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California State Assembly

PUBLIC SAFETY



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AGENDA

Tuesday, March 17, 2026
8:30 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

- | | | | |
|-----|---------|-----------|---|
| 1. | AB 1538 | Krell | PULLED BY THE AUTHOR |
| 2. | AB 1632 | Johnson | Trespass. |
| 3. | AB 1727 | Ta | Crimes: unlawful use of DNA. |
| 4. | AB 1782 | DeMaio | Incarcerated persons: mental health evaluations. |
| 5. | AB 1825 | Krell | Health care: state hospitals. |
| 6. | AB 1872 | Ta | False reporting. |
| 7. | AB 1874 | Wilson | Vehicles: driver's license suspension and revocation. |
| 8. | AB 1889 | Ramos | Protective orders. |
| 9. | AB 1905 | Schultz | Juveniles: custodial interrogation. |
| 10. | AB 1917 | Schultz | Criminal procedure: information. |
| 11. | AB 1922 | Lowenthal | PULLED BY THE AUTHOR |
| 12. | AB 1948 | Ramos | Firearms: concealed carry licenses. |
| 13. | AB 1955 | Alanis | Crimes: firearm enhancements. |
| 14. | AB 1968 | Gallagher | Juveniles: transfer to court of criminal jurisdiction: offense. |

Date of Hearing: March 17, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1538 (Krell) – As Introduced January 5, 2026

PULLED BY THE AUTHOR.

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

Date of Hearing: March 17, 2026

Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1632 (Johnson) – As Introduced January 26, 2026

As Proposed to be Amended in Committee

SUMMARY: Removes the requirement that trespass letters of authorization be submitted in *notarized* writing on a law enforcement agency (LEA)-provided form, to cover a period of time of up to 12 months, during a period where there is a fire hazard or the owner, owner's agent, or person in lawful possession is absent from the premises or property, or when the premises or property are closed to the public and posted as being closed.

EXISTING LAW:

- 1) Provides that a person is guilty of misdemeanor trespass if they enter and occupy real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession (hereafter "owner"). (Pen. Code, § 602, subd. (m).)
- 2) Generally punishes trespass as a misdemeanor, punishable by imprisonment in county jail for up to six months, a fine of up to \$1,000, or both. (Pen. Code, §§ 19, 602.)
- 3) Provides that a person is guilty of misdemeanor trespass if they refuse or fail to leave land, real property, or structures belonging to, or lawfully occupied by, another and not open to the general public, upon being requested to leave by the owner or by a peace officer at the request of the owner and upon being informed by the officer that they are acting at the request of the owner, subject to the following:
 - a) Generally requires the owner to make a separate request to an officer on each occasion when an officer's assistance in dealing with a trespass is requested.
 - b) Authorizes an owner to make a single request for an officer's assistance, made in a notarized writing on an LEA-provided form, to cover up to 12 months or a period determined by local ordinance, whichever is shorter, and identified by specific dates, during a period where there is a fire hazard or the owner is absent from the premises or property.
 - c) Authorizes an owner to make a single request for an officer's assistance, made in a notarized writing on an LEA-provided form, to cover up to 12 months when the premises or property is closed to the public and posted as being closed.
 - d) Requires the requester to inform the LEA to which the request was made, in writing, if assistance is no longer desired before the 12-month authorization period expires.

- e) Specifies that this offense does not apply to persons engaged in lawful labor union activities that are permitted to be carried out on the property, as specified.
 - f) Provides that land, real property, or structures owned or operated by a housing authority for tenants, as defined, constitutes property not open to the general public, although this offense does not apply to persons on the premises who are engaging in constitutionally protected activities, or who are there at the request of a resident or management and who are not loitering or otherwise suspected of violating a law or ordinance.
 - g) Provides that a request for a peace officer's assistance shall expire upon transfer of ownership of the property or upon a change in the person in lawful possession.
 - h) Provides that a request for an officer's assistance in dealing with a trespass may be submitted electronically, and a local government may accept electronic submissions of requests. (Pen. Code § 602, subd. (o).)
- 4) Establishes numerous other trespass crimes, as specified. (Pen. Code, § 602, subds. (a)-(y).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "As a former Mayor and Council Member for Lake Elsinore, I've seen firsthand how administrative red tape can hinder public safety. Law enforcement relies on 602 Letters to enforce trespassing laws and prevent unauthorized entry of unoccupied properties, but current standards requiring notarization and limiting duration of such letters poses undue burden on property owners and local governments. AB 1632 provides a crucial, commonsense tool for law enforcement to better protect property rights by extending the duration of 602 Letters to three yea[r]s and removing onerous notarization requirements. These changes ensure that property rights are upheld and trespassing enforcement can be performed proactively."
- 2) **Trespass Letters of Authority:** California's primary trespass statute – Penal Code section 602 – has nearly an entire alphabet of subdivisions. Most of the subdivisions in Section 602 define separate crimes, typically each with slightly different elements than the other subdivisions. As a general rule, a person who enters and occupies real property or structures of any kind without the consent of the owner is guilty of misdemeanor trespass. (Pen. Code, § 602, subd. (m).) Trespass is typically a misdemeanor, though California law does include a felony for aggravated trespass. (Pen. Code, § 601.) For misdemeanor trespass, the penalty is up to six months of jail time or up to a \$1,000 fine, or both. (Pen. Code, §§ 19, 602.)

Most relevant here, a person is guilty of misdemeanor trespass if they refuse or fail to leave land, real property, or structures belonging to, or lawfully occupied by, another and not open to the general public, upon being requested to leave by the owner or by a peace officer at the request of the owner. (Pen. Code, § 602, subd. (o).) Owners of such property may request law enforcement assistance in ejecting trespassers from their property. (*Ibid.*) Owners are generally required to submit a separate request to law enforcement for each occasion where law enforcement assistance in ejecting the trespasser is required. (*Ibid.*) However, during a period where there is a fire hazard or the owner is absent, or when the premises or property is

closed to the public and posted as such, a single request for assistance may be valid for the shorter of either 12 months or a period determined by local ordinance. (*Ibid.*) Such requests must be made in a notarized writing on an LEA-provided form and may be submitted electronically. (*Ibid.*) A request for assistance expires upon transfer of ownership of the property or upon a change in the person in lawful possession. (*Ibid.*) Lastly, the owner must inform the LEA to which the request was made, in writing, when assistance is no longer desired, before the period not exceeding 12 months expires.

Requests for law enforcement assistance in enforcing trespass laws are generally made via a “Trespass Letter of Authority.”¹ These letters – also known as “602 Letters” – authorize local authorities to enter the premises to enforce trespass laws in the owner’s absence.²

- 3) **Effect of this Bill:** This bill removes a procedural requirement that applies to trespass authorization letters for the trespass offense of refusing or failing to leave private property upon being requested to leave by the owner or a peace officer. Specifically, it removes the requirement that the request for assistance in dealing with a trespasser be made in a *notarized* writing on an LEA-provided form, during a period where there is a fire hazard or the owner is absent, or when the premises or property are closed to the public and posted as such. The author contends that this notarization requirement is onerous and overly burdensome. This notarization requirement was added just several years ago by SB 602 (Archuleta), Chapter 404, Statutes of 2023, and has only been in effect for approximately two years. This requirement largely functions to protect the credibility of 602 Letter submissions by verifying the identity of the owner submitting the letter.
- 4) **Trespass Letters Enforcement Against Unhoused Persons:** As of 2024, California had the highest poverty rate in the country.³ California’s poverty rate rose from 11.7% in 2021 to 13.2% in 2023, and nearly a third of Californians are living in or near poverty.⁴ This rising poverty rate, as well as increased costs of living, has coincided with a significant increase in California’s homelessness population, increasing by as much as 7.5% between 2022 and 2023.⁵ Recent data suggests that more than 180,000 people were experiencing homelessness in California in 2024.⁶ Racial disparities among the homeless population are well-documented. The share of Black, American Indian, Alaska Native, or Indigenous people experiencing homelessness is five times greater than their share of the total population.⁷

¹ City of Merced, *Letter of Authority/No Trespass Letter* <<https://www.cityofmerced.gov/public-safety/police/letter-of-authority-no-trespass-letter>> (as of Feb. 17, 2026).

² Merced Police Department, *Letter of Authority Online Form* <<https://survey123.arcgis.com/share/bd2dc7789f0b449c9948274381074be3>> (as of Feb. 17, 2026).

³ Dan Walters, *Once again, California beats every other state when it comes to poverty* (Sept. 11, 2024) <<https://calmatters.org/commentary/2024/09/california-again-top-state-poverty/>> (as of Mar. 12, 2026).

⁴ Bohn et. al., *Poverty in California*, Public Policy Institute of California (Oct. 2023) <<https://www.ppic.org/publication/poverty-in-california/>> (as of Mar. 12, 2026).

⁵ Cuellar et al., *An Update on Homelessness in California*, PPIC (March 21, 2024) <<https://www.ppic.org/blog/an-update-on-homelessness-in-california/>> (as of Mar. 12, 2026).

⁶ *Ibid.*

⁷ Business, Consumer Services and Housing Agency, *Acting to Prevent, Reduce, and End Homelessness* (accessed March 6, 2025) <<https://bcsh.ca.gov/calich/hdis.html>> (as of Mar. 12, 2026).⁸ Ding et al., *Homelessness on public transit: A review of problems and responses*, *Transportation Reviews*, 2022, Vol. 42: 2, 134-156, at p. 135 <<https://doi.org/10.1080/01441647.2021.1923583>> (as of Mar. 12, 2026).

Poverty and lack of shelter are associated with numerous criminal penalties. As summarized by a peer-reviewed journal, *Transport Reviews*:

[There has been] a general trend of increasing criminalization of homelessness over the last three decades; transit environments are no exception. Broadly, this has entailed the adoption of ordinances restricting activities associated with homelessness (such as camping, loitering, and panhandling), more intensive policing, and the use of hostile architecture in public spaces [citation omitted]. For example, a number of municipalities have enacted since the early 1990s “sit-lie” ordinances, which prohibit individuals from lingering, sitting, or sleeping in public spaces.⁸

This is particularly true following the U.S. Supreme Court decision in *City of Grants Pass v. Johnson*, which overturned legal precedent and permitted local governments to arrest and fine unhoused persons in public spaces, even when no alternative shelter is available. (*City of Grants Pass v. Johnson* (2024) 603 U.S. 52.) Following this court case, there has been an uptick in criminal penalties associated with being unhoused.⁹ For example, the City of Fresno has since made it a misdemeanor to camp anywhere, even if no shelter is available.¹⁰ As of September 2024, at least 15 local jurisdictions in California have modified their ordinances to further punish conduct associated with homelessness.¹¹

Criminal trespass laws, enforced in part through trespass authorization letters, are often used to address homelessness. For example, in 2019, Bakersfield officials proposed a program to fight homelessness by more aggressively prosecuting and incarcerating trespassers.¹² In 2025, the city of San Jose voted to adopt a new ordinance subjecting an unhoused person to arrest for trespass if that person has rejected three offers for shelter.¹³

Critics argue that trespass authorization letters exacerbate homelessness by disproportionately targeting homeless individuals. According to a report by the ACLU, “trespass letters of authorization enable police, local businesses, public services, and even homelessness service providers to work together to control the movements of unhoused people and exclude them from both public and private spaces.”¹⁴ In a case study conducted in Laguna Beach, the ACLU found that “[s]eventy percent of trespass letters of authorization reference unhoused people as an impetus for the letter” and that from 2020 to April 2021, “three-quarters of all trespassing citations were issued to people that police officers identified as being unhoused.”¹⁵

⁸ Ding et al., *Homelessness on public transit: A review of problems and responses*, *Transportation Reviews*, 2022, Vol. 42: 2, 134-156, at p. 135 <<https://doi.org/10.1080/01441647.2021.1923583>> (as of Mar. 12, 2026).

⁹ Kendall, *No sleeping bags, keep moving: California cities increase crackdown on homeless encampments* (Sept. 12, 2024) <<https://calmatters.org/housing/homelessness/2024/09/camping-ban-ordinances/>> (as of Mar. 12, 2026).

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² Julia Wick, *Throwing people in jail on drug charges? That's Bakersfield's idea to fight homelessness.* Los Angeles Times (Sept. 27, 2019) <<https://www.latimes.com/california/story/2019-09-26/homeless-bakersfield-jail-misdemeanor-drug-trespassing>> (as of Mar. 12, 2026).

¹³ Janie Har, *San Jose makes homeless people eligible for arrest if they refuse 3 offers of shelter*, NBC Bay Area (June 10, 2025) <<https://www.nbcbayarea.com/news/local/san-jose-homeless-people-arrests-shelter-offer/3889306/>> (as of Mar. 12, 2026).

¹⁴ ACLU California, *Outside the Law: The Legal War Against Unhoused People* (Oct. 2021), at p. 47 <<https://www.aclusocal.org/app/uploads/2021/11/outsidethelaw-aclufdnsca-report.pdf>> (as of Mar. 12, 2026).

¹⁵ *Id.* at pp. 50-51.

Trespass letters can constitute a significant portion of the total citations issued to unhoused persons. According to the ACLU Report, of the 97 citations issued to unhoused people in Laguna Beach from January 2020 to April 2021, 67 (69 percent) resulted from trespass authorization letters.¹⁶ Such strict enforcement of trespass laws can contribute to a cycle of arrests, hearings, and fines that make emerging from homelessness more difficult.

- 5) **Argument in Support:** According to the *City of Riverside*, “As a city committed to public safety and property protection, Riverside is taking proactive steps to address persistent challenges related to trespass and unauthorized property occupation. We are proud to sponsor AB 1632, which amends Section 602 of the Penal Code to strengthen enforcement tools and improve property protection for communities across California.

“AB 1632 makes two critical improvements:

1. Removes the notarization requirement for submitting a request for peace officer assistance in dealing with trespass incidents. This change streamlines the process for property owners and local agencies, reducing administrative burdens and improving responsiveness.
2. Extends the duration of a single request for peace officer assistance from 12 months to 3 years for properties that are closed to the public, present a fire hazard, or where the owner is absent. This extension provides greater efficiency and continuity in enforcement, particularly for properties that remain vulnerable for extended periods.

“Riverside faces ongoing challenges with unauthorized entry and occupation of properties, which can lead to public safety hazards, fire risks, and significant costs for property owners and taxpayers. By simplifying the request process and allowing longer coverage periods, AB 1632 will help law enforcement respond more effectively and reduce repeated administrative filings.”

- 6) **Argument in Opposition:** According to the *National Alliance to End Homelessness*, AB 1632 “significantly expand[s] the scope of existing trespassing procedures without regard for due process protections or other unintended consequences of this expansion. Moreover, this bill would disproportionately target people experiencing homelessness and lead to more sanctions and penalties that add more impediments to getting back into housing.

“Under existing law, property owners that are seeking to remove a suspected trespasser can submit a letter to local law enforcement, giving them the mandate to remove people from the designated property for up to one year. Up until recently, the submittal of these trespass letters, often referred as “602 letters” in reference to California Penal Code Section 602, led to a 30 day period where law enforcement was authorized to remove potential trespassers. As of January 1, 2024, Penal Code Section 602 was changed to dramatically extend this 30 day period to one year, and gave additional flexibility to allow property owners to submit these letters electronically. Meanwhile, AB 1632 proposes to expand this period from one year to three years, and to remove the requirement for these letters to be notarized.

¹⁶ *Id.* at p. 51.

“Given this very recent expansion of Penal Code 602, it would not [be] appropriate to further expand the scope while California is still seeking to understand the ramifications of recent changes. Additionally, crime data do not substantiate any need for this expansion—in 2024, property crime declined nearly 10% from the prior year, reaching its lowest levels in 30 years.

“Moreover, expanding the length of time that 602 letters can remain in effect, coupled with the ability to submit these letters electronically without notarization, increases the likelihood of letters being submitted in absentia, and leading to arrests based on extremely outdated information, which would likely undermine critical due process protections.

“Finally, this policy would fall disproportionately on people experiencing homelessness, and extensive evidence shows it would likely exacerbate and prolong their homelessness. Trespassing is often one of the most common offenses used to cite people experiencing homelessness. Yet the arrests, citations, and fines that arise from these offenses often make it harder for people to move back into housing—one recent study showed citations and arrests prolonged a person’s homelessness for nearly two years, even when controlling for other factors

“Public safety and homelessness consistently top the list of priorities for California voters. However, given recent changes to Penal Code 602, AB 1632 would only exacerbate homelessness while providing now discernible benefit to communities other than to increase arbitrary penalties falling hardest on a community’s poorest residents.”

- 7) **Related Legislation:** AB 1097 (Avila Farias), of the 2025-2026 Legislative Session, would have made it a misdemeanor for a person to enter upon private property within 48 hours of the owner requesting that person to leave the premises or having received an order of exclusion from a tribal government. The hearing on AB 1097 in this committee was canceled at the request of the author.
- 8) **Prior Legislation:**
 - a) AB 2120 (Chen), of the 2023-2024 Legislative Session, would have allowed a licensed repossession agency and its employees to enter upon real property, not open to the public and without the consent of the owner, when they are searching for collateral or repossessing collateral, and upon completing the search or repossession, leave the private property within a reasonable amount of time. AB 2120 was vetoed by the Governor.
 - b) SB 468 (Seyarto), of the 2023-2024 Legislative Session, was substantially similar to this bill. SB 468 was never heard in Senate Public Safety.
 - c) SB 602 (Archuleta), Chapter 404, Statutes of 2023, extended the operative timeframe for trespass letters of authorization from 30 days to 12 months, as specified.
 - d) SB 1110 (Melendez), of the 2021-2022 Legislative Session, was substantially similar to this bill. SB 1110 failed passage on the Assembly floor.
 - e) AB 515 (Chen), of the 2021-2022 Legislative Session, was substantially similar to AB 2120 (Chen), of the 2023-2024 Legislative Session. AB 515 was vetoed by the Governor.

- f) AB 660 (Rubio), Chapter 381, Statutes of 2017, expanded the crime of trespass on the property of a public agency.
- g) AB 1686 (Medina), Chapter 453, Statutes of 2014, extended from six months to 12 months the time in which a property owner may authorize a peace officer to arrest a trespasser on private property, closed to the public and posted as being closed, without the owner of the property being present.
- h) SB 1295 (Block), Chapter 373, Statutes of 2014, extended from six months to 12 months the time in which a property owner may authorize a peace officer to arrest a trespasser on private property, closed to the public and posted as being closed, without the owner of the property being present, and provides that a request for assistance shall expire upon transfer of ownership of the property or upon change of the person in lawful possession.
- i) AB 668 (Lieu) Chapter 531, Statutes of 2010, expanded the scope of criminal trespass by providing that during a specified timeframe it is unlawful for a person who has been convicted of any felony, any misdemeanor, or any specified infraction, committed upon a particular private property, to enter or refuse or fail to leave that property after being informed by a peace officer that the property is not open to the particular person, or to refuse or fail to leave when asked, as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

California Police Chiefs Association
City of Bellflower
City of Beverly Hills
City of Concord
City of Corona
City of Eastvale
City of Indio
City of LA Quinta, Riverside County, California
City of Martinez
City of Menifee
City of Palm Desert
City of Riverside
City of San Jacinto
City of Temecula
City of Walnut Creek
Elsinore Valley Municipal Water District
League of California Cities
Southwest California Legislative Council

Oppose

ACLU California Action
California Public Defenders Association
Californians United for a Responsible Budget
Cd11 Coalition for Human Rights
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Homefirst Services of Santa Clara County
Homeless Action Center Alameda County
Housing California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children / All of US or None
Local 148 Los Angeles County Public Defender's Union
National Alliance to End Homelessness
San Francisco Public Defender
The Bride's Chamber
The Translatin@ Coalition
University of the Pacific McGeorge School of Law Homeless Advocacy Clinic
Western Center on Law & Poverty, INC.
Western Regional Advocacy Project

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

Amended Mock-up for 2025-2026 AB-1632 (Johnson (A))

**Mock-up based on Version Number 99 - Introduced 1/26/26
Submitted by: Staff Name, Office Name**

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

SECTION 1. Section 602 of the Penal Code is amended to read:

602. Except as provided in subdivisions (u), (v), and (x), and Section 602.8, a person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on those lands.

(c) Maliciously injuring or severing from the freehold of another anything attached to it, or its produce.

(d) Digging, taking, or carrying away from a lot situated within the limits of an incorporated city, without the license of the owner or legal occupant, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in a city or town laid down on the map or plan of the city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying a sign, signboard, or notice placed upon, or affixed to, a property belonging to the state, or to a city, county, city and county, town, or village, or upon the property of a person, by the state or by an automobile association, which sign, signboard, or notice is intended to indicate or designate a road or a highway, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon the property of a person, without license from the owner, a notice, advertisement, or designation of, or a name for a commodity, whether for sale or otherwise, or a picture, sign, or device intended to call attention to it.

(g) Entering upon lands owned by another person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away oysters or other shellfish planted, growing, or on any of those lands, whether covered by water or not, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of those lands.

(h) (1) Entering upon lands or buildings owned by another person without the license of the owner or legal occupant, where signs forbidding trespass are displayed, and whereon cattle, goats, pigs, sheep, fowl, or any other animal is being raised, bred, fed, or held for the purpose of food for human consumption; or injuring, gathering, or carrying away any animal being housed on any of those lands, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of those lands.

(2) In order for there to be a violation of this subdivision, the trespass signs under paragraph (1) shall be displayed at intervals not less than three per mile along all exterior boundaries and at all roads and trails entering the land.

(3) This subdivision does not preclude prosecution or punishment under any other law, including, but not limited to, grand theft or any provision that provides for a greater penalty or longer term of imprisonment.

(i) Willfully opening, tearing down, or otherwise destroying a fence on the enclosed land of another, or opening a gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying a sign, signboard, or other notice forbidding shooting on private property.

(j) Building fires upon lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering the lands, without first having obtained written permission from the owner of the lands or the owner's agent, or the person in lawful possession.

(k) Entering lands, whether unenclosed or enclosed by fence, for the purpose of injuring property or property rights or with the intention of interfering with, obstructing, or injuring a lawful business or occupation carried on by the owner of the land, the owner's agent, or the person in lawful possession.

(l) Entering lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands without the written permission of the owner of the land, the owner's agent, or the person in lawful possession, and any of the following:

(1) Refusing or failing to leave the lands immediately upon being requested by the owner of the land, the owner's agent, or by the person in lawful possession to leave the lands.

(2) Tearing down, mutilating, or destroying a sign, signboard, or notice forbidding trespass or hunting on the lands.

(3) Removing, injuring, unlocking, or tampering with a lock on a gate on or leading into the lands.

(4) Discharging a firearm.

(m) Entering and occupying real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession.

(n) Driving a vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to, or lawfully occupied by, another and known not to be open to the general public, without the consent of the owner, the owner's agent, or the person in lawful possession. This subdivision does not apply to a person described in Section 22350 of the Business and Professions Code who is making a lawful service of process, provided that upon exiting the vehicle, the person proceeds immediately to attempt the service of process, and leaves immediately upon completing the service of process or upon the request of the owner, the owner's agent, or the person in lawful possession.

(o) (1) Refusing or failing to leave land, real property, or structures belonging to, or lawfully occupied by, another and not open to the general public, upon being requested to leave by (A) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that they are acting at the request of the owner, the owner's agent, or the person in lawful possession, or (B) the owner, the owner's agent, or the person in lawful possession. The owner, the owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer's assistance, made in writing on a form provided by the law enforcement agency, may be made to cover a limited period of time not to exceed a time period determined by local ordinance or 12 months ~~three years~~, whichever is shorter, and identified by specific dates, during which there is a fire hazard or the owner, owner's agent, or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance, made in writing on a form provided by the law enforcement agency, may be made for a period not to exceed 12 months ~~three years~~ when the premises or property is closed to the public and posted as being closed. The requestor shall inform the law enforcement agency to which the request was made, in writing, when the assistance is no longer desired, before the period not exceeding 12 months ~~three years~~ expires. However, this subdivision does not apply to persons engaged in lawful labor union activities that are permitted to be carried out on the property by the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code) or by the federal National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by a housing

authority for tenants, as defined in Section 34213.5 of the Health and Safety Code, constitutes property not open to the general public; however, this subdivision does not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and who are not loitering or otherwise suspected of violating or actually violating a law or ordinance.

(2) A request for a peace officer's assistance shall expire upon transfer of ownership of the property or upon a change in the person in lawful possession.

(3) A request for a peace officer's assistance in dealing with a trespass may be submitted electronically. A local government may accept electronic submissions of requests pursuant to this subdivision.

(p) Entering upon lands declared closed to entry, as provided in Section 4256 of the Public Resources Code, if the closed areas have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through the lands.

(q) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchperson, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances would indicate to a reasonable person that the person has no apparent lawful business to pursue.

(r) Knowingly skiing in an area or on a ski trail that is closed to the public and that has signs posted indicating the closure.

(s) Refusing or failing to leave a hotel or motel, where the person has obtained accommodations and has refused to pay for those accommodations, upon request of the proprietor or manager and the occupancy is exempt, pursuant to subdivision (b) of Section 1940 of the Civil Code, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For purposes of this subdivision, occupancy at a hotel or motel for a continuous period of 30 days or less shall, in the absence of a written agreement to the contrary, or other written evidence of a periodic tenancy of indefinite duration, be exempt from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(t) (1) Entering upon private property, including contiguous land, real property, or structures thereon belonging to the same owner, whether or not generally open to the public, after having been informed by a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that the peace officer is acting at the request of the owner, the owner's agent, or the person in lawful possession, that the property is not open to the particular person; or refusing or failing to leave the property upon being asked to leave the property in the manner provided in this subdivision.

(2) This subdivision applies only to a person who has been convicted of a crime committed upon the particular private property.

(3) A single notification or request to the person as set forth above shall be valid and enforceable under this subdivision unless and until rescinded by the owner, the owner's agent, or the person in lawful possession of the property.

(4) Where the person has been convicted of a violent felony, as described in subdivision (c) of Section 667.5, this subdivision applies without time limitation. Where the person has been convicted of any other felony, this subdivision applies for no more than five years from the date of conviction. Where the person has been convicted of a misdemeanor, this subdivision applies for no more than two years from the date of conviction. Where the person was convicted for an infraction pursuant to Section 490.1, this subdivision applies for no more than one year from the date of conviction. This subdivision does not apply to convictions for any other infraction.

(u) (1) Knowingly entering, by an unauthorized person, upon an airport operations area, passenger vessel terminal, or public transit facility if the area has been posted with notices restricting access to authorized personnel only and the postings occur not greater than every 150 feet along the exterior boundary, to the extent, in the case of a passenger vessel terminal, as defined in subparagraph (B) of paragraph (3), that the exterior boundary extends shoreside. To the extent that the exterior boundary of a passenger vessel terminal operations area extends waterside, this prohibition applies if notices have been posted in a manner consistent with the requirements for the shoreside exterior boundary, or in any other manner approved by the captain of the port.

(2) A person convicted of a violation of paragraph (1) shall be punished as follows:

(A) By a fine not exceeding one hundred dollars (\$100).

(B) By imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment, if the person refuses to leave the airport or passenger vessel terminal after being requested to leave by a peace officer or authorized personnel.

(C) By imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment, for a second or subsequent offense.

(3) As used in this subdivision, the following definitions shall control:

(A) "Airport operations area" means that part of the airport used by aircraft for landing, taking off, surface maneuvering, loading and unloading, refueling, parking, or maintenance, where aircraft support vehicles and facilities exist, and which is not for public use or public vehicular traffic.

(B) “Passenger vessel terminal” means only that portion of a harbor or port facility, as described in Section 105.105(a)(2) of Title 33 of the Code of Federal Regulations, with a secured area that regularly serves scheduled commuter or passenger operations. For the purposes of this section, “passenger vessel terminal” does not include any area designated a public access area pursuant to Section 105.106 of Title 33 of the Code of Federal Regulations.

(C) “Public transit facility” has the same meaning as specified in Section 171.7.

(D) (i) “Authorized personnel” means a person who has a valid airport identification card issued by the airport operator or has a valid airline identification card recognized by the airport operator, or any person not in possession of an airport or airline identification card who is being escorted for legitimate purposes by a person with an airport or airline identification card.

(ii) “Authorized personnel” also means a person who has a valid port identification card issued by the harbor operator, or who has a valid company identification card issued by a commercial maritime enterprise recognized by the harbor operator, or any other person who is being escorted for legitimate purposes by a person with a valid port or qualifying company identification card.

(iii) “Authorized personnel” also means a person who has a valid public transit employee identification card.

(E) “Airport” means a facility whose function is to support commercial aviation.

(v) (1) Except as permitted by federal law, intentionally avoiding submission to the screening and inspection of one’s person and accessible property in accordance with the procedures being applied to control access when entering or reentering a sterile area of an airport, passenger vessel terminal, as defined in subdivision (u), or public transit facility, as defined in Section 171.7, if the sterile area is posted with a statement providing reasonable notice that prosecution may result from a trespass described in this subdivision, is a violation of this subdivision, punishable by a fine of not more than five hundred dollars (\$500) for the first offense. A second and subsequent violation is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(2) Notwithstanding paragraph (1), if a first violation of this subdivision is responsible for the evacuation of an airport terminal, passenger vessel terminal, or public transit facility and is responsible in any part for delays or cancellations of scheduled flights or departures, it is punishable by imprisonment of not more than one year in a county jail.

(w) Refusing or failing to leave the location of a domestic violence shelter-based program at any time after being requested to leave by a managing authority of the shelter.

(1) A person who is convicted of violating this subdivision shall be punished by imprisonment in a county jail for not more than one year.

(2) The court may order a defendant who is convicted of violating this subdivision to make restitution to a victim of domestic violence in an amount equal to the relocation expenses of the victim of domestic violence and the victim's children if those expenses are incurred as a result of trespass by the defendant at the location of a domestic violence shelter-based program.

(x) (1) Knowingly entering or remaining in a neonatal unit, maternity ward, or birthing center located in a hospital or clinic without lawful business to pursue therein, if the area has been posted so as to give reasonable notice restricting access to those with lawful business to pursue therein and the surrounding circumstances would indicate to a reasonable person that the person has no lawful business to pursue therein. Reasonable notice is that which would give actual notice to a reasonable person, and is posted, at a minimum, at each entrance into the area.

(2) A person convicted of a violation of paragraph (1) shall be punished as follows:

(A) As an infraction, by a fine not exceeding one hundred dollars (\$100).

(B) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment, if the person refuses to leave the posted area after being requested to leave by a peace officer or other authorized person.

(C) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment, for a second or subsequent offense.

(D) If probation is granted or the execution or imposition of sentencing is suspended for a person convicted under this subdivision, it shall be a condition of probation that the person participate in counseling, as designated by the court, unless the court finds good cause not to impose this requirement. The court shall require the person to pay for this counseling, if ordered, unless good cause not to pay is shown.

(y) Except as permitted by federal law, intentionally avoiding submission to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access when entering or reentering a courthouse or a city, county, city and county, or state building if entrances to the courthouse or the city, county, city and county, or state building have been posted with a statement providing reasonable notice that prosecution may result from a trespass described in this subdivision.

Date of Hearing: March 17, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1727 (Ta) – As Introduced February 5, 2026

As Proposed to be Amended in Committee

SUMMARY: Adds a misdemeanor penalty punishable by to one year in the county jail, fine of up to \$1,000, or by both imprisonment and fine, to the Genetic Information Privacy Act (GIPA).

