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California State Assembly

PUBLIC SAFETY

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AGENDA

Tuesday, April 7, 2026
8:30 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

LIMITED TESTIMONY FOR SUPPORT AND OPPOSITION

TWO WITNESSES - TWO MINUTES EACH

1.	AB 1588	Stefani	PULLED BY THE AUTHOR.
2.	AB 1628	Michelle Rodriguez	Child protection: safe surrender.
3.	AB 1753	Stefani	Protective orders: firearms and ammunition: notice and procedures.
4.	AB 1759	Elhawary	Prisons: classification.
5.	AB 1867	Tangipa	PULLED BY THE AUTHOR.
6.	AB 1897	Haney	PULLED BY THE COMMITTEE.
7.	AB 1912	Hadwick	Deer: archery season: concealed firearms.
8.	AB 1913	Soria	Licensure: emergency equipment.
9.	AB 1922	Lowenthal	Restraint of incarcerated persons.
10.	AB 1958	Kalra	Criminal procedure: discrimination.
11.	AB 1959	Patel	Juvenile justice.
12.	AB 1974	Stefani	Firearms: voluntary firearm storage program.
13.	AB 1994	Alvarez	Defending Immigrant Victims Act.
14.	AB 2001	Stefani	Criminal procedure: state summary criminal history information.
15.	AB 2052	Stefani	PULLED BY THE AUTHOR.
16.	AB 2073	Johnson	PULLED BY THE AUTHOR.
17.	AB 2097	Boerner	PULLED BY THE AUTHOR.

18.	AB 2104	Carrillo	Sexually violent predators.
19.	AB 2122	Kalra	Infractions: warrants and penalties.
20.	AB 2147	Schiavo	Criminal procedure: jurisdiction of public offenses.
21.	AB 2204	Gabriel	Prisons: organized sports programming.
22.	AB 2232	Patterson	PULLED BY THE AUTHOR.
23.	AB 2273	Bains	PULLED BY THE AUTHOR.
24.	AB 2274	Bains	PULLED BY THE AUTHOR.
25.	AB 2276	Soria	Vehicles: active intelligent speed assistance devices.
26.	AB 2286	Bryan	Criminal procedure: attorney visits: medical settings.
27.	AB 2297	Stefani	Restitution: diversion.
28.	AB 2310	Carrillo	Illegal dumping.
29.	AB 2318	Elhawary	PULLED BY THE AUTHOR.
30.	AB 2347	Ahrens	Commission on Peace Officer Standards and Training: hate crime training and guidelines.
31.	AB 2438	Johnson	Imprisonment.
32.	AB 2450	Johnson	Sentencing: dismissal of enhancements.
33.	AB 2556	Boerner	Evidence: credibility of witnesses and evidence affected or excluded by extrinsic policies.
34.	AB 2698	Ellis	Juveniles: diversion.
35.	AB 2701	Jeff Gonzalez	Domestic Violence Offender Registration Act.
36.	AB 2727	Nguyen	Corrections: parole and prerelease treatment.
37.	AB 2749	Sharp-Collins	Crimes: loitering.

Date of Hearing: April 7, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1588 (Stefani) – As Amended March 16, 2026

PULLED BY THE AUTHOR

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

Date of Hearing: April 7, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1628 (Michelle Rodriguez) – As Amended March 19, 2026

SUMMARY: Extends the laws providing for safe surrender of infants at designated locations from 72 hours or younger to 30 days of age or younger.

EXISTING LAW:

1) States that a parent of a minor child who willfully omits to furnish necessary clothing, food, shelter or medical attendance, or other remedial care for his or her child, is guilty of a misdemeanor punishable by a fine not exceeding $2,000, or by imprisonment in the county jail not exceeding one year, or by both. (Pen. Code, § 270.)

2) Provides that proof of abandonment or desertion of a child by such parent, or the omission by such parent to furnish necessary food, clothing, shelter or medical attendance or other remedial care for his or her child is evidence that such abandonment or desertion or omission to furnish necessary food, clothing, shelter or medical attendance or other remedial care is willful and without lawful excuse. (Pen. Code, § 270.)

3) Establishes that every parent who refuses to accept his or her minor child into the parent's home, or, failing to do so, to provide alternative shelter, upon being requested to do so by a child protective agency and after being informed of the duty imposed by this statute to do so, is guilty of a misdemeanor and shall be punished by a fine of not more than $500. (Pen. Code, § 270.5, subd. (a).)

4) States that every parent of any child under the age of 14 years, and every person to whom any such child has been confided for nurture, or education, who deserts such child in any place whatever with intent to abandon it, is punishable by a wobbler. (Pen. Code, § 271.)

5) Provides that no parent or other individual having lawful custody of a minor child 72 hours old or younger may be prosecuted for specified violations if he or she voluntarily surrenders physical custody of the child to personnel on duty at a safe-surrender site. (Pen. Code, § 271.5, subd. (a).)

6) Provides that each school district shall ensure that all pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education and HIV prevention education from instructors trained in the appropriate courses. Each pupil shall receive this instruction at least once in junior high or middle school and at least once in high school. This instruction shall include all of the following:

7) Requires the instruction to include information about the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy, including objective discussion of

all legally available pregnancy outcomes, including, but not limited to, information on the law on surrendering physical custody of a minor child 72 hours of age or younger. (Ed. Code, § 51934, subd. (a)(9)(B).)

8) States that a hospital and a safe-surrender site designated by the county board of supervisors or by a local fire agency, upon the approval of the appropriate local governing body of the agency, shall post a sign displaying a statewide logo that has been adopted by the State Department of Social Services (DSS) that notifies the public of the location where a minor child 72 hours old or younger may be safely surrendered. (Health & Saf. Code, § 1255.7, subd. (a)(4).)

9) Requires personnel on duty at a safe-surrender site to accept physical custody of a minor child 72 hours old or younger if a parent or other individual having lawful custody of the child voluntarily surrenders physical custody of the child to personnel who are on duty at the safe-surrender site. Safe-surrender site personnel shall ensure that a qualified person does all of the following:

   a) Places a coded, confidential ankle bracelet on the child;

   b) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a copy of a unique, coded, confidential ankle bracelet identification in order to facilitate reclaiming the child; and,

   c) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a medical information questionnaire, which may be declined, voluntarily filled out and returned at the time the child is surrendered, or later filled out and mailed in the envelope provided for this purpose. This medical information questionnaire shall not require identifying information about the child or the parent or individual surrendering the child, other than the identification code provided in the ankle bracelet placed on the child. (Health & Saf. Code, § 1255.7, subd. (b).)

10) Requires personnel of a safe-surrender site that has physical custody of a minor child to ensure that a medical screening examination and any necessary medical care is provided to the minor child. (Health & Saf. Code, § 1255.7, subd. (c).)

11) Provides that as soon as possible, but in no event later than 48 hours after the physical custody of a child has been accepted, personnel of the safe-surrender site that has physical custody of the child shall notify child protective services or a county agency providing child welfare services, as specified, that the safe-surrender site has physical custody of the child. (Health & Saf. Code, § 1255.7, subd. (d)(1).)

12) States that any personal identifying information that pertains to a parent or individual who surrenders a child that is obtained pursuant to the medical information questionnaire is confidential and shall be exempt from disclosure by the child protective services or county agency. (Health & Saf. Code, § 1255.7, subd. (d)(2).)

13) Personal identifying information that pertains to a parent or individual who surrenders a child shall be redacted from any medical information provided to child protective services or the county agency providing child welfare services. (Health & Saf. Code, § 1255.7, subd. (d)(2).)

14) Requires child protective services or the county agency providing child welfare services to assume temporary custody of the child immediately upon receipt of notice. (Health & Saf. Code, § 1255.7, subd. (e).)

15) Requires child protective services or the county agency providing child welfare services to immediately investigate the circumstances of the case and file a petition. (Health & Saf. Code, § 1255.7, subd. (e).)

16) Requires child protective services or the county agency providing child welfare services to immediately notify DSS of each surrendered child upon taking temporary custody of the child. (Health & Saf. Code, § 1255.7, subd. (e).)

17) Provides that, as soon as possible, but no later than 24 hours after temporary custody is assumed, child protective services or the county agency providing child welfare services shall report all known identifying information concerning the child, except personal identifying information pertaining to the parent or individual who surrendered the child, to the California Missing Children Clearinghouse and to the National Crime Information Center. (Health & Saf. Code, § 1255.7, subd. (e).)

18) States that if, prior to the filing of a petition, a parent or individual who has voluntarily surrendered a child requests that the safe-surrender site that has physical custody of the child return the child and the safe-surrender site still has custody of the child, personnel of the safe-surrender site shall either return the child to the parent or individual or contact a child protective agency if any personnel at the safe-surrender site knows or reasonably suspects that the child has been the victim of child abuse or neglect. (Health & Saf. Code, § 1255.7, subd. (f).)

19) States that a safe-surrender site, or the personnel of a safe-surrender site, shall not have liability of any kind for a surrendered child prior to taking actual physical custody of the child, and shall not be subject to civil, criminal, or administrative liability for accepting the child and caring for the child in the good faith belief that action is required or authorized. (Health & Saf. Code, § 1255.7, subd. (h).)

20) States that in order to encourage assistance to persons who voluntarily surrender physical custody of a child, no person who, without compensation and in good faith, provides assistance for the purpose of effecting the safe surrender of a minor 72 hours old or younger shall be civilly liable for injury to or death of the minor child as a result of the person's acts or omissions. This immunity does not apply to an act or omission constituting gross negligence, recklessness, or willful misconduct. (Health & Saf. Code, § 1255.7, subd. (i)(1).)

21) Provides that any identifying information that pertains to a parent or individual who surrenders a child, that is obtained is confidential, shall be exempt from disclosure, and shall not be disclosed by any personnel of a safe-surrender site that accepts custody of a child. (Health & Saf. Code, § 1255.7, subd. (k).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "The postpartum period is one of the most vulnerable times in a person's life both physically and emotionally. In the days after childbirth, many mothers are recovering from trauma, experiencing severe hormonal changes, and, in some cases, facing postpartum depression, anxiety, or isolation. Expecting a life-altering decision within just 72 hours does not reflect this modern reality.

   "AB 1628 extends the safe surrender window to 30 days, giving mothers the time they need to stabilize, seek support, and make a safe decision for their child. This bill is about recognizing the realities of postpartum depression and ensuring that no mother in crisis feels rushed into a moment of fear that could lead to tragedy. It is a compassionate, life-saving policy update that protects both mothers and their children."

2) **Effect of the Bill**: A safe surrender site is generally defined as a location designated by a local governing agency, established in consultation with local fire departments and child welfare agencies that may provide services for surrendered infants. (Health & Saf. Code, § 1255.7, subd. (a)(5)(A).) A public or private hospital with the responsibility and capacity to take in a surrendered infant is also permissible. (Health & Saf. Code, § 1255.7, subd. (a)(5)(B).) Safe surrender sites shall post signage notifying the public of its location and qualified personnel must be on duty at safe surrender sites. (Health & Saf. Code, § 1255.7, subds. (b) & (c).) No questions are required to be answered by the surrendering guardian(s) and the law protects surrendering individuals from prosecution of abandonment. (Pen. Code, § 271.5.)

   This bill would extend immunity from prosecution for guardians who surrender an infant up to 30 days of age. The extension offers parents a safe surrender option if they find themselves in crisis at some point between the time their child is four days of age and up to 30 days of age.

3) **Safe Surrender in California**: Only designated safe surrendered sites can accept physical custody of infants who are voluntarily surrendered by a parent or other person with legal custody.[1] No questions will be asked and the person who surrenders an infant in accordance with this law is granted immunity from criminal liability for child abandonment.[2] This person may reclaim the surrendered infant within 14 days.[3] While there is some minor deviations in how the surrender process works among counties, certain parts of the process are standardized.

   The following include some of the standard processes for handling a surrendered baby: 1) welcome the parent or person surrendering the infant, where applicable, and avoid judgment; 2) accept the infant (even if it appears older than 72 hours) and begin to assess for any medical needs; 3) initiate a medical report of the infant (at fire stations, receiving personnel should notify the communications center and arrange for a Code 2 ambulance); 4) locate and open the Newborn Safe Surrender Kit, then place a coded, confidential ankle bracelet on the infant and record the code on the face of the Newborn Surrender Kit envelope, and hand the

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[1] *Safely Surrendered Baby*. Contra Costa Health <https://www.cchealth.org/health-and-safety-information/new-parent-guidance/safely-surrendered-baby> [as of Mar. 29, 2026].
[2] *Ibid.*
[3] *Ibid.*

duplicate coded bracelet to the surrendering person (have the surrendering adult complete the medical questionnaire, if possible); 5) once on scene, ambulance personnel shall assume custody of the infant and continue to assess and provide for any medical needs of the infant; 6) ambulance personnel shall accompany the infant to the receiving hospital and transfer custody to a designated hospital employee, where the receiving hospital will take custody of the infant and make phone notification with Children and Family Services; and 7) receiving personnel at hospitals should notify CFS by them faxing a copy of the Notes on the face of the surrender kit.[4]

Guardians surrendering infants appear to be extraordinarily rare. According to one stakeholder group, some fire personnel have never experienced a safe surrender incident after decades on the job. Designated fire personnel are mandated reporters and Health Insurance Portability and Accountability Act (HIPAA)-protected. The duplicate bracelets and attached QR codes allow secure tracking of the surrendered infant from the fire station, or other safe surrender site, to the hospital and any other locations.

There does not appear to be much uniformity in safe surrender laws across the country, making data collection and analysis difficult.[5] In one study led by Dr. Micah Orliss, his team found over half of surrendered infants had medical issues, while the majority were surrendered in communities with low median incomes.[6] The National Safe Haven Alliance estimates more than 4,500 babies have been surrendered pursuant to safe haven laws since 1999.[7] They additionally estimate another roughly 1,600 babies were illegally abandoned, of which fewer than 50% were found alive.[8]

While some experts emphasize the importance of investing in evidence-based prenatal and postnatal care, instead of relying exclusively on safe surrender, California appears ahead of many peers in prenatal and postnatal investments.[9] California is a national leader in prenatal and postnatal services, according to the March of Dimes, ranking seventh nationally.[10] According to Forbes, California ranks third in the nation in best states to have a baby.[11] Safe surrender in California does not appear to be a replacement for investments in parents and young children, but rather another option for parents or guardians experiencing a crisis so severe they feel they must surrender their newborn baby.

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[4] *Ibid.*

[5] Lewis, C and Oberman, M. *Wildly Inconsistent Safe Haven Laws Put Surrendered Infants, Parents at Risk* (Jan. 17, 2023) Governing < https://www.governing.com/now/wildly-inconsistent-safe-haven-laws-put-surrendered-infants-parents-at-risk> [as of Mar. 18, 2026] (The author of this analysis attended law school where one author of this article, Professor Michelle Oberman, teaches courses. However, the analysis' author did not have a class taught by Professor Oberman.).

[6] Orliss, M, et al. *Safely surrendered infants in Los Angeles County: A medically vulnerable population* (July 30, 2019) National Institute of Health (NIH) <https://pubmed.ncbi.nlm.nih.gov/31322754/> [as of Mar. 18, 2026].

[7] *Ibid.*

[8] *Ibid.*

[9] *Ibid.*

[10] *2025 Report Card for California* <https://www.marchofdimes.org/peristats/reports/california/report-card> [as of Mar. 18, 2026].

[11] Galan, F. *What's the best state in the US to have a baby? Here's where California ranked* (Sep. 17, 2024) https://www.sacbee.com/news/california/article292451854.html#storylink=cpy> [as of Mar. 18, 2026].

An extension to thirty days gives new parents an option to safely surrender their child in cases where a crisis may arise a couple weeks after the birth of a child. Existing law now only makes room for those crisis situations that occur immediately or very shortly after birth. Furthermore, while immunity from prosecution may not already extend past the three-day age of the surrendered child, personnel at safe surrender sites will take any newborn, or even minor child, surrendered to them regardless of the child's age.

There is ample precedent in states across the country for lawful surrender up to 30 days.[12] Given that it appears more common for members of underprivileged and underresourced communities to safely surrender a child, a new parent experiencing a crisis may be less likely to know to contact a child welfare office, or even how to contact one of those offices, particularly during a crisis. There also may be more comfort and confidence for parents surrendering an infant to personnel at a fire house. Firefighters are ubiquitous and trusted. Fire houses, firefighters, and fire trucks are easily and readily identifiable. Polling by the CPF has shown that firefighters hold a position of trust by an overwhelming majority of Californians.[13]

4) **Argument in Support**: According to the *California Professional Firefighters*, "California's Safe Surrender Law protects the health and safety of infants at risk of abandonment by allowing the parents or legal guardians of newborns to confidentially surrender the baby at a hospital room or designated fire station without risk of prosecution. This law has saved the lives of children who may have otherwise been abandoned by parents not equipped to care for them or who are in unstable or dangerous situations not suited for an infant. However, the current law only allows for the safe surrender of a child in the first 72 hours of their life, a narrow window in which the birthing parent may not have yet recovered enough to reach a safe surrender site or realized the need to surrender their child.

   "AB 1628 extends this window from 72 hours to 30 days while still maintaining important child abuse and neglect laws, ensuring that parents who have realized they are unable to adequately care for their child are able to bring them to safety. This measure recognizes the impossible circumstances faced by many new parents while protecting the safety of children during the most vulnerable period of their lives."

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

6) **Related Legislation**: AB 2073 (Johnson) exempts from prosecution, for willfully omitting from a child certain necessities of life, among other defined crimes against children, an individual who voluntarily places a child 72 hours old or younger in an infant safety device at a safe-surrender site. AB 2073 is pending a hearing in this committee.

7) **Prior Legislation**:

   a) AB 1048 (Torrico), Chapter 567, Statutes of 2010, permitted a local fire agency, upon the approval of the appropriate local governing body of the agency, to designate a safe-

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[12] *Safe Haven Laws by State 2026.* World Population Review <https://worldpopulationreview.com/state-rankings/safe-haven-laws-by-state> [as of Mar. 29, 2026] (showing approximately half the states in the US provide for safe surrender up to 30+ days of age.)

[13] In conversation with CFA, they noted their polling has shown up to 95% of Californians have trust in firefighters.

surrender site.

b) AB 81 (Torrico), of the 2007-2008 Legislative Session, was substantially similar to AB 1048. AB 81 was vetoed by the Governor.

c) AB 2262 (Torrico), of the 2007-2008 Legislative Session, was substantially similar to AB 1048. AB 2262 was vetoed by the Governor.

d) SB 116 (Dutton), Chapter 625, Statutes of 2005, repealed the sunset date for laws that made it a crime, among other things, for a parent of a minor child, without lawful excuse, to not furnish necessary clothing, food, shelter, or medical or remedial care for the child, or to refuse, without lawful excuse, to accept the child in his or her home or provide alternate shelter.

e) AB 1873 (Torrico), of the 2005-2006 Legislative Session, would have designated certain locations as safe-surrender sites for the safe surrender of newborn children who are 30 days of age or younger. AB 1873 was vetoed by the Governor.

f) SB 1413 (Brulte), Chapter 103, Statutes of 2004, provided that no person who, without compensation and in good faith, provides assistance for the purpose of effecting the safe surrender of a minor 72 hours old or younger shall be civilly liable for injury to, or the death of, the minor child as a result of any of his or her acts or omissions.

g) SB 139 (Brulte), Chapter 139, Statutes of 2003, eliminated the requirement that the child be surrendered to a designated employee on duty in the emergency room of a hospital or location designated by the board of supervisors, and allowed for the surrender of the child to a safe-surrender site, as defined, at a hospital or location designated for this purpose by a county board of supervisors.

REGISTERED SUPPORT / OPPOSITION:

Support

California Baptist for Biblical Values
California Catholic Conference
California Family Resource Association
California Fire Chiefs Association
California Professional Firefighters
Child Abuse Prevention Center and its Affiliates Safe Kids California, Prevent Child Abuse California and the California Family Resource Association; the
Concerned Women for America
Fire Districts Association of California
Protection of the Educational Rights of Kids
The California Baptist Capitol Ministry

Opposition
None Submitted.

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

Date of Hearing: April 7, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1753 (Stefani) – As Amended March 24, 2026

SUMMARY: Establishes, among other things, that courts shall issue an ex parte restraining order (EPRO) or temporary restraining order (TRO) even if the respondent was not provided notice, and that courts cannot require petitioners to establish exceptional circumstances in order to grant the petitioner a temporary or ex parte restraining order. Specifically, **this bill**:

1) States that a petitioner may request a temporary or ex parte protective or restraining order and a permissible search shall be conducted of the Department of Justice (DOJ) Automated Firearms System (AFS) for the following orders:

   a) A civil harassment restraining order.

   b) A domestic violence restraining order.

   c) An elder or dependent adult abuse restraining order.

   d) A gun violence restraining order.

   e) A juvenile court restraining order.

   f) A postsecondary school violence restraining order.

   g) A workplace violence restraining order.

2) Establishes that the court cannot deny a TRO or EPRO solely because the proposed respondent was not provided with notice and that the petitioner shall not be uniformly required to provide prior notice to the proposed respondent.

3) States that the petitioner shall not be required to establish exceptional circumstances to obtain a TRO or EPRO without providing prior notice.

4) States that a petitioner shall only be required to provide prior notice to the proposed respondent of a petition for a TRO or EPRO if the court determines, on a case-by-case basis, that requiring prior notice would be in the interests of justice and would not likely endanger the petitioner, proposed protected parties, or other persons.

5) Requires a person subject to a TRO to relinquish ammunition under specified orders.

6) Authorizes remote appearances at no cost for a party, support person, or witness at workplace violence and postsecondary educational institution protective order hearings.

7) Provides that a peace officer required to serve specified orders shall comply with defined requirements and may submit a billing to the court for payment for service of the order.

8) Clarifies that a court adjudicating a protective order may order a search of AFS and other databases and may develop protocols to ensure that before a hearing on the issuance, renewal, or termination of any protective order.

9) States that the court may conduct an AFS search when receiving a petition for any protective order, before a hearing on the issuance, renewal, or termination of any protective order, before a hearing concerning compliance with, or violation of, any protective order.

10) Provides that after issuing its ruling on a protective order, the court shall advise the parties that information obtained from a search shall remain confidential.

11) Includes valid extreme risk protection orders, including, but not limited to, orders related to domestic or family violence, in the existing requirement that certain orders shall be transmitted to DOJ.

12) States that all data with respect to criminal court protective orders issued, modified, extended, or terminated, and all data filed with the court shall be transmitted by the court or its designee within one business day to law enforcement personnel.

13) Requires all protective orders issued on forms adopted by the Judicial Council of California, and that have been approved by the DOJ, to be transmitted to the DOJ, except as specified.

14) Includes as protection orders certain orders issued under the federal Violence Against Women Act (VAWA).

15) Establishes that a law enforcement agency (LEA) may seek enforcement in this state of a valid extreme risk protection order (ERPO) issued by a tribunal under the laws of another state or jurisdiction.

16) States that an ERPO is valid if the order meets all of the following criteria:

   a) The order identifies the respondent.

   b) The order is currently in effect.

   c) The order was issued by a tribunal under the laws of another state or jurisdiction, as defined.

   d) The order was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued.

17) Requires our courts to enforce the terms of a valid ERPO. Registration or filing of an order in this state is not required for enforcement of a valid ERPO.

18) States that a valid ERPO shall be registered with a court of this state under the same process for registration of foreign protection orders in order to be entered in the California Restraining and Protective Order System (CRPOS).

19) Provides that an ERPO valid on its face is prima facie evidence of its validity and that absence of any of the criteria for validity of an ERPO is an affirmative defense in an action seeking enforcement of the order.

20) Provides that defined immunities, liabilities, and precedents shall apply to ERPOs.

21) States that a law enforcement officer of this state, upon determining that there is probable cause to believe that a valid ERPO exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. If the ERPO is not presented, a law enforcement officer of this state may consider other information in determining whether there is probable cause to believe that a valid ERPO exists.

22) States that if a law enforcement officer of this state determines that an otherwise valid ERPO cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent, and allow the respondent a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the order is sufficient notice.

23) Requires the Judicial Council to create statewide forms, as defined, for use by litigants in civil proceedings to request service of process or notice by a marshal or sheriff, or by a peace officer required to serve a protective order. A peace officer shall accept an electronic signature. A wet signature on the form or forms shall not be required.

24) Specifies that Judicial Council forms and the information contained therein shall not be subject to disclosure and shall be kept confidential.

25) States that when a court issues a criminal protective order, the prosecuting agency shall ensure the people protected by the order are promptly notified about the terms of the order.

26) Requires every identified prosecuting agency to, on or before January 1, 2028, develop, adopt, and implement written policies and standards for the agency governing notice to protected parties, receiving and responding to violations of a protective order, and violations of firearm relinquishment orders.

27) Includes AFS in the existing requirement that any charge of domestic violence requires the prosecuting agency to perform a search of specified databases that shall be presented to the court for consideration during certain steps in the trial process.

28) Specifies that in developing and updating the standards and policies, prosecuting agencies are encouraged to consult and collaborate with domestic violence service providers and survivor advocates, local law enforcement and court administration representatives, and any guidance, technical assistance, or recommendations issued by the DOJ.

29) States that a person who is committed to a state hospital or other treatment facility, and subject to a protective order, shall relinquish their firearms, not seek to secure a firearm, and makes violations punishable by specified firearms prohibitions.

30) Requires the court in which a criminal proceeding stemming from a hate crime is filed, upon request by a prosecutor or victim or on the court's own motion, to consider issuing a criminal protective order against the defendant.

31) States that if the court does not issue any protective order against the defendant to protect any identified person, the court shall, upon request by a prosecutor or victim or on the court's own motion, consider issuing a protective order equivalent to a firearms prohibition.

32) Establishes that a person convicted of defined violations who owns or possesses a firearm or ammunition, with knowledge that they are prohibited from doing so by a TRO or gun violence restraining order (GVRO), shall be prohibited from having custody or control of firearm or ammunition for 10 years.

33) States that any person who is convicted of specified misdemeanor violations, or any other offense that is defined as a hate crime, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding $1,000, or by both that fine and imprisonment.

34) Requires LEA's and defined prosecuting agencies to designate a responsible person to access and receive notifications of a restrained person's violation of firearms relinquishment requirements and ensure the clerk of the superior court has updated contact information.

35) States that LEA's operating in the same jurisdiction may designate one lead agency for their jurisdiction responsible for receiving noncompliance notifications from the court, and for coordinating follow up actions and information sharing.

36) Defines "extreme risk protection order" as an injunction, restraining order, or other civil or criminal court order issued by a tribunal under the laws of the issuing state or jurisdiction, that does not name a protected individual, but prohibits the respondent from possessing, owning, controlling, purchasing, or receiving, firearms for the duration of the order based on evidence that the respondent poses a danger to themselves or others. Extreme risk protection orders are similar or equivalent to civil orders known as GVRO's.

37) Makes legislative declarations and findings.

38) Makes conforming changes.

EXISTING LAW:

1) Sets procedures for temporary civil restraining orders. (Civ. Proc. Code, § 527, et seq.)

2) Establishes procedures for domestic violence restraining orders. (Fam. Code, § 6300, et seq.)

3) Specifies procedures for elder abuse and dependent adult restraining orders. (Welf. & Inst. Code, § 15657.03, et seq.)

4) States procedures for gun violence restraining orders. (Pen. Code, § 18100, et seq.)

5) Establishes procedures for a juvenile court restraining order. (Welf. & Inst. Code, § 213.5, et seq.)

6) States procedures for postsecondary school violence restraining orders. (Civ. Proc. Code, § 527.85, et seq.)

7) Provides procedures for workplace violence restraining orders. (Civ. Proc. Code, § 527.8, et seq.)

8) Authorizes a party or witness to a civil restraining order petition to appear remotely at the hearing on a petition beginning January 1, 2027. (Civ. Proc. Code, § 527.6, subd. (i)(2).)

9) States that a preliminary injunction may be granted at any time before judgment upon a verified complaint showing the existence of satisfactory and sufficient grounds. No preliminary injunction shall be granted without notice to the opposing party. (Civ. Proc. Code, § 527, subd. (a).)

10) Establishes that no TRO shall be granted without notice to the opposing party, unless both of the following requirements are satisfied:

    a) It appears from facts shown by affidavit or by verified complaint that great or irreparable injury will result to the applicant before the matter can be heard on notice.

    b) The applicant or the applicant's attorney certifies one of the following to the court under oath:

        i) That within a reasonable time prior to the application the applicant informed the opposing party or the opposing party's attorney at what time and where the application would be made.

        ii) That the applicant in good faith attempted but was unable to inform the opposing party and the opposing party's attorney, specifying the efforts made to contact them.

        iii) That for reasons specified the applicant should not be required to so inform the opposing party or the opposing party's attorney. (Civ. Proc. Code, § 527, subd. (c).)

11) States that in cases where a TRO is granted without notice, the matter shall be returnable on an order not later than 15 days or, if good cause appears to the court, 22 days from the date the TRO is issued. (Civ. Proc. Code, § 527, subd. (d)(1).)

12) Establishes that the party who obtained the TRO shall, within five days from the date the TRO is issued or two days prior to the hearing, whichever is earlier, serve the opposing party a copy of the complaint. (Civ. Proc. Code, § 527, subd. (d)(2).)

13) Provides that a person subject to a defined TRO or injunction shall relinquish firearms and ammunition. (Civ. Proc. Code, § 527.9, subd. (a).)

14) Specifies that when relevant information is presented to the court at any noticed hearing that a restrained person has a firearm, the court shall, by a preponderance of evidence, consider that information to determine whether the person has a firearm in violation of the order. (Civ. Proc. Code, § 527.11, subd. (a).)

15) Requires a peace officer to, upon the request of a petitioner, serve any TRO, order after hearing, or protective order on the respondent. (Civ. Proc. Code, § 527.12, subd. (a).)

16) States that counties, with the approval of the DOJ, shall develop a procedure, using existing systems, for the electronic transmission of protective order data, as described. (Fam. Code, § 6380, subd. (a).)

17) Specifies that DOJ may establish an Armed Prohibited Persons System (APPS) to provide a protected person with automated access to information in CRPOS, as specified. (Fam. Code, § 6380.5, subd. (b).)

18) Authorizes a person of this state to seek enforcement of a protection order issued by another tribunal. (Fam. Code, § 6402, subd. (a).)

19) States that the Judicial Council shall create a statewide form or forms to be used by litigants in civil actions or proceedings to request service of process or notice by a marshal or sheriff. (Gov. Code, § 26666.10, subd. (a).)

20) Provides that on any charge involving acts of domestic violence, the district attorney or prosecuting city attorney shall perform a thorough investigation of the defendant's history. (Pen. Code, § 273.75, subd. (a).)

21) Establishes that in the case of a person who is convicted of any defined offenses, including hate crimes, the court shall make an order protecting the victim or known immediate family of the victim. (Pen. Code, § 422.85, subd. (a).)

22) States that a person who is committed to a state hospital or other treatment facility because of any defined offenses, including hate crimes, may be ordered by the court to complete training in the area of civil rights as a condition of outpatient status or conditional release. (Pen. Code, § 422.865, subd. (a).)

23) Specifies that courts shall take all actions reasonably required to safeguard the health, safety, or privacy of the alleged victim, or of a person who is a victim of a hate crime, during a criminal proceeding involving a hate crime. (Pen. Code, § 422.88, subd. (a).)

24) Requires the court to notify DOJ when a GVRO is issued, renewed, dissolved, or terminated. (Pen. Code, § 18115.)

25) Prohibits a person that is subject to a GVRO from having in their custody any firearms or ammunition while the order is in effect. (Pen. Code, § 18120, subd. (a).)

26) Requires relinquishment of firearms pursuant to a TRO within 24 hours of being served with the order, as specified. (Pen. Code, § 18120, subd. (b)(3).)

27) Punishes with a misdemeanor every person who owns or possesses a firearm or ammunition with knowledge that they are prohibited from doing so by a restraining order. (Pen. Code, § 18205, subd. (a).)

28) States a temporary GVRO and an *ex parte* GVRO expire after 21 days. (Pen. Code, §§ 18125, subd. (b), 18155, subd. (c).)

29) States that a person who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding $1,000, or by both that imprisonment and fine. (Pen. Code, § 29085, subd. (a)(1).)

30) Defines "foreign protection order" as a protection order issued by a tribunal of another state. state or jurisdiction. (Fam. Code, § 6401, subd. (1).)

31) Defines "protection order" as an injunction or other order, issued by a tribunal under the domestic violence, family violence, or other laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to, an individual. (Fam. Code, § 6401, subd. (5).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1753 takes on one of the most critical gaps in survivor protection by making sure California's protective order laws actually work. The bill tackles the problem from multiple angles. It strengthens firearm surrender requirements, improves coordination between courts and law enforcement when someone is illegally armed in violation of a protective order, registers more protective orders in law enforcement and background check databases, and ensures that people convicted of dangerous misdemeanors fail background checks. Too often, survivors get a protective order and assume they're safe, only to find that the system meant to back it up is broken. This bill closes the gap between what the law promises and what survivors actually experience."

2) **Effect of the Bill**: AB 1753 attempts to address various issues, particularly as those issues relate to protective orders.

   Among other things, this bill would: 1) increase misdemeanor convictions that trigger 10-year firearm or ammunition prohibition, 2) authorize courts to obtain an AFS and CLETS check at any stage of a protective order case involving firearm prohibitions, 3) make LEA's eligible to receive reimbursement for serving protective orders, 4) require LEA's and prosecuting agencies to designate a position responsible for accessing and receiving notices regarding firearm relinquishment orders, 5) provide enforcement of foreign protective orders under the VAWA, 6) require prosecuting agencies to attempt notification of victims and

witnesses when a court issues a protective order on their behalf, and 7) change the law so that TROs can be issued without notice to the proposed respondent.

California law currently provides for numerous protective orders, including: 1) civil harassment restraining orders, 2) domestic violence restraining orders, 3) elder or dependent adult abuse restraining orders, 4) gun violence restraining orders, 5) juvenile court restraining orders, 6) postsecondary school violence restraining orders, and 7) workplace violence restraining order. TRO's and EPRO's are commonly available for these protective orders. TRO's and EPRO's can be issued without notice and an opportunity to be heard in limited circumstances. (See, e.g., Fam. Code, § 6300.) These orders are generally issued in emergency situations where a person is at risk of imminent physical danger. A TRO allows a person petitioning for the order to restrict the person subject to the order from getting in close physical proximity and forcing the respondent to relinquish their firearms to LEA's (Civ. Proc. Code, § 527.9, subd. (a).) Due to concerns around fairness and constitutional due process obligations, TROs are limited in duration (fewer than 30 days) and subject to the petitioner generally establishing a need for the order.[1]

DVRO's, for example, can take the form of emergency protective orders, which are sought by law enforcement, or TROs, which are sought by the victim. Temporary DVRO's can be based *only* upon the affidavit or testimony of the party seeking relief. (Fam. Code, § 6300.) A permanent restraining order, on the other hand, may be issued only after a hearing before an impartial tribunal where the respondent has been notified of the hearing ahead of time. (Civ. Proc. Code, § 527.) Because of the time-sensitive nature of many TRO's, requests for TRO's are often immediately reviewed and issued.[2]

It is easily understood how potentially difficult or dangerous it may be for a victim of domestic violence to provide advance notice to an abuser before filing an application for a TRO. While many of the provisions of AB 1753 do not present significant legal or constitutional concerns, the proposed changes in this bill that partly abrogate existing notice requirements could create procedural due process problems.

