998 and scheduled for conditional release in 2012 in County of Santa Barbara. However, Santa Barbara County was unable to find any suitable housing for Karsai and argued that he either could not be conditionally released or should be released to another county. The court found Santa Barbara was Karsai's county of domicile. Santa Barbara objected and argued San Luis Obispo was Karsai's county of domicile and he should be released there. Santa Barbara also argued because it had no place to house Mr. Karsai, the SVPA prevented the court from releasing him as a transient.

The court further held in *Karsai* that the SVPA **does not** prevent release of an SVP even as a transient particularly where the court ruled Santa Barbara was the county of domicile. The court reasoned that portions of the SVPA may prevent transients from being released into a county other than the county of domicile, but not if a person is released into their own county. (*Karsai, supra,* 213 Cal.App.4th at 788.) Santa Barbara brought a writ of mandate

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[4] See CASOMB Year-End Report 2023 "Sexually Violent Predator Project: Conditional Release Program Housing and Community Placement Barriers," located at https://casomb.org/index.cfm?pid=1214

[5] CASOMB Letter Regarding Residence Restrictions, February 2015, located at https://casomb.org/index.cfm?pid=1214

arguing that the SVPA prohibited Karsai's release as a transient. First, the court held that an SVP may only be placed on conditional release if a court determines they will pose no danger to others if ordered into an outpatient supervision program and will no longer be an SVP with supervision and treatment.

A finding that a person is eligible for conditional release really eliminates the legal grounds for holding the person in custody. Again, civil commitment is not a prison sentence wherein a grant of parole may be determined by examining the offender and the nature of the offense. It is a mental health diagnosis wherein the goal of commitment is to treat the mental illness so the person may ultimately be released into the community.

> Here, for instance, the Legislature disavowed any 'punitive purpose [],' and declared its intent to establish 'civil commitment' proceedings in order to provide 'treatment' to mentally disordered individuals who cannot control sexually violent criminal behavior. The Legislature also made clear that, despite their criminal record, people eligible for commitment and treatment as SVP's are to be viewed 'not as criminals, but as sick persons.' Consistent with these remarks, the SVPA was placed in the Welfare and Institutions Code, surrounded on each side by other schemes concerned with the care and treatment of various mentally ill and disabled groups." (*Hubbart v. Superior Court* (1999) 19 Cal.4th 1138, 1171.)

Since this bill proposes even more residence restrictions than the status quo, including expanding the definition of private schools, there is more of a chance that the SVP will be released as a transient - making our communities less safe.

7) **State Audit Report:** In both 2019 and 2024, the California State Auditor's Office (CSA) reported on the rates of success in the conditional release program for SVPs. Since the beginning of the SVPA in 2003, only 56 people have been released into the community on supervised release. Since 2003, only two people have committed any new offenses, and both those individuals committed new offenses while on release – one for possession of child pornography for which he was returned to custody and one failed to timely register as a sex offender.[6] However, individuals unconditionally released, meaning they were deemed by the courts not to have a diagnosed mental disorder re-offend at a higher rate. Those individuals are not supervised in the community because they have long since ended their period of imprisonment and parole. [7]

The evidence amassed by the CSA clearly indicates that public safety is greater served through a process of conditional release. However, because SVP status is a civil commitment based on a diagnosed mental condition, once a person is determined not to have a mental condition, they must be released from custody. That is the only way the SVPA is constitutional. (*Kansas v. Hendricks* (1997) 521 U.S. 346, 358 ["A finding of dangerousness, standing alone, is ordinarily not a sufficient ground upon which to justify indefinite involuntary commitment. We have sustained civil commitment statutes when they have

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[6] California State Audit Report No. 2023-130, p. 9 located at https://www.auditor.ca.gov/reports/2023-130/
[7] See Ibid.

coupled proof of dangerousness with the proof of some additional factor, such as a "mental illness" or "mental abnormality."].) The harder the Legislature makes it to allow for conditional release, the more likely it is people will be released by the courts unconditionally and the SVPA deemed unconstitutional.

The CSA also noted that, although DSH is required to place someone on conditional release within 30 days of a court order for supervised community release, it often takes 17 months to secure housing for the person on release.[8] Courts have consistently held that SVPs deemed eligible for conditional release, cannot be detained for months at a time without violating due process. (See *Karsai, supra,* 213 Cal.App.4th at 788.) CSA recommended transitional housing supervised by DSH that allows SVPs on conditional release to begin living in a less restrictive housing while DSH and its private contractor Liberty Healthcare, to locate permanent housing.

7) **Private Schools:** Any person who desires to establish a private school, either in their home or somewhere else, must file an affidavit annually stating the business name, the address, the address of the custodian of records, the school enrollment, number of teachers, and whether it is co-educational and if not, whether it is for boys or girls, that records are properly maintained, and that all required criminal background checks have been completed. (Ed. Code, § 33190, subd. (a-f).)

   Private school teachers are not required to obtain a state teaching credentialing but are required to undergo a background check. Private facilities are also not subject to mandatory attendance laws.[9] People may file a private school affidavit (PSA) online with the California Department of Education (CDE) and is easy to do. CDE makes clear that it does not endorse or authorize any private school and certifies only that it complies with the PSA requirements.[10]

   All that is required for a PSA is a statement under penalty of perjury of the specifics of the school even if it only being established for purposes of preventing SVP placement. According to CDE, there are approximately 500,000 students enrolled in a total of 3134 private schools statewide. However, CDE only compiles information on private schools with six or more students. This bill has recently been amended to state that the definition of private school includes any school that has six or more students and has an address publicly available on the CDE website.