EXISTING LAW:

- 1) Creates the GIPA and defines the following terms:
 - a) “Express consent” means a consumer’s affirmative authorization to grant permission in response to a clear, meaningful, and prominent notice regarding the collection, use, maintenance, or disclosure of genetic data for a specific purpose. The nature of the data collection, use, maintenance, or disclosure shall be conveyed in clear and prominent terms in such a manner that an ordinary consumer would notice and understand it. Express consent cannot be inferred from inaction. Agreement obtained through use of dark patterns does not constitute consent. (Civ. Code, § 56.18, subd. (b)(6).)
 - b) “Genetic data” means any data, regardless of its format, that results from the analysis of a biological sample from a consumer, or from another element enabling equivalent information to be obtained and concerns genetic material. Genetic material includes, but is not limited to, DNA, ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), uninterpreted data that results from the analysis of the biological sample, and any information extrapolated, derived, or inferred therefrom. (Civ. Code, § 56.18, subd. (b)(7)(A).)
 - c) “Genetic data” does not include deidentified data. “Deidentified data” means data that cannot be used to infer information about, or otherwise be linked to, a particular individual, provided that the business that possesses the information does all of the following:
 - i) Takes reasonable measures to ensure that the information cannot be associated with a consumer or household;
 - ii) Publicly commits to maintain and use the information only in deidentified form and not to attempt to reidentify the information, except that the business may attempt to reidentify the information solely for the purpose of determining whether its deidentification processes satisfy the requirements of GIPA, as specified, provided that the business does not use or disclose any information reidentified in this process and destroys the reidentified information upon

completion of that assessment;

- iii) Contractually obligates any recipients of the information to take reasonable measures to ensure that the information cannot be associated with a consumer or household and to maintaining and using the information only in deidentified form and not to reidentify the information; and,
 - iv) “Genetic data” does not include data or a biological sample to the extent that data or a biological sample is collected, used, maintained, and disclosed exclusively for scientific research conducted by an investigator with an institution that holds an assurance with the United States Department of Health and Human Services, as specified. (Civ. Code, § 56.18, subd. (b)(7)(A-C).)
 - d) “Genetic testing” means any laboratory test of a biological sample from a consumer for the purpose of determining information concerning genetic material contained within the biological sample, or any information extrapolated, derived, or inferred therefrom. (Civ. Code, § 59.18, subd. (b)(8).)
- 2) Declares in order to safeguard the privacy, confidentiality, security, and integrity of a consumer’s genetic data, a direct-to-consumer genetic testing company shall do both of the following:
- a) Provide clear and complete information regarding the company’s policies and procedures for the collection, use, maintenance, and disclosure, as applicable, of genetic data by making available to a consumer all of the following:
 - i) A summary of its privacy practices, written in plain language, that includes information about the company’s collection, use, maintenance, and disclosure, as applicable, of genetic data;
 - ii) A prominent and easily accessible privacy notice that includes, at a minimum, complete information about the company’s data collection, consent, use, access, disclosure, maintenance, transfer, security, and retention and deletion practices, and information that clearly describes how to file a complaint alleging a violation of this GIPA; and,
 - iii) A notice that the consumer’s deidentified genetic or phenotypic information may be shared with or disclosed to third parties for research purposes in accordance with HIPAA.
 - b) Obtain a consumer’s express consent for collection, use, and disclosure of the consumer’s genetic data, including, at a minimum, separate and express consent for each of the following:
 - i) The use of the genetic data collected through the genetic testing product or service offered to the consumer, including who has access to genetic data, and how genetic data may be shared, and the specific purposes for which it will be collected, used, and disclosed;

- ii) The storage of a consumer's biological sample after the initial testing requested by the consumer has been fulfilled;
 - iii) Each use of genetic data or the biological sample beyond the primary purpose of the genetic testing or service and inherent contextual uses; and,
 - iv) Each transfer or disclosure of the consumer's genetic data or biological sample to a third party other than to a service provider, including the name of the third party to which the consumer's genetic data or biological sample will be transferred or disclosed. (Civ. Code, § 56.181, subd. (a)(1)-(2).)
- 3) States that a company that is subject to the requirements of the DTC rules in GIPA shall provide effective mechanisms, without any unnecessary steps, for a consumer to revoke their consent after it is given, at least one of which utilizes the primary medium through which the company communicates with consumers. (Civ. Code, § 56.181, subd. (b).)
- 4) Mandates if a consumer revokes the consent that they provided, the DTC DNA testing company honor the consumer's consent revocation as soon as practicable, but not later than 30 days after the individual revokes consent, as follows:
- a) Revocation of consent must comply with HIPAA; and,
 - b) The company shall destroy a consumer's biological sample within 30 days of receipt of revocation of consent to store the sample. (Civ. Code, § 56.181, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "Federal laws such as HIPAA protect Californians from the misuse of their genetic materials and information by healthcare providers, and the Genetic Information Privacy Act (GIPA) safeguards consumers from certain direct-to-consumer genetic testing companies. However, these protections leave a significant gap when it comes to private actors who collect or misuse genetic data outside of these regulated contexts.
- 2) **GIPA:** In response to concerns about DNA testing companies selling information to third parties such as other companies, law enforcement, and the government, the Legislature passed, and the Governor signed, the GIPA in 2022. The GIPA requires DTC genetic testing companies to comply with certain privacy and data security provisions such as mandating consumers' affirmative consent regarding the collection, use, maintenance, and disclosure of genetic data, and enabling consumers to access and destroy their genetic data. According to the New York Times:

Home DNA testing kits usually involve taking a cheek swab or saliva sample and mailing it off to the company. In that little sample is the most personal information you can share: your genetic code. Some companies share that data with law enforcement, and most sell your DNA data to third parties, after

which it can become difficult to track. For some people who work for small companies or serve in the military, it can affect insurance premiums and even the ability to get insurance at all.

While DNA testing has been used in medical and scientific contexts for decades, direct-to-consumer testing kits are still relatively new and legal policies that govern the private use of consumer data are still being developed.

According to Dr. James Hazel, a postdoctoral fellow at the Center for Genetic Privacy and Identity in Community Settings, there are fewer protections for your data with consumer DNA testing kits than there would be if you were taking a medical test. If a doctor takes a DNA sample, that sample is protected by the Health Insurance Portability and Accountability Act (HIPAA) and there are limits on how it can be shared.

“In the United States, if you’re talking about genetic data that’s generated outside of the health care setting, there’s a relatively low baseline of protection,” Dr. Hazel said. “And that’s provided generally [] by the Federal Trade Commission. So, the Federal Trade Commission, although it’s not specific to genetic data, has the ability to police unfair and deceptive business practices across all industries. Other than that, there are really no laws in the United States that apply specifically.”¹

The GIPA applies to companies that sell, market, interpret, or otherwise offer DTC genetic testing products or services; analyze genetic data obtained from consumers; collect, use, maintain, or disclose genetic data collected or derived from a direct-to-consumer genetic testing product, service or directly provided by a consumer.

It covers “genetic data,” which is defined as any data, regardless of the format, that results from analysis of a biological sample from a consumer or from another element enabling equivalent information to be obtained and concerns genetic material. Genetic material includes, but is not limited to, DNA, RNA, genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphism (SNPs), uninterpreted data that results from analysis of the biological sample, and any information extrapolated, derived, or inferred from materials in this list.

Genetic data does not include **de-identified** data (meaning data not linked to any personal identifying information) or a biological sample to the extent that data or a biological sample is collected, used, maintained, and disclosed exclusively for scientific research under very particular circumstances described in the law. GIPA requires DTC genetic testing companies to: (a) provide clear and complete information regarding the company’s policies and procedures for the collection, use, maintenance, and disclosure of genetic data; (b) obtain a

¹ Eric Ravenscraft, *How to Protect Your DNA Data Before and After Taking an at-Home Test* (June 12, 2019) N.Y. Times, <https://www.nytimes.com/2019/06/12/smarter-living/how-to-protect-your-dna-data.html>

consumer's express consent for the collection, use, and disclosure of the consumer's genetic data; (c) provide effective mechanisms, without dark patterns, for how a consumer may file to revoke consent; (d) implement and maintain reasonable security procedures and practices to protect a consumer's genetic data against unauthorized access, destruction, use, modification, or disclosure; and (e) prohibits discrimination against a consumer because the consumer exercised any of the consumer's rights under GIPA.

The **GIPA makes clear that express consent is required for access by government actors pursuant to state and federal privacy laws.** This bill provides broad protections to information shared with government actors. Civil Code section 56.184 states in relevant part:

The provisions of this chapter shall not reduce a direct-to-consumer genetic testing company's duties, obligations, requirements, or standards under any applicable state and federal laws for the protection of privacy and security. **In the event of a conflict between the provisions of this chapter and any other law, the provisions of the law that afford the greatest protection for the right of privacy for consumers shall control.** (Civ. Code, § 56.184, subd. (a) & (b).)

- 3) **Data Breach Notification Law (DBNL):** In 2003, California's security breach notification law went into effect. (See Civ. Code, §§ 1798.29, 1798.82.) There are two provisions governing data breach notification requirements, Civil Code sections 1798.29 and 1798.82. The two provisions are nearly identical, but the former applies to public agencies, and the latter applies to persons or businesses.

California's DBNL requires any person or business that owns or licenses computerized data that includes personal information to disclose a breach to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. Any breach notifications must be titled "Notice of Data Breach," are required to meet certain formatting requirements, and must include specific information. This notification requirement ensures that residents are made aware of a breach, thus allowing them to take appropriate action to mitigate or prevent potential financial losses due to fraudulent activity such as changing passwords, monitoring accounts, or placing credit freezes.

Notification must also be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as specified. With regard to the law enforcement provision, the notification required may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification must be made promptly after the law enforcement agency determines that it will not compromise the investigation.

In 2023, 23andMe suffered a data breach affecting approximately 7 million users, roughly half its customer base—via a credential-stuffing attack.² Hackers accessed sensitive personal

² According to ID Theft Resource Center: Credential stuffing is a widespread cyberattack where hackers use automated bots to test massive lists of stolen username/password pairs (from previous data breaches) against various

information, including ancestry, DNA matches, and health data. A \$30 million class-action settlement was reached to address the security failures. Reports as of March 2025 indicate the company has faced significant reputational damage and financial distress following the breach. Shortly thereafter, the company filed for Chapter 11 bankruptcy. Multiple Attorneys General are investigating possible identity theft or fraud, and requests have been made to the U.S. Department of Justice to also investigate.

In July 2025, the U.S. Bankruptcy Court for the Eastern District of Missouri approved the sale of 23andMe's genetic data. On July 14, 2025, a notice of the closing of the sale was filed in bankruptcy court. This sale process informs best practices for companies and other entities handling sensitive personal information. The Court approved the sale of 23andMe's genetic data and personal information assets to TTAM Research Institute, an entity founded by Anne Wojcicki, the former CEO and co-founder of 23andMe. TTAM was deemed the successful bidder over the bid of a leading biotechnology company, Regeneron.

- 4) **Medicare Fraud:** The author provided the committee several articles related to Medicare/CMS fraud nationwide related to access to genetic testing via medical companies. Offenders in Texas, Illinois, and New York were charged, tried, and convicted of Medicare fraud for soliciting medical professionals for genetic testing simply to bill Medicare/CMS for the testing. In the Texas case, medical professionals were receiving kickbacks from solicitors to generate unnecessary genetic testing requests. Defendants in those cases were sentenced to up to ten years in federal prison. It is not clear from those cases that there was any genetic sequencing performed or if it was merely a ruse to generate Medicare billings.

As noted above, the GIPA was aimed at DTC companies like 23andMe selling genetic sequencing to third parties generally or in response to ordinary bankruptcy liquidation. In those cases, individual perpetrators may be hard to prosecute because the selling of genetic sequencing may have been a corporate decision and not the decision of one person acting rogue. Prior to 2022, if a person did not opt out on a DTC DNA testing form, it was not illegal to sell DNA to third parties in the ordinary course of business (although some did not do so). Finally, protecting DNA should also extend to state actors.

- 5) **Argument in Support:** No longer applicable.
- 6) **Argument in Opposition:** No longer applicable.
- 7) **Related Legislation:** AB 2018 (Ramos), would require the DOJ to take all reasonable steps to ensure that genetic data is used and disclosed only in a manner consistent with, and designed to advance, the purposes of identifying an unidentified person or locating a high-risk missing person. AB 2018 is pending hearing in this committee.

websites, exploiting the habit of password reuse to gain unauthorized access. It causes account takeovers, financial fraud, and data theft, costing organizations millions. (See https://www.idtheftcenter.org/post/the-difference-between-credential-hacking-and-credential-stuffing/?utm_campaign={campaignname}&utm_term=&utm_source=google&utm_medium=cpc&gad_source=1&gad_campaignid=22212099742&gbraid=0AAAAAD_RqESmWT-LrjvIMlgJAE3xZnOSf&gclid=EA1alQobChMIgOKa8qWJkwMVUCGtBh0--hZTEAMYASAAEgLF1vD_BwE)

8) Prior Legislation:

- a) AB 3042 (Nguyen), Chapter 428, Statutes of 2024, extended the sunset date from January 1, 2025, to January 1, 2030, to collect and deposit funds into the DNA Identification Fund pursuant to Proposition 69 (2004), the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, or a longer period of time if necessary to make payments on any lease or leaseback arrangement utilized to finance any specific projects.
- b) SB 1228 (Weiner), Chapter 994, Statutes of 2022, adds to the Sexual Assault Victims' DNA Bill of Rights that DNA collected directly from a victim of sexual assault, and samples of DNA collected from intimate partners for the purposes of exclusion shall be protected in accordance with existing privacy provisions.
- c) SB 41 (Umberg), Chapter 596, Statutes of 2022, establishes the GIPA providing additional protections for genetic data by regulating the collection, use, maintenance, and disclosure of such data.

REGISTERED SUPPORT / OPPOSITION:

Support

No longer applicable

Opposition

No longer applicable

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

Amended Mock-up for 2025-2026 AB-1727 (Ta (A))

**Mock-up based on Version Number 99 - Introduced 2/5/26
Submitted by: Staff Name, Office Name**

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

SECTION 1. Section 367 is added to the Penal Code, to read:

367. (a) For the purposes of this section, the following terms have the following meanings:

(1) “DNA” means deoxyribonucleic acid.

(2) “DNA sample” means a human biological specimen from which DNA can be extracted or the DNA extracted from a specimen.

(3) “Express consent” means authorization by the person whose DNA is to be extracted or analyzed or that person’s legal guardian or authorized representative.

(4) (A) “Genetic data” means any data derived from analysis of a biological sample that concerns a consumer’s genetic characteristics and that may include, but is not limited to, any of the following formats or sources:

(i) Raw data that results from sequencing all or a portion of a consumer’s extracted DNA.

(ii) Genotypic and phenotypic information obtained from analyzing a consumer’s raw sequence data.

(iii) Health information self reported by the consumer to a genetic testing company to be used by the company in connection with analyzing the consumer’s raw sequence data or for product development or scientific research.

(B) Genetic data does not include deidentified data.

(5) “Genetic testing” means laboratory testing of a consumer’s biological sample to analyze DNA, including, but not limited to, chromosomes and single nucleotide polymorphisms in order to derive and interpret genetic data.

~~(b) (1) For the purposes of this section, a person may not provide express consent unless they have received a clear and prominent disclosure regarding the manner of collection, use, retention, or disclosure of a DNA sample or genetic data for a specific purpose. A person may provide express consent by any affirmative action demonstrating an intentional decision.~~

~~(2) A single provision of express consent may authorize every instance of a specified purpose or use.~~

~~(c) (1) Except as provided in subdivision (g), a person commits the crime of unlawful use of DNA in the first degree if they intentionally and without express consent sell or otherwise transfer another individual's DNA sample or genetic data to a third party, regardless of whether the original DNA sample was originally collected, retained, or analyzed with express consent.~~

~~(2) A violation of this subdivision is punishable by imprisonment in the county jail pursuant to subdivision (h) of Section 1170 for three, four, or five years, or by a fine not to exceed fifteen thousand dollars (\$15,000), or by both that fine and imprisonment.~~

~~(d) (1) Except as provided in subdivision (g), a person commits the crime of unlawful use of DNA in the second degree if they intentionally and without express consent do any of the following:~~

~~(A) Submit another individual's DNA sample for genetic testing.~~

~~(B) Conduct or procure the conducting of genetic testing of another individual's DNA.~~

~~(C) Except as provided in paragraph (2), disclose another individual's genetic data to a third party.~~

~~(2) A person who discloses another person's genetic data that was previously voluntarily disclosed by the person whose DNA was tested, the person's legal guardian, or the person's authorized representative does not violate this subdivision.~~

~~(3) A violation of this subdivision is punishable by imprisonment in the county jail pursuant to subdivision (h) of Section 1170 for 16 months or two or three years, or by a fine not to exceed seven thousand five hundred dollars (\$7,500), or by both that fine and imprisonment.~~

~~(e) (1) Except as provided in subdivision (g), a person commits the crime of unlawful use of DNA in the third degree if they do either of the following:~~

~~(A) Collect or retain another individual's DNA sample with the intent to perform a DNA analysis.~~

~~(B) Collect or retain another individual's DNA sample or genetic information by accessing a computer system either without authorization or by exceeding their authorized access to the computer system.~~

~~(2) A violation of this subdivision is punishable by imprisonment in the county jail for up to one year, or by a fine not to exceed six thousand dollars (\$6,000), or by both that fine and imprisonment.~~

~~(f) Each instance of collection or retention, submission or analysis, or disclosure in violation of this act constitutes a separate violation.~~

~~(g) This section does not apply to any of the following:~~

~~(1) A DNA sample or genetic information used by law enforcement, a district attorney, or the Attorney General for law enforcement purposes, including, but not limited to, pursuant to Chapter 6 (commencing with Section 295).~~

~~(2) A DNA sample or genetic information collected, obtained, or presented as evidence in a criminal investigation or criminal court hearing, presented to a grand jury, or presented as evidence in a criminal trial, including criminal discovery, as required by law.~~

~~(3) A DNA sample or genetic information collected to comply with a subpoena, summons, other lawful court order, or federal law.~~

~~(4) A direct to consumer genetic testing company that complies with Chapter 2.6 (commencing with Section 56.18) of Part 2.6 of Division 1 of the Civil Code.~~

~~(5) A covered entity or business associate, as those terms are defined in Parts 160 and 164 of Title 45 of the Code of Federal Regulations.~~

~~(6) A public or private institution of higher education or any entity owned or operated by a public or private institution of higher education.~~

SECTION 1 Civil Code section 56.182 is amended:

(c) Any person who willfully sells or transfers genetic data, as defined in section 56.18, subdivision (a)(7)(A) without express consent, as defined in section 56.18, subd. (a)(6), is guilty of a misdemeanor punishable by up to one year in county jail, a fine of not more than \$1,000, or by both imprisonment and fine.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556

of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Date of Hearing: March 17, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1782 (DeMaio) – As Introduced February 9, 2026

SUMMARY: Reduces the number of factors to which the chief psychiatrist of the California Department of Correction and Rehabilitation (CDCR) must certify to the Board of Parole Hearings (BPH) prior to the involuntary commitment of an offender with a mental health disorder (OMHD). Specifically, **this bill**:

- 1) Provides that, prior to an incarcerated person’s release on parole, a chief psychiatrist of CDCR must certify to BPH that the person meets three, instead of all, of the following criteria:
 - a) A severe mental health disorder.
 - b) The disorder is not in remission or cannot be kept in remission without treatment.
 - c) The severe mental health disorder was one of the causes of, or was an aggravating factor in, the prisoner’s criminal behavior.
 - d) The prisoner has been in treatment for the severe mental health disorder for 90 days or more within the year prior to the prisoner’s parole release day.
 - e) By reason of the prisoner’s severe mental health disorder, the prisoner represents a substantial danger of physical harm to others. For purposes of this clause, “physical harm” includes sexual harassment and battery.

EXISTING LAW:

- 1) Provides that, as a condition of parole, a prisoner who meets the following criteria shall be provided necessary treatment by the State Department of State Hospitals (DSH) as follows:
 - a) The prisoner has a severe mental health disorder that is not in remission or that cannot be kept in remission without treatment.
 - b) The severe mental health disorder was one of the causes of, or was an aggravating factor in, the commission of a crime for which the prisoner was sentenced to prison.
 - c) The prisoner has been in treatment for the severe mental health disorder for 90 days or more within the year prior to the prisoner’s parole or release.
 - d) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from DSH have evaluated the prisoner at a facility of CDCR,

and a chief psychiatrist of CDCR has certified to BPH the following:

- i) The incarcerated person has a severe mental health disorder;
 - ii) The disorder is not in remission and cannot be kept in remission without treatment;
 - iii) The severe mental health disorder was one of the causes of, or was an aggravating factor in, the prisoner's criminal behavior;
 - iv) The prisoner has been in treatment of the severe mental health disorder for 90 days or more within the year prior to the prisoner's parole release day; and,
 - v) By reason of the prisoner's severe mental health disorder, the prisoner represents a substantial danger of physical harm to others. (Pen. Code, § 2962, subs. (a)-(d).)
- 2) Provides that, if the professionals doing the evaluation do not concur that (A) the prisoner has a severe mental health disorder, (B) that the disorder is not in remission or cannot be kept in remission without treatment, or (C) that the severe mental health disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the BPH pursuant to this paragraph, BPH shall order a further examination by two independent professionals, as provided. (Pen. Code, § 2962, subd. (d)(2).)
- 3) Provides that, if at least one of the independent professionals who evaluate the prisoner concurs with the chief psychiatrist's certification of the issues, the person may be involuntarily committed. (Pen. Code, § 2962, subd. (d)(3).)
- 4) States that the crimes which qualify an individual for involuntary commitment if the individual's severe mental health disorder was one of the causes of, was an aggravating factor in its commission, meets both of the following criteria:
- a) The defendant received a determinate sentence, as specified, for the crime; and,
 - b) The crime for, among others, voluntary manslaughter; mayhem; kidnapping, a specified; robbery with a deadly or dangerous weapon, as specified; carjacking with a deadly or dangerous weapon, as specified; rape and other sex crimes, as specified; arson, as specified; a felony in which the defendant used a firearm, as specified; attempted murder; a crime in which the prisoner used force or violence, or caused serious bodily injury, as specified; and a crime in which the perpetrator expressly or impliedly threatened another with the use of force or violence likely to produce substantial physical harm in a manner that a reasonable person would believe and expect that the force or violence would be used. (Pen. Code, § 2962, subd. (e)(1) & (2).)
- 5) Provides that the existence or nature of the crime for which the person has been convicted may be shown with documentary evidence. The details underlying the commission of the offense that led to the conviction, including the use of force or violence, causing serious bodily injury, or the threat to use force or violence likely to produce substantial physical harm, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by

DSH. (Pen. Code, § 2962, subd. (f).)

- 6) Provides that “substantial danger of physical harm” does not require proof of a recent overt act. (Pen. Code, § 2962, subd. (g).)
- 7) Defines “severe mental health disorder” to mean an illness, disease, or condition that substantially impairs the person’s thought, perception of reality, emotional process, or judgment; or that grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. (Pen. Code, § 2962, subd. (a)(2).)
- 8) Provides that the term “severe mental health disorder” does not include a personality or adjustment disorder, epilepsy, intellectual disability or other developmental disabilities, or addiction to or abuse of intoxicating substances. (Pen. Code, § 2962, subd. (a)(2).)
- 9) Defines “remission” to mean a finding that the overt signs and symptoms of the severe mental health disorder are controlled either by psychotropic medication or psychosocial support. (Pen. Code, § 2962, subd. (a)(3).)
- 10) Provides that a person “cannot be kept in remission without treatment” if during the year prior to the question being before BPH or a trial court, the person has been in remission and has been physically violent, except in self-defense, or has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for their safety or the safety of their immediate family, or the person has intentionally caused property damage, or has not voluntarily followed the treatment plan. (Pen. Code, § 2962, subd. (a)(3).)
- 11) Provides that, in determining if a person has voluntarily followed the treatment plan, the standard is whether the person has acted as a reasonable person would in following the treatment plan. (Pen. Code, § 2962, subd. (a)(3).)
- 12) Allows BPH, upon a showing of good cause, to order an incarcerated person to remain in custody for up to 45 days past the scheduled release date for a full OMHD evaluation. (Pen. Code § 2963.)
- 13) Allows the prisoner to challenge the OMHD determination both administratively (a hearing before the board) and judicially (a superior court jury trial). (Pen. Code § 2966.)
- 14) Requires OMHD treatment to be inpatient treatment unless there is reasonable cause to believe that the parolee can be safely and effectively treated on an outpatient basis. (Pen. Code, § 2964, subd. (a).)
- 15) Specifies that if the person’s severe mental disorder is put into remission during the parole period and can be kept that way, the director of the hospital shall notify the BPH and shall discontinue treatment. (Pen. Code, § 2968.)
- 16) Allows the district attorney to file a petition with the superior court seeking a one-year extension of the OMHD commitment. (Pen. Code, § 2970.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “It is the duty of the state to ensure dangerous individuals with mental health disorders receive the proper care when released from prison, as well as ensuring communities are protected from these individuals. As of now, California has become too soft in determining who would receive care from the State Hospitals, resulting in dangerous individuals being released into communities. This bill will ensure those with mental health disorders will receive the proper care while protecting Californians.”
- 2) **Impetus for this Bill:** The inspiration for AB 1782 is the case of Bill Gene Hobbs, a story that has received extensive media coverage since his release from state prison last year.¹ Hobbs has a history of involvement with the criminal justice system for repeatedly harassing women.² He has spent time in jail for misdemeanor convictions for stalking and sexual battery, and recently he was released from state prison after serving time for felony false imprisonment.³ After his release, Hobbs was sent to a state hospital for treatment as an OMHD, but five months later he was released when a local judge determined that he no longer satisfied criteria for commitment.⁴ Hobbs soon began to harass women on the streets of San Francisco, where he was quickly rearrested on a parole violation.⁵

Since his return to San Francisco, media outlets have asked why Hobbs was released from DSH after only a short commitment and whether more could be done to prevent his release without more monitoring.⁶

- 3) **Overview of the Commitment Process for an OMHD:** Existing law provides that, as a condition of parole, an incarcerated person who meets specified criteria can be involuntarily committed to DSH for treatment. (Pen. Code, § 2962 et seq.) The OMHD scheme is designed to confine an incarcerated person who is about to be released on parole if they suffer from a severe mental health disorder that contributed to the commission of their crime. Rather than release them to the community, CDCR paroles the incarcerated person to the supervision of DSH, and the person remains under DSH supervision throughout the parole period. (Pen. Code, § 2962). Treatment can continue for one year upon termination of parole (Pen. Code §

¹ See, e.g., Vainshtein, et al., *Convicted groper back in SF after prison – and again approaching women*, S.F. Chronicle (Oct. 20, 2025) <<https://www.sfchronicle.com/sf/article/bill-gene-hobbs-released-san-francisco-21110868.php>> [as of Mar. 11, 2026]; Kukura, *Serial Harasser Bill Gene Hobbs Apparently Out of State Prison, Back to Harassing Women on SF Streets*, SFist (Oct. 21, 2025) <<https://sfist.com/2025/10/21/serial-harasser-bill-gene-hobbs-apparently-out-of-state-prison-back-to-harassing-women-on-sf-streets/>> [as of Mar. 11, 2026]; Wang, *Convicted harasser back in jail after reportedly approaching women in San Francisco*, ABC7 News (Oct. 24, 2025) <<https://abc7news.com/post/convicted-harasser-prison-seen-approaching-women-san-francisco-report-says/18054316/>> [as of March 11, 2026]; Editorial Board, *Why was Bill Gene Hobbs back on S.F. streets? His case shows the state of California's justice system*, S.F. Chronicle (Nov. 3, 2025) <<https://www.sfchronicle.com/opinion/editorials/article/california-san-francisco-bill-gene-hobbs-21122904.php>> [as of Mar. 11, 2026].

² Vainshtein, *supra*.

³ Wang, *supra*.

⁴ Editorial Board, *supra*; see also Wang, *supra*.

⁵ *Ibid.*

⁶ *Ibid.*

2970), and treatment can be extended for an additional year after expiration of the original, or previous, one-year commitment (Pen. Code § 2972). (*People v. Cobb* (2010) 48 Cal.4th 243, 251.)

Commitment as an OMHD requires a showing that the incarcerated person has a severe mental health disorder that is not in remission or that cannot be kept in remission without treatment. (Pen. Code, § 2962, subd. (a)(1).) Existing law defines “severe mental health disorder” as an illness, disease, or condition that substantially impairs the person’s thought, perception of reality, emotional process, or judgment; or that grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. (Pen. Code, § 2962, subd. (a)(2).) The severe mental health disorder also must have been one of the causes of, or have been an aggravating factor in, the commission of a crime for which the person was sentenced. (Pen. Code, § 2962, subd. (b).) The incarcerated person must also have been in treatment for the disorder for 90 days or more within the year prior to parole or release. (Pen. Code, § 2962, subd. (c).)

The initial determination that an incarcerated person qualifies as an OMHD is made administratively. Prior to release on parole, the person in charge of treating the incarcerated person and a practicing psychiatrist or psychologist from DSH must have evaluated the person at a CDCR facility, and a chief psychiatrist of CDCR must have certified to BPH that the incarcerated person has a severe mental health disorder; that the disorder is not in remission and cannot be kept in remission without treatment; that the disorder was one of the causes or was an aggravating factor in the incarcerated person’s criminal behavior; that the incarcerated person has been in treatment for the severe mental health disorder for 90 days or more within the year prior to the incarcerated person’s parole release day; and that, by reason of their severe mental health disorder, the incarcerated person represents a substantial danger of physical harm to others. (Pen. Code, § 2962, subd. (d).)

If the professionals doing the evaluation do not agree that incarcerated person has a severe mental health disorder, that the disorder is not in remission or cannot be kept in remission without treatment, or that the severe mental health disorder was a cause of, or aggravated, the prisoner’s criminal behavior, and a chief psychiatrist has certified the incarcerated person BPH, then BPH must order an examination of the incarcerated person by two independent professionals. (Pen. Code, § 2962, subd. (d)(2).) If at least one of the independent professionals who evaluate the person concurs with the chief psychiatrist’s certification of the incarcerated person as an OMHD, the person can be involuntarily committed. (Pen. Code, § 2962, subd. (d)(3).)

The incarcerated person may request a hearing before BPH to require proof that that they qualify as an OMHD. (Pen. Code, § 2966, subd. (a).) If BPH determines that the person qualifies, the inmate may file, in the superior court of the county in which he or she is incarcerated or is being treated, a petition for a jury trial. (Pen. Code, § 2966, subd. (b).) The jury must unanimously agree beyond a reasonable doubt that the inmate is an OMHD. (*Ibid.*) If the jury, or the court if a jury trial is waived, reverses the determination of BPH, the court is required to stay the execution of the decision for five working days to allow for an orderly release of the incarcerated person. (*Ibid.*)

- 4) **Effect of this Bill:** As described above, under existing law, a chief psychiatrist of CDCR must certify five factors before an incarcerated person may be involuntarily committed as an

OMHD. This bill would require that the chief psychiatrist of CDCR certify only three, instead of all, of those factors. As a result, an incarcerated person could be involuntarily committed even where the chief psychiatrist only attested that the incarcerated person had a severe mental health disorder that was not in remission, or cannot be kept in remission without treatment, and that the incarcerated person has been in treatment for that for 90 days or more within the year prior to their scheduled release. Indeed, this bill would provide that an OMHD could be committed even if their disorder was not a cause of, or an aggravating factor in, their criminal behavior and they did not represent a substantial danger of physical harm to others.

This outcome is in direct contravention to the stated purpose of the OMHD statute. Penal Code section 2960 articulates the Legislature's findings and declarations for the need to involuntarily commit certain individuals with several mental health disorders. The statute's express application is to those with severe mental health disorders that were a cause of, or an aggravating factor in, the commission of their crimes:

The Legislature finds that there are prisoners who have a treatable, severe mental health disorder that was one of the causes of, or was an aggravating factor in, the commission of the crime for which they were incarcerated. Secondly, the Legislature finds that if the severe mental health disorders of those prisoners are not in remission or cannot be kept in remission at the time of their parole or upon termination of parole, there is a danger to society, and the state has a compelling interest in protecting society. Thirdly, the Legislature finds that in order to protect the public from those persons, it is necessary to provide mental health treatment until severe mental health disorder that was one of the causes of or was an aggravating factor in the person's criminal behavior is in remission and can be kept in remission. (Pen. Code, § 2960, subd. (a).)

Contrary to the statute's stated purpose, this bill would dispel with the necessity that the chief psychiatrist of CDCR certify to BPH that a person is suffering from a severe mental health disorder that was one of the causes of, or an aggravating factor in, the person's criminal behavior. In fact, this bill would require neither that the person's severe mental health disorder contributed to their criminal conduct nor that the person represents a substantial danger of physical harm to others. Because the showing of dangerousness would be dispensed with, this bill arguably would undermine the state's "compelling interest" in the involuntarily commitment of OMHDs, at least as articulated in the Legislature's findings and declarations.

- 5) **Constitutional Concerns:** The OMHD law was enacted in 1985. Unlike existing law, the original statute did not require a finding that the incarcerated person represents a substantial danger of physical harm to others. (*People v. Harrison* (2013) 57 Cal.4th 1211, 1227) However, other involuntary commitment statutes required a showing of dangerousness. Because of this discrepancy, the law was challenged as a violation of the equal protection clause of both the state and federal constitutions.

The equal protection clause of the United States Constitution requires at a minimum that persons standing in the same relation to a challenged government action will be uniformly treated. Traditionally, social and economic legislation will be upheld if the classification drawn by the statutes is rationally related to legitimate state

interests. When the classification touches on a fundamental right, it must be judicially determined under the strictest standard whether it is necessary to promote a compelling government interest. Whether a right is fundamental depends on whether it is implicitly or explicitly guaranteed by the federal Constitution.