3) **Procedural Due Process:** Procedural due process generally requires state actors to provide specific procedural protections before they deprive a person of any protected life, liberty, or property interest. (*Morrissey v. Brewer* (1972) 408 U.S. 471, 481.) The Fourteenth Amendment's Due Process Clause imposes the same procedural due process limitations on the states as the Fifth Amendment does on the Federal Government. (*Ibid.*) While the particular procedures required by the constitution vary depending on the circumstances, a key consideration in evaluating whether sufficient procedures are present that do not subject individuals to the arbitrary exercise of government power before depriving a person of a life, liberty, or property right. (*Marchant v. Pennsylvania R.R.* (1894) 153 U.S. 380, 386.)

A fundamental, classic liberty interest is the right to be free from bodily restraint. (*Board of Regents v. Roth* (1972) 408 U.S. 564, 572.) A liberty interest additionally exists in the ability to exercise constitutional rights. (*Ibid.*) AB 1753, in combination with existing law, could

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[1] *Temporary restraining orders*. Cornell Law School Legal Information Institute <https://www.law.cornell.edu/wex/temporary_restraining_order> [as of Apr. 3, 2026].
[2] *Ibid.*

work to deprive a person of their liberty interests because protective orders act as bodily restraints and the right to possess a firearm for self-defense is a constitutionally protected right. Being forced to surrender property, like firearms, to the government following issuance of a protective order implicates due process property rights, too. This is particularly true where, as is the case with this bill, an absence of notice that a person could be subject to a TRO and relinquishment requirements may become far more common.

The appropriate framework for due process analyses of criminal procedure concerns involves a narrow inquiry into whether the law is offensive to fundamental concepts of fairness. (*Medina v. California* (1992) 505 U.S. 437, 443.) In the civil context, however the Court applies a three-part balancing test that evaluates the procedures against 1) the private interest affected, 2) the risk of erroneous deprivation of that interest under the chosen procedure, and 3) the government interest at stake. (*Mathews v. Eldridge* (1974) 424 U.S. 319, 335.) Both tests could be relevant in the context of the protective orders impacted by this bill. It is unclear, however, whether AB 1753's erosion of existing procedural requirements would survive judicial scrutiny either under the three-part civil test or narrow inquiry criminal test.

Additional United States Supreme Court precedent suggests some concern is warranted with the constitutionality of the bill's notice language. The Court found that the procedures required by due process are constitutional questions to be answered by the judiciary, not statutory questions for the legislature. (*Cleveland Bd. of Educ. V. Loudermill* (1984) 470 U.S. 532.) In another case, the Court held prejudgment seizure of property provisions were a deprivation of property without due process "insofar as they deny the right to a prior opportunity to be heard before chattels are taken from their possessor." (*Fuentes v. Shevin* (1972) 407 U.S. 67.) Interestingly, in *Loudermill*, the Chief Justice advanced criticism of the *Mathews* balancing test saying, "[the test is] simply an ad hoc weighing which depends a great extent upon how the Court subjectively views the underlying interests at stake." (*Loudermill, supra,* at p. 562 [Rehnquist, C.J., dissenting].) Firearms are chattels. A person subject to a TRO in California is required to relinquish their firearms or face criminal punishment. TRO's are issuable without prior notice or an opportunity to be heard. Thus, certain notice provisions in the bill could create procedural due process problems.

The author cites a 2008 Judicial Council report[3] in support of AB 1753, which in part circumscribes existing notice requirements. This report is nearly 20 years old, so the data is a bit stale. Moreover, the report appears to focus on domestic violence orders, not all protective orders. Support for this focus can be found in the online description of the report. The description states, "Created by the Judicial Council of California in January of 2008, this document details recommended guidelines and practices for improving the administration of justice *in domestic violence cases*."[4] The DVRO statute already provides for some of the notice limitations AB 1753 would apply to every protective order. (Fam. Code, § 6300, subd. (a) ("An ex parte [domestic violence] restraining order shall not be denied solely because the other party was not provided with notice.").) Furthermore, AB 1753 conforms its statutory language to the 2008 report but then adds additional notice limitation provisions. The additional language states, "the petitioner shall only be required to provide prior notice if the

[3] *Final Report of the Domestic Violence Practice and Procedure Task Force* (Jan. 2008) Judicial Council of California <https://www.allianceforhope.org/family-justice-center-alliance/resources/final-report-domestic-violence-practice-procedure-task-force> [as of Apr. 3, 2026].
[4] *Ibid* [italics added].

court determines that requiring prior notice would be in the interests of justice and would not likely endanger the petitioner, proposed protected parties, or other persons." Inclusion of this extra language arguably further corrodes constitutional notice requirements.

Given the age of the report, and the state of existing law, it is not clear whether specific notice provisions in the bill would fall within existing constitutional boundaries.

4) **The *Bruen* Analysis:** AB 2310 would allow issuance of TRO's in many cases without procedural due process. Existing law provides for mandatory surrender of firearms within 24 hours of a person being subject to a TRO. The combination of AB 2310's notice provisions and existing law provisions regarding firearms relinquishment produces relatively restrictive regulation of plain text Second Amendment conduct.

   To be subject to Second Amendment scrutiny, a law must first infringe on plain text Second Amendment conduct. (*New York State Rifle & Pistol Association, Inc. v. Bruen,* (2022) 597 U.S. 1, 17.) Justifying a law or regulation that purports to place restrictions on protected Second Amendment conduct requires the government to demonstrate the law is "consistent with the nation's historical tradition of firearms regulation." (*Id.* at p. 24.) A firearms regulation is constitutional if the government establishes the proposed law is "relevantly similar" to historical laws, regulations, and traditions. (*Id.* at p. 29.)

   The United States Supreme Court has already ruled on a related issue. In 2023, the Court held that when an individual has been found by a court to pose a credible threat to the physical safety of another, that individual may be temporarily disarmed consistent with the Second Amendment. (*United States v. Rahimi* (2024) 602 U.S. 680, 685.) Key to this holding, however, was the fact that the person who was temporarily disarmed received procedural due process. (*Rahimi, supra,* at p. 711 [finding going armed laws relevantly similar to the federal statute at issue in the case thereby constitutionally permitting a court to disarm a dangerous person only . . . after notice and [a] hearing."].) While it is ultimately unclear whether the Court would have reached a different conclusion in *Rahimi* absent the defendant receiving procedural due process, mandatory relinquishment of a person's firearms upon issuance of a protective order, where the person surrendering their firearm has had no meaningful opportunity to be made aware or heard on the order due to statutory limitations on requiring notice, may exceed the constitutional bounds of the Second Amendment.

5) **Argument in Support**: According to the *American College of Emergency Physicians*, "Our state has made significant advances in some public health and safety arenas. Mortality from motor vehicle accidents has been significantly reduced from laws related to seat belts, child safety seats, motorcycle helmets, and drunk driving. Meanwhile, despite advances in trauma care, deaths from firearms have remained relatively steady and fatalities from gun violence recently surpassed those from automobiles, according to the CDC.

   "It is well documented that abuser access to firearms is a risk factor for lethality. AB 1753 expands existing firearm relinquishment procedures to include civil harassment restraining orders, workplace violence restraining orders, postsecondary school restraining orders, and elder or dependent adult abuse restraining orders.

"As emergency physicians, we are often the first—and only—physicians to treat victims of gun violence. To reduce firearm-related deaths and injuries, we must prevent people from getting shot in the first place.

"For these reasons, California ACEP is pleased to support AB 1753."

6) **Argument in Opposition**: According to the *California Rifle and Pistol Association*, "This legislation expands California's already expansive regime of firearm and ammunition restrictions through civil protective orders, further eroding due process and property rights for law-abiding citizens.

   "AB 1753 amends multiple sections of the Code of Civil Procedure, Family Code, Penal Code, and Welfare and Institutions Code to explicitly require that individuals subject to various protective or restraining orders—such as civil harassment (CCP §527.6), workplace violence (§527.8), private postsecondary (§527.85), elder/dependent adult (§15657.03), domestic violence (Family Code §6383), and gun violence restraining orders (Penal Code §§18120 et seq.)—relinquish not only firearms but also any ammunition in their immediate possession or control. It makes conforming changes to definitions (e.g., Penal Code §16520), relinquishment procedures, and enforcement mechanisms.

   "While the bill is framed as 'clarifying,' it substantively broadens the scope of ammunition bans in civil proceedings that frequently:

   "Are issued ex parte (without the accused present or able to respond initially).

   "Rely on allegations rather than proven facts or criminal convictions.

   "Apply to broad categories of disputes (harassment, workplace conflicts, campus issues) where no violence or threat of violence has been adjudicated.

   "Result in immediate disarmament and potential criminal penalties for non-compliance, even in cases of mistaken or abusive filings.

   "Key concerns include:

   "Due Process Deficiencies: Civil restraining orders often impose lifetime or long-term ammunition prohibitions with minimal evidentiary standards. Expanding to ammunition—essential for lawful use of firearms (hunting, sport shooting, self-defense)—effectively nullifies Second Amendment rights without the robust protections required for criminal proceedings. This conflicts with U.S. Supreme Court precedents emphasizing historical tradition and individualized assessments (e.g., Bruen).

   "Risk of Abuse and Overreach: Protective orders are sometimes used strategically in family, employment, or neighbor disputes. Automatically triggering ammunition surrender increases the potential for harassment or false claims, leaving respondents defenseless and facing felony-level consequences for technical violations.

   "No Demonstrated Public Safety Benefit: Existing laws already mandate firearm relinquishment in these orders, with prohibitions on possession. Extending to ammunition

does little to prevent misuse (prohibited persons cannot lawfully acquire it anyway) but burdens compliant owners who store firearms safely and unloaded.

"Disproportionate Impact: Law-abiding hunters, competitive shooters, collectors, and self-defense practitioners face unnecessary confiscation or restrictions on property they lawfully own, often without prompt hearings or easy return mechanisms.

"CRPA urges the Committee to reject AB 1753. California's firearm laws are among the strictest in the nation; further expansions through low-threshold civil processes undermine constitutional rights without enhancing safety. Focus instead on enforcing criminal laws against actual threats and abusers."

7) **Related Legislation**:

   a) AB 1657 (Rogers) would prohibit a court from requiring that notice be provided to the party to be restrained in advance of filing an application for an ex parte restraining order. AB 1657 would also prohibit a court from requiring an explanation or declaration to substantiate a party's decision not to provide notice in advance of filing. AB 1657 is pending a vote on the Assembly floor.

   b) AB 1974 (Stefani) would authorize LEA's to implement a voluntary firearm safe storage program. AB 1974 is pending hearing in the Assembly Public Safety Committee.

   c) AB 2179 (Patel) would allow any party or witness to a petition for a restraining order to appear remotely at a hearing and would prohibit any fee for appearing remotely. AB 2179 is pending hearing in the Assembly Appropriations Committee.

   d) SB 1374 (Niello) would authorize a chief administrative officer of the postsecondary educational institution or an officer or employee designated by the chief administrative officer to maintain order on the school campus or facility to seek a temporary restraining order and an injunction on behalf of the postsecondary educational institution, upon a showing of unlawful violence or a credible threat of violence directed at it. SB 1374 is pending hearing in the Senate Education Committee.

8) **Prior Legislation**:

   a) AB 383 (Davies), Chapter 362, Statutes of 2025, applied relinquishment procedures to firearms or ammunition in custody or control of a juvenile who is prohibited from owning, possessing, or having under their custody or control a firearm until they are 30 years of age.

   b) AB 451 (Quirk-Silva), Chapter 693, Statutes of 2025, required local LEAs to adopt standard policies and procedures to implement requirements governing service, implementation, and enforcement of protective orders.

   c) AB 561 (Quirk-Silva), Chapter 267, Statutes of 2025, expanded e-filing for elder abuse restraining orders.

d) AB 1078 (Berman), Chapter 570, Statutes of 2025, among other things, required the review of the California Restraining and Protective Order System to include information concerning whether the applicant is reasonably likely to be a danger to self, others, or the community at large.

e) AB 1344 (Irwin), Chapter 573, Statutes of 2025, authorized certain counties to establish a pilot program to additionally authorize a district attorney to request that the court issue a temporary emergency gun violence restraining order, as specified.

f) AB 824 (Stefani), of the 2025-26 Legislative Session, would have made clarifying changes to the procedures relating to the protective or restraining orders by explicitly requiring the restrained person to relinquish, in addition to any firearm, any ammunition in that person's immediate possession or control. AB 824 was held in the Assembly Appropriations Committee.

g) SB 1002 (Blakespear), Chapter 526, Statutes of 2024, required a person subject to the prohibition, because they are a danger to themselves or others as a result of a mental health disorder, to relinquish a firearm, other deadly weapon, or ammunition they own, possess, or control within 72 hours of discharge from a facility.

h) SB 899 (Skinner), Chapter 544, Statutes of 2024, requires the court, when issuing protective orders, to provide the person how any firearms or ammunition still in their possession to be relinquished. Requires the court to review the file to determine whether the receipt was filed and inquire whether the person complied with the requirement.

i) AB 2621 (Gabriel), Chapter 532, Statutes of 2024, expanded the requirement for law enforcement agencies to have written policies and standards for gun violence to also maintain them in accordance with changes to statute, and also expands to scope of the policies to other firearm prohibiting emergency protective orders.

j) AB 301 (Bauer-Kahan), Chapter 234, Statutes of 2023, authorizes courts to consider evidence of acquisition of body armor when determining whether grounds for a GVRO exist.

k) AB 303 (Davies), Chapter 161, Statutes of 2023, required the Attorney General to provide specific information to local law enforcement agencies involving prohibited persons, including, but not limited to, personal identifying information, case status, and information regarding previous contact with the prohibited person.

l) AB 732 (Fong), Chapter 240, Statutes of 2023, required local LEA's to designate a person to access or receive Armed Prohibited Persons System (APPS) database information from DOJ and report to DOJ quarterly regarding steps taken to remove individuals from the APPS.

m) AB 818 (Petrie-Norris), Chapter 242, Statutes of 2023, required all peace officers, not just sheriffs and marshals, to serve all types of protective orders for free upon the petitioner's request.

n) AB 36 (Gabriel), of the 2023-2024 Legislative Session, would have provided that any person subject to a civil or criminal protective order issued on or after July 1, 2024, shall not own, possess, purchase, or receive a firearm or ammunition within three years after expiration of the order. AB 36 was held in the Assembly Appropriations Committee.

o) AB 667 (Maienschein), of the 2023-2024 Legislative Session, would have required a court to issue a GVRO for a duration of five years if the subject of the petition displayed an extreme risk of violence, as specified, within the prior 12 months. AB 667 was held in the Senate Public Safety Committee.

p) AB 2870 (Santiago), Chapter 974, Statutes of 2022, allowed a petition for a GVRO to be made by an individual who has a child in common with the subject, an individual who has a dating relationship.

q) SB 320 (Eggman), Chapter 685, Statutes of 2021, codified rules related to the relinquishment of a firearm by a person subject to a civil domestic violence restraining order and requires the courts to notify law enforcement and the county prosecutor's office when there has been a violation of a firearm relinquishment order.

r) SB 538 (Rubio), Chapter 686, Statutes of 2021, authorized remote appearances for GVRO and DVRO petitioners.

REGISTERED SUPPORT / OPPOSITION:

Support

California Chapter of the American College of Emergency Physicians
California Public Defenders Association
City and County of San Francisco
Everytown for Gun Safety Action Fund
Giffords

Opposition

California Rifle and Pistol Association, INC.
National Rifle Association - Institute for Legislative Action

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

Date of Hearing: April 7, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1759 (Elhawary) – As Introduced February 9, 2026

SUMMARY: Requires a study of the current California Department of Corrections and Rehabilitation (CDCR) security classification system. Specifically, **this bill**:

1) Requires CDCR to contract with an independent research entity to conduct a study to reassess the entire current security classification system to ensure that classification decisions reflect actual safety risk and do not hold incarcerated people in higher-level facilities longer than necessary.

2) Requires the study to include at least all of the following:

   a) Initial classification.

   b) Annual classification and reclassification.

   c) The methodology used for annual reclassification point adjustments and the use of administrative determinants and overrides at department facilities.

3) Requires the study to contain policy recommendations to enhance the effectiveness of the classification system.

4) Provides that the research entity's recommendations for a new classification system shall achieve all of the following objectives:

   a) Expand access to rehabilitation, reducing both recidivism and violence.

   b) Ensure that incarcerated people are not held at higher levels of security than necessary.

   c) Improve institutional safety by accurately identifying who poses a higher risk of violence.

   d) Save the state money by ensuring incarcerated people can earn programming credits that reduce sentence length.

5) Provides that the research entity selected to perform the study shall be selected by the Office of the Inspector General and adhere to all of the following criteria:

   a) The entity has research institutions based in the California State University or the University of California.

b) The entity has a history of partnering with government agencies.

c) The entity has a commitment to equity in their work and impacts.

d) The entity has demonstrated expertise on CDCR policy and data.

6) Requires CDCR, on or before January 1, 2028, to publish on its internet website and submit to the Legislature a report on the findings and recommendations of the study.

7) Provides a sunset date of January 1, 2029.

8) Includes findings and declaration.

EXISTING LAW:

1) Provides that the classification committee at each institution must assign a custodial classification to each incarcerated person, in accordance with the custodial classifications prescribed by the department. (Cal. Code Regs., tit. 15, § 3272.)

2) Authorizes the senior custodial officer on duty to temporarily increase the custodial classification of an incarcerated person at any time they believe such action is necessary to protect the security and good order of the institution. (Cal. Code Regs., tit. 15, § 3272.)

3) Provides that a temporary increase is subject to classification committee review at the next regular meeting. (Cal. Code Regs., tit. 15, § 3272.)

4) Requires any reduction of an incarcerated person's custody classification to be by classification committee action. (Cal. Code Regs., tit. 15, § 3272.)

5) Requires the CDCR classification process to be uniformly applied, commencing upon reception of a person committed to the custody and to continue throughout the time the individual remains under the Secretary's jurisdiction. (Cal. Code Regs., tit. 15, § 3375, subd. (a).)

6) Provides that each incarcerated person shall be individually classified, as specified. (Cal. Code Regs., tit. 15, § 3375, subd. (a).)

7) Provides that the classification process shall take into consideration the incarcerated person's needs, interests and desires, their behavior and placement score in keeping with CDCR and institution's/facility's program and security missions and public safety. (Cal. Code Regs., tit. 15, § 3375, subd. (b).)

8) Provides that an automated needs assessment tool that identifies an incarcerated person's criminogenic needs shall be administered, as specified. (Cal. Code Regs., tit. 15, § 3375, subd. (b).)

9) Requires each determination affecting an incarcerated person's placement within an institution or facility, transfer between facilities, program participation, privilege groups, or custody designation shall be made by a classification committee composed of staff

knowledgeable in the classification process, except as specified. (Cal. Code Regs., tit. 15, § 3375, subd. (c).)

10) Provides that the classification of felon inmates shall include the classification score system as established. (Cal. Code Regs., tit. 15, § 3375, subd. (d).)

11) States that a lower placement score indicates lesser security control needs and a higher placement score indicates greater security control needs. (Cal. Code Regs., tit. 15, § 3375, subd. (d).)

12) Provides that, when possible, the incarcerated person shall be given sufficient advance written notice of any classification committee hearing to provide the incarcerated person reasonable preparation time to discuss the matter to be considered. (Cal. Code Regs., tit. 15, § 3375, subd. (e).)

13) States that an incarcerated person appearing before a classification committee shall be informed of the incarcerated person's next classification committee hearing date when it is known or can be anticipated. (Cal. Code Regs., tit. 15, § 3375, subd. (e).)

14) Gives incarcerated persons the following procedural safeguards regarding classification:

   a) Incarcerated persons shall be given written notice at least 72 hours in advance of a hearing which could result in an adverse effect, as defined.

   b) Except as specified, the incarcerated person shall be present at all initial classification committee hearings and at any other classification committee hearing which could result in an adverse effect upon the incarcerated person.

   c) Except as specified, a classification hearing without the incarcerated person's presence may be held only when the incarcerated person refuses to appear before the committee; or, the incarcerated person is physically incapable of appearing before the committee, or is determined by a psychiatrist to be mentally incompetent and cannot understand the purpose of the hearing.

   d) Provides that, if the incarcerated person was not previously notified and during the classification committee hearing an unanticipated adverse effect emerges, the hearing shall be postponed for at least 72 hours unless the hearing cannot be postponed because of safety or security factors, or the incarcerated person waives the 72-hour postponement.

   e) Provides that the incarcerated person shall be permitted to contest the preliminary score or placement score in the hearing.

   f) Each incarcerated person appearing before a classification committee, among other things, shall be informed of the purpose of the hearing, encouraged to participate in the hearing discussion, and informed of the committee's decision.

   g) Classification committee decisions shall be based on evaluation of available information and mutual agreement of the committee members. (Cal. Code Regs., tit. 15, § 3375, subd.

(f)(1)-(7).)

15) Provides that every classification decision shall be documented by the committee and shall include, among other things, the reason or purpose for the committee hearing, the action taken, the specific reasons for the action including the information upon which the decision was based. (Cal. Code Regs., tit. 15, § 3375, subd. (g)(1)(A)-(C).)

16) Provides that documentation from each institution's initial classification reviews shall include prescribed case factors, including, among others, commitment offense; length of sentence; escape related convictions; the current placement score, security level, and custody designation; the reason the incarcerated person was transferred to the current location; and any other pertinent case information and/or casework follow-up needed. (Cal. Code Regs., tit. 15, § 3375, subd. (g)(5)(D), (E), (H), (L), (M) & (S).)

17) Provides that an incarcerated person shall not remain at an institution/facility with a security level which is not consistent with the incarcerated person's placement score unless approved by a Classification Staff Representative (CSR) or a staff person designated to serve in that capacity. (Cal. Code Regs., tit. 15, § 3375, subd. (i).)

18) Requires a newly incarcerated person convicted of a felony to be given a classification score based on all relevant documents available during the reception center process and an interview of the incarcerated person, and provides that the incarcerated person shall be allowed to contest specific item scores and other case factors. (Cal. Code Regs., tit. 15, § 3375, subd. (j)(1).)

19) Provides that the continuous classification process requires recalculation of a person's placement score twelve months after the date that the incarcerated person physically arrived in the reception center and annually thereafter; any six-month period when favorable points are granted or unfavorable points are assessed which would cause the incarcerated person's placement score to fall outside of the facility security level; and each time a case is presented to a CSR for placement consideration. (Cal. Code Regs., tit. 15, § 3375, subd. (k)(1)(A)-(C).)

20) Provides that, if an incarcerated person's recalculated placement score is not consistent with the institution or facility security level where the incarcerated person is housed, the case shall be presented to a CSR for transfer consideration. (Cal. Code Regs., tit. 15, § 3375, subd. (k).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "For far too long, many incarcerated individuals have been held in higher levels of security than necessary. AB 1759 would take steps toward ensuring that our security classification system is reflective of actual safety risks. Doing so will expand access to rehabilitation programs, and thereby, reduce recidivism. This is important because we must build up, rather than tear down, those who have been system-impacted."

21) **Effect of this Bill**: The bill would require an evaluation of CDCR's security classification system. After being sentenced to state prison, a newly incarcerated person receives a

classification score during the reception process. (Cal. Code Regs., tit. 15, § 3375, subd. (i)(1); see Cal. Code Regs., tit. 15, § 3272.) The classification process takes into consideration the incarcerated person's needs, interests and desires, their behavior and placement score in keeping with CDCR and an institution's or facility's program and security missions and public safety. (Cal. Code Regs., tit. 15, § 3375, subd. (b).) An automated needs assessment tool that identifies an incarcerated person's criminogenic needs is used. (*Ibid.*) A lower placement score indicates lesser security control needs and a higher placement score indicates greater security control needs. (Cal. Code Regs., tit. 15, § 3375, subd. (d).) An incarcerated person is then assigned to a facility with a security level corresponding to their placement score.[1]

After the initial assessment, CDCR must recalculate a person's placement score twelve months after the date that the incarcerated person physically arrived in the reception center and annually thereafter; any six-month period when favorable points are granted or unfavorable points are assessed which would cause the incarcerated person's placement score to fall outside of the facility security level; and each time a case is presented to a CSR for placement consideration. (Cal. Code Regs., tit. 15, § 3375, subd. (k)(1)(A)-(C).) Upon recalculation, if an incarcerated person's recalculated placement score is not consistent with the institution or facility security level where the incarcerated person is housed, the case shall be presented to a CSR for transfer consideration. (Cal. Code Regs., tit. 15, § 3375, subd. (k).)

Existing regulations require a classification committee to make determinations affecting an incarcerated person's placement within an institution or facility, transfer between facilities, program participation, privilege groups, or custody designation. (Cal. Code Regs., tit. 15, § 3375, subd. (c).) Whenever possible, an incarcerated person shall be given sufficient advance written notice of any classification committee hearing. (Cal. Code Regs., tit. 15, § 3375, subd. (e).) Regulations also establish other procedural safeguards for classification hearings, including presence at the hearing unless presence is waived, postponement of the hearing if proper notice was not given, the ability to challenge a preliminary score or placement score, and the opportunity to participate in the hearing. (Cal. Code Regs., tit. 15, § 3375, subd. (f)(2), (3), (4), (5), & (6).)

Moreover, an incarcerated person must receive written notice at least 72 hours in advance of a hearing which could result in an adverse effect on their classification. (Cal. Code Regs., tit. 15, § 3375, subd. (f)(1).) An adverse effect includes the involuntary transfer to a higher security level institution/facility, which is not consistent with the incarcerated person's placement score; increase in the incarcerated person's custody designation; involuntary placement in restricted housing; involuntary removal from an assigned program; placement in a reduced work group; involuntary transfer to another institution/facility because of the incarcerated person's misbehavior or receipt of new information that may affect staff, incarcerated persons, the public, or the safety and security of the institution/facility, whether or not their placement score is consistent with the receiving institution's/facility's security level; and transfer of an incarcerated person to a more restrictive institution or program where the security level is higher (*Ibid.*)

An incarcerated person shall not remain at an institution/facility with a security level which is

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[1] https://www.cdcr.ca.gov/ombuds/ombuds/entering-a-prison-faqs/

not consistent with the incarcerated person's placement score unless approved by a CSR or a staff person designated to serve in that capacity. (Cal. Code Regs., tit. 15, § 3375, subd. (i).)

Existing regulations also authorize the senior custodial officer on duty to temporarily increase the custodial classification of an incarcerated person at any time they believe such action is necessary to protect the security and good order of the institution. (Cal. Code Regs., tit. 15, § 3272.) However, a temporary increase is subject to classification committee review at the next regular meeting. (*Ibid.*) And any reduction of an incarcerated person's custody classification must be by classification committee action. (*Ibid.*)

This bill would require CDCR to contract with an independent research entity, to be selected by the Office of the Inspector General, to conduct a study to reassess the classification system to ensure that classification decisions reflect actual safety risk and that incarcerated people are not being held in higher-level facilities longer than necessary. Among other things, the study must include the methodology used for annual reclassification point adjustments and the use of administrative determinants and overrides at department facilities. The study also must provide policy recommendations to enhance the effectiveness of the classification system, with the goal to expand access to rehabilitation, reducing both recidivism and violence; ensure that incarcerated people are not held at higher levels of security longer than necessary; improve institutional safety by accurately identifying who poses a higher risk of violence; and save the state money by ensuring incarcerated people can earn programming credits that reduce sentence length.

2) **Argument in Support**: According to *Transformative Programming Works*, the bill's sponsor, "AB 1759 requires the California Department of Corrections and Rehabilitation (CDCR) to contract with a research entity to reassess the current security classification system and ensure that classification decisions reflect actual safety risks, thereby minimizing the number of incarcerated people unnecessarily held in higher-level facilities with inadequate access to rehabilitative programs.

"California currently spends millions of dollars housing people in high-security facilities who do not require that level of custody, while simultaneously restricting their access to programs proven to reduce recidivism. The current classification methodology relies heavily on static factors such as commitment offense, sentence length, age, and prior history. These factors often result in individuals being placed in Level III and Level IV facilities for extended periods of time, even when their in-custody behavior and demonstrated rehabilitation do not warrant high-security placement. As a result, many people are housed in restrictive settings with limited access to rehabilitative programming.

"The data is clear: access to rehabilitation improves outcomes, both inside and outside prisons. In 2024, CDCR reported that individuals who participated in CBO-led rehabilitative programs had a recidivism rate of 21.1%, compared to 45.6% for those who did not. Ensuring earlier and more equitable access to programming is one of the most effective tools for reducing recidivism and strengthening public safety.

"Community-based organizations play a unique and essential role in this work. CBO-led programming is often culturally responsive, trauma-informed, and rooted in lived experience.

"These programs build trust, increase engagement, and create space for accountability and

behavioral change in ways that traditional institutional programming alone cannot. Access to this programming improves institutional behavior, reduces violence, and prepares individuals for successful reentry.

"This bill is also in line with the California Model, which seeks to create a correctional system centered on rehabilitation, normalization, and human dignity. An updated classification system is essential to realizing that vision. Without expanding access to rehabilitative programming, the promise of the California Model cannot be fully achieved.

"This bill would ensure that resources are directed where they are most needed, allowing individuals to earn programming credits sooner and enabling rehabilitation to be accessible earlier and more consistently throughout a person's incarceration. This strengthens institutional safety and advances long-term public safety goals, while reducing state spending on incarceration."

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

4) **Related Legislation**:

   a) AB 2593 (Elhawary) would prohibit CDCR from denying medically necessary health care prescribed by a licensed health care provider. AB 2593 is pending hearing in the Assembly Appropriations Committee.

   b) AB 1922 (Lowenthal) would prohibit the use of mechanical restraints on an incarcerated person or juvenile who is admitted to a hospital and receiving care. AB 1922 is scheduled for hearing today in this committee.

   c) AB 2259 (Ransom) would establish a pilot program at two CDCR facilities for the provision of mental health therapy either through virtual therapy or contracted license mental health providers. AB 2259 is pending hearing in this committee.

5) **Prior Legislation**:

   a) AB 701 (Ortega), of the 2025-2026 Legislative Session, would have required the Department of Justice to study the use of solitary confinement in all jails, prisons, and private detention facilities operating within the State of California. AB 701 was held in suspense in the Assembly Appropriations Committee.

   b) AB 2632 (Holden), of the 2021-2022 Legislative Session, would have required all detention facilities to impose no limitation on services, treatment, or basic needs such as bedding, clothing and food for individuals in segregated confinement. AB 2632 was vetoed.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
All of US or None (HQ)

All of US or None Orange County
Alliance for Boys and Men of Color
Alliance for California Traditional Arts
Bridges of Hope CA
California Coalition for Women's Prisoners
California for Safety and Justice
California Public Defenders Association
Californians United for a Responsible Budget
Center for Restorative Justice Works
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Crop Organization; the
Defy Ventures
Ella Baker Center for Human Rights
Fair Chance Project
Families Inspiring Reentry & Reunification 4 Everyone (FIR4E)
Friends Committee on Legislation of California
Friends Outside
Glide
Grip Training Institute
Initiate Justice
Jail Guitar Doors
Jesse's Place Org
Justice2jobs Coalition
LA Defensa
Land Together
Legal Services for Prisoners With Children
Rubicon Programs
San Quentin Skunkworks
Silicon Valley De-bug
Ten Toes in
The Prism Way
The W. Haywood Burns Institute
Theatreworkers Project
Transformative Programming Works
Uncommon Law
2 Private Individuals

Opposition

None submitted

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

Date of Hearing: April 7, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1867 (Tangipa) – As Amended March 16, 2026

SUMMARY: Requires a person convicted of three or more specified impaired driving offenses within ten years who is sentenced to state prison to be prohibited from purchasing alcoholic beverages for life. Specifically, **this bill**:

1) Requires a person convicted of driving under the influence (DUI),[1] DUI causing bodily injury, a wet reckless offense,[2] or intoxicated vehicular manslaughter, and the offense occurred within 10 years of two separate convictions of any of these same offenses, or any combination thereof, who is sentenced to state prison, to be prohibited from purchasing alcoholic beverages for life.

2) Requires the Department of Motor Vehicles (DMV) to issue an identification card or a driver's license with the words "REPEAT SERIOUS DUI OFFENDER" or another appropriate designation on the face of the identification card or driver's license (hereafter, repeat DUI offender license) for an individual who has submitted an application and for whom the DMV has received an abstract of the record of a court showing that the person has been convicted of DUI, DUI causing bodily injury, a wet reckless offense, or intoxicated vehicular manslaughter, punishable by the prohibition against purchasing alcoholic beverages for life.

3) Specifies that the above repeat DUI offender license requirement applies to an identification card or driver's license issued pursuant to provisions of existing law that require the issuance of identification cards to eligible inmates released from state prison, senior citizens, persons eligible for specified assistance programs, persons who can verify their status as a homeless person or youth, and individuals released from a federal correctional facility, state correctional facility, county jail facility, and a Department of State Hospitals facility,

4) Authorizes a licensee, or their agent or employee, to refuse to sell alcoholic beverages to any person who provides the seller with a repeat DUI offender license.

EXISTING LAW:

1) Prohibits the sale of alcohol to a person under 21 years of age, as follows:

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[1] For purposes of this analysis, a "DUI" refers to a DUI punishable under Vehicle Code section 23152 that does not cause bodily injury. "A DUI causing bodily injury" to another is punished separately under Vehicle Code section 23153.
[2] A wet reckless conviction occurs where the prosecution agrees to a plea to a charge of reckless driving under Vehicle Code 23103, in satisfaction of, or as a substitute for, an original DUI charge, as specified. (Veh. Code, § 23103.5.)

a) Makes it a misdemeanor to sell, furnish, give, or cause to be sold, furnished, or given away any alcoholic beverage to any person under 21 years, as specified. (Bus. & Prof. Code, § 25658, subd. (a).)

b) Authorizes, for the purpose of preventing a violation of selling an alcoholic beverage to a person under 21 years old, as specified, any licensee, or their agent or employee, to refuse to sell or serve alcoholic beverages to any person unable to produce adequate written evidence that they are over the age of 21 years. (Bus. & Prof. Code, § 25659.)

