California State Assembly

PUBLIC SAFETY

NICK SCHULTZ
CHAIR

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AGENDA

Tuesday, March 3, 2026
9 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

1.	AB 1535	Davies	Hate crimes: political affiliation.
2.	AB 1537	Bryan	Peace officers: secondary employment.
3.	AB 1541	Dixon	Human trafficking: data.
4.	AB 1546	Schultz	Vehicles: driving under the influence.
5.	AB 1566	Jackson	Crimes: mandated reporters: severe neglect.
6.	AB 1568	Alanis	Sex offenses: registration.
7.	AB 1583	Rogers	Criminal procedure: jurisdiction.
8.	AB 1589	Chen	Firearms: silencers.
9.	AB 1595	Schultz	Criminal procedure: writs of habeas corpus and motions to vacate.
10.	AB 1615	Nguyen	Firearms: unsafe handguns.
11.	AB 1645	Mark González	Corrections: Humanizing and Uniting Generations Safely (HUGS) Act of 2026.
12.	AB 1646	Bryan	Juvenile facilities: visitation.
13.	AB 1647	Bryan	Juveniles: transfer to court of criminal jurisdiction.
14.	AB 1656	Davies	Human trafficking case continuances.
15.	AB 1662	Wilson	Driving record: points: misdemeanor diversion.

Date of Hearing: March 3, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1535 (Davies) – As Introduced January 5, 2026

As Proposed to be Amended in Committee

SUMMARY: States that circumstances underlying any felony that are motivated by the victim's political affiliation may be considered as aggravating factors during sentencing. Specifically, **this bill**:

1) Defines "political affiliation" as the state of belonging to a political party, the endorsement of a political party or a platform of a political party, or the endorsement of a politician or a platform of a politician.

EXISTING LAW:

1) States that when a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall, in its sound discretion, order imposition of a sentence not to exceed the middle term, except as provided.

    a) The court may impose a sentence exceeding the middle term only when there are circumstances in aggravation of the crime that justify the imposition of a term of imprisonment exceeding the middle term and the facts underlying those circumstances have been stipulated to by the defendant or have been found true beyond a reasonable doubt at trial by the jury or by the judge in a court trial.

    b) The court shall set forth on the record the facts and reasons for choosing the sentence imposed. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law.

    c) Unless the court finds that the aggravating circumstances outweigh the mitigating circumstances that imposition of the lower term would be contrary to the interests of justice, the court shall order imposition of the lower term if any of the following was a contributing factor in the commission of the offense:

        i) The person has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence.

        ii) The person is a youth or was a youth as defined at the time of the commission of the offense.
        iii) Prior to the instant offense, or at the time of the commission of the offense, the person is or was a victim of intimate partner violence or human trafficking.

d) Certain defined requirements do not preclude the court from imposing the lower term even if there is no evidence of those circumstances present. (Pen. Code, § 1170, subd. (b).)

2) States that, except as specified, any hate crime that is not made punishable by imprisonment in the state prison shall be punishable as a wobbler, or by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States under any of the following circumstances, which shall be charged in the accusatory pleading:

   a) The crime against the person of another either includes the present ability to commit a violent injury or causes actual physical injury.

   b) The crime against property causes damage in excess of nine hundred fifty dollars ($950).

   c) The person charged with a crime under this section has been convicted previously of a defined violation. (Pen. Code, § 422.7.)

3) Establishes that, except where the court imposes additional, defined punishment, the fact that a person committed a felony or attempted to commit a felony that is a hate crime shall be considered a circumstance in aggravation of the crime in imposing a determinate sentence. (Pen. Code, § 422.76.)

4) Defines hate crimes as a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

   a) Disability.

   b) Gender.

   c) Nationality.

   d) Race or ethnicity.

   e) Religion.

   f) Sexual orientation.

   g) Association with a person or group with one or more of these actual or perceived characteristics. (Pen. Code, § 422.5, subd. (a)(1)-(7).)

5) Defines "association with a person or group with one or more of these actual or perceived characteristics" as including advocacy for, identification with, or being on the premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who

have, one or more of the characteristics listed in the definition of "hate crime," as specified. (Pen. Code, § 422.56, subd. (a).)

6) Defines "in whole or in part because of" as meaning that the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that the crime would not have been committed but for the actual or perceived characteristic. (Pen. Code, § 422.56, subd. (d).)

7) Defines "victim" as including, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public agency, library, or other victim or intended victim of the offense. (Pen. Code, § 422.56, subd. (i).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Our nation was founded on political freedoms, however, political violence is detrimental to our democracy and shouldn't be tolerated. Leaders are required to cool the temperature, not fan the flames. AB 1535 isn't just about protecting Californians; it's about a cultural reset. It's a commitment to the idea that every Californian has the right to their political views without fear of being targeted by those who see them as an enemy rather than a neighbor. This measure ensures that our justice system recognizes political violence for exactly what it is: a hate-motivated crime."

2) **Effect of the Bill**: This bill would include crimes motivated by a victim's actual or perceived political affiliation as a possible circumstance in aggravation for sentencing.

   Political violence is a growing problem in the United States.[1] We have witnessed increasing incidents of unprovoked political violence, especially over the past five years.[2] From an insurrection at the United States Capitol on January 6, 2021, motivated in significant part by the loser of a presidential election, to the horrifying murders of Charlie Kirk, Melissa Hortman, and Alex Pretti,[3] political violence continues to shock the conscience and threaten to destroy the great American experiment in self-government.

   This bill intends to help stem the rising tide of political violence. By including political affiliation-motivated violence as an aggravating factor in sentencing, this bill likely will

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[1] Kleinfeld, R. *The Rise of Political Violence in the United States* (Oct. 2021) Journal of Democracy <https://www.journalofdemocracy.org/articles/the-rise-of-political-violence-in-the-united-states/> [as of Feb. 20, 2026].

[2] Kornberg, M. *Political Violence Is Distorting American Lawmaking* (Nov. 2025) Brennan Center for Justice <https://www.brennancenter.org/our-work/analysis-opinion/political-violence-distorting-american-lawmaking> [as of Feb. 20, 2026].

[3] See Webb, S. *Timeline: A look at other major political violence attacks in the US* (Sep. 2025) ABC KOAT 7 <https://www.koat.com/article/charlie-kirk-political-violence-united-states/66054815>; *ICE expansion has outpaced accountability. What are the remedies?* (Jan. 2026) Brookings Institution https://www.brookings.edu/articles/ice-expansion-has-outpaced-accountability-what-are-the-remedies/ [as of Feb. 20, 2026].

produce some longer confinement terms. This bill provides discretionary authority to increase sentence lengths in cases of political motivated violence. The authority therefore is permissive, not mandatory, so prosecutors and courts can decide whether an individual case warrants application of that authority. Since that authority is nonbinding, the potential impact on the lengths and costs of incarceration should be reduced relative to a law that mandates a sentence enhancement. Including political affiliation as an aggravating factor will not be automatic. It will require prosecutors pleading and proving criminal motivation due to political affiliation and the trier of fact finding that factor beyond a reasonable doubt. (See Pen. Code, § 1170; *Apprendi v. New Jersey* (2000) 530 U.S. 466.)

The urge to do something to address increased political violence is understandable, even if it is unclear whether the risk of longer sentences in this context will ultimately reduce acts of politically motivated violence. Data suggests that Americans largely disapprove of political violence.[4] One poll found 87% of Americans saying political violence is a problem, while only 11% said political violence is either *not* a problem or not much of a problem.[5] This same poll found 72% of Americans sharing that political violence is never justified with 11% again stating that political violence can be justified.[6] While the poll found some variation in attitudes based on the respondent's age or political identity, majorities in all cases said that political violence is at least somewhat of a problem and that political violence cannot be justified.[7]

Even in what seems like a highly politically charged era,[8] American attitudes towards political violence appear relatively steadfast. While this is encouraging, political violence is an issue that has been publicly addressed from the genesis of the Republic by some of our country's historic figures. President Abraham Lincoln captured this feeling living through a politically charged era, during the Civil War, when he said, "The dogmas of the quiet past, are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise – with the occasion. As our case is new, so we must think anew, and act anew. We must disenthrall *ourselves*, and then we shall save our country."[9]

George Washington cautioned us of the potentially dangerous impact of factionalism. In this context, he said, "[t]he alternate domination of one faction over another, sharpened by the spirit of revenge . . . is itself a frightful despotism."[10] Washington understood what research has borne out over the proceeding centuries. Factionalism and political violence beget one another, cyclically inflaming each other and creating dangerous risks capable of consuming the stability of states.[11]

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[4] Montgomery, D. What Americans really think about political violence (Sep. 2025) YouGov US < https://today.yougov.com/politics/articles/52960-charlie-kirk-americans-political-violence-poll> [as of Feb. 20, 2025].
[5] *Ibid.*
[6] *Ibid.*
[7] See *ibid.*
[8] See *id* at "How united or divided is the country at present?" (Finding 62% of Americans expressing the view that the country is "very divided".)
[9] Abraham Lincoln's Annual Message to Congress (Dec. 1, 1862) Collected Works of Abraham Lincoln <https://www.abrahamlincolnonline.org/lincoln/speeches/congress.htm> [as of Feb. 20, 2026] (italics added).
[10] George Washinton Farewell Address (Sep. 19, 1796) <https://founders.archives.gov/> [as of Feb. 20, 2026].
[11] See, e.g., Meyer, C. *Perceived Political Violence Risks Push Factions Toward Preemptive Retaliation, Researchers Warn* (Sep. 2025) Security Management <https://www.asisonline.org/security-management-

Political violence is a significant concern facing the country. Addressing this concern is an important consideration if we are to secure for ourselves, and for posterity, the continued public safety, public health, and constancy of the country. While it is uncertain whether this bill will ultimately help slow our rising rates of political violence, AB 1535 appears to be an earnest effort to generate such improvement.

3) **The First Amendment**: This bill intends to allow for crimes committed due to the victim's political affiliation to serve as an aggravating factor in the defendant's sentencing. Because this bill would create a restriction on potentially content-based speech it could trigger First Amendment scrutiny.

The First Amendment protects an individual's right to, among other things, free speech and expression. (U.S. Const. amend. I.) Not all restrictions on speech are violative of the First Amendment, however, certain prohibitions can trigger First Amendment review. Generally, language in laws that distinguish favored speech from disfavored speech . . . are content based. (*Reed v. Town of Gilbert* (2015) 576 U.S. 155.) Laws that cannot be supported "without reference to the content of the regulated speech" may be considered content based. (*Id.* at p. 155.) Laws that create benefits or burdens on speech without reference to the views expressed, however, are largely considered content neutral. (*Clark v. Community for Creative Non-Violence* (1984) 468 U.S. 288, 293.)

The Court has identified three types of constitutionally permissible content discrimination. (*R.A.V. v. St. Paul* (1992) 505 U.S. 377.) First, "[w]hen the basis for the content discrimination consists entirely of the very reason the entire class of speech at issue is prescribable, no significant danger of idea or viewpoint discrimination exists." (*Id.* at p. 388.) Second, differential treatment of content-based speech is valid where the subclass of speech "happens to be associated with particular 'secondary effects' of the speech," so that the restriction can be supported without reference to its content. (*Id.* at p. 389.) The third category operates as a catchall where a content-neutral justification may be unnecessary because the law's selectivity is such that the nature of the content discrimination creates "no realistic possibility that official suppression of ideas is afoot." (*Id.* at p. 390.) Where the government does not target conduct based on its expressive content, acts are not shielded from regulation merely because they express a discriminatory idea or philosophy. (*Id.* at p. 389-90.)

AB 1535 does not appear to reference the content of speech in its language, which could remove the bill from the ambit of the First Amendment. An argument could be made that the bill is restricting expression of all ideas, as perceived political affiliation could apply to almost anything done or said by the victim, thereby violating the First Amendment. This seems reductive and practically inapplicable. Because the bill provides for only the possibility of additional *punishment* in connection with a crime that is motivated by a person's political affiliation, it is arguably only regulating unlawful conduct, not speech.

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magazine/latest-news/today-in-security/2025/september/political-violence-risks/>, Mongale, C. and Venter, J. *The African National Congress's factionalism and targeted killings as risks to human security in KwaZulu-Natal province* (2024) National Institute of Health <https://pmc.ncbi.nlm.nih.gov/articles/PMC11079386/>, and *Political Violence* (Jan. 2021) U. of Chicago Project on Security and Threats <https://cpost.uchicago.edu/research/political_violence_review/> [as of Feb. 20, 2026].

The bill could fall in the catchall exception because any potential speech discrimination in the law would create no realistic possibility that the law is attempting to suppress ideas. This, too, would remove the bill from First Amendment oversight. If every political affiliation is "protected" so that a defendant who commits a political affiliation-motivated crime is subject to a potentially longer sentence, then it is difficult to imagine any risk that the bill will ultimately suppress the marketplace of ideas. AB 1535 also does not appear to be selective in the content of any potential acts of speech or expression. AB 1535 additionally does not appear to target any disfavored idea or group but instead intends to discourage the commission of criminal acts motivated by the defendant's own disfavor of the victim's idea or political alignment.

While the defendant's own expressive disfavor of the victim's affiliation is protected under the First Amendment, when that disagreement prompts a criminal act against the victim, that conduct almost certainly would fall outside First Amendment bounds. As the Supreme Court held, "[a]s speech strays further from the values of persuasion, dialogue and free exchange of ideas the First Amendment was designed to protect, and moves toward threats made with specific intent to perform illegal acts, the state has greater latitude to enact statutes that effectively neutralize verbal expression." (*Watts v. United States* (1969) 394 U.S. 705.) For example, genuine threats of violence where the victim perceives a true threat of harm being done to them is not protected by the First Amendment. (*Counterman v. Colorado* (2023) 600 U.S. 66.)

Laws that do not punish disfavored ideas but instead punish only conduct, however, do not always dispose of a First Amendment challenge. (*Wisconsin v. Mitchell* (1993) 508 U.S. 476, 484.) Though some conduct qualifies as expressive, courts reject the view that an unlimited array of conduct can be labeled speech when the speaker engages in conduct intending to express an idea. (*Ibid.*) A physical assault is not expressive conduct protected by the First Amendment. (*Ibid*, see also *Roberts v. United States Jaycees* (1984) 468 U.S. 609, 628 [violence or other potentially expressive activities that produce unique harms apart from their communicative impact . . . are not entitled to constitutional protection]; *NAACP v. Claiborne Hardware Co.* (1982) 458 U.S. 886, 916 ["The First Amendment does not protect violence."].)

A Wisconsin statute that provided for a possible sentence enhancement, in cases where the defendant's motive for harming the victim was racial animus, survived constitutional scrutiny. (*Wisconsin v. Mitchell* (1993) 508 U.S. 476.) The Court offered numerous reasons sustaining the law against a First Amendment challenge. Sentencing judges have considered a wide variety of factors in what sentence to impose on a convicted defendant, which includes motive for committing the offense. (*Id.* at pp. 484-85.) It is similarly true that a defendant's abstract beliefs, however odious, may not be taken into consideration by a sentencing judge. (*Dawson* v. *Delaware* (1992) 503 U.S. 159.) The Court in this context emphasized though that "the Constitution does not erect a *per se* barrier to the admission of evidence concerning one's beliefs and associations at sentencing simply because those beliefs and associations are protected by the First Amendment." (*Ibid.*)

The Court further noted the importance of the Wisconsin Legislature legislating that bias-motivated offenses warrant potentially greater maximum penalties because the primary responsibility for fixing criminal penalties lies with the legislature. (*Wisconsin, supra*, at p.

486.) Also important was the First Amendment does not proscribe the evidentiary use of speech to establish elements of a crime or to prove intent. (*Id.* at pp. 489-90.) Moreover, the Court found Wisconsin's interest in this law is valid because the enhancement-eligible conduct at issue is thought to inflict greater individual and societal harm. (*Id.* at pp. 487-88.) The State, for example, argued bias-motivated crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest. (*Ibid.*)

The Court rejected the argument that the statute was overbroad and thus, created a chilling effect on speech. (*Id.* at p. 488.) In disposing of this argument the Court wrote,

> We must conjure up a vision of a Wisconsin citizen suppressing his unpopular bigoted opinions for fear that if he later commits an offense covered by the statute, these opinions will be offered at trial to establish that he selected his victim on account of the victim's protected status, thus qualifying him for penalty enhancement . . . . This is simply too speculative a hypothesis to support an overbreadth claim. (*Id.* at pp. 488-89.)

Courts have historically given robust protection to laws that infringe on an individual's First Amendment rights. But those protections are not absolute. Courts have consistently made room for various ways to regulate in this space. Given that this bill most directly regulates criminal conduct by providing for the possibility of a longer confinement term, does not single out specific groups for different restrictions or penalties, and arguably does not even strike at the First Amendment, there appears only a limited risk of the bill failing constitutional scrutiny.

4) **The Ralph Civil Rights Act**: While this bill regulates in the criminal space, there is precedent for California protecting individuals from certain types of discrimination in the civil space, including protections for political affiliation.

The Ralph Act states that "[a]ll persons within the jurisdiction of [California] have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of political affiliation . . . or because another person perceives them to have one or more of those characteristics . . . ." (Civ. Code, § 51.7, subd. (b)(1).) The law notes that speech alone cannot support an action, except if all of the following are demonstrated: 1) the speech threatens violence against a specific person or group, 2) the person or group reasonably fears that, because of the speech, violence will be committed against them or their property, 3) the speaker is acting in reckless disregard for the threatening nature of their speech, and 4) the speaker has the apparent ability to carry out the threat. (Civ. Code, § 51.7, subd. (e)(1)(A)-(D).)

Under the Ralph Act, a plaintiff must establish the defendant threatened or committed violent acts against them or their property, where at least one of the motivating reasons was a prohibited discriminatory motive, or that the defendant aided, incited, or conspired in the denial of the victim's exercise of a protected right. (*Gabrielle A. v. County of Orange* (2017) 10 Cal.App.5th 1268, 1291.) A threat of violence under the Ralph Act requires showing at least some expression of intent to injure or damage the plaintiffs or their property. (*Ramirez v. Wong* (2010) 188 Cal.App.4th 1480.)

The Ralph Act is not considered a hate crimes statute, even though the law was at least partly enacted due to a rise in hate crimes. (*Winarto v. Toshiba Am. Elecs. Components, Inc.* (9th

Cir. 2001) 274 F.3d 1276, 1289.) There is no requirement that "the violence be extreme or motivated by hate in the plain language of the sections, or in the cases construing them. There is no requirement that the act constitute a crime." (*Ibid.*) The Legislature could have limited the law's application to extreme acts of violence, but instead it created civil liability which sweeps more broadly than a hate crime. (*Ibid.*)

There are apparently only limited cases where potential First Amendment conduct intersected with the Ralph Act's protection against political affiliation discrimination. One case involved a student walkout to protest the government's immigration actions. (*Corales v. Bennett* (9th Cir. 2009) 567 F.3d 554, 563.) While the court in this case granted that the student walkout was done for "expressive purposes," they found the school's disciplinary action against the students was content neutral because the punishment was for leaving campus and causing disruption to the school's activities, not for the content of their expressive conduct (*Id.* at p. 568.) The punishment, in other words, was valid because it was done in response to the unprotected activity of leaving campus without authorization, not for the protected activity of protesting government action. (*Ibid.*) Similarly, AB 1535 would provide discretionary authority to increase punishment not for a defendant's expressive conduct, but for their criminal conduct.

In another case, a court of appeal found that an animal rights activist who was threatened with arrest by a law enforcement officer could not sustain a claim for violation of the Ralph Act based on political affiliation because the threat of arrest alone fell short of an intent to injure her or damage her property. (*Animal Protection & Rescue League, Inc. v. County of Riverside* (2025) 111 Cal.App.5th 914, 919-20.) The court, however, appeared to assume, without necessarily deciding, the animal rights activist was engaged in protected First Amendment conduct and that her activism could be interpreted as a political affiliation. (See *id.* at pp. 919-21.) The court dismissed the Ralph Act claim though, because the officer's threat to arrest her trespassing was ultimately insufficient to show intent or actual damage to person or property. (*Id.* at p. 919.)

While a direct comparison between the Ralph Act and AB 1535 would be inapt, evaluating whether courts have upheld a First Amendment challenge against a Ralph Act violation could be illustrative of what drives the analyses under these laws. Understanding what drives the analyses in these civil cases could illuminate concerning potential applications, even in the context of a criminal case. Nothing about the admittedly limited cases available, however, appears to suggest obvious concerns for how this bill may be applied if made into law.

5) **Impact of Increased Penalties on Criminal Deterrence**: This bill would increase at least some confinement terms.

It is unclear whether increasing penalties has a deterrent effect. There is reliable evidence showing increased penalties generally fails to deter criminal behavior.[12] Data shows greater deterrent effects as the likelihood of being caught and the perception that one will get caught

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[12] *Five Things About Deterrence* (May 2016) National Institute of Justice <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [as of Feb. 20, 2026].

rises.[13] In contrast, the act of punishment and the length of punishment largely do not increase deterrence.[14]

With evidence also showing that increasing criminal fines increases felony recidivism, specifically among a population that historically has faced inexplicably disproportionate punishment in the criminal justice system,[15] it remains questionable whether increasing criminal punishment, as this bill does, would produce the desired impact.

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

7) **Argument in Opposition**: According to the *Ella Baker Center for Human Rights*, "Under existing law, the criteria for proving a crime as a hate crime are clear. The prosecution must prove, beyond a reasonable doubt, that the crime was committed, in whole or in part, because of one or more of the actual or perceived characteristics of the victim listed in Penal Code §422.55 (a). By adding "political affiliation" as an additional protected characteristic, AB 1535 (Davies) would broaden the hate crime statute unnecessarily, encompassing a wide range of offenses that are not motivated by bias against any particular political group. The mere expression of dislike or disagreement with someone's political views does not equate to an intent to cause bodily harm and should not be construed as intimidation.

"Furthermore, this bill raises serious First Amendment concerns. The expression of political disagreement with another person should not be construed as bias-motivated conduct, particularly in the absence of any demonstrated intent to cause harm. While we recognize that the requirement that bias be tied directly to the commission of a criminal act can sometimes make it difficult to prosecute an alleged hate crime, this difficulty is the necessary price of protecting the free speech rights of all Californians. The government should not penalize people for their beliefs.

"Finally, AB 1535 undermines the purpose and integrity of California's protections against hate crimes. Expanding this framework to include a political affiliation diminishes the historical and ongoing realities of bias-motivated violence faced by protected communities."

8) **Related Legislation**:

a) AB 1545 (Krell) would provide enhanced penalties for the commission of an offense that is a targeted attack on a person who is reasonably identifiable as a journalist, as defined, or on property reasonably identifiable as belonging to a journalist or the entity that journalist represents. AB 1545 is pending in the Assembly Public Safety Committee.

b) AB 1966 (Ramos) would require the court to impose an additional and consecutive 2-year term of state imprisonment for individuals convicted of committing a qualifying crime, as specified, against a person who is an undocumented individual. AB 1966 is

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[13] *Ibid.*
[14] *Ibid.*
[15] Giles, *The Government Revenue, Recidivism, and Financial Health Effects of Criminal Fines and Fees* (Sept. 9, 2023) Wellesley College <http://dx.doi.org/10.2139/ssrn.4568724> (showing that the increase in fines levied for criminal punishment increased the likelihood of felony recidivism, especially among Black defendants) [as of Feb. 20, 2025].

pending referral.

9) **Prior Legislation**:

a) SB 497 (Wiener), Chapter 764, Statutes of 2025, among other things, prohibits a provider of health care, a health care service plan, or a contractor from releasing medical information related to a person seeking or obtaining gender-affirming health care or gender-affirming mental health care in response to a criminal or civil action, including a foreign subpoena, based on another state's law that interferes with an individual's right to seek or obtain gender-affirming health care or gender-affirming mental health care.

b) AB 89 (Sanchez), of the 2025-2026 Legislative Session, would have required the California Interscholastic Federation to amend its constitution, bylaws, and policies to prohibit a pupil whose sex was assigned male at birth from participating on a girls' interscholastic sports team. AB 89 failed passage in the Arts, Entertainment, Sports, and Tourism Committee.

c) AB 2604 (Low), of the 2023-2024 Legislative Session, would have specified that discriminatory selection of a victim because of a protected characteristic is a type of bias motivation for purposes of determining whether the crime was committed, in whole or in part, because of the protected characteristic. AB 2604 did not receive a hearing in this committee.

d) AB 2603 (Low), of the 2023-2024 Legislative Session, would have authorized a search warrant to be issued on the grounds that the property or things to be seized consists of evidence that tends to show that certain misdemeanor hate crimes have occurred or are occurring, as defined. AB 2603 did not receive a hearing in this committee.

e) AB 1064 (Low), of the 2023-2024 Legislative Session, would have redefined a hate crime as a criminal act that is motivated in whole or in part by a bias against one or more of the protected characteristics. The bill would define "bias against" and would specify that evidence of bias motivation may include, among other things, selectively targeted the victim based on the actual or perceived characteristic of the victim. AB 1064 was held in the Assembly Appropriations Committee.

f) AB 449 (Ting), Chapter 524, Statutes of 2023, makes adoption of a hate crimes policy by a state and local law enforcement agency mandatory by July 1, 2024, and required those policies to include the supplemental hate crime report in the model policy framework developed by the commission and a schedule of hate crime or related trainings the agency conducts.

REGISTERED SUPPORT / OPPOSITION:

Support

1 individual

Opposition

ACLU California Action
California Public Defenders Association
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Initiate Justice
Legal Services for Prisoners With Children / All of US or None
Local 148 LA County Public Defenders Union
San Francisco Public Defender
Smart Justice California, a Project of Beyond Impact

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

AMENDMENTS TO ASSEMBLY BILL NO. 1535

Amendment 1

In the title, in line 1, strike out "Sections 422.55 and 422.56" and insert:

Section 422.76

Amendment 2

On page 2, strike out lines 3 to 37, inclusive, on page 3, strike out lines 1 to 37, inclusive, and insert:

SEC. 2. Section 422.76 of the Penal Code is amended to read:

422.76. (a) Except where the court imposes additional punishment under Section 422.75 or in a case in which the person has been convicted of an offense subject to Section 1170.8, the fact that a person committed a felony or attempted to commit a felony that is a hate crime shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

(b) (1) In the case of any felony conviction, the fact that the defendant's conduct was motivated, in whole or in part, by the victim's actual or perceived political affiliation may be considered as a circumstance in aggravation in sentencing.

(2) "Political affiliation" means the state of belonging to a political party, the endorsement of a political party or a platform of a political party, or the endorsement of a politician or a platform of a politician.

Amendment 3

On page 3, in line 38, strike out "SEC. 4." and insert:

SEC. 3.

PROPOSED AMENDMENTS TO ASSEMBLY BILL NO. 1535

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL **No. 1535**

Introduced by Assembly Member Davies

January 5, 2026

Amendment 1

An act to amend ~~Sections 422.55 and 422.56~~ *Section 422.76* of the Penal Code, relating to hate crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1535, as introduced, Davies. Hate crimes: political affiliation.

Existing law defines "hate crime" as a criminal act committed, in whole or in part, because of actual or perceived characteristics of the victim, including, among other things, race, religion, disability, and sexual orientation. *Except as provided, existing law requires the fact that a person committed or attempted to commit a felony that is a hate crime to be considered a circumstance in aggravation of the crime in imposing a specified term.*

This bill, the Hortman-Kirk Political Violence Prevention Act, ~~would add political affiliation to the list of actual or perceived characteristics.~~ *in the case of any felony conviction, would authorize the court to consider as a circumstance in aggravation in sentencing the fact that the defendant's conduct was motivated, in whole or in part, by the victim's actual or perceived political affiliation.* The bill would define "political affiliation" to mean the state of belonging to a political party, the endorsement of a political party or a platform of a political party, or the endorsement of a politician or a platform of a politician. By ~~expanding the scope of an existing~~ *increasing the punishment for a* crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

Page 2

SECTION 1. This act shall be known, and may be cited as, the Hortman-Kirk Political Violence Prevention Act.

Amendment 2

~~SEC. 2. Section 422.55 of the Penal Code is amended to read:~~

~~422.55. For purposes of this title, and for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:~~

~~(a) "Hate crime" means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:~~

~~(1) Disability.~~

~~(2) Gender.~~

~~(3) Nationality.~~

~~(4) Race or ethnicity.~~

~~(5) Religion.~~

~~(6) Sexual orientation.~~

~~(7) Political affiliation.~~

~~(8) Association with a person or group with one or more of these actual or perceived characteristics.~~

~~(b) "Hate crime" includes, but is not limited to, a violation of Section 422.6.~~

~~SEC. 3. Section 422.56 of the Penal Code is amended to read:~~

~~422.56. For purposes of this title, the following definitions shall apply:~~

~~(a) "Association with a person or group with one or more of these actual or perceived characteristics" includes advocacy for, identification with, or being on the premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who~~

~~have, one or more of the characteristics listed in the definition of "hate crime" under paragraphs (1) to (6), inclusive, of subdivision (a) of Section 422.55.~~

~~(b) "Disability" includes mental disability and physical disability, as defined in Section 12926 of the Government Code, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness. This definition is declaratory of existing law.~~

~~(c) "Gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior regardless of whether it is stereotypically associated with the person's assigned sex at birth.~~

~~(d) "In whole or in part because of" means that the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that the crime would not have been committed but for the actual or perceived characteristic. This subdivision does not constitute a change in, but is declaratory of, existing law under In re M.S. (1995) 10 Cal.4th 698 and People v. Superior Court (Aishman) (1995) 10 Cal.4th 735.~~

~~(e) "Nationality" means country of origin, immigration status, including citizenship, and national origin. This definition is declaratory of existing law.~~

~~(f) "Political affiliation" means the state of belonging to a political party, the endorsement of a political party or a platform of a political party, or the endorsement of a politician or a platform of a politician.~~

~~(g) "Race or ethnicity" includes ancestry, color, and ethnic background.~~

~~(h) "Religion" includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.~~

~~(i) "Sexual orientation" means heterosexuality, homosexuality, or bisexuality.~~

~~(j) "Victim" includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public agency, library, or other victim or intended victim of the offense.~~

+ *SEC. 2. Section 422.76 of the Penal Code is amended to read:*

+ 422.76. *(a)* Except where the court imposes additional
+ punishment under Section 422.75 or in a case in which the person
+ has been convicted of an offense subject to Section 1170.8, the
+ fact that a person committed a felony or attempted to commit a
+ felony that is a hate crime shall be considered a circumstance in
+ aggravation of the crime in imposing a term under subdivision (b)
+ of Section 1170.
+ *(b) (1) In the case of any felony conviction, the fact that the*
+ *defendant's conduct was motivated, in whole or in part, by the*
+ *victim's actual or perceived political affiliation may be considered*
+ *as a circumstance in aggravation in sentencing.*
+ *(2) "Political affiliation" means the state of belonging to a*
+ *political party, the endorsement of a political party or a platform*
+ *of a political party, or the endorsement of a politician or a platform*
+ *of a politician.*

Page 3 38 ~~SEC. 4.~~

Amendment 3

+ *SEC. 3.* No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school
Page 4 1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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Date of Hearing: March 3, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1537 (Bryan) – As Introduced January 5, 2026

SUMMARY: Prohibits peace officers from engaging in part-time or any other form of secondary employment for the United States (U.S.) Department of Homeland Security (DHS) or any other entity that engages in immigration enforcement. Specifically, **this bill**:

1) Prohibits an officer from engaging in casual, part-time, contract-based, or any other form of secondary employment for, and from being an independent contractor of, or volunteer for, DHS or its contractors, or any other entity that assists with or engages in immigration enforcement, as defined.

1) Provides that this prohibition applies notwithstanding existing provisions of law that permit officers to engage in part-time and off-duty employment, as specified.

2) Provides that for purposes of when a record relating to an incident involving dishonesty by an officer, as specified, is subject to disclosure under the California Public Records Act (CPRA), a violation of the above prohibition is an act of dishonesty and constitutes grounds for peace officer decertification, as specified.

3) Requires an officer to report to their employing law enforcement agency any offer of, request for, or attempt at secondary employment that involves assisting with or engaging in immigration enforcement.

4) Makes all records related to secondary employment of peace officers public records for purposes of the CPRA.

5) Defines the following terms:

   a) "Law enforcement agency" (LEA) means any local or state entity that employs a peace officer.

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

EXISTING LAW:

1) Generally authorizes peace officers to engage in casual, part-time employment, as follows:

a) Provides that the prohibition against accepting gratuities by public officers or employees does not preclude an officer from engaging in:

   i) Casual or part-time employment as a private security guard or patrolman for a public entity while off duty and outside their regular employment, and exercising peace officer powers concurrently with that employment, provided that the officer is in a police uniform and is subject to reasonable rules and regulations of their employing LEA. (Pen. Code, § 70, subd. (c)(1).)

   ii) Casual or part-time employment as a private security guard or patrolman by a private employer while off duty and outside their regular employment, and exercising peace officer powers concurrently with that employment, subject to the following:

      (1) The officer is in their police uniform.

      (2) The employment is approved by the governing county or city.

      (3) The wearing of uniforms and equipment is approved by the principal employer.

      (4) The officer is subject to reasonable rules and regulations of their employing LEA. (Pen. Code, § 70, subd. (d)(1).)

   iii) Other employment while off duty from their principal employment and outside their regular employment as an officer. (Pen. Code, § 70, subd. (e)(1).)

b) Prohibits an officer while off duty from their principal employment and outside their regular employment from exercising the powers of a police officer if employed by a private employer as a security guard during a strike, lockout, picketing, or other physical demonstration of a labor dispute, as specified. (Pen. Code, § 70, subd. (d)(2).)

c) Provides that subject to the above, and except as provided by written regulations or policies adopted by the employing agency, or pursuant to an agreement between the employing agency and a recognized employee organization representing the officer, no officer shall be prohibited from engaging in, or being employed in, other employment while off duty from their principal employment and outside their regular employment as an officer. (Pen. Code, § 70, subd. (e)(2).)

d) Requires an employer, if they withhold consent to allow an officer to engage in or be employed in other employment while off duty, to, at the time of denial, provide the reasons for denial in writing to the officer. (Pen. Code, § 70, subd. (e)(3).)

2) Generally prohibits local agency employees from engaging in employment that is incompatible with their principal duties, as follows:

   a) Prohibits a local agency officer or employee from engaging in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to their duties as a local agency officer or employee or with the duties, functions, or responsibilities of their appointing power or the agency by which they are employed. (Gov. Code, § 1126, subd. (a).)

b) Prohibits an officer or employee from performing any work, service, or counsel for compensation outside of their employment where any part of their efforts will be subject to approval by any other officer, employee, board, or commission of their employing body, unless otherwise approved. (Gov. Code, § 1126, subd. (a).)

c) Authorizes each appointing power to determine, subject to approval of the local agency, those outside activities which, for employees under its jurisdiction, are incompatible with their duties as local agency officers or employees. (Gov. Code, § 1126, subd. (b).)

d) Permits an employees outside employment, activity, or enterprise to be prohibited if it:

   i) Involves the use for private gain of their local agency time, facilities, equipment, and supplies, or the badge, uniform, or influence of their agency office or employment;

   ii) Involves acceptance by the officer or employee of any money or other consideration from anyone other than their local agency for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of their employment or duties;

   iii) Involves the performance of an act in other than their capacity as a local agency employee, which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee or the agency by which they are employed; or

   iv) Involves time demands that would render the performance of their duties less efficient. (Gov. Code, § 1126, subd. (b).)

e) Requires local agencies to adopt rules governing the above conflict provisions, which shall include provision for notice to employees of the determination of prohibited activities, of disciplinary action to be taken against employees for engaging in prohibited activities, and for appeal by employees from such a determination and from its application to an employee. (Gov. Code, § 1126, subd. (c).)

f) Provides that none of the above is intended to prevent the employment by private business of a public employee, such as a peace officer, who is off duty, to do work related to and compatible with their regular employment, or past employment, provided the person to be employed has the approval of their agency supervisor and are certified as qualified by the appropriate agency. (Gov. Code, § 1127.)

3) Generally prohibits state employees from engaging in employment that is incompatible with their principal duties, as follows:

   a) Prohibits a state officer or employee from engaging in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to their duties. (Gov. Code, § 19990.)

b) Permits each appointing power to determine, subject to approval of the department, those activities which, for employees under its jurisdiction, are incompatible with their duties. (Gov. Code, § 19990.)

c) Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

i) Using the influence of the state or the appointing authority for the officer's or employee's private gain, or the private gain of another.

ii) Using state time, facilities, equipment, or supplies for private gain or advantage.

iii) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage, or providing confidential information to an unauthorized person.

iv) Receiving or accepting money or any other consideration from anyone other than the state for the performance of their duties.

v) Performance of an act in other than their capacity as a state officer or employee, knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by the officer or employee.

vi) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in their official duties or was intended as a reward for any official actions.

vii) Subject to any other laws, rules, or regulations as pertain thereto, not devoting their full time, attention, and efforts to their state office or employment during their hours of duty as a state officer or employee. (Gov. Code, § 19990, subds. (a)-(g).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Nearly a decade ago, California took a stand and explicitly prohibited collaboration between our State and federal immigration enforcement. But our law currently has a harmful loophole that allows police officers to moonlight with ICE. AB 1537 is straightforward. If your day job is to serve our communities, you should not be off the clock terrorizing those very same communities as an ICE agent."

2) **Background:** The increase in federal immigration enforcement under the Trump Administration has been associated with aggressive federal recruitment efforts, including

efforts to recruit California peace officers to join federal immigration agencies.[1] This has raised concerns that existing law does not sufficiently prevent California officers from engaging in secondary employment positions with immigration enforcement agencies.[2] Accordingly, in October 2025, the Los Angeles City Council approved a motion to prohibit the Los Angeles Police Department from engaging in off-duty secondary employment with ICE, DHS, and the U.S. Customs and Border Protection (CBP).[3] No ordinance has been enacted yet. This bill seeks to enact a similar prohibition at the state level.

It is well-documented that law enforcement officers work part-time jobs in addition to their principal peace officer duties, often in security positions for private companies.[4] It is less clear if any California peace officers have engaged in immigration enforcement actions for ICE or CBP in a part-time capacity. At this time, the Committee has no knowledge of any specific examples of this occurring.

3) **The California Values Act:** The California Values Act, which became effective on January 1, 2018, limits the involvement of state and local LEAs in federal immigration enforcement. It prohibits LEAs from using resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes. Prohibited cooperative activities include: 1) inquiring into an individual's immigration status; 2) detaining a person based on an ICE hold request; 3) providing information regarding a person's release date, except for persons convicted of specified crimes; 4) providing personal information about an individual; 5) participating in arrests based on civil immigration warrants; 6) participating in border patrol activities; 7) performing the functions of an immigration agent; 8) placing peace officers under federal agency supervision for purposes of immigration enforcement; 9) using ICE agents as interpreters for law enforcement matters, as specified; 10) transferring an individual to immigration authorities, as specified, unless authorized by a judicial warrant or the person has been convicted of specified crimes; 11) providing office space exclusively for immigration authorities; and 12) contracting with the federal government for use of LEA facilities to detain non-citizens for civil immigration custody purposes. (Gov. Code, § 7284.6, subd. (a).)

The Values Act contains several exceptions that permit LEAs to cooperate with immigration authorities to the extent such cooperation would not violate federal, state, or local law. (Gov. Code, § 7282.5.) Additionally, LEAs have discretion to transfer an individual to immigration authorities or provide ICE with information about an in-custody individual's release date for individuals arrested or convicted for certain crimes. (Gov. Code, § 7282.5, subds. (a) (1) & (2), (b).)

The Values Act may already prohibit certain types of law enforcement secondary employment with federal immigration authorities. First, the general prohibition against LEAs

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[1] Sharp, et.al., *ICE offers big bucks – but California police officers prove tough to poach*, Los Angeles Times (Sept. 22, 2025), available at: https://www.latimes.com/california/story/2025-09-22/ice-poaching-cops
[2] Mihalovich and Miller, *California Democrats have new plans for confronting ICE: Taxes, lawsuits, and location bans* (Jan. 28, 2026), available at: https://calmatters.org/politics/2026/01/democrats-immigration-legislation/
[3] *See* City of Los Angeles, *Official Action of the Los Angeles City* Council (Oct. 3, 2025), available at: https://cityclerk.lacity.org/onlinedocs/2025/25-0865_caf_10-07-25.pdf; City of Los Angeles, *Personnel and Hiring and Public Safety Committees Report* (Sept. 9, 2025), available at: https://cityclerk.lacity.org/onlinedocs/2025/25-0865_rpt_ph_9-17-25.pdf
[4] Elizabeth Joh, *Op-Ed: When police moonlight in their uniforms* (Oct. 13, 2014), available at: https://www.latimes.com/opinion/op-ed/la-oe-joh-police-moonlighting-vonderrit-myers-20141014-story.html

using agency resources for immigration enforcement could be violated to the extent that an officer uses agency equipment, such as their uniform or weapon, while engaged in secondary employment. (Gov. Code, § 7284.6, subd. (a)(1).) This is particularly true given that existing law conditions certain part-time officer employment, such as employment as a security guard or patrolman for a public entity, on that officer being in a police uniform. (Pen. Code, § 70, subds. (c)(1).) If an officer serves as a security guard or patrolman for a public entity, such as ICE or CBP, while wearing their uniform, that agency arguably could be considered to have used agency resources for immigration enforcement purposes. (Gov. Code, § 7284.6, subd. (a)(1).)

Second, LEAs are restricted from using agency resources or personnel for immigration enforcement purposes, including "performing the functions of an immigration officer," whether pursuant to specified agreements "or any other law, regulation, or policy, whether formal or informal." (Gov. Code, § 7284.6, subd. (a)(1)(G).) As discussed below, law enforcement secondary employment is generally regulated by their employing agency. Specifically, local and state agencies must adopt rules governing incompatible off-duty employment, which must notify their employees of such prohibited activities, identify disciplinary actions for engaging in prohibited activities, and provide the processes for an employee to appeal a determination of an incompatible activity. (Gov. Code, §§ 1126, subd. (c); 19990.) Here, an LEA policy that permits off-duty ICE employment could be treated as an informal policy that permits its employee-officers to perform the functions of an immigration officer in a part-time capacity, in violation of the California Values Act.