Although freedom from involuntary custodial confinement would appear to be the equivalent of "liberty" explicitly guaranteed by the Fifth and Fourteenth Amendments, the United States Supreme Court has not expressly held that classifications touching upon liberty are fundamental for these purposes. [In cases] related to challenged classifications in substance and procedure for involuntary commitment, the court appears to use the traditional rational basis test. Consequently for purposes of federal law analysis so shall we.

Any equal protection challenge requires a determination whether the groups which are differently treated are similarly situated for purposes of the law. If they are not, no equal protection claim is applicable. (*People v. Gibson* (1988) 204 Cal.App.3d 1425, 1435-1436 (internal citations omitted).)

The court observed that the OMHD scheme was similar to other statutes that provided for the involuntary commitment of people for treatment and for the protection of the public, "for renewable periods, until they no longer pose a danger to the public whether or not they remain mentally ill." (*Id.* at p. 1436.) The court compared OMHDs to persons found not guilty by reason of insanity who had been involuntarily committed after a term of imprisonment and to juveniles with mental health disorders who, "now adults, have been recommitted after" imprisonment (*Ibid.*) Each group of individuals had been found to have committed a criminal offense, and the commitment of both OMHDs and individuals found not guilty by reason of insanity rested on the link between their mental health disorders and their criminal conduct. (*Id.* at p. 1437.) According to the court, under the law as originally enacted, "The [OMHD] commitment scheme, however, contains one critical and significant difference from all the others; it does not require proof of any present dangerousness as a result of mental illness for commitment or recommitment." (*Id.* at p. 1436.) Because OMHDs were treated differently from these similarly situated groups, the court called it "unreasonable and arbitrary to exempt [OMHD's] from a requirement of proof of dangerousness applicable to all other persons subject to involuntary commitment," thereby violating the equal protection clause of the Fourteenth Amendment of the United States Constitution. (*Id.* at pp. 1440-1441.)

Further, holding that the original OMHD scheme also violated the equal protection clause of the California Constitution, the court added:

It must be remembered that appellant and those in this class of [OMHD] committees are all legally sane and have been subject to punishment for their offenses for the term prescribed by the Legislature. At the end of their terms even the most dangerous offenders and most likely recidivists are subject to release so long as they are not mentally ill as defined. Unless proven to be dangerous the equal protection clause requires the mentally ill inmate must also be released from custody. (*Id.* at pp. 1442-1443.)

In response to the court's ruling, the Legislature quickly passed urgency legislation that incorporated the language contained in current law—that the incarcerated person must “represent[] a substantial danger of physical harm to others.” (*People v. Harrison* (2013) 57 Cal.4th 1211, 1227; *People v. Superior Court (Myers)* 50 Cal.App.4th 826, 830.)

OMHDs remain similarly situated to other persons involuntarily committed because they represent a danger to others. For example, like with OMHDs, a defendant found not guilty of a felony by reason of insanity still may be committed to DSH beyond the original prescribed term “if the person...by reason of a mental disease, defect, or disorder represents a *substantial danger of physical harm to others.*” (Pen. Code, § 1026.5, subd. (b)(1) (emphasis added); see also Welf. & Inst., § 5008, subd. (h)(1)(B)(iv) (defining a person “found mentally incompetent [because]...among several factors, the person represents a *substantial danger of physical harm to others* by reason of a mental disease, defect, or disorder” to be “gravely disabled” for purposes of conservatorship) (emphasis added).

As previously noted, this bill would allow for the involuntary commitment of an OMHD without a finding that the person represents a substantial danger of physical harm to others. OMHDs would thereby be treated differently than similarly situated groups of people also subject to involuntary commitment on the grounds that they represent a danger to public safety. As the court ruled 40 years ago, the disparate treatment of OMHDs is constitutionally suspect.

- 6) **Related Bills on the Commitment of OMHDs:** In addition to this bill, the committee has been referred two additional bills seeking to address the involuntary commitment of OMHDs—AB 1825 (Krell) and AB 1897 (Haney). As currently in print, AB 1897 would require the chief psychiatrist of CDCR to certify among other things that an incarcerated person represents a “*threat of physical harm to others,*” rather than a substantial danger of physical harm to others.

Rather than removing criteria for commitment or changing the risk standard, AB 1825 would clarify the factors the CDCR chief psychiatrist must consider when determining whether an incarcerated person, as a result of a serve mental health disorder, represents a “substantial danger of physical harm” to others. Specifically, AB 1825 would require the chief psychiatrist to consider recent threats of violence or acts of violence directed toward another individual, group, or location; recent threats of violence or acts of violence directed toward themselves; a pattern of violent acts or violent threats within the past 12 months; a history of violent behavior, including prior convictions for violent offenses; treatment compliance history and response to treatment; and a prior history of state hospital commitment.

- 7) **Argument in Support:** None submitted.
- 8) **Argument in Opposition:** According to the *Disability Rights California*, “Existing law requires state officials to prove five criteria before they can involuntarily commit a person to a psychiatric hospital upon completion of their time in state prison. These criteria were carefully designed to ensure that only individuals whose mental health condition is directly connected to their offense and who pose a substantial danger to others would be subjected to additional locked and segregated settings after prison. AB 1782 would significantly weaken these safeguards by allowing certification when only three of five criteria are met, rather than all criteria. This change raises serious concerns for the disability community.

“First, lowering the burden of proof undermines the due process protections that are critical to prevent people with mental health disabilities from being unnecessarily swept into extended state control and involuntary treatment. The current statutory framework requires a clear nexus between a person’s mental health disorder, their criminal conduct, and the risk of substantial harm to others. The bill would subject people to involuntary institutionalization even when they do not present a substantial danger to others, or when the connection between their disability and their past criminal behavior has not been established. The disability community has long advocated for policies that avoid unnecessary institutionalization and prevent individuals with mental health disabilities from being subjected to overly broad or punitive interventions. The Americans with Disabilities Act similarly prohibits the unnecessary segregation of people with disabilities.

“Second, the bill’s expansion of the definition of physical harm to include sexual harassment and battery further broadens the scope of conduct that could trigger involuntary institutionalization, potentially capturing individuals whose behavior does not rise to the level of serious physical violence. While such conduct should be addressed appropriately, lowering the commitment criteria in this way risks misusing a mental health treatment framework to respond to behavior that may be better addressed through other legal and rehabilitative approaches.

“Finally, the bill would increase stigma and discrimination against people with psychiatric disabilities. By lowering the criteria for involuntary institutionalization, the bill risks reinforcing harmful and false stereotypes that conflate mental health disabilities with danger. The vast majority of individuals with mental health conditions are not violent, and policies that conflate disability with dangerousness can deepen stigma and add barriers to community integration, employment, and housing.

“California should be working toward policies that promote voluntary, community based mental health services and protect the civil rights of people with disabilities, rather than expanding involuntary systems that disproportionately impact this community.”

9) Related Legislation:

- a) AB 46 (Nguyen) would make various changes to the mental health diversion program including raising the public safety standard criteria for finding a particular defendant suitable for diversion. AB 46 is scheduled for hearing today in the Senate Public Safety Committee.
- b) AB 1825 (Krell) Specifies factors that a chief psychiatrist of CDCR shall consider when determining whether an incarcerated person with a severe mental health disorder poses a substantial danger of physical harm to others. AB 1825 is scheduled for hearing today in this committee.
- c) AB 1897 (Haney) would require the chief psychiatrist of CDCR to certify among other things that a incarcerated person represents a threat of physical harm to others, rather than a substantial danger of physical harm to others. AB 1897 is pending a hearing in this committee.

- d) AB 2259 (Ransom) would establish a pilot program at two CDCR facilities that provides mental health therapy either through virtual therapy or contracted license mental health providers. AB 2259 is pending a hearing in this committee.
- e) AB 2275 (Bains), among other things, would change the public safety standard for suitability for mental health diversion from an unreasonable risk to public safety, as defined, to "a risk of significant physical harm or substantial monetary loss that would compromise public safety." AB 2275 is pending a hearing in this committee.

10) Prior Legislation:

- a) SB 591 (Galgiani), Chapter 649, Statutes 2019, stated that a practicing psychiatrist or DSH or CDCR psychologist be afforded prompt and unimpeded access to an inmate temporarily housed at a county jail, when the psychiatrist or psychologist is conducting an evaluation of the inmate as an OMHD; and made changes to the process to determine whether an inmate is an OMHD.
- b) SB 350 (Galgiani), of the 2017-2018 Legislative Session, would have required the disclosure of medical, dental, and mental health information between a county correctional facility, a county medical facility, a state correctional facility, a state hospital, or a state-assigned mental health provider when an inmate is transferred from or between state and county facilities, as specified. SB 350 was held in the Senate Appropriations Committee.
- c) SB 1443 (Galgiani), of the 2015-2016 Legislative Session, would have permitted the sharing of medical, mental health and dental information between correctional facilities, as specified. SB 1443 was held in the Senate Appropriations Committee.
- d) SB 1295 (Nielsen), Chapter 430, Statutes of 2016, authorized the use of documentary evidence for purposes of satisfying the criteria used to evaluate whether a prisoner released on parole is required to be treated by DSH as an OMHD.

REGISTERED SUPPORT / OPPOSITION:

Support

Opposition

ACLU California Action
Cal Voices
California Attorneys for Criminal Justice
California Public Defenders Association
Disability Rights California
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Initiate Justice
Justice2jobs Coalition
LA Defensa

San Francisco Public Defender
Smart Justice California, a Project of Beyond Impact
Uncommon Law

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

Date of Hearing: March 17, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1825 (Krell) – As Amended March 9, 2026

SUMMARY: Specifies factors that a chief psychiatrist of the California Department of Corrections and Rehabilitation (CDCR) shall consider when determining whether an incarcerated person with a severe mental health disorder poses a substantial danger of physical harm to others. Specifically, **this bill:**

- 1) Provides the factors that shall be considered in determining whether an offender poses a substantial danger of physical harm to others, include, but are not limited to, all of the following:
 - a) A recent threat of violence or act of violence directed toward another individual, group, or location.
 - b) A recent threat of violence or act of violence directed toward themselves.
 - c) A pattern of violent acts or violent threats within the past 12 months, including, but not limited to, threats of violence or acts of violence directed toward themselves or another individual, group or location.
 - d) A history of violent behavior, including prior convictions for violent offenses.
 - e) Treatment compliance history and response to treatment.
 - f) Prior history of state hospital commitment.
- 2) Requires an exit plan for an incarcerated person whose offender with a mental health disorder (OMHD) determination has been reversed to include, but not be limited to, all of the following:
 - a) The submission of a Medi-Cal application.
 - b) A determination of appropriateness for Assisted Outpatient Treatment, a petition under the CARE Act, or a forensic assertive community treatment program.
 - c) A determination of whether the offender appears to the court or a qualified mental health expert to be gravely disabled, as specified. To ensure the respondent's safety, the Board of Parole Hearings (BPH) may apply to the offender's county of last legal residence for a court-ordered mental health evaluation using the existing legal process, as specified.

- 3) Requires CDCR, for an incarcerated person whose OMHD determination has been reversed, to additionally notify the behavior health department of the county of supervision of the person's pending release within five working days of the court order of release.

EXISTING LAW:

- 1) Provides that, as a condition of parole, a prisoner who meets the following criteria shall be provided necessary treatment by the State Department of State Hospitals (DSH) as follows:
 - a) The prisoner has a severe mental health disorder that is not in remission or that cannot be kept in remission without treatment.
 - b) The severe mental health disorder was one of the causes of, or was an aggravating factor in, the commission of a crime for which the prisoner was sentenced to prison.
 - c) The prisoner has been in treatment for the severe mental health disorder for 90 days or more within the year prior to the prisoner's parole or release.
 - d) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from DSH have evaluated the prisoner at a facility of the CDCR, and a chief psychiatrist of CDCR has certified to BPH the following:
 - i) The incarcerated person has a severe mental health disorder;
 - ii) The disorder is not in remission and cannot be kept in remission without treatment;
 - iii) The severe mental health disorder was one of the causes of, or was an aggravating factor in, the prisoner's criminal behavior;
 - iv) The prisoner has been in treatment of the severe mental health disorder for 90 days or more within the year prior to the prisoner's parole release day; and,
 - v) By reason of the prisoner's severe mental health disorder, the prisoner represents a substantial danger of physical harm to others. (Pen. Code, § 2962, subs. (a)-(d).)
- 2) Provides that, if the professionals doing the evaluation do not concur that (A) the prisoner has a severe mental health disorder, (B) that the disorder is not in remission or cannot be kept in remission without treatment, or (C) that the severe mental health disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the BPH pursuant to this paragraph, BPH shall order a further examination by two independent professionals, as provided. (Pen. Code, § 2962, subd. (d)(2).)
- 3) Provides that, if at least one of the independent professionals who evaluate the prisoner concurs with the chief psychiatrist's certification of the issues, the person may be involuntarily committed. (Pen. Code, § 2962, subd. (d)(3).)
- 4) States that the crimes which qualify an individual for involuntary commitment if the individual's severe mental health disorder was one of the causes of, was an aggravating

factor in its commission, meets both of the following criteria:

- a) The defendant received a determinate sentence, as specified, for the crime; and,
 - b) The crime for, among others, voluntary manslaughter; mayhem; kidnapping, as specified; robbery with a deadly or dangerous weapon, as specified; carjacking with a deadly or dangerous weapon, as specified; rape and other sex crimes, as specified; arson, as specified; a felony in which the defendant used a firearm, as specified; attempted murder; a crime in which the prisoner used force or violence, or caused serious bodily injury, as specified; and a crime in which the perpetrator expressly or impliedly threatened another with the use of force or violence likely to produce substantial physical harm in a manner that a reasonable person would believe and expect that the force or violence would be used. (Pen. Code, § 2962, subd. (e)(1) & (2).)
- 5) Provides that the existence or nature of the crime for which the person has been convicted may be shown with documentary evidence. The details underlying the commission of the offense that led to the conviction, including the use of force or violence, causing serious bodily injury, or the threat to use force or violence likely to produce substantial physical harm, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by DSH. (Pen. Code, § 2962, subd. (f).)
 - 6) Provides that “substantial danger of physical harm” does not require proof of a recent overt act. (Pen. Code, § 2962, subd. (g).)
 - 7) Defines “severe mental health disorder” to mean an illness, disease, or condition that substantially impairs the person’s thought, perception of reality, emotional process, or judgment; or that grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. (Pen. Code, § 2962, subd. (a)(2).)
 - 8) Provides that the term “severe mental health disorder” does not include a personality or adjustment disorder, epilepsy, intellectual disability or other developmental disabilities, or addiction to or abuse of intoxicating substances. (Pen. Code, § 2962, subd. (a)(2).)
 - 9) Defines “remission” to mean a finding that the overt signs and symptoms of the severe mental health disorder are controlled either by psychotropic medication or psychosocial support. (Pen. Code, § 2962, subd. (a)(3).)
 - 10) Provides that a person “cannot be kept in remission without treatment” if during the year prior to the question being before BPH or a trial court, the person has been in remission and has been physically violent, except in self-defense, or has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for their safety or the safety of their immediate family, or the person has intentionally caused property damage, or has not voluntarily followed the treatment plan. (Pen. Code, § 2962, subd. (a)(3).)
 - 11) Provides that, in determining if a person has voluntarily followed the treatment plan, the standard is whether the person has acted as a reasonable person would in following the

treatment plan. (Pen. Code, § 2962, subd. (a)(3).)

- 12) Allows BPH, upon a showing of good cause, to order an incarcerated person to remain in custody for up to 45 days past the scheduled release date for a full OMHD evaluation. (Pen. Code § 2963.)
- 13) Allows the prisoner to challenge the OMHD determination both administratively (a hearing before the board) and judicially (a superior court jury trial). (Pen. Code § 2966.)
- 14) Requires OMHD treatment to be inpatient treatment unless there is reasonable cause to believe that the parolee can be safely and effectively treated on an outpatient basis. (Pen. Code, § 2964, subd. (a).)
- 15) Specifies that if the person's severe mental disorder is put into remission during the parole period and can be kept that way, the director of the hospital shall notify BPH and shall discontinue treatment. (Pen. Code, § 2968.)
- 16) Allows the district attorney to file a petition with the superior court seeking a one-year extension of the OMHD commitment. (Pen. Code, § 2970.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “The Offenders with Mental Health Disorders (OMHD) program is a key tool to help ensure that formerly incarcerated individuals can safely and smoothly transition back to our California communities. But reforms on both the front-end and the back-end will better protect public safety. Specifically, the existing criteria used to determine eligibility for the OMHD program have been broadly interpreted, allowing offenders with severe conditions to successfully challenge their status in court and reenter society, even though they pose a serious risk to themselves and the community. Furthermore, once these individuals are released, they lack access to appropriate services. AB 1825 takes a multi-layered approach, addressing these issues by requiring specific criteria to be evaluated when determining OMHD status, further defining what constitutes an exit plan, and expanding Medi-Cal eligibility. This ensures that those who need treatment receive it and prioritizes the safety of our communities.”
- 2) **Impetus for this Bill:** The impetus for AB 1782 is the case of Bill Gene Hobbs, a story that has received extensive media coverage since his release from state prison last year.¹ Hobbs

¹ See, e.g., Vainshtein, et al., *Convicted groper back in SF after prison – and again approaching women*, S.F. Chronicle (Oct. 20, 2025) <<https://www.sfchronicle.com/sf/article/bill-gene-hobbs-released-san-francisco-21110868.php>> [as of Mar. 11, 2026]; Kukura, *Serial Harasser Bill Gene Hobbs Apparently Out of State Prison, Back to Harassing Women on SF Streets*, SFist (Oct. 21, 2025) <<https://sfist.com/2025/10/21/serial-harasser-bill-gene-hobbs-apparently-out-of-state-prison-back-to-harassing-women-on-sf-streets/>> [as of Mar. 11, 2026]; Wang, *Convicted harasser back in jail after reportedly approaching women in San Francisco*, ABC7 News (Oct. 24, 2025) <<https://abc7news.com/post/convicted-harasser-prison-seen-approaching-women-san-francisco-report-says/18054316/>> [as of March 11, 2026]; Editorial Board, *Why was Bill Gene Hobbs back on S.F. streets? His case shows the state of California's justice system*, S.F. Chronicle (Nov. 3, 2025)

has a history of involvement with the criminal justice system for repeatedly harassing women.² He has spent time in jail for misdemeanor convictions for stalking and sexual battery, and recently he was released from state prison after serving time for felony false imprisonment.³ After his release, Hobbs was sent to a state hospital for treatment as an OMHD, but five months later he was released when a local judge determined that he no longer satisfied criteria for commitment.⁴ Hobbs soon began to harass women on the streets of San Francisco, where he was quickly rearrested on a parole violation.⁵

Since his return to San Francisco, media outlets have asked why Hobbs was released from DSH after only a short commitment and whether more could be done to prevent his release without more monitoring.⁶

- 3) **Overview of the Commitment Process for an OMHD:** Existing law provides that, as a condition of parole, an incarcerated person who meets specified criteria can be involuntarily committed to DSH for treatment. (Pen. Code, § 2962 et seq.) The OMHD scheme is designed to confine an incarcerated person who is about to be released on parole if they suffer from a severe mental health disorder that contributed to the commission of their crime. Rather than release them to the community, CDCR paroles the incarcerated person to the supervision of DSH, and the person remains under DSH supervision throughout the parole period. (Pen. Code, § 2962). Treatment can continue for one year upon termination of parole (Pen. Code § 2970), and treatment can be extended for an additional year after expiration of the original, or previous, one-year commitment (Pen. Code § 2972). (*People v. Cobb* (2010) 48 Cal.4th 243, 251.)

Commitment as an OMHD requires a showing that the incarcerated person has a severe mental health disorder that is not in remission or that cannot be kept in remission without treatment. (Pen. Code, § 2962, subd. (a)(1).) Existing law defines “severe mental health disorder” as an illness, disease, or condition that substantially impairs the person’s thought, perception of reality, emotional process, or judgment; or that grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. (Pen. Code, § 2962, subd. (a)(2).) The severe mental health disorder also must have been one of the causes of, or have been an aggravating factor in, the commission of a crime for which the person was sentenced. (Pen. Code, § 2962, subd. (b).) The incarcerated person must also have been in treatment for the disorder for 90 days or more within the year prior to parole or release. (Pen. Code, § 2962, subd. (c).)

The initial determination that an incarcerated person qualifies as an OMHD is made administratively. Prior to release on parole, the person in charge of treating the incarcerated person and a practicing psychiatrist or psychologist from DSH must have evaluated the person at a CDCR facility, and a chief psychiatrist of CDCR must have certified to BPH that the incarcerated person has a severe mental health disorder; that the disorder is not in

<<https://www.sfchronicle.com/opinion/editorials/article/california-san-francisco-bill-gene-hobbs-21122904.php>> [as of Mar. 11, 2026].

² Vainshtein, *supra*.

³ Wang, *supra*.

⁴ Editorial Board, *supra*; see also Wang, *supra*.

⁵ *Ibid*.

⁶ *Ibid*.

remission and cannot be kept in remission without treatment; that the disorder was one of the causes of, or was an aggravating factor in, the incarcerated person's criminal behavior; that the incarcerated person has been in treatment of the severe mental health disorder for 90 days or more within the year prior to the incarcerated person's parole release day; and that, by reason of their severe mental health disorder, the incarcerated person represents a substantial danger of physical harm to others. (Pen. Code, § 2962, subd. (d).)

If the professionals doing the evaluation do not agree that incarcerated person has a severe mental health disorder, that the disorder is not in remission or cannot be kept in remission without treatment, or that the severe mental health disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the incarcerated person BPH, then BPH must order an examination of the incarcerated person by two independent professionals. (Pen. Code, § 2962, subd. (d)(2).) If at least one of the independent professionals who evaluate the person concurs with the chief psychiatrist's certification of the incarcerated person as an OMHD, the person can be involuntarily committed. (Pen. Code, § 2962, subd. (d)(3).)

The incarcerated person may request a hearing before BPH to require proof that that they qualify as an OMHD. (Pen. Code, § 2966, subd. (a).) If BPH determines that the person qualifies, the inmate may file, in the superior court of the county in which he or she is incarcerated or is being treated, a petition for a jury trial. (Pen. Code, § 2966, subd. (b).) The jury must unanimously agree beyond a reasonable doubt that the inmate is an OMHD. (*Ibid.*) If the jury, or the court if a jury trial is waived, reverses the determination of BPH, the court is required to stay the execution of the decision for five working days to allow for an orderly release of the incarcerated person. (*Ibid.*)

- 4) **Constitutionality of the OMHD Statute:** The OMHD law was enacted in 1985. Unlike existing law, the original statute did not require a finding that the incarcerated person represents a substantial danger of physical harm to others. (*People v. Harrison* (2013) 57 Cal.4th 1211, 1227) However, other involuntary commitment statutes required a showing of dangerousness. Because of this discrepancy, the law was challenged as a violation of the equal protection clause of both the state and federal constitutions.

The equal protection clause of the United States Constitution requires at a minimum that persons standing in the same relation to a challenged government action will be uniformly treated. Traditionally, social and economic legislation will be upheld if the classification drawn by the statutes is rationally related to legitimate state interests. When the classification touches on a fundamental right, it must be judicially determined under the strictest standard whether it is necessary to promote a compelling government interest. Whether a right is fundamental depends on whether it is implicitly or explicitly guaranteed by the federal Constitution.

Although freedom from involuntary custodial confinement would appear to be the equivalent of "liberty" explicitly guaranteed by the Fifth and Fourteenth Amendments, the United States Supreme Court has not expressly held that classifications touching upon liberty are fundamental for these purposes. [In cases] related to challenged classifications in substance and procedure for involuntary commitment, the court appears to use the traditional rational basis test. Consequently for purposes of federal law analysis so shall we.

Any equal protection challenge requires a determination whether the groups which are differently treated are similarly situated for purposes of the law. If they are not, no equal protection claim is applicable. *People v. Gibson* (1988) 204 Cal.App.3d 1425, 1435-1436 (internal citations omitted).

The court observed that the OMHD scheme was similar to other statutes that provided for the involuntary commitment of people for treatment and for the protection of the public, “for renewable periods, until they no longer pose a danger to the public whether or not they remain mentally ill.” (*Id.* at p. 1436.) The court compared OMHDs to persons found not guilty by reason of insanity who had been involuntarily committed after a term of imprisonment and to juveniles with mental health disorders who, “now adults, have been recommitted after” imprisonment (*Ibid.*) Each group of individuals had been found to have committed a criminal offense, and the commitment of both OMHDs and individuals found not guilty by reason of insanity rested on the link between their mental health disorders and their criminal conduct. (*Id.* at p. 1437.) According to the court, under the law as originally enacted, “The [OMHD] commitment scheme, however, contains one critical and significant difference from all the others; it does not require proof of any present dangerousness as a result of mental illness for commitment or recommitment.” (*Id.* at p. 1436.) Because OMHDs were treated differently from these similarly situated groups, the court called it “unreasonable and arbitrary to exempt [OMHD’s] from a requirement of proof of dangerousness applicable to all other persons subject to involuntary commitment,” thereby violating the equal protection clause of the Fourteenth Amendment of the United States Constitution. (*Id.* at pp. 1440-1441.)

Further, holding that the original OMHD scheme also violated the equal protection clause of the California Constitution, the court added:

It must be remembered that appellant and those in this class of [OMHD] committees are all legally sane and have been subject to punishment for their offenses for the term prescribed by the Legislature. At the end of their terms even the most dangerous offenders and most likely recidivists are subject to release so long as they are not mentally ill as defined. Unless proven to be dangerous the equal protection clause requires the mentally ill inmate must also be released from custody. (*Id.* at pp. 1442-1443.)

In response the court’s ruling, the Legislature quickly passed urgency legislation that incorporated the language contained in current law—that the incarcerated person must “represent[] a substantial danger of physical harm to others.” (*People v. Harrison* (2013) 57 Cal.4th 1211, 1227; *People v. Superior Court (Myers)* 50 Cal.App.4th 826, 830.)

OMHDs remain similarly situated to other persons involuntarily committed because they represent a danger to others. For example, like with OMHDs, a defendant found not guilty of a felony by reason of insanity still may be committed to DSH beyond the original prescribed term “if the person...by reason of a mental disease, defect, or disorder represents a *substantial danger of physical harm to others.*” (Pen. Code, § 1026.5, subd. (b)(1) (emphasis added); see also Welf. & Inst., § 5008, subd. (h)(1)(B)(iv) (defining a person “found mentally incompetent [because]...among several factors, the person represents a *substantial danger of physical harm to others* by reason of a mental disease, defect, or disorder” to be “gravely

disabled” for purposes of conservatorship) (emphasis added).

- 5) **Other OMHD Bills Before the Committee:** In addition to this bill, the committee has been referred two additional bills seeking to address the involuntary commitment of OMHDs— AB 1782 (DeMaio) and AB 1897 (Haney). AB 1782 would dispel with the necessity that the chief psychiatrist of CDCR certify to BPH that a person is suffering from a severe mental health disorder that was one of the causes of, or an aggravating factor in, the person’s criminal behavior. It would require neither that the person’s severe mental health disorder contributed to their criminal conduct nor that the person represents a substantial danger of physical harm to others.

As currently in print, AB 1897 would require the chief psychiatrist of CDCR to certify among other things that an incarcerated person represents a “*threat* of physical harm to others,” rather than a substantial danger of physical harm to others. It would also require the person to undergo the Historical Clinical Risk Management-20, Version 3 assessment as published by the Mental Health, Law, and Policy Institute at Simon Fraser University in Canada, in addition to any other test or assessment the evaluating professionals deem appropriate

Unlike the other two bills, AB 1825 does not dispense with the requirement that the person represent a substantial danger to the physical harm to others. Rather than providing for commitment without a showing of dangerousness or changing the risk standard, AB 1825 would clarify the factors the CDCR chief psychiatrist must consider when determining whether an incarcerated person, as a result of a severe mental health disorder, represents a “substantial danger of physical harm” to others. Specifically, AB 1825 would require the chief psychiatrist to consider recent threats of violence or acts of violence directed toward another individual, group, or location; recent threats of violence or acts of violence directed toward themselves; a pattern of violent acts or violent threats within the past 12 months; a history of violent behavior, including prior convictions for violent offenses; treatment compliance history and response to treatment; and a prior history of state hospital commitment.

- 6) **Argument in Support:** According to the *California State Association of Psychiatrists*, “Current law allows the Board of Parole Hearings to require treatment for individuals whose severe mental disorder contributed to the commission of a violent offense and who, as a result of that disorder, may represent a substantial danger of physical harm to others. However, the absence of clear standards for evaluating dangerousness and the lack of structured exit planning can result in abrupt termination of OMHD classification and direct discharge to the community without adequate clinical coordination or safeguards.

“A violence risk assessment is most effective when it incorporates well-established factors, including recent threats or acts of violence toward others or oneself, patterns of violent behavior, prior violent offenses, treatment compliance and response, and prior state hospital commitments. Establishing these factors in statute will help ensure that risk evaluations are thorough, consistent, and informed by evidence-based practices. AB 1825 recognizes the importance of coordinated reentry planning by requiring collaboration with county behavioral health departments and consideration of programs such as Assisted Outpatient Treatment, CARE Court, or Forensic Assertive Community Treatment when individuals are released to the community.

“Finally, this legislation strengthens continuity of care by requiring structured exit plans and by allowing individuals in state hospitals to enroll in Medi-Cal and receive Medi-Cal services during the 90 days prior to release, aligning them with policies already available to people leaving prisons and jails. These provisions support effective coordination and timely access to psychiatric care, medication, and community-based services—interventions that are essential for stabilizing serious mental illness and reducing the likelihood of relapse or re-offense.”

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

8) **Related Legislation:**

- a) AB 1782 (DeMaio) would reduce the number of factors to which the chief psychiatrist of CDCR to BPH prior to the involuntary commitment of a OMHD. AB 1782 will be heard today in this committee.
- b) AB 1897 (Haney) would require the chief psychiatrist of CDCR to certify among other things that a incarcerated person represents a threat of physical harm to others, rather than a substantial danger of physical harm to others. AB 1897 is pending a hearing in this committee.

9) **Prior Legislation:**

- a) SB 591 (Galgiani), Chapter 649, Statutes 2019, stated that a practicing psychiatrist or DSH or CDCR psychologist be afforded prompt and unimpeded access to an inmate temporarily housed at a county jail, when the psychiatrist or psychologist is conducting an evaluation of the inmate as a MDO; and made changes to the process to determine whether an inmate is a MDO.
- b) SB 350 (Galgiani), of the 2017-2018 Legislative Session, would have required the disclosure of medical, dental, and mental health information between a county correctional facility, a county medical facility, a state correctional facility, a state hospital, or a state-assigned mental health provider when an inmate is transferred from or between state and county facilities, as specified. SB 350 was held in the Senate Appropriations Committee.
- c) SB 1443 (Galgiani), of the 2015-2016 Legislative Session, would have permitted the sharing of medical, mental health and dental information between correctional facilities, as specified. SB 1443 was held in the Senate Appropriations Committee.
- d) SB 1295 (Nielsen), Chapter 430, Statutes of 2016, authorized the use of documentary evidence for purposes of satisfying the criteria used to evaluate whether a prisoner released on parole is required to be treated by the State Department of State Hospitals as an MDO.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Association of Psychiatrists (CSAP)

Opposition

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

Date of Hearing: March 17, 2026

Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 1872 (Ta) – As Introduced February 12, 2026

SUMMARY: Increases the punishment for a second or subsequent offense of “swatting” from a misdemeanor to an alternate felony-misdemeanor. Specifically, **this bill:**

- 1) Provides that a second or subsequent offense of reporting an “emergency” to a government entity, knowing that the report is false, is punishable by up to one year in county jail, by a fine of up to \$1,000, by both imprisonment and a fine, or by a felony punishable by imprisonment for 16 months, 2 years, or 3 years.
- 2) Provides that a second of subsequent offense of telephoning or using an electronic communication device to contact 911 with the intent to annoy or harass another person is a misdemeanor punishable by up to one year in county jail, by a fine of up to \$1,000, by both imprisonment and a fine, or of a felony punishable by imprisonment for 16 months, 2 years, or 3 years.
- 3) Provides that the increased penalties for a second or subsequent offense for swatting does not apply to a person who was under 18 years of age at the time they committed the prior offense or offenses.
- 4) Clarifies that the reasonable costs for which an individual convicted of the above crimes could be liable include property damage incurred by any party as a result of the emergency response.