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

3) Punishes a DUI as follows:

a) DUI is a misdemeanor punishable by imprisonment for four days to six months in county jail, or if given probation, possibly two days to six months in jail,[3] a fine of $390 to $1,000, an order to install a functioning, certified IID on any vehicle that person operates for up to six months,[4] at the court's discretion, a six-month license suspension or a 10-month suspension if probation is given and a 9-month DUI program is ordered, and completion of a three-month (30-hour) DUI program; or, if given probation, a nine-month (60-hour) program if the person's BAC was .20 percent or more, or they refused to take a chemical test. (Veh. Code, §§ 13352, subd. (a)(1); 13352.1, subd. (a); 23536, subds. (a) & (c); 23538, subds. (a) & (b); 23575.3, subd. (h)(1)(A)(i).)

b) DUI with one prior[5] is a misdemeanor punishable by imprisonment for three months to one year in county jail, or if given probation, 10 days to one year, or four days to one year, a fine of $390 to $1,000, a one-year IID installation mandate, a two-year license suspension, and completion of an 18-month or 30-month DUI program, as specified, if given probation. (Veh. Code, §§ 13352, subd. (a)(3); 23540, subd. (a); 23542, subds. (a) & (b); 23575.3, subd. (h)(1)(B).)

c) DUI with two priors is a misdemeanor punishable by imprisonment for four months to one year in county jail or 30 days to one year if given probation and ordered to complete a 30-month DUI program, a fine of $390 to $1,000, a two-year IID installation mandate, a three-year license revocation, and three-year designation as a habitual traffic offender, and an 18- or 30-month DUI program, as specified, if given probation and at the court's discretion. (Veh. Code, §§ 13352, subd. (a)(5); 23546; 23548, subds. (a) & (b); 23575.3, subd. (h)(1)(C).)

d) DUI with three or more priors is an alternate felony-misdemeanor (hereafter wobbler) punishable by imprisonment for six months to one year in jail, or as a felony punishable

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[3] In addition to DUI-specific probation conditions and any other terms and conditions imposed by the court.
[4] Only if the offense involved alcohol.
[5] For purposes of this analysis and unless otherwise specified, a "prior" means a separate DUI conviction under Vehicle Code sections 23152 (DUI), 23153 (DUI causing bodily injury), or a "wet reckless" conviction under 23103.5 (plea to reckless driving in satisfaction of an original DUI charge) that occurred within 10 years of the current violation.

by incarceration by 16 months or two or three years, or 30 days to one year if given probation and ordered to complete a 30-month DUI program, a fine of $390 to $1,000, a three-year IID installation mandate, a four-year license revocation, and three-year designation as a habitual traffic offender, and an 18 or 30-month DUI program, as specified, if given probation and at the court's discretion. (Veh. Code, §§ 13352, subd. (a)(7); 23550; 23552, subds. (a) & (b); 23575.3, subd. (h)(1)(D).)

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

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

   a) DUI causing bodily injury is a wobbler punishable by imprisonment for three months to one year in county jail or 16 months, or two or three years in state prison or if given probation, five days to one year in county jail, a fine of $390 to $1,000, a one-year IID installation mandate, a one-year license suspension, and completion of a three-month (30-hour) DUI treatment program; or, if given probation, a nine-month (60-hour) program if the person's BAC was .20 percent or more or they refused to take a chemical test. (Veh. Code, §§ 13352 subd. (a)(2); 23554; 23556, subds. (a) & (b); 23575.3, subd. (h)(2)(A).)

   b) DUI causing bodily injury with one prior is a wobbler punishable by imprisonment for four months to one year in county jail or 16 months, or two or three years in state prison, or if given probation, four months in jail, or 30 days to one year in jail, a fine of $390 to $5,000, a two-year IID installation mandate, a three-year license revocation, and an 18- or 30-month DUI program, as specified, if given probation and at the court's discretion. (Veh. Code, §§ 13352 subd. (a)(4); 23560; 23562, subds. (a) & (b); 23575.3, subd. (h)(2)(B).)

   c) DUI causing bodily injury with two or more priors is a felony punishable by imprisonment in state prison by two, three, or four years, or if given probation, either a minimum of one year in county jail, or 30 days to one year in county jail if ordered to complete an 18 or 30-month DUI program, a fine of $1,015 to $5,000, a three-year IID installation mandate, a five-year license revocation and three-year designation as a habitual traffic offender, and an 18- or 30-month DUI program, as specified, if given probation. (Veh. Code, §§ 13352 subd. (a)(6); 23566; 23568, subds. (a) & (b); 23575.3, subd. (h)(2)(C.)

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

6) Makes any DUI or DUI causing bodily injury a wobbler if that person has previously been convicted of certain impaired driving crimes:

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

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

7) Establishes probation conditions for DUI and DUI causing bodily injury, as follows:

a) Specifies that if a person is convicted of DUI or DUI causing bodily injury and is granted probation, the terms and conditions of probation shall include, but not be limited to:

i) A period of probation not less than three nor more than five years, as specified.

ii) A requirement that the person shall not drive a vehicle with any measurable amount of alcohol in their blood.

iii) A requirement that the person, if arrested for a violation of a DUI or DUI causing bodily injury, shall not refuse to submit to a chemical test, as specified.

iv) A requirement that the person shall not commit any criminal offense. (Veh. Code, § 23600, subd. (b).)

b) Prohibits a court from absolving a person convicted of DUI or DUI causing bodily injury from spending the minimum time in confinement, if any, or of paying the minimum fine. (Veh. Code, § 23600, subd. (c).)

c) Specifies that if any person violates the prohibition against driving with any measurable amount of alcohol in their blood or refusing to submit to a chemical test, and the person had a BAC over 0.04 percent, as specified, the court shall revoke probation and only grant a new term of probation of up to five years on the condition that the person be confined in the jail for not less than 48 hours for each probation violation, except in unusual cases where this is not in the interests of justice. (Veh. Code, § 23600, subd. (d).)

d) Makes a willful failure to pay any fine, restitution, or assessment during probation a violation of the terms and conditions of probation. (Veh. Code, § 23601, subd. (b).)

e) Provides, except as otherwise provided, if a person has been convicted of DUI or DUI causing bodily injury and the court has suspended the sentence and has granted probation, and during probation, the person violates a required term or condition of probation, the court shall revoke the suspension of sentence, terminate probation, and may pronounce judgement for any time within the longest period for which the person might have been sentenced, as specified. (Veh. Code, § 23602; Pen. Code, § 1203.2, subd. (c).)

f) Generally requires a person convicted of DUI or DUI causing bodily injury, who is given probation, to complete a specified DUI program. (Veh. Code, §§ 23540, 23548, 23552, 23556, 23562; 23568.)

g) Requires a court to revoke the probation of a person convicted of DUI or DUI causing bodily injury if they fail to enroll in, participate in, or complete a specified DUI program, except for good cause shown. (Veh. Code, §§ 23538, subd. (c)(1); 23556, subd. (c)(1).)

h) Makes it unlawful for a person on probation for DUI or DUI causing bodily injury to operate a motor vehicle with a BAC of .01 percent or greater, as specified. (Veh. Code, § 23154, subd. (c)(1).)

i) Provides that a person on probation for DUI or DUI causing bodily injury who drives a vehicle is deemed to have given their consent to alcohol screening tests or chemical tests, if lawfully detained for an alleged impaired driving violation. (Veh. Code, § 23154, subd. (c)(1).)

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

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Drunk driving remains one of the most preventable causes of death on California's roads, yet repeat offenders continue to put lives at risk. Investigations have shown that California's DUI laws often fail to stop dangerous drivers before tragedy occurs, with repeat offenders responsible for many fatal and injury crashes and more than 1,300 people dying each year in alcohol-related collisions.

   "AB 1867 focuses on the most serious repeat DUI offenders, individuals who commit multiple DUI offenses within ten years and are ultimately sentenced to state prison. This bill establishes a lifetime prohibition on purchasing alcohol for these offenders and creates a "Repeat Serious DUI Offender" designation on their identification so alcohol retailers can refuse alcohol sales.

   "If someone repeatedly chooses to drink and drive despite prior convictions, the state must take stronger action to protect the public. AB 1867 ensures that the most dangerous repeat offenders face meaningful consequences that help prevent future tragedies."

2) **California's DUI Framework:** Existing law makes it unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, or who has a BAC of 0.08 percent or more, to drive a vehicle. (Veh. Code, § 23152 subds. (a), (b), (f), & (g).) This is California's primary DUI statute that establishes the crime of a DUI that does not cause bodily injury. DUIs that cause bodily

injury or death are punished separately and more severely. The punishment for a DUI generally depends on the defendant's number of separate "priors" within 10 years of the current offense. (Veh. Code, § 23540.) Convictions that are considered "priors" are a DUI under Vehicle Code section 23152, a DUI causing bodily injury under Vehicle Code section 23153, and a "wet reckless" conviction under Vehicle Code section 23103.5. (*Ibid.*) A wet reckless conviction occurs where the prosecution agrees to a plea to a charge of reckless driving under Vehicle Code 23103, in satisfaction of, or as a substitute for, an original DUI charge, as specified. (Veh. Code, § 23103.5.)

A first, a second, and a third DUI within ten years of the current offense are all misdemeanor offenses. (Veh. Code, §§ 23536; 23540; 23546.) However, the amount of minimum jail time, license suspension length, and IID installation term all increase with each prior. (Veh. Code, §§ 13352, subd. (a)(1)-(5); 23536; 23540; 23546; 23575.3, subd. (h)(1)(A)-(C).)

Specifically, a first-time DUI is punishable by imprisonment for four days to six months in county jail, a fine of $390 to $1,000, a possible six-month IID installation order, a six- to 10-month suspension, and, if given probation, completion of a three- or nine-month DUI program. (Veh. Code, §§ 13352, subd. (a)(1); 13352.1, subd. (a); 23536, subds. (a) & (c); 23538, subds. (a) & (b); 23575.3, subd. (h)(1)(A)(i).) A DUI with one prior is punishable by imprisonment for three months to one year in county jail, a $390 to $1,000 fine, a one-year IID mandate, a two-year license suspension, and, if given probation, completion of an 18 or 30-month DUI program. (Veh. Code, §§ 13352, subd. (a)(3); 23540, subd. (a); 23542, subds. (a) & (b); 23575.3, subd. (h)(1)(B).) A DUI with two priors is punishable by imprisonment for four months to one year in county jail, a $390 to $1,000 fine, a two-year IID mandate, a three-year license revocation, and, if given probation, a possible 18 or 30-month DUI program. (Veh. Code, §§ 13352, subd. (a)(5); 23546; 23548, subds. (a) & (b); 23575.3, subd. (h)(1)(C).) A DUI with three or more priors is a wobbler, punishable by imprisonment for six months to one year in county jail, or as a jail-eligible felony by 16 months, or two or three years. (Veh. Code, § 23550.) Additionally, this offense is subject to a $390 to $1,000 fine, a three-year IID mandate, a four-year license revocation, and, if given probation, a possible 18- or 30-month DUI program. (Veh. Code, §§ 13352, subd. (a)(7); 23550; 23552, subds. (a) & (b); 23575.3, subd. (h)(1)(D).) Similar provisions exist for DUI causing bodily injury, although that offense is punished more severely and typically results in longer IID installation terms and license revocation periods. (Veh. Code, §§ 23554; 23560; 23566.)

As noted above, a person granted probation for a DUI or DUI causing bodily injury is typically required to enroll and complete specified DUI programs. (Veh. Code, §§ 23540, 23548, 23552, 23556, 23562.) In addition, existing law establishes several DUI-specific mandatory conditions of probation. If probation is granted to an individual convicted of DUI or DUI causing bodily injury, the period of probation must be at least three years but no more than five years. (Veh. Code, § 23600, subd. (b)(1).) Primarily, terms and conditions of probation must prohibit a person from: 1) driving a vehicle with any measurable amount of alcohol in their blood; 2) refusing a chemical test if arrested for a DUI or DUI causing bodily injury; and 3) committing any criminal offense. (Veh. Code, § 23600, subd. (b).) If a person violates the prohibition against driving with any measurable alcohol in their blood or refusing a chemical test, and their BAC was over .04 percent, the court shall revoke their probation and only grant a new term of probation for up to five years, conditioned on the person being confined for at least 48 hours for each probation violation, except in unusual cases where this is not the interests of justice. (Veh. Code, § 23600, subd. (d).) Any willful failure to pay a

fine or restitution during probation is a violation of the terms of probation. (Veh. Code, § 23601, subd. (b).) Further, a court is required to revoke probation if a person fails to enroll in, participate in, or complete a specified DUI program, except for good cause shown. (Veh. Code, §§ 23538, subd. (c)(1); 23556, subd. (c)(1).) Finally, if a person is convicted of a DUI or DUI causing bodily injury, a court grants probation, and the person violates a term or condition of probation, the court must revoke the suspension of sentence, terminate probation, and may pronounce judgement for any time within the longest period for which the person might have been sentenced, as specified. (Veh. Code, § 23602; Pen. Code, § 1203.2, subd. (c).)

3) **Effect of this Bill:** This bill makes several distinct changes to California law. First, it establishes a life-long prohibition against purchasing alcohol for persons convicted of three or more impaired driving offenses within 10 years. Specifically, this bill requires a person convicted of a DUI, DUI causing bodily injury, a wet reckless offense, or intoxicated vehicular manslaughter, where the offense occurred within 10 years of two separate convictions for any of these same offenses, who is sentenced to state prison, to be prohibited from purchasing alcoholic beverages for life. This bill does not separate out alcohol-related DUI offenses from drug-related DUIs thus the lifelong prohibition against purchasing alcohol would apply even if the DUI offenses involved drug use, rather than alcohol. The DMV would, upon receiving a record showing the defendant has been convicted of an offense subjecting them to this prohibition, be required to issue a license or identification card to the defendant that states that they are a repeat serious DUI offender. The bill is unclear as to how long this type of license or identification card would remain effective. Given that this bill authorizes a life-long prohibition against purchasing alcohol, a person would presumably be required to maintain such a repeat DUI offender license for their entire lives. Finally, this bill authorizes a licensee, or their agent or employee, to refuse to sell alcoholic beverages to any person who provides the seller with a repeat DUI offender license.

   Numerous impaired driving offenses are punishable by state prison. Accordingly, this life-long prohibition could be triggered by any of the following offenses, if the person had at least two other impaired driving offenses within ten years: 1) a DUI causing bodily injury; 2) DUI causing bodily injury with one prior; 3) DUI causing bodily injury with two priors; 4) DUI causing great bodily injury with specified priors; 5) DUI within 10 years of specified felonies including a DUI with three or more priors, DUI causing bodily injury, or gross vehicular manslaughter; 6) DUI with a prior conviction for felony intoxicated vehicular manslaughter; and 7) gross intoxicated manslaughter. (Veh. Code, §§ 23554; 23560; 23566; 23550.5; Pen. Code, § 191.5, subd. (c)(1).) For example, a person convicted of DUI causing bodily injury with two or more priors may be punished by up to four years in state prison, a three-year IID installation mandate, and a five-year license revocation. (Veh. Code, §§ 13352 subd. (a)(6); 23566; 23568, subds. (a) & (b); 23575.3, subd. (h)(2)(C.) This bill would additionally prohibit this person from purchasing alcohol for the rest of their life. This is inconsistent with the comparable prison term (up to four years), license revocation term (five years), and IID mandate (three years) for this offense. A person who is an irresponsible and dangerous driver in their 20s or 30s may evolve into a responsible and productive member of society decades later. Prohibiting such a person from purchasing a beer or a bottle of wine in their 60s or 70s, based on DUI offenses committed many decades earlier, may not be proportional.

4) **Practical Considerations:** This bill raises several practical questions and implementation concerns. First, this lifelong prohibition against purchasing alcohol can be triggered by DUIs

where the underlying offense involved drugs and not alcohol. Other DUI sanctions that are specifically tailored to alcohol-related DUIs, such as the ignition interlock devices, largely apply to DUI offenses involving alcohol. (Veh. Code, § 23575.3, subd. (h)(1)(A)(i).) Given that this bill specifically authorizes an alcohol purchasing prohibition, the application of this prohibition to DUI offenses that only involve drug use may be unintended.

Second, this bill is unlikely to accomplish its goals of prohibiting repeat DUI offenders from purchasing alcohol for the rest of their lives. It requires the DMV to issue a repeat DUI offender license to a person subject to this bill, and further authorizes a licensee, or their agent or employee, to refuse to sell alcoholic beverages to any person who provides the seller with a repeat DUI offender license. However, a person can establish their age, in order to purchase alcohol, by utilizing other types of identification, such as a passport or any other government-issued document that contains the name, date of birth, description, and picture of the person. (Bus. & Prof. Code, § 25660, subd. (a).) Accordingly, an individual who is issued a repeat DUI offender license and subjected to a lifelong prohibition against purchasing alcohol may easily avoid the prohibition on purchasing alcohol by simply presenting alternate forms of identification. Further, it only authorizes licensees and their agents to refuse to sell alcohol to a person with a repeat DUI offender license. A licensee or their agent may simply disregard this authorization and sell to such a person anyway. Finally, individuals well over the legal drinking age frequently do not have to show their license to purchase alcohol. Accordingly, a person well over 21 years old who is subject to such a lifelong prohibition could still purchase alcohol without having to present their repeat DUI offender license in most cases.

Third, this bill requires the DMV to issue a no-sale license "for an individual who has submitted an application and for whom the court department has received an abstract of the record of a court showing [a conviction for an offense punishable by a life-long prohibition against purchasing alcohol]." It is unclear what type of application this bill is referring to. This suggests that the DMV must issue such a repeat DUI offender license after an individual has applied to the DMV for such a license. The language does not specify what this application is, how a person would apply for such a license, what procedures govern this process, and whether DMV will be tasked with creating a new application form. It is also unclear whether "court department" is referring to the court or to the DMV.

5) **Argument in Support**: None submitted

6) **Argument in Opposition**: According to *Local 148 LA County Public Defenders Union*, "Marking a person's driver's license in this way risks discriminatory impact and long-term stigma. A driver's license is not used only for alcohol purchases. It is routinely required for employment applications, housing applications, financial transactions, travel, and access to government services. A visible "REPEAT SERIOUS DUI OFFENDER" designation effectively advertises a criminal conviction for life. This could further exacerbate the financial harm of a criminal conviction, where there is also a 52% reduction in earnings. AB 1867 would only add to the list of "collateral consequences" of a criminal conviction and further limit access to vital services, including employment and housing. These restrictions are likely to increase recidivism, rather than reduce it.

   "These burdens and restrictions will also disproportionately target California's communities of color. Black and brown Californians are overrepresented throughout the criminal legal

system, from police and traffic stops, arrests, and prosecutions. In fact, disparities between Black and white individuals are greatest in traffic stops made by local law enforcement. Additionally, Hispanic or Latinx drivers made up approximately 53.6% of DUI arrests in 2019-20, despite being only 37.3% of California's adult population. As a result, AB 1867 will only further entrench the racialized harm of disproportionate policing and undermine reentry.

"The risk of these harms is particularly salient since AB 1867 requires this marking for life. AB 1867 fails to account for individual treatment needs or offense circumstances that could inform judicial discretion and promote rehabilitation. Instead, branding people as DUI offenders for life could prevent rehabilitation and promote recidivism. Being convicted of a felony and labeled a "criminal" has already been linked to increased recidivism rates, without a clear marking of "REPEAT SERIOUS DUI OFFENDER" on a driver's license. Even if it doesn't undermine treatment or reentry, this branding could last for decades after a conviction. This indefinite branding and stigma offers no public safety justification.

"Utah's model is sometimes cited in support of similar policies, but California's size, diversity, and existing reentry challenges demand a careful analysis of how such a visible marking would function here. The Legislature should require rigorous evidence that this approach meaningfully reduces impaired driving without imposing disproportionate collateral harm. In fact, even Utah acknowledged the limitations with their law, citing the ability to access acquire alcohol via non-DMV issued identification, like passports. To date, there is no existing evidence this policy will effectively reduce alcohol access, particularly in states without Utah's history of alcohol temperance.

"If the goal is to reduce repeat DUI offenses and prevent serious harm, the Legislature should prioritize investments in treatment, substance use services, preventative technology, and restorative accountability approaches that directly address behavior change. A publicly marked driver's license only risks undermining rehabilitation by erecting new barriers to employment, housing, and reintegration."

7) **Related Legislation**:

   a) AB 1605 (Ransom) authorizes a court to prohibit a person convicted of specified repeat impaired driving crimes, who is granted probation, from purchasing alcohol for a period not exceeding the entire probationary period, as a term and condition of probation. AB 1605 is pending a hearing in the Assembly Governmental Organization Committee.

   b) AB 1156 (Caballero) requires a court to prohibit a person convicted of specified impaired driving crimes within 10 years, or who has a certain number of priors, from purchasing alcohol for a period of three to 10 years, and creates new misdemeanors for persons who sell alcohol to a purchaser without reviewing their identity and who sell alcohol to a person subject to a no-alcohol-sale-prohibition. AB 1156 is pending referral in the Senate Rules Committee.

8) **Prior Legislation**:

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

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

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

d) AB 1657 (Runner), of the 2007-2008 Legislative Session, would have made it a wobbler to purchase alcohol for a person the provider knew or reasonably should have known to be under the age of 21 years, and the person under the age of 21 consumes the alcohol and thereby proximately causes great bodily injury or death to themselves or others and the provider should have known of the danger. AB 1657 failed passage in the Senate Public Safety Committee.

e) AB 2605 (Bogh), of the 2005-2006 Legislative Session, would have increased the penalty for a person convicted of a third DUI offense within 10 years from a misdemeanor to an alternative misdemeanor/felony, among other changes. AB 2605 failed passage in this Committee.

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

g) AB 1777 (Cunneen), of the 1999-2000 Legislative Session, would have made it unlawful for a person to drive a vehicle in violation of the condition of probation requiring that the person not drive a vehicle with any measurable amount of alcohol in their blood. AB 1777 failed passage in this Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None submitted

Opposition

ACLU California Action
All of US or None (HQ)
California Public Defenders Association
Debt Free Justice California
Ella Baker Center for Human Rights
Friends Committee on Legislation of California
Initiate Justice

Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union
San Francisco Public Defender
Streets for All

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

Date of Hearing: April 7, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1897 (Haney) – As Amended March 18, 2026

PULLED BY THE COMMITTEE

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

Date of Hearing: April 7, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1912 (Hadwick) – As Amended March 25, 2026

SUMMARY: Removes the prohibition on a person carrying a firearm capable of being concealed on their person while engaging in taking or attempting to take a deer with a bow and arrow.

EXISTING LAW:

1) States that the right of the people to keep and bear arms shall not be infringed. (U.S. Const., Amend. II.)

2) Authorizes a person to apply for a license to carry a concealed firearm that the sheriff of a county shall issue, subject to defined requirements. (Pen. Code, § 26510.)

3) States that in every area in which deer may lawfully be taken during the general open season there is an archery season for the taking of deer with bow and arrow. The season for each area shall be as the commission may prescribe, with a minimum interposing interval of three days immediately preceding the regular open season on deer in that area. A person taking or attempting to take deer during such archery season shall neither carry, nor have under his or her immediate control, any firearm of any kind, except as provided. (Fish & Game Code, § 4370, subd. (a).)

4) Provides that a peace officer, whether active or honorably retired, may carry a firearm capable of being concealed on his or her person while engaged in the taking of deer with bow and arrow, as specified, but shall not take or attempt to take deer with the firearm. (Fish & Game Code, § 4370, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California's archery deer hunters often venture deep into remote wilderness where help may be hours away. While other hunters and anglers are allowed to carry firearms for personal protection, deer archery hunters are prohibited under current law. Assembly Bill 1912 simply allows these hunters to carry a firearm for self-defense while maintaining the integrity of the archery season by continuing to require that deer be taken with a bow. This commonsense reform ensures that hunters can protect themselves from dangerous wildlife and criminal activity while recreating in California's backcountry."

2) **Effect of the Bill**: AB 1912 would extend authorization for any person to carry a firearm while hunting deer during bow season. This bill would not authorize a person carrying a firearm during bow season to take a deer with the firearm.

   California law provides licensed sportspersons an exception from the ban on carrying a concealed firearm (Pen. Code, § 25640), however, our laws also provide for licensed public carry following the Supreme Court's decision in *Bruen*. (Pen. Codes, §§ 26150, 26155.) Notably, while certain firearms restrictions remain valid following *Bruen* (e.g., sensitive places restrictions), the Court there found an individual right to public carry anchored in the Second Amendment to the United States Constitution. (*New York State Rifle & Pistol Association, Inc. v. Bruen* (2022) 597 U.S. 1, 17.) Given the existing statutory exceptions provided to sportspersons and *Bruen*'s mandates, Section 4370 of the Fish and Game Code is arguably unconstitutional as it stands today. Providing statutory consistency with a law that does not match current regulations and may not have been even enforced more than once in approximately 80 years seems like simple cleanup.

   The author additionally notes, "Fish and Game Code Section 4370, established in 1947, prohibits hunters from possessing firearms during the archery deer season. At the time, it was believed that this would preserve the integrity of the deer hunt. However, this prohibition has proven anachronistic. Other bans on carrying concealable firearm[s] while hunting have been eliminated for every other species hunt by Fish and Game Commission regulation due to emerging public safety threats, capability of law enforcement to investigate illegal methods of take, and, critically, complete lack of enforcement of the law. Recently retired and former California Department of Fish and Wildlife (CDFW) Deputy Director and Chief of the Law Enforcement Division David Bess has indicated that only one citation has ever been issued for a violation of Section 4370."

3) ***Bruen* and Desuetude:** AB 1912 unlikely presents Second Amendment concern. To be subject to Second Amendment scrutiny, a law must first infringe on plain text Second Amendment conduct. (*New York State Rifle & Pistol Association, Inc. v. Bruen* (2022) 597 U.S. 1, 17.) Justifying a law or regulation that purports to place restrictions on protected Second Amendment conduct requires the government to demonstrate the law is "consistent with the nation's historical tradition of firearms regulation." (*Id.* at p. 24.) A firearms regulation is constitutional if the government establishes the proposed law is "relevantly similar" to historical laws, regulations, and traditions. (*Id.* at p. 29.)

   AB 1912 does not appear to infringe on plain text Second Amendment conduct. The bill appears more directed at clarifying authorized conduct for deer hunters, specifically authorizing carry of a firearm while on a bow hunt. This bill seems intent to clearly establish in statute what is currently written in regulations. Existing law, absent AB 1912, is more likely to face constitutional scrutiny than this bill. Because AB 1912 does not appear to even implicate *Bruen*'s first step, further analysis on this bill's constitutionality is unnecessary.

   Section 4370 of the Fish and Game Code may be unenforceable, anyway, due to courts' occasional adherence to the principle of desuetude. Desuetude is a legal doctrine where a

statute or regulation is determined to be abrogated due to a long period of non-enforcement.[1] Widespread public non-compliance is also a factor in finding whether a law falls into non-enforcement.[2] It signifies that a law has become obsolete, failing to match current societal norms despite still being "on the books."[3] While rarely used in American law and rarely analyzed in American jurisprudence, a central principle of desuetude is if certain interests are involved, criminal statutes may not be invoked against citizens when the underlying judgments behind the laws become anachronistic.[4] Laws that fall into anachronism and nonenforcement manifest due process concerns as these laws reflect an absence of fair notice and arbitrary exercise of discretion.[5] The United States Supreme Court addressed part of this issue in *Lawrence v. Texas*, where the Court found state anti-sodomy laws unconstitutional.[6]

While Section 4370 is unlikely to be considered unenforceable under the doctrine of desuetude, AB 1912 would correct that possibility by conforming to the statutory law with current practice, expectations, and regulations.

4) **Argument in Support**: According to the *California Rifle and Pistol Association*, "The California Rifle & Pistol Association (CRPA), California's oldest firearms civil rights organization founded in 1875, strongly supports Assembly Bill 1912 (Hadwick). This targeted pro-hunter legislation amends Fish and Game Code Section 4370 to authorize licensed individuals to carry a concealed firearm on their person while participating in archery deer seasons—providing essential self-defense options in remote wilderness areas without compromising archery-specific management goals.

"Current law prohibits carrying a firearm capable of being concealed during archery deer hunts, even for lawful self-defense against threats such as wildlife (e.g., bears, mountain lions), human predators, or medical emergencies in isolated backcountry. AB 1912 would allow any person (subject to existing concealed carry laws, including any required permits where applicable) to carry such a firearm while taking or attempting to take deer with bow and arrow, ensuring hunters can protect themselves responsibly.

"CRPA supports this bill for the following key reasons:

a) Enhances Hunter Safety and Self-Defense: Archery hunters often venture deep into rugged terrain far from immediate help. Carrying a concealed firearm provides a critical layer of protection against unpredictable dangers—animal attacks, criminal encounters, or accidents—without shifting to firearm-based hunting methods. This is a responsible accommodation for personal security in line with Second Amendment principles.

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[1] Miller, *Second Amendment Traditionalism and Desuetude* (2023) 14 Georgetown J. of L. & Pub. Pol. 223, 226 <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=6414&context=faculty_scholarship> [as of Mar. 25, 2026].
[2] *Ibid.*
[3] *Ibid.*
[4] Sunstein, C. *What Did Lawrence Hold? Of Autonomy, Desuetude, Sexuality, and Marriage* (2003) Coase-Sandor Institute for L. & Econ. Research < https://chicagounbound.uchicago.edu/law_and_economics/615/> [as of Mar. 25, 2026].
[5] *Ibid.*
[6] *Ibid.*

b) Respects Existing Wildlife Management: The bill does not alter archery-only seasons, bag limits, equipment restrictions, or fair-chase rules. It maintains the integrity of bow hunting while addressing modern safety realities for law-abiding participants.

c) Reduces Unnecessary Burdens on Law-Abiding Hunters: Many CRPA members are licensed hunters who already hold concealed carry permits or qualify under constitutional carry principles. Forcing them to disarm during archery pursuits creates an arbitrary vulnerability that this bill sensibly corrects.

d) Aligns with Common-Sense Reforms: Similar allowances exist in other states for concealed carry during archery seasons. AB 1912 brings California in line with practical, safety-focused policies that prioritize hunter welfare without impacting conservation outcomes."

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

6) **Related Legislation**: SB 1220 (Hurtado) would prohibit a person who is convicted on or after January 1, 2027, of defined laws, from owning, purchasing, receiving, or having in their possession or under their custody or control any firearm within 10 years of the conviction. SB 1220 is pending hearing in the Senate Public Safety Committee.

7) **Prior Legislation**: SB 1367 (Fuller), Chapter 711, Statutes of 2012, authorized a peace officer, whether active or honorably retired, to carry a firearm capable of being concealed on his or her person while engaged in the taking of deer with bow and arrow, but would prohibit taking or attempting to take deer with that firearm.

REGISTERED SUPPORT / OPPOSITION:

Support

Backcountry Hunters and Anglers, California Chapter
Black Brant Group, the
Cal-ore Wetlands and Waterfowl Council
California Bowmen Hunters/state Archery Association
California Chapter Wild Sheep Foundation
California Deer Association
California Houndsmen for Conservation
California Rifle and Pistol Association
California Rifle and Pistol Association, INC.
California Waterfowl Association
Howl for Wildlife
Rocky Mountain Elk Foundation
Sacramento Safari Club International
San Diego County Wildlife Federation
San Francisco Bay Area Chapter - Safari Club International
Suisun Resource Conservation District
2 Private Individuals

Opposition

None submitted.

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

Date of Hearing: April 7, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1913 (Soria) – As Amended March 19, 2026

As Proposed to be Amended in Committee

SUMMARY: Authorizes an employee or volunteer registered with a specified law enforcement agency to operate emergency equipment if they complete an emergency equipment training. Specifically, **this bill**:

1) Authorizes an employee of, or a volunteer registered with, a specified law enforcement agency, to operate emergency equipment pursuant to this bill.

2) Requires an employee or volunteer described above, in order to operate emergency equipment, to complete training that includes all of the following:

   a) A classroom portion of at least 16 hours taught by an instructor who meets or exceeds the standards adopted by the specified law enforcement agency for the operation of emergency equipment.

   b) A driver training portion of at least 14 hours that includes directly-supervised behind-the-wheel training by an instructor approved by the specified law enforcement agency, and who possesses a minimum of five years of experience as an emergency vehicle operator.

   c) A written emergency equipment operation examination.

3) Requires instructors for the training program to meet both of the following requirements:

   a) Possess a valid California class A or class B license, or alternatively, possess a class C license having completed the emergency equipment operation training under this bill and possessing at least five years of experience operating emergency equipment.

   b) Be certified as a qualified training instructor or training officer by the State of California, the federal government, or a county training officers' association.

4) Requires a training program participant to possess a valid California class C license.

5) Defines "emergency equipment," for purposes of the above, to mean a motor vehicle operated under a class A or class B driver's license (which includes a combination of vehicles if a towed vehicle has a gross weight exceeding 10,000 pounds, a vehicle towing more than one vehicle, a trailer bus, all class B and C vehicles, a vehicle with a gross weight exceeding 26,000 pounds, a single vehicle with three or more axles, as specified, a bus with a gross weight exceeding 26,000 pounds, except a trailer bus, a farm labor vehicle, a single vehicle with three or more axles or with a gross weight exceeding 26,000 pounds towing

another vehicle with a gross weight of 10,000 or less, a house car over 40 feet, as specified, and all class C vehicles) that is used to travel to and from the scene of an emergency situation, to and from a place where emergency equipment is repaired or repositioned or to transport equipment used in the control of an emergency situation and that is owned, leased, rented by, or under the exclusive control of a specified law enforcement agency.

6) Expands the definition of a class C motor vehicle to include emergency equipment, as defined above, provided the equipment is operated by a person who has completed, or is currently participating in, the emergency equipment training established by this bill.

EXISTING LAW:

1) Requires an applicant for a driver's license to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the application desires a license to drive. (Veh. Code, § 12804.9, subd. (b).)

2) Provides that a class A vehicle includes the following: a combination of vehicles if a vehicle being towed has a gross vehicle weight rating of more than 10,000 pounds, a vehicle towing more than one vehicle, a trailer bus, and the operation of all vehicles under class B and class C. (Veh. Code, § 12804.9, subd. (b)(1).)

3) Provides that a class B vehicle includes the following: a single vehicle with a gross vehicle weight rating of more than 26,000 pounds, single vehicle with three or more axles, as specified, a bus with a gross vehicle weight rating of more than 26,000 pounds, except a trailer bus, a farm labor vehicle, a single vehicle with three or more axles or a gross vehicle weight rating of more than 26,000 pounds towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less, a house car over 40 feet in length, and the operation of all vehicles covered under class C. (Veh. Code, § 12804.9, subd. (b)(2).)