Third, the Values Act explicitly prohibits LEAs from "plac[ing] peace officers under the supervision of federal agencies or employ[ing] peace officers deputized as special federal officers or special federal deputies for purposes of immigration enforcement." (Gov. Code, § 7284.6, (a)(2).) The requirement that local and state agencies must adopt rules regulating incompatible activities could lead to a finding that an LEA that permits its employees to engage in immigration enforcement while off duty is informally permitting its officers to be supervised by federal agencies. On the other hand, the language "place" suggests that the prohibition may be limited to an LEA actively appointing its employees to be supervised by federal immigration authorities. Accordingly, it seems unlikely that an officer's secondary employment with an immigration authority would violate this particular provision of the Values Act.

4) **Restrictions on Off-Duty Peace Officer Employment:** Peace officers are generally permitted to engage in other employment while off duty and outside their regular employment. (Pen. Code, § 70, subd. (e)(1).) Existing law prohibits an officer from being prohibited from engaging in other employment while off duty from their principal employment and outside their regular employment, except as provided by written regulations or policies adopted by their employing agency or pursuant to an agreement between the agency and a recognized employee organization representing the officer. (Pen. Code, § 70, subd. (e)(2).) This prohibition is subject to the specific restrictions that apply to part-time employment as a private security guard or patrolman, identified below. (*Ibid.*)

Peace officers are specifically authorized to engage in secondary employment as a private security guard or patrolman for a public entity, or private employer, while they are off duty and outside their principal employment, and exercising peace officer powers concurrently with that employment. (Pen. Code, § 70, subds. (c)(1) & (d)(1).) Such part-time employment

is permitted if the officer is in an approved police uniform and is subject to reasonable rules of their employing LEA. (*Ibid.*) If the part-time employment is for a private employer, additional requirements apply: 1) the employment must be approved by the governing municipality; and 2) the wearing of uniforms and equipment is approved by the principal employer. (Pen. Code, § 70, subd. (d)(1).)

However, any secondary employment cannot be incompatible with the officer's principal duties. Existing law prohibits a local or state officer or employee from engaging in any employment or activity that is inconsistent, incompatible, in conflict with, or inimical to their official duties. (Gov. Code, §§ 1126, subd. (a); 19990.) This prohibition differs slightly for state versus local officers. For state employees, the employment must be *clearly* incompatible with the person's official duties. (Gov. Code, § 19990.) For local employees, the employment must be for *compensation*. (Gov. Code, § 1126, subd. (a).) Local employees are also prohibited from performing any work outside of their agency where any part of their efforts will be subject to approval by an officer or entity of their employing body, unless otherwise approved. (Gov. Code, § 1126, subd. (a).)

Specific incompatible activities are largely determined by the employer agency. The appointing power for the given agency has discretion to determine those activities that are considered incompatible with their duties as a local or state officer. (Gov. Code, §§ 1126, subd. (b); 19990.) For local agencies, outside employment may be prohibited if it involves: 1) use for private gain of agency resources; 2) acceptance of consideration from anyone other than their agency for the performance of an act which would be expected to be rendered in their regular employment; 3) performance of an act outside their official capacity, which may be subject to the control, inspection, review, audit, or enforcement of another employee or the employing agency; or 4) time demands that make performance of their duties less efficient. (Gov. Code, § 1126, subd. (b).)

For state agencies, incompatible activities include, but are not limited to: 1) using state influence for private gain; 2) using state resources for private gain; 3) using confidential information for private gain, or providing such information to unauthorized persons; 4) accepting any consideration from anyone other than the state for the performance of official duties; 5) performing an act outside their official capacity, knowing it may be subject to the control, inspection, review, audit, or enforcement by the officer or employee; 6) accepting something of value from anyone seeking to do business with the person's appointing authority or whose activities are regulated by the appointing authority where it reasonably could be substantiated that the gift was intended to influence the person's official duties, as specified; and 7) failing to devote full efforts to their state office or employment during their hours of duty. (Gov. Code, § 19990, subds. (a)-(g).)

The applicable agency is required to adopt rules governing incompatible employment, which shall include notice to employees of the determination of prohibited activities, of disciplinary actions to be taken for engaging in such activities (in the case of local agencies), and for appeal by employees from such a determination and from its application to an employee. (Gov. Code, §§ 1126, subd. (c); 19990.)

Here, existing restrictions on incompatible off-duty employment may prohibit certain secondary peace officer employment related to immigration enforcement. First, peace officers employed by local agencies are prohibited from engaging in employment for

compensation that is incompatible not only with their own duties but also with "the duties, functions, or responsibilities" of their employing agency. (Gov. Code, § 1126, subd. (a).) This only applies to local agencies. The Values Act prohibits LEAs from using agency resources for immigration enforcement purposes, subject to narrowly tailored exemptions. (Gov. Code, § 7284.6, subd. (b).) Accordingly, it could be argued that a local peace officer's part-time employment with a federal immigration agency is inherently inconsistent and incompatible with their employing-LEA's more general duties and obligations to prevent agency resources from being used to assist with immigration enforcement efforts.

Second, an officer's part-time employment with an immigration agency could be interpreted to be prohibited by the restriction against an employee performing an act that later may be subject, directly or indirectly, to the control or enforcement of that employee, or, in the case of local agencies, the control or enforcement of that employee's agency. (Gov. Code, § 1126, subd. (b); 19990, subd. (e).) The Values Act permits LEAs to transfer an individual to immigration authorities or honor a notification request from immigration authorities for individuals who have a specified criminal history. (Gov. Code, § 7282.5, subd. (a).) Here, an officer could be deemed to violate this incompatibility prohibition if that officer is involved in part-time immigration enforcement actions against an individual who is ultimately arrested by their employing LEA and transferred to ICE due to that individual's criminal history; thereby subjecting that officer's secondary employment actions to the enforcement of their employing LEA.

5) **Effect of this Bill:** This bill contains four distinct provisions.

First, it prohibits a peace officer from engaging in casual, part-time, contract-based, or any other form of secondary employment for, and from being an independent contractor of or volunteer for, DHS or its contractors, or any other entity that assists with or engages in immigration enforcement, as defined. This prohibition applies irrespective of existing provisions of law authorizing officers to engage in off-duty employment. Immigration enforcement is defined to have the same meaning as it does in the Values Act. (Gov. Code, § 7284.4.)

The scope of this prohibition may be overly broad.

Preliminarily, this bill prohibits any type of secondary employment with DHS or its contractors, regardless of whether the particular DHS agency or department actually engages in immigration enforcement. DHS is a large federal umbrella agency that is made up of 16 component agencies: 1) U.S. Citizenship and Immigration Services; 2) CBP; 3) ICE; 4) U.S. Coast Guard; 5) Cybersecurity and Infrastructure Security Agency; 6) Federal Emergency Management Agency (FEMA); 7) Federal Law Enforcement Training Centers; 8) U.S. Secret Service; 9) Transportation Security Administration; 10) Management Directorate; 11) Science and Technology Directorate; 12) Countering Weapons of Mass Destruction Office; 13) Office of Intelligence and Analysis; 14) Office of Homeland Security Situational Awareness; 15) Office of Health Security; and 16) the Ombudsman Offices.[5] While this includes those agencies that are primarily responsible for enforcing federal immigration law

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[5] Homeland Security, *Operational and Support Components* <https://www.dhs.gov/operational-and-support-components> [accessed Feb. 26, 2026].

– CBP and ICE – it also includes other agencies that may be minimally involved in immigration enforcement, if at all. As drafted, this prohibition may prevent officers from engaging in any part-time employment with federal agencies such as the U.S. Coast Guard or FEMA, regardless of whether that secondary employment involves immigration enforcement. Further, given that this prohibition also includes DHS contractors, an officer may not always be aware that a prospective secondary employer contracts with DHS. The author may wish to narrow the scope of this prohibition.

This prohibition on secondary employment can also be interpreted to separately apply to "any other entity that assists with or engages in immigration enforcement." This provision could prohibit California officers from engaging in any secondary employment with other state and local LEAs. This is because California state and local LEAs are permitted to assist with immigration enforcement efforts in certain ways. As previously noted, the Values Act permits LEAs to cooperate with immigration authorities to the extent such cooperation would not violate federal, state, or local law. (Gov. Code, § 7282.5.) Most notably, LEAs have discretion to transfer an individual to immigration authorities or provide ICE with information about an in-custody individual's release date for individuals arrested or convicted for certain crimes. (Gov. Code, § 7282.5, subds. (a) (1) & (2), (b).) Further, the definition of an LEA under the Values Act does not include the Department of Corrections and Rehabilitation. (Gov. Code, § 7284.4, subd. (a).) Given that local and state LEAs are permitted to assist ICE with immigration enforcement efforts in narrow ways, particularly when it comes to individuals who have committed certain crimes, this bill may inadvertently prevent officers from engaging in any type of secondary employment with other state and local LEAs. It is unclear if this is the author's intention.

Second, this bill provides that for purposes of when a record relating to an incident involving dishonesty by a peace officer, as specified, is subject to disclosure under the CPRA, a violation of the above prohibition is an act of dishonesty and constitutes grounds for peace officer decertification.

Third, it requires a peace officer to report to their employing law enforcement agency any offer of, request for, or attempt at secondary employment that involves assisting with or engaging in immigration enforcement.

The author may wish to clarify and narrow this requirement. As drafted, this requirement could arguably be triggered if an officer receives an ICE recruitment LinkedIn message or even a digital advertisement and subsequently ignores it. It may not be practical to require an officer to inform their agency every time an immigration agency attempts to recruit that officer. Further, given that many entities other than CBP and ICE engage in or assist with immigration enforcement, including state and local agencies as noted above, an officer may not always have knowledge that the potential secondary employer assists with immigration enforcement.

Fourth, it makes all records related to secondary employment of peace officers public records for purposes of the CPRA.

Personnel records of peace officers are generally confidential and cannot be disclosed, except as specified. (Pen. Code, § 832.7, subd. (a).) The type of peace officer records that may be made available for public inspection under the CPRA is carefully delineated in Penal Code

section 832.7. Disclosable records primarily include records relating to reports, investigations, or findings of specified misconduct. (Pen. Code, § 832.7, subd. (b)(1)(A)-(E).) Agencies are required to redact a peace officer's record only for specified purposes, including removing personal data or information, among others. (Pen. Code, § 832.7, subd. (b)(6).) This bill requires all peace officer secondary employment records to be subject to public disclosure, irrespective of whether the secondary employment relates to immigration enforcement. It does not contain any protections or exemptions for personal or sensitive information. The author may wish to consider narrowing or otherwise removing this provision.

6) **Constitutional Considerations:** This bill explicitly prohibits part-time employment with a federal department and, therefore, may be subject to a legal challenge under the Supremacy Clause.

State laws that conflict with federal laws or attempt to regulate the federal government may be invalidated for several reasons. The Supremacy Clause of the U.S. Constitution provides that federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." (USCS Const. Art. VI, Cl 2.)

The doctrine of intergovernmental immunity is derived from the Supremacy Clause of the Constitution. Intergovernmental immunity demands that "the activities of the Federal Government are free from regulation by any state." (*United States v. California* (9th Cir. 2019) 921 F.3d 865, 878 (citations omitted.) This makes a state regulation invalid if it "regulates the United States directly or discriminates against the Federal Government or those with whom it deals." (*N.D. v. United States* (1990) 495 U.S. 423, 435); *Boeing Co. v. Movassaghi* (9th Cir. 2014) 768 F.3d 832, 839.) This prohibition against directly regulating the federal government prohibits states from "interfering with or controlling the operations of the Federal Government." (*United States v. Washington* (2022) 596 U.S. 832, 838.) In contrast, "'[a] state or local law discriminates against the federal government if it treats someone else better than it treats the government.'" (*Boeing*, *supra*, 768 F.3d at p. 842, quoting *United States v. City of Arcata* (9th Cir. 2010) 629 F.3d 986, 991.) Notably, "*any* discriminatory burden on the federal government" is prohibited. (*United States v. California*, *supra,* 921 F.3d at p. 880) (emphasis in original). However, generally applicable state laws can apply to federal entities. (See Johnson v. Maryland, 254 U.S. 51, 56 (1920); *N.D*, *supra,* 495 U.S. at pp. 435-438; *United States v. Washington*, *supra,* 596 U.S. at p. 839.)

A related doctrine is conflict preemption, whereby state laws that conflict with federal law are preempted. (*U.S. v. California*, *supra*, F.3d at pp. 878-879.) "This includes cases where compliance with both federal and state regulations is a physical impossibility, and those instances where the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." (*Arizona v. United States*, 567 U.S. 387, 399 (2012).) For example, in *United States v. California* (2019) 921 F.3d 865, the Ninth Circuit Court of Appeals upheld the provisions of the California Values Act relating to law enforcement cooperation with ICE. The court of appeals had "no doubt that SB 54 makes the jobs of federal immigration authorities more difficult." (*Id.* at 886.) But the court concluded that "this frustration does not constitute obstacle preemption," because federal law "does not require any particular action on the part of California or its political subdivisions." (*Id.* at 889.) "Even if SB 54 obstructs federal immigration enforcement," the court stated,

"the United States' position that such obstruction is unlawful runs directly afoul of the Tenth Amendment and the anticommandeering rule." (*Id.* at 888.) "California has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal efforts." (*Id.* at 891.) The court concluded that SB 54 does not violate the United States' intergovernmental immunity for similar reasons. (*Ibid.*)

Here, this bill prohibits off-duty peace officer employment with a specific federal department, which could lead to a lawsuit alleging that it discriminates against the federal government in violation of intergovernmental immunity. The likelihood of success of such a claim is unclear. The bill also applies more broadly to other entities that assist with or engage in immigration enforcement, which could increase its likelihood of withstanding such a discrimination-based intergovernmental immunity challenge. A claim that this restriction on secondary employment with DHS rises to the level of directly regulating the federal government or constitutes obstacle preemption is possible, albeit less likely, given that part-time California officer employment with DHS may not be considered critical to DHS duties and operations.

In the event this bill is enacted and subsequently challenged in court, the author may wish to add a severability clause. This may preserve the application of the rest of this bill's provisions if the provisions of this bill applying to DHS are found unconstitutional.

7) **Argument in Support**: According to the *Immigrant Legal Resource Center (ILRC)*, AB 1537 "would prohibit local and state law enforcement officers from engaging in any form of secondary employment or volunteering for Immigration and Customs Enforcement ("ICE"), the Department of Homeland Security, their contractors, or any entity that assists with or engages in federal immigration enforcement…

"Immigrants are a critical part of our communities. California is home to over 10 million people who are immigrants, nearly a quarter of all immigrants who call the U.S. home. In California, the Legislature has enacted a number of laws to limit local and state resources from being used to tear apart immigrant families and funnel people to ICE for detention and deportation. Unfortunately, despite the sanctuary protections in California, nothing in state law currently prevents local and state law enforcement officers from taking side jobs as ICE or deportation agents.

"Congress has appropriated $75 billion of our tax dollars to ICE over four years for mass deportations, and the federal administration desperately wants more ICE agents abducting our neighbors from the streets and harming members of the public across California. ICE is spending millions on ads in an attempt to recruit local police, including advertising campaigns in California markets.

"AB 1537 offers a clear and practical solution: preventing local and state law enforcement officers from clocking into a second job with ICE– an agency that is terrorizing communities across the country, tearing families apart, and operating with no accountability. Every day, ICE's abuses of power are spiraling further out of control. Local and state systems should not be turned into pipelines for deportation. AB 1537 reinforces those commitments by ensuring transparency, and accountability."

8) **Argument in Opposition**: According to the *Los Angeles Police Protective League*, "Assembly Bill 1537 (D-Bryan) raises very complex concerns.

"Service in the U.S. Coast Guard is now considered dishonesty and a de-certifiable offense

"The Coast Guard is a division of the Department of Homeland Security. Some of our members serve in the U.S. Coast Guard Reserve, and we believe that their service to this country is courageous and admirable. However, Assembly Bill 1537 (D-Bryan) labels their service as "dishonesty," and it requires the Commission on Peace Officer Standards and Training (POST) to de-certify them as peace officers in the State of California.

"Providing World-Class Law Enforcement Training is now considered dishonesty, and a de-certifiable offense

"The Federal Law Enforcement Training Centers are housed within the Department of Homeland Security. This means some of our most highly trained officers, who are world-renowned for their experience and skills and teach courses as contractor/guest instructors at FLETC or other federal law enforcement agencies, are engaged in dishonesty and are subject to de-certification by POST. It is hard for us to believe that teaching others to survive Active Shooter Scenarios, or Crime Scene Investigation, Digital Forensic Examination, or Law Enforcement Leadership Essentials would be considered a dishonest profession under the law…

"Working for or assisting FEMA or TSA

"The security industry has long been a gateway to a career in law enforcement, and the TSA has been a hub from which our officers recruit the next generation of law enforcement. While this bill does not prohibit recruitment from TSA, it has an explicit process for sending employees to "external training" using the SF-182, which is typically how agencies enroll staff in vendor-provided (often contractor-run) courses. Skilled LAPD officers are often asked to serve as guest instructors for compensation. But even if the instruction is volunteered, our members still run the risk of running afoul of AB1537. Officers who desire to volunteer with the Community Emergency Response Team, which LAPD officers have done, because this program is housed under FEMA, and because FEMA is housed under the Department of Homeland Security, run the risk of de-certification.

"Constitutional Considerations

"This bill requires de-certification based on employment, volunteerism, and general association. This bill lacks a rational nexus to officer fitness. Why is service in the Coast Guard, or any employment with any federal agency, irrespective of job title or performance, considered dishonesty and de-certifiable?

"Why is concurrent employment with Homeland Security de-certifiable, but concurrent involvement with the Department of Justice (FBI, U.S. Marshals, or DOJ) in immigration related matters is considered sufficiently honest, instead of dishonest?

"AB 1537 substitutes moral condemnation of a federal agency for an evidence-based assessment of officer fitness. It declares lawful federal employment "dishonest" without regard to conduct, intent, or performance; treats similarly situated federal law-enforcement associations differently without rational justification; and imposes career-ending consequences through irrebuttable presumptions that deny due process.

"**Practical Compliance Questions**

"The bill requires law enforcement officers to "report to their employing law enforcement agency any offer of, request for, or attempt at secondary employment." Key questions regarding this bill include the following:

- What qualifies as an "offer"?
- Must it be written?
- Must compensation be discussed?
- Does a recruiter's LinkedIn message count?
- Does an overheard comment count?
- What is an "attempt"?
- Who decides credibility?

"**Request for Amendments**

"We support accountability, and we support California's transparency laws. But this provision turns secondary employment records into a public safety risk. Second jobs often require listing a home address, contact details, schedules, and other identifiers, especially if the secondary employment is as a sole proprietor. Making that material broadly disclosable under CPRA creates a doxxing risk against our members and their families, while doing little to target misconduct. These types of progressive policies should be precise: disclose conflicts and wrongdoing, not personal identifiers. We're asking for guardrails that protect worker safety and privacy while preserving real accountability.

"Our request for amendments is as follows:

- Require redaction of personal identifiers, including but not limited to: home address, personal phone/email, DOB, SSN, and family member info.

- Make only conflict-of-interest determinations and approval/denial decisions public.

- Keep underlying forms submitted by our members confidential unless there's a sustained finding of misconduct."

9) **Related Legislation**:

a) AB 1896 (González) disqualifies a person from being a peace officer and from public employment more generally if they were employed by an entity that engaged in immigration enforcement between January 20, 2025, and January 20, 2029, among other changes. AB 1896 is pending referral to this Committee.

b) AB 1627 (Ávila Farías) disqualifies a person from being a peace officer or specified education employee if they were previously employed by ICE between September 1, 2025, and January 20, 2029, or by specified correction departments, among other changes. AB 1627 is pending referral to this Committee.

10) **Prior Legislation**:

a) SB 54 (De León), Chapter 495, Statutes of 2017, limits the involvement of state and local law enforcement agencies in federal immigration enforcement.

b) AB 359 (Koretz), Chapter 104, Statutes of 2003, states that nothing prohibits a peace officer from engaging in other employment while off duty, that no officer shall be prohibited from engaging in other employment except as specified, and that if an employer withholds consent to allow an officer to engage in other employment while off duty, the employer shall provide the reasons for denial in writing.

c) SB 243 (Peace), Chapter 452, Statutes of 1997, provides that the principal public agency employer of a peace officer who works off-duty for another public entity (the secondary employer) on a casual or part-time basis as a private security guard or patrolman shall require the secondary employer to enter into an indemnity agreement as a condition of approving such employment

d) SB 1375 (Peace), Chapter 710, Statutes of 1996, clarifies that a peace officer who contracts for their services as an armed private investigator or armed patrol operator is not exempt from licensure under the Private Investigators Act (Act).

REGISTERED SUPPORT / OPPOSITION:

Support

Empowering Marginalized Asian Communities (Co-Sponsor)
Freedom for Immigrants (Co-Sponsor)
Harbor Institute for Immigrant and Economic Justice (Co-Sponsor)
Immigrant Legal Resource Center (Co-Sponsor)
National Day Laborer Organizing Network (NDLON) (Co-Sponsor)
Pomona Economic Opportunity Center (Co-Sponsor)
Services, Immigrant Rights and Education Network (SIREN) (Co-Sponsor)
67 Sueños
Alliance for Boys and Men of Color
Alliance San Diego
Board of Supervisors for the City and County of San Francisco
Buen Vecino
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Community Foundation
California Immigrant Policy Center
California Public Defenders Association
Californians for Justice
Californians United for a Responsible Budget

Center on Juvenile and Criminal Justice
Chinese for Affirmative Action
Chispa, a Project of Tides Advocacy
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Culver City Democratic Club
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Friends Committee on Legislation of California
Glide
Homies Unidos INC
Human Impact Partners
Immigrant Defenders Law Center
Initiate Justice
Justice2jobs Coalition
Khmer Girls in Action
LA Defensa
League of Women Voters of California
Legal Services for Prisoners With Children / All of US or None
Local 148 LA County Public Defenders Union
Multi-faith Action Coalition
New Light Wellness
Next Door Solutions to Domestic Violence
Oakland; City of
Orale: Organizing Rooted in Abolition, Liberation, and Empowerment
Orange County Rapid Response Network
Policing Project At Nyu Law School
Puente De LA Costa Sur
Restoring Hope California
Rubicon Programs
San Diego Immigrant Rights Consortium
San Francisco Public Defender
Secure Justice
Sister Warriors Freedom Coalition
South Bay People Power
Southeast Asia Resource Action Center
The Black Alliance for Just Immigration
The Change Parallel Project
Vietrise
Western Center on Law & Poverty, INC.

Opposition

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

California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles Police Protective League
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association

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

Date of Hearing: March 3, 2026
Consultant: Jaleel Baker

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1541 (Dixon) – As Amended February 9, 2026

SUMMARY: Requires the Department of Justice (DOJ) to publish more detailed human trafficking data on the OpenJustice web portal. Specifically, **this bill:**

1) Requires the DOJ to report, in addition to data on the number of arrests for and the number of reported victims of human trafficking, data on the number of convictions for human trafficking.

2) Requires the data on all of the above categories to be disaggregated by labor trafficking, sex trafficking, and trafficking of a minor.

3) Requires DOJ, in addition to data from the California Incident-Based Reporting System, to include data from state summary criminal history information.

EXISTING LAW:

1) States any person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services, is guilty of human trafficking and shall be punished by imprisonment in the state prison for 5, 8, or 12 years and a fine of not more $500,000. (Pen. Code, § 236.1, subd. (a).)

2) Provides any person who deprives or violates the personal liberty of another with the intent to effect or maintain procurement for sex work, pimping, pandering, procurement of a child for prostitution, abduction of a minor for sex work, sale or production of child sexual assault material (CSAM), sexual exploitation of a child, employment of a minor for CSAM, promotion of CSAM, obscene live conduct, or extortion is guilty of human trafficking and shall be punished by imprisonment in the state prison for 8, 14, or 20 years and a fine of not more than $500,000. (Pen. Code, § 236.1, subd. (b).)

3) States any person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of procurement for sex work, pimping, pandering, procurement of a child for prostitution, abduction of a minor for sex work, sale or production of CSAM, sexual exploitation of a child, employment of a minor for CSAM, promotion of CSAM, obscene live conduct, or extortion is guilty of human trafficking, as follows:

   a) 5, 8, or 12 years and a fine of not more than $500,000.

b) Fifteen years to life and a fine of not more than $500,000 when the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person. (Pen. Code, § 236.1, subd. (c)(1)-(2).)

4) Requires the DOJ to collect criminal justice data from designated state and local agencies and instructs agencies on proper data reporting and recordkeeping standards. The DOJ is required to process and analyze the specified data, share necessary information with federal authorities, and publish annual criminal statistics through its OpenJustice Web portal. The DOJ is also required to periodically review and improve criminal justice data systems, by specifically reporting on California's transition to incident-based crime reporting aligned with the National Incident-Based Reporting System. (Pen. Code, § 13010.)

5) Requires the DOJ to maintain a data set that contains the number of crimes reported, number of clearances, and clearance rates in California, as provided by local law enforcement agencies. The data set is required to be published annually through the OpenJustice Web portal. (Pen. Code, § 13013.)

6) Requires the information published on the OpenJustice Web portal to contain statistics showing, among other things, the following:

a) The amount and the types of offenses known to the public authorities;

b) The personal and social characteristics of criminals and delinquents;

c) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents;

d) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court. (Pen. Code, § 13012, subd. (a)(1)-(4).)

7) Mandates the annual report published by the DOJ, as specified, commencing with the report that includes data from 2022, to the extent the data is available, to include statistics on lewd or lascivious felonies consistent with those reported for rape, including the number of offenses reported and the rate per 100,000 population. (Pen. Code, 13012.7, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Author's Statement**: According to the author, "Human trafficking is a heinous form of modern-day slavery and has no place in the great state of California. It is the Legislature's responsibility to do everything it can in order to assist victims and families impacted by trafficking, because even one victim is too many. While we have made significant progress in raising awareness and punishing perpetrators, there is still work to do. One significant shortcoming that still exists is the startling lack of data on human trafficking within California. The most recent DOJ report on human trafficking was released in 2012, nearly 15 years ago. AB 1239 began the important process of increasing the amount of data available to the public about human trafficking and AB 1541 will expand that effort further."

2) **Current DOJ Information on Human Trafficking**: DOJ currently provides information about human trafficking, including national rates of trafficking. Human trafficking includes both labor trafficking and trafficking for commercial sexual exploitation. The existing DOJ website on human trafficking discusses the California law on trafficking and explains the different types of trafficking covered by both state and federal law.[1] According to the DOJ website on human trafficking:

> The United States is widely regarded as a destination country for human trafficking. Federal reports have estimated that 14,500 to 17,500 victims are trafficked into the United States annually. This does not include the number of victims who are trafficked within the United States each year. According to the National Human Trafficking Hotline, 10,949 cases of human trafficking were reported in the United States in 2018. According to the hotline, California is one of the largest sites of human trafficking in the United States. In 2018, 1,656 cases of human trafficking were reported in California. Of those cases, 1,226 were sex trafficking cases, 151 were labor trafficking cases, 110 involved both labor and sex trafficking, and in 169 cases the type of trafficking was not specified. The victims of human trafficking are often young girls and women. Young girls and women are 57.6% of forced labor victims and 99.4% of sex trafficking victims.
>
> California is one of the largest sites of human trafficking in the United States. In 2018, 1,656 cases of human trafficking were reported in California. Of those cases, 1,226 were sex trafficking cases, 151 were labor trafficking cases, 110 involved both labor and sex trafficking, and in 169 cases the type of trafficking was not specified. [2]

Given the prevalence of human trafficking in California, AB 1239 (Dixon), Chapter 393, Statutes of 2025, required the DOJ to begin tracking and reporting data on their OpenJustice web portal related to the number of individuals arrested for human trafficking and the number of individuals who are reported as victims of human trafficking. This bill would

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[1] https://oag.ca.gov/human-trafficking/what-is
[2] *Ibid.*

expand these reporting requirements and provide additional, more granular, human trafficking data to the public. Specifically, this bill would require DOJ to report the total amount of arrests and convictions for each type of human trafficking offense, including labor trafficking, sex trafficking, and trafficking of a minor. The additional reporting requirements would provide more information to the public on the state of human trafficking crimes in California.

Currently, the OpenJustice web portal does not list separate data entries for human trafficking arrests or reported victims of human trafficking, as the DOJ has indicated that specialists are actively working to implement the increased data requirements required by AB 1239 (Dixon), Chapter 393, Statutes of 2025. The DOJ estimates that the additional data will likely become public in July 2026, which is standard given their internal timeline for incorporating any new data requests into their annual data reconciliation process.

3) **Significance of Additional Human Trafficking Data:** According to the USC Gould School of Law, International Human Rights Clinic's 2021 report titled, "Over-Policing Sex Trafficking: How U.S. Law Enforcement Should Reform Operations," it is recommended that federal and local law enforcement agencies require uniform data collection to promote information sharing and the evaluation of operations.[3] The recommendations include a directive that federal and local law enforcement agencies record and publicly report a variety of different data points intended to offer more details on human trafficking crimes, such as whether the victims were foreign nationals or undocumented, the number of perpetrators identified during an investigation of a certain human trafficking offense, among others. Although this bill is limited in the type of additional data it would provide, it stands to bring California slightly more in-line with the national calls for additional human trafficking data.

4) **Victims of Human Trafficking:** Accurately tracking victims of human trafficking can be very challenging. In many instances, victims of trafficking, whether it is labor trafficking or trafficking for purposes of commercial sex exploitation, are too often unlikely to report due to several reasons. According to information provided by the US Department of Health and Human Services, Administration for Children and Families, in its one page summary entitled, "The Mindset of a Human Trafficking Victim":

> Victims of human trafficking are hesitant to come forward because of their fear of being deported. While many of these victims are women and children who have been beaten and/or raped, their current situation may still be better than where they came from. There may be significant cultural differences between the victim and U.S. law enforcement officials. Victims may be completely unaware of their rights or may have been intentionally misinformed about their rights in this country. Many victims do not self-identify as victims. The victims may fear not only for their own safety but also for that of their families in their home countries. Some traffickers threaten that they will harm their victims' families if the victims report their situation to, or cooperate with, law enforcement.[4]

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[3] https://humanrightsclinic.usc.edu/2021/11/15/over-policing-sex-trafficking-how-u-s-law-enforcement-should-reform-operations/

[4] https://www.justice.gov/sites/default/files/usao-ndia/legacy/2011/10/14/law_mindset_victim%20%282%29.pdf

Under current law, it is possible that local law enforcement may be inaccurately reporting the victims of human trafficking statistics, since human trafficking is often reported as arrests for sex work or other offenses that are not viewed as human trafficking. In fact, law enforcement often misses signs of human trafficking. According to the National Institute of Justice in 2020, instances of human trafficking far exceed identification by law enforcement:

> In two of the three study sites - jurisdictions with populations of 2.3 million and 600,000, respectively - researchers concluded that human trafficking incidents identified in law enforcement and social service agency records likely represented only a fraction of the actual incidence. The study found that the official trafficking numbers in one jurisdiction represented as little as 14% and at most 18% of the potential total trafficking victims. A common problem for officers is difficulty separating human trafficking from other offenses, such as prostitution, the researchers reported.
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> In some instances, specialized investigators said they only coded incidents as trafficking offenses if an individual was arrested and charged with a trafficking offense by a prosecutor. State law enforcement personnel interviewed in one jurisdiction said officers hesitate to report incidents as human trafficking when they involve juvenile victims, because of special victim information reporting requirements. In classifying offenses, officers often defer to the prosecutor. The researchers found that, across studied jurisdictions, officers lacked the ability to identify labor trafficking.[5]

This is significant research indicating that human trafficking victims, particularly those in the sex trade, are frequently arrested, charged, and convicted of prostitution-related offenses, effectively treating them as criminals rather than victims. As further evidenced by the U.S. Department of State, in their report titled, "Protecting Victims from Wrongful Prosecution and Further Victimization," researchers found that, "Traffickers often compel victims to engage in criminal activities such as prostitution, but law enforcement authorities often fail to properly screen and identify victims of human trafficking."[6] This bill maintains that the DOJ report data on human trafficking victims from the California Incident-Based Reporting System, but there is no assurance from available data that it is accurately reflecting the reality of human trafficking victims in California.

5) **Limitations on Available Human Trafficking Data**: The DOJ indicates that they receive relevant human trafficking data from two active reporting systems: the California Incident-Based Reporting System and the state summary criminal history information maintained by DOJ. The DOJ relies on the California Incident-Based Reporting System to determine the number of reported victims of human trafficking, and relies on the state summary criminal history information to discern the number of convictions and arrests related to human trafficking. The DOJ indicates that it is feasible to disaggregate the data by type of human trafficking for its data points regarding convictions, arrests, and victims, but warns that it

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[5] https://nij.ojp.gov/topics/articles/gaps-reporting-human-trafficking-incidents-result-significant-undercounting
[6] https://www.state.gov/wp-content/uploads/2019/02/283800.pdf

would be infeasible to determine any connection between the reported convictions or arrests, and how many reported victims resulted from a particular offense.

6) **Argument in Support**: According to the *California Tribal Business Association*, "Native American women and youth are disproportionately impacted by trafficking and exploitation, and more complete data will assist policymakers and law enforcement in identifying patterns, risk factors, and geographic trends that intersect with the Missing and Murdered Indigenous Persons (MMIP) crisis. Strengthened reporting also can support earlier intervention and more coordinated responses."

7) **Related Legislation**:

   a) AB 1583 (Rogers), would make the jurisdiction of a criminal action for wage theft or labor trafficking also include the county in which the victim resided at the time of the wage theft or labor trafficking, as specified. AB 1583 is set for a hearing today in this committee.

   b) AB 1656 (Davies), would expand the list of crimes that may support a finding of good cause continuances to specifically include human trafficking, among other crimes. AB 1656 is pending a hearing in this committee.

8) **Prior Legislation**:

   a) AB 1239 (Dixon), Chapter 393, Statutes of 2025, required the DOJ to report information concerning arrests for human trafficking and the number of individuals reported as victims of human trafficking on the OpenJustice Web portal.

   b) SB 259 (Nielsen), Chapter 245, Statutes of 2020, required the DOJ to include disaggregated information on lewd or lascivious felonies in its annual statewide criminal statistics report, as specified.

   c) AB 2524 (Irwin), Chapter 418, Statutes of 2016, required the DOJ to make available to the public its mandatory criminal justice statistics reports through the OpenJustice Web Portal, to be updated at least yearly, and makes conforming changes to existing provisions related to criminal statistics.

REGISTERED SUPPORT / OPPOSITION:

Support

California Tribal Business Alliance
1 Individual Support

Opposition

Analysis Prepared by: Jaleel Baker / PUB. S. / (916) 319-3744

Date of Hearing: March 3, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1546 (Schultz) – As Introduced January 5, 2026

SUMMARY: Increases the punishment for a driving under the influence (DUI) conviction with two priors from a misdemeanor to an alternate felony-misdemeanor and increases the punishment for a DUI with four or more priors from an alternate felony-misdemeanor to a straight felony. Specifically, **this bill**:

1) Increases the punishment for a person convicted of a DUI[1] with two priors[2] within ten years of the current offense, from a misdemeanor to an alternate felony-misdemeanor, punishable either as a misdemeanor by imprisonment for 120 days to one year in county jail or as a jail-eligible felony by 16 months, or two or three years, and by a fine of $390 to $1,000.

2) Increases the punishment and associated criminal sanctions for a person convicted of a DUI with four or more priors within ten years of the current offense, as follows:

   a) Increases the punishment from an alternate felony-misdemeanor to a straight jail-eligible felony, punishable by 16 months, or two or three years, and by a fine of $390 to $1,000.

   b) Extends the license revocation period from four years to five years, as specified.

   c) Extends the IID installation mandate from three years to four years.

3) Clarifies that the punishment and associated criminal sanctions that apply to a DUI with three or more priors apply only to a DUI with three priors.

4) Makes technical and conforming changes.

EXISTING LAW:

1) Makes it unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, or who has 0.08 percent or more, by weight, of alcohol (BAC) in their blood, to drive a vehicle (hereafter, "DUI"). (Veh. Code, § 23152 subds. (a), (b) (f), & (g).)

2) Punishes a DUI as follows:

   a) First DUI:

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[1] For purposes of this analysis, a "DUI" refers to a DUI punishable under Vehicle Code section 23152 that does not cause bodily injury. A DUI causing bodily injury is punished separately under Vehicle Code section 23153.
[2] For purposes of this analysis and unless otherwise specified, a "prior" means a separate DUI conviction under Vehicle Code sections 23152 (DUI), 23153 (DUI causing bodily injury), or a "wet reckless" conviction under 23103.5 (plea to reckless driving in satisfaction of an original DUI charge) that occurred within 10 years of the current violation.

i) A misdemeanor punishable by imprisonment for four days to six months in county jail (two days must be continuous), or if given probation, possibly two days to six months in jail.

ii) A fine of $390 to $1,000, plus penalty assessments.

iii) An order to install a functioning, certified IID on any vehicle that person operates for up to six months (if offense involved alcohol), at the court's discretion.

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

v) In counties with approved programs, completion of a three-month (30-hour) DUI program, or a nine-month (60-hour) program if the person's BAC was .20% or more, or they refused to take a chemical test, if given probation. (Veh. Code, §§ 13352, subd. (a)(1); 13352.1, subd. (a); 23536, subds. (a) & (c); 23538, subds. (a) & (b); 23575.3, subd. (h)(1)(A)(i).)

b) DUI with one prior:

i) A misdemeanor punishable by imprisonment for three months to one year in county jail, or if given probation, 10 days to one year, or four days to one year, as specified.

ii) A fine of $390 to $1,000, plus penalty assessments.

iii) One-year IID installation mandate (if offense involved alcohol).

iv) Two-year license suspension.

v) Completion of an 18-month or 30-month DUI program, as specified, if given probation. (Veh. Code, §§ 13352, subd. (a)(3); 23540, subd. (a); 23542, subds. (a) & (b); 23575.3, subd. (h)(1)(B).)

c) DUI with two priors:

i) A misdemeanor punishable by imprisonment for four months to one year in county jail, or 30 days to one year if given probation and ordered to complete a 30-month DUI program.

ii) A fine of $390 to $1,000, plus penalty assessments.

iii) Two-year IID installation mandate (if offense involved alcohol).

iv) Three-year license revocation, and 3-year designation as a habitual traffic offender.

v) An 18 or 30-month DUI program, as specified, if given probation and at the court's discretion. (Veh. Code, §§ 13352, subd. (a)(5); 23546; 23548, subds. (a) & (b); 23575.3, subd. (h)(1)(C).)

vi) 10-year license revocation if a person has been convicted of three or more DUIs or DUIs causing bodily injury, the last of which was punishable as a DUI or DUI causing bodily injury with two priors, a DUI with three or more priors, or as an alternate-felony misdemeanor because of a prior specified felony. (Veh. Code, § 23597, subd. (a).)

d) DUI with three or more priors:

i) An alternate felony-misdemeanor punishable by imprisonment for six months to one year in jail, or as a jail-eligible felony by 16 months, or two or three years, or 30 days to one year if given probation and ordered to complete a 30-month DUI program.

ii) A fine of $390 to $1,000, plus penalty assessments.

iii) Three-year IID installation mandate (if the offense involved alcohol).

iv) Four-year license revocation, and three-year designation as a habitual traffic offender.

v) An 18 or 30-month DUI program, as specified, if given probation and at the court's discretion. (Veh. Code, §§ 13352, subd. (a)(7); 23550; 23552, subds. (a) & (b); 23575.3, subd. (h)(1)(D).)

3) Makes it unlawful for any person who is under the influence of any alcoholic beverage or drug, or the combined influence of the two, or who has a BAC of .08 or more, to drive a vehicle, and concurrently do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which proximately causes bodily injury to any person other than the driver (hereafter, "DUI causing bodily injury.") (Veh. Code, § 23153 subds. (a), (f), & (g).)

4) Punishes a DUI causing bodily injury, as follows:

a) First DUI causing bodily injury,

i) An alternate felony-misdemeanor punishable by imprisonment for three months to one year in county jail or 16 months, or two or three years in state prison, or if given probation, five days to one year in county jail.

ii) A fine of $390 to $1,000, plus penalty assessments.

iii) One-year IID installation mandate (if offense involved alcohol).

iv) One-year license suspension.

v) In counties with approved programs, completion of a three-month (30-hour) DUI treatment program, or a nine-month (60-hour) program if the person's BAC was .20% or more or they refused to take a chemical test, if given probation. (Veh. Code, §§ 13352 subd. (a)(2), 23554; 23556, subds. (a) & (b); 23575.3, subd. (h)(2)(A).)

b) DUI causing bodily injury with one prior:

i) An alternate felony-misdemeanor punishable by imprisonment for four months to one year in county jail or 16 months, or two or three years in state prison, or if given probation, four months in jail, or 30 days to one year in jail.

ii) A fine of $390 to $5,000 fine, plus penalty assessments, or $390 to $1,000 if given probation as specified.

iii) Two-year IID installation mandate (if offense involved alcohol).

iv) Three-year license revocation.

v) An 18 or 30-month DUI program, as specified, if given probation and at the court's discretion. (Veh. Code, §§ 13352 subd. (a)(4); 23560; 23562, subds. (a) & (b); 23575.3, subd. (h)(2)(B).)

c) DUI causing bodily injury with two or more priors:

i) A felony punishable by imprisonment in state prison by two, three, or four years, or if given probation, either a minimum of one year in county jail, or 30 days to one year in county jail if ordered to complete an 18 or 30-month DUI program.

ii) A fine of $1,015 to $5,000, or $390 to $5,000 if given probation, and a requirement to make restitution or reparation.

iii) Three-year IID installation mandate (if offense involved alcohol).

iv) Five-year license revocation, and three-year designation as a habitual traffic offender.

v) An 18- or 30-month DUI program, as specified, if given probation. (Veh. Code, §§ 13352 subd. (a)(6); 23566; 23568, subds. (a) & (b); 23575.3, subd. (h)(2)(C.)

d) Provides that a person who is convicted of a DUI causing bodily injury, which proximately causes bodily injury or death to more than one victim and results in a felony conviction, shall receive a one-year sentence enhancement in state prison for each additional victim injured (maximum of three). (Veh. Code, § 23558.)

e) Punishes a person convicted of a DUI causing bodily injury, where the violation proximately causes great bodily injury (GBI) to any person other than the driver, and the offense occurred within 10 years of two or more priors, as a felony by imprisonment for two, three, or four years in state prison, a $1,015 to $5,000 fine, and a five-year license revocation (Veh. Code, §§ 23566, subd. (b); 13352 subd. (a)(6).)

f) Provides that if a person is convicted for the above offense, and the underlying offense occurred within 10 years of four or more priors, there shall be an additional punishment of three years in state prison, which shall be served in addition and consecutive to the sentence imposed above. (Veh. Code, § 23566, subd. (c).)