EXISTING LAW:

- 1) Makes reporting to a government agency that an emergency exists, knowing that the report is false, a misdemeanor punishable by imprisonment in county jail for up to one year, a fine of up to \$1,000, or both. (Pen. Code, § 148.3, subd. (a).)
- 2) Makes knowingly making a false report of an emergency to a government agency, knowing that the response to the report is likely to cause death or great bodily injury, and great bodily injury or death results, a felony punishable by imprisonment in county jail for 16 months, 2 years, or 3 years. (Pen. Code, § 148.3, subd. (b).)
- 3) Provides that a person who telephones or uses an electronic communication device to initiate communication with the 911 emergency system with the intent to annoy or harass another person is guilty of a misdemeanor punishable by a fine of up to \$1,000, by imprisonment in a county jail for up to six months, or both. (Pen. Code, § 653x, subd. (a).)

- 4) Provides that an intent to annoy or harass is established by proof of repeated calls or communications over a period of time, however short, that are unreasonable under the circumstances. (Pen. Code, § 653x, subd. (b).)
- 5) Provides that an individual is liable to a public agency for the reasonable costs of the emergency response by that public agency when convicted of knowingly making a false report or calling 911 with the intent to annoy or harass another person. (Pen. Code, § 148.3, subd. (e); Pen. Code, § 653x, subd. (c).)
- 6) Makes knowingly allowing the use of or using the 911 emergency system for any reason other than an emergency an infraction, as specified. (Pen. Code, § 653y, subd. (a).)
- 7) Makes knowingly allowing the use of or using the 911 emergency system for the purpose of harassing another punishable by a fine of \$250 or a misdemeanor punishable by up to six months in county jail, by a fine of up to \$1,000, or both; a second or subsequent offense is a misdemeanor punishable by up to six months in county jail, by a fine of up to \$1,000, or both. (Pen. Code, § 653y, subd. (b).)
- 8) Makes knowingly allowing the use of or using the 911 emergency system for the purpose of harassing another person, and that act is a hate crime or violation of a condition of probation, a misdemeanor punishable by up to one year in county jail, by a fine of between \$500 and \$2,000, or both. (Pen. Code, § 653y, subd. (c).)
- 9) Makes it a misdemeanor to file a report with law enforcement that that a felony or misdemeanor has been committed, knowing the report to be false. (Pen. Code, § 148.5, subd. (a).)
- 10) Defines “emergency” as any condition that results in, or could result in, the response of a public official in an authorized emergency vehicle, aircraft, or vessel, any condition that jeopardizes or could jeopardize public safety and results in, or could result in, the evacuation of any area, building, structure, vehicle, or of any other place that any individual may enter, or any situation that results in or could result in activation of the Emergency Alert System, as specified. (Pen. Code, § 148.3, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “According to the Educator’s School Safety Network, 63.8% of all violent incidents at schools in the past year were the result of false active shooter reports—a shocking 546% increase from 2018 to 2023. Put simply, swatting puts children, teachers, and other innocent members of our community in immediate jeopardy.

“Any person, including school faculty, students, and public servants, can easily be a target of swatting regardless of position or politics. This serious crime wastes public resources, leads to property damage, causes undue stress for the victims, and risks serious injury or death. Swatting is more than just a threat to the safety of individuals, including our school faculty, students, public officials, and their families – it’s an affront to democracy. By granting

judicial discretion to address the crime of swatting as a wobbler, AB 1872 will help crack down on such a dangerous crime to keep our schools and communities safe.”

- 2) **“Swatting”**: According to one security expert, “Swatting involves people making fraudulent 911 calls reporting serious-level criminal threats or violent situations like bomb threats, hostages, killing, etc. to fool the police into raiding the house or business of somebody who is not actually committing a crime.”¹

There have been numerous high-profile swatting instances in recent years.² According to Politico, “A broad range of politicians and other public figures have been targeted by swatting calls for a variety of reasons that aren’t always tied to Trump. The pranks are designed to fool unsuspecting police into responding with force, sometimes with their arms drawn. Callers have reported fake incidents at the homes of Boston Mayor Michelle Wu, a Democrat, and Republican Rep. Majorie Taylor Greene of Georgia has claimed multiple incidents, criticizing the FBI while lauding local police for their response.”³

The FBI recently launched a “Virtual Command Center” in partnership with state and local law enforcement to help track and prevent swatting incidents.⁴ “The initiative allows police and intelligence fusion centers to share details of swatting incidents taking place within their jurisdictions, providing authorities nationwide with a “common operating picture” regarding the nature of the threat, and can assist in identifying whether the same perpetrator is responsible for multiple incidents.”⁵

- 3) **This Bill is Inconsistent with Other Provisions of Law**: This bill would increase the punishment for “swatting” from a misdemeanor to a wobbler. However, allowing for an alternate misdemeanor-felony in swatting cases is arguably inconsistent with provisions of law intended to prohibit similar conduct and prevent similar harms.

For example, AB 1775 (Jones-Sawyer), Chapter 327, Statutes of 2020, made a number of changes in criminal and civil law to discourage individuals from using 911 or other communications with law enforcement to harass people. That bill was an explicit response to a number of media reports on people calling 911 and making false claims to harass others, in part because the target individuals were members of a protected class.⁶ The threat posed by such reports is likely greater to communities of color, and particularly to Black men.⁷

¹ Ward, *The FBI has formed a national database to track and prevent ‘swatting’*, NBCNews.com (June 29, 2023) <<https://www.nbcnews.com/news/us-news/fbi-formed-national-database-track-prevent-swatting-rcna91722>> [last visited Mar. 27, 2024].

² See e.g., Cadelago, *California lieutenant governor ‘swatted’ after push to boot Trump from ballot*, Politico.com (Jan. 4, 2024) <<https://www.politico.com/news/2024/01/04/california-lieutenant-governor-swatted-after-push-to-boot-trump-from-ballot-00133952>> [last visited Mar. 27, 2024].

³ *Ibid.*

⁴ Ward, *supra*.

⁵ Campbell, *High-profile political figures are the targets in latest wave of ‘swatting’ incidents. Why the trend is so alarming*, CNN.com (Jan. 15, 2024) <<https://www.cnn.com/2024/01/14/us/swatting-incidents-trend-explained/index.html>> [last visited Mar. 27, 2024].

⁶ See e.g., North, *Amy Cooper’s 911 call is part of an all-too-familiar pattern*, Vox.com (May 26, 2020) <<https://www.vox.com/2020/5/26/21270699/amy-cooper-franklin-templeton-christian-central-park>> [last visited Mar. 27, 2024].

⁷ Cf. Premkumar, *Police Use of Force and Misconduct in California*, PPIC (Oct. 2021) <<https://www.ppic.org/publication/police-use-of-force-and-misconduct-in-california/>> [last visited Mar. 27, 2024].

Under existing law, it is a misdemeanor punishable by up to one year in county jail to use the 911 emergency system to harass another person if the conduct qualifies as a hate crime, as specified. (Pen. Code, § 653y, subd. (c).) Where no evidence of hate crime exists, knowingly using the 911 emergency system for the purpose of harassing another is an alternate infraction-misdemeanor for a first offense, and a straight misdemeanor for a second or subsequent offense. In these circumstances, a misdemeanor for a first offense would carry possible imprisonment in county jail for up to six months, whereas a second or subsequent offense carries a punishment of up to one year in county jail. (Pen. Code, § 653y, subd. (b)(1) & (2).)

Similarly, existing law makes it a misdemeanor to knowingly file a false police report (Pen. Code, § 148.5, subd. (a)); to file a petition for a gun violence restraining order knowing that the information in the petition is false or with the intent to harass (Pen. Code, § 18200); and, to willfully and maliciously sound a false alarm of fire (Pen. Code, § 148.4, subd. (a)). Like “swatting,” these acts all require agencies to divert resources from legitimate duties to handle false reports; and, in many cases, these acts could cause potentially volatile interactions between emergency responders and those targeted by a false report.

Finally, existing law already provides for up to three years in county jail for “swatting” when the false report results in death or great bodily injury if the person knew or should have known that that result was likely. (Pen. Code, § 148.3, subd. (b); see also Pen. Code, § 148.4, subd. (b) [false fire alarm resulting in serious bodily injury or death].) This bill would allow for felony punishment of up to three years for swatting even when there was no injury. As a result, a person convicted of swatting when no injury results could receive the same, or an even longer, sentence as another person whose conduct resulted in great bodily injury or death.

- 4) **Deterrence:** Research shows that increasing the severity of the punishment does little to deter crime. According to the National Institute of Justice, an agency of the U.S. Department of Justice, “Laws and policies designed to deter crime by focusing mainly on increasing the severity of punishment are ineffective partly because criminals know little about the sanctions for specific crimes. More severe punishments do not ‘chasten’ individuals convicted of crimes, and prisons may exacerbate recidivism... Studies show that for most individuals convicted of a crime, short to moderate prison sentences may be a deterrent but longer prison terms produce only a limited deterrent effect. In addition, the crime prevention benefit falls far short of the social and economic costs.”⁸
- 5) **Argument in Support:** According to the *City of Los Alamitos*, “Swatting poses a direct threat to public safety, but it is especially dangerous when schools and students are involved. Swatting is the malicious act of falsely reporting an emergency, such as an active shooter situation, in order to trigger a large-scale law enforcement response. This not only diverts critical resources away from legitimate emergencies, but it places students and educators in immediate harm’s way. According to the Educator’s School Safety Network, 63.8% of all violent incidents at schools in the past year were the result of false active shooter reports—a shocking 546% increase from 2018 to 2023.

⁸ National Institute of Justice, *Five Things about Deterrence* <<https://www.ojp.gov/pdffiles1/nij/247350.pdf>> [as of Feb. 25, 2025].

“These fake threats cause panic and trauma for students, teachers, and parents. The presence of SWAT teams and armed officers on school grounds, responding to a false report, can lead to confusion, fear, and even physical harm. In addition to the emotional toll, the disruption caused by swatting incidents interrupts the learning environment, jeopardizing students' education and well-being. As we have seen, these swatting events can have a lasting psychological impact on those involved, particularly children who should feel safe in their schools.

“AB 1872 provides a necessary response to this growing problem. By allowing the State of California to prosecute swatting as either a misdemeanor or felony, the bill gives law enforcement the tools to appropriately address these crimes based on their severity. It also ensures that victims, including schools and their staff, are compensated for the costs they incur, such as repairs to property or other damage resulting from these false reports.

“The City of Los Alamitos strongly supports AB 1872 as a crucial step in protecting our students, teachers, and the broader community from the dangers of swatting. The safety and security of our schools must remain a top priority, and we believe this bill is an essential tool in ensuring that students can learn in an environment free from fear and disruption.”

6) Prior Legislation:

- a) AB 327 (Ta), of the 2025-2026 Legislative Session, was nearly identical to this bill. AB 327 was held in suspense in the Assembly Appropriations Committee.
- b) AB 2609 (Ta), of the 2023-2024 Legislative Session, was nearly identical to this bill. AB 2609 was held in suspense in the Assembly Appropriations Committee.
- c) AB 1775 (Jones-Sawyer), Chapter 327, Statutes of 2020, made a number of changes in criminal and civil law to discourage individuals from using 911 or other communications with law enforcement to harass a person because that person belongs to a protected class.
- d) AB 1769 (Rodriguez) Chapter 96, Statutes of 2016, prohibited contacting the 911 system via electronic communication for the purpose of annoying, harassing, or any purpose other than an emergency.
- e) AB 538 (Juan Arambula), of the 2009-2010 Legislative Session, would have authorized agencies that provide emergency medical services to report misuse of the 911 system to the public safety entity that originally received the call. Governor Brown vetoed AB 538.
- f) AB 1976 (Benoit), Chapter 89, Statutes of 2008, increased the penalties for knowingly using the 911 system for any reason other than an emergency.
- g) AB 2225 (Mountjoy), Chapter 227, Statutes 2006, added activation of the Emergency Alert System to the definition of “emergency” for which an individual making a knowingly false report is guilty of misdemeanor.
- h) AB 911 (Longville), Chapter 295, Statutes of 2004, created a new infraction for using the 911 telephone system for purposes other than an emergency, as defined.

- i) SB 2057 (O’Connell), Chapter 521, Statutes of 2002, required the felony offense of knowingly making a false emergency report to public officials that results in great bodily injury or death to include knowledge that great bodily injury or death was likely.
- j) AB 2741 (Cannella), Chapter 262, Statutes of 1994, made it a misdemeanor to telephone the 911 emergency system with the intent to annoy or harass another person.

REGISTERED SUPPORT / OPPOSITION:

Support

Antelope Valley Union High School District
Brentwood Union School District
California District Attorneys Association
California State Sheriffs' Association
Capistrano Unified School District
Ceres Unified School District
Chaffey Joint Union High School District
City of Los Alamitos
El Monte Union High School District
Garden Grove Unified School District
Golden Valley Unified School District
Hope School District
Huntington Beach Union High School District
Madera Unified School District
Newport-mesa Unified School District
Pacific Union Elementary School District
Peace Officers Research Association of California (PORAC)
Perris Union High School District
Redondo Beach Unified School District
South Monterey County Joint Union High School District
Tehachapi Unified School District
Temple City Unified School District
3 Private Individuals

Oppose

ACLU California Action
California Attorneys for Criminal Justice
California Public Defenders Association
Ella Baker Center for Human Rights
Local 148 Los Angeles County Public Defender's Union
San Francisco Public Defender
Smart Justice California, a Project of Beyond Impact

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

Date of Hearing: March 17, 2026

Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 1874 (Wilson) – As Introduced February 12, 2026

SUMMARY: Requires any court-imposed driver’s license suspension or revocation as part of a criminal sentence to commence upon the person’s release from custody. Specifically, **this bill:**

- 1) Provides that, notwithstanding any other provision of law, when a court imposes a suspension, as defined, or a revocation, as defined, of a person’s driver’s license as part of a criminal sentence, the period of suspension or revocation shall commence upon the person’s release from custody, as defined.
- 2) Prohibits a court from ordering any period of driver’s license suspension or revocation to run concurrently with any period of incarceration in a county jail, a state prison, or any other custodial facility.
- 3) Specifies that nothing in this bill alters, limits, or delays any administrative action taken by the Department of Motor Vehicles (DMV), including actions taken pursuant to the DMV’s existing authority to suspend and revoke driving privileges, as specified.
- 4) Defines “release from custody” for purposes of this bill, by way of reference to subdivision (b) of Penal Code section 4901, to mean release from imprisonment from state prison or from incarceration in county jail when there is no subsequent parole jurisdiction exercised by the Department of Corrections and Rehabilitation (CDCR) or post-release jurisdiction under a community corrections program, or when there is a parole period or post-release period subject to jurisdiction of a community corrections program, when that period ends.

EXISTING LAW:

- 1) Provides that when a person is convicted of a Vehicle Code offense that requires the DMV to suspend or revoke that persons driving privileges, the driving privilege is suspended or revoked until the DMV takes the action required by the Vehicle Code, and the court in which the conviction is had shall require the surrender of the driver’s license or temporary permit and shall within 10 days after the conviction forward the same with the required report of the conviction to the DMV. (Veh. Code, § 13550.)
- 2) Provides that whenever in the Vehicle Code the DMV is required to suspend or revoke the privilege of a person to operate a vehicle upon the conviction of such a person of violating the Vehicle Code, such suspension or revocation shall begin upon a plea, finding, or verdict of guilty. (Veh. Code, § 13366.)
- 3) Requires the clerk of a court in which a person was convicted of certain offenses, including a violation of the Vehicle Code or a violation of any other statute relating to the safe operation

of vehicles, among others, to prepare within five days after conviction and immediately forward to the DMV, an abstract of the record of the court covering the case in which the person was so convicted. (Veh. Code, § 1803, subd. (a)(1).)

- 4) Requires, generally, the DMV, for criminal offenses that result in a criminal license suspension or revocation, to immediately suspend or revoke the privilege of a person to drive a vehicle upon receipt of a duly certified abstract of the record of a court showing that the person has been convicted of specified offenses. (Veh. Code, §§ 13350, subd. (a); 13351, subd. (a); 13352, subd. (a).)
- 5) Requires the DMV, when a person's driving privileges are suspended or revoked, to notify the person by mail of the action taken and of the effective date of the suspension or revocation, except for persons personally given notice by the DMV, a court, a peace officer, or otherwise pursuant to the Vehicle Code. (Veh. Code, § 13106, subd. (a).)
- 6) Provides that if a person is convicted of a hit and run, driving under the influence (DUI), or DUI causing bodily injury and is sentenced to one year in a county jail or more than one year in the state prison under specified DUI sentencing statutes, the court may postpone the revocation or suspension of the person's driving privilege until the term of imprisonment is served. (Veh. Code, § 23665, subd. (a).)
- 7) Establishes DMV-imposed license suspensions and revocations as follows:
 - a) Authorizes the DMV to suspend a person's driving privileges, upon receipt of a record of conviction from a court, showing that the person has been convicted of any of the following offenses:
 - i) Failure to stop in the event of an accident resulting in damage to property only or otherwise failing to comply with the requirements to immediately stop at the scene of an accident resulting in only damage to property and perform certain duties.
 - ii) A second or subsequent conviction of reckless driving.
 - iii) Misdemeanor vehicular manslaughter. (Veh. Code, § 13361.)
 - b) Requires the DMV to immediately revoke a person's driving privileges for a mandatory one-year period from the date of revocation and until the person provides proof of financial responsibility, upon receipt of a record of conviction from a court showing a person has been convicted of any of the following offenses:
 - i) Failure of a driver involved in an accident resulting in injury or death to a person to stop or otherwise comply with the requirements to perform specified duties at the scene of the accident.
 - ii) A felony in the commission of which a motor vehicle is used, except for crimes subject to separate suspension and revocation rules, as specified.
 - iii) Reckless driving causing bodily injury. (Veh. Code, § 13350, subs. (a) & (c).)

- c) Requires the DMV to immediately revoke a person's driving privileges for a mandatory three-year period from the date of revocation and until the person provides proof of financial responsibility, upon receipt of a record of conviction from a court showing a person has been convicted of any of the following offenses:
 - i) Manslaughter resulting from the operation of a motor vehicle, except for misdemeanor vehicular manslaughter.
 - ii) Conviction of three or more specified hit and run or reckless driving violations within a period of 12 months from the time of the first offense to the third or subsequent offense, or a combination of three or more convictions of violations within the same period.
 - iii) Violation of gross vehicular manslaughter while intoxicated or vehicular manslaughter while operating a vessel with gross negligence or of fleeing or attempting to elude a peace officer, causing serious bodily injury resulting in specified serious impairments of physical condition, as specified. (Veh. Code, § 13351, subs. (a) & (b).)
- d) Requires the DMV to immediately suspend or revoke a person's driving privileges, upon receipt of a court record showing that the person has been convicted of a DUI or DUI causing bodily injury, with the length of the license suspension or revocation depending on the person's number of prior¹ DUIs, as follows:
 - i) A first DUI is a misdemeanor with a six-month license suspension, a DUI with one prior is a misdemeanor with a two-year license suspension, a DUI with two priors is a misdemeanor with a three-year license revocation, and a DUI with three or more priors is an alternate-felony misdemeanor (hereafter, "wobbler") with a four-year license revocation. (Veh. Code, §§ 13352, subd. (a)(1), (3), (5), & (7).)
 - ii) A first DUI causing bodily injury is a wobbler with a one-year license suspension, a DUI causing bodily injury with one prior is a wobbler with a three-year license revocation, and a DUI causing bodily injury with two or more priors is a felony with a five-year license revocation. (Veh. Code, §§ 13352, subd. (a)(2), (4) & (6).)
- 8) Establishes court-imposed license suspensions, as follows:
 - a) Authorizes a court, notwithstanding existing license suspensions and revocations for DUIs, to order a 10-year license revocation if a person has been convicted of three or more separate DUIs or DUIs causing bodily injury, the last of which was punishable as a DUI with two priors, a DUI with three or more priors, a DUI causing bodily injury with two or more priors, a DUI or DUI causing bodily injury with a prior specified felony, a DUI or DUI causing bodily injury with a prior conviction for felony intoxicated vehicular manslaughter, as specified, or a DUI causing bodily injury, where the violation

¹ 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.

proximately caused great bodily injury (GBI) and occurred within 10 years of two or more priors. (Veh. Code, § 23597, subd. (a).)

- b) Provides if a person convicted of a Vehicle Code violation relating to the speed of vehicles or reckless driving, the court may, unless a DMV revocation is required, suspend the person's driving privilege for up to 30 days upon a first conviction, up to 60 days upon a second conviction, and up to six months upon a third or subsequent conviction. (Veh. Code, § 13200.)
- c) Authorizes a court, unless a mandatory DMV revocation is required, to suspend a person's driving privileges for up to 30 days if a person is convicted of driving a vehicle upon a highway at a speed greater than 100 miles per hour. (Veh. Code, §§ 13200.5; 22348, subd. (b).)
- d) Authorizes a court to suspend a person's driving privileges for up to six months, upon a conviction for any of the following offenses:
 - i) A hit and run only resulting in damage to property.
 - ii) Specified reckless driving offenses.
 - iii) Failure to stop at a railway grade crossing, as specified.
 - iv) Fleeing or attempting to elude a peace officer, as specified, fleeing or attempting to elude a peace officer with willful or wanton disregard for safety, and fleeing or attempting to elude a peace officer that proximately causes serious bodily injury or death, as specified, if the person's license was not revoked by the DMV, as required.
 - v) Knowingly causing or participating in a vehicular collision or any accident, for the purpose of presenting a false insurance claim. (Veh. Code, § 13201, subs. (a)-(d).)
- e) Authorizes a court, in lieu of suspending a person's driving privilege pursuant to the above, to order the privilege to operate a motor vehicle restricted to necessary travel to and from that person's place of employment, or driving in that person's scope of employment, for not more than six months. (Veh. Code, § 13201, subs. (e)(2).)
- f) Requires a court to suspend a person's driving privileges for one year for persons between 13 and 21 years old, for any of the following offense involving controlled substances or alcohol: intoxicated vehicular manslaughter, vehicular manslaughter while operating a vessel while intoxicated, as specified, a wet reckless, as specified, and driving with a blood alcohol content (BAC) of .05 or more while under the age of 21, among other specified impaired driving offenses. (Veh. Code, § 13202.5, subs. (a) & (d).)
- g) Authorizes a court to suspend the driving privileges of a person who commits an assault that constitutes "road rage," as defined, for six months for a first offense and one year for a second or subsequent offense, to commence, at the discretion of the court, either on the date of the person's conviction, or upon the person's release from confinement or imprisonment. (Veh. Code, § 13210.)

- h) Authorizes a court to suspend a person's driving privileges for 90 days to six months if a person is convicted of engaging in a motor vehicle speed contest, and for six months if the defendant had certain priors or if the offense proximately caused bodily injury, or serious bodily injury. (Veh. Code, § 23109, subd. (e)(1).)
- i) Prohibits a court from suspending a person's driving privileges, or as a condition of probation, prohibiting a person from operating a motor vehicle, for a period of time longer than that specified in the Vehicle Code. (Veh. Code, § 13203.)
- j) Provides that whenever a court suspends the privilege of a person to operate a vehicle, the court shall require the person's license to be surrendered, and unless the court is required to send the license to the DMV, the court shall retain the license during the period of suspension and return it to the licensee at the end of the period after indorsing thereon a record of the suspension. (Veh. Code, § 13206.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "Allowing individuals convicted of serious driving offenses to return to the road immediately after incarceration puts everyone at risk. If a license suspension overlaps with jail time, when the offender cannot drive, it becomes meaningless. License suspensions should genuinely protect the public by keeping unsafe drivers off the road, not serve as empty gestures.

"The state has a duty to ensure that drivers returning to our roads do not pose an ongoing risk. AB 1874 closes a dangerous loophole by preventing license suspensions from being served while offenders are incarcerated. By prioritizing public safety, this bill keeps high-risk drivers off the road during a critical time upon reentry, helping more Californians get home safely."

- 2) **Criminal License Suspensions and Revocations:** There are numerous distinct license suspension and revocation statutes. This bill pertains to license suspensions and revocations as part of a criminal sentence, which likely refers to those license sanctions that are imposed after a person's *conviction* for a certain vehicle-related crime. Such criminal license sanctions are distinct from the pre-conviction administrative suspensions that the DMV may impose on specified impaired individuals. (Veh. Code, §§ 13353; 13353.1; 13353.2; 13353.3)

The typical process of suspending or revoking a license upon a criminal conviction is as follows. Upon conviction for certain vehicle-related offenses, including a violation of the Vehicle Code or a violation of any other statute relating to the safe operation of vehicles, among others, judicial clerks are required to send an abstract of the record of the court covering the case in which the person was convicted to the DMV within five days after conviction. (Veh. Code, § 1803, subd. (a)(1).) For any Vehicle Code conviction requiring the DMV to suspend or revoke driving privileges, driving privileges are suspended or revoked until the DMV takes the action required by the Vehicle Code, and the court shall require the individual to surrender their driver's license and must send it to the DMV within 10 days of conviction, along with the required report of conviction. (Veh. Code, § 13550.) The DMV, upon receiving a certified abstract of the record establishing a conviction, is generally

required to immediately suspend or revoke the driving privileges of the convicted person. (Veh. Code, §§ 13350, subd. (a); 13351, subd. (a); 13352, subd. (a).) If a suspension is made by a court, rather than the DMV, the court must require the individual to surrender their license, and unless the court is required to send it to the DMV, they shall retain the license for the period of suspension and return it after the suspension is complete. (Veh. Code, § 13206.)

Courts impose only certain types of license suspensions. Court-imposed suspensions are typically of shorter duration and apply to less severe criminal offenses than the license sanctions imposed by the DMV. Courts can issue license suspensions for violations related to speeding or reckless driving, unless the offense is subject to a mandatory DMV revocation. (Veh. Code, §§ 13200, 13200.5.) A first offense may receive up to a 30-day suspension, a second offense up to a 60-day suspension, and a third or subsequent offense up to a six-month suspension. (*Ibid.*) Additionally, a court may suspend driving privileges for up to six months upon a conviction for: 1) a hit and run only resulting in damage to property; 2) specified reckless driving offenses; 3) failure of the driver to stop at a railway grade crossing; 4) fleeing or attempting to elude a peace officer, as specified; and 7) knowingly causing or participating in a vehicular collision for the purpose of presenting any false insurance claim. (Veh. Code, § 13201, subs. (a)-(d).) Courts are additionally authorized to suspend a driver's license for one year for persons between 13 and 21 years old who are convicted of specified impaired driving offenses. (Veh. Code, § 13202.5.) A court may also order suspensions for road rage; a six-month suspension for a first offense, and a one-year suspension for a second or subsequent offense, to commence at the discretion of the court, either on the date of conviction, or upon the person's release from confinement or imprisonment. (Veh. Code, § 13210.) A court may also suspend driving privileges for 90 days to six months if a person is convicted of engaging in a motor vehicle speed contest. (Veh. Code, § 23109, subd. (e)(1).)

As discussed in more detail below, DUI suspensions and revocations are typically imposed by the DMV. That said, courts are authorized to order a 10-year license revocation if a person has been convicted of three or more separate DUIs or DUIs causing bodily injury. (Veh. Code, § 23597, subd. (a).) This only applies when the last offense was punishable as a DUI with two priors, a DUI with three or more priors, a DUI causing bodily injury with two or more priors, a DUI or DUI causing bodily injury with a prior specified felony, a DUI or DUI causing bodily injury with a prior conviction for felony intoxicated vehicular manslaughter, as specified, or a DUI causing bodily injury, where the violation proximately caused GBI and occurred within 10 years of two or more priors. (*Ibid.*) If a court orders a 10-year license revocation, the DMV, upon receipt of such a record, shall similarly revoke the person's driver's license for 10 years. (*Ibid.*)

Many other criminal license suspensions and revocations are imposed by the DMV, not the courts. For crimes such as a hit and run only resulting in damage to property, a second or subsequent reckless driving conviction, or misdemeanor vehicular manslaughter, the DMV has discretion to impose a suspension. (Veh. Code, § 13361.) Other crimes result in mandatory one-year revocations. (Veh. Code, § 13350, subs. (a) & (b).) Specifically, the DMV is required to immediately revoke a person's driving license upon receiving a record of conviction for a hit and run resulting in injury or death, a felony involving the commission of a motor vehicle, except for offenses subject to separate suspension and revocation rules, and reckless driving causing bodily injury. (*Ibid.*) Some of the most severe vehicle crimes require the DMV to revoke a person's license for three years. The following offenses are subject to a

three-year license revocation: 1) manslaughter resulting from the operation of a vehicle, except for misdemeanor vehicular manslaughter; 2) a conviction of three or more specified hit and run or reckless driving violations within a period of 12 months, as specified; and 3) a violation of gross vehicular manslaughter while intoxicated or vehicular manslaughter while operating a vessel with gross negligence or of fleeing or attempting to elude a peace officer that causes serious bodily injury resulting in specified serious impairments of physical condition, as specified. (Veh. Code, § 13351, subd. (a).)

Other convictions, such as those for a DUI or a DUI causing bodily injury, require the DMV to impose progressively longer license suspensions or revocations depending on the person's number of prior DUIs. (Veh. Code, § 13352, subd. (a)(1)-(8).) The duration of a criminal DUI license suspension or revocation increases with each prior offense. (Veh. Code, §§ 13352, subd. (a)(1)-(7).) A first DUI is subject to a six-month license suspension or a 10-month suspension if probation is given and a 9-month DUI program is ordered. (Veh. Code, §§ 13352, subd. (a)(1); 13352.1, subd. (a).) A DUI with one prior is subject to a two-year license suspension, a DUI with two priors results in a three-year license revocation, and a DUI with three or more priors results in a four-year license revocation. (Veh. Code, §§ 13352, subd. (a)(1), (3), (5) & (7).) License suspensions and revocations for a DUI causing bodily injury are even longer. A first-time DUI causing bodily injury is subject to a one-year license suspension, a DUI causing bodily injury with one prior receives a three-year license revocation, and a DUI causing bodily injury with two or more priors is subject to a five-year license revocation. (Veh. Code, §§ 13352, subd. (a)(2), (4), (6) & (7).)

Notably, DUI criminal license sanctions do not completely prohibit the defendant from driving. Generally, a person convicted of a DUI can apply to the DMV for a restricted license. (Veh. Code, § 13352, subds. (a)(1)(A).) To obtain such a license, the defendant must meet several requirements, the most notable being that they install and maintain an ignition interlock device (IID) on every vehicle they operate for a specified period. (Veh. Code, § 13352, subds. (a)(1)(A).) Additionally, prior to any conviction, California's administrative suspension laws require the DMV to suspend a person's license, prior to any conviction, if they refuse to submit to or fail to complete a chemical test or alcohol screening test, or drive in excess of specified BAC thresholds. (Veh. Code, §§ 13353; 13353.1; 13353.2, subd. (a).) For DUIs, administrative and criminal license sanctions run concurrently. This means that if the DMV administratively suspends a person's driver's license because they exceeded the legal BAC limit, and that person is later convicted of a DUI, arising out of the same occurrence, the two suspension or revocation periods run concurrently, and the total period of the license sanction shall not exceed the longer of the two suspension or revocation periods. (Veh. Code, § 13353.3, subd. (c).)

In terms of when criminal license suspensions and revocations commence, the general rule is that where the Vehicle Code requires the DMV to suspend or revoke a person's driver's license for a conviction for violating the Vehicle Code, such suspension or revocation shall begin upon a plea, finding, or verdict of guilty. (Veh. Code, § 13366.) Court-imposed license suspensions similarly reference suspensions commencing upon a person's conviction. (Veh. Code, §§ 13200; 13201, subd. (a).) However, in certain circumstances, courts have discretion to postpone a given criminal license suspension or revocation until after a person is released from jail or prison. Most notably, if a person is convicted of a hit and run, or a DUI or a DUI causing bodily injury and is sentenced to one year in a county jail or more than one year in the state prison under specified DUI sentencing statutes, the court may postpone

the revocation or suspension of the person's driving privilege until the term of imprisonment is served. (Veh. Code, § 23665, subd. (a).) Courts and the DMV similarly have discretion to postpone road rage-based license suspensions until that person is released from confinement. (Veh. Code, §§ 13210; 13351.8.)