4) Provides that a class C vehicle includes the following: a two-axle vehicle with a gross vehicle weight rating of 26,000 pounds or less, as specified, a two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds, a house car of 40 feet in length or less, a three-axle vehicle weighing 6,000 pounds gross or less, a house car of 40 feet in length or less or a vehicle towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less, a two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach or a fifth-wheel travel trailer not exceeding 10,000 pounds gross vehicle weight rating, as specified, a two-axle vehicle weighing 4,000 pounds or more unladen when towing a fifth-wheel travel trailer exceeding 10,000 pounds, but not exceeding 15,000 pounds, as specified, a vehicle or combination of vehicles with a gross combination weight rating of 26,000 pounds or less, as specified, firefighting equipment, provided that the equipment is operated by a person who holds a firefighter endorsement, as specified; a motorized scooter, a bus with a gross vehicle weight rating of 26,000 pounds or less, except a trailer bus. (Veh. Code, § 12804.9, subd. (b)(3).)

5) Authorizes certain volunteer firefighters to operate firefighting equipment, as follows:

   a) Specifies that to operate firefighting equipment, a driver, including a till operator, must do either of the following:

i) Obtain and maintain a class A or B license, as specified, and, as appropriate, for the size and configuration of the firefighting equipment operated. (Veh. Code, § 12804.11, subd. (a)(2).)

ii) Obtain and maintain a firefighter endorsement issued by the DMV and obtain and maintain a class C license, a restricted class A license, as specified, or a noncommercial class B license, as specified. (Veh. Code, § 12804.11, subd. (a)(1).)

b) Provides that to qualify for a firefighter endorsement, the driver shall:

i) Provide the DMV with proof of current employment as a firefighter or registration as a volunteer firefighter and evidence of fire equipment operation training, as specified, subject to the following:

(1) Evidence of fire equipment operation training means the applicant successfully completed Fire Apparatus Driver/Operator 1A taught by an instructor registered with the Office of the State Fire Marshal or fire department driver training that meets certain requirements, including at least 16 hours of classroom instruction and at least 14 hours of directly supervised behind-the-wheel driver training.

(2) Requires driver training to be conducted by a person who is registered with the Office of the State Fire Marshal to instruct a Fire Apparatus Driver/Operator 1A course, or by another person who possesses a minimum of five years of fire service experience, possesses a valid California class A or B license or a class A or B license restricted to the operation of firefighting equipment or a class C license with a firefighter endorsement, and is certified as a qualified training instructor or training officer, as specified.

ii) Pass the written firefighter examination developed by the DMV with the cooperation of the Office of the State Fire Marshal.

iii) Upon application and every two years thereafter, submit medical information on a form approved by the DMV. (Veh. Code, § 12804.11, subds. (a) & (b).)

c) Subjects a driver of firefighting equipment to the requirement to obtain a firefighter endorsement or a class A or B license, as specified, if both the following conditions exist:

i) The equipment is operated by a person employed as a firefighter by a federal or state agency, by a regularly organized fire department of a city, county, city and county, or district, or by a tribal fire department or registered as a volunteer member of a regularly organized fire department having official recognition of the city, county, city and county, or district in which the department is located, or of a tribal fire department.

ii) The motor vehicle is used to travel to and from the scene of an emergency situation, or to transport equipment used in the control of an emergency situation, and which is owned, leased, or rented by, or under the exclusive control of, a federal or state agency, a regularly organized fire department of a city, county, city and county, or district, a volunteer fire department having official recognition of the city, county,

city and county, or district in which the department is located, or a tribal fire department. (Veh. Code, § 12804.11, subd. (d).)

d) Defines "firefighting equipment" to mean a motor vehicle, that meets the definition of a class A or class B vehicle, that is used to travel to and from the scene of an emergency situation, or to transport equipment used in the control of an emergency situation, and that is owned, leased, or rented by, or under the exclusive control of, a federal or state agency, a regularly organized fire department of a city, county, city and county, or district, or a volunteer fire department having official recognition of the city, county, city and county, or district in which the department is located. (Veh. Code, § 12804.11, subd. (f).)

6) Defines an authorized emergency vehicle to mean any publicly owned vehicle operated by any federal, state, or local agency, department, or district employing peace officers as defined, for use by those officers in the performance of their duties (Veh. Code, § 165, subd. (b)(1).)

7) Provides that a public employee is not liable for civil damages on account of personal injury to or death of any person or damage to property resulting from the operation, in the line of duty, of an authorized emergency vehicle while responding to an emergency call or when in the immediate pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm or other emergency call. (Veh. Code, § 17004.)

8) States that the driver of an authorized emergency vehicle is exempt from a variety of specified Vehicle Code requirements, under all of the following conditions:

   a) If the vehicle is being driven in response to an emergency call or while engaged in rescue operations or is being used in the immediate pursuit of an actual or suspected violator of the law or is responding to, but not returning from, a fire alarm, except that fire department vehicles are exempt whether directly responding to an emergency call or operated from one place to another as rendered desirable or necessary by reason of an emergency call and operated to the scene of the emergency or operated from one fire station to another or to some other location by reason of the emergency call.

   b) If the driver of the vehicle sounds a siren as may be reasonably necessary and the vehicle displays a lighted red lamp visible from the front as a warning to other drivers and pedestrians. (Veh. Code, § 21055.)

9) Requires that every authorized emergency vehicle to be equipped with at least one steady burning red warning lamp visible from at least 1,000 feet to the front of the vehicle, as specified, and provides that emergency vehicles may display revolving, flashing, or steady red warning lights to the front, sides or rear of the vehicles. (Veh. Code, § 25252.)

10) Authorizes an authorized emergency vehicle, where the vehicle is being driven in response to an emergency call, as specified, and the driver sounds a siren and displays a lighted red lamp, to display a flashing white light from a gaseous discharge lamp designed and used for the purpose of controlling official traffic control signals. (Veh. Code, § 25258, subd. (a).)

11) Authorizes an authorized emergency vehicle used by a specified peace officer or probation officer, in the performance of the peace officer's duties, to additionally display a steady or flashing blue warning light visible from the front, sides, or rear of the vehicle. (Veh. Code, § 25258, subd. (b)(1).)

12) Requires a probation officer, before they operate an emergency vehicle with a blue warning light, to complete a four-hour classroom training course regarding the operation of emergency vehicles that is certified by the Standards and Training for Corrections Division of the Board of State and Community Corrections, however, this does not expand any existing authority of a probation officer to conduct a high-speed vehicle pursuit or change any existing training requirements for high-speed vehicle pursuits.. (Veh. Code, § 25258, subd. (b)(2)-(3).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "While effective law enforcement and public safety protection often requires the use of specialized vehicles, many law enforcement staff and volunteers do not possess a class A or B driver license that would normally be required to operate this equipment. AB 1913 will allow law enforcement staff and volunteers to operate specified emergency equipment with a class C driver license having completed a rigorous course of training. This bill will protect public safety by allowing more qualified individuals to operate certain equipment without a specific type of commercial driver license without sacrificing training and education on the part of the operators."

2) **Effect of this Bill:** This bill is largely modelled after the framework that permits volunteer firefighters to operate class A and B equipment. Currently, certain volunteer firefighters are permitted to operate firefighting equipment if they complete certain training. Firefighting equipment means class A or B vehicles that are used to travel to and from an emergency situation, as specified, that is owned, leased, or under the exclusive control of a federal, state, or local agency, a fire department, or an officially recognized volunteer fire department. (Veh. Code, § 12804.11, subd. (f).) In order to operate such equipment, a driver must either obtain and maintain a class A or B license, or obtain and maintain a firefighter endorsement issued by the DMV, and obtain and maintain a class C license, among other license options. (Veh. Code, § 12804.11, subd. (a)(1).) To qualify for a firefighter endorsement, the driver must provide the DMV with: 1) proof of employment as a firefighter or volunteer firefighter and evidence of fire equipment operation training (which includes, among other things, at least 16 hours of classroom instruction and at least 14 hours of directly supervised behind-the-wheel driver training); 2) pass the written firefighter examination; and 3) submit medical information on a form approved by the DMV. (Veh. Code, § 12804.11, subds. (a) & (b).)

   This bill authorizes an employee or volunteer registered with certain law enforcement agencies to operate emergency equipment if they complete an emergency equipment training. Similar to the firefighter endorsement framework, the training must include 16 hours of classroom instruction taught by an instructor who meets the standards adopted by the law enforcement agency, 14 hours of directly supervised behind-the-wheel training by an approved instructor with at least five years of experience as an emergency vehicle operator, and a written emergency equipment operation examination. Training instructors must possess

a valid class A or B license, or a class C license if they have completed the emergency equipment operation training established by this bill and possess at least five years of experience operating emergency equipment. Additionally, instructors must be certified as a qualified training instructor or officer by the State, federal government, or a county training officers' association.

This creates an avenue for employees or volunteers with law enforcement agencies to transport certain heavy-duty vehicles to and from the scene of an emergency. Specifically, it would authorize such persons to operate emergency vehicles to travel to and from the scene of an emergency situation, to and from a place where emergency equipment is repaired or repositioned, or to transport equipment used in the control of an emergency situation and that is owned, leased, rented by, or under the exclusive control of a specified law enforcement agency. In terms of the type of vehicles this would apply to, it would encompass a combination of vehicles if a towed vehicle has a gross weight exceeding 10,000 pounds, a vehicle towing more than one vehicle, a trailer bus, all class B and C vehicles, a vehicle with a gross weight exceeding 26,000 pounds, a single vehicle with three or more axles, as specified, a bus with a gross weight exceeding 26,000 pounds, except a trailer bus, a farm labor vehicle, a single vehicle with three or more axles or with a gross weight exceeding 26,000 pounds towing another vehicle with a gross weight of 10,000 or less, a house car over 40 feet, as specified, and all class C vehicles.

Lastly, this bill expands the definition of a class C motor vehicle to include emergency equipment, as defined above, provided the equipment is operated by a person who has completed, or is currently participating in, the emergency equipment training established by this bill. The author may wish to clarify, consistent with the firefighter endorsement framework, that this only applies to equipment operated by persons who have actually completed the training. Persons currently participating in the training may not have been sufficiently trained to use such equipment.

Additionally, the author may wish to clarify this bill's application to "an employee of, or a volunteer registered with, a law enforcement agency, as defined in Section 830.1 or 830.2." Penal Code sections 830.1 and 830.2 describe which category of persons are considered peace officers under California law. While there are references to the agencies that employ such persons, those sections are largely focused on particular persons who are peace officers, and do not clearly define "law enforcement agency."

3) **Argument in Support**: According to the *California State Sheriffs' Association*, AB 1913, "would allow law enforcement employees and volunteers to operate specified emergency equipment with a class C driver license after having completed classroom and behind-the-wheel training.

"In many counties, deputy sheriffs and sheriff's office volunteers are often among the first to be called to emergency scenes, including wildfires, search and rescues, vehicle accidents, and natural disasters. Special equipment is normally needed to mitigate the effects of these emergency incidents and save lives. These employees and volunteers may be asked to operate specialty equipment including mobile command posts and vehicles that transport other equipment on heavy trailers. Much of this equipment ordinarily requires an operator to possess a class A or B driver license, which reduces the pool of people available to operate

this equipment and subsequently respond. Sheriffs' offices struggle with recruiting sworn and non-sworn personnel (volunteers), especially those with class A or B driver licenses.

"AB 1913 creates a common-sense solution to this problem. The bill allows employees or volunteers who have a class C license and complete classroom education and behind-the-wheel training provided by trained instructors to operate certain types of equipment in specified situations without having to obtain a class A or B license. This approach also carries the benefit of ensuring operators are trained and experienced without creating expensive new licensing or certification burdens on state agencies."

4) **Argument in Opposition**: None received.

5) **Prior Legislation**:

   a) SB 349 (Archuleta), of the 2025-2026 Legislative Session, would have authorized parole officers to display blue warning lights from their emergency vehicles in the performance of their official duties if an officer completes a specified four-hour classroom training course certified by the Commission on Correctional Peace Officers Standards and Training. AB 349 was held in the Senate Appropriations Committee.

   b) SB 1021 (Archuleta), of the 2023-2024 Legislative Session, was substantially similar to SB 349. SB 1021 was held in the Senate Appropriations Committee.

   c) SB 287 (Grove), Chapter 610, Statutes of 2021, authorized drivers with a class C driver's license with a trailer endorsement to tow a trailer between 10,000 and 15,000 pounds gross vehicle weight using a gooseneck trailer hitch if the towing is not for compensation or commercial purposes and the vehicle used to tow the vehicle is a two axle-vehicle with a combined gross vehicle weight rating of less than 26,000 pounds.

   d) SB 587 (Atkins), Chapter 286, Statutes of 2017, authorized probation officers to display a blue warning light on their authorized emergency vehicles if the officer completes a four-hour training course regarding the operation of emergency vehicles certified by the Standards and Training for Corrections division of the Board of State and Community Corrections.

   e) AB 2438 (Lowenthal), Chapter 97, Statutes of 2014, allowed an individual who is training a firefighter how to use firefighting equipment (e.g., to drive a fire engine) to possess a class C license with a firefighter endorsement, provided they meet all other statutory requirements

   f) AB 82 (Jeffries), Chapter 92, Statutes of 2011, required a person who operates firefighting equipment to obtain either a class A or B license as appropriate for the size and configuration of the firefighting equipment or a class C license, a restricted class A license, or a noncommercial class B license with a firefighter endorsement.

   g) AB 1648 (Jeffries), Chapter 360, Statutes of 2010, changed the type of driver's license required to operate firefighting equipment from a class A or B commercial driver's license or a restricted firefighting license to a class C license with a firefighter endorsement and allows a person without such an endorsement to operate firefighting

equipment for training purposes during non-emergencies provided the driver is accompanied by a properly licensed driver.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Sheriffs' Association (Sponsor)
California Police Chiefs Association

Opposition

None submitted

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

AMENDMENTS TO ASSEMBLY BILL NO. 1913
AS AMENDED IN ASSEMBLY MARCH 19, 2026

Amendment 1

In the title, in line 1, strike out "add Section 13510.15 to the Penal Code, and to"

Amendment 2

In the title, in line 2, strike out "of" and insert:

of, and to add Section 12528 to,

Amendment 3

On page 2, strike out lines 1 and 2, in line 3, strike out "13510.15." and insert:

SECTION 1. Section 12528 is added to the Vehicle Code, to read:
12528.

Amendment 4

On page 2, in line 3, strike out "The commission shall develop an emergency", strike out line 4, on page 3, strike out lines 1 to 6, inclusive, and insert:

An employee of, or a volunteer registered with, a law enforcement agency, as defined in Section 830.1 or 830.2 of the Penal Code, shall be permitted to operate emergency equipment pursuant to this section.

Amendment 5

On page 3, in line 7, strike out "The" and insert:

In order to operate emergency equipment as defined in this section, an employee or volunteer described in subdivision (a) shall complete

Amendment 6

On page 3, in line 7, strike out "shall include" and insert:

that includes

Amendment 7

On page 3, in line 9, strike out "registered with the commission and"

Amendment 8

On page 3, in line 10, strike out "set" and insert:

adopted

Amendment 9

On page 3, in line 10, strike out "commission" and insert:

law enforcement agency described in subdivision (a)

Amendment 10

On page 3, in line 14, strike out "registered with the commission" and insert:

approved by the law enforcement agency described in subdivision (a)

Amendment 11

On page 3, in line 19, strike out "or a", strike out lines 20 and 21 and insert:

or, alternatively, a class C license, having completed the emergency equipment operation training described in this section, and possessing at least five years of experience operating emergency equipment as defined in this section.

Amendment 12

On page 3, strike out lines 27 to 30, inclusive, in line 31, strike out "(f)" and insert:

(e)

Amendment 13

On page 3, in line 35, strike out "situation" and insert:

situation, to and from a place where the emergency equipment is repaired or repositioned,

Amendment 14

On page 3, in line 38, strike out "830.2." and insert:

830.2 of the Penal Code.

Amendment 15

On page 7, in line 26, strike out "and certification program"

Amendment 16

On page 7, in line 27, strike out "13510.15 of the Penal Code." and insert:

12528.

Amendment 17

On page 7, in line 29, strike out "13510.15 of the Penal Code." and insert:

12528.

Amendment 18

On page 13, in line 26, strike out "and certification program"

Amendment 19

On page 13, in line 27, strike out "13510.15 of the Penal Code." and insert:

12528.

Amendment 20

On page 13, in line 29, strike out "13510.15 of the Penal Code." and insert:

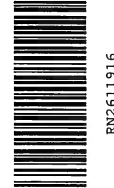
12528.

PROPOSED AMENDMENTS TO ASSEMBLY BILL NO. 1913

AMENDED IN ASSEMBLY MARCH 19, 2026

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL **No. 1913**



Introduced by Assembly Member Soria

February 12, 2026

An act to ~~add Section 13510.15 to the Penal Code, and to~~ amend Section 12804.9 ~~of~~ *of, and to add Section 12528 to,* the Vehicle Code, relating to vehicles.

Amendment 1
Amendment 2

LEGISLATIVE COUNSEL'S DIGEST

AB 1913, as amended, Soria. Licensure: emergency equipment.

Existing law prohibits a person from driving a motor vehicle upon a highway unless that person holds a valid driver's license to operate the type of vehicle that the person is driving.

Existing law requires the Department of Motor Vehicles to require an examination for issuance of a driver's license. The examination is required to be appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive or tow, in accordance with certain license classifications. A class C driver's license includes the operation of, among other vehicles, firefighting equipment, provided that the equipment is operated by a person who holds a firefighter endorsement, as specified.

This bill would include the operation of specified emergency equipment under a class C driver's license, provided the equipment is owned by a law enforcement agency and is operated by a person who has completed, or is currently participating in, the emergency equipment training ~~and certification program~~ described below.

Existing law establishes the Commission on Peace Officer Standards and Training to set minimum standards for the recruitment and training of peace officers and to develop training courses and curriculum.

This bill would require ~~the commission to develop an emergency equipment training and certification program for~~ specified peace officers and volunteers registered with specified law enforcement ~~agencies.~~ *agencies be permitted to operate emergency equipment, as specified.* The bill would require the training to include both classroom and driver training components, as specified, and a written examination. The bill would impose certification, experience, and licensure requirements on instructors for the training program, including, among other things, a requirement that an instructor be certified as a qualified training instructor by the State of California, the federal government, or a county training officers' association. ~~The bill would require a training program participant to possess a valid class C driver's license. The bill would require the commission to issue an emergency equipment operation certification to a training participant who completes the training components and passes the written examination described above.~~

The bill would define "emergency equipment" as a motor vehicle operated under a class A or class B license that is used to travel to and from the scene of an emergency ~~situation~~ *situation, to and from a place where the emergency equipment is repaired or positioned,* or to transport equipment used in the control of an emergency situation and that is owned, leased, rented by, or under the exclusive control of specified law enforcement agencies.

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

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

Page 2 1 ~~SECTION 1. Section 13510.15 is added to the Penal Code, to~~ **Amendment 3**
2 ~~read:~~
3 ~~13510.15.~~ **Amendment 4**
\+ *SECTION 1. Section 12528 is added to the Vehicle Code, to*
\+ *read:*
\+ *12528.* (a) ~~The commission shall develop an emergency~~
4 ~~equipment training and certification program for peace officers,~~
Page 3 1 ~~as defined in Section 830.1 or Section 830.2, and persons registered~~
2 ~~as volunteers with law enforcement agencies described in Section~~
3 ~~830.1 or 830.2. The purpose of this program is to provide~~

Page 3
4 ~~knowledge and driver training for the safe operation of emergency~~
5 ~~equipment used by peace officers and volunteers in the course of~~
6 ~~their duties.~~ *An employee of, or a volunteer registered with, a law*
\+ *enforcement agency, as defined in Section 830.1 or 830.2 of the*
\+ *Penal Code, shall be permitted to operate emergency equipment*
\+ *pursuant to this section.*
7 (b) ~~The~~ *In order to operate emergency equipment as defined in*
\+ *this section, an employee or volunteer described in subdivision*
\+ *(a) shall complete* training ~~shall include~~ *that includes* all of the
\+ following:
8 (1) A classroom portion of at least 16 hours taught by an
9 instructor ~~registered with the commission and~~ who meets or
10 exceeds the standards ~~set~~ *adopted* by the ~~commission~~ *law*
\+ *enforcement agency described in subdivision (a)* for the operation
11 of emergency equipment.
12 (2) A driver training portion of at least 14 hours that includes
13 directly-supervised behind-the-wheel training by an instructor
14 ~~registered with the commission~~ *approved by the law enforcement*
\+ *agency described in subdivision (a)* and who possesses a minimum
15 of five years of experience as an emergency vehicle operator.
16 (3) A written emergency equipment operation examination.
17 (c) Instructors for the training program shall meet both of the
18 following requirements:
19 (1) Possess a valid California class A or class B license, ~~or a~~
20 ~~class A or class B license restricted to the operation of emergency~~
21 ~~equipment.~~ *or, alternatively, a class C license, having completed*
\+ *the emergency equipment operation training described in this*
\+ *section, and possessing at least five years of experience operating*
\+ *emergency equipment as defined in this section.*
22 (2) Be certified as a qualified training instructor or training
23 officer by the State of California, the federal government, or a
24 county training officers' association.
25 (d) A training program participant shall possess a valid
26 California class C license.
27 ~~(e) A training program participant who completes the training~~
28 ~~components and passes the written examination described in~~
29 ~~subdivision (b) shall be issued an emergency equipment operation~~
30 ~~certification by the commission.~~
31 ~~(f)~~

Amendments 5 & 6

Amendment 7
Amendments 8 & 9

Amendment 10

Amendment 11

Amendment 12

\+ *(e)* For purposes of this section, “emergency equipment” means
Page 3 32 a motor vehicle operated under a class A or class B driver’s license
33 pursuant to subdivision (b) of Section 12804.9 of the Vehicle Code
34 that is used to travel to and from the scene of an emergency
35 ~~situation~~ *situation, to and from a place where the emergency*
\+ *equipment is repaired or repositioned,* or to transport equipment
36 used in the control of an emergency situation and that is owned,
37 leased, rented by, or under the exclusive control of a law
38 enforcement agency described in Section 830.1 or ~~830.2.~~ *830.2 of*
\+ *the Penal Code.*

Amendment 13

Amendment 14

Page 4 1 SEC. 2. Section 12804.9 of the Vehicle Code, as amended by
2 Section 3 of Chapter 16 of the Statutes of 2025, is amended to
3 read:
4 12804.9. (a) (1) The examination shall include all of the
5 following:
6 (A) A test of the applicant’s knowledge and understanding of
7 the provisions of this code governing the operation of vehicles
8 upon the highways.
9 (B) A test of the applicant’s ability to read and understand
10 simple English used in highway traffic and directional signs.
11 (C) A test of the applicant’s understanding of traffic signs and
12 signals, including the bikeway signs, markers, and traffic control
13 devices established by the Department of Transportation.
14 (D) An actual demonstration of the applicant’s ability to exercise
15 ordinary and reasonable control in operating a motor vehicle by
16 driving it under the supervision of an examining officer. The
17 applicant shall submit to an examination appropriate to the type
18 of motor vehicle or combination of vehicles the applicant desires
19 a license to drive, except that the department may waive the driving
20 test part of the examination for any applicant who submits a license
21 issued by another state, territory, or possession of the United States,
22 the District of Columbia, or the Commonwealth of Puerto Rico if
23 the department verifies through any acknowledged national driver
24 record data source that there are no stops, holds, or other
25 impediments to its issuance. The examining officer may request
26 to see evidence of financial responsibility for the vehicle before
27 supervising the demonstration of the applicant’s ability to operate
28 the vehicle. The examining officer may refuse to examine an
29 applicant who is unable to provide proof of financial responsibility

Page 4 30 for the vehicle, unless proof of financial responsibility is not
31 required by this code.
32 (E) A test of the hearing and eyesight of the applicant, and of
33 other matters that may be necessary to determine the mental and
34 physical fitness of the applicant to operate a motor vehicle upon
35 the highways, and whether any grounds exist for refusal of a license
36 under this code.
37 (2) (A) Before a class A or class B driver's license, or class C
38 driver's license with a commercial endorsement, may be issued
39 or renewed, the applicant shall have in the applicant's driver record
40 a valid report of a medical examination of the applicant given not
Page 5 1 more than two years before the date of the application by a health
2 care professional. As used in this paragraph, "health care
3 professional" means a person who is licensed, certified, or
4 registered in accordance with applicable state laws and regulations
5 to practice medicine and perform physical examinations in the
6 United States. Health care professionals are doctors of medicine,
7 doctors of osteopathy, physician assistants, and registered advanced
8 practice nurses, or doctors of chiropractic who are clinically
9 competent to perform the medical examination presently required
10 of motor carrier drivers by the United States Department of
11 Transportation. The report shall be on a form approved by the
12 department. In establishing the requirements, consideration may
13 be given to the standards presently required of motor carrier drivers
14 by the Federal Motor Carrier Safety Administration.
15 (B) The department may accept a federal waiver of one or more
16 physical qualification standards if the waiver is accompanied by
17 a report of a nonqualifying medical examination for a class A or
18 class B driver's license, or class C driver's license with a
19 commercial endorsement, pursuant to Section 391.41(a)(3)(ii) of
20 Subpart E of Part 391 of Title 49 of the Code of Federal
21 Regulations.
22 (3) A physical defect of the applicant that, in the opinion of the
23 department, is compensated for to ensure safe driving ability, shall
24 not prevent the issuance of a license to the applicant.
25 (b) In accordance with the following classifications, an applicant
26 for a driver's license shall be required to submit to an examination
27 appropriate to the type of motor vehicle or combination of vehicles
28 the applicant desires a license to drive:
29 (1) Class A includes the following:

Page 5 30 (A) Except as provided in subparagraph (H) of paragraph (3),
31 a combination of vehicles, if a vehicle being towed has a gross
32 vehicle weight rating or gross vehicle weight of more than 10,000
33 pounds.
34 (B) A vehicle towing more than one vehicle.
35 (C) A trailer bus.
36 (D) The operation of all vehicles under class B and class C.
37 (2) Class B includes the following:
38 (A) Except as provided in subparagraph (H) of paragraph (3),
39 a single vehicle with a gross vehicle weight rating or gross vehicle
40 weight of more than 26,000 pounds.
Page 6 1 (B) A single vehicle with three or more axles, except any
2 three-axle vehicle weighing less than 6,000 pounds.
3 (C) A bus with a gross vehicle weight rating or gross vehicle
4 weight of more than 26,000 pounds, except a trailer bus.
5 (D) A farm labor vehicle.
6 (E) A single vehicle with three or more axles or a gross vehicle
7 weight rating or gross vehicle weight of more than 26,000 pounds
8 towing another vehicle with a gross vehicle weight rating or gross
9 vehicle weight of 10,000 pounds or less.
10 (F) A house car over 40 feet in length, excluding safety devices
11 and safety bumpers.
12 (G) The operation of all vehicles covered under class C.
13 (3) Class C includes the following:
14 (A) A two-axle vehicle with a gross vehicle weight rating or
15 gross vehicle weight of 26,000 pounds or less, including when the
16 vehicle is towing a trailer or semitrailer with a gross vehicle weight
17 rating or gross vehicle weight of 10,000 pounds or less.
18 (B) Notwithstanding subparagraph (A), a two-axle vehicle
19 weighing 4,000 pounds or more unladen when towing a trailer
20 coach not exceeding 9,000 pounds gross.
21 (C) A house car of 40 feet in length or less.
22 (D) A three-axle vehicle weighing 6,000 pounds gross or less.
23 (E) A house car of 40 feet in length or less or a vehicle towing
24 another vehicle with a gross vehicle weight rating of 10,000 pounds
25 or less, including when a tow dolly is used. A person driving a
26 vehicle may not tow another vehicle in violation of Section 21715.
27 (F) (i) A two-axle vehicle weighing 4,000 pounds or more
28 unladen when towing either a trailer coach or a fifth-wheel travel

Page 6
29 trailer not exceeding 10,000 pounds gross vehicle weight rating,
30 when the towing of the trailer is not for compensation.
31 (ii) A two-axle vehicle weighing 4,000 pounds or more unladen
32 when towing a fifth-wheel travel trailer exceeding 10,000 pounds,
33 but not exceeding 15,000 pounds, gross vehicle weight rating,
34 when the towing of the trailer is not for compensation, and if the
35 person has passed a specialized written examination provided by
36 the department relating to the knowledge of this code and other
37 safety aspects governing the towing of recreational vehicles upon
38 the highway.

Page 7
1 (iii) The authority to operate combinations of vehicles under
2 this subparagraph may be granted by endorsement on a class C
3 license upon completion of that written examination.
4 (G) A vehicle or combination of vehicles with a gross
5 combination weight rating or a gross vehicle weight rating, as
6 those terms are defined in subdivisions (j) and (k), respectively,
7 of Section 15210, of 26,000 pounds or less, if all of the following
8 conditions are met:
9 (i) Is operated by a farmer, an employee of a farmer, or an
10 instructor credentialed in agriculture as part of an instructional
11 program in agriculture at the high school, community college, or
12 university level.
13 (ii) Is used exclusively in the conduct of agricultural operations.
14 (iii) Is not used in the capacity of a for-hire carrier or for
15 compensation.
16 (H) Firefighting equipment, provided that the equipment is
17 operated by a person who holds a firefighter endorsement pursuant
18 to Section 12804.11.
19 (I) A motorized scooter.
20 (J) A bus with a gross vehicle weight rating or gross vehicle
21 weight of 26,000 pounds or less, except a trailer bus.
22 (K) Class C does not include a two-wheel motorcycle or a
23 two-wheel motor-driven cycle.
24 (L) Emergency equipment, provided the equipment is operated
25 by a person who has completed, or is currently participating in,
26 the emergency equipment training ~~and certification program~~ — Amendment 15
27 described in Section ~~13510.15 of the Penal Code.~~ *12528.* — Amendment 16
28 “Emergency equipment” has the same meaning as that term is
29 defined by Section ~~13510.15 of the Penal Code.~~ *12528.* — Amendment 17

Page 7 30 (4) Class M1. A two-wheel motorcycle or a motor-driven cycle.
31 Authority to operate a vehicle included in a class M1 license may
32 be granted by endorsement on a class A, B, or C license upon
33 completion of an appropriate examination.
34 (5) (A) Class M2 includes a motorized bicycle or moped, or a
35 bicycle with an attached motor, except an electric bicycle as
36 described in subdivision (a) of Section 312.5.
37 (B) Authority to operate vehicles included in class M2 may be
38 granted by endorsement on a class A, B, or C license upon
39 completion of an appropriate examination. Persons holding a class
Page 8 1 M1 license or endorsement may operate vehicles included in class
2 M2 without further examination.
3 (c) A driver's license or driver certificate is not valid for
4 operating a commercial motor vehicle, as defined in subdivision
5 (b) of Section 15210, any other motor vehicle listed in paragraph
6 (1) or (2) of subdivision (b), or any other vehicle requiring a driver
7 to hold any driver certificate or any driver's license endorsement
8 under Section 15275, unless a medical certificate approved by the
9 department that has been issued within two years of the date of
10 the operation of that vehicle and a copy of the medical examination
11 report from which the certificate was issued is on file with the
12 department. Otherwise, the license is valid only for operating class
13 C vehicles that are not commercial vehicles, as defined in
14 subdivision (b) of Section 15210, and for operating class M1 or
15 M2 vehicles, if so endorsed, that are not commercial vehicles, as
16 defined in subdivision (b) of Section 15210.
17 (d) A license or driver certificate issued before the enactment
18 of Chapter 7 (commencing with Section 15200) is valid to operate
19 the class or type of vehicles specified under the law in existence
20 before that enactment until the license or certificate expires or is
21 otherwise suspended, revoked, or canceled. Upon application for
22 renewal or replacement of a driver's license, endorsement, or
23 certificate required to operate a commercial motor vehicle, a valid
24 medical certificate on a form approved by the department shall be
25 submitted to the department.
26 (e) The department may accept a certificate of driving skill that
27 is issued by an employer, authorized by the department to issue a
28 certificate under Section 15250, of the applicant, in lieu of a driving
29 test, on class A or B applications, if the applicant has first qualified
30 for a class C license and has met the other examination

Page 8 31 requirements for the license for which the applicant is applying.
32 The certificate may be submitted as evidence of the applicant's
33 skill in the operation of the types of equipment covered by the
34 license for which the applicant is applying.
35 (f) The department may accept a certificate of competence in
36 lieu of a driving test on class M1 or M2 applications, when the
37 certificate is issued by a law enforcement agency for its officers
38 who operate class M1 or M2 vehicles in their duties, if the applicant
39 has met the other examination requirements for the license for
40 which the applicant is applying.
Page 9 1 (g) The department may accept a certificate of satisfactory
2 completion of a motorcyclist training program approved by the
3 commissioner pursuant to Section 2932 in lieu of a driving test on
4 class M1 or M2 applications, if the applicant has met the other
5 examination requirements for the license for which the applicant
6 is applying. The department shall review and approve the written
7 and driving test used by a program to determine whether the
8 program may issue a certificate of completion.
9 (h) Notwithstanding subdivision (b), a person holding a valid
10 California driver's license of any class may operate a short-term
11 rental motorized bicycle without taking any special examination
12 for the operation of a motorized bicycle, and without having a
13 class M2 endorsement on that license. As used in this subdivision,
14 "short-term" means 48 hours or less.
15 (i) A person under 21 years of age shall not be issued a class
16 M1 or M2 license or endorsement unless the person provides
17 evidence satisfactory to the department of completion of a novice
18 motorcycle safety training program that is operated pursuant to
19 Article 2 (commencing with Section 2930) of Chapter 5 of Division
20 2.
21 (j) A driver of a vanpool vehicle may operate with a class C
22 license but shall possess evidence of a medical examination
23 required for a class B license when operating vanpool vehicles. In
24 order to be eligible to drive the vanpool vehicle, the driver shall
25 keep in the vanpool vehicle a statement, signed under penalty of
26 perjury, that the driver has not been convicted of reckless driving,
27 drunk driving, or a hit-and-run offense in the last five years.
28 (k) This section shall remain in effect only until January 1, 2029,
29 and as of that date is repealed.