8) **Argument in Support**: According to the *Los Angeles County Board of Education*: Keeping individuals convicted of sexual misconduct away from schools and childcare facilities is critical to protecting children and reducing the risk of victimization. Sexual assault can have devastating and long-term effects, leading to emotional trauma and disrupting a child's

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[8] Id., at 13-14.
[9] See generally, https://www.cde.ca.gov/sp/ps/affidavit.asp
[10] The CDE website states: "Filing the PSA shall not be interpreted to mean, and it shall be unlawful for any school to expressly or impliedly represent by any means whatsoever, that the State of California, the State Superintendent of Public Instruction, the State Board of Education, the CDE, or any division or bureau of the Department, or any accrediting agency has made any evaluation, recognition, approval, or endorsement of the school or course unless this is an actual fact. Filing the PSA does not mean that the State of California or any accrediting agency has granted a license or authorization to operate a school.

development. By expanding existing safety measures, this bill reinforces California's commitment to preventing sexual predators from accessing vulnerable populations and strengthens policies that prioritize child safety.

The safety of all learners is paramount, and LACOE commends the Legislature's ongoing efforts to ensure that early learning is included as part of the broader educational continuum. Steps like these not only safeguard students but also provide peace of mind to parents, educators, and the broader community. Additionally, implementing this measure would align with California's broader efforts to promote child welfare and ensure that public policy reflects the evolving understanding of child safety. Strengthening safeguards around educational and childcare environments acknowledges the importance of comprehensive, proactive measures that mitigate risks before they become incidents. This bill is a logical and necessary extension of existing protections and underscores the Legislature's commitment to fostering a secure learning environment for all children.

9) **Argument in Opposition**: According to *Ella Baker Center for Human Rights*: We know that many people who return home from incarceration face extreme barriers to reintegrating into society as they work to find stable jobs and housing. 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 these 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 to find housing that is compliant with Jessica's Law, given the number of schools and parks in many of our California cities already.

When compliant housing is located, public pressure is often placed on landlords willing to rent to conditionally released patients, often through 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, individuals must 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. AB 767 (Alanis) seeks to make the process of releasing an individual who has already been found to be safe under supervision even more difficult by expanding the restrictions on where they could be released to not within a quarter mile of child daycare facilities or private home schools.

The Ella Baker Center respectfully asserts that furthering the punishment and barriers to reentry housing for any formerly incarcerated person is not in the interest of community safety, healing, or justice for survivors. Increasing barriers to stable housing and reentry for people who have already been found suitable for release will only increase the hurdles to freedom and successful reentry. We do not need increased punishment; instead, we need greater investment in schools, jobs, mental health, and other services that can prevent acts of violence. This bill will further exacerbate inequities and destabilize community members who are attempting to find stable housing, as a necessary step toward successfully reentering society.

10) **Related Legislation:**

a) AB 22 (DeMaio) requires, among other things, DSH to approve a potential placement before a department employee or vendor proposes a potential placement to a court, including signing a lease or rental agreement regarding the placement of a SVP who is scheduled to be conditionally released into the community. AB 22 was referred to, but never heard in, this committee.

b) SB 379 (Jones) states that the DSH is responsible for ensuring that department vendors consider public safety in the placement of a conditionally released SVPs. SB 379 was held on the Assembly Appropriations Committee suspense file.

c) SB 380 (Jones), Chapter 581, Statutes of 2025 requires the DSH to conduct an analysis of the benefits and feasibility of establishing transitional housing facilities for the CONREP for SVPs.

11) **Prior Legislation**:

a) AB 763 (Davies) of the 2023-24 Legislative Session, would have prohibited placing an SCP released on conditional release within 1/4 mile of a home school. AB 763 was referred to this committee but never heard.

b) AB 2035 (Patterson), of the 2023-24 Legislative Session, would have prohibited the DSH from placing a conditionally released SVP into the community if the person does not have housing in a qualified dwelling, which is defined as a structure intended for human habitation by one person or a single family and that is not within 10 feet of another dwelling. AB 2035 failed passage in this committee.

c) SB 841 (Jones), of the 2021-22 Legislative Session, would have enacted the Sexually Violent Predator Accountability, Fairness, and Enforcement Act, would have required the DSH to take specified actions regarding the placement of SVPs in communities, including notifying the county's executive officer of the placement location, as specified. SB 841 failed passage in the Senate Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Narcotic Officers' Association
California Reserve Peace Officers Association
Claremont Police Officers Association
Corona Police Officers Association

Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles County Office of Education
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside County Sheriff's Office
Riverside Police Officers Association
Riverside Sheriffs' Association

Opposition

ACLU California Action
California Public Defenders Association (CPDA)
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Initiate Justice
Justice2jobs Coalition
LA Defensa
Smart Justice California, a Project of Tides Advocacy

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

Date of Hearing: January 13, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1281 (DeMaio) – As Amended January 5, 2026

SUMMARY: Increases the punishment for failing to stop and perform certain duties at the scene of an accident resulting in death or permanent, serious injury from an alternate felony-misdemeanor to a felony punishable by seven, eight, or nine years in state prison. Specifically, **this bill**:

1) Increases the punishment for a driver involved in an accident resulting in death or permanent, serious injury to another person who fails to stop at the scene of the accident and perform certain duties from an alternative felony-misdemeanor, punishable by 90 days to one year in county jail or two, three, or four years in state prison, to a straight felony punishable by seven, eight, or nine years in state prison.