- 3) **Effect of this Bill:** The author raises concerns that license suspensions accomplish very little if the period of suspension runs while the person is incarcerated. On the other hand, it could be argued that if the goal of a license suspension is to prohibit a person from driving for a certain period of time, then this exact goal is accomplished if a person is behind bars and unable to drive. This bill mandates that for every court-imposed criminal license suspension or revocation, the period of suspension or revocation shall not commence until that person's release from custody. This will substantially postpone the effective date of license suspensions and revocations for many individuals. For example, a court may impose up to a six-month license revocation on an individual who is convicted of fleeing or attempting to elude a peace officer with willful or wanton disregard for the safety of persons or property. (Veh. Code, § 13201, subd. (d). This offense is a wobbler, punishable by six months to one year in county jail or by imprisonment for 16 months, or two or three years in state prison. (Veh. Code, § 2800.2, subd. (a).) Under current law, if this offense is punished as a felony and the person is sentenced to two years in state prison, a six-month suspension commencing on the person's conviction would likely be completed while that person is still incarcerated, permitting them to lawfully drive upon their release from prison. This bill would postpone the commencement of the license suspension until that person is released from prison, prohibiting such an individual from being able to lawfully drive in the six months following their release. For individuals incarcerated for periods of time longer than their license suspension, whose license suspensions would ordinarily be considered to be fully served while they are incarcerated, this bill effectively creates a new license suspension tailored to begin at the point in time that person attempts to reenter society. For others, if the length of the license suspension exceeds the amount of time they are incarcerated, it may simply lengthen the suspension by several months.

Notably, this bill's mandate to postpone license suspension and revocations only applies "when a *court* imposes a suspension." As noted earlier, court-imposed license suspensions are typically of shorter duration and apply to less severe criminal offenses. Most court-imposed suspensions cannot exceed one year, and some of the crimes subject to court-imposed suspensions are misdemeanors or infractions, meaning an individual may never actually be incarcerated, and thereby, the requirements to postpone a suspension until a person is released from custody may not even apply. (Veh. Code, §§ 13200; 13201.) In contrast, some of the most severe driving-related offenses, such as any felony involving a motor vehicle, a hit and run causing injury or death, repeat DUI offenses, manslaughter, and intoxicated manslaughter, among others, are largely subject to mandatory license revocations by the DMV. (Veh. Code, §§ 13350, 13361, 13351, 13352.) It is unclear if it is the author's intent to only apply this bill to court-imposed suspensions.

- 4) **Removal of Judicial Discretion:** This bill mandates that for every court-imposed license suspension or revocation, the license sanction must commence only when the person is released from custody. This does not allow for any judicial discretion but rather requires such delayed sanctions in every instance. Currently, for certain offenses, courts have *discretion* to postpone a given criminal license suspension or revocation until after a person is released from jail or prison. Most notably, if a person is convicted of a hit and run, or a DUI or a DUI

causing bodily injury and is sentenced to one year in a county jail or more than one year in the state prison under specified DUI sentencing statutes, a court may postpone the revocation or suspension of the person's driving privilege until the term of imprisonment is served. (Veh. Code, § 23665, subd. (a).) Courts can similarly postpone license suspensions until after imprisonment for road rage suspensions. (Veh. Code, §§ 13210; 13351.8.)

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

The author may wish to consider expanding the type of offenses for which judges have discretion to postpone the suspension or revocation, rather than mandating it for every court-imposed license sanction. Postponing a license suspension or revocation until a person is released from custody, to ensure the suspension is in effect when the person is released, may be appropriate for an unremorseful repeat impaired driver offender. However, it may be less appropriate for a person convicted of a first-time vehicle offense, who is a single parent who relies on their vehicle to pick up their children or work multiple jobs. Permitting judges to make this determination, based on the specific facts of the case, would likely contribute to more just outcomes.

- 5) **Re-entry Barrier: Harms of Prohibiting Individuals Re-Entering Society From Lawfully Driving:** Altering California law to prevent license suspensions from being served while a person is incarcerated and specifically applying those suspensions at the point in time when individuals are attempting to reenter society may negatively impact formerly incarcerated persons' prospects of finding employment, housing, and their ability to comply with applicable parole or post-release community supervision conditions. For many, access to a driver's license is critical for a person's re-entry prospects. This may be particularly true in rural areas or other regions where public transportation is inadequate. This bill may make it more difficult for such persons to access lawful transportation to attend job interviews, housing application appointments, substance use treatment services, welfare benefit appointments, medical appointments, and to visit family members. This may undermine efforts to promote successful re-entry and reduce recidivism.

These concerns are particularly true in the employment context. Research suggests that a license suspension "can make it harder to find and keep a job, can increase one's exposure to the criminal legal system, and can generally place a great strain on one's life and the life of one's family."² "Having a valid driver's license and possession of a car is a stronger predictor of finding employment and leaving public assistance than a high school diploma."³ Almost 30% of jobs require some amount of driving, and 75% of workers commute to work in a car.⁴

² U.S. Department of Health & Human Services, *Challenges to Employment: Fines, Fees, and License Suspensions* (Dec. 2022), available at: <https://acf.gov/opre/report/challenges-employment-fines-fees-license-suspensions>

³ Leiva and Marano, *Challenges to Employment: Fines, Fees, and License Suspensions*, Building Evidence of Employment Strategies (Nov. 2022), at p. 4, available at: https://acf.gov/sites/default/files/documents/opre/bees_orlando_brief.pdf

⁴ *Id.* at p. 1.

According to a study on the impacts of license suspension in New Jersey conducted by Rutgers, the New Jersey Department of Transportation, and the Federal Highway Administration, 42% of individuals with a history of license suspension lost their jobs when they had their driving privileges suspended.⁵ Job loss was most significant among low-income and younger drivers.⁶ 45% of those who lost their job because of the suspension could not find another job, a trend that was most pronounced among low-income and older drivers.⁷ Further, of those who were able to find another job, 88% reported a decrease in income.⁸ This was most true for low-income drivers. Finally, more than half of those with a history of license suspension reported that they could not afford the increased cost of auto insurance as a result of the suspension.⁹

Further, individuals subject to a license suspension upon release from jail or prison may have no choice but to drive on their suspended license to attend job interviews or comply with their parole and supervision requirements, which may increase the likelihood of reincarceration. An estimated 75% of suspended drivers continue to drive.¹⁰ Individuals who have their licenses suspended may simply “choose to keep driving because they have to work, which puts them at serious legal risk if they are caught driving with suspended licenses.”¹¹ In California, individuals who drive on a suspended or revoked license, or fail to comply with the conditions of a restricted license, can be subject to additional criminal penalties and fines. Existing law makes it a misdemeanor to drive on a license that was suspended or revoked, where the person knows of the suspension or revocation. (Veh. Code, § 14601.1, subd. (a).) A first offense is punishable by up to six months in county jail and a fine between \$300 and \$1,000; a second offense within five years of a prior offense is punishable by five days to one year in county jail and a fine of \$500 to \$2,000. (Veh. Code, § 14601, subs. (a) & (b).)

- 6) **Benefits of Swift and Certain License Sanctions:** Research on the effectiveness of license sanctions in the context of impaired driving does not support delaying and postponing license suspensions. Individuals are less likely to commit driving offenses when they believe sanctions will be swift and certain.¹² According to the National Highway Traffic Safety Administration (NHTSA), research suggests that “swift and certain administrative sanctions—such as [administrative license suspension] and vehicle impoundment—can be highly effective in reducing alcohol impaired-driving crashes and fatalities, and in reducing further impaired driving by DWI offenders.”¹³ The traffic safety benefits of *administrative* license suspensions are well-documented. A 2000 report found that administrative license suspensions and revocations “reduced crashes of different types by an average of 13%.”¹⁴

⁵ Driver’s License Suspensions, Impacts and Fairness Study, New Jersey Department of Transportation (Aug. 2007), at p. 56, available at: https://vtc.rutgers.edu/wp-content/uploads/2014/04/MVC-DL-Suspension-Study-Final-Report-Vol1_9-13-07_.pdf

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ American Association of Motor Vehicle Administrators, *Reducing Suspended Drivers and Alternative Reinstatement Best Practices: Edition 3* (May 2021), at p. 3, available at: <https://www.aamva.org/getmedia/b92cc79d-560f-4def-879c-6d6e430e4f4d/Reducing-Suspended-Drivers-and-Alternative-Reinstatement-Best-Practices-Edition-3.pdf>

¹¹ Leiva and Marano, *supra*, at p. 1.

¹² National Highway Traffic Safety Administration, *Countermeasures that Work; A Highway Safety Countermeasure Guide for State Highway Safety Offices* (2023), at p. 1-11, available at: https://www.nhtsa.gov/sites/nhtsa.gov/files/2023-12/countermeasures-that-work-11th-2023-tag_0.pdf

¹³ *Ibid.*

¹⁴ National Highway Traffic Safety Administration, *supra*, at p. 1-11.

Another study that analyzed the long-term impacts of license suspensions across the U.S. found that administrative license revocations reduced alcohol-related fatal crash involvement by 5%, resulting in an estimated 800 saved lives annually.¹⁵ A study in Ontario, Canada, found that a law requiring immediate roadside license suspensions for drivers with BACs from .05 to .08 resulted in a 17% decrease in fatalities and injuries.¹⁶

The swift and certain penalties of administrative suspensions can be contrasted with the "lengthy and uncertain outcomes in criminal courts."¹⁷ While the benefits of quick administrative license sanctions are well-established, the value of lengthy post-conviction license suspensions is less clear. According to NHTSA, "[a]lthough *administrative* license actions are highly effective in reducing crashes.... *court-imposed* license actions appear less effective" and "long court-imposed license suspensions may do little to reduce recidivism."¹⁸ This is supported by a 2007 study on the effects of DUI mandatory pre-conviction and post-conviction driver's license suspension laws in 46 U.S. states.¹⁹ That study found "[a]dministrative or preconviction drivers license suspension policies have statistically significant and substantively important effects in reducing alcohol-related fatal crash involvement by 5%" but that "[i]n clear contrast, postconviction license suspension policies have no discernable effects."²⁰ This led the study to conclude that "[t]he effectiveness of a deterrence policy appears to be more strongly affected by celerity—the speed by which punishment is applied after the offending behavior—than by the high severity of the penalty."²¹

The primary effect of this bill is to postpone and delay criminal license revocations until after a person is released from jail or prison. In some cases, where a person serves multiple years in prison and is subject to lengthy parole or post-release community supervision periods, suspension could be postponed for a handful of years. This is entirely counter to the findings of well-documented research on when license sanctions are most effective in deterring impaired driving. Accordingly, while this bill guarantees delayed and lengthier license punishment for individuals convicted of certain driving offenses, it is less clear whether it will deter or prevent dangerous driving behavior.

- 7) **Practical Considerations:** This bill raises several practical concerns. First, as noted above, this bill specifically mandates that court-imposed suspensions or revocations be postponed until a person is released from custody. DMV-imposed suspensions and revocations, on the other hand, would continue to commence largely upon a plea, finding, or verdict of guilty. (Veh. Code, § 13366.) Currently, there is consistency between DMV and court-imposed suspensions and convictions; they generally commence upon a conviction. (Veh. Code, §§ 13366; 13200; 13201, subd. (a).) This bill creates separate license suspension and revocation commencement dates, depending upon whether the conviction triggers a DMV or court-imposed suspension. This creates a strange and seemingly unjustified discrepancy in license

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Id.* at p. 1-62.

¹⁹ Wagenaar, A.C. and Maldonado-Molina, M.M., *Effects of Drivers' License Suspension Policies on Alcohol-Related Crash Involvement: Long-Term Follow-Up in Forty-Six States*, *Alcoholism: Clinical and Experimental Research* (2007), 31: 1399-1406, available at: <https://onlinelibrary.wiley.com/doi/10.1111/j.1530-0277.2007.00441.x>

²⁰ *Ibid.*

²¹ *Ibid.*

suspension procedures, which may result in certain defendants receiving delayed or longer license suspensions purely by virtue of the court, rather than the DMV, imposing the suspension.

Second, this bill defines “release from custody” to mean release from imprisonment from state prison or from incarceration in county jail when there is no subsequent parole jurisdiction exercised by CDCR or post-release jurisdiction under a community corrections program, or when there is a parole period or post-release period subject to jurisdiction of a community corrections program, when that period ends. (Pen. Code, § 4901, subd. (b).) This reference to the jurisdiction of a community corrections program may encompass post-community release supervision. Accordingly, an individual convicted of an offense resulting in a court-imposed license suspension, who is released on parole or post-community release supervision, would not have their license suspension commence until after their parole or post-release community supervision ends. This could result in outcomes that may not be intended by the author. A person who serves a state prison felony can be subject to community supervision by the county probation department for up to three years following their release. (Pen. Code, § 3451, subd. (a).) Under this bill, a person convicted of a state prison felony that results in a court-imposed license suspension could be incarcerated for two years in prison, be released, and face up to three years of community release supervision, and only then, five years later, would the license suspension finally commence. The author may wish to narrow the definition of release from custody to avoid postponing license suspensions until after parole or post-release community supervision periods are over.

Third, this bill is unclear as to what procedures govern a delayed license suspension. When a person’s driving privileges are suspended or revoked, the DMV must notify that person by first-class mail of the action taken and the effect date of the suspension or revocation. (Veh. Code, § 13106.) Further, when a court suspends a person’s license, they are required to retain the license and return it to the licensee at the end of the period. (Veh. Code, § 13206.) The specific point in time that a person is released from custody, let alone when their period of parole or post-release community supervision ends, can depend on numerous factors. Under this bill, it is unclear how a court or the DMV will know when a person’s postponed license suspension commences, and therefore, individuals subject to such suspensions may not be properly informed. Recent reporting shed light on communication gaps between courts and the DMV that may have resulted in certain defendants receiving reduced license revocation periods.²² This bill may exacerbate and contribute to these license suspension implementation concerns. The author may wish to clarify what license suspension procedures must be followed upon a person’s release from custody

- 8) **Argument in Support:** According to *Streets For All*, “AB 1874 would clarify that the time period for a court-ordered suspension or revocation of one’s license commences upon release from custody. The bill also prohibits a concurrent suspension/revocation period and incarceration period being ordered by the courts.

“Following recent reporting by CalMatters in their *License to Kill* series, behaviors and policies that cause dangerous conditions on our roads have taken the spotlight. When courts

²² Hepler and Lewis, *They were convicted of killing with their cars. No one told the California DMV*, Cal Matters (June 25, 2026), available at: <https://calmatters.org/investigation/2025/06/california-courts-dmv/>

order a time period during which a convicted person is not allowed to drive, that time period should not include time while incarcerated when the convicted person will not be able to drive.

“This bill addresses this issue by clarifying that incarceration and license suspension or revocation are not concurrent but consecutive. Reducing the number of dangerous drivers on our roadways can keep everyone safer. For these reasons we support AB 1874.”

- 9) **Argument in Opposition:** According to the *California Public Defenders Association*, “we must oppose Assembly Bill 1874 (“AB 1874”) by Assemblymember Wilson unless it is amended to narrowly tailor its provisions to the offenses involving injury or death where the individual has been sentenced to the custody of the Department of Corrections and Rehabilitation. Additionally, it should be amended to delete “any other custodial facility” which includes ICE detention facilities.

“AB 1874 would provide that when a driver’s license is suspended or revoked as part of a criminal sentence that suspension or revocation shall not commence until after the person is released from custody.

“Although AB 1874 is problematic for a number of reasons, some of the worst issues could be addressed by limiting the tolling provisions to felony driving offenses involving injury or death for which an individual is sentenced to state prison. The other commonsense amendment would be to delete “any other custodial facility” which under California law seems to be broadly defined as any detention facility, jail, or secure location used for the confinement of persons. This broad definition would seem to encompass, at a minimum, the for-profit ICE contracted private detention facilities such as the Mesa Verde facility operated by the GEO group in Bakersfield and the Otay Mesa Detention Center operated by CoreCivic in Otay Mesa.

“AB 1874 is unconstitutional, unworkable, and unduly punitive to the most vulnerable of our population. First, it would result in varying degrees of punishment for individuals convicted of the same offense in violation of the constitutional principle of equal protection of the laws. Some judges may impose longer sentences than other judges for the same offense, as they are permitted (within discretionary limits) but the effect of this bill is to extend the actual period of suspension for those with the longer period of incarceration, even though the period of suspension or revocation is set by law and cannot be extended by the judge. Moreover, the primary purpose of license sanctions is to protect the public from dangerous drivers, and the public will be protected while that driver is in jail. Also, not infrequently an individual can be jailed for both driving and non-driving offenses at the same time, so the net effect is that their license suspension is increased by virtue of an offense that has nothing to do with their driving danger. This would result in unduly punitive suspensions that bear little rational relation to the offense, and treating similarly situated individuals disparately is a denial of the equal protection of the laws.

“Secondly the provisions of AB 1874 would be problematic to implement. For one thing, if the suspension is not effective until the person is released from custody then they could very well have a valid license in jail (even though they are unlikely to use it), but what if they are temporarily let out of jail on work release or work furlough, or humanitarian release for a family emergency, or medical treatment not available in jail? Under this bill it would appear

they could still drive because their license is not suspended. What if an individual is sentenced, but is free on bail pending appeal? Wouldn't they be able to drive then as well? If this quandary is resolved by making the suspension operative at sentencing but extending until the completion of incarceration that would make the violation of equal protection only more glaring.

“Another troubling aspect of implementing AB 1874 is that it does not tell us how the Department of Motor Vehicles (DMV) will know when to start the license suspension or revocation. DMV will not know when the individual is released from custody. Even if DMV receives the sentencing record from the court, individuals routinely both gain and lose custody credits during their incarceration affecting their release dates. If DMV has trouble getting records from courts what makes us believe that jails will be any more diligent, especially when enforcing license restrictions is not part of their core function? The possibility of information falling through the cracks is just too great. Additionally, the individual has to be informed that their license is suspended in order for it to be effective. Who is going to do that when they get out of jail?

“Thirdly, excessive license suspensions and the likelihood of re-offending due to operational problems are likely to fall disproportionately on the poorest, least informed and least educated of our populations, especially on immigrants who have limited English skills and knowledge of our laws. They are likely to come in contact with the authorities simply out of ignorance or inadvertence. When that happens it can be catastrophic, as recent ICE horror stories have taught us.

“The example of non-citizens who were detained for driving on a suspended license and then transferred to ICE custody where they spent 2-4 years in custody before they were granted immigration relief is illustrative. If tolling had been in effect when they were released from ICE custody, they would find that their license suspension had just begun. In many parts of California without little or no public transportation they would be unable to seek and retain employment.”

10) **Related Legislation:**

- a) AB 1748 (Sanchez) increases the length of the driver's license suspensions and revocations that apply to a conviction for a DUI or a conviction for a DUI causing bodily injury. AB 1748 is pending a hearing in this Committee.
- b) AB 1546 (Schultz) increases the punishment for a DUI with two priors from a misdemeanor to a wobbler and increases the punishment for a DUI with four or more priors from a wobbler to a straight felony, and increases the license revocation period for a DUI with four or more priors from four years to five years, among other changes. AB 1546 is pending a hearing in the Assembly Appropriations Committee.
- c) 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 a hearing in this Committee.
- d) AB 1723 (Ellis), specifies that the “date of revocation,” for purposes of the prohibition against the DMV reinstating a person's driving privilege until the expiration of three

years after the date of revocation, for persons convicted of certain vehicle-related crimes, means the date the DMV revokes a person's privilege to drive a motor vehicle, as specified, and not the date of conviction. AB 1723 is pending a hearing in the Assembly Transportation Committee.

- e) SB 1198 (Menjivar) lengthens the license suspension periods that apply to reckless driving, among other changes. SB 1198 is pending a hearing in the Senate Public Safety Committee.

11) Prior Legislation:

- a) AB 2337 (Linder), of the 2013-2014 Legislative Session, would have extended, by one year, the revocation period of an individual's driver's license if they were convicted of a hit-and-run accident in which another individual is killed or seriously injured. AB 2337 was vetoed.
- b) AB 1104 (Pan), of the 2011-2012 Legislative Session, would have required, rather than allowed, driver's license revocations for specified DUIs to be delayed until offenders are released from prison or county jail. AB 1104 was never heard in the Assembly Appropriations Committee.
- c) AB 1601 (Hill), Chapter 301, Statutes of 2010, permits a court to order a 10-year revocation of a driver's license for a person convicted of three or more separate DUIs.
- d) AB 2258 (Benoit), of the 2005-2006 Legislative Session, would have created an alternate misdemeanor-felony and mandatory jail time for a fourth offense of driving on a suspended license, and required a four-year license revocation for this offense, as specified. AB 2258 failed passage in this Committee.
- e) AB 4 (Bogh), of the 2004-2005 Legislative Session, would have permanently revoked the driver's license of a person convicted of a third or subsequent violation of specified DUI provisions. AB 4 was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Highway Patrolmen
 California Police Chiefs Association
 League of California Cities
 Safety and Advocacy for Empowerment (SAFE)
 Streets for All
 1 Private Individual

Oppose

ACLU California Action
 California Public Defenders Association

Debt Free Justice California
Ella Baker Center for Human Rights
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
San Francisco Public Defender
Uncommon Law

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

Date of Hearing: March 17, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 1889 (Ramos) – As Amended March 9, 2026

SUMMARY: Authorizes a court to issue a protective order preventing a defendant from contacting a victim if convicted of witness intimidation involving domestic violence, human trafficking, specified acts of sexual assault, or any case of inflicting injury on an intimate partner, as specified, for up to two years after a person is released from state prison or county jail if released from custody after a protective order issued at sentencing has expired.

EXISTING LAW:

- 1) Authorizes the trial court in a criminal case to issue a protective order when there is a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur. (Pen. Code, § 136.2, subd. (a).)
- 2) Provides that a person violating a protective order may be punished for any substantive offense described in provisions of law related to intimidation of witnesses or victims, or for contempt of court. (Pen. Code, § 136.2, subd. (b).)
- 3) Requires a court to consider issuing up to a 10-year restraining order protecting victims for convictions including, but not limited to domestic violence, certain types of human trafficking, gang activity, statutory rape, pimping of a minor, and offenses requiring sex offender registration. (Pen. Code, §§ 136.2, subd. (i)(1); 273.5, subd. (j); 368, subd. (l); 646.9, subd. (k); 1201.3, subd. (a).)
- 4) Provides that a post-conviction protective order may be issued by the court regardless of whether the defendant is sentenced to the state prison, or a county jail, or subject to mandatory supervision, or whether the defendant is placed on probation. The duration of a protective order issued by the court should be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and the victim's immediate family. (Pen. Code, § 136.2, subd. (i)(1).)
- 5) Requires a court to consider issuing up to a 10-year restraining order protecting a percipient witness, upon clear and convincing evidence of witness harassment, in cases with convictions including, but not limited to domestic violence, statutory rape, gang activity, and sex registerable offenses. (Pen. Code, § 136.2, subd. (i)(2).)
- 6) Authorizes a court to place conditions on a 10-year restraining order that can include electronic monitoring for up to one year, as specified. (Pen. Code, § 136.2, subd. (i)(3).)
- 7) Prohibits a person who is subject to a protective order from owning, possessing, purchasing, attempting to purchase or receive a firearm while the protective order is in effect, and the

court shall order a person subject to the protective order to relinquish ownership or possession of any firearms. (Pen. Code, § 136.2, subd. (d).)

- 8) Authorizes courts to issue civil harassment restraining orders, as specified. (Code Civ. Proc. § 527 et seq.)
- 9) Authorizes courts to issue domestic violence restraining orders, as specified. (Fam. Code, § 6300 et seq.)
- 10) Punishes an individual for willful disobedience of, among other things, a lawful restraining order. (Pen. Code, §§ 166 & 273.6.)
- 11) States a person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim, as specified, is guilty of a felony and may be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to \$6,000, or by both that fine and imprisonment. (Pen. Code, § 273.5, subd. (a).)
- 12) Mandates a court consider issuing a 15-year restraining order against any person convicted of domestic violence, as specified. (Pen. Code, § 275, subd. (j)(1).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "This bill aims to ensure survivors are protected from being re-victimized in situations where a protective order may be expired or about to expire. We would add at minimum a 2-year grace period from when an offender is released so that they cannot gain contact with those whom they have victimized. We want to ensure that all survivors can feel protected even when the individuals who harmed them are released from prison. Survivors should be afforded peace of mind and not have to live in fear."
- 2) **Penal Code section 136.2:** Penal Code section 136.2 authorizes the court in certain criminal trials, upon a showing of good cause, to issue specified protective orders against a defendant or third party. The purpose of Penal Code section 136.2 is to prevent a defendant in a domestic violence or sexual assault trial from: (a) engaging in witness or victim intimidation; (b) for law enforcement to provide protection to a victim, witness or a victim's or witness' immediate family members; and (c) to stay away from any victim or witness for up to 10 years. Good cause means evidence that a defendant intends to intimidate a victim or witness. It is not automatic and requires a judicial hearing and specified findings to impose. (*Babalola v. Superior Court (People)* (2011) 192 Cal.App.4th 948 ["There was no finding of good cause to believe an attempt to intimidate or dissuade a victim occurred or was *reasonably likely* to occur."].)

Penal Code section 136.2 also allows the court, in specific circumstances, to order electronic monitoring for up to one year. In cases related to domestic violence and offenses requiring sex offender registration, the case file must be clearly marked so that the court is aware of their nature for purposes of considering a protective order. (Pen. Code, § 136.2, subd. (e)(1).) The court has the authority to issue pre- and post-conviction protective orders. (Pen. Code, §

136.2.) Any person subject to a protective order pursuant to Penal Code section 136.2 may not possess a firearm. Finally, Penal Code section 136.2, subdivision (i)(1) allows the court to issue a protective order in certain cases, including domestic violence cases, for up to 10 years, regardless of whether the defendant is sentenced to state prison or county jail, or placed on probation. Penal Code section 136.2, subdivision (i)(2) authorizes the court to issue an order prohibiting a defendant from any contact with any witness to the underlying crime.

This bill would require a court, when issuing a 10-year protective order against a defendant in a witness intimidation case involving domestic violence, human trafficking, and sexual assault to issue the order for up to two years after release from custody, if a defendant is sentenced to more than 10 years. This bill also states that in felony domestic violence cases where the court issues a 15-year restraining order, the court may issue the order for 15 years, or two years after release, whichever is longer. The maximum period a person may serve for felony domestic violence (assuming no other charges, enhancements, or prior strikes or prison terms) is four years. A defendant sentenced to 10, 15, or more years likely has a serious conviction history and will be closely monitored after release. A victim may also seek a protective order pursuant to Family Code section 6218. Finally, as explained below, a defendant released from state prison is either on parole or PRCS and may be returned to custody for any violation of their terms of release.

- 3) **Restraining Orders and Protective Orders:** Protective orders and restraining orders are, in the outcome, very similar – both are orders issued or approved by a court that prevents a person from contacting another person under specific circumstances and may also restrict other conduct to prevent harassment, threats, or violence. (See generally, Fam. Code, § 6218, subds. (a)-(c).)

However, there are a couple of differences, at least in a practical sense. According to the California Courts, Self Help Guide, the *police* may ask for an emergency (which includes instances of domestic violence) protective order (EPO) to protect the victim of a crime, usually when the victim calls the police or 911 for help.

If the defendant (the person accused of committing the crime) is arrested and charged, a judge can issue a criminal protective order (CPO) to protect victims and witnesses, particularly during the pendency of the case (as with Penal Code section 136.2). EPOs and CPOs are protective orders. Protective orders and “temporary restraining orders” or “TROs” are often used interchangeably. A victim may also be able to file their own moving papers to request a protective or restraining order. A restraining order can include some of the same orders as an EPO or CPO, like ordering the defendant to stay away from the victim. But in restraining order cases *filed by a victim* (instead of law enforcement), additional protections may be available. A victim can have a restraining order and an EPO or CPO at the same time as one is issued on an emergency basis and one is issued for a longer period of time. (See Fam. Code, § 6320, subd. (a); Judicial Branch of California, California Courts Self-Help Guide, Guide to Protective Orders, p. 1-2.)¹

¹ Located at <https://selfhelp.courts.ca.gov/protective-orders>, last visited March 10, 2026.

An EPO can include orders that the defendant: (a) not contact people protected by the order; (b) not harass, stalk, threaten or hurt people protected by the order; (c) stay a certain distance away from people protected by the order or places they live or go regularly; (d) move out from a home that is shared with the protected person; or (e) not have guns, firearms, or ammunition. An EPO only lasts a short time, usually 5-7 days. If the person protected by the EPO needs protection that lasts longer or wants to ask for other orders, they can apply for a restraining order. A *protective order* may be issued for a short period of time, often without service to the alleged wrongdoer (*ex parte*), so the victim may be protected while the court calendars a hearing on the order, and the alleged wrongdoer may be served a more formalized notice. In some cases, law enforcement will seek a protective order even after the alleged wrongdoer is arrested.

In cases of a *restraining order*, where a person may be enjoined from contacting someone for a longer period of time, the alleged victim may seek a civil order barring a person from coming within a certain distance but may not have resulted from any police intervention against the person being restrained. A person may be the subject of a protective order or a restraining order even if they are not facing a criminal charge and are never convicted of any criminal act.

Simple violation of a protective or restraining order **is a misdemeanor**. (See Pen. Code, § 166, subd. (a)(4); Pen. Code, § 273.6, subd. (a).) If a person violates a protective or restraining order issued in a domestic violence case and injury results, that person may be sentenced to a minimum of 30 days and a maximum of one year in county jail – in addition to whatever the defendant receives for any possible assaultive or threatening conduct. (See Pen. Code, § 273.6, subd. (b).) Any criminal conviction also requires proof beyond a reasonable doubt that the defendant was aware of the protective order, knew what they were not allowed to do, and violated the order anyway. It is not the most direct method for ensuring a parolee does not re-contact a victim or witness.

In addition to the penalties for violating a protective order, any person who violates a protective order issued pursuant to Penal Code section 136.2, may be sentenced as if the person **engaged** in witness intimidation –to a state prison sentence of up to four years. (Pen. Code, § 136.1, subd. (c); Pen. Code, § 136.2, subd. (b).) It is unclear what adding an additional two years onto a protective order issued pursuant to Penal Code section 136.2 or 273.5 would do to protect victims of domestic violence, human trafficking, or sexual assault. Most certainly, if a person is willing to commit an assault or homicide two years after release from prison, it seems doubtful they would be deterred by a protective order.

- 4) **Postrelease Community Supervision (PRCS) and Parole Requirements:** Inmates sentenced to state prison are supervised upon release for a period as short as 12 months, and as long as the remainder of the person's life, depending on the offense. (Pen. Code, § 3000.1, subd. (b)(1).) Following the enactment of the Criminal Justice Realignment Act of 2011 ("Realignment") a person sentenced to state prison is placed on either PRCS or parole depending on the nature of the offense. (Pen. Code, § 1170, subd. (h); Pen. Code, § 3451, subd. (a).) Prior to Realignment, individuals released from state prison were placed on parole and supervised in the community by the California Department of Corrections and Rehabilitation (CDCR) parole agents. PRCS supervision is handled by local probation departments. Parole is still handled by CDCR.

As noted, Realignment shifted supervision of some people released from state prison from CDCR to local probation departments. CDCR Division of Adult Parole Operations (DAPO) is responsible for supervising inmates released from prison whose term of incarceration was for a serious or violent felony; was serving a sentence on a third strike; is classified upon release as high-risk sex offender; required to undergo treatment as a mentally disordered offender; or any person who, while on state prison parole, commits a new offense, as specified. All other inmates released from prison are subject to up to three years of PRCS under local supervision.

Realignment also changed where an offender is incarcerated for violating parole or PRCS. Most individuals can no longer be returned to state prison for violating a term of supervision; any person whose parole is revoked serves the revocation term in county jail. The only people who are eligible for a return to prison for violating parole are life-term inmates paroled pursuant to Penal Code section 3000.1 (e.g., homicide, manslaughter, attempted homicide, etc.).

“Domestic violence” is defined in Penal Code section 13700, subdivision (b), and is a state prison felony, in accordance with Penal Code section 273.5, subdivision (a). A defendant convicted of a felony domestic violence offense and sentenced to prison is subject to up to four years in state prison. (Pen. Code, § 273.5, subd. (a).) Supervision following release is for three years. (See Pen. Code, § 3451, subd. (b).) Rape or any offense for which a defendant is sentenced to state prison for an offense requiring sex offender registration will also be on parole for at least three years and supervised by DAPO because it is a violent felony. (See Pen. Code, §§ 667.5, subd. (c)(3-6); (c)(11); (c)(16); (c)(18); and (c)(24).) Additionally, any person released from state prison for a registerable sex offense must be placed on a global positioning system (GPS) device during the period of parole. (Pen. Code, § 3000.07, subd. (a).) It is likely that a person sentenced to 10 plus years for domestic violence or sexual assault has a prior strike conviction.