Page 9 30 SEC. 3. Section 12804.9 of the Vehicle Code, as amended by
31 Section 4 of Chapter 16 of the Statutes of 2025, is amended to
32 read:
33 12804.9. (a) (1) The examination shall include all of the
34 following:
35 (A) A test of the applicant's knowledge and understanding of
36 the provisions of this code governing the operation of vehicles
37 upon the highways.
38 (B) A test of the applicant's ability to read and understand
39 simple English used in highway traffic and directional signs.
Page 10 1 (C) A test of the applicant's understanding of traffic signs and
2 signals, including the bikeway signs, markers, and traffic control
3 devices established by the Department of Transportation.
4 (D) An actual demonstration of the applicant's ability to exercise
5 ordinary and reasonable control in operating a motor vehicle by
6 driving it under the supervision of an examining officer. The
7 applicant shall submit to an examination appropriate to the type
8 of motor vehicle or combination of vehicles the applicant desires
9 a license to drive, except that the department may waive the driving
10 test part of the examination for any applicant who submits a license
11 issued by another state, territory, or possession of the United States,
12 the District of Columbia, or the Commonwealth of Puerto Rico if
13 the department verifies through any acknowledged national driver
14 record data source that there are no stops, holds, or other
15 impediments to its issuance. The examining officer may request
16 to see evidence of financial responsibility for the vehicle before
17 supervising the demonstration of the applicant's ability to operate
18 the vehicle. The examining officer may refuse to examine an
19 applicant who is unable to provide proof of financial responsibility
20 for the vehicle, unless proof of financial responsibility is not
21 required by this code.
22 (E) A test of the hearing and eyesight of the applicant, and of
23 other matters that may be necessary to determine the mental and
24 physical fitness of the applicant to operate a motor vehicle upon
25 the highways, and whether any grounds exist for refusal of a license
26 under this code.
27 (2) (A) Before a class A or class B driver's license, or class C
28 driver's license with a commercial endorsement, may be issued
29 or renewed, the applicant shall have in the applicant's driver record
30 a valid report of a medical examination of the applicant given not

Page 10 31 more than two years before the date of the application by a health
32 care professional. As used in this paragraph, "health care
33 professional" means a person who is licensed, certified, or
34 registered in accordance with applicable state laws and regulations
35 to practice medicine and perform physical examinations in the
36 United States. Health care professionals are doctors of medicine,
37 doctors of osteopathy, physician assistants, and registered advanced
38 practice nurses, or doctors of chiropractic who are clinically
39 competent to perform the medical examination presently required
40 of motor carrier drivers by the United States Department of
Page 11 1 Transportation. The report shall be on a form approved by the
2 department. In establishing the requirements, consideration may
3 be given to the standards presently required of motor carrier drivers
4 by the Federal Motor Carrier Safety Administration.
5 (B) The department may accept a federal waiver of one or more
6 physical qualification standards if the waiver is accompanied by
7 a report of a nonqualifying medical examination for a class A or
8 class B driver's license, or class C driver's license with a
9 commercial endorsement, pursuant to Section 391.41(a)(3)(ii) of
10 Subpart E of Part 391 of Title 49 of the Code of Federal
11 Regulations.
12 (3) A physical defect of the applicant that, in the opinion of the
13 department, is compensated for to ensure safe driving ability, shall
14 not prevent the issuance of a license to the applicant.
15 (b) In accordance with the following classifications, an applicant
16 for a driver's license shall be required to submit to an examination
17 appropriate to the type of motor vehicle or combination of vehicles
18 the applicant desires a license to drive:
19 (1) Class A includes the following:
20 (A) Except as provided in subparagraph (H) of paragraph (3),
21 a combination of vehicles, if a vehicle being towed has a gross
22 vehicle weight rating or gross vehicle weight of more than 10,000
23 pounds.
24 (B) A vehicle towing more than one vehicle.
25 (C) A trailer bus.
26 (D) The operation of all vehicles under class B and class C.
27 (2) Class B includes the following:
28 (A) Except as provided in subparagraph (H) of paragraph (3),
29 a single vehicle with a gross vehicle weight rating or gross vehicle
30 weight of more than 26,000 pounds.

Page 11 31 (B) A single vehicle with three or more axles, except any
32 three-axle vehicle weighing less than 6,000 pounds.
33 (C) A bus with a gross vehicle weight rating or gross vehicle
34 weight of more than 26,000 pounds, except a trailer bus.
35 (D) A farm labor vehicle.
36 (E) A single vehicle with three or more axles or a gross vehicle
37 weight rating or gross vehicle weight of more than 26,000 pounds
38 towing another vehicle with a gross vehicle weight rating or gross
39 vehicle weight of 10,000 pounds or less.
Page 12 1 (F) A house car over 40 feet in length, excluding safety devices
2 and safety bumpers.
3 (G) The operation of all vehicles covered under class C.
4 (3) Class C includes the following:
5 (A) A two-axle vehicle with a gross vehicle weight rating or
6 gross vehicle weight of 26,000 pounds or less, including when the
7 vehicle is towing a trailer or semitrailer with a gross vehicle weight
8 rating or gross vehicle weight of 10,000 pounds or less.
9 (B) Notwithstanding subparagraph (A), a two-axle vehicle
10 weighing 4,000 pounds or more unladen when towing a trailer
11 coach not exceeding 9,000 pounds gross.
12 (C) A house car of 40 feet in length or less.
13 (D) A three-axle vehicle weighing 6,000 pounds gross or less.
14 (E) A house car of 40 feet in length or less or a vehicle towing
15 another vehicle with a gross vehicle weight rating of 10,000 pounds
16 or less, including when a tow dolly is used. A person driving a
17 vehicle may not tow another vehicle in violation of Section 21715.
18 (F) (i) A two-axle vehicle when towing a trailer exceeding
19 10,000 pounds, but not exceeding 15,000 pounds gross vehicle
20 weight rating or gross vehicle weight, if all of the following
21 conditions are met:
22 (I) The towing of the trailer is not for compensation or
23 commercial purposes.
24 (II) The trailer is coupled to the towing vehicle by a
25 bed-mounted gooseneck hitch or a fifth-wheel and kingpin
26 connection.
27 (III) The trailer is used exclusively for recreational purposes.
28 (IV) The trailer is used for the transportation of property or
29 human habitation, or both.
30 (V) The person has passed a specialized written examination
31 provided by the department relating to the knowledge of this code

Page 12 32 and other safety aspects governing the towing of recreational
33 vehicles upon the highway.
34 (ii) A vehicle towing a fifth-wheel travel trailer exceeding
35 10,000 pounds, but not exceeding 15,000 pounds, gross vehicle
36 weight rating or gross vehicle weight, when the towing of the
37 trailer is not for compensation, and if the person has passed a
38 specialized written examination provided by the department
39 relating to the knowledge of this code and other safety aspects
40 governing the towing of recreational vehicles upon the highway.
Page 13 1 (iii) The authority to operate combinations of vehicles under
2 this subparagraph may be granted by endorsement on a class C
3 license upon completion of that written examination.
4 (G) A vehicle or combination of vehicles with a gross
5 combination weight rating or a gross vehicle weight rating, as
6 those terms are defined in subdivisions (j) and (k), respectively,
7 of Section 15210, of 26,000 pounds or less, if all of the following
8 conditions are met:
9 (i) Is operated by a farmer, an employee of a farmer, or an
10 instructor credentialed in agriculture as part of an instructional
11 program in agriculture at the high school, community college, or
12 university level.
13 (ii) Is used exclusively in the conduct of agricultural operations.
14 (iii) Is not used in the capacity of a for-hire carrier or for
15 compensation.
16 (H) Firefighting equipment, provided that the equipment is
17 operated by a person who holds a firefighter endorsement pursuant
18 to Section 12804.11.
19 (I) A motorized scooter.
20 (J) A bus with a gross vehicle weight rating or gross vehicle
21 weight of 26,000 pounds or less, except a trailer bus.
22 (K) Class C does not include a two-wheel motorcycle or a
23 two-wheel motor-driven cycle.
24 (L) Emergency equipment, provided the equipment is operated
25 by a person who has completed, or is currently participating in,
26 the emergency equipment training ~~and certification program~~ **Amendment 18**
27 described in Section ~~13510.15 of the Penal Code.~~ *12528.* **Amendment 19**
28 "Emergency equipment" has the same meaning as that term is
29 defined by Section ~~13510.15 of the Penal Code.~~ *12528.* **Amendment 20**
30 (4) Class M1. A two-wheel motorcycle or a motor-driven cycle.
31 Authority to operate a vehicle included in a class M1 license may

Page 13 32 be granted by endorsement on a class A, B, or C license upon
33 completion of an appropriate examination.
34 (5) (A) Class M2 includes a motorized bicycle or moped, or a
35 bicycle with an attached motor, except an electric bicycle as
36 described in subdivision (a) of Section 312.5.
37 (B) Authority to operate vehicles included in class M2 may be
38 granted by endorsement on a class A, B, or C license upon
39 completion of an appropriate examination. Persons holding a class
Page 14 1 M1 license or endorsement may operate vehicles included in class
2 M2 without further examination.
3 (c) A driver's license or driver certificate is not valid for
4 operating a commercial motor vehicle, as defined in subdivision
5 (b) of Section 15210, any other motor vehicle listed in paragraph
6 (1) or (2) of subdivision (b), or any other vehicle requiring a driver
7 to hold any driver certificate or any driver's license endorsement
8 under Section 15275, unless a medical certificate approved by the
9 department that has been issued within two years of the date of
10 the operation of that vehicle and a copy of the medical examination
11 report from which the certificate was issued is on file with the
12 department. Otherwise, the license is valid only for operating class
13 C vehicles that are not commercial vehicles, as defined in
14 subdivision (b) of Section 15210, and for operating class M1 or
15 M2 vehicles, if so endorsed, that are not commercial vehicles, as
16 defined in subdivision (b) of Section 15210.
17 (d) A license or driver certificate issued before the enactment
18 of Chapter 7 (commencing with Section 15200) is valid to operate
19 the class or type of vehicles specified under the law in existence
20 before that enactment until the license or certificate expires or is
21 otherwise suspended, revoked, or canceled. Upon application for
22 renewal or replacement of a driver's license, endorsement, or
23 certificate required to operate a commercial motor vehicle, a valid
24 medical certificate on a form approved by the department shall be
25 submitted to the department.
26 (e) The department may accept a certificate of driving skill that
27 is issued by an employer, authorized by the department to issue a
28 certificate under Section 15250, of the applicant, in lieu of a driving
29 test, on class A or B applications, if the applicant has first qualified
30 for a class C license and has met the other examination
31 requirements for the license for which the applicant is applying.
32 The certificate may be submitted as evidence of the applicant's

Page 14 33 skill in the operation of the types of equipment covered by the
34 license for which the applicant is applying.
35 (f) The department may accept a certificate of competence in
36 lieu of a driving test on class M1 or M2 applications, when the
37 certificate is issued by a law enforcement agency for its officers
38 who operate class M1 or M2 vehicles in their duties, if the applicant
39 has met the other examination requirements for the license for
40 which the applicant is applying.
Page 15 1 (g) The department may accept a certificate of satisfactory
2 completion of a motorcyclist training program approved by the
3 commissioner pursuant to Section 2932 in lieu of a driving test on
4 class M1 or M2 applications, if the applicant has met the other
5 examination requirements for the license for which the applicant
6 is applying. The department shall review and approve the written
7 and driving test used by a program to determine whether the
8 program may issue a certificate of completion.
9 (h) Notwithstanding subdivision (b), a person holding a valid
10 California driver's license of any class may operate a short-term
11 rental motorized bicycle without taking any special examination
12 for the operation of a motorized bicycle, and without having a
13 class M2 endorsement on that license. As used in this subdivision,
14 "short-term" means 48 hours or less.
15 (i) A person under 21 years of age shall not be issued a class
16 M1 or M2 license or endorsement unless the person provides
17 evidence satisfactory to the department of completion of a novice
18 motorcycle safety training program that is operated pursuant to
19 Article 2 (commencing with Section 2930) of Chapter 5 of Division
20 2.
21 (j) A driver of a vanpool vehicle may operate with a class C
22 license but shall possess evidence of a medical examination
23 required for a class B license when operating vanpool vehicles. In
24 order to be eligible to drive the vanpool vehicle, the driver shall
25 keep in the vanpool vehicle a statement, signed under penalty of
26 perjury, that the driver has not been convicted of reckless driving,
27 drunk driving, or a hit-and-run offense in the last five years.
28 (k) This section shall become operative on January 1, 2029.

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Date of Hearing: April 7, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1922 (Lowenthal) – As Amended March 26, 2026

As Proposed to be Amended in Committee

SUMMARY: Prohibits the use of mechanical restraints on incarcerated individuals and juveniles in custody who are admitted to a hospital unless necessary to prevent an attempt to escape from the hospital of to subdue an imminent physical threat. Specifically, **this bill**:

1) Prohibits the use of mechanical restraints on an incarcerated person or juvenile patient, as defined, who is admitted to a hospital and receiving an advanced level of medical services.

2) Authorizes a hospital, if there is an imminent physical threat while the incarcerated patient is in the hospital, to initiate its medical restraint process, as regulated by the federal Centers for Medicare and Medicaid Services (CMS), and prohibits state correctional facility staff from using mechanical restraints except as specified.

3) Requires the use of medical restraints to be ordered by appropriate clinical staff, documented in the incarcerated patient's medical chart, and include the time and date of initiation and the name and title of the person authorizing the restraint.

4) Authorizes correctional facility staff, if an incarcerated patient has attempted to escape from the hospital or presents an imminent physical threat that correction facility staff reasonably believe requires the immediate application of mechanical restraints, to administer the least restrictive mechanical restraints necessary, consistent with legitimate safety and security considerations and subject to the following requirements:

   a) Mechanical restraints are permitted only for the duration necessary to prevent another escape attempt or until hospital staff can safely apply medical restraints and must be removed as soon as the escape attempt or imminent physical threat has been contained and the correctional facility staff have determined the incarcerated patient no longer presents an imminent risk of escape or an imminent physical threat, or as soon as medical restraints have been applied.

   b) If mechanical restraints are applied, correctional facility staff must document the specific conduct constituting the escape attempt or imminent physical threat, the time mechanical restraints were applied, the justification for their continued use, and the name of the staff administering mechanical restraints.

   c) The continued use of mechanical restraints must be reassessed every four hours to determine whether their continued use is necessary.

d) The routine or precautionary use of mechanical restraints based solely on custody classification, criminal history, or generalized assumptions regarding escape risk is not authorized.

5) Provides that the above shall not be interpreted to require restraints when restraints are not otherwise required, as specified.

6) Provides that the above shall not apply during the transportation of an incarcerated person to or from a hospital, and that any mechanical restraint of an incarcerated person during transport between clinical settings shall be the least restrictive means necessary, consistent with safety considerations.

7) Provides that the Board of State and Community Corrections (BSCC) standards for local correctional facilities shall comply with the above provisions.

8) Requires BSCC, in establishing minimum standards for incarcerated patients receiving care in hospitals, to seek the advice of the California Department of Corrections and Rehabilitation (CDCR), state and local juvenile justice commissions, state and local correctional officials, experts in criminology and penology, and other interested persons.

9) Prohibits a juvenile who is admitted to a hospital from being restrained by mechanical restraints while receiving care.

10) Provides that any mechanical restraint of a juvenile patient during transport between clinical settings shall be the least restrictive means necessary and consistent with legitimate safety and security considerations in the discretion of transportation staff.

11) Provides that the following definitions apply to the above provisions:

a) "Admitted" means the patient's physician or other qualified practitioner has ordered admission based on the expectation that the patient will require medically necessary hospital care spanning at least two midnights, consistent with applicable federal CMS admission guidelines.

b) "Correctional facility staff" means a CDCR staff member from the state correctional facility charged with overseeing an incarcerated patient admitted to outside hospitals for medical care.

c) "Imminent physical threat" means violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others.

d) "Incarcerated patient" means an individual who is incarcerated in a state correctional facility and needs to be admitted to a hospital for medical care.

e) "Hospital" means a general acute care hospital, as defined.

f) "Juvenile patient" means a person who is under the maximum age of juvenile court jurisdiction and who is confined in a Division of Juvenile Justice facility, a county- or city-operated juvenile facility, or any other local or state facility used for the confinement

of minors or wards, including, but not limited to, juvenile halls, camps, ranches, or secure youth treatment facilities.

g) "Mechanical restraints" means the use of all devices not ordered by medical providers that are intended to restrict the movement of the incarcerated person, including, but not limited to, metal cuffs around the wrists or ankles, waist chains, and leg irons.

h) "While receiving an advanced level of medical services" means receiving at least one of the following interventions during admission:

   i) Mechanical ventilation.

   ii) Medical sedation.

   iii) Surgery.

   iv) Vasopressors.

   v) Medical paralysis.

   vi) Chemotherapy.

   vii) Dialysis.

   viii) Comfort measures.

   ix) Peripartum management or postpartum management.

i) "While receiving an advanced level of medical services" does not include medical services received in an emergency department of a hospital.

EXISTING LAW:

1) Prohibits the infliction of cruel and unusual punishments on those convicted of crimes. (U.S. Const., 8th Amend.; Cal. Const., art. I, § 17.)

2) Provides that mechanical means of physical restraint may be used only under the following circumstances:

   a) When transporting a person between locations.

   b) When a person's history, present behavior, apparent emotional state, or other conditions present a reasonable likelihood that he or she may become violent or attempt to escape.

   c) When directed by licensed health care clinicians, to prevent a person from attempting suicide or inflicting injury to himself or herself. (Cal. Code. Regs., tit. 15, § 3268.2, subd. (b)(1)-(3).)

3) States that mechanical restraints shall not be:

a) Used as punishment.

b) Placed around a person's neck.

c) Applied in a way likely to cause undue physical discomfort or restrict blood flow or breathing. e.g., hog-tying.

d) Used to secure a person to a fixed object, except as a temporary emergency measure or if using a Security Module as defined in section 3000. However, a person who is being transported shall not be locked in any manner to any part of the transporting vehicle. (Cal. Code. Regs., tit. 15, § 3268.2, subd. (c)(1)-(4).)

4) States that when mechanical restraint is required, handcuffs, alone or attached to a waist chain, will be the means of restraint normally used. However, additional mechanical restraint, including leg restraints, additional chains, straight jackets, leather cuffs, or other specialized restraint equipment may be used when the circumstances indicate the need for the level of control that such devices will provide. The unresisted application of authorized restraint equipment is not a use of force. (Cal. Code. Regs., tit. 15, § 3268.2, subd. (d).)

5) Prohibits an incarcerated person known to be pregnant or in recovery after delivery from being restrained by the use of leg irons, waist chains, or handcuffs behind the body. (Pen. Code, § 3407, subd. (a).)

6) Prohibits the shackling of a pregnant incarcerated person in labor, during delivery, or in recovery after delivery, by the wrist, ankles, or both, unless deemed necessary for safety purposes, during labor, delivery, and recovery. (Pen. Code, § 3407, subd. (b).)

7) Provides that restraints shall be removed when a professional who is currently responsible for the medical care of a pregnant incarcerated person during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of restraints is medically necessary. (Pen. Code, § 3407, subd. (c).)

8) Provide that mechanical restraints shall not be placed on an incarcerated person during labor, including during transport to a hospital, during delivery, and while in recovery after giving birth, unless circumstances exist that require the immediate application of mechanical restraints to avoid the imminent threat of death, escape, or great bodily injury, and only for the period during which such threat exists. (Cal. Code. Regs., tit. 15, § 3268.2, subd. (c)(5).)

9) Provides that, if handcuffs are applied to a person confirmed or suspected by health care staff to be pregnant, the person's arms shall be brought to the front of her body for application. (Cal. Code. Regs., tit. 15, § 3268.2, subd. (e)(2).)

10) Provides that, when transporting a pregnant incarcerated person off institutional grounds, the application of restraint gear shall be restricted to handcuffs to the front of the incarcerated person only. (Cal. Code. Regs., tit. 15, § 3268.2, subd. (e)(3).)

11) Provides that, use of restraint equipment by direction of licensed health care clinicians shall be fully documented in the medical file of the restrained parolee incarcerated or supervised

person. (Cal. Code. Regs., tit. 15, § 3268.2, subd. (f).)

12) Provides that mechanical restraints, including, but not limited to, handcuffs, chains, irons, straitjackets or cloth or leather restraints, or other similar items, may be used on a juvenile detained in or committed to a local secure juvenile facility, camp, ranch, or forestry camp, as specified, during transportation outside of the facility only upon a determination made by the probation department, in consultation with the transporting agency, that the mechanical restraints are necessary to prevent physical harm to the juvenile or another person or due to a substantial risk of flight. (Welf. & Inst., § 210.6, subd. (a)(1).)

13) Provides that, if a determination is made that mechanical restraints are necessary, the least restrictive form of restraint shall be used consistent with the legitimate security needs of each juvenile. (Welf. & Inst., § 210.6, subd. (a)(2).)

14) Requires a county probation department that chooses to use mechanical restraints other than handcuffs on juveniles to establish procedures for the documentation of their use, including the reasons for the use of those mechanical restraints. (Welf. & Inst., § 210.6, subd. (a)(3).)

15) Provides that restrictions on the use of mechanical restraints does not apply to medical care providers in the course of medical care or transportation. (Welf. & Inst., § 210.6, subd. (a)(4).)

16) Provides that mechanical restraints may only be used during a juvenile court proceeding if the court determines that the individual juvenile's behavior in custody or in court establishes a manifest need to use mechanical restraints to prevent physical harm to the juvenile or another person or due to a substantial risk of flight. (Welf. & Inst., § 210.6, subd. (b)(1).)

17) Provides that the burden to establish the need for mechanical restraints in a juvenile court proceeding is on the prosecution. (Welf. & Inst., § 210.6, subd. (b)(2).)

18) Provides that, if the court determines that mechanical restraints are necessary, the least restrictive form of restraint shall be used and the reasons for the use of mechanical restraints shall be documented in the record. (Welf. & Inst., § 210.6, subd. (b)(3).)

19) Requires BSCC to establish minimum standards for local correctional facilities, and to review the standards biennially and make appropriate revisions. (Pen. Code, § 6030, subd. (a).)

20) Provides that the standards shall include, but not be limited to, the areas of security, the treatment of persons confined in local correctional facilities, and personnel training. (Pen. Code, § 6030, subd. (b).)

21) Provides that the standards shall provide that a woman known to be pregnant or in recovery after delivery shall not be restrained, except as specified. (Pen. Code, § 6030, subd. (f).)

22) Requires BSCC to develop standards regarding the restraint of pregnant women at the next biennial review of the standards after the enactment of the act amending this subdivision and shall review the individual facility's compliance with the standards. (Pen. Code, § 6030, subd. (f).)

23) Requires BSCC, in establishing minimum standards for security and the treatment of persons confined in correctional facilities, to seek the advice of CDCR, state and local juvenile justice commissions, state and local correctional officials, experts in criminology and penology, and other interested persons. (Pen. Code, § 6030, subd. (h)(3).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California has long been a national leader in protecting the rights and dignity of incarcerated people. However, today incarcerated patients admitted to hospitals for medical care are routinely shackled by custody staff even when they are sedated, unconscious, in surgery, or in hospice. This practice has been documented to interfere with medical treatment, increase the risk of serious injury, and exacerbate the implicit biases that contribute to unequal care for a population that is disproportionately Black, indigenous, and people of color.

   "AB 1922 closes this gap by prohibiting the automatic use of mechanical restraints on incarcerated patients admitted to hospitals and ensuring that any use of restraints is clinically directed, documented, and subject to medical oversight. By bringing incarcerated patients under the same standard of care as every other hospital patient, this bill advances health equity, reduces preventable harm, and affirms that dignity in medical care is not something that should be taken away at the prison door."

12) **Effect of this Bill**: This bill prohibits the use of mechanical restraints on an incarcerated person or juvenile patient who is admitted to a hospital and receiving an advanced level of medical services. An advanced level of medical services includes mechanical ventilation, medical sedation, surgery, vasopressors, medical paralysis, chemotherapy, dialysis, comfort measures, and peripartum management or postpartum management. The only exception to this prohibition is if an incarcerated patient has attempted to escape from the hospital, in which case correctional facility staff is authorized to administer the least restrictive mechanical restraints necessary, consistent with legitimate safety and security considerations. In this case, mechanical restraints are permitted only for the duration necessary to prevent another escape attempt, and must be removed as soon as the escape attempt has been contained and the correctional facility staff have determined the incarcerated patient no longer presents an imminent risk of escape. The continued use of mechanical restraints must be reassessed every four hours to determine whether their continued use is necessary.

    Notwithstanding the limitation on the use of mechanical restraints, under this bill a hospital is authorized to use medical restraints if there is an imminent physical threat while the incarcerated patient is in the hospital. If medical restraints are used, the hospital must follow the processes outlined by CMS, and prohibits state correctional facility staff from using mechanical restraints.

    Existing CMS regulations authorize restraints only to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time. (42 C.F.R. § 482.13(e).) A medical restraint is any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely; or a drug or medication when it is used as a restriction

to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition. (42 C.F.R. § 482.13(e)(1)(i)(A) & (B).) A medical restraint may only be used when less restrictive interventions have been determined to be ineffective to protect the patient a staff member or others from harm. (42 C.F.R. § 482.13(e)(2).)

A medical restraint may only be administered upon the order of a physician or other licensed practitioner who is responsible for the care of the patient and authorized to order restraint or seclusion by hospital policy. (42 C.F.R. § 482.13(e)(1)(i)(A) & (B).) An order for a medical restraint for use on an individual evincing violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others may only be renewed for 4 hours at a time for adults 18 years of age or older, and for 2 hours for children and adolescents 9 to 17 years of age. (42 C.F.R. § 482.13(e)(8)(i)(A) & (B).) In either case, a medical restraint cannot be used for more than 24 hours unless a physician or other licensed practitioner who is responsible for the care of the patient and authorized to order a medical restraint has assessed the patient. (42 C.F.R. § 482.13(e)(8)(ii).)

When a physician or other licensed medical practitioner orders a medical restraint for use on a patient with violent or self-destructive behavior that jeopardizes the immediate physical safety of themselves or others, the physician or licensed practitioner (or trained registered nurse, as specified) must be see the patient face-to-face within one hour after the initiation of the intervention. (42 C.F.R. § 482.13(e)(12)(i).) At that time, the physician or licensed practitioner must evaluate the patient's immediate situation; the patient's reaction to the intervention; the patient's medical and behavioral condition; and the need to continue or terminate the restraint or seclusion. (42 C.F.R. § 482.13(e)(12)(ii)(A)-(D).) Even if the order prescribes a longer period, a medical restraint must not be used once the patient's behavior no longer jeopardizes that immediate physical safety of themself or others. (42 C.F.R. § 482.13(e)(9).)

2) **Eighth Amendment Prohibition on Cruel and Unusual Punishment**: "The Eighth Amendment prohibits the infliction of cruel and unusual punishments on those convicted of crimes." (*Nelson v. Corr. Med. Servs.* (8th Cir. 2009) 583 F.3d 522, 528 citing, *Wilson v. Seiter* (1991) 501 U.S. 294, 296-97.) A finding of an Eight Amendment violation requires evidence that the offending conduct is wanton. (*Ibid.*) In the context of the Eighth Amendment, the meaning of the word "wanton" depends upon the circumstances in which the alleged violation occurs. For example, in cases involving prison riots, "wantonness" is demonstrated by acting maliciously for the purpose of causing harm. (*Nelson v. Corr. Med. Servs.*, *supra*, 583 F.3d 522, 528 citing, *Whitley v. Albers* (1986) 475 U.S. 312, 320-21.) "The Eighth Amendment standard for conditions of confinement and medical care is different, and the constitutional question in such cases is whether the defendant acted with deliberate indifference." (*Nelson v. Corr. Med. Servs.*, *supra*, 583 F.3d 522, 528.)

"A prison official is deliberately indifferent if she knows of and disregards a serious medical need or a substantial risk to an inmate's health or safety. A claim of deliberate indifference has both an objective and a subjective component." (*Nelson v. Corr. Med. Servs.*, *supra*, 583 F.3d 522, 528-529.)

In 2002, the United States Supreme Court provided guidance to officials on the constitutional limits on restraining prisoners. (*Hope v. Pelzer* (2002) 536 U.S. 730.) In *Hope*, an inmate

brought a lawsuit alleging that his Eighth Amendment rights had been violated by officials responsible for handcuffing him to a prison hitching post. (*Id.* at p. 733-35.) The Court determined that the prison officials had acted with deliberate indifference to the inmate's health and safety in violation of the Eighth Amendment by restraining him despite the clear lack of "an emergency situation," in a manner that "created a risk of particular discomfort and humiliation." (*Id.* at p. 737-38.)

A constitutional right is clearly established if it is "sufficiently clear that a reasonable official would understand that what he is doing violates that right." (*Nelson v. Corr. Med. Servs.*, *supra*, 583 F.3d 522, 531 citing, *Hope v. Pelzer*, *supra*, 536 U.S. 730, 739.) The Supreme Court "has made it clear that there need not be a case with 'materially' or 'fundamentally' similar facts in order for a reasonable person to know that his or her conduct would violate the constitution." (*Young v. Selk* (8th Cir. 2007) 508 F.3d 868, 875 quoting, *Hope v. Pelzer*, *supra*, 536 U.S. 730, 739.) Instead, the unlawfulness must merely be apparent in light of preexisting law. (*Hope v. Pelzer*, *supra*, 536 U.S. 730, 739.) Officials "can still be on notice that their conduct violates established law even in novel factual circumstances." (*Id.* at p. 741.)

Whether or not a prison officer should know that his or her conduct presents a substantial risk to an inmate "is a question of fact subject to demonstration in the usual ways, including inference from circumstantial evidence, and a fact finder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious." (*Nelson v. Corr. Med. Servs.*, *supra*, 583 F.3d 522, 529 citing, *Farmer v. Brennan* (1994) 511 U.S. 825, 842.)

In 1976, the Supreme Court decided *Estelle v. Gamble*, a leading case in the development of Eighth Amendment law. (*Estelle v. Gamble* (1976) 429 U.S. 97.) *Estelle* was an action brought against prison officials for providing an inmate inadequate medical care. (*Id.* at p. 98.) The Court concluded that either interference with care or infliction of "unnecessary suffering" establishes deliberate indifference in medical care cases in violation of the Eighth Amendment. (*Id.* at p. 103-05.)

For example, at least one court has held that shackling a woman in labor is inhumane and violates her constitutional rights. (*Women Prisoners of D.C. Dep't of Corr. v. District of Columbia* (D.D.C. 1994) 877 F. Supp. 634, 668-69, modified in part on other grounds, (D.D.C. 1995) 899 F. Supp. 659, vacated in part and remanded, (D.C. Cir. 1996) 93 F.3d 910.) Similarly, the *Nelson* court held that an inmate's protection from being shackled during labor had been clearly established by decisions of the Supreme Court and the lower federal courts before the date of the incident in question and, thus, the prison guard who accompanied Nelson into the delivery room and shackled her to the bed had likely acted with indifference, in violation of Nelson's Eighth Amendment rights. (*Nelson v. Corr. Med. Servs.*, *supra*, 583 F.3d 522, 534.)

The Eighth Amendment prohibition against cruel and unusual punishment has not been extended to the shackling of incarcerated persons receiving care at hospitals when not in labor.

3) **Argument in Support**: According to *Initiate Justice*, a co-sponsor of this bill, "Custody shackles—handcuffs, waist chains, and leg irons—create cascading harms for patients, healthcare providers, and families. Incarcerated patients are routinely shackled even when

sedated or unconscious, during surgery, placed on ventilators, terminally ill, paralyzed or otherwise immobile, or actively dying. Families have reported witnessing their loved ones remain shackled even after death. Young people, in particular, may delay or avoid seeking necessary medical care due to fear, stigma, and the humiliation associated with shackling. These practices are medically inappropriate and profoundly inhumane.

"A substantial body of research documents the medical harms associated with shackling, including increased risk of blood clots, fractures of the hands and feet, injurious falls, skin breakdown, muscle deterioration, and restricted circulation and oxygen flow. Shackles also interfere with the delivery of safe, timely, and comprehensive medical care. They delay emergency interventions during seizures or respiratory distress, obstruct basic physical examinations, and create barriers to routine nursing care such as repositioning, wound care, and hygiene.

"In addition to direct medical harms, shackling undermines clinical judgment and the patient-provider therapeutic relationship. Research shows that visible shackles can increase implicit bias among providers, contribute to skepticism about patients' symptoms and pain, reduce empathy, and lead to poorer clinical decision-making. Every patient deserves equitable, evidence-based care. Shackles compromise that standard.

"Medical providers currently lack clear authority to determine when shackling is medically unsafe. While some clinicians request the removal of shackles, many report feeling disempowered to do so or are denied when they ask. Being forced to provide medical services under conditions that directly conflict with medical ethics and the oath to "do no harm" can cause moral injury among healthcare professionals.

"More than a decade ago, the California Legislature recognized that shackling poses serious medical risks to pregnant incarcerated patients. AB 1922 (Lowenthal) extends that same evidence-based and humane standard to all incarcerated patients receiving admitted hospital services, ensuring that California law aligns with medical ethics and patient-centered best practices.

"Healthcare as a human right is a core California value. It means that every person, regardless of incarceration status, deserves dignity, safety, and compassionate care when receiving medical treatment."

4) **Argument in Opposition**: According to the *California Hospital Association*: "At a time when hospital workers are under unprecedented strain, protecting their safety and well-being is vital. With a surge in patient volume and workplace violence over the past several years, policies that would reduce a hospital's ability to protect its patients and staff threaten to exacerbate systemwide stress rather than relieve it.

"That's why the California Hospital Association (CHA), on behalf of nearly 400 hospitals and health systems, opposes Assembly Bill (AB) 1922 (Lowenthal, D-Long Beach), which would prohibit the use of mechanical security restraints on incarcerated hospital patients, regardless of their risk for violence.

"Hospitals strive to provide compassionate care to all patients they serve. However, even after carefully considering the March 26 amendments to bill, AB 1922 still poses

unacceptable risks that could jeopardize the safety of everyone in a hospital.

"AB 1922 would prohibit correctional and juvenile facility staff from using handcuffs or other mechanical restraints on patients admitted to hospitals for certain medical interventions — regardless of an incarcerated individual's criminal history or violence risk. It would apply even if an incarcerated patient started to exhibit violent behavior in the hospital. Under AB 1922, correctional staff could only use mechanical restraints *after* an incarcerated individual has already attempted to escape a hospital — a dangerous scenario that would incite panic, fear, and possible injuries to staff, patients, and others as the incarcerated patient attempts to flee. It is unacceptable to put hospital staff and patients at risk in this way. As amended, the bill continues to shift full responsibility for responding to a violent inmate to hospital staff, rather than maintaining correctional officers' ability and duty to protect the public and keep inmates secure while outside of a prison setting.

"The only permitted use of restraint devices for incarcerated patients who exhibit violent behavior would be **medical restraints**, when ordered by appropriate clinical staff, and only after an "imminent physical threat" — when it might be too late. Licensed hospital staff are currently authorized to use highly regulated, Food and Drug Administration-approved medical restraints for patients **but only under exceedingly rare and limited circumstances and not without a prescription.** Devices such as soft wrist restraints, hand mitts, or four-sided bed rails may be used in general acute care hospitals as a last resort. This bill treats medical restraint devices as violence-response tools — which they are not.