2) Removes the court's discretion for the above offense to, in the interests of justice and for reasons stated in the record, reduce or eliminate the minimum imprisonment required for this offense, and to reduce the minimum fine to less than the amount otherwise required for this offense.

EXISTING LAW:

1) Requires the driver of a vehicle involved in an accident resulting in injury to another person to immediately stop the vehicle at the scene of the accident and to fulfill specified requirements, including providing identifying information and rendering reasonable assistance. (Veh. Code, §§ 20001, subd. (a); 20003.)

2) Provides that, except as specified, fleeing the scene of an accident resulting in injury to another is punishable by 16 months, two, or three years in state prison, or by imprisonment in a county jail not to exceed one year, or by a fine of not less than $1,000 nor more than $10,000, or by both a fine and imprisonment. (Veh. Code, § 20001, subd. (b)(1).)

3) Provides that fleeing the scene of an accident which results in permanent, serious injury or death to another, is punishable by imprisonment in state prison for two, three, or four years, or in county jail for not less than 90 days nor more than one year, or by a fine between $1,000 and $10,000, or by both a fine and imprisonment. (Veh. Code, § 20001, subd. (b)(2).)

4) Allows the court, in the interests of justice, to reduce or eliminate the minimum term of imprisonment required for a conviction of fleeing the scene of an accident that causes death or permanent, serious injury. (Veh. Code, § 20001, subd. (b)(2).)

5) Requires the court to take into consideration the defendant's ability to pay in imposing the minimum fine required, and, in the interests of justice, the court may reduce the amount of

the fine below the required minimum. (Veh. Code, § 20001, subd. (b)(3).)

6) States that a person who flees the scene of an accident after committing gross vehicular manslaughter, gross vehicular manslaughter while intoxicated, or vehicular manslaughter while intoxicated, upon conviction for that offense, shall be punished by an additional term of five years in the state prison. This additional term runs in addition to and consecutive to the prescribed punishment. (Veh. Code, § 20001, subd. (c).)

7) Defines "permanent, serious injury" as the loss or permanent impairment of the function of a bodily member or organ. (Veh. Code, § 20001, subd. (d).)

8) Defines "gross vehicular manslaughter" as the unlawful killing of a human being, without malice aforethought, in driving a vehicle in the commission of an unlawful act, not amounting to a felony, and with gross negligence, or in driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence. This offense is punishable by imprisonment in a county jail for not more than one year, or in the state prison for two, four, or six years. (Pen. Code, §§ 192, subd. (c)(1); 193, subd. (c)(1).)

9) Defines "gross vehicular manslaughter while intoxicated" as the unlawful killing of a human being, without malice aforethought, while driving a vehicle while intoxicated, and the killing was either a proximate result of an unlawful act, not amounting to a felony, and with gross negligence, or the proximate result of a lawful act that might produce death, in an unlawful manner, and with gross negligence. Gross vehicular manslaughter while intoxicated is punishable by four, six, or 10 years in state prison. (Pen. Code, § 191.5.)

10) Provides for an additional punishment of three years when great bodily injury (GBI) is inflicted during the commission of a felony and where GBI is not an element of the offense, although this is inapplicable to murder or manslaughter. (Pen. Code, § 12022.7, subds. (a) & (g).)

11) Provides that the additional punishment described above increases to five years if the victim becomes comatose due to brain injury or suffers permanent paralysis or if the victim is 70 years of age or older, and up to six years if the victim is a child under five years of age. (Pen. Code, § 12022.7, subds. (a)-(d).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Currently, there is not sufficient enough punishment for negligent drivers who have committed a hit and run that has resulted in the loss of life. The inadequate punishment results in victims families feeling as though the legal system does not properly value the life of their loved one, and losing faith in the legal system. AB 1281 would increase the minimum punishment for hit and runs resulting in death, and would make sure the punishment fits the crime."

2) **Effect of this Bill**: The offenses described in Vehicle Code section 20001 are commonly known as "hit and runs." To prove a violation of a hit and run resulting in permanent, serious

injury or death the prosecution must establish that: (1) the defendant was involved in a vehicle accident while driving; (2) the accident caused permanent, serious injury or death to another; (3) the defendant knew that they were involved in an accident that injured another person, or knew from the nature of the accident that it was probable that another person had been injured; and, (4) the defendant willfully failed to perform one or more duties, including immediately stopping at the scene, providing reasonable assistance to any injured person, providing specified identifying information, showing a driver's license upon request, and notifying the applicable law enforcement entity. (2 CALCRIM 2140 (2025).)

The hit and run statute "merely addresses the duties of a driver, however otherwise innocent, once the accident and its attendant injuries have occurred." (*People v. Wood* (2000) 83 Cal.App.4th 862, 866.) "The purpose of [the statute] is to prevent the driver of an automobile from leaving the scene of an accident in which he participates or is involved without proper identification and to compel necessary assistance to those who may be injured. The requirements of the statute are operative and binding on all drivers involved in an accident regardless of any question of their negligence respectively." (*People v. Scofield* (1928) 203 Cal. 703, 708.) In other words, this offense does not require that a person drive impaired, recklessly, or negligently. A driver's post-accident duties apply regardless of who was at fault for the accident. Accordingly, a hit-and-run may involve a driver who is involved in an accident in which they were not at fault but, for whatever reason, left the scene.