5) Makes any DUI or DUI causing bodily injury (hereafter, "any DUI") an alternate felony-misdemeanor if that person has previously been convicted of certain impaired driving crimes:

   a) Punishes a person convicted of any DUI within 10 years of specified felonies – a DUI with three or more priors, a DUI causing bodily injury, or gross vehicular manslaughter – as an alternate-felony misdemeanor, a $390 to $1,000 fine, a four- or five-year license revocation (including a three-year designation as a habitual traffic offender), and a three- or four-year IID mandate.[3] (Veh. Code, §§ 13352 subd. (a)(6)-(7); 23550.5, subds. (a), (c) & (d); 23575.3, subd. (h)(1)-(2).)

   b) Punishes a person convicted of any DUI, who has a prior conviction for felony intoxicated vehicular manslaughter, as an alternate felony-misdemeanor, a fine of $390 to $1,000, a four- or five-year license revocation, and a three- or four-year IID mandate. (Veh. Code, §§ 13352 subd. (a)(6)-(7); 23550.5, subds. (b), (c) & (d); 23575.3, subd. (h)(1)-(2).)

6) Requires a court, if a person is convicted of a DUI or a DUI causing bodily injury, to consider a BAC of .15 percent or more or a person's refusal to take a breath or urine test as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation. (Veh. Code, § 23578.)

7) Requires a court to advise a person convicted of a DUI or a DUI causing bodily injury, or who pleads to a reckless driving conviction in satisfaction of, or as a substitute for an original DUI charge, of the following: "You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and, as a result of that driving, someone is killed, you can be charged with murder." (Veh. Code, § 23593, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Alcohol-related roadway fatalities in our state have surged more than 50% over the past decade — an increase twice as steep as the rest of the country, according to federal estimates. It's time for California to do more to prevent these tragedies.

   "That is why I have introduced AB 1546 to combat the prevalence of DUIs in our community. AB 1546 does two critical things. It strengthens the criminal penalties for repeat DUI offenders, and it imposes longer license revocation and ignition interlock device (IID) mandates for these repeat offenders, to deter future drinking and driving incidents."

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[3] If the conviction is for a DUI, it is a three-year IID term. (Veh. Code, §23575.3, subd. (h)(1)D). If it is for a DUI causing bodily injury, then a four-year IID term. (Veh. Code, §23575.3, subd. (h)(2)D).

2) **Statewide Increase in Traffic Fatalities, Including DUI Fatalities.** There has been a substantial increase in crash fatalities in California in the last decade. Traffic fatalities can result from a variety of factors, including impaired driving, speeding, distracted driving, unsecured passengers, and unhelmeted motorcyclists, among others.[4] According to data published by the California Office of Traffic Safety (OTS), total crash fatalities across the state increased by about 31 percent, from 3,107 to 4,061, from 2013 to 2023.[5] This has been driven by an increase in almost all of the major crash fatality categories. According to OTS data, from 2013 to 2023, there was an approximate 54% increase in alcohol-impaired fatalities,[6] a 51% increase in unrestrained occupant fatalities,[7] a 51% increase in pedestrian fatalities,[8] a 31% increase in speeding-related fatalities,[9] and a 26% increase in motorcycle fatalities.[10] However, the latest data suggests this trend may be reversing. Total traffic fatalities decreased by 1.9% from 2021 to 2022,[11] and again by 11% from 2022 to 2023.[12] Alcohol-impaired driving fatalities similarly decreased by 4.5% from 2022 to 2023.[13]

   For context, alcohol and drug-involved crash fatalities (hereafter, "DUI crash fatalities"), which have historically comprised a significant portion of total crash fatalities, peaked at 2,065 in 2005, before declining to a multi-decade low of 1,416 in 2010.[14] DUI crash fatalities have steadily increased since then, reaching 1,644 in 2015 and 1,868 in 2021; an increase of about 32% from 2010 to 2021.[15] While DUI crash fatalities have increased in the last decade, they comprise an increasingly lower proportion of total crash fatalities. In 2013, DUI crash fatalities were responsible for 54.7% of all crash fatalities; in 2021, 41.7%.[16] That is the lowest proportion of total crash fatalities since 2001.[17] Further, non-alcohol-involved crash fatalities increased from 2010 to 2021 by an alarming 88% percent, from 1,667 to 3,133.[18] This indicates that vehicle safety factors, other than alcohol-involved impaired driving, are playing a significant role in driving California's increase in crash fatalities.

3) **Reduced Enforcement of DUI Laws:** The increase in DUI fatalities has coincided with a significant decline in DUI arrests and convictions. In 2010, when impaired fatalities were at a multi-decade low, there were 195,879 DUI arrests and 148,042 DUI convictions in California.[19] From 2010 to 2015, DUI arrests and convictions both decreased by

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[4] OTS, *California Annual Report: Fiscal Year 2024*, p. 30, (2024), available at: https://www.ots.ca.gov/wp-content/uploads/sites/67/2025/09/FY-2024-Annual-Report-Final-7.31-ALT-TEXT.pdf
[5] OTS, *California's Annual Report 2018*, p. 11, (2018), available at: https://www.ots.ca.gov/wp-content/uploads/sites/67/2019/06/2018-Annual-Report.pdf; OTS, *California Traffic Safety Quick Stats* (accessed February 4, 2026), available at: https://www.ots.ca.gov/ots-and-traffic-safety/score-card/
[6] OTS, *California's Annual Report 2018*, at p. 11; OTS, *2025 Traffic Safety Fact Sheet: Alcohol-Impaired and Alcohol-Involved Driving* (2025), available at: https://safetrec.berkeley.edu/2025-safetrec-traffic-safety-facts-alcohol-impaired-and-alcohol-involved-driving
[7] OTS, *California's Annual Report 2018*, at p. 11; OTS, *2025 Traffic Safety Fact Sheet: Occupant Protection and Child Passenger Safety* (2025), https://safetrec.berkeley.edu/2025-safetrec-traffic-safety-facts-occupant-protection-and-child-passenger-safety.
[8] OTS, *California's Annual Report 2018*, at p. 11; OTS, *2025 Traffic Safety Fact Sheet: Pedestrian Safety* (2025), available at: https://safetrec.berkeley.edu/2025-safetrec-traffic-safety-facts-pedestrian-safety
[9] OTS, *California's Annual Report 2018*, at p. 11; OTS, *2025 Traffic Safety Fact Sheet: Speeding-Related and Other Crashes* (2025), available at: https://safetrec.berkeley.edu/2025-safetrec-traffic-safety-facts-speeding-related-and-other-crashes
[10] OTS, *California's Annual Report 2018*, at p. 11; OTS, *2025 Traffic Safety Fact Sheet: Motorcycle Safety* (2025), available at: https://safetrec.berkeley.edu/2025-safetrec-traffic-safety-facts-motorcycle-safety
[11] OTS, *California Annual Report: Fiscal Year 2024*, at p. 8
[12] OTS, *California Traffic Safety Quick Stats* (accessed February 4, 2026), available at: https://www.ots.ca.gov/ots-and-traffic-safety/score-card/
[13] *Ibid.*
[14] State of California DMV, *DUI Summary Statistics* (accessed February 3, 2026), available at: https://www.dmv.ca.gov/portal/dmv-research-reports/research-development-data-dashboards/dui-management-information-system-dashboards/dui-summary-statistics/.
[15] *Ibid.*
[16] *Ibid.*
[17] *Ibid.*
[18] *Ibid.*
[19] State of California DMV, *DUI Summary Statistics* (accessed February 3, 2026), available at: https://www.dmv.ca.gov/portal/dmv-research-reports/research-development-data-dashboards/dui-management-information-system-dashboards/dui-summary-statistics/.

approximately 28%.[20] Arrests and convictions have continued to steadily decrease since then, reaching 110,017 arrests and 81,248 convictions in 2021.[21] In sum, between 2010 and 2021, DUI arrests and convictions decreased by approximately 44% and 45%, respectively.[22] Unsurprisingly, from 2011 to 2021, the DUI arrest rate per 100,000 licensed drivers decreased from 752 to 401.[23] This decrease in DUI arrests and convictions, considered alongside the significant increase in DUI fatalities, suggests a substantial reduction in the enforcement of California's DUI laws.

4) **California's DUI Framework:** Existing law makes it unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, or who has 0.08 percent or more, by weight, of alcohol (BAC) in their blood, to drive a vehicle. (Veh. Code, § 23152 subds. (a), (b) (f), & (g).) This is California's primary DUI statute that establishes the crime of DUI that does not cause bodily injury. DUIs that cause bodily injury or death are punished separately and more severely. The punishment for a DUI generally depends on the defendant's number of separate "priors" within 10 years of the current offense. (Veh. Code, § 23540.) Convictions that are considered "priors" are a DUI under Vehicle Code section 23152, a DUI causing bodily injury under Vehicle Code section 23153, and a "wet reckless" conviction under Vehicle Code section 23103.5. (*Ibid.*) A wet reckless conviction occurs where the prosecution agrees to a plea to a charge of reckless driving under Vehicle Code 23103, in satisfaction of, or as a substitute for, an original DUI charge, as specified. (Veh. Code, § 23103.5.)

   A first-time DUI and a DUI with one or two priors within ten years of the current offense are all misdemeanor offenses. (Veh. Code, §§ 23536; 23540; 23546.) However, as noted below, the amount of minimum jail time, license suspension length, and IID installation term all increase with each prior. (Veh. Code, §§ 13352, subd. (a)(1)-(5); 23536; 23540; 23546; 23575.3, subd. (h)(1)(A)-(C).) Currently, only a DUI with three or more priors can be prosecuted as a felony. (Veh. Code, § 23550.)

   Specifically, a first-time DUI is punishable by imprisonment for four days to six months in county jail, a fine of $390 to $1,000, a possible six-month IID installation order, a six- to 10-month suspension, and, if given probation, completion of a three- or nine-month DUI program. (Veh. Code, §§ 13352, subd. (a)(1); 13352.1, subd. (a); 23536, subds. (a) & (c); 23538, subds. (a) & (b); 23575.3, subd. (h)(1)(A)(i).) A DUI with one prior is punishable by imprisonment for three months to one year in county jail, a $390 to $1,000 fine, a one-year IID mandate, a two-year license suspension, and, if given probation, completion of an 18 or 30-month DUI program. (Veh. Code, §§ 13352, subd. (a)(3); 23540, subd. (a); 23542, subds. (a) & (b); 23575.3, subd. (h)(1)(B).) A DUI with two priors is punishable by imprisonment for four months to one year in county jail, a $390 to $1,000 fine, a two-year IID mandate, a three-year license revocation, and, if given probation, a possible 18 or 30-month DUI program. (Veh. Code, §§ 13352, subd. (a)(5); 23546; 23548, subds. (a) & (b); 23575.3, subd. (h)(1)(C).) A DUI with three or more priors is an alternate felony-misdemeanor, punishable by imprisonment for six months to one year in county jail, or as a jail-eligible felony by 16 months, or two or three years. (Veh. Code, § 23550.) Additionally, this offense is subject to a

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[20] *Ibid.*
[21] *Ibid.*
[22] *Ibid.*
[23] DMV, 32nd Annual Report of the California Dui Management Information System (2025), at p. 6, available at: https://www.dmv.ca.gov/portal/uploads/2025/10/32nd-Annual-Report-of-the-California-DUI-Managment-Information-System.pdf

$390 to $1,000 fine, a three-year IID mandate, a four-year license revocation, and, if given probation, a possible 18- or 30-month DUI program. (Veh. Code, §§ 13352, subd. (a)(7); 23550; 23552, subds. (a) & (b); 23575.3, subd. (h)(1)(D).)

5) **Effect of this Bill:** This bill is focused on the most serious repeat DUI offenders: DUI offenders with two priors, and DUI offenders with four or more priors. DUI offenders with at least two priors within ten years of the current offense make up a relatively small proportion of total DUI convictions. In 2020, 74.7% of DUI convictions were for first-time DUIs, 19.2% for second-time DUIs, 4.6% for third-time DUIs, and 1.4% for fourth or subsequent DUIs.[24] In 2019, the conviction numbers for a third-time DUI and a fourth or subsequent DUI were similarly 5.3% and 1.7%, respectively.[25] Accordingly, this bill targets a narrow, but meaningful, population of serial DUI offenders.

   This bill changes California's DUI laws in two ways. First, it increases the punishment for a person convicted of a DUI with two priors from a misdemeanor to an alternate felony-misdemeanor, punishable either as a misdemeanor by imprisonment for 120 days to one year in county jail or as a jail-eligible felony by 16 months, or two or three years, and by a fine of $390 to $1,000. Effectively, this gives prosecutors discretion to charge a person's third DUI within 10 years as a felony.

   Second, it increases the punishment and associated sanctions for a DUI with four or more priors. As previously noted, a DUI with three or more priors currently may be punished as an alternate felony-misdemeanor (Veh. Code, §§ 23550, subds. (a) & (b).) This means that a person convicted of their fourth, fifth, or sixth DUI in ten years can still be charged with a misdemeanor. This bill makes a DUI with four or more priors a straight jail-eligible felony, punishable by imprisonment for 16 months, or two or three years, and by a fine of $390 to $1,000. Effectively, this eliminates the misdemeanor option for the most serious category of repeat DUI offenders.

   Additionally, it increases the associated license revocation term and IID installation term for a DUI with four or more priors. As previously noted, a conviction for a DUI with three or more priors results in four-year license revocation and a three-year IID mandate. (Veh. Code, §§ 13352, subd. (a)(7); 23550; 23575.3, subd. (h)(1)(D).) This bill extends the license revocation period for a DUI with four or more priors from four years to five years, as specified, and extends the IID installation mandate for this offense from three years to four years.

6) **Felony Impaired Driving Crimes, Sentence Enhancements, and Other Criminal Sanctions for Impaired Driving:** A recent series of reporting by Cal Matters, titled "License to Kill,"[26] highlighted the significant increase in DUI-related fatalities in California. This reporting identified some troubling gaps in California's DUI framework, such as communication failures between courts and the Department of Motor Vehicles (DMV.)[27] A

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[24] DMV, 32nd Annual Report of the California Dui Management Information System (2025), at p. 30, available at: https://www.dmv.ca.gov/portal/uploads/2025/10/32nd-Annual-Report-of-the-California-DUI-Managment-Information-System.pdf
[25] DMV, 31st Annual Report of the California Dui Management Information System (2023), at p. 29, available at: https://www.dmv.ca.gov/portal/uploads/2023/09/2022-DUI-MIS-Report.pdf
[26] Cal Matters, *License to Kill* (accessed Feb. 13, 2026), available at: https://calmatters.org/series/license-to-kill/
[27] Lauren Hepler and Robet Lewis, *They were convicted of killing with their cars. No one told the California DMV*, Cal Matters (June 25, 2025), available at: https://calmatters.org/investigation/2025/06/california-courts-dmv/?series=license-to-kill

frequently repeated claim from this reporting series is that "California has some of the weakest DUI laws in the country."[28] Whether this can be said is unclear. California's impaired driving criminal laws are extensive and address conduct far beyond the specific crime of a DUI that does not cause injury under Vehicle Code section 23152. In addition to this particular crime, there are numerous criminal penalties, including felony crimes and sentence enhancements, that can be leveraged against impaired drivers. Some of these penalties include the following:

a) Felony DUI Causing Bodily Injury

A first-time DUI that causes bodily injury to another can be prosecuted as a felony. Existing law makes it unlawful for any person who is under the influence of any alcoholic beverage or drug, or the combined influence of the two, or who has a BAC of .08 or more, to drive a vehicle, and concurrently do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which proximately causes bodily injury to any person other than the driver. (Veh. Code, § 23153 subds. (a), (f), & (g).) A first offense is an alternate felony-misdemeanor punishable by imprisonment for 90 days to one year in jail or 16 months, or two or three years in state prison. (Veh. Code, § 23554.) A DUI causing bodily injury with one prior is also a wobbler, while a DUI causing bodily injury with two priors is a straight felony punishable in state prison by imprisonment for two, three, or four years. (Veh. Code, §§ 13352 subd. (a)(6); 23560; 23566; 23568, subds. (a) & (b); 23575.3, subd. (h)(2)(C.)

b) Felony DUI Crimes Due to Specified Priors or GBI

In addition to the crimes of a DUI or a DUI causing bodily injury, whereby the severity of punishment increases in accordance with that person's number of priors, any DUI can be punished as a felony if that person has previously been convicted of certain impaired driving offenses or if the DUI causes certain injury. (Veh. Code, § 23550.5, subds. (a), (c) & (d).)

First, any DUI within 10 years of a conviction for a specified felony – a DUI with three or more priors, a DUI causing bodily injury, or gross vehicular manslaughter – is punishable as an alternate-felony misdemeanor, a $390 to $1,000 fine, a four or five year license revocation (including designation as a habitual traffic offender for three years), and a three- or four-year IID mandate. (Veh. Code, §§ 13352 subd. (a)(6)-(7); 23550.5, subds. (a), (c) & (d); 23575.3, subd. (h)(1)-(2).) Accordingly, a DUI offender who was previously convicted of a felony DUI causing bodily injury can be subject to felony, rather than misdemeanor charges.

Second, a person convicted of any DUI who has previously been convicted of felony vehicular manslaughter while intoxicated can also face felony charges. This crime is punishable as an alternate felony-misdemeanor, a fine of $390 to $1,000, a four or five-year license revocation, and a three or four-year IID mandate. (Veh. Code, §§ 13352 subd. (a)(6)-(7); 23550.5, subds. (b), (c) & (d); 23575.3, subd. (h)(1)-(2).) Notably, this offense does not have a 10-year washout period. A person convicted of felony vehicular manslaughter while

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[28] Robert Lewis and Lauren Hepler, *15 DUIs, still driving: California's failure to take repeat drunk drivers off the road* (Oct. 30, 2025), available at: https://calmatters.org/investigation/2025/10/california-dui-failure/?series=license-to-kill; Robert Lewis and Lauren Hepler, *40,000 people died on California roads. State leaders looked away* (Dec. 11, 2025), available at: https://calmatters.org/investigation/2025/12/california-roadway-deaths-inaction/?series=license-to-kill

intoxicated who subsequently is convicted of a DUI 20 years later may be charged with a felony.

Third, a DUI causing bodily injury, where the violation proximately causes GBI to a person other than the driver, and the offense occurred within 10 years of two or more priors, is punishable as a straight felony by imprisonment for two, three, or four years in state prison, a $1,015 to $5,000 fine, and a five-year license revocation (Veh. Code, §§ 23566, subd. (b); 13352 subd. (a)(6).)

c) *Impaired Driving Involving Death:*

A person who kills someone while driving impaired may be subject to several additional felonies.

First, a person who kills someone while impaired by alcohol or drugs can be prosecuted with implied malice, second-degree murder, punishable by 15 years to life in state prison. (Pen. Code, § 187; 190, subd. (a); 1 CALCRIM 520 (2026); *People v. Watson* (1981) 30 Cal.3d 290, 300.) Notably, a person convicted of a DUI is required to be advised of the dangers of driving under the influence, and that they may be charged with murder if they continue to drink and drive and kill someone as a result. (Veh. Code, § 23593, subd. (a).)

Second, a person who kills someone while driving impaired and with gross negligence may be convicted of the crime of "gross vehicular manslaughter while intoxicated." This is defined as the unlawful killing of a person without malice 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. (Pen. Code, § 191.5, subds. (a) & (c)(1).) Gross vehicular manslaughter while intoxicated is a felony punishable by imprisonment for four, six, or 10 years in state prison. (Pen. Code, § 191.5, subd. (c)(1).) If this offense does not involve gross negligence, the offense becomes "vehicular manslaughter while intoxicated," which is punishable as an alternate felony misdemeanor with a heightened felony option of imprisonment for 16 months, or two or four years. (Pen. Code, § 191.5, subd. (c)(2).)

Notably, a person who is convicted of gross vehicular manslaughter while intoxicated, who has previously been convicted of any DUI, among other offenses, may be punished by a state prison term of 15 years to life. (Pen. Code, § 191.5, subd. (d).)

d) *Sentence Enhancements*

Impaired drivers may be subject to multiple types of sentence enhancements.

First, a person who is convicted of a DUI causing bodily injury, which proximately causes bodily injury or death to more than one victim and results in a felony conviction, shall receive a one-year sentence enhancement in state prison for each additional victim injured (maximum of three victims). (Veh. Code, § 23558.) Consider a person who drives impaired and causes a car crash that injures three people in the other car. That person may be charged with a felony DUI causing bodily injury, punishable by up to three years in state prison, and

an enhancement of two years for the two additional injured victims. (Veh. Code, §§ 23554; 23558.)

Second, where a person is convicted of the felony crime of a DUI causing bodily injury that proximately causes GBI and that occurred within 10 years of two or more priors, if the underlying offense occurred within 10 years of four or more priors that person shall be subject to an additional three-year prison enhancement, which shall be served in addition to and consecutive to the base term. (Veh. Code, § 23566, subds. (b) & (c).) For example, if a person is convicted of a DUI that causes GBI with four or more priors under this sentence enhancement, they may be punished by up to four years in state prison, and an additional three-year sentence enhancement. (*Ibid.*)

Third, a person convicted of a felony DUI may be subject to an additional three-year sentence enhancement if they personally inflicted GBI in the commission of the felony DUI. (Pen. Code, § 12022.7, subds. (a) & (g).) For example, if a person is convicted of a felony DUI causing bodily injury, and the defendant personally inflicted GBI during the offense, that person can face up to three years for the offense, and an additional three-year enhancement. (Pen. Code, § 23554; *See e.g., People v. Wilson* (2003) 114 Cal.App.4th 953, 956; *People v. Sainz* (1999) 74 Cal.App.4th 565, 576.) This does not apply where GBI is an element of the offense and is inapplicable to murder or manslaughter. (Pen. Code, § 12022.7, subds. (a) & (g).)

e) Jail Enhancements

A DUI can result in substantial jail time, even when prosecuted as a misdemeanor. A DUI conviction mandates minimum jail time as follows: first DUI (four days); second DUI (three months); third DUI (four months); and fourth or subsequent DUI (six months if prosecuted as a misdemeanor). (Veh. Code, §§ 23536; 23540; 23546; 23550.) Although probation, which is frequently granted, results in less minimum jail time.

In addition, existing law mandates additional jail time under certain circumstances. Generally, these jail enhancements apply regardless of whether probation was granted.

First, existing law mandates additional jail time if the DUI offense involved excessive speeding. Specifically, it requires an additional and consecutive term of two months in county jail if a person, during the commission of a DUI drives 30 miles per hour or more over the speed limit on a freeway, or 20 miles per hour over the posted speed limit on any other street or highway, in a manner that constitutes reckless driving (Veh. Code, § 23582, subd. (a).) Accordingly, a person convicted of a DUI with one prior while driving recklessly over 20 miles per hour over the speed limit on a highway may receive a minimum of five months of jail time; three months for their second DUI, and an additional two months for speeding.

Second, a person convicted of a DUI, where a minor under 14 years old was a passenger at the time of the offense, is subject to additional jail time as follows: first DUI (48 continuous hours); second DUI (10 days); third DUI (30 days); and fourth or subsequent DUI (three months). (Veh. Code, § 23572, subd. (a).)

Third, existing law also requires additional jail time for a person convicted of a DUI who, at the time of arrest, willfully failed to submit to or complete a breath or urine test, regardless of whether probation is granted. Additional jail time is mandated as follows: first DUI (heightened probation conditions); first DUI causing bodily injury (additional 48 continuous hours jail); any DUI with one prior (four days); DUI with two priors (10 days); and a DUI with three priors or a DUI with a prior specified felony (18 days). (Veh. Code, § 23577, subd. (a).)

f) Vehicle Impoundment

A person convicted of a DUI may also have their vehicle impounded, and possibly even sold. Currently, courts have discretion to impound a DUI offender's vehicle for up to 30 days for a first offense, where the vehicle was used in the commission of the offense, or up to 90 days if the offense occurs within five years of two or more prior DUIs. (Veh. Code, § 23594, subds. (a) & (b).) The impoundment must be ordered at the registered owner's expense, except for unusual cases where the interests of justice would be best served by not ordering impoundment. (*Ibid.*) Additionally, a court may declare a defendant-owner's vehicle to be a nuisance and subject the vehicle to sale if the defendant is convicted of any of the following: 1) a DUI within seven years of two or more prior DUI or intoxicated vehicular manslaughter convictions; 2) a DUI causing bodily injury within seven years of a prior DUI or intoxicated vehicular manslaughter conviction; or 3) intoxicated vehicular manslaughter. (Veh. Code, § 23596, subds. (a) & (b).)

Additionally, a court may impound the vehicle of a vehicle-owner for up to six months upon a conviction for driving with a suspended or revoked license and up to one year for a second or subsequent violation for that same offense. (Veh. Code, § 23592, subd. (a).)

7) **Argument in Support**: According to the *California Consortium of Addiction Programs and Professionals, "*AB 1546 strengthens California's response to repeat driving-under-the-influence (DUI) offenses and enhances public safety through a more graduated and accountable penalty structure.

"CCAPP represents the state's largest network of addiction treatment and recovery professionals. Our members regularly witness the profound risks associated with chronic impaired driving, particularly among individuals with untreated substance use disorders. Repeat DUI offenses signal a high-risk pattern that requires a proportionate response, one that protects the public while encouraging pathways to treatment and recovery.

"AB 1546 modernizes the state's DUI framework by clarifying wobbler classifications and increasing penalties for individuals with multiple prior DUI convictions within a ten-year period. These changes appropriately distinguish between occasional offenders and those whose repeated behavior presents a significant danger to themselves and others. This graduated structure strengthens accountability while supporting a more consistent statewide approach.

"We also strongly support the bill's updates to ignition interlock device (IID) requirements. Extending IID installation to 36 months for individuals with three prior DUI violations, and to 48 months for those with four or more, reflects evidence-based best practices. IIDs are

among the most effective tools for preventing repeat impaired driving, and these provisions will help reduce recidivism and save lives.

"By reinforcing proven prevention measures and ensuring that penalties reflect the severity of repeat offenses, AB 1546 advances both public safety and public health."

8) **Argument in Opposition**: According to *Californians United for a Responsible Budget*, "AB 1546 would add yet more and harsher punishments for driving under the influence (DUI) offenses which the evidence has shown do not address the underlying problems…

"We oppose this bill because it chooses to confront the complicated DUI problem in this state through the narrow traditional lens of ever increasing punishments. For over fifty years we have seen repeated attempts to get the attention of drunk drivers by imposing more and more serious criminal penalties. It hasn't worked before and it won't work now. Studies have shown that increased punishment has little or no deterrent effect.

"When ignition interlock devices are implemented in a way that is evidence based, equitable, and narrowly tailored California research shows DUI recidivism rates for first time convictions are relatively low, with a one year recidivism rate of 3.7 percent and only 4.3 percent involving a crash. That data shows why a one size fits all mandate is not sound policy. IIDs should be available and encouraged where there are clear indicators of elevated risk, guided by judicial discretion and informed criteria. The state must pair any program with strong oversight of IID installers, transparent complaint processes, safeguards against device malfunctions and dangerous rolling rechecks, and strict privacy limits on data collection, retention, and use.

"IIDs must also be free for people who cannot afford them. Current programs can cost more than one thousand dollars per year in installation, maintenance, and removal fees. For low income Californians, even reduced payments can trigger missed bills, food insecurity, and license suspensions tied to nonpayment. A public safety tool should not extract wealth from people in poverty. If the state requires IIDs, it should fully fund the cost, enforce clear vendor standards, and ensure that inability to pay never leads to extended sanctions or loss of driving privileges.

"Research shows that increasing the severity of criminal penalties often does little to deter individual conduct; instead, more effort should be devoted to structural solutions, including making roads and vehicles safer, and providing alternative transportation options.

"We all want to avoid the danger that drunk driving presents but attempts at deterrence after the fact have largely proven ineffective."

9) **Related Legislation**:

a) SB 907 (Archuleta) adds intoxicated vehicular manslaughter and gross vehicular manslaughter to the violent felonies list and subjects a person convicted of specified vehicle offenses, including a felony DUI, to a three-year sentence enhancement for each prior conviction for specified vehicle offenses, among other changes. SB 907 is pending a hearing in Senate Public Safety.

b) AB 1686 (Lackey) increases the punishment for a DUI with one prior, and a DUI with two priors, from a misdemeanor to an alternate felony-misdemeanor. AB 1686 is pending a hearing in this Committee.

c) AB 1748 (Sanchez) lengthens the license suspension and revocation periods for first-time and repeat DUI offenders, among other changes. AB 1748 is pending a hearing in this Committee.

d) AB 1830 (Petrie-Norris) requires courts to order first-time DUI offenders to install, maintain, and service an IID for up to six months on every vehicle they operate. AB 1830 is pending a hearing in this Committee.

e) AB 1687 (Lackey) punishes a person convicted of three or more specified vehicle offenses, including a DUI or a DUI causing bodily injury, among others, with an eight-year license revocation. AB 1687 is pending referral to this Committee.

f) AB 1814 (Alanis) requires specified officers assigned to traffic enforcement to complete a course of training on detecting and apprehending impaired drivers within one year of their assignment to traffic enforcement, and every two years thereafter. AB 1814 is pending referral to this Committee.

10) **Prior Legislation**:

a) AB 366 (Petrie-Norris), Chapter 689, Statutes of 2025, extended the sunset of the IID pilot program currently in place, from January 1, 2026, to January 1, 2033.

b) SB 421 (Bradford) of the 2021-2022 Legislative Session would have established a pretrial diversion scheme with specific conditions for misdemeanor DUI violations. SB 421 was held in Senate Appropriations.

c) SB 783 (Bradford) of the 2021-2022 Legislative Session was substantially similar to SB 421. SB 783 was never heard.

d) AB 401 (Flora) of the 2019-2020 Legislative Session would have made a DUI conviction that occurs within 10 years after four or more previous specified convictions, only punishable as a felony, among other changes. AB 401 failed passage in this Committee.

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

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

g) AB 2690 (Mullin) Chapter 590, Statutes of 2014, changed the term "prior violations" to "separate violations" in a statute that authorizes enhanced penalties if the current offense occurred within 10 years of a specified felony DUI offense.

h) AB 2605 (Bogh) of the 2005-2006 Legislative Session would have increased the penalty for a person convicted of a third DUI offense within 10 years from a misdemeanor to an

alternative misdemeanor/felony, among other changes. AB 2605 failed passage in this Committee.

i) SB 1694 (Torlakson), Chapter 550, Statutes of 2004, increased, from seven to 10 years, the "washout" period in which a person convicted of DUI would no longer be subject to increased penalties for having a prior specified DUI.

REGISTERED SUPPORT / OPPOSITION:

Support

California Consortium of Addiction Programs and Professionals
Peace Officers Research Association of California (PORAC)
Safe California Roads Coalition

Opposition

California Attorneys for Criminal Justice
California Public Defenders Association
Californians United for a Responsible Budget
Debt Free Justice California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Local 148 LA County Public Defenders Union
San Francisco Public Defender
Sister Warriors Freedom Coalition
Western Center on Law & Poverty, INC.

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

Date of Hearing: March 3, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1566 (Jackson) – As Introduced January 12, 2026

SUMMARY: Redefines severe neglect under the Child Abuse and Neglect Reporting Act (CANRA) to include any person who, having the care or custody of a child, willfully causes or permits serious illness or serious injury to the child, willfully causes or permits the death of the child, or causes the child to be placed at imminent risk of serious illness, serious injury, or death.

EXISTING LAW:

1) Establishes CANRA with the intent and purpose of protecting children from abuse and neglect. In any investigation of suspected child abuse or neglect, all persons participating in the investigation of the case shall consider the needs of the child victim and shall do whatever is necessary to prevent psychological harm to the child victim. (Pen. Code, § 11164.)

2) Provides that reports of suspected child abuse or neglect shall be made by mandated reporters. Any of the reporting agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referred by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case. Agencies that are required to receive reports of suspected child abuse or neglect may not refuse to accept a report of suspected child abuse or neglect from a mandated reporter or another person unless otherwise authorized, and shall maintain a record of all reports received. (Pen. Code, § 11165.9.)

3) States that a mandated reporter shall make a report to an agency, as defined, whenever the mandated reporter, in the mandated reporter's professional capacity or within the scope of the mandated reporter's employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. (Pen. Code, § 11166.)

4) Requires specified government agencies to forward to the Department of Justice (DOJ) a report of every case of suspected child abuse or neglect that it investigates and determines to be substantiated; and if a previously filed report proves to be not substantiated, the DOJ shall be notified in writing, and shall not retain that report. (Pen. Code, § 11169, subd. (a).)

5) Provides that any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of $1,000 or by both. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect, the failure to report is a continuing offense until a specified agency discovers the offense. (Pen. Code, § 11166, subd. (c).)

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

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

8) Defines "the willful harming or injuring of a child or the endangering of the person or health of a child" as a situation in which any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation in which his or her person or health is endangered. (Pen. Code, § 11165.3, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "The current mandated reporting system has resulted in the over-surveillance of families, most of whose challenges don't rise to the level of true safety concerns and child protection system involvement, and who are disproportionately families of color. The current system compromises safety of the children and families in need of child protections intervention by overwhelming the agency with reports that don't involve child abuse or neglect. This bill came as a recommendation from the California's Mandated Reporting to Community Supporting Task Force. Based on significant data on the occurrence and harm of over-reporting using the general neglect category, the Task Force identified a legislative recommendation to detail and clarify 'severe neglect' so it aligns with the child welfare system's definition rather than becoming a default catch-all reporting category."

2) **Effect of the Bill**: This bill reworks the definition of severe neglect that is used by mandated reporters in reporting suspected incidences of child abuse.

   The author notes the inspiration for this bill came from a recommendation out of the Mandated Reporting to Community Supporting (MRCS) Task Force.[1] In their 2024 report, the MRCS Task Force recommended "support[ing] the amendment of the Child Abuse

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[1] *Shifting from Reporting Families to Supporting Families* (Sep. 2024) Mandated Reporting to Community Supporting Task Force <https://www.caltrin.org/wp-content/uploads/2024/08/MRCS-Task-Force-Report-for-09-04-24.pdf> [as of Feb. 23, 2026].

and Neglect Reporting Act (CANRA) to revise and clarify the definition of severe neglect to be aligned with the definition of Severe Neglect utilized in the California Structured Decision Making (SDM) Tool."[2] This bill appears to closely reflect the SDM definition.

The change to severe neglect, as written in this bill, could create some inconsistencies and confusion. Willfully is a *mens rea* term generally used to describe a state of mind that must be plead and proved by prosecutors to secure a conviction. The use of "willfully" in other areas of the sentence but not before the clause stating, "causes the child to be placed at imminent risk of serious illness, serious injury, or death . . ." could create inconsistent outcomes. A willful state of mind, therefore, would need to be plead and proved to secure a conviction for any other conduct in this section of the bill, but would not be required should a person cause a child to be put in "serious risk of illness." This drafting could lead to outcomes some might consider unjust. For example, a parent who unknowingly lives and raises their child in a home with lead paint, asbestos, or in a community where environmental pollutants cause cancer, arguably could be subject to penalty under this bill.

Redefining severe neglect could additionally create a potential conflict with Penal Code section 11165.3. As an initial matter, by changing the definition of severe neglect to remove the defined language in section 11165.3, the definition potentially becomes superfluous. There, "the willful harming or injuring of a child or endangering the person or health of a child" means "a situation in which any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation in which his or her person or health is endangered." Here, in this bill, severe neglect means "any person, having the care or custody of a child, willfully causes or permits serious illness or serious injury to the child, willfully causes or permits the death of the child, or causes the child to be placed at imminent risk of serious illness, serious injury, or death, including, but not limited to, the willful failure to provide adequate food, clothing, shelter, or medical care." There appears to be at least some difference in these definitions. Yet, the existence of both sections could create interpretive uncertainty. For example, where a person willfully *permits* serious illness to a child, has that same person always also willfully *caused* a child to suffer? If not, this possibility suggests a person's conduct can be violative of section 11165.3 but not the severe neglect definition in section 11165.2(b), which may not be the author's intent.

Another consideration in the drafting of this bill is the potential conflict created between a part of the beginning of the severe neglect definition (". . . the *negligent* failure of a person having the care or custody of a child to protect the child from severe malnutrition . . .") and the last part of the definition (". . . the *willful* failure to provide adequate food, clothing, shelter, or medical care.") Negligent failure and willful failure are two different state-of-mind standards. It is unusual in the law for "negligent" conduct to be subject to the same penalties as "willful" conduct. Willful failure requires more intention on the part of the wrongdoer and, thus, is generally considered a more culpable conduct. The potential conflict or confusion here may be magnified by the fact that the definition of general neglect already explicitly

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[2] *California SDM Definitions,* at "Severe Neglect" (Nov. 2023) <https://ca.sdmdata.org/Definitions/HT> [as of Feb.23, 2026].

includes "negligent failure" in its definition. This conflict, however, exists as part of current law, so this issue ultimately may not create concern.

Additionally, the willful failure clause arguably subsumes the negligent failure clause. It is difficult to imagine a situation where a person who "willfully causes or permits serious illness or serious injury to the child" does not simultaneously also "negligent[ly] fail . . . to protect the child from severe malnutrition or a medically diagnosed nonorganic failure to thrive." If it is true that the negligent failure part of the severe neglect definition always will be covered by the willful parts of the definition, this could create another problem of surplusage. The rule against surplusage is an interpretive rule employed when interpreting statutory language courts employ to avoid "interpretations that render any language surplusage." (*Brennon B. v. Superior Court* (2022) 13 Cal.5th 662, 691.) Courts therefore will try to make a distinction between two clauses and apply them in the case. This could lead to unintentional applications of the law.

An argument can be made, however, that a distinction is possible between the negligent failure clause and willful clauses. For example, the lower standard, negligent failure, applies to an outcome potentially more serious, "severe malnutrition" or "medically diagnosed failure to thrive." Concomitantly, the higher standard, willful failure, applies to an outcome that is arguably less serious, inadequate nutrition. Nevertheless, with the potential interpretive issues in this bill, it may be worth considering reworking the language to clarify these concerns.

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

The law imposes duties on mandated reporters to report known or suspected instances of child abuse within defined periods and specifies further details of an individual's reporting obligations. (*B.H., supra*, at p. 193.) CANRA categorizes reports of child abuse and neglect into three areas: unfounded, inconclusive, and substantiated. (*In re D.P.* (2023) 14 Cal.5th 266, 279.) Mandated reporters' reporting duties are governed by an objective standard. (*B.H., supra*, at p. 193.) In other words, "the duty to report arises not on the basis of the mandated reporter's personal assessment of the facts known, but on the basis of what a reasonable person would suspect based on those facts." (*Ibid.*) The existence of sufficiently suspicious circumstances produces the mandatory duty to report the circumstances to a designated agency. (*Ibid.*) The agency receiving the report is required to investigate suspected abuse and determine whether abuse occurred. (*Ibid.*) CANRA also imposes on law enforcement agencies the duty to cross-report reports they receive from other agencies. (*Id.* at p. 190.)

By changing the definition of severe neglect, this bill may impact the type of conduct that gets reported and the number of reports submitted.

4) **The Impact of Reporting**: Current law provides a comprehensive reporting scheme to identify victims of child abuse. CANRA includes 50 different reporter types that define a

mandated reporter to include, among others, a teacher, a public assistance worker, an employee of a childcare institution, a firefighter, a physician, a coroner, a clergy member, an athletic coach, a commercial computer technician, and a human resource employee of a business that employs minors. (Pen. Code, § 11165.7, subd. (a).)

Despite the vast differences in each of these jobs, all mandated reporters share the same legal duty to report known or reasonably suspected child abuse or neglect that they become aware of in the course of their employment. (Pen. Code, § 11166, subd. (a).) Mandated reporters are required to make a report to a designated agency, specifically any police or sheriff's department, county welfare department, or designated county probation departments. (Pen. Code, § 11165.9.) Any of those agencies are required to accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person. (*Ibid.*)

According to data from the California Child Welfare Indicators Project (CCWIP), a collaboration between California Department of Social Services (CDSS) and the University of California, Berkeley, allegations of child maltreatment have hovered between 400,000-500,000 per year over the last decade.[3] The most recent data from 2024 shows there was a total of 417,513 allegations of maltreatment and the most frequent allegation type reported was for general neglect with 186,129 instances being reported.[4]

Severe neglect is a greater level of harm than general neglect. General neglect is defined as the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred, but the child is at substantial risk of suffering serious physical harm or illness. (Pen. Code, § 11165.2, subd. (b).) General neglect does not include a parent's economic disadvantage. (*Ibid.*) The language in this bill suggests that negligent failure conduct potentially could qualify as general neglect, severe neglect, or possibly, both. This type of uncertainty could lead to unintended and inconsistent application of the law.