Parole or PRCS violations only need to be proven by a preponderance of evidence – not beyond a reasonable doubt unlike a new crime. (*Morrissey v. Brewer* (1972) 408 U.S. 471; *People v. Rodriguez* (1990) 51 Cal.3d 437, 441.) People pending a parole or PRCS revocation may also be held in custody with no bond, and a parole or probation officer may re-incarcerate a person without prior judicial review. (See Pen. Code, § 3000.08, subd. (c).) A state prison commitment also allows a victim the opportunity to request victim services before a defendant is released from prison.² Victim services include the right to receive notice of when the custody status changes and when a victim desires a no-contact condition of parole. If a victim desires a protective order, they may receive notice of the defendant’s possible release date in time to seek a restraining order for a period of five years. (See Code of Civ. Proc., § 527.6, subd. (j).)

Given that defendants will be on parole when released from state prison, it seems it would be easier to simply violate their parole if they are harassing or contacting a victim. There would be no need to prove beyond a reasonable doubt that a defendant violated a long dormant protective order from more than 10 or 15 years ago. Also, as noted above, Penal Code section

² See Office of Victim and Survivor Rights and Services form 1707 <https://www.cdcr.ca.gov/victim-services/> (last visited February 20, 2025.)

136.2 requires a detailed showing of good cause to believe the defendant will intimidate a witness or victim. In most domestic violence cases, there is likely not enough evidence of victim intimidation to order a Penal Code section 136.2 protective order. A parole violation would likely protect more victims and witnesses than the proposed bill.

- 5) **Argument in Support:** According to the *Riverside County District Attorney's Office*, "Criminal protective orders serve as a vital safeguard for victims facing threats, intimidation, and violence. Unfortunately, criminal protective orders often expire prior to the release of a defendant from prison, placing victims (the protected party) in a vulnerable and likely dangerous situation. According to the National Domestic Violence Hotline, "most female victims of intimate partner violence were previously victimized by the same offender at rates of 77% for women ages 18 to 24, 76% for ages 25 to 34, and 81% for ages 35 to 49."

"AB 1889 seeks to remedy this alarming reality by authorizing courts to issue post-conviction criminal protective orders for domestic violence and sex offenses to be valid for up to 10 years, or 2 years after the perpetrator's release from prison, whichever is later. This critical change would provide victims with valuable time to pursue additional protective orders or assess additional options for continued safety. Strengthening criminal protective orders through this legislation will provide law enforcement, courts, and victims with the necessary tools to prevent further harm and enhance public safety."

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

7) **Related Legislation:**

- a) AB 292 (Patterson), removes misdemeanor sentencing discretion for defendants who commit domestic violence within seven years of a prior felony domestic violence conviction, requiring the offense be charged and sentenced as a felony with a two-, four-, or five-year state prison term, and increases the mandatory minimum county jail term on probation from 15 days to 60 days for those defendants. AB 292 is pending referral in the Senate.
- b) SB 421 (Valladares), would allow a court to issue a permanent protective order restraining a defendant from any contact with the victim if the defendant has been convicted of any serious or violent felony, as defined, or any felony requiring registration as a sex offender. SB 421 failed passage in the Senate Committee on Public Safety.

8) **Prior Legislation:**

- a) AB 2024 (Pacheco), Chapter 648, Statutes of 2024, eliminates delays in getting domestic violence restraining order protection forms to the judicial officer due to relatively minor errors or omissions.
- b) AB 1143 (Berman), Chapter 156, Statutes of 2021, provides that in lieu of personal service of a petition for a civil harassment restraining order, if a respondent's address is unknown, the court may authorize another method of service that is reasonably calculated to give actual notice to the respondent, if the court determines that a petitioner made a diligent effort to accomplish service, and may prescribe the manner in which proof of

service must be made.

- c) SB 538 (Rubio), Chapter 686, Statutes of 2021, facilitates the filing of a DVRO and gun violence restraining order (GVRO) by allowing petitions to be submitted electronically and hearings to be held remotely.

REGISTERED SUPPORT / OPPOSITION:

Support

Riverside County District Attorney (Sponsor)
San Bernardino County District Attorney's Office (Sponsor)
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 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 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
San Francisco District Attorney Brooke Jenkins

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

Date of Hearing: March 17, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1905 (Schultz) – As Introduced February 12, 2026

SUMMARY: Prohibits a law enforcement officer or individuals working in collaboration with or acting as agents of law enforcement from seeking statements or information while working undercover from a person who was 17 years of age or younger during the commission of crime and who is in custody. Specifically, **this bill:**

- 1) States a law enforcement officer may not seek to obtain any information or statements from a person when both of the following apply:
 - a) The person was 17 years of age or younger at the time the crime was committed.
 - b) The person is in custody, and the information or statements are sought by law enforcement officers working undercover or by individuals working in collaboration with, or acting as an agent of, law enforcement.
- 2) Requires the court to consider the effect of any willful violation of law enforcement in obtaining or seeking a statement from a juvenile while in custody and in determination of the officer's credibility.

EXISTING LAW:

- 1) States that persons may not be compelled in a criminal case to be a witness against themselves. (Cal. Const., Art. I, Sec. 15.)
- 2) Requires, prior to a custodial interrogation, and before the waiver of any *Miranda* rights, a youth 17 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference. Prohibits waiver of the consultation. (Welf. and Inst. Code, § 625.6, subd. (a).)
- 3) Requires the court, in adjudicating the admissibility of statements of a youth 17 years of age or younger made during or after a custodial interrogation, to consider the effect of failure to comply with the consultation requirement, as well as any willful violation in determining the credibility of a law enforcement officer. (Welf. and Inst. Code, § 625.6, subd. (b).)
- 4) Specifies that the consultation requirement does not apply to the admissibility of statements of a youth 17 years of age or younger if both of the following criteria are met:
 - a) The officer who questioned the youth reasonably believed the information he or she sought was necessary to protect life or property from an imminent threat; and

- b) The officer's questions were limited to those questions that were reasonably necessary to obtain that information. (Welf. and Inst. Code, § 625.6, subd. (c).)
- 5) Exempts probation officers from complying with the consultation requirement in their normal course of duties, as specified. (Welf. and Inst. Code, § 625.6, subd. (d).)
- 6) Provides that when a minor is taken into a place of confinement the minor shall be advised of the right to make at least two telephone calls, one completed to a parent or guardian, or a responsible relative, or employer and one to an attorney. (Welf. & Inst. Code, § 627.)
- 7) Requires the custodial interrogation of a juvenile suspected of committing murder to be electronically recorded in its entirety. (Welf. & Inst. Code, § 626.8, see also Pen. Code, § 859.5.)
- 8) States that when a minor is taken into temporary custody before a probation officer, and it is alleged that the minor has violated a law defining a crime, the probation officer must advise the minor that anything the minor says can be used against him, and shall advise the minor of their constitutional rights, including the right to remain silent and the right to counsel. (Welf. & Inst. Code, § 627.5.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "Young people are uniquely vulnerable during custodial interactions with law enforcement. Research and case experience consistently demonstrate that juveniles are more susceptible to pressure, manipulation, and deception, particularly when they may be unaware they are speaking with someone acting on behalf of law enforcement. California has taken important steps to safeguard youth during interrogations, yet gaps remain when undercover tactics are used in custodial settings. Without clear statutory limits, courts are often left to determine after the fact whether statements were obtained in a manner consistent with constitutional protections. Recent appellate guidance underscores the risks associated with these practices. Clear rules help ensure that statements relied upon in court are both credible and lawfully obtained, while reducing costly litigation over admissibility.

"AB 1905 strengthens protections for young people in custody by prohibiting law enforcement from using undercover officers or agents to obtain statements from individuals who were 17 years of age or younger at the time of alleged offense. By establishing clear guardrails around custodial questioning, the bill promotes fairness, reduces the risk of unreliable statements, and supports the integrity of the justice system."

- 2) **Miranda v. Arizona:** Virtually all Americans are familiar with *Miranda* given its ubiquity in film and television. (*Miranda v. Arizona* (1966) 384 U.S. 436 (hereinafter *Miranda*.) In *Miranda*, the United States Supreme Court held that the prosecution may not use statements, whether exculpatory or inculpatory, stemming from **custodial interrogation** of the defendant unless it demonstrates that procedural safeguards, effective to secure the privilege against self-incrimination, were used.

In the absence of other fully effective means to inform accused persons of their right to silence and to ensure a continuous opportunity to exercise it, the following measures are required. Before any questioning begins, the accused must be warned that: (a) they have a right to remain silent; (b) any statement they make may be used as evidence against them in a court of law; (c) they have the a right to consult with an attorney and to have the attorney with them during interrogation; and (d) if they cannot afford an attorney, one will be appointed at public expense. (*Miranda, supra*, 384 U.S. at 444; See 2 California Criminal Defense Practice § 30.20.) The warnings need not be given in the precise language set forth in *Miranda*, so long as the warnings that are given satisfy the *Miranda* requirements when taken in their totality. (*Duckworth v. Eagan* (1989) 492 U.S. 195, 203–205.)

The obligation of a law enforcement officer to advise a person of their *Miranda* rights arises only before they are subjected to a custodial interrogation. (*People v. Mickey* (1991) 54 Cal.3d 612, 648-649.) A custodial interrogation is a “questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.” (*Miranda, supra*, 384 U.S. at p. 444.)

In determining whether a custodial interrogation took place, the court makes two inquiries: (a) what were the circumstances surrounding the interrogation; and (b) given those circumstances, would a reasonable person have felt he or she was not at liberty to terminate the interrogation and leave. (*People v. Ochoa* (1998) 19 Cal.4th 353, 401-402.)

In *Rhode Island v. Innis* (1980) 466 U.S. 291, the U.S. Supreme Court clarified *Miranda* in cases where a defendant may make a statement outside of an ordinary interrogation. The Court held that an “interrogation” may be either “express questioning or its functional equivalent.” (*Innis*, 466 U.S. at 301-302.) “Interrogation” refers also “to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect. The latter portion of this definition focuses primarily upon the perceptions of the suspect, rather than the intent of the police.” (*Ibid.*)

However, “since the police surely cannot be held accountable for the unforeseeable results of their words or actions, the definition of interrogation can extend only to words or actions on the part of police officers that they should have known were reasonably likely to elicit an incriminating response.” (*Innis*, 466 U.S. at 302.)

- 3) **Illinois v. Perkins:** In an extension of the Court’s holding in *Miranda*, the U.S. Supreme Court ruled in *Illinois v. Perkins* (hereinafter “*Perkins*”) (1990) 496 U.S. 292, that while *Miranda* forbids coercion, it does not prohibit mere strategic deception by taking advantage of a suspect's misplaced trust in someone thought to be a fellow prisoner. (*Perkins*, 496 U.S. at 299.) In *Perkins*, two undercover agents posing as prisoners were placed in defendant's cell to investigate a murder. One agent asked defendant if he had ever killed anyone. Defendant then proceeded to describe the murder at length. The Court held *Miranda* warnings were not required because the discussion between the suspect and undercover agent did not implicate the concerns underlying *Miranda*, because there is no element of police coercion.

However, as part of a concurrence that formed the basis for the plurality judgment of the Court in *Perkins*, Justice Brennan focused on the fact that the defendant in *Perkins* had not

invoked his right to remain silent or to an attorney before making statements to the undercover police officer – only that the undercover officer was not required to issue the warning before attempting to illicit a statement. (See *Perkins*, 496 U.S. at 300, fn. *; *Edwards v. Arizona* (1981) 451 U.S. 477, 482 (holding a waiver of rights must be knowing, intelligent, and voluntary).) However, if Perkins had invoked, the issue would be whether he waived that right.

In *People v. Orozco*, the court agreed that, even where the defendant invokes their right to counsel pursuant to *Miranda*, defendant’s statements to his girlfriend, who was acting as an agent of law enforcement, did not warrant exclusion because the statements were not made in a custodial setting and the element of coercion was not present. (*People v. Orozco* (2019) 32 Cal.App.5th 802, 813.) In that case, since the girlfriend was free to disclose any information the defendant shared, the fact that the police had contacted her about eliciting a statement from the defendant did not result in a *Miranda* violation.

In contrast to *Orozco*, however, the Court in *People v. Zapata* excluded the defendant’s statements which were elicited by sheriff deputies posing as inmates after Zapata invoked his right to counsel. (*People v. Zapata*, Feb. 10, 2026, No. D084024) ___ Cal.App.5th ___ [2026 Cal. App. LEXIS 88, at *1].) In *Zapata*, the critical fact was that the defendant did not waive his rights and was then questioned by sheriff deputies posing as inmates in jail. (*Zapata*, 2026 Cal.App. LEXIS 88 at 16.) Therefore, Zapata’s *Miranda* rights were violated, and the statements were suppressed. However, the outcome may have been different if the police had used third parties to illicit a statement rather than doing it themselves.

Perkins operations, while useful in obtaining incriminating statements, can also constitute a violation of defendant’s rights against self-incrimination. This is especially true for juveniles. Young people are uniquely susceptible to influence, and coercion and the credibility of their statements should be viewed with skepticism. Young people may feel compelled to “brag” or make incriminating statements even when they did not commit the crime simply to appear “tough” or to impress the listener.

- 4) **Juvenile Interrogations:** Beginning in 2018, police were prohibited from questioning a child 15 years of age or younger without consulting with an attorney.¹ In the early 2000s, more and more courts and legislatures began recognizing that adolescent brain development affects a young person’s ability to make decisions. According to Harvard University, Center for Law, Brain, & Behavior, in its studies on Juvenile Justice & Adolescent Brain stated:

Scientists know that the adolescent brain is still developing, that it is highly subject to reward- and peer-influence, and that its rate of development varies widely across the population. They have developed basic tools that offer data with which to judge the potential for juvenile desistance, recidivism, and rehabilitation.

With its ability to examine the workings of the teenage brain, neuroscience is improving our understanding of adolescents,

¹ See SB 395 (Lara), Chapter 681, Statutes of 2017.

and potentially, juvenile offenders. Through their window into the brain, neuroscientists understand, for example, that adolescents mature at markedly varied rates. The presumed trajectory of brain development, demonstrated in existing “bright line” age cut offs for voting, military service, and drinking, however, is not reflective of this variability in brain maturity. Similarly, neuroimaging research by CLBB faculty (Somerville, 2010) clarifies that it is teenagers’ heightened vulnerability to reward that drives risky behavior, contrary to longstanding beliefs that teenagers are unable to gauge risks. They can often recognize risks, but incomplete development of brain mechanisms related to modulation of impulsive behavior reduces their tendency to heed those risks.²

After mandating that juveniles be granted access to an attorney before questioning, the Legislature expanded application of the original statute to any person under the age of 18.³ Welfare and Institutions Code section 625.6 states, in part:

Prior to a custodial interrogation, and before the waiver of any Miranda rights, a youth 17 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived. (Welf. & Instit. Code, § 625.6, subd. (a).)

This statutory right is, of course, above and beyond what *Miranda* requires, since *Miranda* does not require the right to an attorney before any questioning, only that you be advised of your right to an attorney before being subjected to a “custodial interrogation.” *Miranda*, of course, mandates that any statements made in violation of *Miranda* must be excluded from trial since it is a violation of the 5th Amendment right against self-incrimination.

But, since the right of a juvenile to consult an attorney before even being advised of their rights is not required as a matter of constitutional law, it begs the question: what is the remedy if officers simply ignore the law and question a juvenile anyway? Must the statement be excluded?

Welfare and Institutions Code section 625.6, subdivision (b) states “the court shall, in adjudicating the admissibility of statements of a youth 17 years of age or younger made during or after a custodial interrogation, consider the effect of failure to comply...” with the requirements of the statute.

The court in *In re Anthony L.* (2019) 43 Cal.App.5th 438, held that since the 2018 amendment did not specify exclusion as a remedy, it was not required.

² White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys, and Policy Makers, Harvard University, Center for Juvenile Justice & Adolescent Brain, <https://clbb.mgh.harvard.edu/juvenilejustice/>

³ SB 203 (Bradford), Chapter 335, Statutes of 2020.

Under Cal. Const., art. I, § 28, subd. (f)(2), relevant evidence may be excluded only if exclusion is required by the United States Constitution or a statute enacted by two-thirds of each house of the Legislature. Under California law, issues relating to the suppression of statements made during a custodial interrogation must be reviewed under federal constitutional standards. The Truth-in-Evidence provision supersedes statutorily created exclusionary rules. (*In re Anthony L.* (2019) 43 Cal.App.5th 438, 449.)

Since juveniles are not entitled to consult with an attorney before being read their rights as a matter of the 5th Amendment right against self-incrimination, exclusion is not mandatory. California's Truth-in-Evidence law mandates that all relevant evidence is admissible unless a contrary statute is passed by a two-thirds vote. This bill includes the same language. Therefore, it is presumed that since there is no stated exclusion in the bill, the courts will not be obligated to exclude a juvenile's statements if the officers just ignore the statute.

- 5) **Retroactivity:** Retroactivity⁴ 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, **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**

⁴ 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.

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.)⁵

The proposed legislation is not a reduction in penalty, but rather a possible requirement of criminal procedure in the interrogation of juveniles. If a court determines that *Estrada* does not apply, the change will only apply prospectively.

If a defendant is pending appeal from, for example, a court’s refusal to suppress a juvenile’s statements in a *Perkins* operation, and *Estrada* is not applied, this legislative change would be of no use. If the author intends this change to be applicable to those pending appeal, it could specify that application should apply to those pending “final judgment” pursuant to *Estrada*.⁶

- 6) **Argument in Support:** According to the *California Innocence Coalition*, “Both anecdotal and numerical data supports the fact that juveniles are more susceptible to pressure, manipulation, and deception, especially when they are unaware they are speaking with someone acting on behalf of law enforcement. California legislation, although establishing some safeguards for young people during interrogations, does not currently address some aspects of undercover tactics in custodial settings during interrogation. AB 1905, a bill that would help fill some gaps in addressing this problem, provides clear rules that would help ensure that statements admitted in court are both credible and lawfully obtained, ultimately supporting the integrity of the justice system, as well as reducing costly litigation over admissibility.

⁵ See also *Padilla, supra*, 13 Cal.5th at 161 (holding that “non-final” includes any case remanded following a habeas petition.)

⁶ The committee surveyed prosecutors and public defenders from multiple counties, and all reported never seeing this in a criminal case – meaning an instance where a court reduced a felony to a misdemeanor at a time not explicitly outlined in the statute. Therefore, it seems unlikely this will arise as a retroactivity issue.

“In the 2026 case *People v. Zapata*, law enforcement utilized undercover agents in an operation to elicit incriminating statements from a suspect in a holding cell. The suspect had been falsely told that a witness identified him, and that he would be charged with murder; the suspect then confessed to the alleged crime. The California Court of Appeal ultimately reversed the conviction, ruling that the statements were inadmissible due to the encounter being deemed a custodial interrogation and lacking the presence of an attorney. *People v. Zapata* ruled in this way for an adult suspect, undermining confidence in the credibility of prosecutions based on coerced statements, especially those given by the more vulnerable young and non-adult population.

“AB 1905 would act to counter these coercive tactics from law enforcement; AB 1905 would prohibit law enforcement from seeking statements from individuals who were 17 years or younger at the time of the alleged offense while using undercover officers or agents during custody. The bill would also provide clear, statewide guidance that prevents constitutionally questionable interrogation practices before they occur and would direct courts to consider violations when determining admissibility. Additionally, AB 1905 would require courts to weigh willful violations when assessing an officer’s credibility. Ultimately, the bill promotes reliable evidence, fair proceedings, and public trust in the justice system.”

- 7) **Argument in Opposition:** According to the *California State Sheriff’s Association*: “The materials offered in support of this bill reference “young people” and the assertion that they are “uniquely vulnerable during custodial interactions with law enforcement.” The problem is that AB 1905’s reach is not limited to young people. Rather, it applies to any person who was under 18 years of age at the time of the crime. This means that not only does this bill apply to an interrogation of a person who just turned 18 years old and who, only a few days prior, had been 17 years old at the time of the crime, but also, for example, an interrogation of a 40-year-old person relative to a 23-year-old crime. In either case, the bill attempts to limit law enforcement from seeking valuable evidence from adults in custody based on the notion that “young people” deserve a higher level of protection when it comes to interrogations.

“Further, the recent appellate case cited in the bill’s fact sheet (*People v. Zapata*) reads more as a *Miranda* case than a *Perkins* case without any indication that the defendant was a juvenile at the time of the commission of the crime or resulting interrogation. While *Zapata* involved a defendant being the subject of a *Perkins* operation (where law enforcement officers or inmates seek to obtain information while acting as inmates), the main issue noted by the court is that *Zapata*’s admission of guilt was obtained after he had invoked his *Miranda* rights. The problem is this bill uses *Zapata* as justification for its passage despite the fact that *Zapata* does not appear to have been a juvenile at the time of interrogation and that further regulation of *Perkins* operations is not necessarily the main motivator of the court’s ruling.

“Additionally, as it relates to actual juveniles, the Legislature enacted AB 2644 in 2022, which prohibits a law enforcement officer from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics during a custodial interrogation of a person 17 years of age or younger. These protections already exist and further limitations on *Perkins* operations do not seem justified.

- 8) **Prior Legislation:**

- a) SB 395 (Lara), Chapter 681, Statutes of 2018, requires that a youth 15 years of age or younger consult with counsel prior to a custodial interrogation and before waiving their constitutional right against self-incrimination and right to counsel.
- b) SB 203 (Bradford), Chapter 335, Statutes of 2020, requires that prior to any custodial interrogation and before a waiver of any Miranda rights, a youth of 17 years or younger must consult with legal counsel in person, by telephone, or by video conference.
- c) SB 1052 (Lara), of the 2015-2016 Legislative Session, was similar to this bill in that it would have required that a youth under the age of 18 consult with counsel prior to a custodial interrogation and before waiving a right against self-incrimination and right to counsel. SB 1052 was vetoed by Governor Brown.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
Alliance for Children's Rights
California Attorneys for Criminal Justice
California Innocence Coalition
California Public Defenders Association
California Youth Defender Center
Californians for Safety and Justice (CSJ)
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Ella Baker Center for Human Rights
Friends Committee on Legislation of California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Local 148 Los Angeles County Public Defender's Union
San Francisco Public Defender
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact

Opposition

California State Sheriffs' Association

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

Date of Hearing: March 17, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1917 (Schultz) – As Amended March 12, 2026

SUMMARY: Mandates that before a district attorney may add a charge back into an information that was not included in the order holding a defendant over for trial following a preliminary hearing, they must file a noticed motion, as specified, to reinstate the charge or charges.

EXISTING LAW:

- 1) Requires that when a defendant has been held to answer at trial following a preliminary hearing, it shall be the duty of the district attorney to file in the superior court within 15 days after the commitment, an information against the defendant which may charge the defendant with either the offense or offenses named in the order of commitment or any offense or offenses shown by the evidence taken before the magistrate to have been committed. (Pen. Code, § 739.)
- 2) Requires a defendant, in all cases, to be taken before the magistrate without unnecessary delay, and, in any event, within 48 hours after his or her arrest, excluding Sundays and holidays. (Pen. Code, § 825, subd. (a)(1).)
- 3) States that after the arrest, any attorney at law entitled to practice in the courts of record of California, may, at the request of the prisoner or any relative of the prisoner, visit the prisoner. Any officer who willfully refuses or neglects to allow that attorney to visit a prisoner is guilty of a misdemeanor. Any officer who refuses to allow the attorney to visit the prisoner when proper application is made, shall forfeit and pay the party aggrieved the sum of \$500, to be recovered by action in any court of competent jurisdiction. (Pen. Code, § 825, subd. (b).)
- 4) Mandates if it appears from the preliminary hearing that the crime was committed, and there is sufficient cause to believe that the defendant is guilty, the court make or indorse on the complaint an order, signed by the court, to the following effect: “It appearing to me that the offense in the within complaint mentioned (or any offense, according to the fact, stating generally the nature thereof), has been committed, and that there is sufficient cause to believe that the within named A.B. is guilty, I order that he or she be held to answer to the same.” (Pen. Code, § 872, subd. (a).)
- 5) States a finding of probable cause may be based on the sworn testimony of a law enforcement officer or honorably retired law enforcement officer relating the statements of declarants made out of court offered for the truth of the matter asserted. An honorably retired law enforcement officer may only relate statements of declarants made out of court and offered for the truth of the matter asserted that were made when the honorably retired officer

was an active law enforcement officer. (Pen. Code, § 872, subd. (b).)

- 6) States when an action is dismissed by a magistrate, as specified, the prosecutor may make a motion in the superior court within 15 days to compel the magistrate to reinstate the complaint or a portion thereof and to reinstate the custodial status of the defendant under the same terms and conditions as when the defendant last appeared before the magistrate. (Pen. Code, § 871.5, subd. (a).)
- 7) Requires the superior court to hear and determine the motion on the basis of the record of the proceedings before the court. If the motion is litigated to decision by the prosecutor, the prosecution is prohibited from refileing the dismissed action, or portion thereof. (Pen. Code, § 871.5, subd. (b).)
- 8) Provides that at the time the defendant appears before the magistrate for arraignment, if the public offense is a felony to which the defendant has not pleaded guilty, the court, immediately upon the appearance of counsel, or if none appears, after waiting a reasonable time must set a time for the preliminary examination of the case and allow not less than two days, excluding Sundays and holidays, for the district attorney and the defendant to prepare for the examination. The magistrate shall also issue subpoenas, duly subscribed, for witnesses within the state, required either by the prosecution or the defense. (Pen. Code, § 859b.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "Maintaining the integrity of due process rights is an absolutely vital function of the judicial system. Californians deserve confidence that every charge brought against a defendant is supported by probable cause. In criminal felony proceedings, a judge determines whether there is sufficient evidence for a charge to be brought against a defendant during a preliminary hearing. If there is no probable cause found, a judge can dismiss a charge at this hearing. Under current law, a prosecutor is allowed to simply add back to a case a dismissed charge without a process or explanation. This requires the defendant to carry the burden of proof in filing a lengthy motion to again remove those charges, undercutting due process and judicial efficiency.

"Under AB 1917, prosecutors must instead file a motion to request the reinstatement of dismissed charges. If the court grants the motion, the dismissed charges can still be added back to a case. This legislation strengthens due process rights by shifting the burden of proof back to prosecutors to supply legal arguments that demonstrate there is probable cause for the reinstatement of charges. It additionally fortifies judicial economy, as the motion a prosecutor must file under this legislation is likely to be faster than the Penal Code Section 995 motion that defense attorneys currently must file. This ensures a case is kept on a timely track towards resolution, maximizing judicial resources while better preserving the integrity of our criminal legal system. AB 1917 will only apply to charges dismissed at these preliminary hearings and explicitly maintains an avenue for reinstating them. This legislation will ensure that all charges brought against a defendant in California are consistently evidence based, increasing transparency and accountability within the justice system."

- 2) **Arraignment and Preliminary Hearing:** The start of a criminal proceeding is both statutory and constitutional. During a felony criminal investigation, once the police think there is probable cause to believe that the felony¹ has been committed, the detectives may swear to a statement of probable cause and present it to either a district attorney for signature or a court, depending on the circumstances. If the court agrees there is probable cause, it will issue a warrant for the defendant's arrest.

The person will be arrested and brought before an arraignment court generally within two days, excluding weekends and holidays. (Pen. Code, § 825, subd. (a)(1); *Gerstein v. Pugh* (1975) 420 U.S. 103.) The charges are read at arraignment based on an initial complaint² and if the defendant does not have counsel, counsel is appointed, and the issue of bail is addressed. Assuming a defendant does not waive time and is not released on bail, the person must be set for a preliminary hearing within 10 days of arraignment. (Pen. Code, § 859b.)

At the preliminary hearing, the court will hear evidence as to whether the elements of alleged offense or offenses are, at least, sufficiently met to hold a defendant to answer at a trial. Since the passage of Proposition 115 in 1982, a preliminary hearing merely consists of the investigating officer relying on hearsay evidence to support the elements of the crime. (Pen. Code, § 872, subd. (b).) If the defendant is held to answer at trial, the matter is continued to another arraignment in a different court on the complaint.

After a defendant is held to answer, they are brought before the court and arraigned again on the complaint. However, in some cases, charges may be reduced or dismissed during a preliminary hearing. In that case, the prosecutor may add those charges back into the complaint where there is evidence the charges were committed by the defendant despite a court finding insufficient probable cause to hold a defendant to answer on those charges. (See Pen. Code, 739.) If a defense attorney disputes there was any evidence that would allow a prosecutor to add the charges back in, they may file a motion to dismiss. (See Pen. Code, §§ 871.5, 995.)

This bill instead requires that if a prosecutor wishes to add charges back into the complaint following a judicial reduction or dismissal after the preliminary hearing, they must do so pursuant to a noticed motion to reinstate the charges. Existing law only allows a prosecutor to file a motion to reinstate charges where, "as a matter of law, the magistrate erroneously dismissed the action or a portion thereof." (Pen. Code, § 871.5, subd. (b).)

¹ Police are not always required to get a warrant before arresting a person on a felony. For the most part, police need a warrant to arrest a person on a felony when they plan to take the defendant from their home. (Pen. Code, § 836, subd. (a).) Police may also arrest out in public if there is probable cause to believe a felony occurred or the crime occurred in their presence. This includes instances of domestic violence. (Pen. Code, § 836, subd. (b).)

² Charges are alleged against a defendant by either information or indictment. In California, the district attorney typically relies on an information. An indictment occurs following a grand jury. An information may be filed by the prosecutor based on probable cause and must be re-presented after the preliminary hearing. Both processes are designed to ensure the state has sufficient probable cause. Probably the most visible example of this occurred in the O.J. Simpson case in 1994. Upon arrest at his residence in Brentwood following the Bronco chase, he was arraigned in superior court standing next to Robert Shapiro and entered a very quiet plea of not guilty. After the preliminary hearing, he was re-arraigned on two counts of first-degree murder and entered a plea next to Johnny Cochran stating he was "*Absolutely 100% not guilty.*" Those appearances occurred before and after the preliminary hearing.

- 3) **Motion to Reinstate Charges:** As noted above, if a prosecutor wishes to add back in felony charges that may have been dismissed or reduced following a preliminary hearing, they may do so if there was evidence of the conduct introduced at the preliminary hearing. (Pen. Code, § 739.) This is despite a judge finding insufficient evidence to hold a defendant to answer on that charge.

However, if a court dismisses a case as a matter of law, the prosecutor may file a motion before a judge to determine whether the dismissal was proper. For instance, if the court dismisses a case based on the defendant's right to a preliminary hearing within 10 days or right to a speedy trial, but the prosecutor is alleging they were granted a good cause continuance pursuant to Penal Code section 1050, subdivision (g), the court may reinstate the case if the prosecutor is able to show the good cause continuance was, in fact, issued. If the district attorney wishes to reinstate charges following a dismissal, they must file a motion within 15 days of the dismissal. (Pen. Code, § 871.5, subd. (a).)

In accordance with current law, if a district attorney adds charges back in following a dismissal or reduction at a preliminary hearing, the defense attorney must file a motion to dismiss pursuant to Penal Code section 995 ("995 motions"). Penal Code section 995 relates to instances where an information or indictment must be set aside. In the case of an information, a court must set the motion aside if: a defendant had not been legally committed by a judge, or the defendant was committed without reasonable or probable cause. (Pen. Code, § 995, subd. (a)(2).) A 995 motion requires the district attorney to prove that there was sufficient probable cause to support a holding order.

To establish probable cause sufficient to overcome a motion to dismiss, the People must make some showing as to the existence of each element of the charged offense. Evidence that will justify a prosecution need not be sufficient to support a conviction. The appellate court will not set aside an information if there is some rational ground for assuming the possibility that an offense has been committed, and the accused is guilty of it. (*People v. Scully* (2021) 11 Cal.5th 542, 582.)

This bill, instead, requires a district attorney to file a noticed motion if they wish to return a charge to a complaint after a preliminary hearing. In existing law, Penal Code section 871.5 allows for a prosecutor to file a motion if an action is dismissed – this bill simply grants the prosecutor the authority to file the same motion if an individual charge is dismissed. This will improve judicial economy by eliminating the need for a lengthy 995 hearing wherein a court may feel they must re-litigate a preliminary hearing depending on the findings made by the original court.

- 4) **Argument in Support:** According to the *San Francisco Public Defender's Office*, "In criminal cases involving felonies, there is a preliminary hearing where a judge determines if any charges against a defendant lack probable cause and can then dismiss those charges if so. Under current law in Penal Code § 739, prosecutors can simply add back to a case any charge that a judge has dismissed at the preliminary hearing, without any process or explanation. The defendant is then forced to carry the burden of proof in filing a lengthy motion to once again remove those charges. This practice undercuts judicial efficiency and due process rights. The Respect Judicial Decisions Act offers a tailored, common-sense solution. Under

this legislation, prosecutors can request the court to add the dismissed charges back to a case through the filing of a motion that explains why the charges should be added back. If the court grants the motion, the charges will be added back.”