If the accident results in injury to another person, the offense is punishable by up to one year in county jail or 16 months, two, or three years in state prison. (Veh. Code, § 20001, subd. (b)(1).) However, if the accident results in death or permanent serious injury, it is punishable by 90 days to one year in county jail, or two, three, or four years in state prison. (*Id.* at § 20001, subd. (b)(2).) This bill would increase the punishment for failing to stop and perform certain duties following an accident resulting in death or permanent, serious injury to another person, from an alternative felony-misdemeanor to a straight felony punishable by seven, eight, or nine years in prison. It also removes the court's discretion to, in the interests of justice and for reasons stated in the record, reduce or eliminate the minimum imprisonment for this offense, and to reduce the minimum fine required for this offense.

3) **Disproportionate Punishment for Vehicle-Related Crimes Causing Death:** This bill contemplates a significant penalty increase, more than doubling the current maximum four-year prison term for this offense. This may create disproportionate and inconsistent criminal penalties by punishing a hit and run more harshly than other, arguably more serious, vehicle-related offenses that result in death. For example, gross vehicular manslaughter, an offense that requires greater harm (death) and culpability (gross negligence and unlawful behavior) than a hit and run, is punishable as a wobbler by up to one year in county jail or two, four, or six years in state prison. (Pen. Code, §§ 192, subd. (c)(1); 193, subd. (c)(1).) This bill would make the *minimum* prison term for a hit and run, irrespective of whether that person caused the accident, higher than the *maximum* prison term for a person who kills someone while driving unlawfully and with gross negligence.

Consider the crime of gross vehicular manslaughter while intoxicated: an offense that similarly requires greater harm (death) and culpability (gross negligence, intoxication, and unlawful behavior) than a hit and run, and which is punishable by four, six, or 10 years in state prison. (Pen. Code, § 191.5, subds. (a), (c).) This bill would make the low term (seven years) and middle term (eight years) for a hit and run higher than those for gross vehicular

manslaughter while intoxicated (four years and six years, respectively). (Pen. Code, § 191.5, subd. (c)(1).) Given that courts may not order a sentence exceeding the middle term unless there are specified aggravating factors, under this bill, a person convicted of a hit and run involving permanent, serious injury or death would typically serve more time than a person convicted of gross vehicular manslaughter while intoxicated. (Pen. Code, § 1170, subd. (b)(2).) Should a person who gets into a car accident that was not their fault, that involves serious injury, but who panics and leaves the scene, receive a higher prison term than a person who kills someone while driving intoxicated, unlawfully, and with gross negligence?

It may be helpful to consider the prison terms for other serious crimes unrelated to driving. For example, this bill punishes an offense that can currently be prosecuted as a misdemeanor more severely than the crime of rape, one of society's most heinous crimes, which is listed on the violent felonies list. (Pen. Code, § 667.5, subd. (a)(3).) The seven, eight, or nine-year sentence proposed by this bill is far greater than the three, six, or eight-year term associated with a rape conviction (Pen. Code, § 264, subd. (1).)

4) **Increased Penalties and Lack of Deterrent Effect:** According to the National Institute of Justice (NIJ), "Laws and policies designed to deter crime by focusing mainly on increasing the severity of punishment are ineffective partly because criminals know little about the sanctions for specific crimes. "More severe punishments do not 'chasten' individuals convicted of crimes, and prisons may exacerbate recidivism."[1] Rather than penalty increases, the NIJ emphasizes the need for policies that "increase[] the perception that criminals will be caught and punished" because "[t]he *certainty* of being caught is a vastly more powerful deterrent than the punishment." [2]

   In a 2014 report, the Little Hoover Commission similarly addressed the disconnect between science and sentencing – that is, "put[ting] away offenders for increasingly longer periods of time, with no evidence that lengthy incarceration, for many, brings any additional public safety benefit."[3] Accordingly, while this bill guarantees greater punishment for hit-and-run drivers, it is unclear whether it will effectively prevent hit-and-run behavior.

5) **Argument in Support**: According to the *California Police Chiefs Association*, "Current law does not have sufficient punishment for drivers of vehicles who commit a hit and run that results in a permanent serious injury or death. The minimum punishment is no less than 90 days in county jail or no less than a $1,000 fine. The maximum punishment doesn't add much to fit the crime, as it is either 4 years in prison, a $10,000 fine, or some combination of both. AB 1281 proposes harsher punishments, including longer prison sentences and higher fines. The bill aims to ensure greater accountability for individuals involved in accidents that result in permanent harm. The bill's objective is to deter negligent and reckless behavior, ensuring that individuals who cause significant harm do not evade responsibility, ultimately promoting justice and protection for victims.

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[1] National Institute of Justice, U.S. Department of Justice, *Five Things about Deterrence* (June 5, 2016) https://nij.ojp.gov/topics/articles/five-things-about-deterrence.
[2] *Ibid.*
[3] Little Hoover Commission, *Sensible Sentencing for a Safer California* (Feb. 2014) at p. 4, https://lhc.ca.gov/wp-content/uploads/Reports/219/Report219.pdf

"As law enforcement professionals dedicated to ensuring justice and public safety, we believe that AB 1281 represents a crucial step in reaffirming California's commitment to victim-centered justice."