As the author notes, however, overreporting is a significant concern and disproportionately impacts families of color. One factor that contributes to overreporting is that a mandated reporter who fails to report known or suspected neglect can face criminal charges, which can include up to six months confinement in a county jail and/or a fine of up to $1,000. (Pen. Code, § 11166, subd. (c).) Data from CCWIP show that in 2024 only 46,457 (11.1%) reports of abuse were substantiated.[5] Another 108,722 were inconclusive, 100,859 were unfounded, 145,464 had an assessment only/were evaluated out, and 16,011 were categorized as not yet determined.[6] Since nearly 90% of allegations are unsubstantiated, overreporting unnecessarily exposes hundreds of thousands of families to the scrutiny of child protective services (CPS), which can be a traumatic experience for families.

The Legislative Analyst's Office (LAO) found that California's child welfare system-involved families are disproportionately Black, Native American, and come from families

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[3] *California Child Population (0-17) and Children with Child Maltreatment Allegations,* California Child Welfare Indicators Project (CCWIP) <https://ccwip.berkeley.edu/childwelfare/reports/AllegationRates/MTSG/r/rts/l > [as of Feb. 23, 2026].
[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*

with low incomes, which is a demographic trend that has persisted for years.[7] Also, the LAO reported:

> Given the shorter and longer term negative impacts of experiencing trauma and maltreatment, child welfare system intervention may be necessary to help keep children safe from these potentially harmful situations. At the same time, involvement with the child welfare system also may result in trauma, particularly when a child is removed from their parent(s) or caregiver(s). How best to ensure child safety in a way that minimizes and mitigates trauma and ideally keeps the child with their parent(s)/caregiver(s) is a core challenge inherent to the child welfare system.[8]

Identifying ways to reduce or eliminate the impact of overreporting is critical to ensuring children are not being traumatized by the very process designed to protect their health and wellbeing. Clarifying what conduct is reportable could serve as one way of reducing overreporting. This bill attempts to make this clarification, which may lead to a reduction in unnecessary reports.

5) **Argument in Support**: According to *Public Counsel*, "We want to express our support for AB 1566 (Jackson), a bill that aims to address the over-reporting and over surveillance of Black/African American and Native American/Indigenous children and families in our Child Welfare System. We thank and applaud Assembly Member Jackson for his leadership in recognizing the critical need for reform of California's Mandated Reporting System and championing policy initiatives to address this need.

"Black/African American and Native American/Indigenous children are significantly more likely to be reported for allegations of abuse and neglect, despite the vast majority of those allegations being unfounded or unsubstantiated. A recent study showed that half of Black children, as well as half of Native American children, experienced an investigation at some point during their childhood, compared to nearly a quarter of white children. California is no exception, a recent report by the Legislative Analyst's Office explains that of children born in 1999 in California, approximately 50% of Black and Indigenous children will have some level of child welfare involvement by the age of 18, and children on Medi-Cal are more than twice as likely to experience child welfare involvement than children with private health insurance.

"In the current system, nearly 90 percent of all child abuse and neglect allegations are unsubstantiated. In 2023, of the 433,817 children and youth reported to Child Protective Services, 49,463 were determined to need the services. Leaving 384,354 children and youth exposed to the trauma of a report, and possibly an investigation, with the likely result of no additional supports or services that strengthen families.

"Unnecessary reporting is harmful to children, families and communities. It breaks trust, produces feelings of shame and anger, and pushes families away from the help they need instead of inviting them to move toward a community that has support available for them.

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[7] *California's Child Welfare System: Addressing Disproportionalities and Disparities* (Apr. 2024) Legislative Analyst's Office <https://lao.ca.gov/Publications/Report/4897> [as of Feb. 23, 2026].
[8] *Ibid.*

"California's system of Mandatory Reporting -at its best, identifies children experiencing true safety concerns- however, at its worst, it begins a journey of systemic harm and intrusion that Black and Tribal Families disproportionately shoulder.

"We believe AB 1566 is a necessary step in transforming the system. AB 1566 amends the definition of Severe Neglect in the Child Abuse and Neglect Reporting Act (CANRA) and aligns it with the definition of Severe Neglect utilized in the California Structured Decision Making (SDM) Tool. As of 2016, all 58 counties in California use SDM to help assess risk and safety to vulnerable children. Under current law, Severe Neglect as defined in CANRA is loosely defined and does not match the more precise and accurate definition used in SDM. This discrepancy is resulting in overreporting of children and families. By aligning the definitions, AB 1566 will minimize the number of unnecessary reports made to the hotline, avoid trauma and stress to children and their families and provide relief to an overburdened Child Protection Hotline System."

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

7) **Related Legislation**: AB 1688 (Carrillo) would require an employee of the agencies receiving reports of abuse to send a copy of the report to the attorney who represents a parent or legal guardian of the child, as specified. AB 1688 is pending hearing in the Assembly Public Safety Committee.

8) **Prior Legislation**:

   a) AB 601 (Jackson) would have, except as provided, required an employer having one or more mandated reporters to ensure completion of the training within the first three months of the mandated reporter's employment, or on or before March 1, 2030, whichever is later. AB 601 was held in the Senate Appropriations Committee.

   b) AB 653 (Lackey), Chapter 379, Statutes of 2025, added talent managers, talent coaches, and talent agents to the list of mandated reporters.

   c) AB 970 (McKinnor) would have authorized a two-year pilot project in Los Angeles County to deploy an online decision-support tool for aiding mandated reporters in their reporting responsibilities. AB 970 died in the Assembly Public Safety Committee.

   d) AB 2085 (Holden), Chapter 770, Statutes of 2022, redefines general neglect for purposes of CANRA by excluding a person's economic disadvantage.

REGISTERED SUPPORT / OPPOSITION:

Support
A Child's Dream Altadena, INC
Alliance for Children's Rights
California Family Resource Association
California Public Defenders Association
Child Abuse Prevention Center and its Affiliates Safe Kids California, Prevent Child Abuse California and the California Family Resource Association; the
Children's Law Center of California
Outside Voice LLC
Public Counsel
San Bernardino Teachers Association
Shields for Families
The Child Abuse Prevention Center

Opposition
1 individual in opposition

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

Date of Hearing: March 3, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1568 (Alanis) – As Amended February 23, 2026

As Proposed to be Amended in Committee

SUMMARY: Makes various changes to the petition process for termination from the sex offender registry. Specifically, **this bill**:

1) Specifies that a court may order a petitioner to appear, either personally or by video, at a hearing requested by the prosecutor to determine whether to order continued registration.

2) Adds as a factor for the court to consider when determining whether continued registration would significantly enhance community safety that the offender was in a position of trust or authority in relation to any victim.

3) Provides that the court shall verify, in a manner subject to its discretion, the petitioner's participation in or completion of sex-offender specific treatment or successful completion of a Sex Offender Management Board (CASOMB)-certified sex offender treatment program.

4) States that if the court is unable to obtain verification of participation in or successful completion of treatment, the court may order State Authorized Risk Assessment Tools for Sex Offenders (SARATSO) static, dynamic, and violence risk assessments to aid in its determination of the petitioner's current risk of sexual or violent reoffence.

EXISTING LAW:

1) Requires persons convicted of specified crimes to annually register as a sex offender for a minimum term of ten or twenty years, or life. (Pen. Code, § 290.)

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

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

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

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

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

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

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

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

6) Provides that a court can require a person not otherwise required to register if the court finds at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for the propose of sexual gratification. (Pen. Code, § 290.006)

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

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

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

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

11) Establishes a process, starting July 1, 2021, where persons required to register as a sex offender as a tier-1 or a tier-2 offender may petition the court for termination of the requirement to register after the minimum statutory time-period of 10 or 20 years depending on the underlying conviction. (Pen. Code, § 290.5.)

12) Requires the petition to be served on the registering law enforcement agency and the district attorney in the county the petition is filed and the county of conviction if different from the registering county and requires the registering law enforcement agency to report receipt of service of a filed petition to DOJ. (Pen. Code, § 290.5, subd. (a)(2).)

13) Requires the registering law enforcement agency, within 60 days of receipt of the petition, to report to the prosecutor and the court whether the person has met the requirements for termination as required under statute. (*Ibid.*)

14) Authorizes the prosecutor to request a hearing and present evidence to establish that community safety would be significantly enhanced by requiring continued registration. (Pen. Code, § 290.5, subd. (a)(2)-(3).)

15) States that if no hearing is requested, the petition for termination shall be granted if the court finds the required proof of current registration is presented in the petition, provided that the registering agency reported that the person met the requirement for termination, as specified, there are no pending charges against the person which could extend the time to complete the registration requirements of the tier or change the person's tier status, and the person is not in custody or on parole, probation, or supervised release. (Pen. Code, § 290.5, subd. (a)(2).)

16) States that if the court denies a petition for termination, the court must set the time period, from one to five years, after which the petitioner can re-petition and state its reasons for the time period selected. (Pen. Code, § 290.5, subd. (a)(4).)

17) Created the Sex Offender Management Board (CASOMB) under the jurisdiction of the Department of Corrections and Rehabilitation (CDCR), and shall consist of 17 members. The membership of the board shall reflect, to the extent possible, representation of northern, central, and southern California as well as both urban and rural areas. (Pen. Code, § 9001, subd. (a).)

18) Requires CASOMB to address any issues, concerns, and problems related to the community management of adult sex offenders. The main objective of CASOMB, which shall be used to guide the board in prioritizing resources and use of time, is to achieve safer communities by reducing victimization. (Pen. Code, § 9002.)

19) States that CASOMB shall develop and update standards for certification of sex offender management professionals. All those professionals who provide sex offender management programs and risk assessments, as specified, shall be certified by the board according to these standards. The standards shall be published on the board's Internet website. Professionals may apply to the board for certification on or after August 1, 2011. (Pen. Code, § 9003, subd. (a).)

20) Requires on or before July 1, 2011, CASOMB to develop and update standards for certification of sex offender management programs, which shall include treatment and

dynamic and future violence risk assessments, as specified. The standards shall be published on the board's Internet web site. All those programs shall include polygraph examinations by a certified polygraph examiner, which shall be conducted as needed during the period that the offender is in the sex offender management program. Only certified sex offender management professionals whose programs meet the standards set by the board are eligible to provide sex offender management programs, as specified. (Pen. Code, § 9003, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Assembly Bill 1568 strengthens California's sex offender registration laws to better protect communities by requiring tier one and tier two sex offenders to provide proof of completing a state-approved sex offender treatment program before they can petition a court to be removed from the registry. The current system lacks verification by which the court and the prosecution can confirm that an offender has completed a sex offender treatment program, placing an undue burden on prosecutors to prove ongoing risk—often impossible in older cases due to lost records. AB 1568 addresses deficiencies by requiring proof of completion of a CASOMB-certified program, ensuring offenders have undergone evidence-based rehabilitation to reduce reoffending risks. This will make Californians safer by preventing these individuals from being removed from the registry without demonstrating behavioral change, while making the criminal justice system more equitable by applying uniform rehabilitation standards and enhancing community protections for vulnerable families and neighborhoods."

2) **History of Sex Offender Registration**: California was the first state to require sex offender registration in 1947. The stated purpose for sex offender registration is to deter offenders from committing future crimes, provide law enforcement with an additional investigative tool, and increase public protection. (*Wright vs. Superior Court* (1997) 15 Cal.4th 521, 526; Alissa Pleau (2007) *Review of Selected 2007 California Legislation: Closing a Loophole in California's Sex Offender Registration Laws*, 38 McGeorge L.Rev. 276, 277; *Hatton vs. Bonner* (2004) 365 F. 3d 955, 961.) California's sex offender registration law historically required *lifetime registration* by persons convicted of specified sex crimes. (Pen. Code, § 290 subd. (a).)

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

a) Creation of Tiered Sex Offender Registry

In 2017, California modified its sex registry to a three-tiered registration system based on seriousness of the crime, risk of sexual reoffending, and criminal history. (SB 384 (Wiener), chapter 541, statutes of 2017.) The recommendation to move to a tiered system came from

CASOMB's 2010 recommendations report.[1] According to the committee's analysis for the bill which started off as SB 421 (Wiener) of that same year[2]:

Based on a survey of several municipal law enforcement agencies in California, it is estimated that local law enforcement agencies spend between 60-66% of their resources dedicated for sex offender supervision on monthly or annual registration paperwork because of the large numbers of registered sex offenders on our registry. If we can remove low risk offenders from the registry it will free up law enforcement officers to monitor the high risk offenders living in our communities. Law enforcement cannot protect the community effectively when they are in the office doing monthly or annual paperwork for low risk offenders, when they could be out in the community monitoring high risk offenders. Furthermore, the public is overwhelmed by the number of offenders displayed online in each neighborhood and do not know which offenders are considered low risk and which offenders are considered high risk and therefore truly dangerous. (Sen. Com. on Public Safety, Analysis of Senate Bill No. 421 (2017-18 Reg. Sess.) as amended Apr. 17, 2017, p. 9.)

A tier one offender is someone who is required to register for a misdemeanor sex offense or a felony conviction that is not a serious or violent felony. Tier one requires a person to register for a minimum of 10 years. (Pen. Code, § 290, subd. (d)(1).) A tier two offender is a person who is required to register for a felony that is defined as a serious or violent felony or other specified sex offenses, unless the person is otherwise required to register under tier three. Tier two requires a person to register for a minimum of 20 years. (Pen. Code, § 290, subd. (d)(2).) A tier three offender is a person who is convicted a specified offense or under the one-strike sex law, or is designated as a sexually violent predator or habitual sex offender, in addition to other qualifying offenses and circumstances. (Pen. Code, § 290, subd. (d)(3).)

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

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

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

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

[2] SB 421 (Wiener) was held in the Assembly Appropriations Committee's suspense file. The majority of its contents was later amended into SB 384 (Wiener) which was signed into law in 2017.

when there is more than a 10-year age gap between the defendant and the minor. (Pen. Code, § 290, subd. (c)(2).)
Generally, a court may also order a person not otherwise required to register as a sex offender if they find that the person committed the offense as a result of sexual compulsion or for the purposes of sexual gratification. (Pen. Code, § 290.006.)

b) Petitioning for Removal from the Registry

Existing law, commencing July 1, 2021[3], authorizes a person who has completed the minimum registration period of 10 or 20 years to petition the court for termination from the sex offender registry if the person meets certain criteria. (Pen. Code, § 290.5.) The registering agency shall report to the court whether the person met the minimum time period required including any period of tolling or extensions based on new convictions[4], there are no pending charges against the person which could extend the time to complete the registration requirements of the tier or change the person's tier status, and the person is not in custody or on parole, probation, or supervised release. (Pen. Code, §290.5, subd. (a)(2).)

The prosecution may request a hearing and present evidence to establish that community safety would be significantly enhanced by requiring continued registration. (Pen. Code, § 290.5, subd. (a)(3).) The law specifies that in determining whether to order continued registration, the court shall consider: the nature and facts of the registerable offense; the age and number of victims; whether any victim was a stranger at the time of the offense (known to the offender for less than 24 hours); criminal and relevant noncriminal behavior before and after conviction for the registerable offense; the time period during which the person has not reoffended; successful completion, if any, of a Sex Offender Management Board-certified sex offender treatment program; and the person's current risk of sexual or violent reoffense, including the person's risk levels on SARATSO static, dynamic, and violence risk assessment instruments, if available.

At the hearing, the prosecution bears the burden to prove that a person's continued registration "appreciably increases society's safety" because the person poses a current risk of reoffending based on all of the factors, not just the facts of the underlying crime. (*People v. Thai* (2023) 90 Cal.App.5th 427, 432-433.)

If the court denies the petition for termination, it must set the time period, from one to five years, after which the petitioner can re-petition and state its reasons for the time period selected. (Pen. Code, § 290.5, subd. (a)(4).) The court may also summarily deny a petition if the court determines the petitioner does not meet the statutory requirements for termination of sex offender registration or if the petitioner has not fulfilled the filing and statute's service requirements. The court must also state the reasons the petition is being summarily denied. (Pen. Code, § 290.5, subd. (a)(2).)

3) **CASOMB-Certified Treatment**: CASOMB was created in 2006 under the jurisdiction of the CDCR through AB 1015 in 2006 "to provide the Governor and the State Legislature as well as relevant state and local agencies with an assessment of current sex offender

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[3] SB 384 authorized a person to petition the court for termination from the sex offender registry on or after their next birthday after July 1, 2021.
[4] Pen. Code, § 290, subd. (e).

management practices and recommended areas of improvement."[5] The main objective of CASOMB is to decrease sexual victimization and increase community safety.[6]

CASOMB is also tasked with developing and updating standards for certification of sex offender management programs. According to data pulled from CASOMB's year-end report for 2025, as of December 31, 2025, CASOMB has a total of 69 certified treatment provider agencies representing 411 providers which include independent providers, associate providers, and students, for the period of time between December 31, 2024 to December 31, 2025.[7] Associate providers and students must be supervised by an independent provider when providing treatment, there are just 179 independent providers who can provide treatment without additional clinical supervision.[8]

4) **SARATSO Assessments**: According to the SARASTO Committee, which chooses the official risk assessment instruments authorized for use in California, there are three different evidence-based risk instruments that assess risk of reoffending by adult males.[9] These risk assessments use (1) static (unchanging factors) such as criminal history; (2) dynamic factors in the offender's life affecting reoffending, such as current alcohol abuse; and (3) risk factors which predict future violence.

Individual risk assessment identifies offenders who are in a group at statistically higher risk of committing another sex crime. Risk assessment is meant to inform appropriate sentencing and supervision decisions, as well as assist treatment providers. SARATSO is also required to develop a plan for the static risk assessment of registered sex offenders who are not on probation or parole supervision.[10]

5) **Effect of this Legislation**: This bill makes various changes to the petition process for termination from the sex offender registry. First, the bill specifies that a court may order a petitioner to appear, either personally or remotely by video, at the hearing requested by the prosecutor. According to the sponsor of this bill, the petitioner's presence at the hearing would allow the court and prosecutor to obtain information relevant to the factors that the court is required to consider. As currently written, the bill requires personal appearance. Opponents argue that this requirement should only be used if the court believes the person's presence at the hearing is needed and that a remote option should be available. The proposed amendment to be adopted in committee would instead state that the court may order the petitioner's appearance at the hearing which would be at the court's discretion.

Second, the bill includes as an additional factor for the court to consider when determining whether to require continued registration that the offender was in a position of trust or authority in relation to the victim. This factor is already found in other parts of Penal Code 290.5 regarding

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[5] *Recommendations Report*, CASOMB (Jan. 2010) p. 5.
[6] *Ibid.*
[7] *2025 Year End Report*, CASOMB, p. 5.
[8] *Ibid.*
[9] Currently, there is no validated or cross-validated risk instrument for sexual recidivism risk by female offenders but an instrument to predict violent re-offense is valid for use with female offenders. (*2024 SARATSO Committee Publication on Background and Importance of Referral for Scoring by the Courts*, SARATSO https://saratso.org/index.cfm?pid=1363 [accessed Feb. 26, 2026].)
[10] *Id.*

persons who are required to register as a tier-2 offender for an offense committed when the offender was under 21 years of age with a victim aged 14 years of age or older. (Pen. Code, § 290.5, subd. (b).) Adding the factor to subdivision (a)(3) would arguably bring consistency to the rest of the statute.

The bill also amends the existing factor that the court is required to consider regarding successful completion, if any, of a CASOMB-certified sex offender treatment program. (Pen. Code, § 290.5, subd. (a)(3).) Instead, the bill states that the court shall consider proof of participation in or successful completion of sex offender-specific treatment by the offender; and proof of successful completion of a Sex Offender Management Board-certified sex offender treatment program by the offender, if the offender was required to complete that program, verification of which shall be obtained by the court in a manner subject to its discretion. Additionally, the bill provides that if the court is unable to obtain such verification, the court may order a SARATSO static, dynamic, and violence risk assessments, or as the court otherwise deems necessary, to aid in its determination of the person's current risk of sexual or violent reoffense.

According to the sponsor of this bill, existing law does not require verification of participation in or successful completion of treatment and this change in language would allow the court to ask for verification and provide another avenue to order a risk assessment if such verification cannot be obtained. As noted in the *Thai* case discussed above in note 2), the prosecution can already seek a current risk assessment but this bill would make clear under what circumstances the court can order a current risk assessment. According to opponents of the bill, this provision does not specify who would pay for those evaluations and this could come at a great cost to the person or entity who would ultimately be responsible.

6) **Argument in Opposition**: According to *California Public Defenders Association*, who has an oppose unless amended position, "By requiring the petitioner to be present, AB 1568 would impose significant hardship and expense on some indigent and/or elderly individuals who might not have transportation to get to court in rural counties or in large urban counties where the petitions are heard in courthouses all over the county. For example, in Los Angeles County, the petitions are filed and heard at the courthouse where the original case was filed so if someone lived in Lancaster and the petition was filed in the Pomona courthouse, they might not be able to attend without access to a car. Some elderly individuals may be quite infirm and unable to drive or navigate public transportation. Not every county has robust public transportation.

"Moreover, instead of one size fits all, the court should retain discretion to decide if it is helpful to their decision making to have the individual present. If the court decides that the individual should be present, then they should be allowed to appear remotely if they waive their right to be personally present. By their very nature, proceedings pursuant to Penal Code section 290.5 are postconviction proceedings and in most, if not all, postconviction proceedings individuals are allowed to appear remotely if they waive their right to be personally present. (Penal Code sections 977(c)(1)(A), 1473(f).)

"AB 1568 would make it impossible for nondangerous indigent individuals ordered to obtain risk assessments to be removed from the registry. The cost of obtaining risk assessments conducted by psychologists or psychiatrists would be prohibitive. Risk assessments are usually conducted as part of court ordered probation or parole ordered sex offender treatment programs."

7) **Related Legislation**: None

8) **Prior Legislation**:

a) SB 118 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2018, relevant to this bill, authorized a person to file a petition for termination from the sex offender registry on or after their next birthday after July 1, 2021 following the expiration of their mandated minimum registration period. SB 118 also required the registering law enforcement agency to report receipt of service of a filed petition to DOJ, in a manner prescribed by DOJ.

b) SB 384 (Wiener), Chapter 541, Statutes of 2017, established a tiered sex offender registration system and authorized, starting July 1, 2021, persons to petition the court for termination from the registry upon expiration of their mandated minimum registration period if certain conditions were met.

c) SB 421 (Wiener), of the 2017-2018 Legislative Session, would have established a tiered sex offender registration system and authorized, starting July 1, 2021, persons to petition the court for termination from the registry upon expiration of their mandated minimum registration period if certain conditions were met. SB 421 was held in Assembly Appropriations Committee's suspense file

REGISTERED SUPPORT / OPPOSITION:

Support

None submitted

Opposition

Alliance for Constitutional Sex Offense Laws
California Attorneys for Criminal Justice
California Public Defenders Association
Ella Baker Center for Human Rights
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children / All of US or None
Local 148 LA County Public Defenders Union
San Francisco Public Defender
5 Individuals Opposed

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

Amended Mock-up for 2025-2026 AB-1568 (Alanis (A))

Mock-up based on Version Number 98 - Amended Assembly 2/23/26
Submitted by: Stella Choe, Assembly Public Safety

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

SECTION 1. Section 290.5 of the Penal Code is amended to read:

290.5. (a) (1) A person who is required to register pursuant to Section 290 and who is a tier one or tier two offender may file a petition in the superior court in the county in which the person is registered for termination from the sex offender registry on or after their next birthday after July 1, 2021, following the expiration of the person's mandated minimum registration period, or if the person is required to register pursuant to Section 290.008, the person may file the petition in juvenile court on or after their next birthday after July 1, 2021, following the expiration of the mandated minimum registration period. The petition shall contain proof of the person's current registration as a sex offender.

(2) The petition shall be served on the registering law enforcement agency and the district attorney in the county where the petition is filed and on the law enforcement agency and the district attorney of the county of conviction of a registerable offense if different than the county where the petition is filed. The registering law enforcement agency shall report receipt of service of a filed petition to the Department of Justice in a manner prescribed by the department. The registering law enforcement agency and the law enforcement agency of the county of conviction of a registerable offense if different than the county where the petition is filed shall, within 60 days of receipt of the petition, report to the district attorney and the superior or juvenile court in which the petition is filed regarding whether the person has met the requirements for termination pursuant to subdivision (e) of Section 290. If an offense which may require registration pursuant to Section 290.005 is identified by the registering law enforcement agency which has not previously been assessed by the Department of Justice, the registering law enforcement agency shall refer that conviction to the department for assessment and determination of whether the conviction changes the tier designation assigned by the department to the offender. If the newly discovered offense changes the tier designation for that person, the department shall change the tier designation pursuant to subdivision (d) of Section 290 within three months of receipt of the request by the registering law enforcement agency and notify the registering law enforcement agency. If more time is required to obtain the documents needed to make the assessment, the department shall notify the registering law enforcement agency of the reason that an extension of time is necessary to complete the tier designation. The registering law enforcement agency shall report to the district attorney and the court that the department has requested an extension of time to determine the

person's tier designation based on the newly discovered offense, the reason for the request, and the estimated time needed to complete the tier designation. The district attorney in the county where the petition is filed may, within 60 days of receipt of the report from either the registering law enforcement agency, the law enforcement agency of the county of conviction of a registerable offense if different than the county where the petition is filed, or the district attorney of the county of conviction of a registerable offense, request a hearing on the petition if the petitioner has not fulfilled the requirement described in subdivision (e) of Section 290, or if community safety would be significantly enhanced by the person's continued registration. ~~The petitioner shall personally appear at the hearing.~~ **The court may order the petitioner to be present at the hearing, either in person or remotely by video.** If no hearing is requested, the petition for termination shall be granted if the court finds the required proof of current registration is presented in the petition, provided that the registering agency reported that the person met the requirement for termination pursuant to subdivision (e) of Section 290, there are no pending charges against the person which could extend the time to complete the registration requirements of the tier or change the person's tier status, and the person is not in custody or on parole, probation, or supervised release. The court may summarily deny a petition if the court determines the petitioner does not meet the statutory requirements for termination of sex offender registration or if the petitioner has not fulfilled the filing and service requirements of this section. In summarily denying a petition the court shall state the reason or reasons the petition is being denied.

(3) If the district attorney requests a hearing, the district attorney shall be entitled to present evidence regarding whether community safety would be significantly enhanced by requiring continued registration. In determining whether to order continued registration, the court shall consider: the nature and facts of the registerable offense; the age and number of victims; whether any victim was a stranger to the offender at the time of the offense (known to the offender for less than 24 hours); whether the offender was in a position of trust or authority in relation to any victim; criminal and relevant noncriminal behavior before and after conviction for the registerable offense; the time period during which the person has not reoffended; the person's current risk of sexual or violent reoffense, including the person's risk levels on SARATSO static, dynamic, and violence risk assessment instruments, if available; proof of participation in or successful completion of sex offender-specific treatment by the offender; and proof of successful completion of a Sex Offender Management Board-certified sex offender treatment program by the offender, if the offender was required to complete that program. The court shall verify, in a manner subject to its discretion, participation in or completion of treatment by the offender as described above. The court may order SARATSO static, dynamic, and violence risk assessments if the court is unable to verify participation in or completion of treatment as described above, or as the court otherwise deems necessary, to aid in its determination of the person's current risk of sexual or violent reoffense. Any judicial determination made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties which is reliable, material, and relevant.

(4) If termination from the registry is denied, the court shall set the time period after which the person can repetition for termination, which shall be at least one year from the date of the denial, but not to exceed five years, based on facts presented at the hearing. The court shall state on the

record the reason for its determination setting the time period after which the person may repetition.

(5) The court shall notify the Department of Justice, California Sex Offender Registry, when a petition for termination from the registry is granted, denied, or summarily denied, in a manner prescribed by the department. If the petition is denied, the court shall also notify the Department of Justice, California Sex Offender Registry, of the time period after which the person can file a new petition for termination.

(b) (1) A person required to register as a tier two offender, pursuant to paragraph (2) of subdivision (d) of Section 290, may petition the superior court for termination from the registry after 10 years from release from custody on the registerable offense if all of the following apply: (A) the registerable offense involved no more than one victim 14 to 17 years of age, inclusive; (B) the offender was under 21 years of age at the time of the offense; (C) the registerable offense is not specified in subdivision (c) of Section 667.5, except subdivision (a) of Section 288; and (D) the registerable offense is not specified in Section 236.1.

(2) A tier two offender described in paragraph (1) may file a petition with the superior court for termination from the registry only if the person has not been convicted of a new offense requiring sex offender registration or an offense described in subdivision (c) of Section 667.5 since the person was released from custody on the offense requiring registration pursuant to Section 290, and has registered for 10 years pursuant to subdivision (e) of Section 290. The court shall determine whether community safety would be significantly enhanced by requiring continued registration and may consider the following factors: whether the victim was a stranger (known less than 24 hours) at the time of the offense; the nature of the registerable offense, including whether the offender took advantage of a position of trust; criminal and relevant noncriminal behavior before and after the conviction for the registerable offense; whether the offender has successfully completed a Sex Offender Management Board-certified sex offender treatment program; whether the offender initiated a relationship for the purpose of facilitating the offense; and the person's current risk of sexual or violent reoffense, including the person's risk levels on SARATSO static, dynamic, and violence risk assessment instruments, if known. If the petition is denied, the person may not repetition for termination for at least one year.

(3) A person required to register as a tier three offender based solely on the person's risk level, pursuant to subparagraph (D) of paragraph (3) of subdivision (d) of Section 290, may petition the court for termination from the registry after 20 years from release from custody on the registerable offense, if the person (A) has not been convicted of a new offense requiring sex offender registration or an offense described in subdivision (c) of Section 667.5 since the person was released from custody on the offense requiring registration pursuant to Section 290, and (B) has registered for 20 years pursuant to subdivision (e) of Section 290; except that a person required to register for a conviction pursuant to Section 288 or an offense listed in subdivision (c) of Section 1192.7 who is a tier three offender based on the person's risk level, pursuant to subparagraph (D) of paragraph (3) of subdivision (d) of Section 290, shall not be permitted to petition for removal from the registry. The court shall determine whether community safety would be significantly enhanced by requiring continued registration and may consider the following factors: whether the

victim was a stranger (known less than 24 hours) at the time of the offense; the nature of the registerable offense, including whether the offender took advantage of a position of trust; criminal and relevant noncriminal behavior before and after the conviction for the registerable offense; whether the offender has successfully completed a Sex Offender Management Board-certified sex offender treatment program; whether the offender initiated a relationship for the purpose of facilitating the offense; and the person's current risk of sexual or violent reoffense, including the person's risk levels on SARATSO static, dynamic, and violence risk assessment instruments, if known. If the petition is denied, the person may not re-petition for termination for at least three years.

(c) This section shall become operative on July 1, 2021.

Date of Hearing: March 3, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1583 (Rogers) – As Introduced January 13, 2026

SUMMARY: Authorizes multiple charges of wage theft or labor trafficking to be consolidated and prosecuted in any county in which the victim resided at the time of the wage theft or labor trafficking, any county in which the victim was present at the time the employment contract was entered into, any county in which any portion of the work was performed, or any county in which the business or any of its locations was situated at the time of the wage theft or labor trafficking. Specifically, **this bill**:

1) States if multiple offenses of wage theft or labor trafficking involving the same defendant or defendants occur in multiple jurisdictions, then any of those jurisdictions are a proper jurisdiction for all of the offenses, subject to a consolidation hearing in the jurisdiction of the proposed trial.

2) Requires the prosecution, at the consolidation hearing, to present written evidence that all district attorneys in counties with jurisdiction over the offenses agree to the venue.

3) Mandates that any charged offenses from jurisdictions where there is not a written agreement from the district attorney must be returned to that jurisdiction.

4) States jurisdiction also extends to all associated offenses connected together in their commission to the underlying wage theft or labor trafficking offenses.

EXISTING LAW:

1) States that, except as otherwise provided by law, the jurisdiction of every public offense is in any competent court within the jurisdictional territory of which it is committed. (Pen. Code, § 777.)

2) States that when a public offense is committed in part in one jurisdictional territory and in part in another, or the acts constituting or requisite to committing the offense occur in more than one territorial jurisdiction, the jurisdiction of the offense is in any competent court within either jurisdiction. (Pen. Code, § 781.)

3) Permits consolidation of different offenses which do not relate to the same transaction or event where there is common element of substantial importance in their commission, such as the same class of crimes. (Pen. Code, § 954.)

4) Allows property crimes occurring in one jurisdictional territory if property is taken to another jurisdictional territory and an arrest is made there, to be prosecuted in either jurisdiction.

(Pen. Code, § 786.)

5) Provides that the jurisdiction of a criminal action brought by the Attorney General for theft, as defined, or for receiving stolen property, as well as all associated offenses connected in their commission of the underlying theft, shall also include the county where an offense involving the theft or receipt of the stolen merchandise occurred, the county in which the merchandise was recovered, or the county where any act was done by the defendant. (Pen. Code, § 786.5.)

6) Provides that if one or more violations of specified sex offenses occurs in more than one jurisdictional territory, the jurisdiction of any of those offenses, and for any offenses properly joinable with that offense, is in any jurisdiction where at least one of the offenses occurred, subject to the following conditions:

   a) Consolidation of the cases is subject to a joinder hearing, within the jurisdiction of the proposed trial court;

   b) The prosecution presents written evidence that all district attorneys in counties with jurisdiction of the offenses agree to the venue; and,

   c) Charged offenses from jurisdictions in which there is no written agreement from the district attorney must be returned to that county. (Pen. Code, § 784.7, subd. (a).)

7) Provides that if any domestic violence crime, as defined, occurs in more than one jurisdiction, and the defendant and the victim are the same for all the offenses, the jurisdiction of any of the offenses and for any offenses properly joinable with that offense is the jurisdiction where at least one of the offenses occurred, subject to the following conditions:

   a) Consolidation of the cases is subject to a joinder hearing, within the jurisdiction of the proposed trial court.

   b) The prosecution presents written evidence that all district attorneys in counties with jurisdiction of the offenses agree to the venue.

   c) Charged offenses from jurisdictions in which there is no written agreement from the district attorney must be returned to that county. (Pen. Code, § 784.7, subd. (b).)

8) Provides that if one or more specified human trafficking, pimping, and pandering offenses occurs in more than one jurisdictional territory, the jurisdiction of any of those offenses, and for any offenses properly joinable with that offense, is in any jurisdiction where at least one of the offenses occurred, subject to the following conditions:

   a) Consolidation of the cases is subject to a joinder hearing, within the jurisdiction of the proposed trial court.

   b) The prosecution presents written evidence that all district attorneys in counties with jurisdiction of the offenses agree to the venue.

c) Charged offenses from jurisdictions in which there is no written agreement from the district attorney must be returned to that county.

d) The court must consider the location and complexity of the likely evidence, where the majority of the offenses occurred, the rights of the defendant and the people, and the convenience of, or hardship to the victim or victims and witnesses. (Pen. Code, § 784.7, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1583 seeks to combat uncertainty surrounding the jurisdiction for prosecution of wage theft and labor trafficking crimes by establishing proper jurisdictions for the prosecution of said crimes.

"Wage theft and labor trafficking are issues that plague many workers, but especially the most vulnerable in the United States. These workers include farmworkers, hourly workers in the service industry (like restaurants), online workers and generally anyone who has uncertain work hours and pay. These workers often face intense labor for little pay, and any type of wage theft/labor trafficking crime they fall victim too may be potentially devastating to their income.

"When workers face situations where their manager/employer lives/works in a location separate from the one where they reside, it can create issues with establishing the jurisdiction where the crime is prosecuted. On top of financial devastation, workers who have been affected by these crimes may also face uncertainty in determining the jurisdiction where the crime may be prosecuted. AB 1583 makes it easier for victims to seek justice in a venue that is convenient for them and for the investigating agencies."

2) **Wage Theft:** Failure to pay wages is generally enforced by the Department of Industrial Relations, Division of Labor Standards Enforcement.[1] Wage theft was specifically criminalized as grand theft in 2022. Penal Code section 487m states:

> Notwithstanding [specific provisions] of the Labor Code, the intentional theft of wages in an amount greater than $950 from any one employee, or $2,350 in the aggregate from two or more employees, by an employer in any consecutive 12-month period may be punished as grand theft. (Pen. Code, § 487m, subd. (a).)

Wage theft, as a criminal offense, is another way of charging grand theft, but without the requirement that each victim suffer a loss greater than $950 each. Wage theft in the form of failure to pay overtime may be $2350 across 25 different employees, but no single individual

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[1] https://www.dir.ca.gov/dlse/. The purpose of the Division of Labor Standards and Enforcement is to combat wage theft, protect workers from retaliation, and educate the public by putting "earned wages into workers' pockets and help level the playing field for law-abiding employers." This office is also known as the Labor Commissioner's Office.

suffered a loss of more than a couple hundred dollars. Penal Code section 487m would allow that to be charged as grand theft.

Additionally, the Wage Theft Protection Act of 2011 created criminal penalties on businesses that do not comply with court ordered judgements for failure to pay wages or provide notice to the employee of their rate of pay.

> An employer who willfully fails to pay a final court judgment or final order issued by the Labor Commissioner for wages due to an employee who has been terminated or who quits within 90 days of the date that the judgment was entered or the order became final may be charged with a misdemeanor, provided the employer had the ability to pay the amount of the judgment or order. ...If the total amount of wages due is more than $1,000 upon conviction therefor, the employer shall be fined not less than $10,000 nor more than $20,000 or imprisoned in a county jail for not less than six months, nor more than one year, or both the fine and imprisonment, for each offense. If there are multiple failures to pay wages involving more than one employee, the total amount of wages due to all employees shall be aggregated together for purposes of determining the level of fine and the term of imprisonment. (Lab. Code, § 1197.2, subd. (a).)

Civil and criminal penalties are available in the Wage Theft Protection Act of 2011 for each offense. In addition, if an employer fails to pay wages to more than one employee, the total amount of wages due to all employees will be aggregated for purposes of determining the level of the fine and the term of imprisonment.

Finally, Labor Code section 215 criminalizes failure to pay wages to temporary workers, failure to pay wages on a specified regular basis to hourly, agricultural, and domestic workers, and payment at a specified time for striking employees. It also criminalizes payment in the form of paper obligations (IOUs).

3) **Consolidation**: An accusatory pleading may charge two or more different offenses connected in their commission, or different statements of the same offense or two or more different offenses of the same class of crimes or offenses, under separate counts, or if two or more accusatory pleadings are filed in different cases, but in the same court, the court may order them to be consolidated.

As it pertains to different crimes charged in the same county, Penal Code section 954 limits consolidation, by granting a trial court, in the interests of justice and for good cause shown, to order the different offenses or counts in the accusatory pleading be tried separately or divided into two or more groups and each of said group tried separately. (See *Belton v. Superior Court (People)* (1993) 19 Cal.App.4th 1279, 1281.)

Several statutes allow for offenses involving one defendant, the same class of offenses, and multiple victims. (See Pen. Code, §§ 784.5, 784.7, 785, 786, 786.5, 789, 790, and 791.) There are also offenses that authorize consolidation of out-of-state crimes related to

terrorism, receipt of stolen property, and treason. (See Pen. Code, §§ 787, 788, 789.) Offenses that may be consolidated in one county when there are multiple victims across multiple jurisdictions include sexual assault, kidnapping, burglary, and assault with intent to commit a specified sex offense, homicide, theft, including retail theft and shoplifting, robbery, identity theft, incest, and revenge porn, among others. Consolidation based on specified offenses against a single defendant across multiple jurisdictions require District Attorneys in each county to agree to try all counts in one identified county.

AB 1779 (Irwin), Chapter 165, Statutes of 2024, expanded consolidation options for theft, including petty theft and shoplifting, as well as receipt of stolen property. (Pen. Code, § 786.5, subds. (a & b).) It also expanded the ability of county district attorneys to consolidate specified theft crimes. Penal Code section 786 allows a district attorney to seek consolidation for theft generally to include where the property was stolen and where the property ended up, as well as any contiguous county if the arrest is made in a contiguous county. However, that provision requires a defendant's knowing waiver of venue. (Pen. Code, § 786, subd. (a).)

This bill allows a defendant charged with wage theft or labor trafficking, as specified, in multiple jurisdictions to face a consolidated trial on all charged counts in one county based on the following factors: (a) where the victim resided at the time of the wage theft or labor trafficking; (b) where the victim was present at the time the employment contract was entered into; (c) where any portion of the work was performed, or; (d) where the business or any of its locations was situated at the time of the wage theft or labor trafficking. However, as explained below, there are constitutional restrictions on consolidation. Additionally, if multiple charges apply to the same defendant, jurisdiction is proper in any of those counties where the alleged crime occurred subject to a consolidation hearing. However, if there is only one count of wage theft, for example, any county where the victim resided, the victim was present when the employment agreement was "entered into", where any portion of the work was performed, or where the business or its locations are situated, would be proper.

4) **Vicinage and Due Process:** Vicinage means the right to trial by a jury drawn from residents of the area where the offense was committed. However, vicinage is not a "necessary feature" of the due process right to a jury trial. (See *Price v. Superior Court (People)* (2001) 25 Cal.4th 1046, 1065.) Venue and vicinage are closely related, as a jury pool is usually selected from the area in which the trial is to be held. Vicinage is not a necessary feature to the right of a jury trial as guaranteed by the Sixth Amendment to the United States Constitution because it "does not serve the purpose of protecting a criminal defendant from government oppression and is not necessary to ensure a fair trial." (*Price, supra,* 25 Cal.4th 1046, 1065-1069.)

As explained above, venue is generally proper in the county where the crime occurred, and the law also includes several exceptions to the venue provision where multiple crimes from different counties may be tried in one county if it involves the same defendant or the same class of crimes.

This bill is premised on Penal Code section 786.5, subdivision (b) which allows for consolidating multiple theft charges in any place where one offense was committed, any place where the stolen merchandise was recovered, or any place where the defendant instigated, procured, promoted, or aided the commission of a theft offense. Subdivision (b), which is the only section available to county district attorneys, requires demonstrating that a

petty theft, retail theft, or receipt stolen property may be prosecuted where: (a) an offense involving the theft or receipt of the stolen merchandise occurred; (b) the county in which the merchandise was recovered; or (c) the county where any act was done by the defendant in instigating, procuring, promoting, or aiding in the commission of a petty theft, retail theft, or receipt of stolen property, or in abetting the parties concerned in the commission. (See Pen. Code, § 786.5, subd. (b).)