- 5) **Argument in Opposition:** According to the *California District Attorneys Association*, “Existing law permits the People to litigate a magistrate’s declination to hold criminal defendants to answer for specific charges at preliminary hearings under Penal Code section 859b by filing the charges in a subsequent Information pursuant to Penal Code section 739. (See, e.g., *Parks v. Superior Court* (1952) 38 Cal.2d 609, 612.) Conversely, if a magistrate issues no holding order, the People’s remedy lies within a motion to reinstate the Complaint under Penal Code section 871.5, subdivision (a).

“AB 1917 proposes to change that balance, so that litigation over a specific charge for which a magistrate issued no holding order would have to occur via a motion under Penal Code section 871.5. This would create pragmatic difficulties for the courts, and would leave open unanswered questions in recurring scenarios.

“Under AB 1917’s proposed changes, the People would be unable to re-file a charge in the aftermath of a denial of a motion under Penal Code section 871.5, subdivision (a). However, the People do have a right to appeal such a ruling. (Pen. Code, § 1238, subd. (a)(9).) A superior court’s decision under Penal Code section 995, however, is reviewable by the appellate court via writ of prohibition. (Pen. Code, § 999a.) In essence, AB1917 would be an encouragement for the People to litigate the decisions of a magistrate before the appellate courts, rather than leaving the bulk of the litigation before the superior courts. Moreover, the changes contemplated by AB 1917 do not address general holding orders by magistrates.

“Where the bench officer overseeing a preliminary hearing does not specify the charges for which a defendant is bound over for trial, it is unclear whether Penal Code section 871.5, subdivision (a) would have to be invoked in order for the People to charge any or all crimes in an Information. Similarly, if the transcript of a preliminary hearing supports the charging of crimes not initially addressed by the parties via Complaint (and therefore also unaddressed by the magistrate), AB 1917 does not provide guidance on whether the People would be required to “reinstate” charges that were not included from the outset. Currently, superior courts also possess the power to address technical errors in the record from a preliminary hearing in an effective and efficient manner under Penal Code section 995a. AB 1917 leaves the status of that tool in question and gives courts no guidance on its implementation.”

- 6) **Related Legislation:** AB 1595 (Schultz), 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. AB 1595 is pending in the Assembly Appropriations Committee.

7) **Prior Legislation:**

- a) AB 321 (Schultz), Chapter 611, Statutes of 2025, allows a court to reduce wobbler violations any time prior to trial and allows a subsequent motion to reduce a wobbler only

upon a showing of changed circumstances.

- b) AB 1036 (Schultz), Chapter 444, Statutes of 2025, increases access to postconviction discovery for felony defendants who were sentenced to state prison.
- c) AB 568 (Muratsuchi), Chapter 125, Statutes 2013 clarifies the definition of a "law enforcement officer" for purposes of introducing hearsay statements at a preliminary hearing.

REGISTERED SUPPORT / OPPOSITION:

Support

San Francisco Public Defender (Co-Sponsor)
ACLU California Action
Alliance San Diego
Anti Police-terror Project
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Public Defenders Association
Californians for Safety and Justice (CSJ)
Californians United for a Responsible Budget
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice (CURYJ)
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 Los Angeles County Public Defender's Union
New Light Wellness
Orale: Organizing Rooted in Abolition, Liberation, and Empowerment
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
South Bay People Power
Vera Institute of Justice
Viet Voices
Western Center on Law & Poverty, INC.
Youth Leadership Institute

Opposition

California District Attorneys Association

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

Date of Hearing: March 17, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 1922 (Lowenthal) – As Introduced February 12, 2026

PULLED BY THE AUTHOR.

Date of Hearing: March 17, 2026

Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 1948 (Ramos) – As Introduced February 13, 2026

As Proposed to be Amended in Committee

SUMMARY: Extends the duration of a concealed carry firearms license from two years to three years for individuals, except as specified.

EXISTING LAW:

- 1) Establishes that a concealed carry firearms permit issued by designated local officials is valid for two years from the date of the license, excluding the process for amending a license for an applicant's change of address, as defined. (Pen. Code, § 26220, subd. (a).)
- 2) States that if a licensee's place of employment or business was the basis for issuance of a license, the license is valid for any period of time not to exceed 90 days from the date of the license, the license shall be valid only in the county in which the license was originally issued, the licensee shall give a copy of this license to the licensing authority of the city, county, or city and county in which the licensee resides, and the licensing authority that originally issued the license shall inform the licensee verbally and in writing in at least 16-point type of this obligation to give a copy of the license to the licensing authority of the city, county, or city and county of residence. (Pen. Code, § 26220, subd. (b).)
- 3) Requires that any application to renew or extend the validity of, or reissue, the license may be granted only upon the concurrence of the licensing authority that originally issued the license and the licensing authority of the city, county, or city and county in which the licensee resides. (Pen. Code, § 26220, subd. (b).)
- 4) Provides that a concealed carry firearms license or license renewal, to carry a pistol, revolver, or other firearm capable of being concealed upon the person, shall be issued or reissued by the sheriff upon proof submitted by the licensee, as defined. (Pen. Code, § 26150.)
- 5) Provides that a concealed carry firearms license or license renewal, to carry a pistol, revolver, or other firearm capable of being concealed upon the person, shall be issued or reissued by the chief or other head of a municipal police department of any city or city and county upon proof submitted by the licensee, as defined. (Pen. Code, § 26155.)
- 6) Authorizes a person issued a license to apply to the licensing authority for an amendment to the license to add or delete authority to carry a firearm, authorize a person to carry a firearm, authorize the licensee to carry loaded and exposed in only that county a pistol, revolver, or other firearm capable of being concealed upon the person, and change any restrictions or conditions on the license, including restrictions as to the time, place, manner, and

circumstances under which the person may carry a pistol, revolver, or other firearm capable of being concealed upon the person. (Pen. Code, § 26215, subs. (a)(1)-(4).)

- 7) Provides that if the licensing authority amends the license, a new license shall be issued to the licensee reflecting the amendments. (Pen. Code, § 26215, subd. (b).)
- 8) States that an amendment to the license does not extend the original expiration date of the license and the license shall be subject to renewal at the same time as if the license had not been amended. (Pen. Code, § 26215, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “The current process for CCW licenses issuance creates significant and reoccurring costs for gun owners and additional workload on county resources which could otherwise support other essential public safety priorities. By extending the duration of these permits, we help reduce administrative costs for local governments and ease the financial strain on law abiding gun owners.”
- 2) **Effect of the Bill:** AB 1948 would authorize concealed carry weapon (CCW) licensure duration of three years for individuals, beginning January 1, 2027.

By extending the licensure duration, there could be longer-term benefits to processing efficiency by a reduction over time in the number of license and renewal applications received each year. Administrative processing burdens may be eased by extending the license duration period. While the initial period of license applications may be overwhelming due to pent up demand and applicants who want to immediately take advantage of the longer permitting cycle, it could also create longer-term efficiencies and consistency in the application cycle.

Extending the licensure duration may help ease the financial burden on applicants and could in the long term improve permit processing times. Some counties, like San Francisco and San Diego, are still experiencing long application cycles.¹

We have witnessed a recent example at the federal level of issues that can be created by distorted application cycles producing pent up demand, which then produce significant application backlogs. At the outset of the Covid-19 pandemic, the United States State Department faced an unprecedented collapse in demand for passports as the Department initially declined to issue passports except in life or death emergencies² and the stay-at-home

¹ See, e.g., Coakley, *How to obtain a Concealed Carry Weapons permit in San Diego County* (Apr. 5, 2025) Fox 5 San Diego <<https://fox5sandiego.com/news/local-news/how-to-obtain-a-concealed-carry-weapons-permit-in-san-diego-county/>>, McCoy, *San Francisco Sheriff “Blames Budget Cuts” for CCW Renewal Failures, Issues Public Apology* (Dec. 2, 2025) USA Carry <<https://www.usacarry.com/san-francisco-sheriff-blames-budget-cuts-for-ccw-renewal-failures-issues-public-apology/>> [as of Mar. 7, 2026].

² Karimi, *The US is not Issuing Passport Unless it's a Life-or-Death Family Emergency* (Apr. 3, 2020) CNN <<https://www.cnn.com/travel/article/us-passport-emergencies/index.html>> [as of Mar. 7, 2026].

orders across most of the country depressed demand for passports.³ Like passports, concealed carry licenses are issued by government agencies and generally require processing time to make individualized determinations of whether the document will be issued. Following the rescission of stay-at-home orders, pent up demand for travel caused Americans to apply for passports in record numbers.⁴ This caused enormous backlogs, which produced much higher-than-average wait times for passports to be processed.⁵ It took until December 2023 for the Department to get control of the backlog and its processing times back to normal.⁶

Longer license renewal periods should help affordability for applicants, but it is unclear whether extending license durations ultimately will improve application cycle processing times.

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

One study noted, “As of January 1, 2024, 27 states have laws allowing people to carry concealed weapons without first receiving a permit . . . Twenty-three states and the District of Columbia require permits but have shall-issue laws, under which law enforcement agencies have no or very limited discretion to deny concealed-carry permits to citizens who are otherwise permitted to possess handguns.”⁷

License renewal times and costs vary widely by state. Idaho, for example, charges \$20 for an initial permit and \$15 for permit renewal with discretion to the Sheriff to charge for fingerprinting and materials for the license.⁸ New permits in Wisconsin require a \$40 permit fee and mandatory training.⁹ The initial application for a concealed carry permit in San Jose, California totals \$1,443, which includes over \$400 in State fees, a mandatory psychological evaluation, and required completion of a training course.¹⁰ Depending on the type of license, renewal times and costs can have large variations. To use relatively consistent examples, Idaho counties typically take at least 90 days to process a concealed carry permit,¹¹

³ Hansler, *Passport Backlog: Americans face Months-long wait as State Dept. Deals with Flood of Applications* (July 15, 2021) CNN <<https://6abc.com/passport-backlog-delays-us-passports-summer-travel/10889029/>> [as of Mar. 7, 2026].

⁴ *Ibid.*

⁵ Coleman, *Unprecedented Demand* (May 2024) State Magazine <<https://statemag.state.gov/2024/05/0524feat02/>> [as of Mar. 7, 2026].

⁶ *Ibid.*

⁷ *The Effects of Concealed Carry Laws* (July 16, 2024) RAND <<https://www.rand.org/research/gun-policy/analysis/concealed-carry.html>> [as of Mar. 7, 2026].

⁸ *Concealed Weapons License Reciprocity*, Idaho State Police <<https://isp.idaho.gov/bci/cwl-reciprocity/>> [as of Mar. 7, 2026].

⁹ *Concealed Carry Weapon Information*, State of Wisconsin Department of Justice <<https://www.wisdoj.gov/Pages/PublicSafety/concealed-carry-weapon-license-information.aspx>> [as of Mar. 7, 2026].

¹⁰ *Permit Fees* (Mar. 11, 2023) City of San Jose Police Department <<https://www.sjpd.org/records/fees/permit-fees>> [as of Mar. 7, 2026].

¹¹ *Concealed Weapons License Application*, State of Idaho <<https://isp.idaho.gov/wp-content/uploads/BCI/Reciprocity/Training/CWL-Application.pdf>> [as of Mar. 7, 2026].

Wisconsin completes its process within 21 days,¹² while the process can take six months or more in Placer County, California.¹³

The differences between California's costs and processing times compared to other states and counties can appear stark, however, California is home to approximately 40 million people, compared to the approximately 2 million in Idaho and 6 million in Wisconsin.¹⁴ Idaho and Wisconsin combined only have 20% of the population of California alone.¹⁵ While this bill does not make any changes to the fee structure of California's permitting program, AB 1948 could make licenses more affordable due to the reduction in cost on a per-year basis afforded by extending the validity of licenses for one year.

High fees and lengthy processing times risk contravening the U.S. Supreme Court's decision in *Bruen*, which established the Second Amendment right to publicly carry a firearm. (*New York State Rifle & Pistol Association, Inc. v. Bruen* (2022) 597 U.S. 1.) A full evaluation under *Bruen* would not be as relevant here, compared to other firearms bills, because the burden of the law is not really placed on those who want to exercise their Second Amendment rights. (*Id.* at p. 20.) Yet, because this bill would impact Second Amendment conduct and the Court has suggested shall-issue permitting schemes are presumptively valid, AB 1948 would impact some of *Bruen*'s commands.

In *Bruen*, the Court noted, "because any permitting scheme can be put toward abusive ends, we do not rule out constitutional challenges to shall-issue regimes where, for example, lengthy wait times in processing license applications or exorbitant fees deny ordinary citizens their right to public carry." (*Id.* at p. 30, fn. 9.) There has been some improvement, especially among more populous California counties, in shortening processing times, but many applicants still encounter both long wait times and high fees. Santa Clara County is reported to take more than a year to issue a permit while charging residents nearly \$2,000 in total costs for initial permits.¹⁶ Santa Clara County has been sued by prospective permit holders and gun rights groups, arguing the county's permitting process runs afoul of *Bruen*.¹⁷

It is unclear whether California counties with more expensive license applications and lengthier processing times are exceeding the bounds of *Bruen*'s footnote 9 warning. Even longer wait times, however, likely will cause additional lawsuits challenging the constitutionality of those counties' permitting schemes. Counties may feel like they have a bit more breathing room to process applications with the extra year the license would be valid, though it is unclear whether the courts would also see the extra year in this way. The outcome of the Santa Clara County lawsuit, among others in state and federal courts, should

¹² See, *supra*, at note 9.

¹³ *How long does the new Concealed Carry Weapon process take?* County of Placer <<https://www.placer.ca.gov/FAQ.aspx?QID=832>> [as of Mar. 7, 2026].

¹⁴ *State Population Totals and Components of Change: 2020-2024* (Dec. 2024) U.S. Census Bureau <<https://www.census.gov/data/tables/time-series/demo/popest/2020s-state-total.html#v2024>> [as of Mar. 7, 2026].

¹⁵ *Ibid.*

¹⁶ Pho, *Santa Clara County concealed carry permits will cost more* (Dec. 10, 2024) San Jose Spotlight <<https://sanjoespotlight.com/santa-clara-county-concealed-carry-permits-will-cost-more/>> [as of Mar. 7, 2026].

¹⁷ Salonga, *Gun rights groups, residents sue Santa Clara County sheriff over 'onerous' concealed-carry weapon requirements* (Sep. 22, 2025) San Jose Mercury News <<https://www.mercurynews.com/2025/09/22/gun-rights-groups-residents-sue-santa-clara-county-sheriff-over-onerous-concealed-carry-weapon-requirements/>> [as of Mar. 7, 2026].

offer more clarity on the constitutional boundaries for firearms permits. Certainly, it is likely that the more expensive the licenses, and the longer the processing times, in either the short- or long-term, the higher the risk the permitting regime is found unconstitutional.

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

California has been a relative outlier regarding CCW license duration times. California, New Jersey, and the District of Columbia are the only places with a flat two-year duration on all licenses (Maryland allows for a three-year renewal after a two-year initial permit, while New York allows for a three-year permit).¹⁸ California is also a relative outlier in reduced rates of firearms deaths per 100,000 people.¹⁹ While there is some link between stricter firearms laws and rates of firearms deaths, it is unclear whether the length of CCW licenses specifically has an impact on firearms deaths.²⁰

One study reviewed methodologically strong scientific studies to determine the relationship between concealed carry permits and violent crime. While the majority of the twenty-three studies reviewed showed uncertain effects between concealed carry permits and homicide, five of the studies showed states with shall-issue or permitless carry laws were associated with an increase in homicides.²¹ Four of those studies found higher rates of *firearms* homicide.²² For suicide, mass shootings, and unintentional injuries and deaths, however, a review of studies showed uncertain effects.²³

States with more permissive carry laws tend to lead to an increase in people publicly carrying concealed firearms.²⁴ One study estimated that the number of people carrying concealed firearms has doubled from approximately 11 million to 22 million in roughly the past ten years.²⁵ There is evidence showing that permitted firearms owners, however, are some of the more law-abiding groups in the country and rarely are found involved in violent crime.²⁶ Some evidence also shows that criminal access to firearms is greater in more permissive permitting states due to increases in the theft of those firearms.²⁷ Ensuring carriers keep their firearms safe, secure, and difficult for anyone but them to access may help reduce those rates. Given this data, longer license durations seem unlikely to result in significant increases in firearms-related violent crime. But, ultimately, it is difficult to predict whether extending permit durations will have any impact on public safety.

¹⁸ *Concealed Carry Reciprocity & Gun Laws* (Feb. 3, 2025) United States Concealed Carry Association <https://www.usconcealedcarry.com/resources/ccw_reciprocity_map/ca-gun-laws/#changelogs> [as of Mar. 12, 2026].

¹⁹ *Firearm Mortality* (Aug. 20, 2025) Centers for Disease Control and Prevention <<https://www.cdc.gov/nchs/state-stats/deaths/firearms.html>> [as of Mar. 12, 2026].

²⁰ *Ibid.*

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

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*

- 5) **Argument in Support:** According to the *Peace Officers Research Association of California* (PORAC), “We are pleased to support AB 1948 relating to concealed carry licenses.

“This bill would extend the validity period for licenses to carry a concealed firearm, allowing new licenses to be issued for up to three years and renewal licenses for up to six years, rather than the current two-year limit. The bill maintains existing eligibility requirements and training standards while providing a longer licensing period for applicants. By reducing the frequency of renewals, the measure helps streamline the licensing process and reduces administrative workload for both applicants and issuing authorities.”

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

7) **Related Legislation:**

- a) AB 1453 (Wicks), would authorize firearm trace data to be shared with California universities, community colleges, and most localities for academic and policy research purposes. AB 1453 is pending hearing in the Assembly Appropriations Committee.
- b) AB 1589 (Chen), would exempt specified level I reserve peace officers from the prohibition on possessing firearms suppressors. AB 1589 is pending hearing in the Assembly Appropriations Committee.
- c) AB 1615 (Nguyen), would 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. AB 1615 is pending hearing in the Assembly Appropriations Committee.

8) **Prior Legislation:**

- a) AB 1006 (Ramos), of the 2025-2026 Legislative Session, would have treated the spouse of the recorded owner of the firearm as the recorded owner for licensing purposes. The bill would include additional specified acts that would deem an applicant as a disqualified person, including providing any information that the applicant knew or should have known was inaccurate or incomplete information in connection with the application. AB 1006 was held in the Assembly Appropriations Committee.
- b) AB 1092 (Castillo), of the 2025-26 Legislative Session, would have extended the concealed carry licensure duration from two years to four years. AB 1092 failed passage in the Assembly Public Safety Committee.
- c) AB 3064 (Mainschein), Chapter 540, Statutes of 2024, among other things, required any person, within 60 days of bringing a firearm into the state, to mail or personally deliver to the Department of Justice a report describing the firearm and providing personal information.
- d) SB 2 (Portantino), Chapter 249, Statutes of 2023, among other things, established criteria for a person disqualified from acquiring a carry license, defines the prohibited places where a person cannot carry a firearm even with a license, and requires each licensing

authority prior to issuing a carry license, to determine if the applicant is the recorded owner of the particular pistol, revolver, or other firearm capable of being concealed upon the person reported in the application.

- e) SB 899 (Skinner), Chapter 544, Statutes of 2024, required the court, when issuing protective orders, to provide the person subject to the order with information on how any firearms or ammunition still in their possession are to be relinquished, as specified, and requires violations of the firearms or ammunition prohibition to be reported to the prosecuting attorney in the jurisdiction where the order has been issued within 2 business days of the court hearing.
- f) AB 1931 (Fong), of the 2017-18 Legislative Session, would have made a license issued to carry a concealed firearm valid for any period of time not to exceed five years. AB 1931 failed passage in the Assembly Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Narcotic Officers' Association
California Reserve Peace Officers Association
California Rifle and Pistol Association, INC.
California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
National Rifle Association - Institute for Legislative Action
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
San Bernardino County Sheriff's Department

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

Amendments Mock-up for 2025-2026 AB-1948 (Ramos (A), Valencia (A))

*******Amendments are in BOLD &
HIGHLIGHTED*******

**Mock-up based on Version Number 99 - Introduced 2/13/26
Submitted by: Staff Name, Office Name**

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

SECTION 1. Section 26220 of the Penal Code is amended to read:

26220. (a) Except as otherwise provided in this section and in subdivision (c) of Section 26210, a ~~section, a new~~ license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed ~~two~~ **three** years from the date of the license. ~~Except as otherwise provided in this section, a renewal license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed six years from the date of the license for renewal.~~

(b) If the licensee's place of employment or business was the basis for issuance of a license pursuant to Section 26150, the license is valid for any period of time not to exceed 90 days from the date of the license, unless the license was issued pursuant to subdivision (d). ~~(e).~~ The license shall be valid only in the county in which the license was originally issued. The licensee shall give a copy of this license to the licensing authority of the city, county, or city and county in which the licensee resides. The licensing authority that originally issued the license shall inform the licensee verbally and in writing in at least 16-point type of this obligation to give a copy of the license to the licensing authority of the city, county, or city and county of residence. Any application to renew or extend the validity of, or reissue, the license may be granted only upon the concurrence of the licensing authority that originally issued the license and the licensing authority of the city, county, or city and county in which the licensee resides.

(c) A license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed three years from the date of the license if the license is issued to any of the following individuals:

(1) A judge of a California court of record.

(2) A full-time court commissioner of a California court of record.

(3) A judge of a federal court.

(4) A magistrate of a federal court.

~~(d)~~

~~(e) A new or renewal license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed four years or six years, respectively, from the date of the license if the license is issued to a custodial officer who is an employee of the sheriff as provided in Section 831.5, except that the license shall be invalid upon the conclusion of the person's employment pursuant to Section 831.5 if the four-year or six-year period has not otherwise expired or any other condition imposed pursuant to this article does not limit the validity of the new or renewal license to a shorter time period.~~

~~(e)~~

~~(d) A new or renewal license issued pursuant to Section 26170 to a peace officer appointed pursuant to Section 830.6 is valid for any period of time not to exceed four years or six years, respectively, from the date of the license, except that the license shall be invalid upon the conclusion of the person's appointment pursuant to Section 830.6 if the four-year or six-year period has not otherwise expired or any other condition imposed pursuant to this article does not limit the validity of the new or renewal license to a shorter time period.~~

Date of Hearing: March 17, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1955 (Alanis) – As Amended March 9, 2026

SUMMARY: Prohibits firearms sentence enhancements from being applied to peace officers if the use of a firearm in the underlying crime was arising out of or in the course of their employment. Specifically, **this bill:**

- 1) States that the specified enhancements shall not apply to a peace officer, as defined, unless the use or discharge of the firearm did not arise out of and was not in the course of the employment.
- 2) Requires the prosecution to bear the burden of proving by a preponderance of the evidence that the exemption in this subdivision does not apply.
- 3) Prohibits the court, if the prosecution fails to meet this burden, from imposing the enhancement, and requires any reference to the enhancement to be stricken from the charging document or verdict.
- 4) States that the provisions in this bill do not affect the underlying charge or other enhancements or penalties applicable to firearm use.
- 5) Defines “arising out of and in the course of their employment” as something that shall be determined based on the facts and circumstances at the time of the incident, including whether the officer was performing services arising out of or incidental to their employment or was acting within the course of their employment.

EXISTING LAW:

- 1) Provides that a person who, in the commission of a specified felony, personally uses a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 10 years. The firearm need not be operable or loaded for this enhancement to apply. (Pen. Code, § 12022.53, subd. (b).)
- 2) Provides that a person who, in the commission of a specified felony, personally and intentionally discharges a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 20 years. (Pen. Code, § 12022.53, subd. (c).)
- 3) Provides that a person who, in the commission of a specified felony, personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined, or death, to a person other than an accomplice, shall be punished by an additional and consecutive term of imprisonment in the state prison for 25 years to life. (Pen. Code, § 12022.53, subd. (d).)

- 4) Provides that the specified firearm enhancements above are applicable to the following felonies:
 - a) Murder;
 - b) Mayhem;
 - c) Kidnapping;
 - d) Robbery;
 - e) Carjacking;
 - f) Assault with intent to commit a specified felony;
 - g) Assault with a firearm on a peace officer or firefighter;
 - h) Rape;
 - i) Rape or sexual penetration in concert;
 - j) Sodomy;
 - k) Oral copulation;
 - l) Lewd act on a child;
 - m) Sexual penetration;
 - n) Assault by a life prisoner;
 - o) Assault by a prisoner;
 - p) Holding a hostage by a prisoner;
 - q) Any felony punishable by death or imprisonment in the state prison for life; and,
 - r) Any attempt to commit a crime listed in this subdivision other than an assault. (Pen. Code, § 12022.53, subd. (a).)
- 5) Requires the enhancements to apply to any person who is a principal in the commission of an offense if both of the following are pled and proved:
 - a) The crime was for the benefit of, at the direction of, or in association with a criminal street gang, with the specific intent to promote, further, or assist in criminal conduct by gang members; and,
 - b) Any principal in the offense committed a defined firearm act. (Pen. Code, § 12022.53, subd. (e)(1).)

- 6) States that an enhancement for participation in a criminal street gang, as defined, shall not be imposed on a person in addition to a firearms enhancement, unless the person personally used or personally discharged a firearm in the commission of the offense. (Pen. Code, § 12022.53, subd. (e)(2).)
- 7) Provides that only one additional term of imprisonment shall be imposed per person for each crime. If more than one enhancement per person is found true, the court shall impose upon that person the enhancement that provides the longest term of imprisonment. (Pen. Code, § 12022.53, subd. (f).)
- 8) A firearm enhancement shall not be imposed on a person in addition to a 10-20-25 to life firearm enhancement. (Pen. Code, § 12022.53, subd. (f).)
- 9) Provides that an enhancement for great bodily injury, as defined, shall not be imposed on a person in addition to 25 years to life firearm enhancement. (Pen. Code, § 12022.53, subd. (f).)
- 10) States that probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, a person found guilty of a specified firearm enhancement. (Pen. Code, § 12022.53, subd. (g).)
- 11) Authorizes the court, in the interest of justice, as specified, at the time of sentencing to strike or dismiss an enhancement otherwise required to be imposed. This authority applies to any resentencing. (Pen. Code, § 12022.53, subd. (h).)
- 12) Provides that the total amount of credits awarded, as specified, shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a defined firearm enhancement sentence is imposed. (Pen. Code, § 12022.53, subd. (i).)
- 13) States that when a specified enhancement has been admitted or found to be true, the court shall impose punishment for the defined firearm enhancement rather than imposing punishment authorized under any other law, unless another enhancement provides for a greater penalty or a longer term of imprisonment. (Pen. Code, § 12022.53, subd. (j).)
- 14) Requires that when a person is found to have used or discharged a firearm in the commission of an offense and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in a defined manner. (Pen. Code, § 12022.53, subd. (k).)
- 15) States that the specified enhancements shall not apply to the lawful use or discharge of a firearm by a public officer, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as defined. (Pen. Code, § 12022.53, subd. (l).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "AB 1955 addresses a critical gap in existing law by exempting peace officers from firearm sentencing enhancements under Penal Code Section 12022.53 when the use or discharge of a firearm arises out of and in the course of their employment. Currently, officers risk severe additional penalties for actions taken to protect the public, which can deter decisive responses in dangerous situations. This bill makes Californians safer by empowering officers to fulfill their duties without fear of unjust enhancements, while placing the burden on the prosecution to prove inapplicability. It enhances equity in the criminal justice system by recognizing the unique responsibilities of law enforcement, preventing disproportionate impacts on officers from diverse communities, and ensuring accountability only for off-duty misconduct."
- 2) **Effect of the Bill:** AB 1955 would exempt peace officers from defined firearm enhancements unless the use or discharge of their firearm did not arise out of and was not in the course of their employment.

To receive a sentence enhancement under this statute, a person must be convicted of a specified underlying crime. (Pen. Code, § 12022.53, subd. (a).) The enhancement scheme for which peace officers would be exempted under this bill is the 10-20-25 to life enhancement structure. Under these enhancements, an individual convicted of a specified predicate crime could get a 10-year enhancement for personal use of a firearm during the crime, a 20-year enhancement for personal and intentional discharge of a firearm during the crime, and a 25-year to life enhancement for personal and intentional discharge of a firearm that proximately causes great bodily injury during the crime. (Pen. Code, § 12022.53, subs. (b)-(d).)

The crimes for which these firearms enhancements apply include, among others, murder, kidnapping, robbery, rape, and lewd acts on a child. These are serious crimes that produce potentially long terms of confinement. Use of a firearm during commission of one of these crimes can produce a confinement term so punitive that punishment becomes close to or actually a life sentence.

This bill would exempt peace officers from these punitive enhancements unless their use or discharge of the firearm did not "arise out of and in the course of their employment." Under this bill, whether the conduct arose out of and in the course of employment "shall be determined based on the facts and circumstances at the time of the incident, including whether the officer was performing services arising out of or incidental to their employment or was acting within the course of their employment." The definition reads as requiring a totality of the circumstances evaluation, but with a relatively low bar for finding conduct arose out of and in the course of employment. For example, performing services incidental to employment potentially captures all conduct during an officer's time on duty and a reasonable amount of conduct while off duty.

Furthermore, AB 1955 would require prosecutors to prove the peace officer exemption does not apply by a preponderance of the evidence, presumably at a preliminary hearing, and if the prosecutor fails to meet the preponderance of evidence burden, any reference to the enhancement would be stricken from any charging document or verdict. At the preliminary hearing, where this type of determination would be made under AB 1955, the court will hear evidence as to whether the elements of alleged offense or offenses are, at least, sufficiently met to hold a defendant to answer at a trial. Since the passage of Proposition 115 in 1982, a preliminary hearing may be just the investigating officer relying on hearsay evidence to

support the elements of the crime. (Pen. Code, § 872, subd. (b).) The standard used in preliminary hearings, however, is a probable cause standard.

The probable cause standard is considered a lower evidentiary standard than a preponderance of the evidence standard. Therefore, while this bill may leave unchanged the standard for the predicate crime charged that makes available the firearm enhancement, AB 1955 would change the standard for whether officers are exempt from the firearm enhancement to a higher evidentiary standard. This sort of burden shifting, particularly in light of Proposition 115, is arguably unconstitutional.

- 3) **Legislative History:** The enhancements for which peace officers would be exempted under this bill are nearly 30 years old. AB 4, passed into law in 1997 (Bordonaro, Ch. 503, Stats. 1997), established the initial enhancement scheme now codified in Section 12022.53 of the Penal Code. The law as originally passed, however, provided for a 25-year enhancement for personal use and discharge of a firearm during one of the defined crimes. (*Ibid.*) SB 620 (Bradford, Ch. 682, Stats. 2017) was a substantive change to this part of the Penal Code, which modified Section 12022.53 by permitting a court to strike an enhancement, in the interest of justice, that was otherwise required to be imposed. Other attempts, as noted below in **Prior Legislation**, have been made to provide some flexibility with imposing the firearms enhancements.

Certain groups have registered relatively consistent support and opposition to the availability of these enhancements. Law enforcement groups generally have been proponents of these enhancements. Despite that support, this bill seeks to broadly exempt law enforcement officers from these enhancements, except under seemingly narrow circumstances.

- 4) **No One is Above the Law:** AB 1955 arguably undermines a fundamental maxim of our legal system, which is that no one is above the law. In 1215, when the English monarch confirmed the Magna Carta, the idea that no one, including the king, is above the law became embedded in English law.¹ The Magna Carta is a foundational charter that would serve as a reference point for our own Constitution's development.² Though the Constitution has been interpreted and reinterpreted over the years, and certain judicial decisions have authorized certain people to wield outsized power, the principle that no one is above the law has remained a relative constant in our jurisprudence and cultural identity. President Obama has reinforced this shared American commitment to the rule of law stating that we are "not afraid of an independent judiciary because no one is above the law."³

No one being above the law ought to include Presidents, elected officials, judges, and law enforcement officers. Even though law enforcement officers are required to carry firearms on the job, is it sensible to exclude them from an enhancement where commission of a serious underlying crime is required for the enhancement to apply in the first place?

¹ *Magna Carta*, Western District Court of Pennsylvania <<https://www.pawd.uscourts.gov/magna-carta#>> [as of Mar. 12, 2026].

² *Ibid.*

³ *Remarks by President Obama to the People of Estonia* (Sep. 3, 2014) <<https://obamawhitehouse.archives.gov/the-press-office/2014/09/03/remarks-president-obama-people-Estonia#>> [as of Mar. 13, 2026].

- 5) **Argument in Support:** According to the bill’s sponsor, the *Police Officers Research Association of California (PORAC)*, “Peace officers are routinely required to make split-second decisions in dangerous and rapidly evolving situations to protect the public and themselves. In some of the most serious encounters, officers may be forced to use their firearm in order to stop a threat and save lives. These decisions occur in circumstances fundamentally different from those contemplated by firearm sentencing enhancements designed to punish criminal conduct.