6) **Argument in Opposition**: According to *ACLU California Action*, "AB 1281 [] would remove a court's discretion when punishing a person who leaves the scene of an accident resulting in death or permanent, serious injury, instead requiring a blanket punishment of 7, 8, or 9 years in state prison – even if the driver is not at fault.

"Recognizing that the broad universe of culpability that may be involved in car accidents that result in serious injury or death, current law provides courts discretion in imposing a sentence. On one hand, there may be an at-fault driver who leaves the scene for fear of persecution. On the other hand, there may be a driver who is not at-fault, but who left the scene during their state of shock, without any knowledge of the condition of the at-fault driver. Because California's prohibition on leaving the scene of an accident applies in both situations, current law allows courts to impose a sentence of up to 4 years, while also allowing a court to reduce or eliminate a sentence in the interests of justice. Instead of allowing courts to impose sentences as appropriate for different cases, AB 1281 requires courts to impose a 7-, 8-, or 9-year prison term in every situation.

"In situations involving a driver who was not at-fault for the accident and who has no knowledge of the condition of the at-fault driver, AB 1281's mandatory sentencing is incredibly unjust. Yet, the bill removes the court's authority to eliminate or reduce sentences in the interest of justice, thereby forcing a court to impose this unreasonable sentence on the individual. This scheme of imposing a 7-, 8-, or 9-year sentence on an individual with no criminal culpability runs afoul the Eight Amendment's prohibition on cruel and unusual punishment.

"In situations involving a driver who is at-fault for the accident, AB 1281 remains problematic. It is important to note that the part of the Vehicle Code the bill would amend only punishes the act of driving away from the scene, the Penal Code applies to any underlying crime. For example, under the Penal Code, a person guilty of vehicular manslaughter may be sentenced up to 10 years in prison. The Vehicle Code's current 4-year term for leaving the scene of the punishment would be in addition to this underlying 10-year term. AB 1281 turns this sentencing scheme on its head by requiring the punishment for leaving the scene of the crime be 7, 8, or 9 years of incarceration on its own, regardless of any underlying Penal Code violations. Again, because AB 1281 ties a court's hands, this mandatory sentencing would apply in every situation where a person fled the scene of the accident, without any consideration whether the driver intended to cause an accident or if they had any knowledge that the accident resulted in serious injuries.

"Harsh sentencing schemes do not improve public safety, nor do they make victims whole. Extensive research has demonstrated, and the Federal Department of Justice has provided guidance, that increased penalties do not deter future crimes. Other studies confirm this by concluding the severity of punishment does not generally have an increased effect on deterrence. Rather, the conclusion is that certainty of punishment—that someone will be punished for a particular crime — has a greater deterrence effect than the severity of the punishment itself.

"With the state spending $133,110 per year to incarcerate one person, these increased penalties are unnecessary and will drain taxpayer dollars. If AB 1281 were to become law, each time a person is convicted of this mandatory sentencing scheme, it will cost taxpayers nearly $1.2 million for each conviction, without accounting for future inflation. We encourage lawmakers to instead invest in direct financial, emotional, and medical assistance to victims and their families so that they can fully heal from their trauma."

7) **Related Legislation**: AB 1193 (Gipson) removes the statute of limitations for a hit and run resulting in death or permanent serious injury. AB 1193 was never heard in this Committee.

8) **Prior Legislation**:

   a) AB 1067 (Jim Patterson), of the 2023-2024 Legislative Session, would have increased the penalties for fleeing the scene of an accident resulting in the death of another person from an alternate felony-misdemeanor with a maximum punishment of four years in state prison, to an alternate felony-misdemeanor having a maximum punishment of six years in the state prison. AB 1067 was held in Assembly Appropriations Committee.

   b) AB 582 (Jim Patterson), of the 2021-2022 Legislative Session, was substantially similar to AB 1067, above. AB 582 was held in the Assembly Appropriations Committee.

   c) AB 195 (Jim Patterson), of the 2019-2020 Legislative Session, as amended in the Senate, was substantially similar to AB 1067, above. AB 195 failed passage in the Senate Public Safety Committee.

   d) AB 2014 (E. Garcia), of the 2017-2018 Legislative Session, would have increased the penalty for fleeing the scene of an accident resulting in death or serious bodily injury from two, three, or four years in state prison to two, four, or six years in state prison. The hearing in this committee on AB 2014 was canceled at the request of the author.

REGISTERED SUPPORT / OPPOSITION:

Support

California Police Chiefs Association
California State Sheriffs' Association

Opposition

ACLU California Action
California Attorneys for Criminal Justice
California Public Defenders Association
California Public Defenders Association (CPDA)
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Initiate Justice
Initiate Justice Action
Justice2jobs Coalition

LA Defensa
San Francisco Public Defender
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Tides Advocacy

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

Date of Hearing: January 13, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

RECONSIDERATION

VOTE ONLY

AB 1092 (Castillo) – As Amended March 13, 2025

SUMMARY: Extends the duration of a concealed carry firearms permit from two years to three years, beginning on January 1, 2026, and from three years to four years, beginning on January 1, 2027.