If multiple offenses of theft or violations of retail theft or receipt of stolen property, either all involving the same defendant or defendants and the same merchandise, or all involving the same defendant or defendants and the same scheme or substantially similar activity, occur in multiple jurisdictions, then any of those jurisdictions are a proper jurisdiction for all of the offenses, subject to a consolidation hearing.

However, while the U.S. Constitution does not require a jury drawn from of a defendant's community to be fair, that does not mean the state has the right to try a defendant anywhere it chooses. There still must be a reasonable connection between the commission of the crime and the county where trial occurs.

> The Legislature's power to designate the place for trial of a criminal offense is limited by the requirement that there be a reasonable relationship or nexus between the place designated for trial and the commission of the offense. (*Price, supra,* at 1075, *citing Martin v. Beto* (5th Cir. 1968) 397 F.2d 741, 748.)

To suggest otherwise, would be to allow prosecutors to pick any county most likely to yield a conviction without reference to where the crime occurred. The purpose of consolidation is judicial economy – to avoid victims and witnesses from testifying multiple times – it is not for prosecutorial convenience or success.

Section 784.7 expressly conditioned joinder on a hearing, pursuant to Penal Code section 954 to determine whether the charged offenses were connected together in their commission, or of the same class of crimes or offenses, and that connection supplied the necessary reasonable relationship or nexus between the place designated for trial and the commission of the offense. (*People v. Delgado* (2010) 181 Cal. App. 4th 839, 847.)

This bill allows for wage theft and labor trafficking to be tried in any county where: (a) a victim resided at the time of the wage theft or labor trafficking; (b) a victim was present at the time the employment contract was entered into; (c) any portion of the work was performed; or (d) the business or any of its locations were situated at the time of the wage theft or labor trafficking. This section may be overly broad because, in some cases, these locations may not have a reasonable nexus to the commission of the crime, but it is expressly authorized by statute.

For example: A roofing business hired daily laborers to perform work, and either underpaid the workers or did not pay them at all, then pretended to go out of business, only to re-open their business again but under another name. The business owner or owners may be charged with wage theft pursuant to Penal Code section 487m. Venue would be proper in any number

of places, including where a victim resided, where **most** of the work was performed, or where the defendant's business is located.

But where an employment contract was "*entered into*" could be several places – where it was signed, where terms were agreed upon, at someone's home, or at some other location convenient to one of the parties. That may result in venue in a county having absolutely no relationship to the wage theft. Additionally, where any "labor" was performed could include a county where someone picked up a few tools for a roof installation and immediately left the county to perform the work. In that case, there may not be a nexus to the county.

Finally, as noted above, in the existing exceptions to venue, there is usually a cross-admissibility to evidence regardless of where the crime is tried. For instance, in *People v. Delgado, supra,* the court found that since Penal Code section 784.7 allowed for certain sex offenses involving different victims to be tried in any county a victim resided and evidence of child victims was cross-admissible pursuant to Evidence Code section 1108, that section did not violate the vicinage requirement. (*People v. Delgado, supra,* 181 Cal.App.4th at 847.)

In this case, it is unclear whether one county would have cross-admissibility of evidence of alleged wage theft across multiple victims, incidents, and circumstances. One employee may have only been denied overtime while two other employees were not paid at all. One employee may have worked one day, and another employee may have worked every day for six months. If an alleged wage theft had an employee pick up supplies on a particular day in Alameda County, but has only ever performed work in Sacramento and Yolo County, the employee lives in Sacramento County, the business is located in Sacramento County and the owner lives in Sacramento County, it may be a violation of a defendant's right to a fair trial to try a wage theft case in Alameda County on the allegation that one of the victims "performed work" there on one day. Tying multiple charges against a defendant in a county that is probably more favorable may give an unfair advantage to the prosecution to tie weak charges together in a way that seems more persuasive to a jury. While a defendant may be able to argue that a nexus does not exist in all counts, the statute clearly provides jurisdiction in a broad sense.

5) **Argument in Support**: According to the *Los Angeles County District Attorney's Office*, "[The] existing law on jurisdiction in theft cases does not specifically address acts of wage theft or labor trafficking. This vagueness in the law has led to uncertainty in the investigation and prosecution of some of these cases, especially where contracts are entered into via digital channels such as the internet or phone, with employees working remotely for companies with ambiguous locations. For example: a worker lives in County A and enters a contract over the phone with an employer (who also lives in County A) for two days of labor to occur in Counties B and C. The contract was entered into while the worker was present in County A. The labor was completed in Counties B and C, and the employer failed to pay the employee the owed wages. Under existing laws, it is unclear when or where the theft occurred. There is no merchandise or other tangible property to recover, and it's unclear in which county the employer instigated, procured, promoted, or aided in the commission of a theft offense because the contract was formed on the phone, and the employer's location at the time of the contract is unknown. Section 786.5 does not neatly apply to this fact pattern. County A wants to prosecute but is unsure whether it has jurisdiction, thus impacting the investigation and filing of criminal charges against the employer. Unfortunately, this problem happens too

often to ignore and has been amplified in Los Angeles County in the wake of last year's massive wildfires, impacting laborers hired for cleanup and restoration work.

"AB 1583 would strengthen CA's response to labor trafficking and wage theft by creating a specific jurisdictional statute for these crimes, expressly allowing labor trafficking and wage theft prosecutions to occur in the county where the victim resided at the time of the theft or trafficking, the county where the victim was present at the time the employment contract was entered into, the county where any portion of the work was performed, or the county where the offending business or any of its locations were situated at the time of the wage theft or labor trafficking. AB 1583 would also close a critical loophole by authorizing coordinated prosecutions for multi-jurisdiction offenders in labor trafficking and wage theft cases."

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

7) **Related Legislation**: SB 648 (Smallwood-Cuevas), Chapter 93, Statutes of 2025, authorize the Labor Commissioner to investigate and issue a citation or file a civil action for gratuities taken or withheld.

8) **Prior Legislation**:

   a) AB 1003 (L. Gonzalez), Chapter 325, Statutes of 2022 criminalizes wage theft as grand theft where a person suffers more than $950 in wage loss, or more than one person suffers an aggregate of $2,350.

   b) AB 1613 (Irwin), Chapter 949, Statutes of 2022, expands the territorial jurisdiction for a criminal action brought by the Attorney General for theft, organized retail theft, receipt of stolen property or conspiracy to commit those crimes, to include the county where the theft or receipt of the stolen merchandise occurred, the county in which the merchandise was recovered, or the county where any act was done by the defendant in instigating, procuring, promoting, or aiding in the commission of the offense.

   c) AB 1779 (Irwin), Chapter 165, Statutes of 2024, authorizes county district attorneys to file specified theft offences in multiple jurisdictions against the same defendant or defendants.

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County District Attorney's Office (Co-Sponsor)
Sonoma County District Attorney's Office (Co-Sponsor)
California District Attorneys Association

Opposition

None on file.

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

Date of Hearing: March 3, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1589 (Chen) – As Introduced January 15, 2026

SUMMARY: Provides that the prohibition on the possess of silencers does not apply to level I reserve peace officers, as defined, who are deputized or appointed by a listed agency, when on duty and when the use of silencers is authorized by the agency and is within the course and scope of their duties.

EXISTING LAW:

1) States that any person, firm, or corporation who possesses a silencer is guilty of a felony punishable by imprisonment for 16 months, 2 years, or 3 years, or by a fine not to exceed $10,000, or by both that fine and imprisonment. (Pen. Code, § 33410.)

2) States that the penalty for possessing a silencer does not apply to:

   a) The sale to, purchase by, or possession of silencers by defined agencies, or the military or naval forces of this state or of the United States, for use in the discharge of their official duties.

   b) The possession of silencers by regular, salaried, full-time peace officers who are employed by defined agencies, or by the military or naval forces of this state or of the United States, when on duty and when the use of silencers is authorized by the agency and is within the course and scope of their duties.

   c) The manufacture, possession, transportation, or sale or other transfer of silencers to a defined entity by registered dealers or manufacturers. (Pen. Code, § 33415.)

3) Provides that any person who comes within the provisions of this chapter and who otherwise meets all standards imposed by law on a peace officer is a peace officer. (Pen. Code, § 830.)

4) States that a level I reserve officer has the powers of a peace officer when a level I reserve officer deputized or appointed, as specified, and assigned to the prevention and detection of crime and the general enforcement of the laws of this state, whether or not working alone, and the person has completed the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training. Reserve officers appointed pursuant to this paragraph shall satisfy the continuing professional training requirement prescribed by the commission. (Pen. Code, § 832.6, subd. (a)(1).)

5) States that whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city police officer, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by that authority, the

person is a peace officer, if the person qualifies, as specified. The authority of a person designated as a peace officer pursuant to this paragraph includes the full powers and duties of a peace officer, as defined. (Pen. Code, § 830.6, subd. (a)(2).)

6) Requires that every person specified as a peace officer shall satisfactorily complete an introductory training course prescribed by the Commission on Peace Officer Standards and Training. (Pen. Code, § 832, subd. (a).)

7) Requires that every peace officer, prior to the exercise of the powers of a peace officer, shall have satisfactorily completed the training course. (Pen. Code, § 832, subd. (b)(1).)

8) Defines as a peace officer a sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, a chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency that performs police functions, a police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, a chief of police, or police officer of a district, including police officers of the San Diego Unified Port District Harbor Police, authorized by statute to maintain a police department, a marshal or deputy marshal of a superior court or county, a port warden or port police officer of the Harbor Department of the City of Los Angeles, or an inspector or investigator employed in that capacity in the office of a district attorney. (Pen. Code, § 830.1.)

9) Defines "silencer" as any device or attachment of any kind designed, used, or intended for use in silencing, diminishing, or muffling the report of a firearm. The term "silencer" also includes any combination of parts, designed or redesigned, and intended for use in assembling a silencer or fabricating a silencer and any part intended only for use in assembly or fabrication of a silencer. (Pen. Code, § 17210.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1589 will end the ban on suppressors for level I reserve Peace Officers, creating parity with other peace officers with the exact same training and qualifications. Authorization should be based on training, certification, and safety – not job title."

2) **Effect of the Bill:** This bill will allow level I reserve officers to use firearms suppressors only if their employing agency permits use of suppressors and only while on duty.

   AB 1598 would create an additional exception for level I reserve officers to use firearm suppressors only under specific circumstances. This bill would not permit use of suppressors by the public and would not allow use of suppressors by law enforcement while off duty.

   Exceptions in this area of the law already generally exist for members of the United States armed services and full-time peace officers. This bill would extend those exceptions to include level I reserve officers who have the same powers and responsibilities of full-time peace officers (See Pen. Codes, §§ 830.6, subd. (a) & 832.6, subd. (a)(1)), who are already permitted to use suppressors while on duty.

The exception contained in AB 1589 appears limited both in terms of qualifying personnel and qualifying circumstances under which suppressor use would be permitted. While colorable arguments may be advanced that this exception may create unintentional negative impacts on public safety, the limitations put in the bill should act to largely mitigate these potential impacts.

3) **Hearing Loss and Law Enforcement:** By authorizing suppressor use for level I reserve officers in limited circumstances, this bill creates additional conditions where hearing loss could be reduced for Level I reserve officers.

Estimates of noise levels for firing rifles understandably vary, both with and without suppressors. Suppressed fire from a rifle can reach 115 decibels (dB).[1] Another estimate shows suppressed fire can hit 130 dB.[2] This same study estimates unsuppressed fire can achieve 160 db.[3] Another report estimates unsuppressed gunshots range from 140-185 db.[4]

Similarly, estimates of noise reductions with use of firearm suppressors fall within a range. One report noted suppressor use resulting in a 30 dB decrease in noise with some models generating more reduction.[5] Another report found a 20-35 dB reduction affiliated with suppressor use.[6] A study by the CDC and National Institute of Health (NIH) found a 17-24 dB reduction in noise exposure.[7]

In a 2025 letter responding to an inquiry about the Occupational Safety and Health Administration's (OSHA) enforcement of 140 dB peak sound levels, OSHA noted that even where certain momentary noise exposure levels of 140+ dB may not exceed the Permissible Exposure Limit (PEL) or Action Limit (AL), it is likely that only minutes of such exposure would reach an AL.[8] OSHA stated in this letter, "it has been OSHA's longstanding policy that occupational noise exposure exceeding 140 dB without protection poses a hazard that places workers at increased risk of being exposed above the PEL in a very short amount of time and consequently leads to extreme danger of suffering irreversible hearing loss."[9]

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[1] *Noise Levels Compared*, Los Angeles County Sheriff's Department Weapons Training Unit.
[2] Wipfer, III. *Sound arguments for the purchase and use of firearm suppressors: A Physician's Perspective and Recommendations* (July 2023) American College of Emergency Physicians <https://www.acep.org/talem/newsroom/july-2023/Sound-arguments-for-the-purchase-and-use-of-firearm-suppressors> [as of Feb. 18, 2026].
[3] *Ibid.*
[4] *There's Nothing Silent About Silencers* (2025) American Suppressor Association <https://www.akleg.gov/basis/get_documents.asp?session=32&docid=79422#:~:text=prior%20to%20usage.-,Federal%20Regulations,%5BJANUARY%202020%5D> [as of Feb. 18, 2026].
[5] S*upra*, note 2.
[6] *Firearm Suppressors* (2022) Congressional Sportsmen's Foundation <https://congressionalsportsmen.org/policy/firearm-suppressors/> [as of Feb. 18, 2026].
[7] Murphy, et al. *The reduction of gunshot noise and auditory risk through the use of firearm suppressors and low-velocity ammunition* (Jan. 2018) <https://pubmed.ncbi.nlm.nih.gov/29299940/> [as of Feb. 18, 2026].
[8] Letters of Interpretation. *140 decibels (dB) impact/impulse policy under the noise standard* (June 25, 2025) Occupational Safety and Health Administration <https://www.osha.gov/laws-regs/standardinterpretations/2025-07-30#:~:text=Further,%20NIOSH%20recommends%20the%20use,administrative%20controls%20and%20engineering%20controls.> [as of Feb. 18, 2026].
[9] *Ibid.*

Additionally, a study done by the Centers for Disease Control (CDC) at an outdoor California firing range found peak noise measurements above 160 dB, with some individuals' Time-Weighted Average (TWA) noise exposure exceeding the OSHA AL during gunfire.[10] Therefore, recommended noise controls here were advised to include the use of noise suppressors on firearms, limiting the number of daily gunfire exposures, the use of double hearing protection, and a hearing conservation program that meets the requirements of the OSHA Noise standard.[11] Another study found police officers were 1.4 times more likely to suffer from Noise-Induce Hearing Loss (NIHL) compared to a control group that did not experience high occupational noise levels.[12] Previous studies additionally showed safety officers experienced a hearing loss rate of 22-85%.[13]

California law treats certain level I reserve officers as equivalent to full-time peace officers in authority and responsibility. Peace officers experience higher than average levels of occupational noise exposure. Some of this exposure is due to firearms use required as part of the job. The CDC showed unsuppressed fire can reach levels exceeding 160 dB and recommended the use of suppressors, among other controls.[14] 160 dB is a level OSHA has advised that without protection potentially creates "in a very short period of time . . . [an] extreme danger of suffering irreversible hearing loss."[15]

While data varies on the level of noise reduction due to use of suppressors, even reduction on the low end should generate improved outcomes for the long-term hearing protection of Level I reserve officers. Given the large percentage of peace officers who experience hearing loss and the limited expected negative public safety impact, permitting an exception for Level I reserve officers to use suppressors in specific circumstances seems like an empirically valid approach to help preserve the long-term hearing of these officers.

4) **Use of Suppressors in Crime:** AB 1589 provides a new, particularized exception for firearm suppressor use by Level I reserve officers. Creating a new exception will lead to at least some increased use of suppressors. Increased use of suppressors could have public safety impacts.

Firearm suppressor use has been met with mixed reviews. An article out of Duke University captures significant aspects of the suppressor debate in the context of public safety.[16] The loud sound of a firearm can immediately damage the hearing of people nearby, so using a suppressor to reduce that harmful noise can be beneficial to individual and public health.[17] Individuals engaged in target practice can wear ear protection to mitigate the damage, but

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[10] Chen and Brueck. *Noise and Lead Exposures at an Outdoor Firing Range – California* (Sep. 2011) Department of Health and Human Service's Center for Disease Control and Prevention <https://www.cdc.gov/niosh/hhe/reports/pdfs/2011-0069-3140.pdf> [as of Feb. 18, 2026].
[11] *Ibid.*
[12] Malowski, et al. *Auditory changes following firearm noise exposure, a review* (Mar. 2022) The Journal of the Acoustical Society of America < https://pubs.aip.org/asa/jasa/article/151/3/1769/2838222/Auditory-changes-following-firearm-noise-exposure> [as of Feb. 18, 2026].
[13] *Ibid.*
[14] See *supra*, at note 10.
[15] *Supra*, at note 8.
[16] Chittum, T. *The Firearm That Isn't: Silencers and the "Loud Bang Theory"* (Aug. 2025) Duke Center for Firearms Law <https://firearmslaw.duke.edu/2025/08/the-firearm-that-isnt-silencers-and-the-loud-bang-theory> [as of Feb. 19, 2026].
[17] *Ibid.*

this protection can be insufficient and impractical for large groups as anyone around the shooter would also need to engage hearing protection.[18] Compared with suppressors, ear protection can inhibit important communications, including vital safety instructions.[19] The sound of gunfire can be obnoxious to residents living near a gun range who would understandably object to needing to wear ear protection while in their homes.[20]

While certain firearms realities support suppressor use, the loud noise associated with a gun firing could have benefits.[21] When a firearm is discharged in public, it is an immediate and largely unmistakable warning of potential danger nearby.[22] A fired weapon can trigger a more rapid emergency response, which could result in lives saved.[23] Modern public safety technology often uses gunfire noise to detect firearm discharge and notify law enforcement.[24] The sound of gunfire may deter certain criminals, who may be dissuaded from using a firearm in criminal activity due to the noise potentially increasing the likelihood of getting caught.[25] As the article notes, "between these pros and cons, lies the 'silencer.'"[26]

Following passage of a federal budget reconciliation bill in 2025 that removed the $200 National Firearms Act (NFA) Tax Stamp from federal suppressor registration requirements,[27] a flood of attention was briefly trained on firearm suppressors. During this time, Everytown for Gun Safety (EGS) released a report on suppressor use in crime that they noted is the most comprehensive to date.[28] This report captures data on suppressor use in violent crime over a nearly 110-year period, though there is an approximate 54-year gap in reporting between 1927-1981.[29] The report found 113 "violent incidents and planned attacks" involving suppressors.[30] They note that law enforcement recovered over 9,000 homemade suppressors in the five-year period from 2017-2021.[31] Over 400 federal cases were also identified in the previous 20 years where silencers were recovered.[32] Some of these incidents became infamous, like the shooting of the UnitedHealthcare CEO and the Virginia Beach mass shooting.[33]

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[18] *Ibid.*
[19] *Ibid.*
[20] *Ibid.*
[21] *Ibid.*
[22] *Ibid.*
[23] *Ibid.*
[24] *Ibid.*
[25] *Ibid.*
[26] *Ibid.*
[27] H.R.3228 – Constitutional Hearing Protection Act (May 2025) United States Congress, 119th Congress, 1st Session <https://www.congress.gov/bill/119th-congress/house-bill/3228/text> [as of Feb. 19, 2026].
[28] *NEW REPORT: Despite Major Public Safety Risks, Gun Industry is Doubling Down on Efforts to Deregulate Silencers* (June 2025) <https://everytownsupportfund.org/press/new-report-despite-major-public-safety-risks-gun-industry-is-doubling-down-on-efforts-to-deregulate-silencers/> [as of Feb. 19, 2026].
[29] *Quiet Killers* (June 2025) The Smoking Gun <https://smokinggun.org/report/quiet-killers/?_gl=1*zd9o6e*_ga*NTgwMDY5OTg0LjE3NzE0NTI0NTA.*_ga_68QYBV181T*czE3NzE0NTI0NTAkbzEkZzEkdDE3NzE0NTI2MTMkajQ1JGwwJGgw> [as of Feb. 19, 2026].
[30] *Ibid.*
[31] *Ibid.*
[32] *Ibid.*
[33] *Ibid.*

Any incident of firearms violence is tragic and doing something that has the potential to escalate rates of that violence would be unwise. It is not at all clear, however, that creating an exception for level I reserve peace officers to use suppressors while on duty with employing agency approval would have any impact on firearms violence. As an initial matter, suppressor use in crime appears extraordinarily rare. The 113 incidents of firearms violence where the aggressor used a suppressor reflects the overall, identifiable total number of incidents over approximately 54 years.[34] That amounts to just over two incidents of firearms violence with a suppressor per year. This total is analogous to those who die annually due to rabies infections from bats.[35]

Furthermore, the total number of firearms *deaths* in the US since 1915 almost certainly exceeds 2.25 million.[36] Let's assume for the sake of comparison that every incident of firearms violence identified in the last 108 years resulted in death. If we were to extrapolate the data from the available 54 years of data and apply the number to the missing 54 years of data, we would get roughly 225 incidents of firearms deaths with a suppressor over 108 years. This suggests that suppressors are used in, at most, approximately 1 out of every 1,000 firearms deaths.

There are arguments to be made for the continued prohibition of firearm suppressors. Homemade suppressor possession and use are rising rapidly.[37] Suppressors may be significantly higher in unsolved violent crimes, at least in part due to the reduction in risk associated with less noise emanating from a discharged firearm. Suppressor possession may be a less commonly charged crime by prosecutors, particularly where they are confident they can plead and prove the facts for a violent crime or other crime with a long confinement term. The ability to use common, everyday objects from the grocery store as a suppressor, like a potato or two-liter soda bottle, could additionally contribute to underreporting. It is also likely that cheaper, more accessible 3D printers and a now $0 tax stamp for suppressor registration with ATF contributes to a rapid rise[38] in suppressor possession and use. While concerns about rising suppressor use are understandable, and law enforcement officers engaging in violent criminal activity with suppressors is not unprecedented,[39] the likelihood of a law enforcement officer engaging in violent, criminal firearm suppressor activity appears infinitesimal. There are no reliable studies showing that use of suppressors increases the likelihood or number of law enforcement use of force incidents. Suppressors are not weapons that are used independent of the firearm and therefore, are not dangerous standing alone.

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[34] *Ibid.*
[35] *Rabies in the United States: Protecting Public Health* (Sep. 2025) Centers for Disease Control and Prevention <https://www.cdc.gov/rabies/php/protecting-public-health/index.html#:~:text=Human%20rabies%20surveillance%20in%20the,help%20avoid%20exposures%20to%20rabies.> [as of Feb. 2026].
[36] See cumulatively, *Annual number of homicides in the United States from 1910 to 1970, by method* (2026) Statista < https://www.statista.com/statistics/1067001/us-homicides-method-historical/#:~:text=In%20all%20years%20between%201910%20and%201970,,fell%20during%20the%20recovery%20from%20the%20Great>, *Deaths Resulting from Firearm- and Motor-Vehicle-Related Injuries -- United States, 1968-1991* (Jan. 1994) Centers for Disease Control and Prevention <https://www.cdc.gov/mmwr/preview/mmwrhtml/00023655.htm>, and *Injury Center* (2026) Centers for Disease Control and Prevention <https://www.cdc.gov/injury/index.html> [all as of Feb. 19, 2026].
[37] *Supra*, at note 30.
[38] *Ibid.*
[39] See *ibid.*

There is also no reliable evidence that suppressor use increases firearm lethality (i.e., the destructive potential of a firearm with and without a suppressor is the same).

California is already one of only eight states that prohibits individuals from owning suppressors.[40] AB 1589 would not undo that ban for individuals or even for various other public safety officers. It would simply carve out a single additional exception allowing level I reserve officers to use suppressors while on duty and with approval by their employing agency. Given the elevated risk of officers experiencing irreversible hearing loss due in part to firearms use on the job, this bill appears a reasonable attempt at mitigating these long-term health complications.

5) **Argument in Support**: According to AB 1589's sponsor, the *Los Angeles County Sheriff's Department*, "This bill would allow level 1 Reserve Peace Officers to possess and use a silencer if they are authorized by their agency to do so, while they are on duty, and when it is used within the course and scope of their duties.

"The patrol rifle has been a necessary part of modern policing for decades, and hearing loss has since been recognized as an associated consequence of using it.

"The characteristics and capabilities of the patrol rifle noise suppressor were evaluated by the Weapons Training Unit of our Department over a fourteen-month period between August 2022 and October 2023.

"We found that using a patrol rifle equipped with a suppressor not only mitigated the risk of hearing loss, but it also improved communication, preserved night Vision and reduced the recoil of the rifle which allowed it to be used in a safer and more effective manner.

"We determined that the suppressor was an important piece of safety equipment and began training our personnel to use it.

"It was then that a member of our Department, one of those responsible for training our personnel to use the suppressor, identified that the language contained in current law seemed to have unintentionally excluded reserve peace officers from possessing a suppressor, even when they were on duty.

"In California, there are three classifications of reserve law enforcement officers, which are based on the level of training and certification they receive by their respective departments and the California Commission on Peace Officer Standards and Training (POST).

"The highest classification of reserve officer is known as the 'Level I Reserve Peace Officer.' These officers are the only reserve officers who have the same police powers and responsibilities as a 'regular, salaried, full-time peace officer.'

"The availability of the reserve peace officer is critical to law enforcement operations across the country. Not only do these officers often fill critical staff shortages and supplement our

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[40] *Suppressor Laws by State 2026* (2026) World Population Review <https://worldpopulationreview.com/state-rankings/suppressor-laws-by-state> [as of Feb. 19, 2026].

forces in emergent situations, the voluntary nature of their commitment to public safety is a testament to their character and serves as an inspiration to everyone who works with them.

"It is important we allow our level I reserve peace officers access to the same safety equipment as their full-time partners."

6) **Argument in Opposition**: According to *La Defensa*, "On behalf of La Defensa, I write to oppose AB 1589 (Chen), which would exempt level I Reserve Peace Officers from the prohibition on possessing silencers.

"Under existing law, it is a felony to be in possession of a silencer. Current exemptions to this felony include full-time police officers employed by an agency listed in Penal Code §830.1, or by the military or naval forces of California or of the United States, when on duty and when the use of silencers is authorized by the agency and is within the scope of their duties.

"The California Reserve Peace Officer Program (RPOP) is composed of people who dedicate a portion of their time to community service by working as part-time employees or volunteers with law enforcement agencies. Approximately 600 law enforcement agencies currently employ nearly 6,200 reserve officers around the state. A level I reserve officer must meet specific requirements and be appointed and can be as young as 18 years old.

"We oppose any effort to more heavily arm law enforcement of any kind with dangerous weapons that can jeopardize the safety of our communities, as this can exacerbate the epidemic of unjustifiable police use of force in this nation. Furthermore, we oppose the spending of already scarce public funds on unsafe weapons while we are already facing significant budget deficits.

"If a device is so dangerous that its mere possession by a law-abiding citizen is a felony, it is logically inconsistent to claim that the same device becomes safe or necessary when held by a government employee. If silencers are truly dangerous, then their use by law enforcement contradicts the mandate to protect and serve.

"Expanding this problematic exemption to provide more law enforcement with specialized tactical gear further contributes to this push into militarizing our local law enforcement. This shift can lead to more aggressive policing tactics, endangering more of our community members."

7) **Related Legislation**: AB 1615 (Nguyen) authorize a peace officer employed by a county probation department and using an unsafe handgun as a service weapon to satisfy the above-described training requirement by completion of the firearm portion of a training course prescribed by POST and who qualifies with the handgun, as specified, at least every 3 months. This bill is pending hearing in the Assembly Public Safety Committee.

8) **Prior Legislation**:

   a) AB 879 (Rubio), of the 2025-2026 Legislative Session, would have exempted county probation officers from certain restrictions on non-rostered handguns. AB 879 was held

in the Senate Appropriations Committee.

b) AB 355 (Alanis), Chapter 235, Statutes of 2023, exempts from this prohibition the loaning of an assault weapon to, or the possession of an assault weapon by, a person enrolled in the course of basic training prescribed by the Commission on Peace Officer Standards and Training, while engaged in firearms training and being supervised by a firearms instructor.

c) AB 2699 (Santiago), Chapter 289, Statutes of 2020, exempted from the prohibition on unsafe handguns the sale of a handgun to, or the purchase of a handgun by, additional specified entities, and provided.

REGISTERED SUPPORT / OPPOSITION:

1) **Support**

2) Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
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 Sheriff's Department
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association

3) **Oppose**

4) Brady California
Brady Campaign
Friends Committee on Legislation of California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Local 148 LA County Public Defenders Union
San Francisco Public Defender

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

Date of Hearing: March 3, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1595 (Schultz) – As Amended February 23, 2026

SUMMARY: Authorizes a petitioner for habeas corpus relief, in order to overcome a procedural bar to relief based on untimeliness or successiveness, to identify changes in law or new evidence that create a reasonable probability of a different result sufficient to undermine confidence in the outcome of the case. Specifically, **this bill**:

1) States a habeas petition may be prosecuted for false evidence relating to a person's guilt or punishment where there is any reasonable likelihood that the evidence would have affected the outcome of the case.

2) Revises the definition of "false evidence" in the listed grounds for a habeas petition to include "opinions of expert that have either been repudiated by the experts who originally provided the opinion at a hearing or trial that may have undermined the state of scientific knowledge or later scientific research or technological advances."

3) Clarifies that new evidence exists for purposes of a habeas petition if there is a reasonable probability it would have produced a different result sufficient to undermine confidence in the outcome of the case.

4) Provides that a significant dispute regarding expert testimony need only exist and there is a reasonable probability that the testimony affected the outcome of the case.

5) Requires if a prosecutor knew or should have known evidence was false and failed to correct it at trial, the burden to shift to the respondent (or state) to demonstrate there is no likelihood the false evidence impacted the jury.

6) States that to overcome a procedural bar to relief based on untimeliness or successiveness in a habeas petition, the petitioner may either identify changes in law or new evidence, or establish that the allegations in the petition, if taken as true, create a reasonable probability of a different result sufficient to undermine confidence in the outcome of the case.

7) States that if the Attorney General or district attorney stipulates or concedes to any factual basis for habeas relief, that concession is binding on the parties. A concession in open court, or in a pleading including an informal response or a return to an order to show cause, cannot be withdrawn. A stipulation may be withdrawn only if the moving party proves by a preponderance of the evidence that the other party violated the stipulation's terms or that the state withheld evidence that reasonably could have affected the petitioner's decision to enter into the stipulation.

8) Requires a court to grant relief based on a concession or stipulation unless doing so would be contrary to law. If the court rejects a concession or stipulation, it shall issue a written order explaining its legal and factual basis, and that order is appealable.

9) Clarifies that a person may file a motion to vacate, as specified:

   a) Where there is new evidence of fraud by a government official that demonstrates a reasonable probability, it would have produced a different result to undermine confidence in the outcome of the case.

   b) Where there is new evidence that a government official testified falsely at trial that resulted in the conviction and that there is a reasonable probability the testimony of the government official would have produced a different result sufficient to undermine confidence in the outcome of the case.

10) States new evidence is evidence that has not previously been presented and heard at trial and has been discovered after trial without reference to whether the evidence could have been discovered with reasonable diligence prior to judgement.

11) States when filing a return of a habeas writ, as specified, the court has the full power and authority to require and compel production of discovery for good cause or witness attendance, by subpoena, and any other necessary acts to ensure a full and fair hearing on determination of the case.

12) Requires the court, after a habeas writ is returned and denied following formal briefing, to proceed to a hearing on any proof for or against imprisonment and to resolve the case as justice requires and in a manner that is appropriate and equitable based on the reasons for granting the writ and authorizes the court to dismiss a pending action with or without prejudice.

13) States for purposes of providing resources related housing and compensation for exonerated people, exonerated also means any person whose conviction or juvenile adjudication is reversed on appeal on the basis of insufficient evidence.

14) Provides that the Department of Corrections and Rehabilitation (CDCR) must assist a person who is exonerated from a juvenile adjudication as well as a conviction with a variety of exoneration services.

15) Includes other clarifying changes to harmonize various provisions related to various habeas petitions or motions to vacate a conviction or juvenile adjudication pertaining to new or false evidence.

EXISTING LAW:

1) Authorizes a person unlawfully imprisoned or restrained of their liberty, under any pretense, to prosecute a writ of habeas corpus to inquire into the cause of the imprisonment or restraint. (Pen. Code, § 1473, subd. (a).)

2) States a writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:

   a) False evidence that is material on the issue of guilt or punishment was introduced against a person at a hearing or trial relating to the person's incarceration.

   b) False physical evidence, believed by a person to be factual, probative, or material on the issue of guilt, which was known by the person at the time of entering a plea of guilty, which was a material factor directly related to the plea of guilty by the person.

   c) New evidence exists that is presented without substantial delay, is admissible, and is sufficiently material and credible that it more likely than not would have changed the outcome of the case. "New evidence" means evidence that has not previously been presented and heard at trial and has been discovered after trial.

   d) A significant dispute has emerged or further developed in the petitioner's favor regarding expert medical, scientific, or forensic testimony that was introduced at trial or a hearing and that expert testimony more likely than not affected the outcome of the case. Expert medical, scientific, or forensic testimony includes the expert's conclusion or the scientific, forensic, or medical facts upon which their opinion is based.

      i. A significant dispute may be as to the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which a medical, scientific, or forensic expert based their testimony.

      ii. A significant dispute can be established by credible expert testimony or declaration, or by peer reviewed literature showing that experts in the relevant medical, scientific, or forensic community, substantial in number or expertise, have concluded that developments have occurred that undermine the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which a medical, scientific, or forensic expert based their testimony.

      iii. In assessing whether a dispute is significant, the court shall give great weight to evidence that a consensus has developed in the relevant medical, scientific, or forensic community undermining the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which a medical, scientific, or forensic expert based their testimony or that there is a lack of consensus as to the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which a medical, scientific, or forensic expert based their testimony.

      iv. The significant dispute must have emerged or further developed within the relevant medical, scientific, or forensic community, which includes the scientific community and all fields of scientific knowledge on which those fields or disciplines rely and shall not be limited to practitioners or proponents of a particular scientific or technical field or discipline. (Pen. Code, § 1473, subd. (b)(1)(A-D).)

3) Specifies "false evidence" includes opinions of experts that have either been repudiated by the expert who originally provided the opinion at a hearing or trial or that have been undermined by the state of scientific knowledge or later scientific research or technological advances. (Pen. Code, § 1473, subd. (a)(2).)

4) States that for purpose of a habeas petition, if the district attorney in the county of conviction or the Attorney General concedes or stipulates to a factual or legal basis for habeas relief, there shall be a presumption in favor of granting relief. This presumption may be overcome only if the record before the court contradicts the concession or stipulation, or it would lead to the court issuing an order contrary to law. (Pen. Code, § 1473, subd. (g).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1595 strengthens California's criminal legal system by ensuring courts have clear and consistent authority to review credible claims supported by new evidence while preserving long-standing principles of finality and judicial discretion. Over the past decade, amendments to habeas corpus and related post-conviction statutes have produced inconsistent legal standards, conflicting burdens of proof, and uncertainty regarding discovery. These inconsistencies can result in similarly situated individuals being treated differently across jurisdictions and can require courts to expend significant resources resolving procedural disputes rather than evaluating the merits of a claim.

   "This bill clarifies the standard courts apply when assessing whether new evidence undermines confidence in the outcome of a conviction, aligns post-conviction review with well-established constitutional principles, and clarifies courts' authority to order discovery for good cause after issuing an order to show cause. AB 1595 also promotes transparency by requiring courts to state their reasons when declining to accept a factual or legal concession from a prosecuting agency, while fully preserving the court's role as the ultimate decision-maker.

   "Importantly, AB 1595 does not expand relief or mandate that courts grant petitions. Instead, it ensures courts retain the discretion necessary to distinguish between non-meritorious claims and those that warrant careful judicial review. By reducing unnecessary litigation over threshold procedural issues, the bill helps conserve limited judicial resources and allows courts to focus on claims that meaningfully call the integrity of a conviction into question.

   "A consistent statewide framework promotes equal treatment for both represented and self-represented petitioners and reinforces public confidence in the justice system. Ensuring that courts can evaluate credible new evidence helps protect the integrity of convictions, supports victims by promoting accuracy and accountability, and strengthens public safety by helping ensure that the correct person is held responsible for the crime.

   "AB 1595 is a measured, procedural clarification that improves fairness, efficiency, and transparency in California's post-conviction process while respecting the balance between finality and justice."

2) **Habeas Petitions Generally:** Habeas corpus, also known as "the Great Writ," is a process guaranteed by both the federal and state constitutions to obtain prompt judicial relief from unlawful restraint. The function of a writ is set forth in Penal Code section 1473, subdivision (a): "Every person unlawfully imprisoned or restrained of his or her liberty, under any pretense whatever, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint." Penal Code section 1473, subdivision (d) specifies that "nothing in this section shall be construed as limiting the grounds for which a writ of habeas corpus may be prosecuted."

   A writ of habeas corpus may be prosecuted for, but not limited to, the following reasons: false evidence that is substantially material or probative on the issue of guilt, or punishment was introduced against a person at any hearing or trial relating to his incarceration; or false physical evidence believed by a person to be factual, material or probative on the issue of guilt, which was known by the person at the time of entering a plea of guilty and which was a material factor directly related to the plea of guilty by the person. (Pen. Code, § 1473, subd. (b)(1) & (2).) Any allegation that the prosecution knew or should have known of the false nature of the evidence is immaterial to the prosecution of a writ of habeas corpus based on false evidence. (Pen. Code, § 1473, subd. (c).)

   A habeas corpus claim of false testimony requires proof that false evidence was introduced against petitioner at his or her trial and that such evidence was material or probative on the issue of his or her guilt. (*In re Bell* (2007) 42 Cal.4th 630, 637.) A habeas writ may also be prosecuted based on newly discovered evidence. The new evidence must be "credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome at trial." (Pen. Code, §1473, subd. (b)(3).)

   The Legislature has also codified the right to prosecute a petition for writ of habeas corpus when evidence of intimate partner battering was not presented at trial. (Pen. Code, § 1473.5.) Again, the evidence must be of such substance that had it been presented there is a "reasonable probability, sufficient to undermine confidence in the judgment of conviction or sentence, that the result of the proceedings would have been different." (Pen. Code, § 1473.5, subd. (a).)

3) **Habeas Petitions Based on False or New Evidence:** Habeas petitions may be prosecuted on the grounds that that the state adduced false evidence at trial. False evidence may include false witness or victim testimony and faulty forensic or scientific evidence. According to a report from UC Berkeley School of Law and the University of Pennsylvania Law School, erroneous convictions cost California taxpayers over $282 million between 1989 and 2012.

   > False or misleading forensic evidence was a contributing factor in 24% of all wrongful convictions nationally, according to the National Registry of Exonerations, which tracks both DNA and non-DNA based exonerations.[1]

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[1] See https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View={B8342AE7-6520-4A32-8A06-4B326208BAF8}&FilterField1=Contributing_x0020_Factors_x0020&FilterValue1=False%20or%20Misleading%20Forensic%20Evidence.

This includes convictions based on forensic evidence that is unreliable or invalid and expert testimony that is misleading. It also includes mistakes made by practitioners and in some cases misconduct by forensic analysts. In some cases, scientific testimony that was generally accepted at the time of a conviction has since been undermined by new scientific advancements in disciplines including:

a) Hair comparisons: Microscopic hair analysis involves comparing hair found at a crime scene with the hair of the defendant. A 2009 National Academy of Sciences report stated that microscopic hair comparisons could not be used to match hair with a specific individual. In 2015, the FBI announced that its hair microscopy experts overstated the probability of a match between hair evidence and the defendant's hair in 95 percent of the 268 cases it had reviewed.[2]

b) Arson: Two decades of fire research has debunked evidence that was used to convict people of arson. The 1992 publication of National Fire Protection Association (NFPA) 921 noted that many of the physical artifacts previously thought to occur only in intentional fires—such as "alligatoring" of wood, crazed glass, and sagged furniture springs—could actually occur in accidental fires.[3] NFPA 921 only became generally accepted by the relevant scientific community in the early 2000's.

c) Comparative Bullet Lead Analysis: Comparative Bullet Lead Analysis ("CBLA") was believed to be able to link bullets found at a crime scene to bullets possessed by a suspect based on the assumption that the lead composition in a bullet was unique and limited to the batch that it came from. Since the early 1980's the FBI conducted bullet lead examined in over 2,500 cases. The FBI stopped using CLBA after a 2002 National Academy of Sciences (NAS) report found problems with interpretations of the results of these analyses.[4]"

In a habeas petition based on false evidence, a court considering the effect of false evidence must consider whether the evidence **was material**, and not whether substantial evidence supported the conviction absent the false evidence. (*In re Richards* (2016) 63 C.4th 291, 309; *In re Sassounian* (1995) 9 Cal.4th 535, 546, 550, fn. 13.)

Under the materiality standard of *Napue v. Illinois* (1959) 360 U.S. 264, a conviction must be reversed where a reasonable likelihood exists that the false testimony could have affected the judgment of the jury. (See *Glossip v. Oklahoma* (2024) 604 U.S. 226.) That standard is equivalent to the "harmless beyond a reasonable doubt" standard for determining whether constitutional error is prejudicial (see 6 Cal. Crim. Law (5th), Reversible Error, § 11 et seq.).