"While recent amendments to AB 1922 restrict correctional staffs' use of mechanical restraints to incarcerated patients receiving a specific set of medical interventions and after an attempted escape, the bill continues to shift responsibility for escape attempts, violence prevention, and response to hospital staff and introduces unacceptable new safety risks and liability concerns for patients, staff, and the surrounding community."

5) **Related Legislation**:

   a) AB 1645 (Gonzalez) would prohibit the CDCR regulations from unreasonably restricting nonsexual physical contact between incarcerated persons and their visitors during contact visits. AB 1645 is pending a hearing in the Assembly Appropriations Committee.

   b) AB 1646 (Bryan) would provide that all youth confined in a juvenile facility have the right to engage in physical contact with visitors during in-person visits that a reasonable person would find nonsexual and appropriate under the circumstances. AB 1646 is pending a hearing in the Assembly Appropriations Committee.

   c) AB 2318 (Elhawary) would require officers, if law enforcement has secured a scene following an injury causing incident, to ensure that a medical professional is allowed reasonable access to provide emergency care once the scene is secure. AB 2318 is pending a hearing in this committee.

   d) AB 2593 (Elhawary) would prohibit a supervisor, administrator, or employee of CDCR from knowingly interfering with or refusing to implement health care prescribed or determined to be medically necessary by a licensed health care provider acting within the scope of their licensure that results in substantial emotional distress or serious bodily. AB

2593 is pending a hearing in the Assembly Appropriations Committee.

6) **Prior Legislation**:

   a) SB 762 (Becker), of the 2023-2024 Legislative Session, would have required BSCC to update minimum standards for local correction facilities to require a local detention facility to include a procedure for affirming that an incarcerated individual is alive and well during a safety check. SB 762 died on the inactive file in the Assembly.

   b) AB 878 (Gipson), Chapter 660, Statutes of 2017, limited the use of restraints to transport a minor from a juvenile detention facility and clarifies when restraints may be used in juvenile court.

   c) AB 2530 (Atkins), Chapter 726, Statutes of 2012, prohibited the shackling of inmates and wards incarcerated by CDCR who are known to be pregnant or in recovery after delivery, with leg irons, waist chains, or handcuffs behind the body.

   d) AB 30 (Hayashi), of the 2011-2022 Legislative Session, required BSCC to develop standards for a safety and security plan to prevent and protect health care personnel who provide care in state and local correctional facilities from aggression and violence. AB 30 was held in suspense in the Assembly Appropriations Committee.

   e) AB 568 (Skinner), of the 2011-2012 Legislative Session, would have required that pregnant inmates and wards not be shackled by the wrists, ankles, around the abdomen, or to another person, unless deemed necessary for safety, and if necessary, be restrained in the least restrictive way possible. AB 568 was vetoed.

   f) AB 1900 (Skinner), of the 2009-10 Legislative Session, would have extended the current prohibition established by AB 478 (Lieber) to also limit the use of restraints on pregnant inmates while they are being transported. AB 1900 was vetoed.

   g) AB 478 (Lieber), Chapter 608, Statutes of 2005, set minimum standards for the medical care of incarcerated persons who are pregnant during their incarceration.

REGISTERED SUPPORT / OPPOSITION:

Support

Women's Foundation of California, Dr. Beatriz Maria Solis Policy Institute (SPI) (Sponsor)
Community Works West (Co-Sponsor)
A New Path
A New Way of Life Reentry Project
ACLU California Action
Alliance for Boys and Men of Color
Atunse Justice League
California Attorneys for Criminal Justice
California Black Power Network
California Coalition for Women Prisoners
California Community Foundation

California Innocence Coalition
California Public Defenders Association
Californians for Safety and Justice
Californians for Safety and Justice (CSJ)
Californians United for a Responsible Budget
Care First California
Center for Restorative Justice Works
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Dignity and Power Now
Disability Rights California
Drug Policy Alliance 1
Ella Baker Center for Human Rights
Empowering Marginalized Asian Communities
Empowering Women Impacted by Incarceration
Felony Murder Elimination Project
Fixin San Mateo County
Fresh Lifelines for Youth
Glide
Grip Training Institute
Haywood Burns Institute
Human Impact Partners
Immigrant Legal Resource Center
In Our Care San Mateo County
Initiate Justice
Jesse's Place Org
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children / All of US or None
Local 148 Los Angeles County Public Defender's Union
Lyon-martin Community Health Services
Oakland Privacy
Peace and Justice Law Center
Rubicon Programs
San Francisco Public Defender
Saving Lives in Custody California
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
Starting Over INC.
Sustainable Economies Law Center
The Change Parallel Project
The Collective Healing and Transformation Project
The W. Haywood Burns Institute
Transitions Clinic Network
Uncommon Law
Unitarian Universalist Fellowship of Redwood City, Social Action Committee
University of San Diego Social Justice Club

Western Center on Law & Poverty, INC.
3 Private Individuals

Opposition

Adventist Health
Alliance of Catholic Health Care, INC.
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Chamber of Commerce
California Children's Hospital Assn
California Hospital Association
California Narcotic Officers' Association
California Orthopedic Association
California Radiological Society
California Reserve Peace Officers Association
California State Sheriffs' Association
Cedars Sinai
Cedars-sinai
Chief Probation Officers' of California (CPOC)
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Dignity Health
Fullerton Police Officers' Association
Loma Linda University Adventist Health Sciences Center and its Affiliated Entities
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Assocation
Pomona Police Officers' Association
Powerpac.org
Rady Children's Hospital
Riverside County Sheriff's Office
Riverside Police Officers Association
Riverside Sheriffs' Association
San Bernardino County
San Bernardino County Sheriff's Department
San Diego County Sheriff's Office
Scripps Health
Sfv Alliance
Sharp Healthcare
Stanford Health Care
Tri-city Medical Center

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Amended Mock-up for 2025-2026 AB-1922 (Lowenthal (A))

Mock-up based on Version Number 98 - Amended Assembly 3/26/26
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 2652.6 is added to the Penal Code, to read:

2652.6. (a) Except as otherwise provided in this section, an incarcerated person who is admitted to a hospital shall not be restrained by the use of mechanical restraints while receiving an advanced level of medical services.

(b) (1) If there is an imminent physical threat while the incarcerated patient is in the hospital, the standards shall provide that the hospital may initiate their medical restraint process, as regulated by the federal Centers for Medicare and Medicaid Services (CMS), and that mechanical restraints may not be used by local correctional facility staff **unless authorized pursuant to subdivisions (c).**

(2) The use of medical restraints shall be ordered by appropriate clinical staff, documented in the incarcerated patient's medical chart, and include the time and date of initiation and the name and title of the person authorizing the restraint.

(c) If an incarcerated patient has attempted to escape from the hospital **or presents an imminent physical threat that correctional facility staff reasonably believe requires the immediate application of mechanical restraints,** correctional facility staff may administer the least restrictive mechanical restraints necessary, consistent with legitimate safety and security considerations and subject to the following requirements:

(1) Mechanical restraints applied pursuant to this subdivision shall be permitted only for the duration necessary to prevent another escape attempt or **until hospital staff can safely apply medical restraints**, and shall be removed as soon as the escape attempt or **imminent physical threat** has been contained and the correctional facility staff have determined the incarcerated patient no longer presents an imminent risk of escape **or an imminent physical threat, or as soon as medical restraints have been applied**.

(2) If mechanical restraints are applied pursuant to this subdivision, correctional facility staff shall document the specific conduct constituting the escape attempt **or imminent physical threat**, the

time mechanical restraints were applied, the justification for their continued use, and the name of the staff administering mechanical restraints.

(3) The continued use of mechanical restraints under this subdivision shall be reassessed every four hours to determine whether their continued use complies with this subdivision.

(4) This subdivision does not authorize the routine or precautionary use of mechanical restraints based solely on custody classification, criminal history, or generalized assumptions regarding escape risk.

(d) This section shall not be interpreted to require restraints when restraints are not otherwise required pursuant to a statute, regulation, or state correctional facility policy.

(e) This section shall not apply during the transportation of an incarcerated person to or from a hospital. Any mechanical restraint of an incarcerated person during transport between clinical settings shall be the least restrictive means necessary, consistent with safety considerations.

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

(1) "Admitted" means the patient's physician or other qualified practitioner has ordered admission based on the expectation that the patient will require medically necessary hospital care spanning at least two midnights, consistent with applicable federal CMS admission guidelines.

(2) "Correctional facility staff" means a Department of Corrections and Rehabilitation staff member from the state correctional facility charged with overseeing an incarcerated patient admitted to outside hospitals for medical care.

(3) "Imminent physical threat" means violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others.

(4) "Incarcerated patient" means an individual who is incarcerated in a state correctional facility and needs to be admitted to a hospital for medical care.

(5) "Hospital" means a general acute care hospital as defined in Section 1250 of the Health and Safety Code.

(6) "Mechanical restraints" means the use of all devices not ordered by medical providers that are intended to restrict the movement of the incarcerated person, including, but not limited to, metal cuffs around the wrists or ankles, zip ties, waist chains, and leg irons.

(7) (A) "While receiving an advanced level of medical services" means receiving at least one of the following interventions during admission:

(i) Mechanical ventilation.

(ii) Medical sedation.

(iii) Surgery.

(iv) Vasopressors.

(v) Medical paralysis.

(vi) Chemotherapy.

(vii) Dialysis.

(viii) Comfort measures.

(ix) Peripartum management or postpartum management.

(B) "While receiving an advanced level of medical services" does not include medical services received in an emergency department of a hospital.

SEC. 2. Section 6030 of the Penal Code is amended to read:

6030. (a) The Board of State and Community Corrections shall establish minimum standards for local correctional facilities. The board shall review those standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following areas: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local correctional facilities, and personnel training.

(c) The standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.

(d) The standards shall also include requirements relating to the acquisition, storage, labeling, packaging, and dispensing of drugs.

(e) The standards shall require that inmates who are received by the facility while they are pregnant be notified, orally or in writing, of and provided all of the following:

(1) A balanced, nutritious diet approved by a doctor.

(2) Prenatal and postpartum information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor.

(3) Information pertaining to childbirth education and infant care.

(4) A dental cleaning while in a state facility.

(f) The standards shall provide that a woman known to be pregnant or in recovery after delivery shall not be restrained, except as provided in Section 3407. The board shall develop standards regarding the restraint of pregnant women at the next biennial review of the standards after the enactment of the act amending this subdivision and shall review the individual facility's compliance with the standards.

(g) (1) Except as otherwise provided in this section, the standards shall also provide that an incarcerated patient who is admitted to a hospital shall not be restrained by the use of mechanical restraints while receiving an advanced level of medical services.

(2) If there is an imminent physical threat while the incarcerated patient is in the hospital, the standards shall provide that the hospital may initiate their medical restraint process, as regulated by the federal Centers for Medicare and Medicaid Services (CMS), and that mechanical restraints may not be used by local correctional facility staff **unless authorized pursuant to paragraph (4).**

(3) The standards shall require that any use of medical restraints shall be ordered by appropriate clinical staff, documented in the incarcerated patient's medical chart, and include the time and date of initiation and the name and title of the person authorizing the restraint.

(4) The standards shall provide that if an incarcerated patient attempts to escape from the hospital **or presents an imminent physical threat that correctional facility staff reasonably believe requires the immediate application of mechanical restraints,** correctional facility staff may administer the least restrictive mechanical restraints necessary, consistent with legitimate safety and security considerations and subject to the following requirements:

(A) Mechanical restraints applied pursuant to this paragraph shall be permitted only for the duration necessary to prevent another escape attempt or **until hospital staff can safely apply medical restraints**, and shall be removed as soon as the escape attempt or **imminent physical threat** has been contained and the correctional facility staff have determined the incarcerated patient no longer presents an imminent risk of escape **or an imminent physical threat, or as soon as medical restraints have been applied**.

(B) If mechanical restraints are applied pursuant to this paragraph, correctional facility staff shall document the specific conduct constituting the escape attempt **or imminent physical threat**, the time mechanical restraints were applied, the justification for their continued use, and the name of the staff administering mechanical restraints.

(C) The continued use of mechanical restraints under this paragraph shall be reassessed every four hours to determine whether their continued use complies with this paragraph.

(D) This paragraph does not authorize the routine or precautionary use of mechanical restraints based solely on custody classification, criminal history, or generalized assumptions regarding escape risk.

(5) Nothing in this subdivision shall be interpreted to require restraints when restraints are not otherwise required pursuant to a statute, regulation, or local correctional facility policy.

(6) The standards required by this subdivision shall not apply during the transportation of an incarcerated person to or from a hospital. Any use of mechanical restraints on an incarcerated person during transport between clinical settings shall be the least restrictive means necessary, consistent with safety considerations.

(7) For the purposes of this subdivision, the following definitions shall apply:

(A) "Admitted" means the patient's physician or other qualified practitioner has ordered admission based on the expectation that the patient will require medically necessary hospital care spanning at least two midnights, consistent with applicable federal CMS admission guidelines.

(B) "Local correctional facility staff" means a local correctional facility staff member from the institution charged with overseeing an incarcerated patient admitted to outside hospitals for medical care.

(C) "Imminent physical threat" means violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others.

(D) "Incarcerated patient" means an individual who is incarcerated in a local correctional facility and needs to be admitted to a hospital for medical care.

(E) "Hospital" means a general acute care hospital as defined in Section 1250 of the Health and Safety Code.

(F) "Mechanical restraints" means all devices not ordered by medical providers that are intended to restrict the movement of the incarcerated person, including, but not limited to, metal cuffs around the wrists or ankles, zip ties, waist chains, and leg irons.

(G) (i) "While receiving an advanced level of medical services" means receiving at least one of the following interventions during their admission:

(I) Mechanical ventilation.

(II) Medical sedation.

(III) Surgery.

(IV) Vasopressors.

(V) Medical paralysis.

(VI) Chemotherapy.

(VII) Dialysis.

(VIII) Comfort measures.

(IX) Peripartum management or postpartum management.

(ii) “While receiving an advanced level of medical services” does not include medical services received in an emergency department of a hospital.

(h) In establishing minimum standards, the board shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Public Health, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in correctional facilities:

The Department of Corrections and Rehabilitation, state and local juvenile justice commissions, state and local correctional officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections and Rehabilitation, state and local correctional officials, and other interested persons.

(5) For female inmates and pregnant inmates in local adult and juvenile facilities and incarcerated patients receiving care in hospitals:

The California State Sheriffs’ Association and Chief Probation Officers’ Association of California, and other interested persons.

SEC. 3. Section 210.6 of the Welfare and Institutions Code is amended to read:

210.6. (a) (1) Mechanical restraints, including, but not limited to, handcuffs, chains, irons, straitjackets or cloth or leather restraints, or other similar items, may be used on a juvenile detained

in or committed to a local secure juvenile facility, camp, ranch, or forestry camp, as established pursuant to Sections 850 and 881, during transportation outside of the facility only upon a determination made by the probation department, in consultation with the transporting agency, that the mechanical restraints are necessary to prevent physical harm to the juvenile or another person or due to a substantial risk of flight.

(2) If a determination is made that mechanical restraints are necessary, the least restrictive form of restraint shall be used consistent with the legitimate security needs of each juvenile.

(3) A county probation department that chooses to use mechanical restraints other than handcuffs on juveniles shall establish procedures for the documentation of their use, including the reasons for the use of those mechanical restraints.

(4) This subdivision does not apply to mechanical restraints used by medical care providers in the course of medical care or transportation.

(b) (1) Mechanical restraints may only be used during a juvenile court proceeding if the court determines that the individual juvenile's behavior in custody or in court establishes a manifest need to use mechanical restraints to prevent physical harm to the juvenile or another person or due to a substantial risk of flight.

(2) The burden to establish the need for mechanical restraints pursuant to paragraph (1) is on the prosecution.

(3) If the court determines that mechanical restraints are necessary, the least restrictive form of restraint shall be used and the reasons for the use of mechanical restraints shall be documented in the record.

(d) (1) Except as otherwise provided in this section, a juvenile patient who is admitted to a hospital shall not be restrained by mechanical restraints while receiving an advanced level of medical services.

(2) If there is an imminent physical threat while the juvenile patient is in the hospital, the hospital may initiate its medical restraint process, as regulated by the federal Centers for Medicare and Medicaid Services **(CMS)**, and that mechanical restraints may not be used by juvenile correctional facility staff **unless authorized pursuant to paragraph (4)**.

(3) The use of medical restraints shall be ordered by appropriate clinical staff, documented in the juvenile patient's medical chart, and include the time and date of initiation and the name and title of the person authorizing the restraint.

(4) If a juvenile patient attempts to escape from the hospital **or presents an imminent physical threat that correctional facility staff reasonably believe requires the immediate application of mechanical restraints,** correctional facility staff may administer the least restrictive mechanical restraints necessary, consistent with legitimate safety and security considerations and

subject to the following requirements:

(A) Mechanical restraints applied pursuant to this paragraph shall be permitted only for the duration necessary to prevent another escape attempt or **until hospital staff can safely apply medical restraints**, and shall be removed as soon as the escape attempt or **imminent physical threat** has been contained and the correctional facility staff have determined the incarcerated patient no longer presents an imminent risk of escape **or an imminent physical threat, or as soon as medical restraints have been applied**.

(B) If mechanical restraints are applied pursuant to this paragraph, correctional facility staff shall document the specific conduct constituting the escape attempt **or imminent physical threat**,, the time mechanical restraints were applied, the justification for their continued use, and the name of the staff administering mechanical restraints.

(C) The continued use of mechanical restraints under this subdivision shall be reassessed every two hours to determine whether their continued use complies with this paragraph.

(D) This paragraph does not authorize the routine or precautionary use of mechanical restraints based solely on custody classification, criminal history, or generalized assumptions regarding escape risk.

(5) Nothing in this subdivision shall be interpreted to require restraints when restraints are not otherwise required pursuant to a statute, regulation, or juvenile facility policy.

(6) Except as otherwise provided in paragraph (7), the provisions of subdivision (a) shall apply to the transportation of a juvenile patient between the local secure juvenile facility, camp, ranch, or forestry camp, and the hospital.

(7) Any mechanical restraint of a juvenile patient during transport between clinical settings shall be the least restrictive means necessary and consistent with legitimate safety and security considerations in the discretion of transportation staff.

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

(A) "Admitted" means the patient's physician or other qualified practitioner has ordered admission based on the expectation that the patient will require medically necessary hospital care spanning at least two midnights, consistent with applicable federal CMS admission guidelines.

(B) "Hospital" means a general acute care hospital as defined in Section 1250 of the Health and Safety Code.

(C) "Imminent physical threat" means violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others.

(D) “Juvenile facility staff” means a staff member from the local secure juvenile facility, camp, ranch, or forestry camp charged with overseeing an incarcerated patient admitted to outside hospitals for medical care.

(E) “Juvenile patient” means a person who is under the maximum age of juvenile court jurisdiction and who is confined in a Division of Juvenile Justice facility, a county- or city-operated juvenile facility, or any other local or state facility used for the confinement of minors or wards, including, but not limited to, juvenile halls, camps, ranches, or secure youth treatment facilities.

(F) “Mechanical restraints” means all devices not ordered by medical providers that are intended to restrict the movement of the incarcerated person, including, but not limited to, metal cuffs around the wrists or ankles, zip ties, waist chains, and leg irons.

(G) (i) “While receiving an advanced level of medical services” means receiving at least one of the following interventions during their admission:

(I) Mechanical ventilation.

(II) Medical sedation.

(III) Surgery.

(IV) Vasopressors.

(V) Medical paralysis.

(VI) Chemotherapy.

(VII) Dialysis.

(VIII) Comfort measures.

(IX) Peripartum management or postpartum management.

(ii) “While receiving an advanced level of medical services” does not include medical services received in an emergency department of a hospital.

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

Date of Hearing: April 7, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1958 (Kalra) – As Amended March 25, 2026

SUMMARY: Amends the Racial Justice Act of 2020 (RJA) to clarify the process by which a defendant may show evidence they were charged or convicted of a more serious offense than other similarly situated defendants of a different race, ethnicity, or national origin. Specifically, **this bill**:

1) Changes the standard required for RJA allegations based on a defendant's sentence, to state that a defendant need only show they were sentenced to a longer or more severe term than defendants similarly situated who engaged in the same conduct rather than defendants similarly situated who were convicted of the same crime.

2) States that in order to establish a violation of the RJA based on charging or sentencing of similarly situated defendants of a different race, ethnicity, or national origin:

   a) A defendant may rely on statistical evidence, aggregate data, or nonstatistical evidence. The defendant is not required to conduct a statistical analysis and is not required to present both statistical evidence and nonstatistical evidence.

   b) The court shall impose a remedy, as specified, unless the prosecution proves by a preponderance of the evidence that the disparity can be explained by race-neutral factors.

3) Requires the prosecution to provide notice of its intent to present race-neutral factors and provide copies of reasonably available documentary evidence supporting those factors prior to the evidentiary hearing.

4) States the prosecution's burden requires proffering affirmative evidence and cannot be met by proffering theoretical race-neutral factors.

5) Clarifies that, when alleging a RJA violation, the defense may request and be entitled to any evidence relevant to the RJA allegations in the constructive possession or control of the prosecution.

6) Provides that a defendant may request any data that has been previously disclosed in response to an RJA claim in another criminal case, and a court shall grant that request, subject to redaction or protective order, unless the data has no relevance to the current charges.

7) Expands application of the RJA to either jury or bench trials, plea negotiation practices, plea outcomes, diversion and other alternative dispositions in adult court.

8) Clarifies that "more frequently sought or obtained" or "more frequently imposed" means the totality of evidence with or without statistics and means that it demonstrates a significant difference in charging, convictions, or sentencing comparing groups of individuals of different races ethnicities, or national origins who could have been similarly charged, convicted, or sentenced.

9) Defines "race-neutral factors," as that phrase relates to charging and conviction, as elements of an offense, and other factors that may be legally considered in charging, that are supported by evidence.

10) Defines "race-neutral factors," as the term relates to sentencing, as factors contained in the California Rules of Court pertaining to sentencing decisions. Race-neutral factors cannot be factors that are influenced by implicit, systemic, or institutional bias based on race, ethnicity, or national origin.

EXISTING LAW:

1) Establishes the RJA which prohibits the state from seeking or obtaining a criminal conviction or seeking, obtaining or imposing a sentence on the basis of race, ethnicity, or national origin. A violation is established if the defendant proves, by a preponderance of the evidence, any of the following:

   a) The judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin.

   b) During the trial, in a court and during the proceedings, the judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror, used racially discriminatory language about the defendant's race, ethnicity, or national origin, or otherwise exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin, whether or not purposeful, except as specified.

   c) The defendant was charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who commit similar offenses and are similarly situated and the evidence establishes that the prosecution more frequently sought or obtained convictions for more serious offenses against people who share the defendant's race, ethnicity, or national origin in the county where the convictions were sought or obtained.

   d) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for that offense on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins in the county where the sentence was imposed.

   e) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of

other races, ethnicities, or national origins in the county where the sentence was imposed. (Pen. Code, § 745, subd. (a).)

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

3) States that if a motion is filed in the trial court and the defendant makes a prima facie showing of a violation of the RJA, the court shall hold a hearing. (Pen. Code, § 745, subd. (c).)

4) Provides that at the hearing, either party may present evidence, including, but not limited to, statistical evidence, aggregate data, expert testimony, and the sworn testimony of witnesses. The court may also appoint an independent investigator. (Pen. Code, § 745, subd. (c)(1).)

5) States the defendant must prove the violation by a preponderance of the evidence. (Pen. Code, § 745, subd. (c)(2).)

6) Requires the court to make findings on the record at the conclusion of the hearing. (Pen. Code, § 745, subd. (c)(3).)

7) Provides that a defendant may file a motion requesting disclosure of all evidence relevant to a potential violation of the RJA that is in the possession or control of the state. Upon a showing of good cause, the court shall order the records to be released. Upon a showing of good cause, and if the records are not privileged, the court may permit the prosecution to redact information prior to disclosure. (Pen. Code, § 745, subd. (d).)

8) States that, notwithstanding any other law, except for an initiative approved by the voters, if the court finds by a preponderance of evidence a violation of the RJA, the court shall impose a remedy specific to the violation found from a specified list of remedies. (Pen. Code, § 745, subd. (e).)

9) Provides that before a judgment has been entered, the court may declare a mistrial if requested by the defendant, discharge the jury panel and empanel a new jury, or, in the interests of justice, the court may dismiss enhancements, special circumstances, or special allegations, or reduce one or more charges. (Pen. Code, § 745, subd. (e)(1).)

10) Provides that when judgement has been entered, the following remedies apply:

   a) If the court finds that the conviction was sought or obtained in violation of the RJA, the court shall vacate the conviction and sentence, find that it is legally invalid, and order new proceedings consistent with the RJA;

   b) If the court finds the violation was based only on the defendant being charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins, and the court has the ability to rectify the violation by modifying the judgment, the court shall vacate the conviction and sentence, find that the conviction is legally invalid, and modify the judgment to impose an appropriate remedy for the violation that

occurred, except that the court shall not impose a sentence greater than that previously imposed; and,

c) If the court finds that only the sentence was sought or obtained in violation of the RJA, the court shall vacate the sentence, find that it is legally invalid, and impose a new sentence no greater than the sentence previously imposed. (Pen. Code, § 745, subd. (e)(2).)

11) Prohibits imposition of the death penalty where the court finds a violation of the RJA. (Pen. Code, § 745, subd. (e)(3).)

12) Provides that a court is not foreclosed from imposing any other remedies available under the United States Constitution, the California Constitution, or any other law. (Pen. Code, § 745, subd. (e)(4).)

13) Specifies that these provisions apply to adjudications and dispositions in the juvenile delinquency system. (Pen. Code, § 745, subd. (f).)

14) Specifies that these provisions do not prevent the prosecution of hate crimes. (Pen. Code, § 745, subd. (g).)

15) Defines "more frequently sought or obtained" or "more frequently imposed" as statistical evidence or aggregate data that demonstrate a significant difference in seeking or obtaining convictions or in imposing sentences comparing individuals who have committed similar offenses and are similarly situated, and the prosecution cannot establish race-neutral reasons for the disparity. (Pen. Code, § 745, subd. (h)(1).)

16) Defines "prima facie showing" as meaning that the defendant produces facts that, if true, establish a substantial likelihood that a violation of the RJA occurred, as specified. (Pen. Code, § 745, subd. (h)(2).)

17) Defines "racially discriminatory language" as meaning language that, to an objective observer, explicitly or implicitly appeals to racial bias, including, but not limited to, racially charged or racially coded language, language that compares the defendant to an animal, or language that references the defendant's physical appearance, culture, ethnicity or national origin. Evidence that particular words or images are used exclusively or disproportionately in cases where the defendant is of a specific race, ethnicity, or national origin is relevant to determining whether language is discriminatory. (Pen. Code, § 745, subd. (h)(3).)

18) Defines "state" as including the Attorney General, a district attorney, or a city prosecutor. (Pen. Code, § 745, subd. (h)(4).)

19) States that a defendant may share a race, ethnicity, or national origin with more than one group and may aggregate data among groups to demonstrate a violation of the prohibition. (Pen. Code, § 745, subd. (i).)

20) Applies the RJA prospectively to cases in which a judgment has not been entered prior to January 1, 2021. (Pen. Code, § 745, subd. (j).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "In 2020, the Legislature passed AB 2542 (Kalra), the California Racial Justice Act (RJA), to address racial discrimination and bias in criminal proceedings across the state. Under the RJA, individuals are allowed two paths of relief: 1) show bias directed at the individual or use of "racially discriminatory language," or 2) demonstrate a showing of disparate treatment between similarly situated people from different racial groups in the same county where they were charged or sentenced.

   "Since the passage of AB 2542 over five years ago, only four disparity claims using that second path of relief have been litigated to conclusion, and in only one of those cases did a trial find a violation had been established. This can be explained by several reasons, including difficulty obtaining relevant data, lack of clarity as to what is required to establish a disparity claim, and other procedural inconsistencies.

   "To address this, AB 1958 makes clear that there are multiple ways to establish a disparity claim and that to refute a disparity claim, the prosecution must produce evidence showing the disparities are explained by race-neutral factors. The bill also clarifies the evidence disclosure requirements, makes it explicit that no part of the criminal process is insulated from the RJA, and specifies the procedure for cases where a motion is based on conduct or statements from a judge before sentence has been imposed. In doing so, AB 1958 will streamline litigation, reduce delays, provide consistent guidance to courts across the state, and increase judicial efficiency."

2) **RJA:** The RJA was initially enacted in 2020 and amended again in 2021. It generally authorizes a criminal defendant to file a motion in court alleging they suffered racial bias in the charging or sentencing of a defendant. Specifically, the RJA allows racial bias to be shown by, among other things, statistical evidence that convictions for an offense were more frequently sought or obtained against people who share the defendant's race, ethnicity or national origin than for defendants of other races, ethnicities, or national origin in the county where the convictions were sought or obtained; or longer or more severe sentences were imposed on persons based on their race, ethnicity or national origin or based on the victim's race, ethnicity or national origin. The defendant must demonstrate a prima facie case that defendants similarly situated of other races are less likely to be charged or sentenced in a specific manner.

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

   Since the enactment of the RJA, the courts have confronted a variety of situations that demonstrate the need for clarity. First, a few appellate courts have continued to deem petitions forfeited if the trial record does not demonstrate the issue was preserved, or the motion is procedurally deficient. (See *People v. Lashon* (2023) 95 Cal.App.5th 136 (RJA

motion deemed forfeited on direct appeal because it was not raised in the trial court before judgment was entered [remanded by the Cal. Sup. Ct., 315 Cal.Rptr.3d 16]; *People v. Singh* (2024) 103 Cal.App.5th 76, 114 ["The Legislature could have, but did not, expressly declare that a defendant in such instances could raise such a claim on appeal for the first time."]; *People v. Corbi* (2024) 106 Cal.App.5th 25, 43 [holding defendant forfeited RJA claim by not objecting at trial]; *People v. Hodge* (2024) 107 Cal.App.5th 985 [holding that since the defendant was in custody, he must raise an RJA claim in a habeas petition].)

3) **Disparity Claims:** Penal Code section 745, subdivision (a)(3)-(4) stands for the proposition, "…the Racial Justice Act revitalizes the venerable principle, recognized 135 years ago in *Yick Wo*, that we must offer a remedy where a facially neutral law is applied with discriminatory effect" by "endorsing statistics as an appropriate mode of proof and eliminating any requirement of showing discriminatory purpose." (*Young v. Superior Court (People)* (2022) 79 Cal.App.5th 138, 165.)

   Perhaps the most notable example of how disparity demonstrates institutional racism in criminal sentencing is the Baldus Study at issue in *McCleskey v. Kemp* (1987). Professor David Baldus at the University of Iowa found that, even accounting for hundreds of factors, people accused of killing white victims were 4.3 times more likely to be sentenced to death than those accused of killing Black victims. The unadjusted data, as Justice William Brennan pointed out in his dissent, was even more striking—it showed the capital sentencing rate for all white-victim cases was almost 11 times greater than the rate for Black-victim cases. Black defendants in cases with white victims were sentenced to death at nearly 22 times the rate of Black defendants with Black victims and more than seven times the rate of white defendants with Black victims. And the Baldus study showed that prosecutors sought the death penalty for 70% of Black defendants with white victims, but for only 15% of Black defendants with Black victims, and only 19% of white defendants with Black victims.[1]

   Despite the Court noting the racial disparity in the manner in which the death penalty is imposed, it ultimately upheld McCleskey's death sentence holding,

   > At most, the Baldus study indicates a discrepancy that appears to correlate with race. Apparent disparities in sentencing are an inevitable part of our criminal justice system. The discrepancy indicated by the Baldus study is "a far cry from the major systemic defects identified in Furman," *Pulley v. Harris*, 465 U. S., at 54. As this Court has recognized, any mode for determining guilt or punishment "has its weaknesses and the potential for misuse." *Singer v. United States*, 380 U. S. 24, 35 (1965). See *Bordenkircher v. Hayes*, 434 U. S. 357, 365 (1978). Specifically, "there can be `no perfect procedure for deciding in which cases governmental authority should be used to impose death.' *Zant v. Stephens*, 462 U. S. 862, 884 (1983) (quoting *Lockett v. Ohio*, 438 U. S., at 605 (plurality opinion of Burger, C. J.)). Despite these imperfections, our consistent rule has been that constitutional guarantees are met when "the mode [for

[1] https://eji.org/news/the-legacy-of-mccleskey-v-kemp/

> determining guilt or punishment] itself has been surrounded with safeguards to make it as fair as possible." [internal citation omitted]. Where the discretion that is fundamental to our criminal process is involved, we decline to assume that what is unexplained is invidious. In light of the safeguards designed to minimize racial bias in the process, the fundamental value of jury trial in our criminal justice system, and the benefits that discretion provides to criminal defendants, we hold that the Baldus study does not demonstrate a constitutionally significant risk of racial bias affecting the Georgia capital sentencing process. (*McCleskey v. Kemp* (1987) 481 US 279, 313.)

In order to demonstrate a violation of the RJA based on disparity in charging or sentencing a defendant in a more serious manner than similarly situated defendants, the defendant must show:

> "A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for that offense on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins in the county where the sentence was imposed." (§ 745, subd. (a)(4)(A).) Under section 745, subdivision (h)(1), "'more frequently imposed' means that the totality of the evidence," which "may include statistical evidence" or "aggregate data," "demonstrates a significant difference … in imposing sentences comparing individuals who have committed similar offenses and are similarly situated, and the prosecution cannot establish race-neutral reasons for the disparity." And under section 745, subdivision (h)(6), "'[similarly situated' means that factors that are relevant in … sentencing are similar and do not require that all individuals in the comparison group are identical." *(In re Mency* (Nov. 19, 2025, No. S292693) ___Cal.5th___ [2025 Cal. LEXIS 7706, at *4-5].)

It seems obvious this is an onerous burden for a defendant. It generally requires access to statistical data and interpretative resources that are unavailable to defendants that may be incarcerated. For instance, the trial court in *People v. Windom, et al.,* May 23, 2023, Case No. 01001976380, Contra Costa Sup. Ct.) demonstrates the laborious nature of determining whether a defendant is similarly situated and whether the more sever sentence is more frequently imposed on people of a specific race, national origin, or ethnicity. In that case, the court analogized examples like baseball statistics to discuss whether the sample size was statistically significant.