EXISTING LAW:

1) Establishes that a concealed carry firearms permit issued by designated local officials is valid for two years from the date of the license, excluding the process for amending a license for an applicant's change of address, as defined. (Pen. Code, § 22620, subd. (a).)

2) States that if a licensee's place of employment or business was the basis for issuance of a license, the license is valid for any period of time not to exceed 90 days from the date of the license, the license shall be valid only in the county in which the license was originally issued, the licensee shall give a copy of this license to the licensing authority of the city, county, or city and county in which the licensee resides, and the licensing authority that originally issued the license shall inform the licensee verbally and in writing in at least 16-point type of this obligation to give a copy of the license to the licensing authority of the city, county, or city and county of residence. (Pen. Code, § 22620, subd. (b).)

3) Requires that any application to renew or extend the validity of, or reissue, the license may be granted only upon the concurrence of the licensing authority that originally issued the license and the licensing authority of the city, county, or city and county in which the licensee resides. (Pen. Code, § 22620, subd. (b).)

4) Provides that a concealed carry firearms license or license renewal, to carry a pistol, revolver, or other firearm capable of being concealed upon the person, shall be issued or reissued by the sheriff upon proof submitted by the licensee, as defined. (Pen. Code, § 26150.)

5) Provides that a concealed carry firearms license or license renewal, to carry a pistol, revolver, or other firearm capable of being concealed upon the person, shall be issued or reissued by the chief or other head of a municipal police department of any city or city and county upon proof submitted by the licensee, as defined. (Pen. Code, § 26155.)

6) Authorizes a person issued a license pursuant to this article to apply to the licensing authority for an amendment to the license to add or delete authority to carry a firearm, authorize a person to carry a firearm, authorize the licensee to carry loaded and exposed in only that county a pistol, revolver, or other firearm capable of being concealed upon the person, and

change any restrictions or conditions on the license, including restrictions as to the time, place, manner, and circumstances under which the person may carry a pistol, revolver, or other firearm capable of being concealed upon the person. (Pen. Code, § 26215, subd. (a)(1)-(4).)

7) Provides that if the licensing authority amends the license, a new license shall be issued to the licensee reflecting the amendments. (Pen. Code, § 26215, subd. (b).)

8) States that an amendment to the license does not extend the original expiration date of the license and the license shall be subject to renewal at the same time as if the license had not been amended. (Pen. Code, § 26215, subd. (c).)

9) Establishes defined conditions for amending a license due to a change of address. (Pen. Code, § 26210.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California's two-year renewal cycle for CCW licenses unfairly penalizes law-abiding citizens with greater costs to maintaining an active license and creates extra hassle for responsible gun owners while straining local government resources. AB 1092 fixes this by extending the license term to four years, cutting down on paperwork, saving taxpayer money, and making the process more efficient -- all without lowering safety standards -- bringing CCW licenses in line with other types of important permits in the state, as well as the CCW license policies of nearly every other state across the country."

2) **Effect of the Bill**: This bill would ultimately extend the duration of a concealed carry license from two years to four years.

   For one year, this bill would authorize licensees to secure a three-year license, while licensees would be authorized to secure a four-year license beginning on January 1, 2027. Extending the license duration to three years for only a single year has the potential to distort the normal ebbs and flows of license applications. By including the one-time three-year license option, many applicants could opt to wait until the next year to secure a four-year license knowing that option is soon to be available. This could create pent up demand, which could create backlogs.

   In contrast, by extending the license duration, there could be longer-term benefits to processing efficiency by what may be a reduction over time in the number of license and renewal applications received each year. Arguably, administrative processing burdens may be eased by extending the license duration period. While staggering the renewal cycle could create pent up demand, it could also create longer-term consistency in the application cycle by issuing new licensees who may want to immediately take advantage of the longer permitting cycle.

We have witnessed a recent example at the federal level of issues that can be created by distorted application cycles producing pent up demand, which then produce significant application backlogs.

At the outset of the Covid-19 pandemic the United States State Department faced an unprecedented collapse in demand for passports as the Department initially declined to issue passports except in life or death emergencies[1] and the stay-at-home orders across most of the country depressed demand for passports.[2] Like passports, concealed carry licenses are issued by government agencies and generally require some amount of processing time to make individualized determinations of whether the document will be issued. Following the rescission of stay-at-home orders, pent up demand for travel caused Americans to apply for passports in record numbers.[3] This caused enormous backlogs, which produced much higher-than-average wait times for passports to be processed.[4] It took until December 2023 for the Department to get control of the backlog and its processing times back to normal.[5]

It is unclear, however, whether staggering the renewal periods will have any significant impact on application cycles.

3) **Permitting Schemes and *Bruen*:** This bill would extend the concealed carry license period from two years currently, to four years beginning in 2027.