> As *Napue* made clear, however, "'[a] lie is a lie, no matter what its subject.'" *Napue*, 360 U. S., at 269-270, (internal citation omitted)). Nothing in Napue requires ignoring the fact of Sneed's

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[2] https://www.ncjrs.gov/pdffiles1/nij/grants/228091.pdf
[3] NFPA 921 Fire & Explosion Investigations Guide (2004), https://studylib.net/doc/18648668/national-fire-protection-association--nfpa-921--guide-for
[4] https://archives.fbi.gov/archives/news/pressrel/press-releases/fbi-laboratory-announces-discontinuation-of-bullet-lead-examinations

> perjury in the prejudice analysis. To the contrary, materiality instead always requires courts to assess whether "the error complained of" could have contributed to the verdict. See *Chapman v. California* (1967) 386 U. S. 18, 24; *U.S. v. Bagley* (1985) 473 U. S. 667, 680, fn. 9. Here, the prosecutor's failure to correct Sneed's false testimony is the relevant error, so the Court asks whether a correction could have made a material difference. The answer is clearly yes. (*Glossip, supra*, 604 U.S., at 253.)

According to the Committee on the Revision on the Penal Code in its 2024 Report:

> As a result of these changes, in order to vacate a conviction, some claims require showing (in order of difficulty for the petitioner) a 'reasonable probability' of a different result, others require showing that a different result is 'more likely than not' that is, by a preponderance of evidence, and at least one path to relief requires evidence that 'completely undermines the prosecution's case, is conclusive, and points unerringly to [the person's] innocence.' (See *In re Richards, supra,* 63 Cal.4th 312-313; P*eople v. Watson* (1956) 46 Cal.2d 818; Pen. Code, §§1473, subd. (b)(1)(C-D); 1473.6, subd. (a)(1).) It is also unclear what someone with new evidence of innocence must prove to have a conviction vacated if they are no longer in custody as the language for this type of petition is different from all the others.[5]

This bill seeks to unify the standards between habeas petitions based on new evidence and false testimony requiring a showing of a reasonable probability of a different outcome in the case. The "reasonable probability" standard currently applies to "false testimony" claims in existing habeas statutes and is used to "assess state-law errors on appeal and important federal constitutional rights, including the ineffective assistance of counsel and claims that the prosecution did not disclose important evidence." (See *Glossip*, supra, 604 U.S., at pp. 251-52; see fn. 5, *supra*, p. 14.)

4) **Untimeliness and Successiveness in Habeas Petitions Based on New Evidence:** Under existing law, a person who wishes to challenge their conviction by filing a petition for a writ of habeas corpus in state court must present each claim in a timely fashion.[6] There is no express time period in which to seek state habeas corpus relief in a non-capital criminal case. (*In re Douglas* (2011) 200 Cal.App.4th 236, 242.) Whether a claim has been timely presented is assessed based on an indeterminate reasonableness standard. A petition is timely if filed "within a reasonable time." (*Evans v. Chavis* (2006) 546 U.S. 189, 191-192.)

Generally, delay in seeking habeas corpus relief in a non-capital case is measured from the time a petitioner or petitioner's counsel becomes aware of the grounds for relief, which may

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[5] Committee on Revision of the Penal Code, 2024 Annual Report, pp. 13-14.

[6] The changes made by this bill would apply to non-capitol cases only. Proposition 66, codified as California Penal Code section 1509, provides that the initial habeas petition in a death penalty case must be filed within one year of the order in which habeas corpus counsel was appointed. (See also, *Briggs v. Brown* (2017) 3 Cal.5th 808.)

be as early as the date of conviction. (*Douglas*, *supra*, 200 Cal.App.4th at 243.) To show that there was not a substantial delay in filing a habeas petition, the "petitioner must allege, with specificity, facts showing when information offered in support of the claim was obtained, and that the information neither was known, nor reasonably should have been known, at any earlier time." (*In re Reno* (2012) 55 Cal.4th 428, 461.)

There are exceptions to the rule. California courts allow a longer delay if the petitioner demonstrates good cause. (*In re Robbins* (1998) 18 Cal.4th 770, 780.) "A petitioner may establish good cause by showing particular circumstances to justify substantial delay." (*Ibid.*) A petitioner can also bring an untimely habeas petition if they can show "error of constitutional magnitude led to a trial that was so fundamentally unfair that absent the error no reasonable judge or jury would have convicted the petitioner"; that they are "actually innocent of the crime or crimes of which he or she was convicted"; or that they were "convicted or sentenced under an invalid statute." (*In re Reno* (2012) 55 Cal.4th 428, 460; *In re Clark* (1993) 5 Cal.4th 750, 797–98.)

Pursuant to the "actual innocence" exception to the court's timeliness rules for subsequent petitions for writs of habeas corpus in death penalty cases, evidence relevant only to an issue already disputed at trial, which does no more than conflict with trial evidence, does not constitute new evidence that fundamentally undermines the judgment. Rather, a petitioner must show the evidence of innocence could not have been, and presently cannot be, refuted.

This bill authorizes a habeas petitioner, in order to overcome a procedural bar to relief based on untimeliness or successiveness, to demonstrate that the allegations in the petition, if taken as true, combined with any other evidence before the court, including any new or changed law, creates a reasonable probability of a different result sufficient to undermine confidence in the outcome of the case. Finally, this bill also specifies that where the prosecutor concedes or stipulates to a factual basis forming the basis of a habeas petition, it is binding on the parties and may not generally be withdrawn. A stipulation may only be withdrawn if the moving party proves beyond a preponderance of evidence that the other party violated the stipulation's terms or that the state withheld evidence that reasonably could have affected the petitioner's decision to enter into the stipulation.

5) **Argument in Support**: According to the *California Innocence Coalition*, "Over the past decade, California's post-conviction statutes governing Habeas Corpus have been repeatedly amended, crowding California policy with unnecessary litigation that results in inconsistent legal standards for evaluating wrongful conviction claims, conflicting burdens of proof depending on custody status or statutory pathways, unpredictable access to discovery even after courts issue orders to show cause, and rigid procedural bars that can prevent courts from hearing meritorious claims of innocence.

"Due to these inconsistent legal standards, individuals are treated differently depending on the court and district their cases are heard under. Additionally, courts expend significant resources on evaluating procedural issues rather than contents of the cases themselves, and credible claims of wrongful conviction are either delayed or never heard despite merit. For example, new evidence, not available or not able to be discovered with reasonable diligence at the time of conviction, may surface that undermines or directly contradicts key facts present at trial. In California, a court may or may not meaningfully consider this new

evidence depending on which post-conviction statute applies, the defendant's custody status, or if procedural rules bar the claim altogether.

"AB 1595 provides guidelines that would undermine these inconsistent legal standards. In clarifying the standard to be applied to post-conviction review; allowing courts to reach the merits of otherwise barred claims when new evidence undermines the original conviction's validity in meeting the burden of proof; requiring courts to state reasons if a concession by the District Attorney or Attorney General on a factual or legal basis for relief is rejected; clarifying courts' authority to order discovery for good cause after an order to show cause issue; simplifying access to identification, transitional services, health care, and housing support for exonerated people, AB 1595 helps to amend current legal inconsistencies and their unfair ramifications for defendants navigating the California legal system.

"In wanting to align California law with well-established Constitutional principles and fundamental fairness, we support AB 1595, a bill clarifying habeas corpus, which will result in justice for thousands of innocent people who are currently unfairly reliant on which court or district might hear them rather than if their case has merit."

6) **Argument in Opposition**: According to the *California District Attorneys Association*, "One of the goals of this legislation is to align the "new evidence" standards with the standard for "ineffective assistance of counsel" set forth in *Strickland v. Washington,*[7] which is a "reasonable probability of a different result sufficient to undermine confidence in the outcome of the case." This standard, according to the 2024 Annual Report from the Committee on Revision of the Penal Code, is applied in only four other states. This limited application likely stems from *Strickland* itself,[8] which explains that its standard should not apply to new evidence claims.

"Instead, our Supreme Court explained that the standard for new evidence claims should be higher. And the Legislature has already corrected course in 2016 through SB 1134 by establishing the current new evidence standard, that it be "credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome at trial." In fact, the analysis prepared for the Assembly Committee on Public Safety on SB 1134 stated that this standard was consistent with other standards of post-conviction relief such as ineffective assistance of counsel and would make California's post-conviction standard consistent with *43 other states*. For this reason, we suggest amendments that apply our current new evidence standard consistently in 1473, 1473.6 and 1473.7.

"Another concern is the potential impact on the courts with the amendments to lower the standards exempting a petitioner from the requirement that petitions not be successive and untimely. This could result in overburdening the court with repetitive piecemeal petitions that should be procedurally barred. An additional consideration relating to the court is the requirement that the court and parties be bound by a stipulation or concession by the District Attorney or Attorney General granting relief which divests the court of its current discretion to determine first whether the stipulation or concession is valid based on the record. The

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[7] *Strickland v. Washington* (1984) 466 U.S. 668.
[8] *Strickland, supra,* at p. 694.

related mandate that the court grant relief unless it demonstrates by written opinion why doing so would be contrary to law may also create another burden for the court.

"Other concerns relate to the bill's addition of language shifting the burden to the prosecution to prove there is no likelihood that known false evidence impacted the verdict as well as the proposed deletion of the word "credible" replaced with "qualified" to describe expert testimony. This appears to broaden habeas claims to include those where the evidence in support of the claim is not credible or reliable. Further, replacing the phrase, "newly discovered" with "new" and deleting language that "new evidence" be defined as evidence "that could not have been discovered with reasonable diligence prior to judgment" (also from SB 1134) could impact a defendant's right to a fair trial where it appears to disincentivize the exercise of diligence by counsel to investigate a case fully knowing that habeas no longer requires it.

"Moreover, where the court already has broad powers to fashion appropriate remedies tailored to the specific violation, it appears unnecessary to encourage dismissal with prejudice as a remedy where like others, it is included in the panoply of remedies that already exists. And while the findings and declarations state that this provision is supported by the 2024 Annual Report's findings that judges rarely use their 1385 authority in habeas proceedings "which leads to years of unnecessary legal limbo and litigation while the district attorney reviews the case and determines whether to retry the case" that information does not appear in that Annual Report. Lastly, the amendments to 3007.05 which appears to expand the definition of exonerated person eligible for benefits poses fiscal concerns."

7) **Related Legislation**: AB 2014 (Elhawary) authorizes a writ of habeas corpus to be prosecuted on the basis that gender-biased evidence or argument was admitted or relied upon by the prosecution at trial in a manner that created a reasonable probability that the outcome would have been different if such evidence was not admitted, or argument offered. AB 2014 is pending referral.

8) **Prior Legislation**:

   a) AB 3088 (Friedman), of the 2023-24 Legislative Session, requires a habeas corpus petition to be considered on the merits and not dismissed on grounds that it is untimely or successive if, the allegations in the petition taken as true, establish by a preponderance of evidence that at least one juror would not have convicted the petitioner in light of the new evidence. AB 3088 was held in the Senate Committee on Appropriations suspense file.

   b) SB 97 (Wiener), Chapter 381, Statutes of 2023, authorizes a broader basis for the prosecution of a writ of habeas corpus when new evidence is discovered after plea or trial, creates a presumption in favor of granting relief if the prosecution stipulates to a factual or legal basis for the relief, and provides for continuity of counsel on retrial.

   c) SB 467 (Wiener), Chapter 982, Statutes of 2022, permits a person to bring a habeas writ where a significant dispute has developed regarding expert medical, scientific, or forensic testimony that would have more likely than not changed the outcome of their trial, and expands the definition of false evidence for the purpose of a habeas writ.

d) SB 1134 (Leno), Chapter 785, Statutes of 2016, codified a standard for habeas corpus petitions filed on the basis of new evidence.

e) SB 1058 (Leno), Chapter 623, Statutes of 2014, allows a writ of habeas corpus to be prosecuted when evidence given at trial has subsequently been repudiated by the expert that testified or undermined by later scientific research or technological advances.

REGISTERED SUPPORT / OPPOSITION:

Support

After Innocence
Bridges of Hope CA
California Attorneys for Criminal Justice
California Innocence Coalition
California Public Defenders Association
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Ella Baker Center for Human Rights
Exonerated Nation
Friends Committee on Legislation of California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children / All of US or None
Local 148 LA County Public Defenders Union
Rubicon Programs
San Francisco Public Defender
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
The Change Parallel Project
Western Center on Law & Poverty, INC.
3 private Individuals

Opposition

California District Attorneys Association

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

Date of Hearing: March 3, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1615 (Nguyen) – As Introduced January 21, 2026

SUMMARY: Authorizes a peace officer employed by a county probation department to use an unsafe handgun as a service weapon if the county probation employee has satisfied defined training requirements. Specifically, **this bill**:

1) Exempts county probation department personnel from the prohibition on the sale or purchase of an unsafe handgun (i.e., a handgun not on the California Department of Justice's (DOJ) safe handgun roster) for use as a service weapon, if the handgun is sold to, or purchased by a county probation department for use by, or sold to or purchased by, sworn members of the department who have satisfactorily completed the firearms portion of a training course prescribed by the Commission on Peace Officer Standards and Training (POST).

2) Requires that a county probation department member, as a condition of carrying an unsafe handgun, complete a live-fire qualification prescribed by their employing entity at least once every three months.

EXISTING LAW:

1) States that a person who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends an unsafe handgun shall be punished by imprisonment in a county jail not exceeding one year. (Pen. Code, § 32000, subd. (a)(1).)

2) Establishes that the prohibition on unsafe handguns shall not apply to the manufacture or importation into this state of a prototype handgun when the manufacture or importation is for the sole purpose of allowing an independent laboratory certified by the DOJ to conduct an independent test to determine whether that handgun is prohibited and, if not, allowing DOJ to add the firearm to the roster of handguns that may be sold in this state. (Pen. Code, § 32000, subd. (b)(1).)

3) States that the prohibition on unsafe handguns shall not apply to the importation or lending of a handgun by employees or authorized agents of entities in determining whether the weapon is prohibited, as specified. (Pen. Code, § 32000, subd. (b)(2).)

4) Establishes that the prohibition on unsafe handguns shall not apply to the sale or purchase of a handgun, if the handgun is sold to, or purchased by, the DOJ, a police department, a sheriff's official, a marshal's office, the Department of Corrections and Rehabilitation, the Department of the California Highway Patrol, any district attorney's office, any federal law enforcement agency, or the military or naval forces of this state or of the United States for use in the discharge of their official duties. This section does not prohibit the sale to, or

purchase by, sworn members of these agencies of a handgun. (Pen. Code, § 32000, subd. (b)(4).)

5) Exempts defined personnel from the prohibition on the sale or purchase of a handgun for use as a service weapon, if the handgun is sold to, or purchased by, any of the following entities for use by, or sold to or purchased by, sworn members of these entities who have satisfactorily completed the POST basic course or, before January 1, 2021, have satisfactorily completed the firearms portion of a training course prescribed by the POST, and who, as a condition of carrying that handgun, complete a live-fire qualification prescribed by their employing entity at least once every six months. (Pen. Code, § 32000, subd. (b)(6).)

6) Exempts defined personnel from the prohibition on the sale or purchase of a handgun, if the handgun is sold to, or purchased by, any of the following entities for use as a service weapon by the sworn members of these entities who have satisfactorily completed the POST basic course or, before January 1, 2021, have satisfactorily completed the firearms portion of a training course prescribed by the POST, and who, as a condition of carrying that handgun, complete a live-fire qualification prescribed by their employing entity at least once every six months. (Pen. Code, § 32000, subd. (b)(7).)

7) States that a licensed person shall not process the sale or transfer of an unsafe handgun between a person who has obtained an unsafe handgun pursuant to an exemption and a person who is not exempt. (Pen. Code, § 32000, subd. (c)(1).)

8) Requires the DOJ to maintain a database of unsafe handguns, as defined. (Pen. Code, § 32000, subd. (e)(1).)

9) States that a person or entity that is in possession of an unsafe handgun shall notify the DOJ of any sale or transfer of that handgun within 72 hours of the sale or transfer. This requirement shall be deemed satisfied if the sale or transfer is processed through a licensed firearms dealer. A sale or transfer accomplished through an exception to is not exempt from this reporting requirement. (Pen. Code, § 32000, subd. (e)(2).)

10) Establishes that the DOJ shall provide notification to persons or entities possessing an unsafe handgun regarding the prohibitions on the sale or transfer of that handgun. Thereafter, the DOJ shall, upon notification of sale or transfer, provide the same notification to the purchaser or transferee of any unsafe handgun sold or transferred pursuant to those provisions. (Pen. Code, § 32000, subd. (e)(3).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1615 restores and adds clarity pertaining to probation's existing inclusion in Penal Code 32000 which authorizes probation officers to use non-roster handguns, similar to other law enforcement and as currently authorized, ensuring officers have the necessary tools for officer and community safety, interoperability, task force collaboration in emergency situations, and in carrying out their duties.

"Penal Code 32000 already sets forth the state exemptions for authorized peace officers to purchase non-roster handguns. Legislation in 2020, AB 2699 (Santiago) made changes to this section that inadvertently impacted the language around probation's use of these firearms. Probation officers undergo the same firearms training as other peace officers through PC 832, which includes the firearms and arrest modules from the POST Basic Academy. Additionally, probation departments complete live-fire qualifications on a quarterly basis."

2) **Effect of the Bill:** This bill would return to county probation officers the ability to use a non-rostered handgun, for those who have satisfactorily completed the firearms portion of a POST-certified training course. County probation officers also would be required to complete a quarterly live fire qualification exercise.

There are understandable reasons for prohibiting certain groups of people to access firearms. Even peace officers, who are subject to and complete comprehensive training before being authorized to carry a firearm, can make mistakes in handling firearms. Certain professions, however, create an understandable need for people in those roles to have access to particular arms.

As the Chief Probation Officers of California (CPOC) have noted, county probation personnel undergo a variety of training, including the firearms modules from POST Basic and a litany of additional modules from their Standards for Corrections and Training program (SCT), including Criminal Justice System and Process, Field Contacts, Legal Foundations and Liability, Crisis Communication and De-escalation, Field Searches, Booking and Evidence, Gangs, Community Supervision, Domestic Violence, Use of Restraints, Signs and Symptoms of Substance Abuse, Trauma, Interventions and Resources, among many others. Additionally, law enforcement personnel often engage in interorganizational training exercises. They also participate in essential training exercises with other law enforcement organizations and high-risk sting operations.

One impact of the current law is that county probation personnel cannot participate in training activities where non-rostered handguns may be involved. While this restriction is arguably minor when weighed against the purported public safety benefit of additional non-rostered handguns being in circulation, the inconsistent application of the restriction somewhat moots this argument. Moreover, there is at least some tangible public safety benefit to increased training opportunities for county probation personnel.

This bill would authorize county probation officers to access the same types of firearms as sworn members of similarly situated departments at the state and county levels. County probation officers had this authorization prior to AB 2699's (Santiago) passage. (Ch. 289, Stats. 2020.) County probation officers were carved out from the non-roster handgun exemption list, which created another inconsistency in the law. This bill would undo that inconsistency and return authorization to county probation officers to use non-rostered handguns in defined cases that they had six years ago.

3) **"Unsafe Handguns": The California Roster of Handguns Certified for Sale:** This bill would exempt county probation officers from the prohibition against the purchase, use,

transfer, or sale of, among other things, unsafe handguns. California's handgun roster was developed in an attempt to enforce commonsense product safety requirements for handguns and, thereby, protect California consumers. (See Pen. Code, §§ 31900-31910 [for product safety requirements and testing].) California's handgun roster clearly establishes which handguns are permitted for sale, but whether the roster is a truly accurate reflection of the relative safety of handguns is not as clear.

Handguns that fail product safety tests are not rostered as certified safe and for sale to most consumers in California. These product safety tests, including installation of a safety device, drop tests, and firing tests (Pen. Code, §§ 31900-31905) present objective, measurable criteria against which any manufacturer who wishes to sell in California can design and modify its products. But not all provisions of the unsafe handgun statute are clearly tied to consumer safety. For example, handguns for which "the annual maintenance fee is not paid" can also be removed from the certified roster and thereby be declared unsafe. (Cal. Code Regs., tit. 11, § 4070, subd. (c)(1).) A previously certified handgun can also be removed from the roster and deemed unsafe if a manufacturer goes out of business because the proprietor retired. (Cal. Code Regs., tit. 11, § 4070.)

Even in cases where firearms pass all testing requirements, DOJ is authorized to mandate retesting for the same models, at a laboratory of its choosing, if it has "reason to believe" that the model does not comply with the law. (Cal. Code Regs., tit. 11, § 4073.) If a model fails but a "similar" of that model has been approved, the similar model can be de-rostered without testing. (*Ibid.*) Relatedly, should the model that failed then get successfully retested and reinstated, DOJ is nevertheless permitted to keep the similar off the roster despite never testing it for safety. (*Ibid.*)

Furthermore, while courts currently appear skeptical of microstamping (see *Boland v. Bonta* (2023) 662 F.Supp.3d 1077, 1081), SB 452 (Blakespear) recently defined a semiautomatic pistol without microstamping as an unsafe handgun beginning on January 1, 2028. (Ch. 253, Stats. 2023.) The *Boland* court gutted almost exactly the same roster requirement from AB 2847 (Chiu), which became law in 2020. (Ch. 292, Stats. 2020.) A federal district court additionally found certain requirements of California's roster unconstitutional. (*Renna v. Bonta* (2023) 667 F.Supp.3d 1048.) Decided four years prior to *New York State Rifle & Pistol Association Inc. v. Bruen* (2022) 597 U.S. 1 (*Bruen*) the Ninth Circuit Court of Appeals held California's handgun roster constitutional, applying intermediate scrutiny to the unsafe handgun law because the court found the law dealt with commercial sales of arms, not individual possession or use, which would have triggered strict scrutiny analysis at the time (and the "national historical tradition" test following *Bruen*). (*Pena v. Lindley* (2018) 898 F.3d 969.) Most laws, approximately 70% according to one study, do not survive constitutional review using a strict scrutiny analysis.[1] Though direct comparisons are challenging, following *Bruen* and depending on jurisdiction, studies have shown Second Amendment challenges succeeding approximately 11-22% of the time.[2]

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[1] Winkler, *Fatal in Theory and Strict in Fact: An Empirical Analysis of Strict Scrutiny in the Federal Courts* (2006) 59 Vanderbilt L.Rev. 793, 815 <https://scholarship.law.vanderbilt.edu/vlr/vol59/iss3/3/> [as of Feb. 16, 2026].
[2] Willinger, *History and Tradition as Heightened Scrutiny* (2025) 60 Wake Forest L.Rev. 415, 434 <https://www.wakeforestlawreview.com/wp-content/uploads/2025/05/Willinger.pdf> [as of Feb. 16, 2026].

County probation officers all complete POST firearms training modules and POST-style training with quarterly live-fire tests before being authorized to carry a firearm. This bill would simply reauthorize sworn county probation officers to access the same types of firearms as similarly situated law enforcement agents.

4) **Legislative History:** SB 15 (Polanco), Chapter 248, Statutes of 1999, made it a misdemeanor for any person in California to manufacture, import for sale, offer for sale, give, or lend any unsafe handgun, with certain specific exceptions. SB 15 defined an "unsafe handgun" as follows: (a) does not have a requisite safety device, (b) does not meet specified firing tests, and (c) does not meet a specified drop safety test.

   a) Required Safety Device: The Safe Handgun Law requires a revolver to have a safety device that, either automatically in the case of a double-action firing mechanism or by manual operation in the case of a single-action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge or in the case of a pistol have a positive manually operated safety device.

   b) Firing Test: In order to meet the "firing requirements" under the Safe Handgun Law, the manufacturer must submit three unaltered handguns of the make and model for which certification is sought to an independent laboratory certified by the Attorney General. The laboratory shall fire 600 rounds from each gun under certain conditions. A handgun shall pass the test if each of the three test guns fires the first 20 rounds without a malfunction and fires the full 600 rounds without more than six malfunctions and without any crack or breakage of an operating part of the handgun that increases the risk of injury to the user. "Malfunction" is defined as a failure to properly feed, fire or eject a round; failure of a pistol to accept or reject a manufacturer-approved magazine; or failure of a pistol's slide to remain open after a manufacturer approved magazine has been expended.

   c) Drop Test: The Safe Handgun Law provides that at the conclusion of the firing test, the same three manufacturer's handguns must undergo and pass a "drop safety requirement" test. The three handguns are dropped a specified number of times, in specified ways, with a primed case (no powder or projectile) inserted into the handgun, and the primer is examined for indentations after each drop. The handgun passes the test if each of the three test guns does not fire the primer. (Pen. Code, §§ 31900-31910.)

   In 2016, AB 2165 (Bonta), Chapter 640, Statutes of 2016, exempted peace officers, including probation officers, who have completed the POST-prescribed firearms training from the state prohibition relating to the sale or purchase of a non-rostered firearm.

   In 2020, AB 2699 (Santiago), Chapter 289, Statutes of 2020, further modified California's rostering of handguns by adding additional limitations on their acquisition and usage by defined law enforcement agencies. Additional law enforcement entities were included on the list of agencies that could acquire and use non-rostered firearms, but additional limitations were placed on all agencies that were authorized to use these handguns. These limitations included any sale of a non-rostered handgun to an agency is only authorized if the handgun is to be used as a service weapon by a peace officer who has successfully completed the basic course prescribed by POST and who qualifies with the handgun at least every six months.

Proponents of the bill have consistently cited the potential cross-training opportunities being lost for county probation officers because they are unable to handle a non-rostered handgun. Loss of those training opportunities could be a public safety detriment and a particular strain on smaller counties where these opportunities are not plentiful. This bill would reauthorize sufficiently trained county probation personnel to handle non-rostered firearms.

5) **Unintentional Firearms Incidents:** From 2016-2022, in California, the rate of firearms incidents, where the injury intent was noted as "unintentional," has stayed relatively stable. Incidents in this period totaled between 7-12 injuries per 100,000 person-years.[3] Like many other public safety metrics, the unintentional firearm injury rate peaked at 12 injuries per 100,000 person-years during the pandemic in 2021, while it hit a low of 7.1 injuries per 100,000 person-years in 2018.[4]

   Intent is meant to capture the reason for the incident. Intent in these studies include unintentional (accidental), suicide/self-harm, homicide/assault, undetermined, and legal intervention/war operations.[5] Intent is recorded by coroners or medical examiners for fatal injuries and clinicians or hospital staff for non-fatal injuries.[6] Interestingly, for non-fatal injuries, coding guidelines from the Centers for Medicare and Medicaid Services state that when the injury intent is unknown, the *coders should default to unintentional intent*.[7]

   It is reasonable to conclude that non-fatal unintentional firearm injuries are likely over-reported and non-fatal assault firearm injuries are likely under-reported due to this coding standard. With the relative stability of these incidents, specifically over the past 5-7 years, reauthorizing county probation personnel to carry non-roster handguns seems unlikely to negatively impact the rate of unintentional firearms incidents.

6) **Argument in Support**: According to one of the bill's sponsors, the *Chief Probation Officers of California*, "On behalf of the Chief Probation Officers of California (CPOC), we are pleased to co-sponsor AB 1615, which would restore clarity around the language regarding the use of non-roster handguns by probation peace officers.

   "Penal Code 32000 sets forth the state exemptions for authorized peace officers to purchase non-roster handguns in their peace officer capacity. Non-roster firearms are only available for purchase by law enforcement departments and are designed to address the needs and practices of a peace officer performing their duties including functionality around the most up to date technology, aspects that can be individualized to the officer, and other functions important in emergency situations.

   "In 2016, AB 2165 (Bonta) was enacted and, among other provisions, authorized specified peace officers, which included probation, who have completed the Commission on Peace

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[3] *California Firearm Injury Dashboard* (Feb. 2, 2024) Cal. Dept. of Public Health <https://skylab4.cdph.ca.gov/firearm-injuries/> ("Person-years are the population multiplied by the number of years of observation. Incidence rates can be conceptualized as the number of events per 100,000 persons, per year.") [as of Feb. 16, 2026].
[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*
[7] *Id.*, at fn. 1.

Officer Standards and Training (POST) prescribed firearms training course as required in Penal Code 832, to be exempt from the state prohibition relating to the sale or purchase of a non-roster firearm.

"As stated in the AB 2165 analysis … "These categories of peace officers participate in mutual aid situations, task forces, sting operations and arrests—all high-risk situations require that these officers be properly armed. It is imperative that we provide the statutory basis for the parity between agencies that has existed since the creation of the roster."

"In 2020, AB 2699 (Santiago) was enacted which changed requirements for all peace officers to complete the POST basic course, rather than the longstanding requirements that peace officers complete the statutorily required and POST certified PC 832 firearms and arrest course and inadvertently did not reflect the training that probation completes both through POST PC 832 but also training through the BSCC STC program.

"Probation officers undergo the same firearms training as other law enforcement officers through PC 832, which includes the firearms and arrest modules from the POST Basic Academy. Additionally, probation departments complete live-fire qualifications on a quarterly basis.

"Departments often use a certain model of a firearm as it contributes to uniformity in training. Further, some counties purchase and train on the same firearm so that when there are instances such as an active shooter incident, fires, evacuations, and other emergency response efforts, officers are trained and can use firearms interchangeably. The interoperability, training, and specific functionality of non-roster firearms becomes critical in situations where probation is responding to an incident, serving in mutual aid coordination, or serving in taskforces with other law enforcement.

"This proposal would restore clarity and language pertaining to Probation's existing inclusion in Penal Code 32000 list of state exemptions for all authorized peace officers to purchase non-roster handguns while maintaining all of the other applicable requirements around non-roster use that currently exist."

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

8) **Related Legislation**: AB 1589 (Chen) would exempt specified level I reserve peace officers from the prohibition on possessing firearms suppressors. This bill is pending hearing in the Assembly Public Safety Committee.

9) **Prior Legislation**:

   a) SB 15 (Blakespear), of the 2025-2026 Legislative Session, would have authorized the DOJ to remove a person from the centralized list who has willfully failed to comply with specified licensing requirements or who failed to remedy violations discovered as a result of an inspection. SB 15 was held in the Senate Appropriations Committee.

   b) SB 248 (Rubio), of the 2025-2026 Legislative Session, would have required the DOJ to mail to any person involved in a firearms transaction a letter that includes information relevant to firearm ownership, such as how to legally relinquish a firearm and resources

regarding gun violence restraining orders. SB 248 was held in the Senate Appropriations Committee.

c) AB 879 (Rubio), of the 2025-2026 Legislative Session, would have exempted county probation officers from certain restrictions on non-rostered handguns. AB 879 was held in the Senate Appropriations Committee.

d) AB 669 (Lackey), of the 2021-2022 Legislative Session, would have exempted sales to, or purchases by, a county probation department and sworn members thereof who have completed specified firearms training prescribed by POST and who completed the above-described live-fire qualification at least once every three months. AB 669 failed passage in the Senate Public Safety Committee.

e) AB 1478 (Chiu), of the 2021-2022 Legislative Session, would have required microscopic characters to be imprinted in two or more places on the interior of the pistol, provided that the department certifies that the technology used to create the imprint is available to more than one manufacturer unencumbered by any patent restrictions. The hearing on AB 1478 in the Assembly Public Safety Committee was canceled at the request of the author.

REGISTERED SUPPORT / OPPOSITION

Support

Chief Probation Officers' of California (CPOC) (Co-Sponsor)
Monterey County Probation Association
Napa County Probation Professionals Association
Riverside Sheriffs' Association
Sacramento County Probation Association
San Diego County Probation Officers Association
San Joaquin County Probation Officers Association
Stanislaus County Deputy Probation Officers Association
State Coalition of Probation Organizations
Ventura County Professional Peace Officers Association

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

Date of Hearing: March 3, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1645 (Mark González) – As Introduced January 27, 2026

SUMMARY: Prohibits the Department of Corrections and Rehabilitation (CDCR) regulations from unreasonably restricting nonsexual physical contact between incarcerated persons and their visitors during contact visits. Specifically, **this bill**:

1) Requires CDCR, in amending existing regulations and adopting future regulations, as specified, to ensure that regulations related to nonsexual physical contact in incarcerated person visitation, for individuals entering department facilities and for incarcerated persons receiving visitors, are not excessive or unnecessarily punitive.

2) Provides that these regulations shall not unreasonably restrict the ability of incarcerated persons or their visitors to have nonsexual physical contact throughout the visit.

3) Defines "nonsexual physical contact" to include, but not be limited to, all of the following:

   a) Hand holding;

   b) Kissing;

   c) Hugging and lateral holding or side-to-side contact;

   d) Linking arms;

   e) In-movement or transitory touching;

   f) Touching of the face or hair;

   g) Adjusting each other's clothing without removing articles of clothing;

   h) Holding of the incarcerated person's minor children and holding of their minor children while accompanied by an adult;

   i) Feeding of the incarcerated person's minor children;

   j) Feeding of the incarcerated person by minor children; and,

   k) Any other physical touch that a reasonable person would define as nonsexual and appropriate.

4) Requires CDCR, in amending existing regulations or adopting future regulations impacting visitation, to recognize and consider the importance of nonsexual physical contact in incarcerated person visitation.

EXISTING LAW:

1) Provides that any amendments to existing regulations and any future regulations adopted by CDCR that may impact visitation of incarcerated persons shall do all of the following:

   a) Recognize and consider the value of visiting as a means to improve the safety of prisons for both staff and incarcerated persons;

   b) Recognize and consider the important role of incarcerated person visitation in establishing and maintaining a meaningful connection with family and community;

   c) Recognize and consider the important role of incarcerated person visitation in preparing an incarcerated person for successful release and rehabilitation. (Pen. Code, § 6400, subds. (a)-(c).)

2) States that, except for the following, no bodily contact is permitted during visitation:

   a) Accompanying adults shall ensure that minors remain under their constant control and supervision;

   b) Nursing mothers shall be discreet and covered when breast-feeding their children in the visiting area, and failure to do so shall result in termination of visiting for that day;

   c) Incarcerated persons and their visitors may hold hands;

   d) At the beginning and end of each visit, incarcerated persons and their visitors may briefly embrace and/or kiss; and,

   e) An incarcerated person may hold their minor children, and may hold minor children accompanied by an adult. (Cal. Code Regs., tit. 15, § 3175, subd. (b)-(g).)

3) Requires, at intake, every incarceration person to be asked whom they want on their approved visitor list. (Pen. Code, § 6400.)

4) Requires CDCR to develop policies related to the department's contraband interdiction efforts for individuals entering CDCR detention facilities, including among others:

   a) Application to all individuals, including visitors;

   b) Use of methods to ensure that profiling is not practiced during random searches or searches of all individuals entering the prison at that time;

   c) Establishment of unpredictable, random search efforts and methods;

d) All visitors attempting to enter a CDCR detention facility shall be informed that they may refuse to be searched by a passive alert dog; and,

e) All visitors attempting to enter a CDCR detention facility, who have a positive alert for contraband by an electronic drug detection device, a passive alert dog, or other technology, shall be informed of further potential search or visitation options. (Pen. Code, § 6404, subds (a)-(e).)

5) Provides that incarcerated persons shall not be prohibited from family visits based solely on the fact the incarcerated person was sentenced to life without the possibility of parole or was sentenced to life and is without a parole date established by the Board of Parole Hearings. (Pen. Code, § 6404.)

6) Requires CDCR to expedite a family visitation application process for incarcerated pregnant persons in order to prevent delays for visitation for the incarcerated mother and newborn child following delivery. (Pen. Code, § 6404.5, subd. (a).)

7) Requires CDCR, for an in-person visit, to all allow a visitor with an infant or toddler to bring items related to the care of the child. (Pen. Code, § 6405, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Across state prisons, there is no standard definition or enforcement for 'excessive contact,' which has led to widespread confusion for both visitors and incarcerated people. In practice, 'excessive contact' can include a mother holding their child or kissing their cheek for just a second too long. A hug can result in the immediate suspension of visiting privileges and harsh disciplinary action, including the denial of parole. After weeks, months or even years apart, incarcerated people and families simply want to reunite normally – hugging, holding hands, running into their mom or dad's arms. Physical touch is more than a kind gesture; it's human-to-human connection with your loved ones. That moment can remind an incarcerated person about the world outside and the life they can work towards. It can incentivize good behavior in prison to keep their visitation privileges and motivate their road to recovery.

   "AB 1645 will address these unreasonably harsh physical contact limitations by clarifying the definition of 'excessive contact' to allow for normal behavior, non-sexual behavior such as handholding, hugging, and holding one's child. California is meant to lead the nation by example and AB 1645 right step forward to use the carceral system for recovery, not retaliation."

2) **Incarcerated Person Visitation and the Effect of the bill:** The importance of visitation for incarcerated people and their families is well recognized. On its website, CDCR affirmatively states that visitation helps incarcerated people maintain family connection and community

ties.[1] Existing law requires CDCR regulations to recognize and consider the value of visiting as a means to improve the safety of prisons for both staff and incarcerated persons, and the important role of incarcerated person visitation in establishing and maintaining a meaningful connection with family and community. (Pen. Code, § 6400, subds. (a) & (b).) Existing law also recognizes the important role of incarcerated person visitation in preparing an incarcerated person for successful release and rehabilitation. (Pen. Code, § 6400, subds. (a) & (b).)

Other provisions of law similarly suggest the state's commitment to the above principles. For example, existing law provides that incarcerated persons shall not be prohibited from family visits based solely on the fact the incarcerated person was sentenced to life without the possibility of parole or was sentenced to life and is without a parole date established by the Board of Parole Hearings. (Pen. Code, § 6404.) It also requires CDCR to expedite a family visitation application process for incarcerated pregnant persons in order to prevent delays for visitation for the incarcerated mother and newborn child following delivery. (Pen. Code, § 6404.5, subd. (a).)

CDCR facilities must provide at least 12 hours of visiting per week, and requires regular visiting days to be consecutive and include Saturday and Sunday. CDCR facilities must make public the visiting schedules, including for regular visiting days, holiday visiting days, and visiting appointments. Existing regulations also require that, when a specified holiday occurs on a day not regularly scheduled for visiting, each facility must nevertheless provide the same number of hours of visiting on that day as for any regularly scheduled visting day.[2]

There generally are three types of visitation—in-person visits, in-person non-contact visits, and family visits. According to CDCR: "Most incarcerated people in the general population may participate in an in-person visit. These visits allow the incarcerated person to sit together with their visitor(s) in a designated shared space, usually furnished with tables and chairs. In-person visits are limited to five visitors at a time and are not limited in duration except for normal visiting hours or terminations caused by overcrowding."[3] In-person non-contact visits are for incarcerated people in reception or in segregation. "Non-contact visits occur with a glass partition between the incarcerated person and his/her visitors. The incarcerated person is escorted in handcuffs by staff to the visit. The handcuffs are removed only after the incarcerated person is secured in his/her side of the visiting booth… Non-contact visits are restricted to three visitors and are limited in time."[4] Finally, family visits (or overnight visitation) are visits where the incarcerated person and members of their immediate family are permitted to spend time in private, apartment-like facilities on prison grounds, for a duration that lasts approximately 30 to 40 hours. Incarcerated persons sentenced to death, convicted for sex offenses, still in reception, or under disciplinary restrictions are not permitted to have family visits.[5]

CDCR must approve visitors before incarcerated person visitation can be scheduled. Existing law requires, at intake, every incarcerated person to be asked whom they want on their

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[1] https://www.cdcr.ca.gov/visitors/
[2] Cal. Code Regs., tit. 15, § 3172.2, subd. (a)-(c).
[3] https://www.cdcr.ca.gov/visitors/types-of-visits/
[4] https://www.cdcr.ca.gov/visitors/types-of-visits/
[5] *Ibid.*

approved visitor list. (Pen. Code, § 6400, subd. (a)(1).) CDCR approval requires a potential visitor to fill out a visitor questionnaire, which asks applicants for a list of all criminal convictions and arrests, even if the applicant was never charged or convicted following arrest. CDCR conducts background checks for arrests and convictions of all visitors and will deny anybody who fails to disclose a prior arrest or conviction.[6] Once approved, an in-person visit in a CDCR facility can be scheduled.

CDCR imposes restrictions on the day of visiting as well. Among other things, all adults must present identification when being processed to visit; children under 18 years old must be accompanied by an adult; visitors must comply with attire restrictions; and visitors may only bring a "strictly limited" set of items to the visit without prior approval.[7] CDCR will also search people visiting a CDCR facility for contraband and to maintain facility security. Inspection may include a search of the visitor's person, personal property and vehicle(s) when there is reasonable suspicion to believe the visitor may be attempting to introduce contraband or unauthorized items or substances into, or out of, the institution or facility. (Cal. Code Regs., tit. 15, § 3173.2, subd. (a); see Pen. Code, § 6404, subds (a)-(e).) All visitors must submit to metal detection device(s) and/or electronic drug detectors, and may have to submit to passive alert canine search. (Cal. Code Regs., tit. 15, § 3173.2, subd. (c).) Other searches include a hand-held wand inspection, a clothed body search, and unclothed body searches when there is a reasonable suspicion that the visitor may be carrying contraband. (Cal. Code Regs., tit. 15, § 3173.2, subd. (d)(5)-(7).)

During visits, CDCR limits the amount of physical interaction between incarcerated people and their visitors. CDCR regulations provide that no bodily contact is permitted during visitation, except hand holding between an incarcerated person and their visitors, a brief embrace and/or kiss between an incarcerated person and their visitors at the beginning and end of each visit, and incarcerated person may hold their minor children and may hold children accompanied by an adult. (Cal. Code Regs., tit. 15, § 3175, subd. (b)-(g).)

Instead of prohibition on bodily contact with limited exceptions, this bill would prohibit CDCR regulations from unreasonably restricting the ability of incarcerated persons or their visitors to have nonsexual physical contact throughout the visit. This bill would require CDCR to ensure that regulations related to nonsexual physical contact in incarcerated person visitation, for individuals entering department facilities and for incarcerated persons receiving visitors, are not excessive or unnecessarily punitive. It defines "nonsexual physical contact" to include, but not be limited to, "hand holding, kissing, hugging, lateral holding or side-to-side contact, linking arms, in-movement or transitory touching of the face or hair, adjusting each other's clothing without removing articles of clothing, holding of the incarcerated person's minor children and holding of their minor children while accompanied by an adult, feeding of the incarcerated person's minor children, feeding of the incarcerated person by minor children, and any other physical touch that a reasonable person would define as nonsexual and appropriate."