“Under current law, Penal Code Section 12022.53 imposes mandatory sentencing enhancements for the use or discharge of a firearm during the commission of certain felonies (10 years for use, 20 years for discharge, and 25 years to life for discharge causing great bodily injury or death). These provisions were intended to address criminal misuse of firearms, yet they contain no distinction for peace officers acting in the course and scope of their official duties. As a result, officers performing their lawful responsibilities may face the potential for additional punishment under statutes designed to deter criminal firearm use.

“AB 1955 corrects this imbalance by exempting peace officers from firearm sentencing enhancements under Section 12022.53 when the use or discharge of a firearm arises out of and occurs within the course and scope of their employment. Importantly, the bill does not alter the underlying criminal charges or other applicable penalties. It simply ensures that enhancements intended for criminal actors are not automatically applied to officers performing their official duties. If the exemption is contested, the prosecution retains the ability to demonstrate that it does not apply.

“In *People v. Mehserle* (2012) 206 Cal.App.4th 1125, a BART officer faced murder charges and gun enhancements after mistakenly discharging his firearm instead of a taser during a chaotic arrest, killing Oscar Grant. The jury convicted him of involuntary manslaughter and a gun enhancement, but the trial court ultimately struck the enhancement at sentencing in the interests of justice, recognizing it was unfair to apply in this on-duty context. This is precisely the injustice AB 1955 corrects. AB 1955 exempts duty-related firearm use from enhancements intended to deter criminals who arm themselves to commit or escalate crimes, sparing officers the need to rely on post-trial judicial discretion after enduring the full burden of a trial and potential conviction on the enhancement.

“AB 1955 recognizes the unique responsibilities placed on peace officers and ensures the law appropriately reflects the realities of policing while maintaining accountability.”

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

7) **Related Legislation:**

- a) AB 991 (Essayli), of the 2025-26 Legislative Session, would make the dismissal of enhancements inapplicable to firearms-related enhancements, but would allow the court to dismiss these firearm-related enhancements pursuant to the court’s general authority to dismiss an action, as specified. AB 991 did not receive a hearing in this 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

criminal activity, as specified, against a person who is an undocumented individual. AB 1966 is pending hearing in this committee.

- c) AB 2450 (Johnson), would make specified requirements to dismiss an enhancement inapplicable to certain enhancements related to drug possession and trafficking, and would instead authorize the court to dismiss those specified enhancements if it is in the furtherance of justice to do so, except if dismissal of that enhancement is prohibited by any initiative statute. AB 2450 is pending hearing in this committee.

8) Prior Legislation:

- a) AB 27 (Ta), of the 2023-24 Legislative Session, would have prohibited a court from dismissing a firearms-related enhancement, as defined. AB 27 failed passage in the Assembly Public Safety Committee.
- b) AB 328 (Essayli), of the 2023-24 Legislative Session, would have prohibited a court from striking an allegation or a finding that would make a crime punishable pursuant to those enhancement provisions, except that a court could strike or dismiss an enhancement when the person did not personally use or discharge the firearm or when the firearm was unloaded. AB 328 failed passage in the Assembly Public Safety Committee.
- c) AB 3037 (Essayli), of the 2023-24 Legislative Session, would have made the provision relating to the dismissal of enhancements inapplicable to firearms-related enhancements, but would allow the court to dismiss these firearm-related enhancements pursuant to the court's general authority to dismiss an action, as specified. AB 3037 failed passage in the Assembly Public Safety Committee.
- d) SB 81 (Skinner), Chapter 721, Statutes of 2021, required a court to dismiss an enhancement if it is in the furtherance of justice to do so. SB 81 requires a court to consider and afford great weight to evidence offered by the defendant to prove that specified mitigating circumstances are present. SB 81 provides that proof of the presence of one or more specified mitigating circumstances weighs greatly in favor of dismissing an enhancement, unless the court finds that dismissal would endanger public safety, as defined.
- e) SB 483 (Allen), Chapter 728, Statutes of 2021, declared certain enhancements imposed to be legally invalid, and required the court, after verifying specified information, to recall the sentence and resentence the individual to remove any invalid sentence enhancements.
- f) AB 931 (Villapudua), of the 2021-22 Legislative Session, would have allowed, but would not have required, a sentencing court to dismiss an enhancement if the court determines that it is in the furtherance of justice to do so. AB 931 failed passage in the Senate Public Safety Committee.
- g) AB 1127 (Santiago), of the 2021-22 Legislative Session, would have prohibited a prior juvenile adjudication from being considered a prior serious or violent felony conviction for purposes of a sentence enhancement. AB 1127 would have provided a means of vacating a prior juvenile conviction enhancement and resentencing a defendant on any

remaining counts when specified conditions apply. AB 1127 was sent the inactive file on the Assembly Floor.

- h) AB 1509 (Lee), of the 2021-22 Legislative Session, would have reduced the mandatory terms of defined firearms enhancements. AB 1509 was held in suspense in the Assembly Appropriations Committee.
- i) AB 2027 (Choi), of the 2021-22 Legislative Session, would have exempted hate crimes enhancements from the requirement that certain enhancements be dismissed if, after considering specified mitigating factors, it is in the furtherance of justice to dismiss the enhancements. AB 2027 failed passage in the Assembly Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Peace Officers Research Association of California (PORAC) (Sponsor)
California Police Chiefs Association

Opposition

None submitted

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

Date of Hearing: March 17, 2026
Consultant: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1968 (Gallagher) – As Introduced February 13, 2026

SUMMARY: Adds the crime of conspiracy to commit murder to the list of specified offenses for which a person may be committed to a secure youth treatment facility (SYTF) for an offense committed at the age of 14 or older, or transferred to adult criminal court for a crime committed at the age of 14 or 15 if they were not apprehended prior to the end of juvenile court jurisdiction.

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, 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), emphasis added.)
- 4) States that in a case in which a minor is alleged to have committed any of the enumerated felonies, when the minor was 14 or 15 years of age, but was not apprehended prior to the end of juvenile court jurisdiction, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(2).)
- 5) States that in order to find that the minor should be transferred to a court of criminal jurisdiction, the court shall find by clear and convincing evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. In making its decision, the court shall consider the following criteria, inclusive:
 - a) The degree of criminal sophistication exhibited by the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense; the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior; the effect of familial, adult, or peer pressure on the minor's actions; the effect of the minor's family and community environment; the existence of childhood trauma; the minor's involvement in the child welfare or foster care system; and the status of the minor as a victim of human trafficking, sexual abuse, or sexual battery on the minor's criminal sophistication;

- b) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction. The juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature;
 - c) The minor's previous delinquent history. The juvenile court shall give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior;
 - d) Success of previous attempts by the juvenile court to rehabilitate the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs; and,
 - e) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development. The court shall consider evidence offered that indicates that the person against whom the minor is accused of committing an offense trafficked, sexually abused, or sexually battered the minor. (Welf. & Inst. Code, § 707, subd. (a)(3).)
- 6) Enumerates the following offenses for which a minor may be transferred to adult criminal court for committing an offense at age 14 or 15 for which they were not apprehended until the end of juvenile court jurisdiction, and for which a minor adjudicated in juvenile court may be committed to an SYTF:
- 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).)
- 7) Allows counties, commencing July 1, 2021, to establish SYTFs for wards who are 14 years of age or older who have been adjudicated and found to be a ward of the court based on an offense listed in subdivision (b) of Welfare and Institutions Code section 707. (Welf. & Inst. Code, § 875.)
- 8) Provides that in determining whether to order a ward to be committed to an SYTF, the court must make a finding on the record that a less restrictive, alternative disposition for the ward is unsuitable. The court shall consider all relevant and material evidence, including the recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case. (Welf. & Inst. Code, § 875, subd. (a)(3).)
- 9) States that the court shall additionally make its determination whether a ward should be committed to a SYTF based on the following:
- a) The severity of the offense or offenses for which the ward has been most recently adjudicated, including the ward’s role in the offense, the ward’s behavior, and harm done to the victim;
 - b) The ward’s previous delinquent history, including the adequacy and success of previous attempts by the juvenile court to rehabilitate the ward;
 - c) Whether the programming, treatment, and education offered and provided in a SYTF is appropriate to meet the treatment and security needs of the ward;
 - d) Whether the goals of rehabilitation and community safety can be met by assigning the ward to an alternative, less restrictive disposition that is available to the court; and,
 - e) The ward’s age, developmental maturity, mental and emotional health, sexual orientation, gender identity and expression, and any disabilities or special needs affecting the safety or suitability of committing the ward to a term of confinement in a secure youth treatment facility. (Welf. & Inst. Code, § 875, subd. (a)(3)(A)-(E).)

- 10) Requires the court, in making its order of commitment for a ward, to set a baseline term of confinement for the ward that is based on the most serious recent offense for which the ward has been adjudicated. Requires the baseline term of confinement to represent the time in custody necessary to meet the developmental and treatment needs of the ward and to prepare the ward for discharge to a period of probation supervision in the community. Requires the baseline term of confinement for the ward to be determined according to offense-based classifications. Provides that the baseline term is subject to modification in progress review hearings. (Welf. & Inst. Code, § 875, subd. (b)(1).)
- 11) Requires the court, in making its order of commitment, to additionally set a maximum term of confinement for the ward based upon the facts and circumstances of the matter or matters that brought or continued the ward under the jurisdiction of the court and as deemed appropriate to achieve rehabilitation. (Welf. & Inst. Code, § 875, subd. (c)(1).)
- 12) Provides that the maximum term of confinement is the longest term of confinement in a facility that the ward may serve subject to the following:
 - a) Prohibits a ward committed to an SYTF from being held in secure confinement beyond 23 years of age, or two years from the date of the commitment, whichever occurs later. Allows a ward who has been committed to an SYTF based on adjudication for an offense or offenses for which the ward, if convicted in adult criminal court, would face an aggregate sentence of seven or more years, to be held in secure confinement until 25 years of age, or two years from the date of commitment, whichever occurs later.
 - b) Prohibits the maximum term of confinement from exceeding the middle term of imprisonment that can be imposed upon an adult convicted of the same offense or offenses. Requires, if the court elects to aggregate the period of physical confinement on multiple counts or multiple petitions, the maximum term of confinement to be the aggregate term of imprisonment specified in Section 1170.1 of the Penal Code.
 - c) Requires precommitment credits for time served to be applied against the maximum term of confinement. (Welf. & Inst. Code, § 875, subd. (c)(1)(A)-(C).)
- 13) States that a prior juvenile adjudication constitutes a “strike” for Three Strikes sentencing if it meets all of the following:
 - a) The juvenile was 16 years of age or older at the time the juvenile committed the prior offense;
 - b) The prior offense is listed in subdivision (b) of Section 707 of the Welfare and Institutions Code or described as a “serious” or “violent” felony;
 - c) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law; and,
 - d) The juvenile was adjudged a ward of the court under Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code. (Pen. Code, § 667, subd. (d)(3) and 1170.12, subd. (b)(3).)

- 14) States that conspiracy to commit a crime requires two or more persons to conspire to commit any crime. (Pen. Code, § 182, subd. (a)(1).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “AB 1968 bill closes a clear gap in our juvenile justice system to better protect children and communities from premeditated acts of extreme violence. The Evergreen Middle School case in Tehama County, where two juveniles planned a mass-casualty attack, exposed the problem. The 15-year-old was convicted of attempted murder and related charges and received a four-year Secure Youth Treatment Facility commitment; the 14-year-old, convicted primarily of conspiracy to commit murder despite equivalent culpability and planning, received only 364 days in juvenile hall.

“AB 1968 makes a narrow fix: it adds ‘conspiracy to commit murder’ to the WIC § 707(b) list of qualifying offenses. This enables heightened juvenile court handling and potential Secure Youth Treatment Facility commitment for youth aged 14 or older in cases involving documented premeditation and grave risk—especially school or mass-threat plots. This will help ensure proportionate dispositions within juvenile jurisdiction, unlocking access to intensive rehabilitation programs such as individualized rehabilitation plans, trauma-informed therapy, and structured reentry support, designed for serious cases and proven to drive long-term change and community safety.

“Rehabilitation is the foundation of California’s juvenile justice approach, and Secure Youth Treatment Facilities deliver it effectively for high-risk youth. By treating conspiracy to commit murder with the same seriousness as attempted murder or assault with a destructive device, AB 1968 balances meaningful accountability with the intensive support young people need to change course and reintegrate safely.”

- 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 generally continues until the youth is 21 years old, unless the youth committed a 707(b) offense, then the court may retain jurisdiction until the person attains 23 years of age. Additionally, if the youth would have, in criminal court, faced an aggregate sentence of 7 years or more, 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).)

Existing law provides that any person whose case originated in juvenile court shall remain, if the person is held in secure detention, in a county juvenile facility until the person attains 25 years of age, unless the probation department petitions the court to house a person who is 19 years of age or older in an adult facility, including a jail or other facility established for the purpose of confinement of adults. (Welf. & Inst. Code, § 208.5.)

- 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 minors 14 years or older to be charged as adults 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.*) The proposition also designated additional crimes as “violent” and “serious” and added to 707(b) the crime of voluntary manslaughter. 707(b) has not been expanded since. (Prop. 21, as approved by voters, Gen. Elec. (Mar. 7, 2000).)

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].)

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 from 14 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.)

As discussed above, a juvenile may be transferred to adult criminal court for *any felony*, or for a specified offense listed in Welfare and Institutions Code section 707, subdivision (b). (Welf. & Inst. Code, § 707, subd. (a)(1).) This bill would add conspiracy to commit murder to the specified list of offenses. Under existing law, it appears prosecutors may already file a transfer motion for this offense. Whether this will increase filing of motions to transfer filed by prosecutors for this particular crime is unclear.

- 4) **Juvenile Justice Realignment:** In 2020, the Legislature passed Senate Bill 823 (Committee on Budget and Fiscal Review) which established a process for realigning California's juvenile system by phasing out the state's youth prison system, the Division of Juvenile Justice (DJJ), and transferring the responsibility for managing all youthful offenders to local jurisdictions.¹ SB 823 established the Office of Youth and Community Restoration (OYCR) within the California Health and Human Services Agency to guide the transition from state-run youth incarceration to the counties by providing support and technical assistance.

SB 823 also stated the intent of the Legislature to establish a separate dispositional track for higher-need youth by March 1, 2021. In order to implement Senate Bill 823, in 2021, the Legislature passed Senate Bill 92 (Committee on Budget and Fiscal Review) which authorized counties to establish SYTFs for the placement of wards who were adjudicated for specified serious offenses, listed in Welfare and Institutions Code section 707, subdivision (b), when the juvenile was age 14 or older, and after the court has determined a less restrictive alternative disposition is unsuitable. (Welf. & Inst. Code, § 875, subd. (a).) If a juvenile is committed to an SYTF, the court must set a baseline term of commitment that represents the time in custody necessary to meet the developmental and treatment needs of the ward and to prepare the ward for discharge to a period of probation supervision in the community. (Welf. Inst. Code, § 875, subd. (b)(1).)

The California Rules of Court outline how the baseline term of commitment is determined. In selecting the baseline term, the court must considering the following: *the circumstances and gravity of the commitment offense; the youth's prior history in the juvenile justice system; the confinement time considered reasonable and necessary to achieve the rehabilitation of the youth; and the youth's developmental history.* (Cal. Rules of Court, rule 5.806(a).) *Each of these criteria include additional factors for the court to consider, but the rule specifies that "[e]numerated factors listed ... that are outside the youth's control must not result in a longer baseline term than otherwise needed to meet [the objective that the baseline term is no longer than necessary to meet the developmental needs of the youth and to prepare the youth for discharge to a period of probation supervision in the community]."* (Ibid.)

The rule includes the offense-based matrix that establishes terms with a range of years for various offenses. For example, the matrix specifies a term of 4-7 years for murder, kidnapping with bodily harm involving death or substantial bodily injury, and torture. (Cal. Rules of Court, rule 5.806(d).) Attempted murder, voluntary manslaughter, specified kidnapping offenses, and specified sex offenses, including rape with force, violence, or threat of great bodily harm, have a term of 3-5 years. (Ibid.) A variety of offenses, including arson, robbery, carjacking, specified weapons-related offenses, specified types of assault, and

¹ See Sen. Comm. on Budget and Fiscal Review. Floor Analysis of Sen. Bill No. 823 (2019-2020 Reg. Sess.) as amended August 28, 2020, p. 1.

specified gang-related offenses have a term of 2-4 years. (*Ibid.*) Finally, witness or victim intimidation, bribery of a witness, and specified offenses related to manufacturing or selling drugs, such as PCP, have a term of 1-2 years. (*Ibid.*)

The court must also set the maximum term of confinement for the youth. In general, a youth committed to an SYTF cannot be held in secure confinement beyond 23 years of age or two years from the date of the commitment, whichever occurs later, unless the youth has been committed to an SYTF based on adjudication for an offense or offenses for which the youth would have faced an aggregate sentence of seven or more years if convicted in adult criminal court. (Welf. & Inst. Code, § 875, subd. (c)(1)(A).) In that case, the youth can be held until 25 years of age or two years from the date of commitment, whichever occurs later. (Welf. & Inst. Code, § 875, subd. (c)(1)(A).) Additionally, the maximum term of confinement cannot exceed the middle term of imprisonment that can be imposed upon an adult convicted of the same offense or offenses, except as specified. (Welf. & Inst. Code, § 875, subd. (c)(1)(B).)

At the conclusion of a baseline confinement term, a ward could be discharged to a period of probation supervision in the community under conditions approved by the court, unless the court finds that the ward constitutes a substantial risk of imminent harm to others in the community if released from custody. (Welf. & Inst. Code, § 875, subd. (e)(3).)

The court may, upon the motion of the probation department or ward, order that the ward be transferred from a SYTF to a less restrictive program, such as such as a halfway house, a camp or ranch, or a community residential or nonresidential service program. The purpose of a less restrictive program is to facilitate the safe and successful reintegration of the ward into the community. (Welf. & Inst. Code, § 875, subd. (f)(1).) The court shall consider the recommendations of the probation department on the proposed change in placement. Approval of the request for a less restrictive program shall be made only upon the court's determination that the ward has made substantial progress toward the goals of the individual rehabilitation plan and that placement is consistent with the goals of youth rehabilitation and community safety. (*Ibid.*) In transferring a ward to a less restrictive program, the court may require the ward to observe reasonable conditions and shall set the length of time the ward is to remain in the less restrictive program, not to exceed the remainder of the baseline or modified baseline term. (Welf. & Inst. Code, § 875, subd. (f)(2).) If, after placement in a less restrictive program, the court determines that the ward has materially failed to comply with the court-ordered conditions of placement in the program, the court may modify the terms and conditions of placement in the program or may order the ward to be returned to a secure youth treatment facility for the remainder of the baseline term, or modified baseline term, and subject to further periodic reviews and to the maximum confinement set by the court. (*Ibid.*)

This bill adds the offense of conspiracy to commit murder to subdivision (b) of Welfare and Institutions Code section 707 which would expand the offenses for which a juvenile is eligible for SYTF commitment.

- 5) **SYTF Data:** AB 102 (Ting), Chapter 38, Statutes of 2023, requires county probation departments to provide OYCR with data regarding: the number of youth and their commitment offense or offenses committed to an SYTF; the number of individual youth in the county who were adjudicated for a Section 707(b) or a registerable sex offense; the number of youth and their commitment offense or offenses transferred from an SYTF to an less restrictive program; and the number of youth who had a transfer hearing as well as the

number of youth whose jurisdiction was transferred to adult criminal court. The data requirements are designed to provide a better understanding of the impacts of the state's juvenile justice realignment.

According to data reported by OYCR, for fiscal year 2023-2024, 386 youth were committed to an SYTF and a total of 3,216 youth were adjudicated for a 707(b) offense.² Comparatively, for fiscal year 2022-2023, 427 youth were committed to an SYTF and a total number of 1,730 youth were adjudicated for a 707(b) offense.³ The most common adjudicated offenses among youth committed to an SYTF are homicide, assault, robbery, and attempted homicide.⁴

The data also indicates that both Black and Latino youth were overrepresented in the SYTF population compared to state population rates.⁵ Additionally, comparing only the population of youth adjudicated for 707(b) offenses, Black and Hispanic/Latino youth were nearly twice as likely than White youth to be committed to SYTFs.⁶

- 6) **Attempted Murder and Conspiracy to Commit Murder Compared:** Existing law includes attempted murder in the 707(b) list. The author of this bill argues that a minor who conspires to commit murder should be treated the same as a minor who commits attempted murder due to both crimes involving intent to kill. The elements of each offense would indicate that while they may both require intent to kill, the level of required action is much lower in conspiracy to commit murder.

The elements of attempted murder require 1) the defendant took at least one direct but ineffective step toward killing another person; and 2) the defendant intended to kill that person. (CALCRIM No. 600.) A “direct step” “requires more than merely planning or preparing to commit murder or obtaining or arranging for something needed to commit murder. A direct step is one that goes beyond planning or preparation and shows that a person is putting his or her plan into action. A direct step indicates a definite and unambiguous intent to kill. It is a direct movement toward the commission of the crime after preparations are made. It is an immediate step that puts the plan in motion so that *the plan would have been completed if some circumstance outside the plan had not interrupted the attempt.*” (*Ibid.*, emphasis added.)

By contrast, the elements of the offense of conspiracy to commit murder require 1) the defendant intended to agree and did agree with one or more persons to intentionally and unlawfully kill; 2) at the time of the agreement, the defendant and the other member of the conspiracy intended that one or more of them would intentionally and unlawfully kill; 3) the defendant committed at least one overt act alleged to accomplish the killing; and 4) and at least one of the overt acts was committed in California. (CALCRIM No. 563.) An “overt act” means “an act by one or more of the members of the conspiracy that is done *to help accomplish the agreed upon crime.* The overt act must happen after the defendant has agreed

² AB 102 Report, OYCR (2025) p. 19.)

³ *Ibid.*

⁴ *Id.* at p. 32.

⁵ *Id.* at pp. 23-24.

⁶ *Id.* at pp. 53-54.

to commit the crime. The overt act must be more than the act of agreeing or planning to commit the crime, but it *does not have to be a criminal act itself.*" (*Ibid.*, emphasis added.)

When a person attempts to commit murder, that person is doing more than just planning or preparing; they are taking an action, albeit ineffectual, to complete the crime. On the other hand, a person who conspires to commit murder need only commit an outward act which may amount to "planning or preparing to commit murder or obtaining or arranging for something needed to commit murder," which falls short of what is required for attempted murder.

- 7) **Juvenile Adjudications and Three Strikes:** In 1994, California voters passed Proposition 184, known as the "Three Strikes and You're Out" law that defined qualifying "strikes" as those felonies listed as "serious" or "violent" on June 30, 1993. That same year, the California Legislature passed similar legislation that was signed into law. (AB 971 (Jones), Ch. 12, Stats. 1994.) Collectively, Proposition 184 and AB 971 became known as California's Three Strikes law which imposes longer prison sentences for certain repeat offenders. Proposition 21 of the March 2000 primary election added to the lists of serious and violent felonies and defined qualifying prior strikes as a felony listed as "serious" or "violent" felonies as of March 8, 2000, the date that the Proposition 21 took effect.

The Three Strikes law requires a person who is convicted of a felony and who previously has been convicted of one or more "violent" or "serious" felonies, known as strikes, to be subject to enhanced penalties. Specifically, if the person has one prior strike, the sentence on any new felony conviction must be double what is specified by statute. If the person has two prior strikes, the sentence on any new felony conviction was 25 years to life, although this provision was amended by Proposition 36, approved by voters in 2012, to require that the third strike must be a "serious" or "violent" felony in order to impose the life term.

The Three Strikes law also applies to crimes committed by juveniles. Specifically, the law states that a prior adjudication shall constitute a serious or violent felony conviction for purposes of Three Strikes sentencing enhancement if:

- a) The juvenile was 16 years of age or older at the time the prior offense was committed;
- b) The prior offense is listed in subdivision (b) of Section 707 of the Welfare and Institutions Code or described in statute as a "serious" or "violent felony;"
- c) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law; and,
- d) The juvenile was adjudged a ward of the juvenile court because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code. (Pen. Code, §§ 667, subd. (d)(3) and 1170.12, subd. (b)(3).

Proponents of the original Three Strikes law argued that the law would "reduce crime by incapacitating and deterring people who committed repeat offenses by dramatically

increasing punishment for people previously convicted of a “serious” or “violent” offense.”⁷ However, research shows that a decline in crime rates already began prior to the passage of the law. According to a 2005 report by the Legislative Analyst’s Office⁸:

The overall crime rate in California, as measured by the Department of Justice’s California Crime Index, began declining before the passage of the Three Strikes law. In fact, the overall crime rate declined by 10 percent between 1991 and 1994. The crime rate continued to decline after Three Strikes, falling by 43 percent statewide between 1994 and 1999, though it has risen by about 11 percent since 1999. Similarly, the violent crime rate declined by 8 percent between 1991 and 1994 and then fell an additional 43 percent between 1994 and 2003. It is important to note that these reductions appear to be part of a national trend of falling crime rates. National crime rates—as reported by the Federal Bureau of Investigation’s Uniform Crime Report—declined 31 percent between 1991 and 2003, with violent crime declining 37 percent over that period. Researchers have identified a variety of factors that likely contributed to these reductions in national crime rates during much of the 1990s including a strong economy, more effective law enforcement practices, demographic changes, and a decline in handgun use.

By adding to the list of offenses listed in subdivision (b) of Welfare and Institutions Code section 707, this bill would arguably expand the types of offenses that would qualify a prior adjudication as a strike. However, existing law also provides that any offense listed as a “serious” or “violent” felony could qualify as a prior strike. The “serious” felony list includes “any conspiracy to commit an offense described in this subdivision,” which includes murder. (Pen. Code, § 1192.7, subd. (c)(1) & (43).)

- 8) **Argument in Support:** According to *California District Attorneys Association*, “Currently, a juvenile court judge cannot sentence a youth to the Secured Youth Treatment Facility (SYTF) for conspiracy to commit a murder. In 2021, the legislature closed the Department of Juvenile Justice and created the SYTF. Only crimes listed in WIC 707(b) qualify for a SYTF commitment. This bill would add the crime of conspiracy to commit murder to WIC 707(b) and give the court discretion to commit a minor to the SYTF.

“In 2025, several juveniles conspired to commit a mass shooting at Evergreen Middle School in Tehama County. One juvenile was committed to the SYTF for the qualifying crime of attempted murder. A second youth was unable to be committed to the SYTF because the crime of conspiracy to commit a murder is not a qualifying crime under WIC 707(b). This bill would allow a juvenile court discretion to impose a stricter sentence to the SYTF for a youth who was at least 14 years of age at the time of the crime and planned a mass school shooting.

“The law already provides that a juvenile may be transferred to a court of criminal jurisdiction where the minor was 16 years of age or older, and it is alleged they committed an

⁷ Proposition 184, Voter Information Guide, 1994 General Election.

⁸ LAO, *A Primer: Three Strikes - The Impact After More Than a Decade* (Oct. 2005) https://www.lao.ca.gov/2005/3_strikes/3_strikes_102005.htm (accessed Mar. 5, 2026].)

offense listed in WIC 707(b) or any other felony criminal statute. If a minor is at least 16 years of age and is alleged to have conspired to commit a murder, a court may order the case transferred to adult court.

“AB 1968 would add the crime of conspiracy to commit murder to the list of 707(b) crimes. This will give the court discretion to sentence a youth to a higher level of programming in SYTF in cases where a mass shooting has been planned.”

- 9) **Argument in Opposition:** According to *California Youth Defender Center*, “Welfare & Institutions code 707 as it exists today is a very crucial statute for how youth are handled in the delinquency system and beyond. The list of offenses referenced in subdivision (b) are not only offenses specifically specified as ones the district attorney may try to transfer to adult court, they are also the offenses that can qualify as a strike under the three strikes law, and are also the offenses eligible to send a child to a Secure Track commitment under 875 of the Welfare and Institutions code. Adding an offense alters the playing field for all youth in an unintended way as the plain language of 707 already permits the district attorney to try to transfer a youth to adult court for any felony.

“WIC 707 was enacted January 1, 1990 as AB 1456.1 In the years after it was enacted the list was adjusted a few times. However, the last significant change to the list of offenses in 707 occurred in 2000 when the voters passed Proposition 21 when the list grew slightly. This was only 10 years after the list of 707(b) offenses was created. Only that slight change was made at the time and no other additions have been made in the 25 years since, though other portions of the statute have been amended multiple times.

“Further the suggested change is to add the crime of Conspiracy to commit murder to the 707(b) list. Conspiracy is an inchoate crime, completed when an agreement and any slight action occurs. Conspiracy to commit murder is differentiated from the remainder of the 707(b) offenses which all require the minor to personally inflict or commit a harmful act. Because of this, Conspiracy, unlike the offenses currently listed under 707(b), takes place mostly in the mind.

“Advances in adolescent brain science began to transform understanding of youth behavior, decision-making, and development, showing that the adolescent brain is fundamentally different from that of an adult.² Brain science confirms that adolescents differ significantly from adults in their capacity for impulse control, risk assessment, and long-term planning. These developmental characteristics explain why young people may make impulsive decisions.³ The deep field of knowledge on youth brain development strongly goes against increasing the severity of how the system treats an offense that occurs mostly in the mind. It is settled science that youth are not as capable of thinking about consequences of their actions and their brains are not fully developed in the crucial area of decision making. So youth are unable to comprehend the severity of a mostly mental crime.”

10) **Related Legislation:**

- a) 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. The hearing on AB 1647 was canceled at the request of the author.

- b) AB 1902 (Pellerin) would make various changes to the process that authorizes a court to order extended detention of a person confined in an SYTF. AB 1902 is pending hearing by this Committee.
- c) AB 1959 (Patel), relevant to this bill, would authorize juveniles who committed specified offenses when they were 14 or 15 years old to be transferred to adult criminal court. AB 1959 is pending hearing by this Committee.
- d) AB 2040 (Macedo) would lower the burden of proof, from clear and convincing evidence to preponderance of the evidence, required to find a minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court for purposes of transfer to adult criminal court. AB 2024 is pending hearing in this Committee.

11) Prior Legislation:

- a) AB 22 (DeMaio), of the 2025-2026 Legislative Session, among other things, would have removed from the juvenile court's jurisdiction over specified crimes committed by minors, requiring those crimes to be tried in a court of criminal jurisdiction. AB 22 was held in this Committee.
- b) SB 824 (Menjivar), of the 2025-2026 Legislative Session, would have required Individualized Rehabilitation Plans (IRP) for youth committed to an SYTF to contain a roadmap for their successful return to their community and requires judges to assess the juvenile's progress at each six-month review hearing. SB 824 was held in the Senate Appropriations Committee suspense file.
- c) AB 102 (Ting), Chapter 38, Statutes of 2023, relevant to this bill, required county probation departments to provide the OYCR with specific juvenile justice data related to the realignment of DJJ.
- d) SB 92 (Committee on Budget and Fiscal Review), Chapter 18, Statutes of 2021, allowed counties, commencing July 1, 2021, to establish SYTFs for wards who are 14 years of age or older who have been adjudicated and found to be a ward of the court based on an offense that would have resulted in a commitment to the DJJ, as provided.
- e) SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020, established a process for realigning California's juvenile system by phasing out the state's youth prison system, DJJ, and transferring the responsibility for managing all youthful offenders to local jurisdictions.
- f) 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.
- g) 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.

- h) 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.
- i) SB 439 (Mitchell), Chapter 1006, Statutes of 2018, established a minimum age of 12 years old for a minor to come within the jurisdiction of the juvenile court, except the court would continue to have jurisdiction over a minor under 12 who committed murder or specified forcible sex crimes.
- j) 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 which a minor is alleged to have committed a specified serious offense when he or she was 14 or 15 years of age, unless the individual was not apprehended prior to the end of juvenile court jurisdiction.
- k) 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.
- l) 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.
- m) 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

California District Attorneys Association
California Police Chiefs Association
California State Sheriffs' Association
Peace Officers Research Association of California (PORAC)
Tehama County District Attorney's Office
Tehama County Sheriff's Office

Opposition

ACLU California Action
California Attorneys for Criminal Justice
California Public Defenders Association
California Youth Defender Center
Center on Juvenile and Criminal Justice

Community Interventions
Congregations Organized for Prophetic Engagement (COPE)
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Fresh Lifelines for Youth
Friends Committee on Legislation of California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Local 148 Los Angeles County Public Defender's Union
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
The W. Haywood Burns Institute
Viet Voices

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