One study noted, "As of January 1, 2024, 27 states have laws allowing people to carry concealed weapons without first receiving a permit . . . Twenty-three states and the District of Columbia require permits but have shall-issue laws, under which law enforcement agencies have no or very limited discretion to deny concealed-carry permits to citizens who are otherwise permitted to possess handguns."[6] Louisiana and South Carolina, which were not permitless carry states in January 2024, have since appeared to become permitless carry states.[7]

License renewal times and costs vary widely by state. Idaho, for example, charges $20 for an initial permit and $15 for permit renewal with discretion to the Sheriff to charge for fingerprinting and materials for the license.[8] New permits in Wisconsin require a $40 permit

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[1] Karimi, *The US is not Issuing Passport Unless it's a Life-or-Death Family Emergency* (Apr. 3, 2020) CNN <https://www.cnn.com/travel/article/us-passport-emergencies/index.html> [as of Mar. 24, 2025].
[2] Hansler, *Passport Backlog: Americans face Months-long wait as State Dept. Deals with Flood of Applications* (July 15, 2021) CNN <https://6abc.com/passport-backlog-delays-us-passports-summer-travel/10889029/> [as of Mar. 24, 2025].
[3] *Ibid.*
[4] Coleman, *Unprecedented Demand* (May 2024) State Magazine <https://statemag.state.gov/2024/05/0524feat02/> [as of Mar. 2025].
[5] *Ibid.*
[6] *The Effects of Concealed Carry Laws* (July 16, 2024) RAND <https://www.rand.org/research/gun-policy/analysis/concealed-carry.html> [as of Mar. 24, 2025].
[7] *California Concealed Carry Reciprocity and Gun Laws* (Feb. 3, 2025) United States Concealed Carry Association <https://www.usconcealedcarry.com/resources/ccw_reciprocity_map/ca-gun-laws/#changelogs> [as of Mar. 24, 2025].
[8] *Concealed Weapons License Reciprocity,* Idaho State Police <https://isp.idaho.gov/bci/cwl-reciprocity/> [as of Mar. 24, 2025].

fee and mandatory training.[9] The initial application for a concealed carry permit in San Jose, CA totals $1,328, which includes over $400 in State fees, a mandatory psychological evaluation, and required completion of a training course.[10]
Depending on the type of license, renewal times and costs also see large variations. To use relatively consistent examples, Idaho counties typically take at least 90 days to process a concealed carry permit,[11] Wisconsin completes its process within 21 days,[12] while the process can take six months or more in Placer County, CA.[13]

The differences between California's costs and processing times compared to other states and counties can appear stark, however, California is home to approximately 40 million people, compared to the approximately 2 million in Idaho and 6 million in Wisconsin.[14] In other words, Idaho and Wisconsin combined only have 20% of the population of California alone.[15] While this bill does not make any changes to the fee structure of California's permitting program, this bill's structure could potentially impact the length of processing times, as discussed (See **Effect of the Bill**).

The issue of fees and processing times could implicate the U.S. Supreme Court's decision in *Bruen*, which established the right to carry a firearm outside one's home for self-defense as protected Second Amendment conduct. (*New York State Rifle & Pistol Association, Inc. v. Bruen* (2022) 597 U.S. 1, 1.) A full evaluation of this bill under *Bruen* is likely unnecessary because the burden of this bill is not being placed on those who want to exercise their Second Amendment rights. (*Id.* at p. 20.)

The Court, however, in *Bruen* noted, ". . . because any permitting scheme can be put toward abusive ends, we do not rule out constitutional challenges to shall-issue regimes where, for example, lengthy wait times in processing license applications or exorbitant fees deny ordinary citizens their right to public carry." (*Id.* at p. 30, fn. 9.)

It is unclear whether some of the California counties with more expensive license applications and lengthier processing times already test the limits of *Bruen*'s footnote 9 warning about "exorbitant fees" and "lengthy wait times" potentially producing an unconstitutional outcome even in a shall issue regime.

Likewise, it is also unclear whether near-term distortions could create even longer wait times, even though extending the duration of the license period could lead to processing time reductions in the long-term. Even longer wait times could also cause questions about our

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[9] *Concealed Carry Weapon Information,* State of Wisconsin Department of Justice <https://www.wisdoj.gov/Pages/PublicSafety/concealed-carry-weapon-license-information.aspx> [as of Mar. 24, 2025].
[10] *Permit Fees* (Mar. 11, 2023) City of San Jose Police Department <https://www.sjpd.org/records/fees/permit-fees> [as of Mar. 24, 2025].
[11] *Concealed Weapons License Application*, State of Idaho < https://isp.idaho.gov/wp-content/uploads/BCI/Reciprocity/Training/CWL-Application.pdf> [as of Mar. 24, 2025].
[12] See, *supra,* at note 9.
[13] *How long does the new Concealed Carry Weapon process take?* County of Placer <https://www.placer.ca.gov/FAQ.aspx?QID=832> [as of Mar. 24, 2025].
[14] *State Population Totals and Components of Change: 2020-2024* (Dec. 2024) U.S. Census Bureau <https://www.census.gov/data/tables/time-series/demo/popest/2020s-state-total.html#v2024> [as of Mar. 24, 2025].
[15] *Ibid.*

licensing regime's constitutionality under *Bruen*. Arguably, the more expensive the licenses become, and the longer processing times become, in either the short- or long-term, the more likely the risk becomes of the regime being found unconstitutional.

Additionally, while this bill could possibly benefit from an increase in fees to offset the expected losses that will result from extending the duration of the license, any additional fee increase could likewise cause California's permitting scheme to run afoul of *Bruen*'s warning that even a shall-issue regime like California's could be unconstitutional due to "exorbitant fees."

4) **Concealed Carry Licensure and Public Safety:** By extending the license window from two years to four years, this bill could have an impact on public safety.