3) **Argument in Support**: According to *Empowering Women Impacted by Incarceration*, a co-sponsor of this bill, "Families often arrive at visits unsure of what is allowed and fearful that

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[6] https://www.cdcr.ca.gov/visitors/how-to-get-approved-to-visit-an-incarcerated-person/
[7] https://www.cdcr.ca.gov/visitors/prepare-to-visit/

normal expressions of care could result in a warning, a terminated visit, or the loss of future visiting privileges. Actions such as holding a child, adjusting clothing, or offering comfort through physical touch have been cited as violations under the vague standard of "excessive contact." This lack of clarity places families, especially children, in an impossible position.

"AB 1645 offers a reasonable and necessary solution. By clearly defining what nonviolent and nonsexual physical contact is permitted during visits, the bill creates consistency, fairness, and predictability for families and staff alike. Allowing appropriate physical contact, including holding hands, hugging, and caring for children, recognizes the reality of family relationships and the developmental needs of children.

"Research shows that maintaining meaningful family connections supports better emotional outcomes for children, reduces misconduct within facilities, and lowers recidivism. For the families we serve, visitation is not a casual activity. It is one of the few ways they can preserve family bonds and support successful rehabilitation and reentry.

"AB 1645 affirms that dignity, humanity, and clarity belong in the visitation process."

4) **Related Legislation**: AB 1646 (Bryan) would provide that all youth confined in a juvenile facility have the right to engage in physical contact with visitors during in-person visits that a reasonable person would find nonsexual and appropriate under the circumstances. AB 1646 is set to be heard by the Committee today.

5) **Prior Legislation**:

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

   b) AB 958 (Santiago), of the 2023-2024 Legislative Session, would make the right to visitation in correctional facilities a civil right, as specified. AB 958 was held in suspense in the Assembly Appropriations Committee.

   c) AB 990 (Santiago), of the 2021-2022 Legislative Session, would have made the right to visitation in correctional facilities a civil right, as specified. AB 990 was vetoed.

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

   e) SB 1139 (Kamlager) Chapter 837, Statutes of 2022, requires, among other things, emergency in-person contact visits and video calls to be made available whenever an incarcerated person is hospitalized or moved to a medical unit within the facility and the incarcerated person is in a critical or more serious medical condition.

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

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

h) SB 1157 (Mitchell), of the 2015-2016 Legislative Session, would have prohibited local correctional facilities and juvenile facilities from replacing in-person visits with video or other types of electronic visitation. SB 1157 was vetoed.

i) SCR 20, Chapter 88, Statutes of 2009, encouraged correctional facilities to distribute the Children of Incarcerated Parents Bill of Rights to children of incarcerated parents, and to use the bill of rights as a framework for analysis and determination of procedures when making decisions about services for these children.

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

REGISTERED SUPPORT / OPPOSITION:

Support

Essie Justice Group (Co-Sponsor)
A New Path
A New Way of Life Re-entry Project
Bridges of Hope CA
California Community Foundation
Californians for Safety and Justice (CSJ)
Californians United for a Responsible Budget
Communities United for Restorative Youth Justice (CURYJ)
Community Works West
Courage California
Democracy Beyond Bars
Ella Baker Center for Human Rights
Empowering Women Impacted by Incarceration
Fair Chance Project
Friends Committee on Legislation of California
Glide
Initiate Justice
Jesse's Place Org
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children / All of US or None
Local 148 LA County Public Defenders Union
Restoring Hope California
San Francisco Public Defender

Showing Up for Racial Justice - San Francisco (surj Sf)
The Change Parallel Project
The Place4grace
Universidad Popular
Youth Leadership Institute
119 Private Individuals

Opposition

None Submitted

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

Date of Hearing: March 3, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1646 (Bryan) – As Introduced January 27, 2026

SUMMARY: Establishes the right of youth confined in juvenile facilities to nonsexual and appropriate physical contact with visitors during in-person visits. Specifically, **this bill**:

1) Provides that all youth confined in a juvenile facility, before, during, or after adjudication of wardship, shall have the right to engage in physical contact with visitors during in-person visits that a reasonable person would find nonsexual and appropriate under the circumstances, including hugging at the beginning and end of the visit and holding hands.

2) Requires all juvenile facilities to establish regulations and procedures for in-person visitation consistent with the above.

EXISTING LAW:

1) States that the purpose of the juvenile court system is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and that minors under the jurisdiction of the juvenile court who are in need of protective services shall receive care treatment and guidance consistent with their best interest and the best interests of the public. (Welf. & Inst. Code, § 202, subds. (a), (b).)

2) Defines "juvenile facility" as juvenile hall, juvenile camp or ranch, a facility of the CDCR, Division of Juvenile Facilities, a regional youth educational facility, a youth correctional center, a juvenile regional facility or any other local or state facility used for the confinement of minors or wards. (Welf. & Inst. Code, § 208.3, subd. (a).)

3) Authorizes the court to place a ward of the court in juvenile facility, as specified. (Welf. & Inst. Code, § 726.)

4) Provides that juvenile halls shall not be deemed to be, nor be treated as, penal institutions and that juvenile halls shall be safe and supportive homelike environments. (Welf. & Inst. Code, § 851.)

5) Requires the Board of State and Community Corrections (BSCC) to adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors. (Welf. & Inst. Code, § 210.)

6) Establishes the Youth Bill of Rights. (Welf. & Inst. Code, § 241.7 et seq.)

7) States that it is the policy of the state that all youth confined in a juvenile facility have specified rights, including, among others,

   a) To maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members, through visits, telephone calls, and mail.

   b) To not be deprived of contact with parents, guardians, family, or attorneys as a disciplinary measure.

   c) To information about their rights as parents, including available parental support, reunification advocacy, and opportunities to maintain or develop a connection with their children. (Welf. & Inst. Code, § 241.71, subds. (g), (m), (o).)

8) Provides that youth may be provided with access to computer technology and the internet for maintaining relationships with family as an alternative, but not as a replacement for, in-person visiting. (Welf. & Inst. Code, § 241.71, subd. (g).)

9) Provides, generally, that a minor who is between 12 years of age and 17 years of age, inclusive, when the minor violates any law defining a crime, is subject to the jurisdiction of the juvenile court and to adjudication as a ward. (Welf. & Inst. Code, § 602, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "The ability to receive and give a hug to your loved ones is a critical part of the healing and transformation process for young people who are incarcerated. It's time to stop weaponizing essential pieces of our shared humanity and calling it rehabilitation."

2) **Effect of this bill:** Existing law establishes the importance of visitation for juveniles confined in juvenile facilities. In 2007, SB 518 (Migden), Chapter 649, Statutes of 2007, created The Youth Bill of Rights governing the treatment of youth confined in juvenile and adult facilities. (Ch. 649, Stats. 2007.) Among others, the Youth Bill of Rights provided for the right to maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members through visits; and, the right to not be deprived of contact with parents, guardians, family, or attorneys as a disciplinary measure. (Welf. & Inst. Code, § 241.71, subds. (g) & (m).) The list was later expanded to include, for juvenile parents, the right to information about their rights as parents, including available parental support, reunification advocacy, and opportunities to maintain or develop a connection with their children. (Welf. & Inst. Code, § 241.71, subd. (o).)

   The BSCC establishes minimum standards for juvenile facilities. Existing BSCC regulations require juvenile facilities to provide for juvenile visitation with parents, guardians, and the juvenile's children; and authorize facilities to provide for juvenile visitation with other family members, siblings, and other supportive adults. (Cal. Code Regs., tit. 15, § 1374.) BSCC regulations require visitation to occur at reasonable times, unless restrictions are justified by security concerns. (*Ibid.*) A potential visitor cannot be denied solely based on the visitor's criminal history, unless staff determine that the visitor would be a safety risk to youth or staff

in the facility. (*Ibid.*) Facilities shall provide for opportunities for at least two hours of visitation per week, and prohibits facility staff from monitoring conversations during visitation unless there is a security or safety need. (*Ibid.*) Facilities may not replace in-person visitation with technological alternatives. (*Ibid.*)

This bill provides that all youth confined in a juvenile facility, before, during, or after adjudication of wardship, shall have the right to engage in physical contact with visitors during in-person visits that a reasonable person would find nonsexual and appropriate under the circumstances, including hugging at the beginning and end of the visit and holding hands. It also requires all juvenile facilities to establish regulations and procedures for in-person visitation consistent with the above.

3) **Closure of the Division of Juvenile Justice (DJJ):** This bill establishes the right of youth confined in juvenile facilities to nonsexual and appropriate physical contact with visitors during in-person visits. Existing law defines juvenile facilities as juvenile halls, juvenile camps or ranches, a facility of the CDCR, Division of Juvenile Facilities, a regional youth educational facility, a youth correctional center, a juvenile regional facility, or any other local or state facility used for the confinement of minors or wards. (Welf. & Inst. Code, § 208.3, subd. (a).)

   Historically the CDCR's DJJ housed the majority of the state's juvenile offenders with the number of juveniles housed in these facilities exceeding 15,000 in the 1990's. In 2003, plaintiffs filed a lawsuit, *Farrell v. Hickman* (originally *Farrell v. Harper*), alleging that CDCR was providing inadequate care for minors housed in its facilities. In January 2005, the state and plaintiffs entered into an agreement which committed reforming the state's juvenile justice system to a rehabilitative model.

   In 2007, the Legislature passed SB 81, Chapter 175, Statutes of 2007, known as juvenile justice realignment. The premise was that local authorities were better able than the State to provide rehabilitation for many juvenile offenders. Under this legislation, juvenile courts were prohibited from committing juveniles adjudicated after September 1, 2007, to DJJ unless the adjudication was for certain serious, violent, or sexual offenses.[1] Non-violent offenders housed at DJJ were transferred back to the counties. And in return, counties were provided with funding.

   The Governor's January Budget in 2020 proposed to transfer DJJ to a newly created independent department within the Health and Human Services Agency on July 1, 2020. That approach was intended to align the rehabilitative mission of the state's juvenile justice system with trauma-informed and developmentally appropriate services supported by programs overseen by the state's Health and Human Services Agency. The unprecedented impact of COVID-19 resulted in the withdrawal of this proposal. Subsequently, the May Revision of the Budget proposed to expand on previous efforts to reform the state's juvenile justice system by transferring the responsibility for managing all youthful offenders to local jurisdictions.

   SB 823 (Committee on Budget), Chapter 337, Statutes of 2020, included intent language to

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[1] These offenses are referred to as 707(b) offenses because that is the statute in which they are listed.

establish a secure youth treatment facility as a commitment option for youth adjudicated for DJJ eligible offenses by March 1, 2021. SB 823 closed intake at the (DJJ) on July 1, 2021. Effective July 1, 2023, all DJJ facilities have closed.[2]

Secure Youth Treatment Facilities (SYTFs) were created as local custodial options for the custody and care of juveniles who would have previously been sent to DJJ but can no longer be committed there because of its closure. A minor can only be committed to an SYTF upon adjudication for a 707(b) offense committed at age 14 or older. As under prior law with regards to DJJ commitments, that 707(b) offense must be the most recent offense for which the minor has been adjudicated. (See Welf. & Inst, Code, §§ 875, subd. (a)(2) & 733.)

4) **Argument in Support**: According to *Legal Services for Prisoners with Children*, "California has made meaningful progress in advancing a rehabilitative, youth-centered approach to juvenile justice. Family engagement remains a cornerstone of that framework, and in-person visitation plays an important role in supporting youth well-being and successful reintegration. Yet across California, youth sit separated from families often by plexiglass, unable to hug hello or goodbye. A mother takes the bus for two hours to see her son and cannot hold his hand. A father watches his daughter cry and cannot embrace her. A grandchild sees his grandmother on her birthday, greets her with a hug, and has his visitation cancelled for a month. These are children, and we are denying them basic human connection at the moment they need it most.

"While current law guarantees access to visitation, policies regarding physical contact during visits vary across facilities. California's Youth Bill of Rights (AB 2417, 2022) for incarcerated youth already guarantees "visitation that reflects contact that occurs in typical family relationships." The Office of Youth and Community Restoration (OYCR) has explicitly stated this includes "physical affection consistent with typical family relationships, such as hugs and holding hands." AB 1646 provides clear, uniform guidance statewide to ensure visitation practices are consistent and aligned with trauma-informed care principles. OYCR's own guidance recognizes that maintaining family bonds through physical contact is essential to rehabilitation—yet without statutory clarity, counties implement vastly different and often restrictive policies that undermine this goal. By establishing a common standard, the bill supports facilities in maintaining safe environments while preserving healthy family connection.

"Research in child development and trauma-informed care underscores the importance of supportive relationships for young people, particularly those who have experienced adversity. Ensuring that visitation reflects typical family interaction, within appropriate boundaries, promotes emotional stability and reinforces California's commitment to rehabilitation. Touch deprivation in adolescents increases anxiety, depression, and aggression. Youth who receive parental visits show rapid declines in depressive symptoms. Youth who are never visited have significantly higher rates of behavioral incidents. Physical contact lowers stress hormones and maintains attachment bonds that protect against stress. This isn't sentimentality -- it's neuroscience. Denying physical contact serves no safety purpose-- it harms youth development.

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[2] https://www.cdcr.ca.gov/juvenile-justice/

"California closed DJJ to keep youth close to their communities and families. We invested millions in rehabilitation because we believe in supporting youth development, not punishment. We cannot claim to practice trauma-informed, family centered care while simultaneously denying youth the comfort of their family's embrace. AB 1646 ensures our practices match our stated values."

5) **Related Legislation**:

a) AB 1645 (Gonzalez) would prohibit Department of Corrections and Rehabilitation (CDCR) regulations from unreasonably restricting nonsexual physical contact between incarcerated person and visitors during contact visits. AB 1645 is set to be heard today in this committee.

b) AB 1647 (Bryan) would require the court to find beyond a reasonable doubt, instead of by clear and convincing evidence, that a minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court for purposes of transfer to adult criminal court. AB 1647 is set to be heard today in this committee.

c) AB 2040 (Macedo) would reduce the burden of proof for transferring minors to adult criminal court from clear and convincing evidence to preponderance of the evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. AB 2040 is pending referral.

6) **Prior Legislation**:

a) SB 2321 (Jones-Sawyer), Chapter 781, Statutes of 2022, redefined the exception to room confinement in juvenile facilities for brief periods to a brief period lasting no more than one hour when necessary for institutional operations, and ensures that minors and wards confined at juvenile facilities are provided reasonable access to toilets at all hours, including during normal sleeping hours.

b) SB 1143 (Leno), Chapter 726, Statutes of 2016, limited the use of room confinement in juvenile facilities, and banned its use for the purposes of punishment, coercion, convenience, or retaliation.

c) SB 92 (Committee on Budget and Fiscal Review), Chapter 18, Statutes of 2021, closes DJJ on June 30, 2023, and allows counties to establish SYTFs for certain youth who are 14 years of age or older and found to be a ward of the court based on an offense that would have resulted in a commitment to DJJ.

d) SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020, transferred the responsibility for managing all youthful offenders to local jurisdictions and closed DJJ intake on July 1, 2021, subject to certain exceptions. SB 823 also stated legislative intent to establish a separate, long-term local dispositional track for higher-need youth.

REGISTERED SUPPORT / OPPOSITION:

Support

All of US or None (HQ)
Alliance for Boys & Men of Color
Anti-recidivism Coalition
Arts for Healing and Justice Network
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Public Defenders Association
California United for a Responsible Budget (CURB)
Cancel the Contract
Children's Advocacy Institute, University of San Diego School of Law
Children's Defense Fund - CA
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Ella Baker Center for Human Rights
Fresh Lifelines for Youth
Hang Out Do Good
Hangoutdogood
Haywood Burns Institute
Hoops4justice
Initiate Justice
Insideout Writers
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Liberty Hill Foundation
Local 148 LA County Public Defenders Union
Los Angeles County Public Defender's Office
Loyola Law School's Youth Justice Education Clinic
Milpa Collective
National Center for Youth Law (NCYL)
National Institute for Criminal Justice Reform
Peace and Justice Law Center
Public Works Alliance
San Francisco Public Defender
Santa Cruz Barrios Unidos
Silicon Valley De-bug
Sister Warriors Freedom Coalition
The Change Parallel Project
The Children's Partnership
The Collective for Liberatory Lawyering
Tia Chucha's Centro Cultural
Ujima Adult and Family Serivces
Underground Grit
Urban Peace Institute
Youth Alliance

Youth Forward
Youth Leadership Institute
1 Private Individual

Opposition

None Submitted

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

Date of Hearing: March 3, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1647 (Bryan) – As Introduced January 27, 2026

SUMMARY: Requires the court to find beyond a reasonable doubt, instead of by clear and convincing evidence, that a minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court for purposes of transfer to adult criminal court.

EXISTING LAW:

1) Provides, generally, that a minor who is between 12 years of age and 17 years of age, inclusive, when the minor violates any law defining a crime, is subject to the jurisdiction of the juvenile court and to adjudication as a ward. (Welf. & Inst. Code, § 602, subd. (a).)

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

3) States that in a case in which a minor is alleged to have committed any felony or any of the enumerated felonies, as specified, when the minor was 16 years of age or older, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(1).)

4) States that in a case in which a minor is alleged to have committed any of the enumerated felonies, as specified, when the minor was 14 or 15 years of age, *but was not apprehended prior to the end of juvenile court jurisdiction*, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(2), emphasis added.)

5) States that in order to find that the minor should be transferred to a court of criminal jurisdiction, the court shall find *by clear and convincing evidence* that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. In making its decision, the court shall consider the following criteria, inclusive:

    a) The degree of criminal sophistication exhibited by the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense; the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior; the effect of familial, adult, or peer pressure on the minor's actions; the effect of the minor's family and community environment; the existence of childhood trauma; the minor's involvement in the child welfare or foster care system; and the status of the minor as a victim of human trafficking, sexual abuse, or sexual battery on the minor's criminal sophistication;

b) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction. The juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature;

c) The minor's previous delinquent history. The juvenile court shall give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior;

d) Success of previous attempts by the juvenile court to rehabilitate the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs; and,

e) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development. The court shall consider evidence offered that indicates that the person against whom the minor is accused of committing an offense trafficked, sexually abused, or sexually battered the minor. (Welf. & Inst. Code, § 707, subd. (a)(3).)

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

a) Murder;
b) Arson;
c) Robbery;
d) Rape with force, violence, or threat of great bodily harm;
e) Sodomy by force, violence, or threat of great bodily harm;
f) A lewd or lascivious act on a minor under 14 years of age by force, violence, or threat of great bodily harm;
g) Oral copulation by force, violence, duress, menace, or threat of great bodily harm;
h) Sexual penetration by force, violence, duress, menace, or threat of great bodily harm;
i) Kidnapping for ransom;
j) Kidnapping for purposes of robbery;
k) Kidnapping with bodily harm;
l) Attempted murder;
m) Assault with a firearm or destructive device;
n) Assault by means of force likely to produce great bodily injury;
o) Discharge of a firearm into an inhabited or occupied building;
p) Causing great bodily injury in the commission of specified offenses against a person who is 60 years of age or older; or against a person who is blind, a paraplegic, a quadriplegic, or a person confined to a wheelchair;
q) Personal use of a firearm during the commission of a felony;
r) Personal use of a weapon;
s) Dissuading a witness or influencing testimony;
t) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a specified controlled substance;

u) A "violent" felony committed for the benefit of a criminal street gang;
v) Escape, by use of force or violence, from a county juvenile hall, home, ranch, camp or forestry camp if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the escape;
w) Torture;
x) Aggravated mayhem;
y) Carjacking while armed with a dangerous and deadly weapon;
z) Kidnapping for purposes of sexual assault;
aa) Kidnapping in the course of a carjacking;
bb) Drive by shooting;
cc) Exploding a destructive device with intent to commit murder; and,
dd) Voluntary manslaughter. (Welf. & Inst. Code, § 707, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Placing young people in the adult prison system should be the absolute last option. This bill makes sure the highest legal standards are met before making this life-altering decision."

2) **Juvenile Court Jurisdiction**: As a general rule, any person between the age of 12 and 17 who commits a crime falls within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 602.) This extends to a youth alleged to have committed a crime before their 18th birthday, even if they were an adult at the time of arrest or commencement of proceedings. (Welf. & Inst. Code, § 603.) For example, if someone commits a crime at age 17, but it is not discovered or tried until the person is 20, the person can still be tried in juvenile court. The jurisdiction of the juvenile court continues until the youth is 23 years old, unless the youth would have, in criminal court, faced a sentence of 7 years or more, in which case the juvenile court's jurisdiction continues until the youth turns 25. (Welf. & Inst. Code, § 607.)

   The creation of the juvenile court, now over 100 years old, was rooted in the idea that adolescents, who are not fully developed or mature, are less culpable than adults. Accordingly, the focus of the juvenile court was rehabilitation, not punishment. (See e.g., *In re Gault* (1967) 387 U.S. 1, 15-16.) The purpose of the juvenile law is to provide for the protection and safety of the public and each minor under the jurisdiction of the court and to preserve and strengthen family ties when possible. (Welf. & Inst. Code, § 202, subd. (a).) Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. This may include punishment that is consistent with rehabilitative objectives. (Welf. & Inst. Code, § 202, subd. (b).) The juvenile court has a wide range of options available for placing its wards, including probation, placement in a relative's home, foster home, licensed community care facility, or group home, and commitment to "a juvenile home, ranch, camp, or forestry camp" or "the county juvenile hall." (Welf. & Inst. Code, §§ 727, subd. (a); 730, subd. (a)(1).)

3) **History of Juvenile Transfer Policies**: In 1961, the Legislature set 16 years old as the minimum age that a minor could be transferred to adult criminal court. (*O.G. v. Superior*

Court (2021) 11 Cal.5th 82, 88.) In 1995, the state began to move away from this rule by permitting some 14- and 15-year-olds to be transferred to criminal court. (*Ibid.*) In 2000, the voters passed Proposition 21 which required prosecutors to charge minors 14 years or older directly in criminal court for specified murder and sex crimes. Additionally, the Proposition gave prosecutors discretion to charge minors 14 or older directly in adult criminal court for other serious specified offenses. (*Ibid.*)

In the years following the passage of Proposition 21, the United State Supreme Court issued several opinions regarding the need to treat juveniles differently from adults in the criminal justice system. Developments in scientific research on adolescent brain development confirmed that children are different from adults in their relative culpability and rehabilitation possibilities and that such differences are critical to identifying age-appropriate sentences. (See, e.g., *Roper v. Simmons* (2005) 543 U.S. 551, 569–571 [prohibited capital punishment for juveniles]; *Graham v. Florida* (2010) 560 U.S. 48, 68–75 [prohibited life without the possibility of parole (LWOP) for juveniles in non-homicide cases]; *Miller v. Alabama* (2012) 567 U.S. 460, 469–470 [prohibited mandatory LWOP sentences for juveniles].) The Court summarized those differences in *Miller*:

> *Roper* and *Graham* establish that children are constitutionally different from adults for purposes of sentencing. Because juveniles have diminished culpability and greater prospects for reform, we explained, "they are less deserving of the most severe punishments." *Graham*, 560 U.S., at 68, 130 S.Ct. 2011, 176 L.Ed. 2d 825. Those cases relied on three significant gaps between juveniles and adults. First, children have a "'lack of maturity and an underdeveloped sense of responsibility,'" leading to recklessness, impulsivity, and heedless risk-taking. *Roper*, 543 U.S., at 569, 125 S.Ct. 1183, 161 L.Ed. 2d 1. Second, children "are more vulnerable . . . to negative influences and outside pressures," including from their family and peers; they have limited "contro[l] over their own environment" and lack the ability to extricate themselves from horrific, crime-producing settings. Ibid. And third, a child's character is not as "well formed" as an adult's; his traits are "less fixed" and his actions less likely to be "evidence of irretrievabl[e] deprav[ity]." (*Miller*, *supra*, 567 U.S. at 570.)

The California Supreme Court, relying on *Graham* and *Miller*, found that a determinate sentence that exceeds the expected lifetime of the juvenile defendant violates the Eighth Amendment because it effectively denies a juvenile any opportunity to demonstrate rehabilitation (*People v. Caballero* (2012) 55 Cal.4th 262, 267) and that a law that provides a presumption in favor of LWOP for juveniles also violates the Eighth Amendment (*People v. Gutierrez* (2014) 58 Cal.4th 1354, 1375-1376).

Following this body of case law and research, several measures were adopted to reflect the scientific evidence and constitutional mandate to treat juveniles differently than adults. In 2016, Proposition 57 eliminated direct filing in adult court by amending Welfare and Institutions Code section 707 to require a transfer hearing to be held before a minor can be prosecuted in adult court. In 2018, the Legislature raised the youngest age a minor could be tried as an adult back to 16. (SB 1391 (Lara), Ch. 1012, Stats. 2018.) The age change was challenged as an invalid amendment to Proposition 57 but the California Supreme Court ultimately ruled that SB 1391 furthered the ameliorative purposes of Proposition 57 and the

proposition authorized such amendments by a majority vote of the Legislature. (*People v. Superior Court (O.G.)* (2021) 11 Cal.5th 82.)

4) **Transfer Criteria:** The issue in a juvenile transfer hearing "is not whether the minor committed a specified act, but rather whether [they are] amendable to the care, treatment and training program available through the juvenile court facilities...." (*People v. Chi Ko Wong* (1976) 18 Cal.3d 698, 717, disapproved on another point in *People v. Green* (1980) 27 Cal.3d 1, 33.) Under current law, the prosecution may move to transfer to adult criminal court any minor 16 years of age or older who is alleged to have committed a felony criminal offense. (Welf. & Inst. Code, § 707, subd. (a)(1).) The prosecution may also move to transfer to adult court a person who was 14 or 15 years of age at the time the person was alleged to have committed a specified serious or violent felony, but who was not apprehended prior to the end of juvenile court jurisdiction. (Welf. & Inst. Code, §§ 707, subds. (a)(2) & (b).) Existing law requires the juvenile court to find *by clear and convincing evidence* that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to find that the minor should be transferred to adult criminal court. (Welf. & Inst. Code § 707, subd. (a)(3), emphasis added.)

   In making its transfer decision, the court must consider the following: the minor's degree of criminal sophistication, whether the minor can be rehabilitated in the time before the juvenile court would lose jurisdiction over the minor, the minor's prior history of delinquency, the success of prior attempts by the juvenile court to rehabilitate the minor, and the circumstances and gravity of the charged offense. (Welf. & Inst. Code, § 707, subd. (a)(3)(A)-(E).) Existing law provides guidance to the juvenile court when considering each of these criteria. Existing law specifies that when evaluating the degree of criminal sophistication exhibited by the minor, the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication. (Welf. & Inst. Code, § 707, subd. (a)(3)(A)(ii).) Existing law additionally specifies that when evaluating the minor's previous delinquent history, the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior. (Welf. & Inst. Code, § 707, subd. (a)(3)(C)(ii).) Existing law states that in evaluating the circumstances and gravity of the offense alleged in the petition to have been committed by the minor, the juvenile court shall give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development. The court shall consider evidence offered that indicates that the person against whom the minor is accused of committing an offense trafficked, sexually abused, or sexually battered the minor. (Welf. & Inst. Code, § 707, subd. (a)(3)(E).)

   Existing law requires a court to find by *clear and convincing evidence* that a minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to find that the minor should be transferred to adult criminal court. "Clear and convincing" means that the evidence is highly and substantially more likely to be true than untrue; the trier of

fact must have an abiding conviction that the truth of the factual contention is highly probable. (*Colorado v. New Mexico* (1984) 467 U.S. 310.) Prior to 2023, the law required the court to make this finding by a *preponderance of the evidence*. The "preponderance of the evidence standard" is met if the trier of fact (judge or jury) believes the evidence shows that a fact is more likely than not—more than 50% likely to be—true. (*Braud v. Kinchen* (1975) 310 So.2d 657.)

In 2022, the Legislature passed AB 2361, which, among other things, raised the legal standard for transfer hearings from preponderance of evidence to clear and convincing evidence.[1] The bill passed out of both Legislative houses without any registered opposition. According to a committee analysis of AB 2361[2]:

> The California Supreme Court has called the transfer of a minor from juvenile court for prosecution in adult court "the worst punishment the juvenile system is empowered to inflict." (*Ramona R. v. Superior Court* (1985) 37 Cal.3d 802, 810.) Despite the enormous consequence of the transfer decision, current statutory provisions provide insufficient guidance as to how the juvenile court should make its determination.
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> Over 50 years ago, the California Supreme Court held that "the dispositive question [at a transfer hearing] is the minor's amenability to treatment through the facilities available to the juvenile court." (*Jimmy H. v. Superior Court* (1970) 3 Cal.3d 709, 714; see also *People v. Chi Ko Wong* (1976) 18 Cal.3d 698, 717 (holding that the issue at a transfer hearing "is not whether the minor committed a specified act, but rather whether he is amenable to the care, treatment and training program available through juvenile court facilities"); *J.N. v. Superior Court* (2018) 23 Cal.App.5th 706, 714 ("There must be substantial evidence adduced at the hearing that the minor is not a fit and proper subject for treatment as a juvenile before the court may certify him to the superior court for prosecution.") However, current statutory provisions do not explicitly reflect this principle, nor do they direct how the juvenile court should exercise its discretion.
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> By providing a clear legal standard, AB 2361 will reduce arbitrary determinations, ensure that youth amenable to treatment and rehabilitation will be retained in juvenile court, and will allow appellate courts more effectively to review the lower court's holdings to determine whether the transfer was based on clear and convincing evidence.

This bill raises the standard of proof by which the juvenile court is to make the determination that a minor should be transferred to adult criminal court, from clear and convincing evidence to beyond a reasonable doubt that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. The beyond a reasonable doubt standard, the most rigorous standard of proof, applies to findings of guilt in criminal matters. It requires the trier of fact to hold "an abiding conviction that the charge is true" although it "need not eliminate

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[1] AB 2361 (Bonta), Chapter 330, Statutes of 2022.
[2] Sen. Comm. On Pub. Safety, Analysis of Assem. Bill No. 2361 (2021-2022 Reg. Sess.) as amended Mar. 31, 2022, p. 4.

all possible doubt." (CALCRIM No. 220.) Increasing the legal standard to beyond a reasonable doubt will likely result in more juveniles being retained in juvenile court.

According to the California Department of Justice's *Juvenile Justice in California 2024* report, an annual report on juvenile justice in the state, of the 24 transfer hearings reported by probation departments, 5 minors were found unfit for juvenile court and were transferred to adult criminal court and 19 were determined to be fit and remained in the juveniles system.[3] There were a total of 89 adult-level court dispositions received in 2024.[4] The report shows there are racial disparities with respect to transfer orders. Of juveniles who received adult court dispositions, 7.9% were white, 61.8% were Hispanic, 25.8% were Black, and 4.5% were from other race/ethnic groups.[5] Studies also indicate that youth transferred to adult court have negative impacts on likelihood of victimization, behavioral issues, recidivism and rehabilitation than youth who are retained in the juvenile system.[6]

If a minor is transferred to adult criminal court, the minor is entitled to a jury trial instead of a bench trial and faces a conviction and traditional sentencing, which may constitute a "strike" for future sentencing.

5) **Retroactivity**: Retroactivity[7] means whether a change in sentencing or constitutional interpretation should be applied to cases where the penalty may already be imposed and appeals exhausted. As a general matter, Penal Code section 3 states "No part of it (meaning the codes) is retroactive, unless expressly so declared." If retroactivity is not specified, the law is not applied retroactively. However, beginning in 1965, *if a defendant's case is still pending at the time of the change and the law seeks to lessen a criminal penalty, they may be eligible for application of the new law*. (*In re Estrada* (1965) 63 Cal.2d 740, 746 (hereinafter "*Estrada*").) This is known as the "final judgement rule."

Estrada and other cases since 1965 have held "new laws that reduce the punishment for a crime are presumptively to be applied to defendants whose judgments are not yet final." (*People v. Conley* (2016) 63 Cal.4th 646, 656, citing *Estrada*, 63 Cal.2d at 746).).

> The *Estrada* presumption [of retroactivity] stems from our understanding that when the Legislature determines a lesser punishment is appropriate for a particular offense or class of people,

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[3] *Juvenile Justice in California, 2024*, CA Department of Justice, p. 38 https://data-openjustice.doj.ca.gov/sites/default/files/2025-07/Juvenile%20Justice%20In%20CA%202024%20final.pdf. (July 2024.)
[4] *Id.* at p. 45.
[5] *Id.* at p. 47.
[6] *Technical Assistance: Maintaining Youth in Juvenile Court: Published Research*, Office of Youth and Community Restoration (May 2023).
[7] The California Supreme Court in *People v. Burgos* (2024) 16 Cal.5th 1 ruled that a defendant was not eligible for a bifurcated trial on a gang enhancement pursuant to Penal Code section 1109, as enacted in 2021 (Stats. 2021, ch. 699, § 5.) The Court correctly rejected *Estrada* as applied to the defendant's case because Penal Code section 1109 was not a criminal penalty reduction, but rather a "prophylactic rule of criminal procedure...." Accordingly, the general rule rejecting retroactivity unless otherwise specified by the statute controlled. In his concurrence, Justice Gorban asked the Legislature to consider the retroactive application of new laws, particularly where the statute is not a clear reduction of a criminal penalty, and to express their intent regarding whether any changes in that kind of legislation should be applied retroactively.

> *it generally does not wish the previous, greater punishment—which it now deems too severe—to apply going forward. We presume the Legislature intends the reduced penalty to be used instead in all cases in which there is no judgment or a nonfinal one,* and in which it is constitutionally permissible for the new law to control. (*People v. Padilla* (2022) 13 Cal.5th 152, 162, emphasis added.)

Finality is broadly construed by the courts but generally means where a criminal proceeding has not yet reached final disposition in the highest court authorized to review it. (*People v. Esquivel* (2021) 11 Cal.5th 671, 677.)

> Recently, we held that 'a convicted defendant who [was] placed on probation after imposition of sentence [was] suspended, and who [did] not timely appeal from the order granting probation, [could] take advantage of ameliorative statutory amendments that [took] effect during a later appeal from a judgment revoking probation and imposing sentence.' We reasoned that the defendant's "prosecution had not been 'reduced to final judgment at the time the ameliorative legislation was enacted as the criminal proceeding ... [meaning it] ha[d] not yet reached final disposition in the highest court authorized to review it (Internal citations omitted)." (*People v. Esquivel, supra,* 11 Cal.5th at 677, *citing People v. McKenzie* (2020) 9 Cal.5th 40, 43-45.)[8]

Estrada's inference of retroactivity has been applied when the Legislature creates "a concrete avenue for certain individuals charged with a criminal offense to be treated more leniently or to avoid punishment altogether." (*Burgos, supra in footnote*, 16 Cal.5th at p. 13 *citing People v. Frahs* (2020) 9 Cal.5th 618, 624; see also *People v. Wright* (2006) 40 Cal.4th 81 [newly enacted affirmative defense applies retroactively].)

This bill would increase the burden of proof required to transfer a minor from juvenile court to adult criminal court from the current standard of clear and convincing evidence to beyond a reasonable doubt. Because this change would make it harder to transfer juveniles to adult criminal court, which would be considered an ameliorative change in the law,[9] *Estrada's* inference of retroactivity would apply to nonfinal cases without specific direction from the Legislature. (See *In re E.P.* (2023) 89 Cal.App.5th 409, 416 [New fitness hearing ordered after burden of proof in Welfare and Institutions Code section 707 was increased from preponderance of evidence to clear and convincing evidence.])

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[8] See also *Padilla, supra,* 13 Cal.5th at 161 (holding that "non-final" includes any case remanded following a habeas petition).

[9] See *People v. Superior Court (Lara)* (2018) 4 Cal.5th 299, 302 where California Supreme Court held that "[t]he possibility of being treated as a juvenile in juvenile court—where rehabilitation is the goal—rather than being tried and sentenced as an adult can result in dramatically different and more lenient treatment," and concluded "[f]or this reason, *Estrada's* inference of retroactivity applies."

6) **Argument in Support**: According to *Fresh Lifelines for Youth*, "The bill raises the evidentiary standard at transfer hearings from "clear and convincing evidence" to "beyond a reasonable doubt." Maintains judicial discretion to transfer youth when appropriate but ensures the highest standard of proof is applied before imposing this irreversible decision. Aligns the standard of proof with the severe and permanent consequences of adult prosecution.

"In the juvenile legal system, transfer to adult criminal court is, as the California Supreme Court has recognized: "the worst punishment the juvenile system is empowered to inflict." (Ramona R. v. Superior Court (1985) 37 Cal.3d 802, 810.) Yet under current law, that punishment can be imposed under a "clear and convincing" standard — a standard used in civil proceedings where the consequences are less severe. In adult criminal cases, the highest burden of proof, beyond a reasonable doubt, is required because the consequence– deprivation of liberty– is the most severe power the state yields. Even in minor criminal matters that might have fewer consequences, like shoplifting or a traffic ticket, an adult cannot be convicted without proof beyond a reasonable doubt.

"For youth facing transfer hearings, the stakes could not be higher. Transferring a youth to adult court is a final, devastating judgment. When a juvenile court mistakenly sends a youth to adult court, they take away a young person's best opportunity for rehabilitation. If courts already recognize that the consequences of transfer on youth are uniquely severe, the standard of proof must also reflect that severity to minimize the risk of wrong decisions."

7) **Argument in Opposition**: According to the *California District Attorneys Association*, "After the standard was increased to a clear and convincing standard, there was a significant decrease in juvenile cases being transferred to criminal court jurisdiction. In 2023, there were a total of 36 transfer hearings and 12 of those cases were transferred to the criminal court. In 2024, there were a total of 24 transfer hearings, and 5 of those cases were transferred to the criminal court. [*See Juvenile Justice in California 2023 and 2024, Office of the Attorney General*]

"AB 1647 would unnecessarily increase the standard of proof to the highest legal standard, beyond a reasonable doubt. The bill would restrict the court's ability to respond appropriately in the most egregious cases. A request to transfer a case to the criminal court is reserved for those cases that involve the most egregious and violent crimes of murder, rape with force, sodomy with force, lewd and lascivious sexual acts on children with force, mayhem and kidnapping.

"During a transfer hearing, a minor is afforded full due process protection and the ability to present evidence and cross-examine witnesses. In 2024, SB 545 amended WIC 707(a) to require the court to consider the status of the minor as a victim of human trafficking, sexual abuse, or sexual battery. The court must also consider evidence of a minor's childhood trauma, their age, maturity, intellectual capacity, physical mental and emotional health at the time of the alleged offense, the effect of peer pressure on the minor's actions and the effect of the minor's family and community environment.

"This bill would make it nearly impossible to transfer the most serious cases to criminal jurisdiction. The highest burden, beyond a reasonable doubt, would increase public safety

concerns."

8) **Related Legislation**: AB 2040 (Macedo) would reduce the burden of proof for transferring minors to adult criminal court from clear and convincing evidence to preponderance of the evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. AB 2040 is pending referral.

9) **Prior Legislation**:

   a) AB 2361 (Bonta), Chapter 330, Statutes of 2022, increased the burden of proof from preponderance of the evidence to clear and convincing evidence for a court to find that a minor should be transferred to adult criminal court.

   b) AB 624 (Bauer-Kahan), Chapter 195, Statutes of 2021, made an order transferring a minor from a juvenile court to a court of criminal jurisdiction subject to appeal, as specified.

   c) AB 1423 (Wicks), Chapter 583, Statutes of 2019, created a mechanism for the return of a case back to the juvenile court from the criminal court under certain circumstances.

   d) AB 2865 (Wicks), of the 2019-2020 Legislative Session, would have required a court to find that a minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to find that the minor should be transferred to a court of criminal jurisdiction. AB 2865 was held in this Committee without a hearing.

   e) SB 439 (Mitchell), Chapter 1006, Statutes of 2018, prohibited the prosecution of a minor under the age of 12, unless the minor is alleged to have committed specified violent crimes.

   f) SB 1391 (Lara), Chapter 1012, Statutes of 2018, repealed the authority of a district attorney to make a motion to transfer a minor from juvenile court to a court of criminal jurisdiction in a case in specified cases, unless the individual was not apprehended prior to the end of juvenile court jurisdiction.

   g) SB 382 (Lara), Chapter 382, Statutes of 2015, enumerated certain factors that may be given weight within each of the criteria to be determined by a court in order to find that the minor should be transferred to a court of criminal jurisdiction.

   h) SB 1151 (Kuehl), of the 2003-2004 Legislative Session, would have clarified the definition of the "circumstances and gravity of the offense" for purposes of evaluating the fitness of a minor for juvenile court jurisdiction. SB 1151 was vetoed.

   i) AB 560 (Peace), Chapter 453, Statutes of 1994, lowered the age from 16 to 14 at which a juvenile could be transferred to adult criminal court and be tried as an adult for committing certain crimes.

REGISTERED SUPPORT / OPPOSITION:

Support

All of US or None (HQ)
Alliance for Boys & Men of Color
Anti-recidivism Coalition
Arts for Healing and Justice Network
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Public Defenders Association
California United for a Responsible Budget (CURB)
Cancel the Contract
Children's Advocacy Institute
Children's Defense Fund-California
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Ella Baker Center for Human Rights
Fresh Lifelines for Youth
Hang Out Do Good
Haywood Burns Institute
Hoops 4 Justice
Initiate Justice
Inside Out Writers
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Liberty Hill Foundation
Local 148 LA County Public Defenders Union
Los Angeles County Public Defender's Office
Loyola Law School's Youth Justice Education Clinic
Milpa Collective
National Center for Youth Law
National Institute for Criminal Justice Reform
Peace and Justice Law Center
Public Works Alliance
San Francisco Public Defender
Santa Cruz Barrios Unidos
Silicon Valley De-bug
Sister Warriors Freedom Coalition
The Change Parallel Project
The Children's Partnership
The Collective for Liberatory Lawyering
Tia Chucha's Centro Cultural
Ujima Adult and Family Services
Underground Grit
Urban Peace Institute
Youth Alliance

Youth Forward
Youth Leadership Institute

Opposition

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

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Date of Hearing: March 3, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1656 (Davies) – As Introduced January 29, 2026

As Proposed to be Amended in Committee

SUMMARY: Expands the list of crimes that may support a finding of good cause to continue a case to include human trafficking, as specified and specifies that a good cause continuance in a human trafficking case may only be granted once per case.