There was significant testimony about which defendants were similarly situated and whether all relevant cases were included in the sample. The court held that the percentage of Black defendants that were charged with special circumstances gang homicides was greater than

Non-Black defendants. Also, the People were unable to present any race-neutral reasons for the statistical disparity.

This bill specifically eases the burden on a defendant alleging a violation based on disparity by specifying that a defendant need only show that similarly situated individuals of a different race, ethnicity, or national origin that engaged in similar conduct rather than a similarly situated individual that was convicted of the same offense. It also expands the case type that a defendant may allege a RJA claim to include plea negotiations, plea outcomes, diversion, and other alternative disposition in juvenile and adult court.

4) **Discovery:** This bill specifies that a defendant may file a request for all evidence relevant to a potential RJA claim that is in the constructive possession of the prosecution. The author suggests that district attorney offices are not providing evidence relevant to a RJA claim claiming it is in the possession of law enforcement. It also requires that a court grant any request for data that was provided in another criminal case.

A trial court has jurisdiction to consider a stand-alone post judgment discovery motion filed under the RJA and must order discovery "[u]pon a showing of good cause." (Pen. Code, § 745, subd. (d); *People v. Serrano* (2024) 106 Cal.App.5th 276, 282.) In order to establish good cause for discovery under the RJA, a defendant is only required to advance a plausible factual foundation, based on specific facts, that a violation of the Racial Justice Act could or might have occurred in their case. (*Young v. Superior Court (People)* (2022) 79 Cal.App.5th 138, 159.) As the court in *Young* explained:

> But a showing of plausible justification is merely a threshold consideration. The trial court, in deciding whether the defendant shall be permitted to obtain discovery of the requested material, must consider and balance a number of other factors, specifically: (1) whether the material requested is adequately described, (2) whether the requested material is reasonably available to the governmental entity from which it is sought (and not readily available to the defendant from other sources), (3) whether production of the records containing the requested information would violate (i) third party confidentiality or privacy rights or (ii) any protected governmental interest, (4) whether the defendant has acted in a timely manner, (5) whether the time required to produce the requested information will necessitate an unreasonable delay of defendant's trial, and (6) whether the production of the records containing the requested information would place an unreasonable burden on the governmental entity involved. (*Young*, *supra*, at p. 144.)

By expanding the discovery rights to include any information in the constructive possession of the prosecutor, it may reduce the amount of litigation between the defense and the prosecutor regarding access to information. Presumably, if the state argues it does not have records because they are in the possession of law enforcement, the petitioner must file further motions to compel the law enforcement agency to produce the records.

5) **Argument in Support**: According to the *California Innocence Coalition*: "The Racial Justice Act (RJA) prohibits the state from seeking, obtaining, or imposing a criminal conviction or sentence on the basis of race, ethnicity, or national origin. The RJA was passed, in part, to address disparities in charging and sentencing that pervade California's criminal legal system.

"A 'disparity' in charging or sentencing exists when people of one race are charged, convicted, or sentenced more harshly than people of other races who engage in similar conduct. For example, decades of research shows that Black, Latino, and Native people in California are more likely to be sentenced to death or life without the possibility of parole than white individuals who commit similar offenses. Despite the clear intent of the Legislature to address racial disparities through the RJA, justice has eluded those with viable claims due to procedural barriers. In the five years since the RJA became law, only four disparity claims have been litigated to completion due to procedural uncertainty and difficulty obtaining data.

"This bill provides needed clarity regarding procedures for evaluating charging and sentencing disparity claims including that:

(1) a violation may be found when the defendant shows statistical or non-statistical evidence to establish a disparity claim, and the defendant is not required to show both kinds of evidence;

(2) to refute a claim, prosecutors must show by a preponderance of the evidence that any disparity is explained by race-neutral factors; and

(3) counsel may use previously requested data to reduce courts' duplicative labor and litigation.

"Additionally, AB 1958 addresses other inconsistencies that have presented themselves since the law's passage to ensure that no part of the criminal legal process is insulated from the RJA, including plea negotiations. Finally, this bill makes absolutely clear that the prosecution's duty to disclose evidence includes evidence possessed by law enforcement. AB 1958 builds upon the Legislature's previous work to address racial discrimination and bias in the criminal legal system. In 2020, California enacted the California Racial Justice Act, making it possible to confront racial bias in our criminal courts. Through additional refinements, the California Legislature can support the law in functioning more effectively to provide justice to those who have experienced discrimination in our legal system.

"The Racial Justice Act is one of the most important and consequential laws enacted in this state. AB 1958 (Kalra) is essential to aid courts in effectuating the legislation's intent to eliminate racial bias from California's criminal legal system because racism, whether intentional, implicit, or institutional, is intolerable and undermines true justice."

6) **Argument in Opposition**: According to *California District Attorneys Association*: "Fundamental fairness in the criminal justice system rests at the core of the California District Attorneys Association (CDAA) and is embedded in every prosecutor's oath of office. When a prosecutor swears to support and defend the Constitution of the United States and the Constitution of the State of California, that prosecutor pledges fealty to Equal Protection for

all under the Fourteenth Amendment to the United States and article I, section 7 of the "California Constitution. With these underpinnings, CDAA unquestionably agrees that '[d]iscrimination on the basis of race, odious in all respects, is especially pernicious in the administration of justice.' (Assem. Bill No. 2542 (2019 – 2020 Reg. Sess.) § 2, subd. (a) [which initially enacted the Racial Justice Act], quoting *Rose v. Mitchell* (1979) 443 U.S. 545, 556.)

"It is CDAA's steadfast adherence to these constitutions that also compels it to focus on the rights of crime victims found within article I, section 28 of the California Constitution (Marsy's Law). Because of our commitment to the rule of law, the fundamental principles of the proper presentation of evidence, and our obligation to protect justly obtained verdicts, we must oppose AB 1958. The changes proposed by AB 1958 pose numerous troubling issues.

- Resources throughout the justice system have been significantly taxed in recent years with the advent of legislatively driven post-conviction proceedings. AB 1958 would not only put additional fiscal strains on all justice partners, it would erase much of the groundwork that has already been laid for the Racial Justice Act.

- Significant parts of the language in AB 1958 appear without definition, but rest in key operative areas. Vagueness of terminology can only lead to varied guesswork by the courts across the state, causing further delays in resolution for defendants and victims.

- The bill appears to suggest that the use of information couched as "statistics" might somehow bypass the adversarial process inherent in our system of justice, which is of particular concern when there is no current agreed-upon repository of data sets or methodology.

- The proposed language of the bill appears to require the affirmative proffering of evidence that racial bias did not exist. In other words, a requirement of concrete proof of a negative.

- At no point does the bill work to assess the disparate negative impact suffered by victims of crime with re-litigation of old cases, and whether victims in underserved communities see justice pulled further away from them as a result.

"Under existing law, the Racial Justice Act permits a criminal defendant, or a former defendant who already stands convicted of a crime, to challenge the validity of the case against her or him via claims that the process bore the taint of impermissible bias. (Pen. Code, § 745, subd. (b).) No conviction or sentence may be based on race, ethnicity, or national origin. (Pen. Code, § 745, subd. (a).) Bias of this nature may not be present in the judge, any attorney in the case, the law enforcement personnel who investigated the case, expert witnesses, or any juror. (Pen. Code, § 745, subd. (a)(2).)

"Historically, the improper influence of bias was already a means of redress in both state and federal courts. California's Racial Justice Act, however, removed certain barriers for defendants challenging their cases and convictions by removing the requirement that a criminal defendant shows that impermissible bias had an actual impact on her or his case. For example, in most circumstances under federal law, a defendant claiming ineffective defense counsel must also show that counsel's ineffectiveness had an actual negative impact

on the defendant's case. (*Strickland v. Washington* (1984) 466 U.S. 668, 687.) There *are* circumstances in which prejudice to the defendant would be presumed. (See, e.g., *Cuyler v. Sullivan* (1980) 446 U.S. 335, 345 – 350 (an actual conflict of interest for counsel creates a presumption of prejudice).) In applying these precepts to racist defense counsel, federal courts have contemplated the abrogation of a defendant's Sixth Amendment right to effective counsel where racist beliefs on the part of counsel have a "cumulative effect," rendering a fundamental failure to the defendant. (See, e.g., *Ellis v. Harrison* (9th Cir. 2020) 947 F.3d 555, 561 – 564 (conc. opn. of Nguyen, J.)

"In its current form, the Racial Justice Act provides "broader relief for racial discrimination in the criminal justice system than is available under federal equal protection principles . . .." (*Gonzales v. Superior Court* (2024) 108 Cal.App.5th.Supp 36.) The Act employs a common-sense nexus between the defendant in the case and claims of bias, either through an expression of that bias or the impact of bias. (Pen. Code, § 745, subds. (a)(1) – (4).) But courts throughout California are still addressing the proper measure of implementation and whether there are constitutional infirmities within its framework.[2] The state of the already-developed jurisprudence implementing the Act would be open to new questions with the fundamental altering proposed by AB 1958.

Fiscal Impact

"No widening of post-conviction remedies can occur without the very practical consideration of the use of finite resources within the justice system. Many district attorneys' offices throughout the state now devote specific staff to the handling of Racial Justice Act claims due to the volume and complexity of the litigation. We observe that our colleagues in the Public Defenders' offices often do the same, and courts now must parse out significant blocks of time to litigate issues arising from the claims. Using a two-stage process that is now common in many post-conviction proceedings, with an initial prima-facie showing followed by a hearing to address the substantive merits of each claim, the criminal justice system must divert significant resources away from current prosecutions to assess the merits of each petition or motion.

"The fiscal impact statewide from these changes cannot be ignored. Based on current Racial Justice Act litigation, Contra Costa County estimated no less than $81,000 in district attorney resources being consumed per case for discovery alone. Santa Clara County ran a test case to measure the costs of pulling, reviewing and properly redacting files and determined a *single* case could cost $750,000. When costs to the public defenders and the courts are added, the economic effects statewide easily reach into the millions of dollars. In Los Angeles County's Test Claim number 24-TC-02, filed with the Commission on State Mandates, the Public Defender's Office of that county estimated $2,190,000 in statewide costs for addressing Racial Justice Act claims for Fiscal Year 2024 – 2025. AB 1958 offers no funding source to

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[2] The California Supreme Court appears to have serious concerns over whether the Racial Justice Act, in a portion that would be unaltered by AB 1958, runs afoul of an initiative enacted by the Electorate. In *People v. Bankston* (case number S044739), *People v. Barrera* (case number S103358), *People v. Chhuon & Pan* (case number S105403) and *People v. Demolle* (case number S159120), the Court asked three questions concerning the constitutionality of the Act in light of the Briggs Initiative. In an unusual move, the Court held new oral argument on the matter in all of these cases. The cases stand submitted and an opinion from the Court is pending.

accommodate expenditures, and district attorneys will be forced to bill the state for time spent on habeas corpus litigation.

Undefined Terms, Shifting Standards and Proof of a Negative

"AB 1958's use of vague terminology and re-writing of the established standards exponentially aggravates costs associated with implementation. For example, AB 1958 would change the basis of comparing cases for disparate treatment or impact. Under current law, claims made under the Racial Justice Act are analyzed between cases for the same offense. (Pen. Code, § 745, subd. (a)(4)(A) & (B).) The bill would change that to a comparison of similarly situated individuals "who have engaged in similar conduct," but it contains no explanation as to what "similar conduct" might mean. Different courts could easily reach different conclusions with no statewide uniformity.

"Moreover, AB 1958's use of "similar conduct" necessarily defeats the best method of accumulating meaningful statistics for comparison. With a discrete and identifiable data set under current language ("the same offense") a known universe is created without leaving room for ambiguity. "Similar conduct," however, leaves much room for varied interpretation, rendering an easily identified data sample as elusive as the definition of the term. Litigation over the meaning of this phrase alone would consume the resources of both superior and appellate courts throughout California, delaying resolution and denying access to justice for many other important issues pending in those courts.

"In the proposed amendment to subdivision (d)(1), the bill would charge prosecutors with 'constructive' possession or control of materials in discovery proceedings. Although constructive possession is a concept known to criminal law in the context of litigation related to *Brady v. Maryland* (1963) 373 U.S. 83 and the Criminal Discovery Act, it is not clear that it has the same meaning within this context. If its meaning ultimately requires prosecutors to either work with law enforcement to research and scour records solely in law enforcement possession, or to litigate privilege issues with law enforcement, the costs discussed above become even more significant.

"AB 1958 would also redefine the standards and evidence used in each case, in part by requiring prosecutors to provide "race-neutral factors," but in a manner that leaves litigants and courts guessing as to what a "race-neutral factor" might be. Although proposed subdivision (h)(3) of Penal Code section 745, indicates that such factors would "relate[] to charging and conviction" and "means elements of an offense [] and other factors that may be legally considered in charging, it goes on to state that "[r]ace-neutral factors cannot be factors that are influenced by implicit, systemic, or institutional bias based on race, ethnicity, or national origin. With no more explicit guidance as to what that means, courts will be forced to struggle with numerous questions, such as whether a defendant's prior criminal history can be attributed to implicit bias, and therefore in assessing whether that defendant is similarly situated to another person, or whether that defendant might be viewed as being similarly situated to someone with no prior criminal history. Guesswork in the courts leads to neither increased efficiency nor swift resolution.

"Finally, the bill's requirement that the prosecution produce affirmative evidence in proposed subdivision (c)(3) of the statute creates the nearly impossible burden of producing evidence that something did not exist. One might struggle to conceive of how such evidence might be

presented in the face of the proposed language that would bar the offering of "theoretical race-neutral factors."

"These unanswered questions and others mean that the courts would necessarily have to scrap the recently developed body of law that has developed in relation to the Racial Justice Act framework. Existing jurisprudence would offer little assistance to vague new terms and procedural guidelines, thus compounding problems of resource exhaustion.

Untethered Statistical Sources

"Nothing about AB 1958 establishes any guidelines for statistical analysis or interpretation.[3] The freeform approach leaves open many questions as to the validity and discipline behind statistical interpretations, so that testing of methodology, data and analysis must be addressed in California's courts. The rules of evidence are key to the use of such information.

"From inception, the right to confrontation under the Sixth Amendment to the United States Constitution has played a vital role in our criminal justice system. The United States Supreme Court has long referred to confrontation as a "bedrock procedural guarantee." (*Crawford v. Washington* (2004) 541 U.S. 36, 42.) It is a fundamental method to "help[] assure the accuracy of the truth-determining process." (*Chambers v. Mississippi* (1973) 410 U.S. 284, 295, internal citations and quotation omitted.) The absence of confrontation "calls into question the ultimate 'integrity of the fact-finding process." (*Ibid.*) Our state Supreme Court recognizes "[c]ross-examination is the principal means by which the believability of a witness and the truth of his testimony are tested." (*People v. Sanchez* (2016) 63 Cal.4th 665, 679 – 680, quoting *Davis v. Alaska* (1974) 415 U.S. 308, 315 – 316.) Its means of testing evidence is guaranteed to California defendants in the state constitution (Cal. Const., art. I, § 15) and by statute (Evid. Code, § 711). With its proven ability to test the reliability of evidence, it is no wonder that the statutory guarantee applies to all litigants in state court. (*Ibid.*)

"AB 1958's alteration of the Racial Justice Act to allow those convicted of crimes to challenge either their criminal proceedings or their convictions with the use of statistics alone creates great concern over the ability to test such proffers through courtroom cross-examination. Although permitting a defendant to rely *solely* on "statistical evidence" or "aggregate data," AB 1958 does not provide a definition of the meaning of these terms. Moreover, the implication is that a defendant is now further distanced from the need to tie such statistics into her or his own case. By further granting access to such "data" (in whatever form that might be) across cases, a defendant might be permitted to obtain and use information with no real assessment of its source or reliability. Indeed, the manner in which the amendments are presented suggests that such information might be sufficient for an ultimate determination following an order to show cause, and that one defendant's success in

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[3] CDAA recognizes a statewide effort for data collection in the area of criminal justice is slated to commence in 2027 with the transmission of information from the Justice Data Accountability and Transparency Act. (Pen. Code, § 13370.) In its 2025 report, the Committee on the Revision of the Penal Code urged this Act be funded "to support the collection and publication of data from prosecutors." (*Annual Report and Recommendations* (December 2025), Committee on Revision of the Penal Code, at p. 38.)

a trial court might enable an entire cognizable class to obtain relief from criminal convictions, while another class might not have the same opportunity. In other words, the amendments may raise as many Equal Protection claims as those that they seek to address.

Other Considerations and Impact on Victims

"Other considerations at work make one wonder how prosecutors can help guard against violations beyond our control. Statistical surveys offered on conviction rates seemingly never factor in the personal choices made by defendants in cases. Whether one defendant chooses an offered plea bargain and another does not is completely beyond the prosecutorial purview. Moreover, the amendments proposed by AB 1958 provide nothing to assist prosecutors who want to ensure that cases pending in court are not infected by implicit bias on the part of defense counsel. (See, e.g., *Sanchez v. Superior Court* (2024) 106 Cal.App.5th 617.) The changes proffered by AB 1958 appear to assume all bias flows from prosecution and do nothing to assist prosecutors actively working to prevent it from infecting a case.

"Criminal prosecutions are reactive by nature. Cases begin in response to victimization in our communities. Many socioeconomic forces impact crime rates in a given area long before our cases are ever seen in court. Those factors go unacknowledged by litigation and processes focused solely on criminal prosecution. Sadly, no attention is paid to the unequal treatment of victims.

"CDAA shares the goals of the Racial Justice Act, as its members are steadfastly committed to a justice system that treats all people fairly, and without the taint of racial or ethnic bias. Indeed, we seek to ensure that those who are most impacted on a personal level, the victims of crime, are also afforded a just and meaningful outcome within the system. While the ultimate processes of the Racial Justice Act are still being addressed by our courts, the changes suggested within AB 1958 appear unworkable and counterproductive to any progress that has been made. CDAA cannot support changes that could counter the rule of law and needlessly harm those who have been victimized."

7) **Prior Legislation:**

a) AB 1071 (Kalra), Chapter 721, Statutes of 2025 amended the RJA by authorizing a defendant to file a motion for disclosure of relevant evidence in any proceeding alleging a violation of the RJA and in preparation for the filing of a motion to vacate or habeas petition based on an RJA violation; makes other technical and clarifying changes.

b) AB 2065 (Kalra), of the 2023-24 Legislative Session, would have required disclosure of certain arrest records and probation reports, upon request, to an attorney for the purpose of investigating a RJA claim. AB 2065 was held in the Assembly Appropriations Committee.

c) AB 256 (Kalra), Chapter 739, Statutes of 2022, makes the RJA, which prohibits the state from seeking or obtaining a conviction or sentence on the basis of race, ethnicity, or national origin, apply retroactively and makes other changes.

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

e) SB 734 (Caballero), Chapter 784, Statutes of 2025, prohibits a public agency from taking punitive action or denial of promotion on grounds other than merit against any public safety officer because of a court finding made in a challenge brought pursuant to the RJA.

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

REGISTERED SUPPORT / OPPOSITION:

Support

A New Path
A New Way of Life Re-entry Project
ACLU California Action
Alameda County Public Defender's Office
Alliance for Boys and Men of Color
American Friends Service Committee
Amnesty International USA
Amnesty International USA Group 30 San Francisco
Asian Americans Advancing Justice-southern California
Bend the Arc: Jewish Action, California
Black American Political Association of California (BAPAC) Sacramento Chapter
California Attorneys for Criminal Justice
California Black Power Network
California Coalition for Women Prisoners
California Coalition for Women's Prisoners
California Domestic Workers Coalition
California for Safety and Justice
California Innocence Coalition
California Public Defenders Association
Californians United for A Responsible Budget
Care First California
Center for Policing Equity
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice (CURYJ)
Consumer Attorneys of California
Contra Costa County Public Defender
Courage California
Criminal Justice Clinic, UC Irvine School of Law
Death Penalty Focus
Dignity and Power Now

Disability Rights California
Ella Baker Center for Human Rights
Equal Rights Advocates
Fair Chance Project
Felony Murder Elimination Project
Friends Committee on Legislation of California
Glide
Indivisible CA Statestrong
Initiate Justice
Inland Coalition for Immigrant Justice
Justice and Diversity Center of the Bar Association of San Francisco
Justice2jobs Coalition
Juvenile Innocence & Fair Sentencing Clinic, LMU Loyola Law School, Los Angeles
Kapor Center Advocacy
LA Defensa
Lawyers Committee for Civil Rights of the San Francisco Bay Area
League of Women Voters of California
Local 148 Los Angeles County Public Defender's Union
Los Angeles County Public Defender's Office
National Center for Youth Law (NCYL)
Pillars of the Community
Restoring Hope California
Riverside All of US or None
Rubicon Programs
San Francisco Public Defender
Showing Up for Racial Justice - San Francisco (surj Sf)
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
Starting Over INC.
Starting Over Strong
The Amelia Ann Adams Whole Life Center
The Social Impact Center
The W. Haywood Burns Institute
Transitions Clinic Network
University of San Francisco School of Law | Racial Justice Clinic
Western Center on Law & Poverty
Youth Leadership Institute
4 Private Individuals

Opposition

California District Attorneys Association
California Police Chiefs Association
Peace Officers Research Association of California (PORAC)

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

Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1959 (Patel) – As Introduced February 13, 2026

As Proposed to be Amended in Committee

SUMMARY: Authorizes a prosecuting attorney to file a motion to transfer a person who was previously convicted in adult criminal court for a crime committed at the age of 14 or 15 who is now subject to resentencing by the juvenile court pursuant to a grant of recall under provisions of law that authorizes a person who received a sentence of life without the possibility of parole (LWOP) or a de facto LWOP sentence to file a motion for recall and resentencing.

EXISTING LAW:

1) Provides, generally, that a minor who is between 12 years of age and 17 years of age, inclusive, when the minor violates any law defining a crime, is subject to the jurisdiction of the juvenile court and to adjudication as a ward. (Welf. & Inst. Code, § 602, subd. (a).)

2) Establishes criteria to determine whether to transfer a minor from juvenile court to adult criminal court. (Welf. & Inst. Code, § 707.)

3) States that in a case in which a minor is alleged to have committed any felony or any of the enumerated felonies, as specified, when the minor was 16 years of age or older, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(1).)

4) States that in a case in which a minor is alleged to have committed any of the enumerated felonies, as specified, when the minor was 14 or 15 years of age, but was not apprehended prior to the end of juvenile court jurisdiction, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(2).)

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) Provides that the penalty for a defendant found guilty of murder in the first degree, in any case in which one or more special circumstances has been found true, who was 16 years of age or older and under the age of 18 years at the time of the commission of the crime, shall be a sentence of LWOP or, at the discretion of the court, 25 years to life. (Pen. Code, § 190.5.)

7) Allows an inmate serving a sentence of LWOP for an offense that was committed when the inmate was under 18 years of age to petition the court to have that sentence recalled and to be resentenced if the inmate has served at least 15 years of their sentence and meets certain other specified criteria. (Pen. Code, § 1170, subd. (d)(1).)

8) Excludes from the recall and resentencing process for persons sentenced to LWOP for offenses committed when the person was under 18 years of age where it was pled and proved that the defendant tortured their victim, or the victim was a public safety official, including a law enforcement personnel or a firefighter. (Pen. Code, § 1170, subd. (d)(1)(B).)

9) Provides that if the court finds by a preponderance of the evidence that one or more of the statements provided by the defendant, as specified, is true, the court shall recall the sentence and commitment previously ordered and hold a hearing to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. Victims or victims' family members shall retain rights to participate in the hearing. (Pen. Code, § 1170, subd. (d)(5).)

10) States that the factors the court may consider when determining whether to resentence the defendant to a life term include, but are not limited to, the following:

   a) The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law;

   b) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the defendant was sentenced to LWOP;

   c) The defendant committed the offense with at least one adult codefendant;

   d) Prior to the offense for which the defendant was sentenced to LWOP, the defendant had insufficient adult support or supervision and had suffered from psychological or physical trauma or significant stress;

   e) The defendant suffers from cognitive limitations due to mental illness, developmental disabilities, or other factors that did not constitute a defense but influenced the defendant's involvement in the offense;

   f) The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing themselves of rehabilitative, educational, or vocational programs, if those programs have been available at their classification level and facility, using self-study for self-improvement, or showing evidence of remorse;

   g) The defendant has maintained family ties or connections with others through letter writing, calls, or visits or has eliminated contact with individuals outside of prison who are currently involved with crime; and,

   h) The defendant has had no disciplinary actions for violent activities in the last five years in which the defendant was determined to be the aggressor. (Pen. Code, § 1170, subd. (d)(6).)

11) States that a defendant whose sentence is not recalled or the defendant is resentenced to LWOP, may submit another petition when the defendant has served at least 20 years. If that petition is denied or the defendant is resentenced to LWOP under the new petition, the defendant may file another petition after having served 24 years. The final petition may be submitted during the 25th year of the defendant's sentence. (Pen. Code, § 1170, subd. (d)(10).)

12) Establishes the Youthful Offender Parole Program which provides an incarcerated person the opportunity for a parole hearing before the Board of Parole Hearings (BPH) for crimes committed before the age of 25, after having served 15, 20, or 25 years of incarceration depending on their controlling offense. (Pen. Code, § 3051.)

13) Provides that a youth offender parole hearing is a hearing by BPH for the purpose of reviewing the parole suitability of any prisoner who was 25 years of age or younger, or was

under 18 years of age and sentenced to LWOP, at the time of the controlling offense. (Pen. Code, § 3051, subd. (a)(1).)

14) Specifies the following timeline for youth offender parole hearings to occur:

a) A person who was convicted of a controlling offense that was committed when the person was 25 years of age or younger and for which the sentence is a determinate sentence shall be eligible for release on parole at a youth offender parole hearing during the person's 15th year of incarceration;

b) A person who was convicted of a controlling offense that was committed when the person was 25 years of age or younger and for which the sentence is a life term of less than 25 years to life shall be eligible for release on parole at a youth offender parole hearing during the person's 20th year of incarceration;

c) A person who was convicted of a controlling offense that was committed when the person was 25 years of age or younger and for which the sentence is a life term of 25 years to life shall be eligible for release on parole at a youth offender parole hearing during the person's 25th year of incarceration; and,

d) A person who was convicted of a controlling offense that was committed before the person had attained 18 years of age and for which the sentence is life without the possibility of parole shall be eligible for release on parole at a youth offender parole hearing during the person's 25th year of incarceration. (Pen. Code, § 3051, subd. (b).)

15) States that in assessing growth and maturity, psychological evaluations and risk assessment instruments, if used by BPH, shall be administered by licensed psychologists employed by the board and shall take into consideration the diminished culpability of youth as compared to that of adults, the hallmark features of youth, and any subsequent growth and increased maturity of the individual. (Pen. Code, § 3051, subd. (f)(1).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1959 seeks to close a loophole within resentencing law that has recently been exploited in San Diego County by a school shooter at Santanna High School in 2001. San Diegans deserve to have faith in their justice system to ensure that violent offenders that do not show accountability are using this loophole."

2) **Juvenile Court Jurisdiction**: As a general rule, any person between the age of 12 and 17 who commits a crime falls within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 602.) This extends to a youth alleged to have committed a crime before their 18th birthday, even if they were an adult at the time of arrest or commencement of proceedings. (Welf. & Inst. Code, § 603.) For example, if someone commits a crime at age 17, but it is not discovered or tried until the person is 20, the person can still be tried in juvenile court. The jurisdiction of the juvenile court continues until the youth is 23 years old, unless the youth would have, in criminal court, faced a sentence of 7 years or more, in which case the juvenile court's jurisdiction continues until the youth turns 25. (Welf. & Inst. Code, § 607.)

The creation of the juvenile court, now over 100 years old, was rooted in the idea that adolescents, who are not fully developed or mature, are less culpable than adults. Accordingly, the focus of the juvenile court was rehabilitation, not punishment. (See e.g., *In re Gault* (1967) 387 U.S. 1, 15-16.) The purpose of the juvenile law is to provide for the protection and safety of the public and each minor under the jurisdiction of the court and to preserve and strengthen family ties when possible. (Welf. & Inst. Code, § 202, subd. (a).) Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. This may include punishment that is consistent with rehabilitative objectives. (Welf. & Inst. Code, § 202, subd. (b).) The juvenile court has a wide range of options available for placing its wards, including probation, placement in a relative's home, foster home, licensed community care facility, or group home, and commitment to "a juvenile home, ranch, camp, or forestry camp" or "the county juvenile hall." (Welf. & Inst. Code, §§ 727, subd. (a); 730, subd. (a)(1).)

3) **Eighth Amendment's Prohibition on Cruel and Unusual Punishment and Sentencing of Juveniles**: The Eighth Amendment to the United States Constitution states that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." (U.S. Const., 8th Amend.) California's constitution contains a similar prohibition: "Cruel or unusual punishment may not be inflicted or excessive fines imposed." (Cal. Const., art. 1, § 17.)

   For over two decades, the United States Supreme Court has distinguished the constitutionally permissible punishment of juvenile offenders from adults. In 2005, the United States Supreme Court ruled that persons who were under the age of 18 at the time of the offense are ineligible for the death penalty, reasoning that death is a disproportionately severe punishment for any offender under 18, in violation of the Eighth Amendment. (*Roper v. Simmons* (2005) 543 U.S. 551.) Penal Code section 190.5 codified the holding of *Roper* and stated the penalty for a person 16 to 18 years of age convicted of first-degree murder with special circumstances is either LWOP or, at the court's discretion, 25-years-to-life. (Pen. Code, § 190.5, subd. (b).)

   In 2010, the United States Supreme Court ruled that it is unconstitutional to sentence a youth who did not commit homicide to LWOP. (See *Graham v. Florida* (2010) 560 U.S. 48.) The Court discussed the fundamental differences between a juvenile and adult offender and reasserted its findings from *Roper* that juveniles have lessened culpability than adults due to those differences. The Court stated that "life without parole is an especially harsh punishment for a juvenile," noting that a juvenile offender "will on average serve more years and a greater percentage of his life in prison than an adult offender." (*Graham*, *supra*, 560 U.S. at p. 70.) However, the Court stressed that "while the Eighth Amendment forbids a State from imposing a sentence of life without parole sentence on a juvenile nonhomicide offender, it does not require the State to release that offender during his natural life. Those who commit truly horrifying crimes as juveniles may turn out to be irredeemable and thus deserving of incarceration for the duration of their lives. The Eighth Amendment does not foreclose the possibility that persons convicted of nonhomicide crimes committed before adulthood will remain behind bars for life. It does forbid States from making the judgment at the outset that those offenders never will be fit to reenter society." (*Id.* at p. 75.)

In 2012, the United States Supreme Court in *Miller v. Alabama* (2012) 567 U.S. 460, held that it is unconstitutional for states to mandate a sentence of LWOP for juveniles convicted of homicide. "Such mandatory penalties, by their nature, preclude a sentencer from taking account of an offender's age and the wealth of characteristics and circumstances attendant to it. Under these schemes, every juvenile will receive the same sentence as every other--the 17-year-old and the 14-year-old, the shooter and the accomplice, the child from a stable household and the child from a chaotic and abusive one. And still worse, each juvenile . . . will receive the same sentence as the vast majority of adults committing similar homicide offenses--but really, as *Graham* noted, a greater sentence than those adults will serve. (*Miller*, *supra*, 567 U.S. at pp. 476-477.) Following *Miller*, the United States Supreme Court held that *Miller's* prohibition on mandatory LWOP for juvenile offenders must be applied retroactively in all cases. (*Montgomery v. Louisiana* (2016) 577 U.S. 190, 206.)

The California Supreme Court, relying on *Miller*, concluded that sentencing a juvenile offender for a term of years with a parole eligibility date that falls outside the juvenile offender's natural life expectancy constitutes cruel and unusual punishment in violation of the Eighth Amendment. (*People v. Caballero* (2012) 55 Cal.4th 262, 268.) The Court stated that "the state may not deprive [juveniles] at sentencing of a meaningful opportunity to demonstrate their rehabilitation and fitness to reenter society in the future." (*Ibid.*) Caballero had received a 110-to-life sentence (three consecutive life terms) for attempted murder. While the court in *Caballero* pointed out that these incarcerated persons may file petitions for writs of habeas corpus in the trial court, the court also urged the Legislature to establish a parole eligibility mechanism for an individual sentenced to a de facto life term for crimes committed as a juvenile.

Roper, *Miller*, *Graham*, and *Caballero* establish that minors are constitutionally different from adults and emphasized that the distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit the most serious crimes.[1] Notably, these decisions do not support crime-specific exclusions from their findings on the distinctive attributes of youth that mitigate criminal culpability.

4) **Overview of Existing Laws on Resentencing and Parole Process for Youthful Offenders:** In accordance with the decisions of the United States Supreme Court and California Supreme Court discussed above, SB 9 (Yee)[2] was signed into law in 2012 to provide juveniles sentenced to LWOP a mechanism for recall and resentencing. Pursuant to SB 9, a person who was under 18 years of age at the time of committing an offense for which the person was sentenced to LWOP could, after serving at least 15 years in prison, petition the court for recall and resentencing. If a resentencing hearing is granted, the court has the discretion whether to resentence the petitioner to a lower sentence or let the LWOP sentence remain. If granted a lower sentence, the petitioner must still serve the minimum sentence before being eligible for parole consideration and obtain approval of the parole board and the Governor prior to release on parole. A broader version of SB 9 made it through much of the legislative process in 2011 but due to intense opposition by law enforcement and victims

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[1] *Roper* involved burglary and murder in the first degree. *Graham* involved armed burglary and armed robbery. *Miller* involved murder and aggravated robbery. *Caballero* involved attempted murder.
[2] Chapter 828, Statutes of 2012; Pen. Code, § 1170, subd. (d).)

groups the bill failed passage on the Assembly Floor. The bill was held over until the following year and amended to add exclusions for persons sentenced to LWOP for an offense where they tortured their victim or the victim was a public safety official.[3] The bill passed the Legislature in the more limited form and was signed by the Governor in 2012.

A few years later, SB 1084 (Hancock)[4] modified the resentencing law to clarify when a youthful offender could petition for recall and resentencing, the standard by which the court is to review the petition, and that a petitioner who does not have their sentence recalled or is resentenced to LWOP can submit another petition after a specified number of years.