One study reviewed methodologically strong scientific studies to determine the relationship between concealed carry permits and violent crime. While the majority of the twenty-three studies reviewed showed uncertain effects between concealed carry permits and homicide, five of the studies showed states with shall-issue or permitless carry laws were associated with an increase in homicides.[16] Four of those studies found higher rates of *firearms* homicide.[17] For suicide, mass shootings, and unintentional injuries and deaths, however, a review of studies showed uncertain effects.[18]

States with more permissive carry laws tend to lead to an increase in people publicly carrying concealed firearms.[19] One study estimated that the number of people carrying concealed firearms has doubled from approximately 11 million to 22 million in roughly the past ten years.[20]

While there is evidence showing that permitted firearms owners are some of the more law-abiding groups in the country and rarely are found responsible for violent crime, there is also evidence showing that criminal access to firearms is greater in more permissive permitting states due to increases in the theft of those firearms.[21]

This bill would extend the duration for a person to lawfully carry a concealed firearm in California. Extending the license's duration could lead to more people permitted, and more people permitted for longer times, which might create some specific impacts on public safety.

5) **Argument in Support**: According to the *Orange County Sheriff's Department*, California law provides local officials with the discretion to issue concealed carry weapon (CCW) permits to individuals who meet the standards set by state law. As a Sheriff responsible for issuing these permits, my department has a rigorous screening process to ensure all CCW holders meet the standard required by law. This process is time consuming for both my staff

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[16] *The Effects of Concealed Carry Laws* (July 16, 2024) RAND <https://www.rand.org/research/gun-policy/analysis/concealed-carry.html> [as of Mar. 24, 2025].
[17] *Ibid.*
[18] *Ibid.*
[19] *Ibid.*
[20] *Ibid.*
[21] *Ibid.*

and the applicant. While labor intensive, the process has worked in that those who hold CCW permits in Orange County have exercised their rights responsibly. While the Orange County Sheriff's Department has issued over 20,000 CCW permits, we also enjoy some of the safest communities in the state. CCW permit holders do not contribute to violence; they are law-abiding citizens who safely exercise a constitutional right.

"As a result of the rigorous permit process and responsible nature of CCW permit holders, I believe the two-year renewal requirement creates unnecessary workload and burden on county resources. The proposal to allow jurisdictions that issue a CCW permit for a longer time period will result in reduced costs and greater efficiencies for local agencies tasked with processing applications. Additionally, extending the life of a CCW permit will bring California in line with most states that require a permit to carry a firearm."

6) **Related Legislation**:

a) AB 458 (Stefani), requires a bidder for, or a party to, a contract with a state agency for the procurement of firearms, ammunition, or firearm accessories to take specified acts, including requiring a state agency to reject a bid or cancel a contract under specified circumstances. AB 458 is set to be heard on April 1, 2025 in the Assembly Public Safety Committee.

b) AB 1078 (Berman) requires the review of the California Restraining and Protective Order System to include information concerning whether the applicant is reasonably likely to be a danger to self, others, or the community at large, as specified, and additionally exempt from the licensure prohibition for applicants previously subject to a restraining order, protective order, or other type of court order, applicants who were previously subject to an above-described order that did not receive notice and an opportunity to be heard before the order was issued. AB 1078 is set to be heard in the Assembly Public Safety Committee.

c) AB 1187 (Celeste Rodriguez) requires a personal firearm importer to obtain a valid firearm safety certificate and include a copy of the valid firearm safety certificate within the report, and require any applicant for a certificate to complete a training course. AB 1187 is set to be heard in the Assembly Public Safety Committee.

d) AB 1316 (Addis) requires that every person who purchases a hunting license receives, at minimum, information on certain topics related to firearms, including the safe storage of firearms, liability for parents and guardians who should have known their child could access a firearm at home, basic California firearm laws, and how to legally transfer or relinquish a firearm. AB 1316 is set to be heard in the Assembly Public Safety Committee.

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

f) SB 320 (Limon) requires the Department of Justice to develop and launch a system to allow a person who resides in California to voluntarily add their own name to, and subsequently remove their own name from, the California Do Not Sell List with the purpose of preventing the sale or transfer of a firearm to the person who adds their name. SB 320 is set to be heard in the Senate Judiciary Committee.

7) **Prior Legislation**:

a) AB 3064 (Mainschein), Chapter 540, Statutes of 2024, among other things, requires any person, within 60 days of bringing a firearm into the state, to mail or personally deliver to the Department of Justice a report, describing the firearm and providing personal information.

b) SB 2 (Portantino), Chapter 249, Statutes of 2023, among other things, establishes criteria for a person disqualified from acquiring a carry license, defines the prohibited places where a person cannot carry a firearm even with a license, and requires each licensing authority prior to issuing a carry license, to determine if the applicant is the recorded owner of the particular pistol, revolver, or other firearm capable of being concealed upon the person reported in the application.

c) SB 899 (Skinner), Chapter 544, Statutes of 2024, requires the court, when issuing protective orders, to provide the person subject to the order with information on how any firearms or ammunition still in their possession are to be relinquished, as specified, and requires violations of the firearms or ammunition prohibition to be reported to the prosecuting attorney in the jurisdiction where the order has been issued within 2 business days of the court hearing.

d) AB 1931 (Fong), of the 2017-18 Legislative Session, would have made a license issued to carry a concealed firearm valid for any period of time not to exceed 5 years. AB 1931 did not pass out of the Assembly Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Gun Owners of California, INC.
Orange County Sheriff's Department
San Diego County Sheriff's Office

Opposition

None

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