EXISTING LAW:

1) States that in order to continue any hearing in a criminal proceeding, including the trial, a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary. (Pen. Code, § 1050, subd. (b)(1).)

2) Requires that within two court days of learning that a person has a conflict in the scheduling of any court hearing, including a trial, an attorney must notify the calendar clerk of each court involved, in writing, indicating which hearing was set first. (Pen. Code, § 1050, subd. (b)(2).)

3) Provides that a party shall not be deemed to have been served until that party actually receives a copy of the documents to be served, unless the party, after receiving actual notice of the request for continuance, waives the right to have the documents served in a timely manner. Regardless of the proponent of the motion, the prosecuting attorney must notify the people's witnesses, and the defense attorney shall notify the defense's witnesses of the notice of motion, the date of the hearing, and the witnesses' right to be heard by the court. (Pen. Code, § 1050, subd. (b)(2).)

4) Mandates that continuances be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is in and of itself good cause. (Pen. Code, § 1050, subd. (d).)

5) Mandates that when deciding whether or not good cause for a continuance has been shown, the court consider the general convenience and prior commitments of all witnesses, including peace officers. Both the general convenience and prior commitments of each witness also shall be considered in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case. (Pen. Code, § 1050, subd. (g)(1.)

6) Defines "good cause" to include, but is not limited to, those cases involving murder, stalking related to a specified sex offense, domestic violence, a case being handled in the Career Criminal Prosecution Program, or a hate crime, has occurred and the prosecuting attorney

assigned to the case has another trial, preliminary hearing, or motion to suppress in progress in that court or another court. A continuance under this paragraph shall be limited to a maximum of 10 additional court days. (Pen. Code, § 1050, subd. (g)(2).)

7) States that only one continuance per case may be granted to the prosecutor for cases involving stalking, hate crimes, or cases handled under the Career Criminal Prosecution Program. Any continuance granted to the people in a case involving stalking or handled under the Career Criminal Prosecution Program shall be for the shortest time possible, not to exceed 10 court days. (Pen. Code, § 1050, subd. (g)(3).)

8) States that the court, unless good cause to the contrary is shown, shall order the action to be dismissed in the following cases:

    a) When a person has been held to answer for a public offense and an information is not filed against the person within 15 days.

    b) In a felony case, when a defendant is not brought to trial within 60 days of the defendant's arraignment or an indictment or information, or reinstatement of criminal proceedings after a declaration of doubt of defendant's mental competency, or if a case is to be retried following a mistrial or an order granting a new trial, as specified.

    c) When a defendant in a misdemeanor or infraction case is not brought to trial within 30 days after being arraigned or enters their plea, whichever occurs later, if the defendant is in custody, or within 45 days if the defendant is out of custody. (Pen. Code, § 1382, subd. (a)(1)-(3).)

9) Provides that a felony case shall not be dismissed if the defendant enters a general waiver of the 60-day trial requirement or if the defendant requests or consents to the setting of trial beyond the 60-day period. (Pen. Code, § 1382, subd. (a)(2)(A)-(B).)

10) States that a misdemeanor or infraction shall not be dismissed if the defendant enters a general time waiver of the 30-day or 45-day trial requirement, the defendant requests or consents to the setting of the trial beyond the 30-day or 45-day period, or the defendant fails to appear at a hearing prior to trial and a bench warrant has been issued, then the defendant will be deemed to have been arraigned on the date of their subsequent arraignment on their bench warrant. (Pen. Code, § 1382, subd. (a)(3)(A)-(C).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1656 is a critical step in modernizing the state's judicial approach to some of the most heinous crimes. By expanding the definition of "good cause" for trial continuances, the bill ensures that human trafficking and child sexual exploitation cases receive the same legal priority and scheduling flexibility as murder and domestic violence trials. This change provides prosecutors with the necessary time to manage the immense complexities of trafficking litigation, such as coordinating witness testimony and handling sensitive evidence, without being forced into rushed proceedings. Ultimately, passing AB 1656 would strengthen the justice system's ability to hold traffickers

accountable while reducing the risk of procedural dismissals that can re-traumatize victims."

2) **Human Trafficking**: According to the California Department of Justice (DOJ), human trafficking is a crime involving the coercion or compelling of a person to provide labor or services, or to engage in commercial sex acts. The coercion can be physical or psychological, and may involve the use of violence, threats, lies, or debt bondage. It is among the world's fastest growing criminal enterprises and is estimated to be a $150 billion-a-year worldwide industry. The International Labor Organization estimates that there are approximately 24.9 million human trafficking victims globally at any given time.[1]

   At the federal level, it is estimated that 14,500 to 17,500 victims are trafficked into the U.S. annually. Additionally, victims of trafficking are also from the U.S. At the state level, California is one of the nation's top destination states for human trafficking. Human trafficking victims do not necessarily fit into any one profile.[2] Victims of human trafficking include men, women, and children from diverse backgrounds in terms of race, color, national origin, religion, sexual orientation, socioeconomic status, and education level. Many domestic victims of sex trafficking are runaway or homeless youth with backgrounds of sexual and physical abuse, poverty, or addiction; these vulnerabilities are often exploited by traffickers.[3]

   To help provide services to human trafficking victims in California, on April 26, 2022, California Office of Emergency Services (Cal OES) announced $20 million in grants for local partners. These grants were distributed to 31 community-based organizations for purposes such as survivor-centered counseling, outreach and referral programs, and reentry back into society. Funding also would be used to assist with cell phones, relocations expenses, court/legal fees, and medical care.[4]

3) **Right to a Speedy Trial**: Generally, the U.S. and State Constitutions and the California state law provide for the right to a speedy trial. (U.S. Const., amend VI; Cal. Const., art. I, sec. 15; Pen. Code, § 1382.) The right to a speedy trial is "an important safeguard to prevent undue and oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation and to limit the possibilities that long delay will impair the ability of an accused to defend himself." (*United States v. Ewell* (1966) 383 U.S. 116, 120.)

   The speedy trial time frame is stated in Penal Code section 1382 and has been determined to be 60 days for a felony trial and either 30 or 45 days for a misdemeanor trial. (See *People v. Shane* (2004) 115 Cal.App.4th 196, 203.) Failure to bring a case to trial within the statutory speedy trial deadline will result in dismissal, unless defendant has entered a general time waiver or the defendant has consented to the extension, or if good cause is shown. (*Baustert v. Superior Court (People)* (2005) 129 Cal.App.4th 1269, 1275.)

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[1] DOJ. What is Human Trafficking? <https://oag.ca.gov/human-trafficking/what-is#top>; DOJ. Human Trafficking. <https://oag.ca.gov/human-trafficking>

[2] *Id.*

[3] Department of Justice, Victim Services Unit *Article, "What is Human Trafficking?"* https://oag.ca.gov/human-trafficking/what-is#top; See generally, https://oag.ca.gov/human-trafficking.

[4] Cal Office of Emergency Services, Press Release, *Cal OES Announces $20 million in Grants to Protect and Empower Survivors of Human Trafficking* <https://news.caloes.ca.gov/human-trafficking-grant/>)

The general time waiver entitles the superior court "to set or continue a trial date without the sanction of dismissal should the case fail to proceed on the date set for trial." (Pen. Code, § 1382, subd. (a)(2)(A), (a)(3)(A).) If the defendant, after proper notice to all parties, later withdraws the waiver in the superior court, the defendant must be brought to trial within 60 days of the date of that withdrawal. (*Ibid.*) If the defendant requests or consents to a trial date beyond the statutory deadline, the defendant must be brought to trial on the agreed-upon date or within 10-calendar days thereafter. (Pen. Code, § 1382, subd. (a)(2)(B), (a)(3)(B).)

A continuance beyond the statutory periods may only be issued by a court for a maximum of ten days and only for good cause. "Good cause" can be based on witness availability, judge or courtroom availability, illness or emergency, or a specific type of case.

4) **Good Cause Continuances:** Penal Code section 1050 generally requires any party seeking to continue any hearing in a criminal proceeding to demonstrate good cause. Neither the convenience of the parties nor a stipulation of the parties is, in and of itself, good cause. (See Pen. Code, § 1050, subd. (e).) Added to the Penal Code in 1959, the introduction to Penal Code section 1050 states the intent of the Legislature, as follows:

> The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end, the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. Excessive continuances contribute substantially to this congestion and cause substantial hardship to victims and other witnesses. Continuances also lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails. It is therefore recognized that the people, the defendant, and the victims and other witnesses have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both for the prosecution and the defense, to expedite these proceedings to the greatest degree that is consistent with the ends of justice. (Pen. Code, § 1050, subd.(a).)

Despite the intent of the 1959 amendment, over time the Legislature has added additional exceptions to the general rule that criminal trials must occur at the "earliest possible time." Specifically, the convenience of witnesses, including peace officers, may constitute good cause. (Pen. Code, § 1050, subd. (g)(1).) Moreover, Penal Code section 1050, subdivision (g)(2) states certain types of cases necessarily constitute "good cause" including, homicide, stalking, child abuse, specific sex offenses, domestic violence, hate crimes, or cases being handled by the Career Criminal Prosecution Program.[5]

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[5] Penal Code section 999c defined the Career Criminal Prosecution Program as additional resources for district attorneys who handle cases involving "career criminals." Career criminals are generally defined as an offender "who

Several factors are relevant in determining good cause: "(1) the nature and strength of the justification for the delay, (2) the duration of the delay, and (3) the prejudice to either the defendant or the prosecution that is likely to result from the delay. In making its good-cause determination, a trial court must consider all the relevant circumstances of the particular case, applying principles of common sense to the totality of the circumstances." (*People v. Engram* (2010) 50 Cal.4th 1131, 1163.)

Additionally, in determining "good cause," the court will consider whether the party seeking a continuance demonstrated it has prepared for the hearing or trial with due diligence. If the party is seeking a continuance to secure a witness's testimony, the party must show that he or she exercised due diligence to secure the witness's attendance, that the witness would be available to testify within a reasonable time, and that the testimony was material and not cumulative. (*People v. Johnson* (2013) 218 Cal.App.4th 938, 942.) If the court grants a good cause continuance, the district attorney may only continue the case for ten days.

This bill seeks to add human trafficking. In many cases, district attorneys and public defenders handle multiple trials and hearings at one time. Expanding the crimes forming the basis of a good cause continuance means a district attorney may get a continuance of preliminary hearing or trial if they must appear at a proceeding elsewhere. Public defenders and private defense counsel are not granted the same right even though the specialization of specific kinds of cases should apply to both the prosecution and the defense. The consequence of this is that the prosecutor may continue a case beyond the statutory period designed to ensure a speedy trial to ensure they are present (meaning they are not fungible); defense counsel, on the other hand, must arrange for another, possibly less knowledgeable or experienced attorney to step in if they must appear elsewhere.

5) **Argument in Support**: According to *Riverside Sheriff's Association*, "Survivors of human trafficking frequently experience severe trauma, coercive control, and psychological harm. Some are under debt bondage, immigration coercion, or family threats. It is very hard for survivors to trust persons with authority, such as prosecuting attorneys who work overtime to establish trust and communication with the victims. Continuances preserve continuity of counsel, which is particularly important where victims rely on a single, trusted point of contact. Forcing victims to proceed with a substitute attorney due to scheduling conflicts may undermine victim cooperation, increase anxiety and lead to delayed or incomplete testimony."

6) **Argument in Opposition**: According to the *San Francisco Public Defender's Office*, "Existing law establishes the requirements for a continuance to be granted in a criminal case, including a showing of good cause. Existing law defines "good cause" for this purpose to include, but not be limited to, cases involving specified crimes, including murder and domestic violence, and to apply when the prosecuting attorney assigned to the case has another trial, preliminary hearing, or motion to suppress in progress in that court or another

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is either being prosecuted for three or more separate offenses not arising out of the same transaction involving one or more of those felonies or has been convicted during the preceding 10 years for a specified felony, or at least two convictions during the preceding 10 years for any [specified felony] shall be the subject of career criminal prosecution efforts." (Pen. Code, § 999c, subd. (a).) Specific felonies include everything from homicide and sexual assault to burglary and auto theft.

court. AB 1656 would expand the list of crimes to specifically include, among other crimes, human trafficking.

"AB 1656 adds yet another category of crimes providing prosecutors with a unilateral exception to the requirements of "good cause" within the meaning of Penal Code § 1050. AB 1656 contravenes the core legislative intent of Section 1050, which states that "all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time" because "criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant" and "[e]xcessive continuances contribute substantially to this congestion and cause substantial hardship to victims and other witnesses . . . [and] lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails." An additional class of crimes that fall within the meaning of "good cause" would only cause more delay, more congestion, more hardship, and longer periods of presentence confinement for people who have not been convicted of a crime. "

7) **Related Legislation:** AB 1541 (Dixon) requires DOJ to post specified information related to labor and commercial sex trafficking on its OpenJustice website. AB 1541 is currently set for a hearing in the Assembly Public Safety Committee.

8) **Prior Legislation**:

   a) AB 1239 (Dixon), Chapter 393, Statutes of 2025, requires DOJ to include in the information made available on the OpenJustice Web portal information concerning arrests for human trafficking and the number of individuals who have been a victim of human trafficking as reported through the California Incident-Based Reporting System.

   b) AB 2843 (Rodriguez), of the 2021-22 Legislative Session, would have created the Regional Task Forces Against Human Trafficking Grant Program to be administered by OES to assist local and tribal governments with creating and funding multiagency, multijurisdictional efforts to eliminate human trafficking. AB 2843 was held on the Assembly Appropriations suspense file.

   c) SB 236 (Jones), of the 2023-24 Legislative Session, establishes within the Office of Emergency Services (OES) a pilot program to fund up to 11 district attorney offices to employ vertical prosecution for human trafficking crimes. SB 236 was held on the Assembly Appropriations Committee suspense file.

   d) SB 35 (Chang), of the 2019-2020 Legislative Session, would have reestablished the California Alliance to Combat Trafficking and Slavery (California ACTS) for the purpose of gathering data on the nature and extent of human trafficking in California. SB 35 was vetoed by the Governor.

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 District Attorneys Association
California Narcotic Officers' Association
California Reserve Peace Officers Association
California Tribal Business Alliance
Claremont Police Officers Association
Corona Police Officers Association
Crime Victims United
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
North San Diego County Human Trafficking Collaborative
Orange County Sheriff's Department
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
San Diego County District Attorney's Office

Opposition

Californians United for a Responsible Budget
California Public Defenders Association
Ella Baker Center for Human Rights
Initiate Justice
Justice2jobs Coalition
LA Defensa
Local 148 LA County Public Defenders Union
San Francisco Public Defender

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

Amended Mock-up for 2025-2026 AB-1656 (Davies (A))

Mock-up based on Version Number 99 - Introduced 1/29/26
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 1050 of the Penal Code is amended to read:

1050. (a) The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end, the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. Excessive continuances contribute substantially to this congestion and cause substantial hardship to victims and other witnesses. Continuances also lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails. It is therefore recognized that the people, the defendant, and the victims and other witnesses have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both for the prosecution and the defense, to expedite these proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and heard without regard to the pendency of, any civil matters or proceedings. In further accordance with this policy, death penalty cases in which both the prosecution and the defense have informed the court that they are prepared to proceed to trial shall be given precedence over, and set for trial and heard without regard to the pendency of, other criminal cases and any civil matters or proceedings, unless the court finds in the interest of justice that it is not appropriate.

(b) To continue any hearing in a criminal proceeding, including the trial, (1) a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary and (2) within two court days of learning that they have a conflict in the scheduling of any court hearing, including a trial, an attorney shall notify the calendar clerk of each court involved, in writing, indicating which hearing was set first. A party shall not be deemed to have been served within the meaning of this section until that party actually has received a copy of the documents to be served, unless the party, after receiving actual notice of the request for continuance, waives the right to have the documents served in a timely manner. Regardless of the proponent of the motion, the prosecuting attorney shall notify the people's witnesses and the defense attorney shall notify the defense's witnesses of the notice of motion, the date of the hearing, and the witnesses' right to be heard by the court.

(c) Notwithstanding subdivision (b), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for the failure to comply with those requirements, the court may impose sanctions as provided in Section 1050.5.

(d) When a party makes a motion for a continuance without complying with the requirements of subdivision (b), the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of the finding and a statement of facts proved shall be entered in the minutes. If the moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.

(e) Continuances shall be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is in and of itself good cause.

(f) At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.

(g) (1) When deciding whether or not good cause for a continuance has been shown, the court shall consider the general convenience and prior commitments of all witnesses, including peace officers. Both the general convenience and prior commitments of each witness also shall be considered in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case.

(2) For purposes of this section, "good cause" includes, but is not limited to, those cases involving murder, as defined in subdivision (a) of Section 187, allegations that stalking, as defined in Section 646.9, a violation of one or more of the sections specified in subdivision (a) of Section 11165.1 or Section 11165.6, or domestic violence, as defined in Section 13700, or a case being handled in the Career Criminal Prosecution Program pursuant to Sections 999b through 999h, or a hate crime, as defined in Title 11.6 (commencing with Section 422.6) of Part 1, *or human trafficking, as defined in Section 236.1*, ~~or a violation of one or more of the sections specified in subdivision (b) of Section 236.1~~, ~~except violations of Section 311.1, 311.2, and 311.5~~, has occurred and the prosecuting attorney assigned to the case has another trial, preliminary hearing, or motion to suppress in progress in that court or another court. A continuance under this paragraph shall be limited to a maximum of 10 additional court days.

(3) Only one continuance per case may be granted to the people under this subdivision for cases involving stalking, hate crimes, *human trafficking,* or cases handled under the Career Criminal Prosecution Program. Any continuance granted to the people in a case involving stalking or handled under the Career Criminal Prosecution Program shall be for the shortest time possible, not to exceed 10 court days.

(h) Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court on an indictment or information is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days.

(i) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the court shall state on the record the facts proved that justify the length of the continuance, and those facts shall be entered in the minutes.

(j) Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382, the court must immediately notify the Chair of the Judicial Council.

(k) This section shall not apply when the preliminary examination is set on a date less than 10 court days from the date of the defendant's arraignment on the complaint, and the prosecution or the defendant moves to continue the preliminary examination to a date not more than 10 court days from the date of the defendant's arraignment on the complaint.

(l) This section is directory only and does not mandate dismissal of an action by its terms.

Date of Hearing: March 3, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1662 (Wilson) – As Introduced January 29, 2026

SUMMARY: Provides that if a court dismisses a defendant's case because the defendant completes court-initiated misdemeanor diversion, and the case includes a specified violation, which, ordinarily, requires points to be added to the defendant's driving record, then the court shall nonetheless transmit that information to the Department of Motor Vehicles (DMV), and the DMV shall assess points on the defendant's driving record.

EXISTING LAW:

1) Authorizes the DMV to suspend, revoke, or refuse to issue a driver's license if a person accumulates a certain number of points on their driving record, as follows:

   a) Provides that a person whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle, except as otherwise specified. (Veh. Code, § 12810.5, subds. (a) & (b).)

   b) Requires the DMV, in making a negligent operator determination, to give due consideration to the amount of use or mileage traveled in the operation of a vehicle if the person requests and appears at a DMV hearing. (Veh. Code, § 12810.5, subd. (a).)

   c) Authorizes the DMV to require a negligent operator whose driving privilege is suspended or revoked to submit proof of financial responsibility, as specified. (Veh. Code, § 12810.5, subd. (c).)

   d) Authorizes the DMV to suspend or revoke the privilege of any person to operate a vehicle upon any grounds that authorizes the refusal to issue a license, including when a person is deemed a negligent operator. (Veh. Code, §§ 13359, 12809, subd. (e).)

   e) Authorizes the DMV to refuse to issue or renew a driver's license if the DMV determines the applicant is a negligent or incompetent operator of a vehicle. (Veh. Code, § 12809, subd. (e).)

   f) Provides that whenever the DMV has discretionary authority to suspend or revoke the privilege of a person to operate a vehicle, the DMV may in lieu of suspension or revocation, place the person on probation, as specified, and issue a restricted driver's license as a condition of probation where that person is presumed to be a negligent operator. (Veh. Code, §§ 14250, 12812.)

g) Provides that the point count, for purposes of determining if a driver is a negligent operator, is determined as follows:

i) Violations that receive one point:

(1) Any traffic conviction involving the safe operation of a vehicle upon the highway, except as specified. (Veh. Code, § 12810, subd. (f).)

(2) A traffic accident in which the DMV deems the operator responsible. (Veh. Code, § 12810, subd. (g).)

(3) A conviction for failing to properly secure a child under eight years old in a rear seat in an appropriate child passenger restraint system, as specified. (Veh. Code, § 12810, subd. (h).)

(4) A conviction for transporting a child between eight and 16 years old, without properly securing that child in an appropriate child passenger restraint system, as specified. (Veh. Code, § 12810, subd. (h).)

ii) Convictions that receive two points:

(1) A hit and run resulting in only property damage, or a hit and run resulting in injury or death to another person. (Veh. Code, § 12810, subd. (a).)

(2) Driving under the influence (DUI), DUI causing bodily injury to another, or driving a vehicle with a blood alcohol content (BAC) of .05 or more, for a person under the age of 21, even where a chemical test was not made to determine that person's BAC, as specified. (Veh. Code, § 12810, subds. (b) & (d)(2).)

(3) Reckless driving. (Veh. Code, § 12810, subd. (c).)

(4) Intoxicated vehicular manslaughter, without gross negligence. (Veh. Code, § 12810, subd. (d)(1).)

(5) Vehicular manslaughter, with or without gross negligence. (Veh. Code, § 12810, subd. (d)(1).)

(6) Fleeing or attempting to elude a peace officer where the pursued vehicle is driven in willful or wanton disregard for the safety of persons or property, including where this offense causes serious bodily injury or death. (Veh. Code, § 12810, subd. (d)(1).)

(7) Driving a vehicle upon a highway, except to the right of an intermittent barrier or dividing section which separates two or more lanes of opposing traffic. (Veh. Code, § 12810, subd. (d)(1).)

(8) Driving a vehicle on a highway at a speed greater than 100 miles per hour. (Veh. Code, § 12810, subd. (d)(1).)

(9) Engaging in a motor vehicle speed contest or exhibition of speed or aiding and abetting a motor vehicle exhibition of speed. (Veh. Code, § 12810, subd. (d)(1).)

(10) Engaging in a motor vehicle speed contest that proximately causes specified injuries to another person. (Veh. Code, § 12810, subd. (d)(1).)

(11) Driving on a highway for the purpose of transporting explosives, except as specified. (Veh. Code, § 12810, subd. (d)(1).)

(12) Driving on a suspended or revoked license, driving on a license that was suspended or revoked due to a DUI, DUI causing bodily injury, reckless driving, or refusal or failure to complete a chemical test or alcohol screening test, or accumulating a driving record that results from driving when a person has a suspended or revoked license. (Veh. Code, § 12810, subd. (e).)

iii) Provides that a conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count. (Veh. Code, § 12810, subd. (j).)

2) Establishes Court-Initiated Misdemeanor Diversion, as follows:

a) Authorizes a judge in the superior court in which a misdemeanor is being prosecuted to, at the judge's discretion, and over the objection of a prosecuting attorney, offer diversion to a defendant. (Pen. Code, § 1001.95, subd. (a).)

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

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

d) Requires the court, if it appears to the court that the defendant is not complying with the terms and conditions of diversion, after notice to the defendant, to hold a hearing to determine whether the criminal proceedings should be reinstituted. (Pen. Code, § 1001.95, subd. (d).)

e) Authorizes the court, if it finds that the defendant has not complied with the terms and conditions of diversion, to end the diversion and order resumption of the criminal proceedings. (Pen. Code, § 1001.95, subd. (d).)

f) Provides that a defendant may not be offered diversion for any of the following current charged offenses:

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

ii) Any offense involving domestic violence, as specified; and,

iii) Stalking. (Pen. Code, § 1001.95, subd. (e).)

g) Requires a defendant who is diverted under court-initiated diversion to complete all of the following to have their action dismissed:

i) Complete all conditions ordered by the court.

ii) Make full restitution, although a defendant's inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

iii) Comply with a court-ordered protective order, stay-away order, or order prohibiting firearm possession, if applicable. (Pen. Code, § 1001.96.)

h) Provides that upon successful completion of the terms, conditions, or programs ordered by the court pursuant to court-initiated misdemeanor diversion, the arrest upon which diversion was imposed shall be deemed to have never occurred, and the defendant may indicate, in response to any question concerning their prior criminal record, that they were not arrested. (Pen. Code, § 1001.97, subds. (a).)

i) Prohibits a record pertaining to an arrest resulting in successful completion of the terms, conditions, or programs ordered by the court from, without the defendant's consent, being used in any way that could result in the denial of any employment, benefit, license, or certificate. (Pen. Code, § 1001.97, subd. (a).)

j) Requires the defendant to be advised that, regardless of their successful completion of diversion, the arrest upon which the diversion was based may be disclosed by the Department of Justice in response to a peace officer application request and that completion of diversion does not relieve them of the obligation to disclose the arrest in response to a direct question contained in a questionnaire or application for a position as a peace officer. (Pen. Code, § 1001.97, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "When serious driving offenses disappear from the record, the public pays the price. AB 1662 closes a loophole that previously let individuals avoid points on their driving record if their case was dismissed through diversion. This bill ensures dangerous conduct is counted, not covered up."

2) **Court-Initiated Diversion:** Existing law authorizes a judge to divert a misdemeanor defendant, over the objection of the prosecution, except in cases of stalking, domestic violence, and any offense requiring sex offender registration. (Pen. Code, §§ 1001.95, subds. (a) & (e).) Unlike other existing pre-plea diversion programs, court-initiated diversion contains no statutory requirements for the defendant to satisfy in order to be eligible, except that the defendant cannot have committed one of the crimes that are specifically excluded.

(Pen. Code, §§ 1001.95; 1001.96; 1001.97.) The judge has broad authority to order the defendant to comply with terms, conditions, or programs that the judge deems appropriate based on the specific situation; however, the case may not be diverted for a period exceeding 24 months. (Pen. Code, § 1001.95, subd. (b).) Similar to other diversion programs, if the defendant has complied with the imposed terms and conditions, the judge is required to dismiss the action against the defendant at the end of the period of diversion. (Pen. Code, § 1001.95, subd. (c).) If it appears to the court that the defendant is not complying with the terms and conditions of diversion, after notice to the defendant, the court must hold a hearing to determine whether the criminal proceedings should be reinstituted. (Pen. Code, § 1001.95, subd. (d).) If the court finds that the defendant has not complied with the applicable terms and conditions, it may end the diversion and order resumption of the criminal proceedings. (Pen. Code, § 1001.95, subd. (d).)

Whether or not to divert a misdemeanor defendant is in the trial court's discretion. However, judicial discretion is not without limits. "[A]ll exercises of legal discretion must be grounded in reasoned judgment and guided by legal principles and policies appropriate to the particular matter at issue." (*People v. Russel* (1968) 69 Cal.2d 187, 195 (superseded by statute on other grounds).) A court abuses its discretion when it "exceeds the bounds of reason, all of the circumstances before it being considered." (*Id.* at p. 194) (quoting *State Farm Mut. Auto. Ins. Co. v. Superior Court of San Francisco* (1956) 47 Cal.2d 428, 432.)

3) **Driving Record Points and Related Sanctions:** If a driver accumulates four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months, they shall be prima facie presumed to be a negligent operator of a vehicle (Veh. Code, § 12810.5, subds. (a) & (b).) This authorizes the DMV to suspend or revoke the negligent operator's driving privilege or refuse to issue or renew their driver's license. (Veh. Code, §§ 12809, subd. (e), 13359). The DMV may, instead of suspension or revocation, place the person on probation, as specified, and issue a restricted driver's license as a condition of probation. (Veh. Code, §§ 14250, 12812.) Whether a negligent operator's license will be suspended, and for how long, is primarily determined by the DMV, not by statute. In practice, a driver who accumulates the point levels described above will typically be subject to a one-year probationary period that includes a six-month suspension.[1]

According to the DMV, if a person is deemed a negligent operator, there are four levels of Negligent Operator Treatment System (NOTS) actions.[2] Level I – if a person receives two points within 12 months, four within 24 months, or six within 36 months, they will receive a warning letter.[3] Level II – if a person receives three or more points within 12 months, five or more within 24 months, or seven or more within 36 months, they will receive a notice of intent to suspend their license.[4] Level III is the point total that establishes a person as a prima facie negligent operator pursuant to Vehicle Code 12810.5. Here, if a person receives four points within 12 months, six within 24 months, or eight within 36 months, that person will receive a one-year probation that includes a six-month license suspension.[5] The action is

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[1] DMV, *Negligent Operator Actions* <https://www.dmv.ca.gov/portal/driver-education-and-safety/dmv-safety-guidelines-actions/negligence/negligent-operator-actions/> [as of Feb. 19, 2026].
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] *Ibid.*

effective 34 days from the date the order is mailed.[6] Additionally, under Level IV, if a person who is on NOTS probation receives a violation while operating a vehicle or is involved in a collision, regardless of fault, then an additional six-month suspension shall be imposed, and the probation will be extended for one year from the violation of probation.[7]

Certain traffic violations and crimes add points to a person's driving record, which can lead to that person being deemed a negligent operator. More minor offenses, such as a traffic conviction involving the safe operation of a vehicle, a traffic accident in which the DMV deems that person responsible, or failing to properly secure a child in a child passenger restraint system, receive one point. (Veh. Code, § 12810, subds. (f), (g) & (h).) More serious traffic offenses, such as convictions for a hit and run, DUI, DUI causing bodily injury, reckless driving, intoxicated vehicular manslaughter without gross negligence, vehicular manslaughter, engaging in a speed contest, and driving in excess of 100 miles per hour, among others, result in two points. (Veh. Code, § 12810, subds. (a)-(d).)

Negligent operator-based suspensions are administrative in nature, are imposed at the discretion of the DMV, and are distinct from the criminal license suspensions or revocations that can result from a vehicle-related conviction. Certain criminal license revocations require the DMV to revoke a person's driver's license for one year or three years, depending on the nature of the conviction. (Veh. Code, §§ 13350, 13351.) Other convictions, such as those for a DUI or a DUI causing bodily injury, result in progressively longer license suspensions or revocations depending on the person's number of prior DUIs. (Veh. Code, § 13352.) Notably, many of the offenses that add points to a person's driving record carry separate, and lengthier, criminal license revocation mandates. For example, gross vehicular manslaughter adds two points to a person's driving record. (Veh. Code, § 12810, subd. (d)(1).) It also results in a three-year criminal license revocation, irrespective of the number of points on the defendant's record. (Veh. Code, § 13351, subd. (a).)

4) **Effect of this Bill:** Most of the offenses that add points to a person's record require a criminal conviction. (Veh. Code, § 12810, subds. (a), (b), (c), (d), (e), (f), & (h).) Accordingly, a person who is arrested and charged for an offense that would ordinarily add points to their driving record, if convicted, but who avoids a conviction for the offense by completing court-initiated diversion, typically will not receive those points on their driving record. Accordingly, this bill states that if a court dismisses a defendant's case because the defendant completed court-initiated misdemeanor diversion, and the case included a specified violation, which, ordinarily, would add points to the defendant's driving record, then the court shall nonetheless transmit that information to the DMV, and the DMV shall assess points on the defendant's driving record.

For example, if a person is arrested and charged for misdemeanor reckless driving, and completes diversion 12 months later, this bill would require the DMV to add two points to that person's driving record in the same manner as if they had been convicted of reckless driving. (Veh. Code, § 12810, subd. (c).) This would apply even if the person was not adjudicated guilty before being granted diversion; court-initiated diversion does not require that the defendant enter a guilty plea. (Pen. Code, §§ 1001.95; 1001.96; 1001.97.)

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

The impact of this bill may be limited. First, some of the point-adding convictions listed in Vehicle Code section 12810 may not be eligible for court-initiated diversion if prosecuted as a felony. Court-initiated diversion is confined to misdemeanors. (Pen. Code, § 1001.95, subd. (a).) The list of convictions that add points to a driver's record includes many offenses that are alternate-felony misdemeanors. These include: 1) a hit and run resulting in injury or death; 2) a fourth or subsequent DUI; 3) a DUI causing bodily injury; 4) intoxicated vehicular manslaughter, without gross negligence; 5) gross vehicular manslaughter; 6) fleeing or attempting to elude a peace officer, as specified; 7) fleeing or attempting to elude a peace officer which causes serious bodily injury or death; 8) driving a vehicle upon a highway, except to the right of an intermittent barrier or dividing section which separates two or more lanes of opposing traffic, resulting in injury or death; and 9) engaging in a motor vehicle speed contest that proximately causes specified injuries to another person. To the extent that these offenses are charged as felonies and are not reduced to misdemeanors, they are not eligible for diversion and therefore will not be affected by this bill.

Further, DUIs have been found ineligible for court-initiated misdemeanor diversion. After the creation of court-initiated diversion in 2021, it was initially unclear if DUIs were eligible for judicial diversion. A longstanding statute prohibits a court, if a person is charged with a DUI offense, from suspending or dismissing the criminal proceedings for the purposes of allowing the accused to participate in specified education, training, or treatment programs. (Veh. Code, § 23640, subd. (a).) On the other hand, DUIs were not explicitly excluded from court-initiated misdemeanor diversion, as they had been from prosecutor-initiated diversion. (Pen. Code, § 1001.51, subd. (b).) This led a California superior court to find that misdemeanor DUIs were eligible for court-initiated misdemeanor diversion. (*People v. Superior Court (Diaz-Armstrong)* (2021) 67 Cal.App.5th Supp. 10, 20.)

However, in recent years, courts of appeals have largely brought clarity to this matter, consistently finding that DUIs are not eligible for court-initiated diversion. (See *Grassi v. Superior Court* (2021) 73 Cal.App.5th 283, 308 [finding that court-initiated diversion "authorizes diversion for all misdemeanor defendants except those listed in subdivision (e) and misdemeanor DUI defendants pursuant to Vehicle Code section 23640"]. See also *Tan v. Appellate Division of Superior Court* (2022) 76 Cal.App.5th 130, 148; *Islas v. Appellate Division of Superior Court* (2022) 78 Cal.App.5th 1104, 1110.) Accordingly, the changes made by this bill generally will not apply to persons arrested for DUIs.

5) **Inconsistency With the Benefits of Diversion:** This bill may be inconsistent with the function and purpose of completing court-initiated diversion; that "the arrest…shall be deemed *to have never occurred.*" (Pen. Code, § 1001.97, subds. (a) (emphasis added).) Upon successful completion of court-initiated diversion, the arrest upon which diversion was imposed shall be deemed to have never occurred, and the defendant may indicate, in response to any question concerning their prior criminal record, that they were not arrested. (*Ibid.*) Further, existing law prohibits a record pertaining to an arrest resulting in successful completion of court-initiated misdemeanor diversion from, without the defendant's consent, being used in any way that could result in the denial of any employment, benefit, license, or certificate (Pen. Code, § 1001.97, subd. (a).) The only exemption to this prohibition is for peace officer applications. (Pen. Code, § 1001.97, subds. (a) & (b).) Requiring points to be added to a person's driving record, even after completing diversion, creates another exemption to the strict record-clearing benefits associated with court-initiated diversion.

Further, this bill may conflict with the existing law's prohibition against an arrest record being used in "any way that could result in the denial of any employment, benefit, *license*, or certificate." (Pen. Code, § 1001.97, subd. (a) (emphasis added).) The term "license" as used in Penal Code section 1001.97 is not defined. This was likely intended to extend the record-clearing benefits of diversion to employment-related licenses, such as professional licenses.[8] However, a plain reading of the statute broadly prohibits, where a person successfully completes diversion, the underlying arrest from being used in *any way* that could result in the denial of a license. Adding points to a person's driving record after they complete diversion, which could contribute to that person receiving a DMV-imposed license suspension, could reasonably be interpreted to be using that underlying arrest in a way that results in a denial of a license. Accordingly, this bill may create an inconsistency in the law.

6) **Argument in Support**: According to the *California Police Chiefs Association*, "AB 1662 would ensure that traffic safety accountability is preserved when a misdemeanor diversion results in dismissal of a case involving a point-assessable driving offense.

"Under current law, drivers who successfully complete diversion under Penal Code Section 1001.95 may avoid a criminal conviction; however, dismissal of these cases can also result in the DMV not assessing violation points that are otherwise critical to maintaining accurate driver safety records. AB 1662 clarifies that when a court dismisses a qualifying misdemeanor following diversion, the DMV must still assess the applicable violation points.

"This measure strengthens California's traffic safety framework by ensuring that serious driving conduct remains reflected in a driver's official record for purposes of negligent operator determinations and license suspension. Without this clarification, diversion may unintentionally undermine the integrity of the state's point system and weaken deterrence for repeat or dangerous drivers. Maintaining accurate driving histories is essential to protecting the public and preventing recidivism on California roadways."

7) **Argument in Opposition**: According to *Western Center on Law and Poverty*, "If AB 1662 is passed, people who are charged with driving-related offenses and complete a diversion program would, nonetheless, be assessed points on their license, as though they were convicted. Western Center opposes AB 1662 because it punishes legally innocent people for a crime they were never convicted of.

"Diversion is an "exit ramp" to the criminal legal system – which "minimize[s] people's exposure to the criminal legal system." Pretrial diversion programs allow people charged with crimes to complete a rehabilitation program in lieu of prosecution. Upon successful completion of the program, the judge dismisses their case. Under California Penal Code section 1001.95, judges have the discretion to offer diversion to people charged with most misdemeanors. Diversion is a crucial criminal justice tool: it can clear court calendars and reduce jail and prison overcrowding. Diversion also advances public safety – research shows that diversion programs cut recidivism by half. Policies that weaken or remove these incentives to complete diversion programs undermine these benefits, harming people charged

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[8] The author's statement of the enacting statute emphasizes that diversion "allow[s] a person to avoid the lifelong collateral consequences associated with a criminal record when they are seeking employment or housing." *See* AB 3234 (Ting), Senate Floor Analysis (accessed Feb. 19, 2025), available at: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB3234#

with crimes, straining an already overburdened criminal legal system, and diminishing public safety.

"Receiving points on a driving record can have devastating consequences to low-income Californians and their families, including increased costs of insurance and even the loss of a driver's license. The loss of a driver's license is a major threat to economic security, particularly for low-income Californians and their families:

"Numerous studies have found a direct correlation between driving and employment. A task force report to the Governor of New Jersey cited a survey of suspended drivers conducted by Rutgers University researchers, which found that following a license suspension, 42% of people lost their jobs as a result of the suspension. Of those who lost their jobs, 45% could not find another job, and this effect was most pronounced for seniors and low income people. Of those who were able to find new employment, 88% reported decreased wages.

"People who successfully complete diversion programs are legally innocent. They have not been convicted of any crime. Punishing people who complete diversion cuts against the presumption of innocence that lies at the core of the U.S. criminal legal system.

"Finally, this legislative session there are numerous efforts to reform and update DUI laws in California. We strongly believe that a broader discussion on existing DUI statutes should take place among key legislators and a wide array of stakeholders in order to possibly identify a more comprehensive and balanced approach to the larger policy issue. We encourage this author and others to help bring us together for this convening."

8) **Related Legislation**:

a) AB 1685 (Lackey) would increase the number of points that must be added to a person's driving record for the crimes of intoxicated vehicular manslaughter without gross negligence and vehicular manslaughter. AB 1685 is pending a hearing in this Committee.

b) SB 953 (Niello) would require a violation for vehicular manslaughter to be given a value of two driving record points, even if the defendant's case is dismissed because they completed court-initiated misdemeanor diversion. SB 953 is pending a hearing in Senate Transportation.

9) **Prior Legislation**:

a) AB 2519 (Maienschein), of the 2023-2024 Legislative Session, would have prohibited individuals diverted for a misdemeanor, for which there would be a 10-year prohibition on possessing a firearm if convicted, from possessing a firearm until they successfully complete diversion. AB 2519 was held in the Senate Appropriations Committee.

b) SB 1282 (Smallwood-Cuevas), of the 2023-2024 Legislative Session, would have authorized a county that opts to create a diversion or deferred entry of judgment program for theft offenses to have their program conducted by a county department providing pretrial or health care services or a nonprofit contract agency, and expanded the court-initiated misdemeanor diversion program to felonies, except those specified. SB 1282 failed passage on the Senate Floor.

c) AB 74 (Muratsuchi), of the 2023-2024 Legislative Session, would have added the proposed crime of knowingly attending, participating, or aiding and abetting the commission of a vehicle sideshow or street takeover to the list of convictions that require two points to be added to the defendant's driving record. AB 74 was never heard.

d) AB 282 (Lackey), of the 2021-2022 Legislative Session, would have DUI and other offenses relating to reckless operation of a vehicle excluded from court-initiated misdemeanor diversion. AB 282 failed passage in the Senate Public Safety Committee.

e) SB 421 (Bradford), of the 2021-2022 Legislative Session, would have established a pretrial diversion scheme with specific conditions for misdemeanor DUI violations. SB 421 was held in the Senate Appropriations Committee.

f) AB 3234 (Ting), Chapter 334, Statutes of 2020, created a court-initiated misdemeanor diversion program.

g) AB 47 (Daly), Chapter 603, Statutes of 2019, removed the prohibition on the DMV assessing a point on a driver's license if they are convicted of a violation of operating a handheld wireless or communication device while driving and required DMV to assess a point for a second violation in three years occurring after January 1, 2021.

h) SB 725 (Jackson), Chapter 179, Statutes of 2017, specified that a trial court can grant military pretrial diversion on a misdemeanor DUI.

REGISTERED SUPPORT / OPPOSITION:

Support

AAA Northern California, Nevada & Utah
Automobile Club of Southern California
California Police Chiefs Association
Safety and Advocacy for Empowerment (SAFE)

Opposition

ACLU California Action
Debt Free Justice California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children / All of US or None
Local 148 LA County Public Defenders Union
Sister Warriors Freedom Coalition
Western Center on Law & Poverty, INC.

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