After creating the judicial mechanism to resentence youthful offenders from LWOP to a life sentence with the possibility of parole, the Legislature established Youthful Offender Parole, which provides a parole process for inmates sentenced to lengthy prison terms for crimes committed when they were under 18 years of age.[5] This process applies to inmates serving both indeterminate sentences and determinate sentences. In 2015, youthful offender parole was amended to apply to inmates who were under the age of 23 at the time those crimes were committed based on neurological research that "shows that cognitive brain development continues well beyond age 18 and into early adulthood. For boys and young men in particular, this process continues into the mid-20s. The parts of the brain that are still developing during this process affect judgment and decision-making, and are highly relevant to criminal behavior and culpability."[6] In 2017, youthful offender parole was amended to apply to inmates who were 25 years of age or younger at the time of the offense.[7] Also in 2017, youthful offender parole was amended to apply to persons sentenced to LWOP for crimes committed prior to turning 18 years of age.[8]

The LWOP recall and resentencing law and the Youthful Offender Parole process are two separate processes with some overlap. The recall and resentencing law provides incarcerated persons sentenced to LWOP for crimes committed prior to turning 18 an opportunity for recall and resentencing after serving 15 years. The Youthful Offender Parole process provides persons sentenced to a life sentence for crimes committed prior to turning 26 and persons sentenced to LWOP for crimes committed prior to turning 18. Excluded from both the recall and sentencing law and youth offender parole are persons who committed their offense between the ages of 18 to 25 for which they were sentenced to LWOP.

5) **History of Juvenile Transfer Laws:** In 1961, the Legislature set 16 years old as the minimum age that a minor could be transferred to adult criminal court. (*O.G. v. Superior Court* (2021) 11 Cal.5th 82, 88.) In 1995, the state began to move away from this rule by permitting some 14- and 15-year-olds to be transferred to criminal court. (*Ibid.*) In 2000, the voters passed Proposition 21 which required prosecutors to charge minors 14 years or older

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[3] Assem. Amend to Sen. Bill No. 9 (2011-2012 Reg. Sess.) July 2, 2012.
[4] Chapter 867, Statutes of 2016.
[5] SB 260 (Hancock), Chapter 312, Statutes of 2013.; Pen. Code, § 3051.
[6] SB 261 (Hancock), Chapter 471, Statutes of 2015; Assem. Com. on Public Safety, Analysis of Sen. Bill 261 (2015-2016 Reg. Sess.) as amended June 1, 2015, p. 2.
[7] AB 1308 (Stone), Chapter 675, Statutes of 2017.
[8] SB 394 (Lara), Chapter 684, Statutes of 2017; see *In re Kirchner* (2017) 2 Cal.5th 1040, 1049-1052 [Section 1170, subd. (d)(2), which provides an avenue for juvenile offenders serving LWOP terms to seek resentencing, does not provide an adequate remedy at law for *Miller* error; the inquiry under § 1170, subd. (d)(2), is not designed to address *Miller* error, and will not necessarily provide a defendant with the lawful sentence that *Miller* requires.].)

directly in criminal court for specified murder and sex crimes. Additionally, the Proposition gave prosecutors discretion to charge minors 14 or older directly in adult criminal court for other serious specified offenses. (*Ibid.*)

In the years following the passage of Proposition 21, the United State Supreme Court issued several opinions regarding the need to treat juveniles differently from adults in the criminal justice system. Developments in scientific research on adolescent brain development confirmed that children are different from adults in their relative culpability and rehabilitation possibilities and that such differences are critical to identifying age-appropriate sentences. (See, e.g., *Roper v. Simmons* (2005) 543 U.S. 551, 569–571 [prohibited capital punishment for juveniles]; Graham v. Florida (2010) 560 U.S. 48, 68–75 [prohibited life without the possibility of parole (LWOP) for juveniles in non-homicide cases]; *Miller v. Alabama* (2012) 567 U.S. 460, 469–470 [prohibited mandatory LWOP sentences for juveniles].) The Court summarized those differences in *Miller*:

> *Roper* and *Graham* establish that children are constitutionally different from adults for purposes of sentencing. Because juveniles have diminished culpability and greater prospects for reform, we explained, "they are less deserving of the most severe punishments." *Graham*, 560 U.S., at 68, 130 S.Ct. 2011, 176 L.Ed. 2d 825. Those cases relied on three significant gaps between juveniles and adults. First, children have a "'lack of maturity and an underdeveloped sense of responsibility,'" leading to recklessness, impulsivity, and heedless risk-taking. *Roper*, 543 U.S., at 569, 125 S.Ct. 1183, 161 L.Ed. 2d 1. Second, children "are more vulnerable . . . to negative influences and outside pressures," including from their family and peers; they have limited "contro[l] over their own environment" and lack the ability to extricate themselves from horrific, crime-producing settings. Ibid. And third, a child's character is not as "well formed" as an adult's; his traits are "less fixed" and his actions less likely to be "evidence of irretrievabl[e] deprav[ity]." (*Miller*, *supra*, 567 U.S. at 570.)

The California Supreme Court, relying on *Graham* and *Miller*, found that a determinate sentence that exceeds the expected lifetime of the juvenile defendant violates the Eighth Amendment because it effectively denies a juvenile any opportunity to demonstrate rehabilitation (*People v. Caballero* (2012) 55 Cal.4th 262, 267) and that a law that provides a presumption in favor of LWOP for juveniles also violates the Eighth Amendment (*People v. Gutierrez* (2014) 58 Cal.4th 1354, 1375-1376).

Following this body of case law and research, several measures were adopted to reflect the scientific evidence and constitutional mandate to treat juveniles differently than adults. In 2016, Proposition 57 eliminated direct filing in adult court by amending Welfare and Institutions Code section 707 to require a transfer hearing to be held before a minor can be prosecuted in adult court. In 2018, the Legislature raised the youngest age a minor could be tried as an adult back to 16. (SB 1391 (Lara), Ch. 1012, Stats. 2018.) The age change was challenged as an invalid amendment to Proposition 57 but the California Supreme Court ultimately ruled that SB 1391 furthered the ameliorative purposes of Proposition 57 and the proposition authorized such amendments by a majority vote of the Legislature. (*People v. Superior Court (O.G.)* (2021) 11 Cal.5th 82.)

This bill would authorize a prosecutor to file a transfer motion for a person who was previously convicted in adult criminal court for an offense enumerated in Welfare and Institutions Code 707(b) when they were 14 or 15 and is now subject to resentencing pursuant to the LWOP resentencing law for juveniles. Generally, a juvenile who committed their offense under the age of 16 is not authorized to receive an LWOP sentence. However, some courts have granted recall under the LWOP resentencing law for persons sentenced to a de facto LWOP sentence, e.g. 50-years-to-life, based on equal protection arguments, which could apply to persons younger than 16 when the crime was committed.

6) **Impetus for this Bill:** In 2001, 15-year-old Charles Andy Williams committed a mass shooting at a high school in Santee, killing two students and wounding 13 others. In 2022, Williams was charged as an adult and he pleaded guilty to two counts of murder and 13 counts of attempted murder and was sentenced to 50 years to life in prison. He became eligible for parole in September 2024 but was found unsuitable for release by the parole board.[9]

   In January of this year, a judge granted Williams' petition for recall and resentencing relying on case law that found a sentence of 50-year-to-life for a juvenile offender was the functional equivalent of LWOP and excluding someone with his type of sentence from the recall and resentencing law violates equal protection. (*People v. Heard* (2022) 83 Cal.App.5th 608.) The ruling in *Heard* was recently clarified to find that *Heard's* reasoning does not apply to a request for resentencing if the defendant was eligible for youth offender parole under the sentence imposed. (*People v. Superior Court (Valdez)* (2025) 108 Cal.App.5th 791.)

   The district attorney handling the resentencing matter has announced they will appeal the superior court's ruling granting recall. If Williams' case remains in the juvenile court, he would not be subject to resentencing on an adult conviction because the crime was committed when he was 15. Existing law specifies that a person may only be transferred to adult court for a crime committed when they were 14 or 15 if they were apprehended after the juvenile court's jurisdiction has ended. Williams was already tried and convicted, thus this exception would not apply.

   This bill would provide a narrow expansion to existing law that authorizes persons to be transferred to adult court for a crime committed at the age of 14 or 15 if they were apprehended after the jurisdiction of the juvenile court has ended. The bill would additionally authorize a person who was previously convicted in adult court of a crime that they committed at the age of 14 or 15 and is now before the juvenile court for resentencing. The avenue for triggering resentencing by the juvenile court would be a grant of recall pursuant to the LWOP resentencing statute. A prosecuting attorney would still have to file the transfer motion and the juvenile court would have to make a determination that the person is not amenable to treatment in juvenile court before the person may be transferred.

7) **Argument in Support**: No longer relevant.

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[9] See https://www.courthousenews.com/25-years-later-san-diego-area-high-school-shooter-eyes-release/ [accessed Feb. 24, 2026].

8) **Argument in Opposition**: No longer relevant.

9) **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 1701 (DeMaio) would prohibit a person sentenced to LWOP for a crime committed while the person was under the age of 18 from seeking recall and resentencing for an offense that meets the definition of a school shooting as defined by this bill. AB 1701 failed passage in this committee.

   c) AB 1968 (Gallagher) would add 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. AB 1968 failed passage in this committee and was granted reconsideration.

   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.

10) **Prior Legislation**:

   a) SB 481 (Durazo), of the 2021-22 Legislative Session, would have authorized a court to dismiss a special circumstance in cases where a person was sentenced to LWOP. SB 481 was ordered to the inactive file.

   b) AB 965 (Stone), Chapter 577, Statutes of 2019, requires a person's youth offender parole hearing to occur within six months of the first year they become eligible for a youth offender parole hearing.

   c) AB 1308 (Stone), Chapter 675, Statutes of 2017, expanded the youth offender parole process to persons who committed their crimes when they were 25 years of age or younger.

   d) SB 394 (Lara), Chapter 684, Statutes of 2017, made a person who was convicted of an offense that was committed before the age of 18 and for which a sentence of LWOP has been imposed eligible for youth offender parole hearing during their 25th year of incarceration and required BPH to complete, by July 1, 2020, all hearings for individuals who are or will be entitled to have their parole suitability considered at a youth offender parole hearing.

   e) SB 1084 (Hancock), Chapter 867, Statutes of 2016, made technical clarifying changes to the recall and resentencing law enacted by SB 9 (Yee), Chapter 828, Statutes of 2012.

f) SB 261 (Hancock), Chapter 471, Statutes of 2015, expanded the youth offender parole process to apply to those who committed their crimes before the age of 23.

g) SB 260 (Hancock), Chapter 312, Statutes of 2013, established a process for BPH to conduct youth offender parole hearings for inmates who committed their crimes prior to the age of 18, except inmates sentenced under the Three Strikes law or One Strike Sex Offense Law, or sentenced to LWOP.

h) SB 9 (Yee), Chapter 828, Statutes of 2012, authorized an inmate who was under 18 years of age at the time of committing an offense for which they were sentenced to LWOP to petition the sentencing court for recall and resentencing, except inmates who tortured their victim or whose victim was a public safety official.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California 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 County Deputy Probation Officers Afscme Local 685
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Assocation
Pomona Police Officers' Association
Riverside County District Attorney
Riverside Police Officers Association
Riverside Sheriffs' Association
San Diego County District Attorney's Office
Teamsters Local 986
2 Private Individuals

Opposition

ACLU California Action
Alliance for Boys and Men of Color
Alliance for Children's Rights
Building Healthy Communities Monterey County
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Juvenile Justice Commissioners Collaborative
California Public Defenders Association
California Youth Defender Center
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)
Community Interventions
Courage California
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Fresh Lifelines for Youth (FLY)
Friends Committee on Legislation of California
Glide
Hoops 4 Justice
Human Rights Watch
Initiate Justice
Justice2jobs Coalition
LA Defensa
Milpa Collective
National Center for Youth Law (NCYL)
Restore 180
Restoring Hope California
Rubicon Programs
San Francisco Public Defender's Office
Sister Warriors Freedom Coalition
The Collective for Liberatory Lawyering
The Gathering for Justice
The W. Haywood Burns Institute
Universidad Popular
Urban Peace Institute
Urban Peace Movement
Welcome Home Oasis
Youth Alliance
Youth Forward
Youth Law Center
1 Private Individual

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

Amended Mock-up for 2025-2026 AB-1959 (Patel (A))

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 1170 of the Penal Code is amended to read:

~~**1170.** (a) (1) The Legislature finds and declares that the purpose of sentencing is public safety and to reduce recidivism achieved through punishment, rehabilitation, and restorative justice. When a sentence includes incarceration, the deprivation of liberty satisfies the punishment purpose of sentencing. Therefore, the carceral system should not, except as incidental to justifiable separation or the maintenance of discipline, aggravate the suffering inherent while experiencing imprisonment. The essential purpose of incarceration is rehabilitation and successful community reintegration achieved through education, treatment, and active participation in rehabilitative and restorative justice programs. This purpose is best served by terms that are proportionate to the seriousness of the offense with provision for uniformity in the sentences of people incarcerated for committing the same offense under similar circumstances. These purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the promotion of personal growth for all residents and the reintegration of a person into society upon release so that they can lead a law-abiding and self-supporting life, reducing recidivism.~~

~~(2) The Legislature further finds and declares that programs should be available for incarcerated persons, including, but not limited to, educational, rehabilitative, and restorative justice programs that are designed to promote behavioral change and to prepare all incarcerated persons for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate all incarcerated persons. These programs, activities, and services should be delivered in line with the individual treatment needs of incarcerated persons.~~

~~(3) In any case in which the sentence prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison, or a term pursuant to subdivision (h), of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because they had committed their crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation~~

~~of the sentence prescribed, shall also impose any other term that it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life, except as provided in subdivision (d). In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, except for a remaining portion of mandatory supervision imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h), the entire sentence shall be deemed to have been served, except for the remaining period of mandatory supervision, and the defendant shall not be actually delivered to the custody of the secretary or the county correctional administrator. The court shall advise the defendant that they shall serve an applicable period of parole, postrelease community supervision, or mandatory supervision and order the defendant to report to the parole or probation office closest to the defendant's last legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole, postrelease community supervision, or mandatory supervision. The sentence shall be deemed a separate prior prison term or a sentence of imprisonment in a county jail under subdivision (h) for purposes of Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.~~

~~(b) (1) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall, in its sound discretion, order imposition of a sentence not to exceed the middle term, except as otherwise provided in paragraph (2).~~

~~(2) The court may impose a sentence exceeding the middle term only when there are circumstances in aggravation of the crime that justify the imposition of a term of imprisonment exceeding the middle term and the facts underlying those circumstances have been stipulated to by the defendant or have been found true beyond a reasonable doubt at trial by the jury or by the judge in a court trial. Except where evidence supporting an aggravating circumstance is admissible to prove or defend against the charged offense or enhancement at trial, or it is otherwise authorized by law, upon request of a defendant, trial on the circumstances in aggravation alleged in the indictment or information shall be bifurcated from the trial of charges and enhancements. The jury shall not be informed of the bifurcated allegations until there has been a conviction of a felony offense.~~

~~(3) Notwithstanding paragraphs (1) and (2), the court may consider the defendant's prior convictions in determining sentencing based on a certified record of conviction without submitting the prior convictions to a jury. This paragraph does not apply to enhancements imposed on prior convictions.~~

~~(4) At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report or to present additional facts. The court may consider the record in the case, the probation officer's report, other reports, including reports received pursuant to Section 1203.03, and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing.~~

~~(5) The court shall set forth on the record the facts and reasons for choosing the sentence imposed. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.~~

~~(6) Notwithstanding paragraph (1), and unless the court finds that the aggravating circumstances outweigh the mitigating circumstances that imposition of the lower term would be contrary to the interests of justice, the court shall order imposition of the lower term if any of the following was a contributing factor in the commission of the offense:~~

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

~~(B) The person is a youth or was a youth as defined under subdivision (b) of Section 1016.7 at the time of the commission of the offense.~~

~~(C) Prior to the instant offense, or at the time of the commission of the offense, the person is or was a victim of intimate partner violence or human trafficking.~~

~~(7) Paragraph (6) does not preclude the court from imposing the lower term even if there is no evidence of those circumstances listed in paragraph (6) present.~~

~~(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term they may be on parole for a period as provided in Section 3000 or 3000.08 or postrelease community supervision for a period as provided in Section 3451.~~

~~(d) (1) (A) When a defendant who was under 18 years of age at the time of the commission of the offense for which the defendant was sentenced to imprisonment for life without the possibility of parole has been incarcerated for at least 15 years, the defendant may submit to the sentencing court a petition for recall and resentencing.~~

~~(B) Notwithstanding subparagraph (A), this paragraph shall not apply to defendants sentenced to life without parole for an offense where it was pled and proved that the defendant tortured, as described in Section 206, their victim or the victim was a public safety official, including any law enforcement personnel mentioned in Chapter 4.5 (commencing with Section 830) of Title 3, or any firefighter as described in Section 245.1, as well as any other officer in any segment of law enforcement who is employed by the federal government, the state, or any of its political subdivisions.~~

~~(C) Notwithstanding subparagraph (A), this subdivision shall not apply to defendants serving a sentence for an offense where it was pled and proved that the defendant, within the same proceeding, has been convicted of more than one offense of murder in the first or second degree,~~

~~that the offense constitutes a mass shooting, or that the offense was committed in a school zone or on the property of a place of worship.~~

~~(2) The defendant shall file the original petition with the sentencing court. A copy of the petition shall be served on the agency that prosecuted the case. The petition shall include the defendant's statement that the defendant was under 18 years of age at the time of the crime and was sentenced to life in prison without the possibility of parole, the defendant's statement describing their remorse and work towards rehabilitation, and the defendant's statement that one of the following is true:~~

~~(A) The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.~~

~~(B) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the sentence is being considered for recall.~~

~~(C) The defendant committed the offense with at least one adult codefendant.~~

~~(D) The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing themselves of rehabilitative, educational, or vocational programs, if those programs have been available at their classification level and facility, using self-study for self-improvement, or showing evidence of remorse.~~

~~(3) If any of the information required in paragraph (2) is missing from the petition, or if proof of service on the prosecuting agency is not provided, the court shall return the petition to the defendant and advise the defendant that the matter cannot be considered without the missing information.~~

~~(4) A reply to the petition, if any, shall be filed with the court within 60 days of the date on which the prosecuting agency was served with the petition unless a continuance is granted for good cause.~~

~~(5) If the court finds by a preponderance of the evidence that one or more of the statements specified in subparagraphs (A) to (D), inclusive, of paragraph (2) is true, the court shall recall the sentence and commitment previously ordered and hold a hearing to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. Victims, or victim family members if the victim is deceased, shall retain the rights to participate in the hearing.~~

~~(6) The factors that the court may consider when determining whether to resentence the defendant to a term of imprisonment with the possibility of parole include, but are not limited to, the following:~~

~~(A) The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.~~

~~(B) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the defendant was sentenced to life without the possibility of parole.~~

~~(C) The defendant committed the offense with at least one adult codefendant.~~

~~(D) Prior to the offense for which the defendant was sentenced to life without the possibility of parole, the defendant had insufficient adult support or supervision and had suffered from psychological or physical trauma or significant stress.~~

~~(E) The defendant suffers from cognitive limitations due to mental illness, developmental disabilities, or other factors that did not constitute a defense but influenced the defendant's involvement in the offense.~~

~~(F) The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing themselves of rehabilitative, educational, or vocational programs, if those programs have been available at their classification level and facility, using self-study for self-improvement, or showing evidence of remorse.~~

~~(G) The defendant has maintained family ties or connections with others through letter writing, calls, or visits or has eliminated contact with individuals outside of prison who are currently involved with crime.~~

~~(H) The defendant has had no disciplinary actions for violent activities in the last five years in which the defendant was determined to be the aggressor.~~

~~(7) The court shall have the discretion to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. The discretion of the court shall be exercised in consideration of the criteria in paragraph (6). Victims, or victim family members if the victim is deceased, shall be notified of the resentencing hearing and shall retain their rights to participate in the hearing.~~

~~(8) Notwithstanding paragraph (7), the court may also resentence the defendant to a term that is less than the initial sentence if any of the following were a contributing factor in the commission of the alleged offense:~~

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

~~(B) The person is a youth or was a youth as defined under subdivision (b) of Section 1016.7 at the time of the commission of the offense.~~

~~(C) Prior to the instant offense, or at the time of the commission of the offense, the person is or was a victim of intimate partner violence or human trafficking.~~

(9) Paragraph (8) does not prohibit the court from resentencing the defendant to a term that is less than the initial sentence, even if none of the circumstances listed in paragraph (8) are present.

(10) If the sentence is not recalled or the defendant is resentenced to imprisonment for life without the possibility of parole, the defendant may submit another petition for recall and resentencing to the sentencing court when the defendant has been committed to the custody of the department for at least 20 years. If the sentence is not recalled or the defendant is resentenced to imprisonment for life without the possibility of parole under that petition, the defendant may file another petition after having served 24 years. The final petition may be submitted, and the response to that petition shall be determined, during the 25th year of the defendant's sentence.

(11) In addition to the criteria in paragraph (6), the court may consider any other criteria that the court deems relevant to its decision, so long as the court identifies them on the record, provides a statement of reasons for adopting them, and states why the defendant does or does not satisfy the criteria.

(12) This subdivision shall have retroactive application.

(13) Nothing in this paragraph is intended to diminish or abrogate any rights or remedies otherwise available to the defendant.

(14) For the purposes of this subdivision, the following definitions shall apply:

(i) "Mass shooting" means a multiple homicide incident where at least three victims are killed with a firearm during one event in locations in close proximity.

(ii) "School zone" means the same as defined in paragraph (4) of subdivision (e) of Section 626.9.

(e) Notwithstanding subdivision (a), the court may recall and resentence an incarcerated person pursuant to the compassionate release program set forth in Section 1172.2.

(f) Notwithstanding any other provision of this section, for purposes of paragraph (3) of subdivision (h), an allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because the defendant is required to register as a sex offender shall not be subject to dismissal pursuant to Section 1385.

(g) A sentence to the state prison for a determinate term for which only one term is specified is a sentence to state prison under this section.

(h) (1) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

(2) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

~~(3) Notwithstanding paragraphs (1) and (2), where the defendant (A) has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7 or a prior or current conviction for a violent felony described in subdivision (c) of Section 667.5, (B) has a prior felony conviction in another jurisdiction for an offense that has all the elements of a serious felony described in subdivision (c) of Section 1192.7 or a violent felony described in subdivision (c) of Section 667.5, (C) is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in the state prison.~~

~~(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.~~

~~(5) (A) Unless the court finds, in the interest of justice, that it is not appropriate in a particular case, the court, when imposing a sentence pursuant to paragraph (1) or (2), shall suspend execution of a concluding portion of the term for a period selected at the court's discretion.~~

~~(B) The portion of a defendant's sentenced term that is suspended pursuant to this paragraph shall be known as mandatory supervision, and, unless otherwise ordered by the court, shall commence upon release from physical custody or an alternative custody program, whichever is later. During the period of mandatory supervision, the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory and may not be earlier terminated, except by court order. Any proceeding to revoke or modify mandatory supervision under this subparagraph shall be conducted pursuant to either subdivisions (a) and (b) of Section 1203.2 or Section 1203.3. During the period when the defendant is under that supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court. Any time period that is suspended because a person has absconded shall not be credited toward the period of supervision. A defendant who is subject to search or seizure as part of the terms and conditions of mandatory supervision, is subject to search or seizure only by a probation officer or other peace officer.~~

~~(6) When the court is imposing a judgment pursuant to this subdivision concurrent or consecutive to a judgment or judgments previously imposed pursuant to this subdivision in another county or counties, the court rendering the second or other subsequent judgment shall determine the county or counties of incarceration and supervision of the defendant.~~

~~(7) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.~~

~~(8) The sentencing changes made to paragraph (5) by the act that added this paragraph shall become effective and operative on January 1, 2015, and shall be applied prospectively to any person sentenced on or after January 1, 2015.~~

~~(9) Notwithstanding the separate punishment for any enhancement, any enhancement shall be punishable in a county jail or state prison as required by the underlying offense and not as would be required by the enhancement. The intent of the Legislature in enacting this paragraph is to abrogate the holding in People v. Vega (2014) 222 Cal.App.4th 1374, that if an enhancement specifies service of sentence in state prison, the entire sentence is served in state prison, even if the punishment for the underlying offense is a term of imprisonment in the county jail.~~

SEC. 2. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) (1) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when the minor was 16 years of age or older, of any offense listed in subdivision (b) or any other felony criminal statute, the district attorney or other appropriate prosecuting officer may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. The motion shall be made prior to the attachment of jeopardy. Upon the motion, the juvenile court shall order the probation officer to submit a report on the behavioral patterns and social history of the minor. The report shall include any written or oral statement offered by the victim pursuant to Section 656.2.

(2) In any case in which an individual is alleged to be a person described in Section 602 by reason of the violation, when the individual was 14 or 15 years of age, of any offense listed in subdivision (b), ***and either*** ~~but~~ was not apprehended prior to the end of juvenile court jurisdiction ***and jeopardy has not yet attached, or was previously convicted in a court of criminal jurisdiction and is now subject to resentencing in juvenile court pursuant to subdivision (d) of Penal Code section 1170***, the district attorney or other appropriate prosecuting officer may make a motion to transfer the individual from juvenile court to a court of criminal jurisdiction. ~~The motion shall be made prior to the attachment of jeopardy.~~ Upon the motion, the juvenile court shall order the probation officer to submit a report on the behavioral patterns and social history of the individual. The report shall include any written or oral statement offered by the victim pursuant to Section 656.2.

~~(3) In any case in which an individual is alleged to be a person described in Section 602 by reason of the violation, when the individual was 14 or 15 years of age, of the offense of murder of any law enforcement personnel described in Chapter 4.5 (commencing with Section 830) of Title of Part 2 of the Penal Code or the offenses described in paragraph (1), (12), or (13) of subdivision (b) when the offense occurred in a school zone, as defined in Section 626.9 of the Penal Code or on the property of a place of worship, or is alleged to have committed more than one offense of murder in the first or second degree in the same event, the district attorney or other appropriate prosecuting officer may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. The motion shall be made prior to the attachment of jeopardy. Upon the motion, the juvenile court shall order the probation officer to submit a report on the behavioral patterns and social history of the minor. The report shall include any written or oral statement offered by the victim pursuant to Section 656.2.~~

(4) Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the juvenile court shall decide whether the minor should be transferred to a court of criminal jurisdiction. 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 criteria specified in subparagraphs (A) to (E), inclusive. If the court orders a transfer of jurisdiction, the court shall recite the basis for its decision in an order entered upon the minutes, which shall include the reasons supporting the court's finding that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the transfer hearing, and a plea that has been entered already shall not constitute evidence at the hearing.

(A) (i) The degree of criminal sophistication exhibited by the minor.

(ii) When evaluating the criterion specified in clause (i), 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) (i) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(ii) When evaluating the criterion specified in clause (i), the juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature.

(C) (i) The minor's previous delinquent history.

(ii) When evaluating the criterion specified in clause (i), 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) (i) Success of previous attempts by the juvenile court to rehabilitate the minor.

(ii) When evaluating the criterion specified in clause (i), 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.

(E) (i) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

(ii) When evaluating the criterion specified in clause (i), 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.

(iii) When evaluating the criterion specified in clause (i), 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.

(b) This subdivision is applicable to any case in which a minor is alleged to be a person described in Section 602 by reason of the violation of one of the following offenses:

(1) Murder.

(2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.

(3) Robbery.

(4) Rape with force, violence, or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) A lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) An offense specified in subdivision (a) of Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purposes of robbery.

(11) Kidnapping with bodily harm.

(12) Attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) An offense described in Section 1203.09 of the Penal Code.

(17) An offense described in Section 12022.5 or 12022.53 of the Penal Code.

(18) A felony offense in which the minor personally used a weapon described in any provision listed in Section 16590 of the Penal Code.

(19) A felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) A violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which also would constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from a county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping for purposes of sexual assault, as punishable in subdivision (b) of Section 209 of the Penal Code.

(27) Kidnapping as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 26100 of the Penal Code.

(29) The offense described in Section 18745 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code.

Date of Hearing: April 7, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1974 (Stefani) – As Amended March 25, 2026

As Proposed to be Amended in Committee

SUMMARY: Authorizes a law enforcement agency (LEA) to create a voluntary firearm storage program that allows transfer of firearms to the LEA for temporary safekeeping. Specifically, **this bill**:

1) States that an LEA may create a voluntary firearm storage program that allows a person to voluntarily transfer custody of their firearm to the local law enforcement agency for temporary safekeeping purposes to prevent firearm violence, suicide, and other injury.

2) Provides that an LEA adopting a temporary safekeeping program shall not be held liable for damage to the firearms while the firearms are in LEA custody.

3) Specifies that all of the following may be required as part of the program:

   a) An LEA shall have the capability to store a firearm for a minimum duration of one year.

   b) An LEA may do all of the following:

      i) Provide clear instructions on the procedure for a person to voluntarily transfer custody of their firearm to the LEA and make the procedure available to the public on the agency's internet website.

      ii) Provide explicit instructions on the process for requesting return of the firearms, including, but not limited to, by electronically submitting a Law Enforcement Release application for the return of a firearm via the California Firearms Application Reporting System (CFARS).

      iii) Provide clear information on the maximum amount of time that LEA's may store a firearm and on the disposition of a firearm after the firearm has exceeded the maximum storage time. This information shall notify the person that their firearm or firearms shall be destroyed, returned to the person, or transferred to a federal firearms licensee to be sold.

      iv) Upon receipt of a firearm:

         (1) Check the Automated Firearms System (AFS) to ensure the firearm has not previously been reported as lost or stolen or otherwise involved in a crime.

         (2) Update the AFS to record the current disposition of the firearm.

(3) Prior to the return of a firearm to a person requesting its return, LEA shall ensure that the requesting person is eligible to possess firearms when the firearm is returned.

(4) Upon return or destruction of the firearm, an LEA shall update the AFS to reflect the change in disposition pursuant to the agency's policy.

4) Establishes that failure to retrieve the firearm by the LEA shall result in the firearm being destroyed.

5) States that a firearm subject to destruction may, in lieu of destruction, be donated to a public or private nonprofit historical society, museum, or institutional collection, including that the firearm be deactivated or rendered inoperable before delivery.

6) Provides that specified laws restricting openly carrying an unloaded firearm, carrying an unloaded firearm, and delivering or transferring a firearm, do not apply to, or affect, the transportation of a firearm by a person to a law enforcement, if the person gives prior notice to the LEA that they are transporting the firearm to the law enforcement agency

7) Specifies that it is encouraged that a law enforcement agency makes family law advocates and veterans' outreach programs aware of the program.

8) States that this change to the law does not limit an LEA's ability to accept firearms for voluntary temporary firearm storage pursuant to any other authority.

9) Defines "law enforcement agency" as a police department or sheriff's department.

EXISTING LAW:

1) Provides that a person commits the crime of "criminal storage of a firearm in the first degree," except as specified, if all of the following conditions are satisfied:

   a) The person keeps any firearm within any premises that are under the person's custody or control.

   b) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, or that a person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law is likely to gain access to the firearm.

   c) The child obtains access to the firearm and thereby causes death or great bodily injury to the child or any other person, or the person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law obtains access to the firearm and thereby causes death or great bodily injury to themselves or any other person. (Pen. Code, § 25100, subd. (a).)

2) States that a person commits the crime of "criminal storage of a firearm in the second degree," except as specified, if all of the following conditions are satisfied:

   a) The person keeps any firearm within any premises that are under the person's custody or control.

   b) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, or that a person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law is likely to gain access to the firearm.

   c) The child obtains access to the firearm and thereby causes injury, other than great bodily injury, to the child or any other person, or carries the firearm either to a public place, or the person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law obtains access to the firearm and thereby causes injury, other than great bodily injury, to themselves or any other person, or carries the firearm either to a public place. (Pen. Code, § 25100, subd. (b).)

3) Provides that a person commits the crime of "criminal storage of a firearm in the third degree," except as specified, if the person keeps a firearm within any premises that are under the person's custody or control and negligently stores or leaves a firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian. (Pen. Code, § 25100, subd. (c).)

4) States that the offense of criminal storage of a firearm does not apply whenever any of the following occurs:

   a) The child obtains the firearm as a result of an illegal entry to any premises by any person.

   b) The firearm is securely stored, as defined.

   c) The firearm is carried or readily controlled by the lawful owner or another lawful authorized user.

   d) The person is a peace officer or a member of the United States Armed Forces or the National Guard and the child obtains the firearm during, or incidental to, the performance of the person's duties.

   e) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person. (Pen. Code, § 25105.)

5) Establishes that a person shall, when leaving a handgun in an unattended vehicle, lock the handgun in the vehicle's trunk, lock the handgun in a locked container and place the container out of plain view, lock the handgun in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or lock the handgun in a locked toolbox or utility box. (Pen. Code, § 25140, subds. (a)-(c).)

6) Provides that a person shall ensure that any firearm the person possesses in a residence is securely stored whenever the firearm is not being carried or readily controlled by the person or another lawful authorized user. (Pen. Code, § 25145, subd. (a).)

7) Provides that in order for a firearm to be exempted while being transported to or from a place, the firearm shall be unloaded and kept in a locked container, and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances. (Pen. Code, § 25505.)

8) Provides for criminal penalties for openly carrying an unloaded handgun when that person carries upon his or her person an exposed and unloaded handgun under specified circumstances. (Pen. Code, § 26350, subd. (a)(1) & (2).)

9) Establishes that no person shall transfer firearms unless the person has been issued a license. (Pen. Codr, § 26500, subd. (a).)

10) States that when a firearm is taken into custody by a law enforcement officer, the officer shall issue the person who possessed the firearm a receipt describing the firearm, and listing any serial number or other identification on the firearm. (Pen. Code, § 33800, subd. (a).)

11) Establishes that any person who claims title to any firearm that is in the custody or control of a LEA and who wishes to have the firearm returned shall make application for a determination by the DOJ, electronically via the California Firearms Application Reporting System (CFARS), as to whether the applicant is eligible to possess a firearm. (Pen. Code, § 33850, subd. (a).)

12) Specifies that when DOJ receives a completed application for return of a firearm, it shall conduct an eligibility check of the applicant to determine whether the applicant is eligible to possess a firearm, ammunition feeding device, or ammunition. (Pen. Code, § 33865, subd. (a).)

13) States that if an LEA determines that an applicant requesting return of a firearm is the legal owner of any firearm, among other requirements, the applicant shall be entitled to sell or transfer the firearm, ammunition feeding device, or ammunition to a licensed firearms dealer. (Pen. Code, § 33870, subd. (a).)

14) Provides that LEA's shall develop policies for effectuating the restrictions of defined restraining orders, including requiring officers to encourage restrained individuals to relinquish any firearms they cannot immediately relinquish to the officer through a designated third party or with law enforcement supervision. (Pen. Code, § 13667, subd. (f)(3).)

15) Defines "securely stored" if as firearm that is maintained within, locked by, or disabled using a certified firearm safety device or a secure gun safe. (Pen. Code, § 25145, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1974 This bill will establish guidelines for law enforcement agencies that choose to create a temporary voluntary safe firearm storage program for the public. This bill builds upon the success of a few local jurisdictions that have implemented similar programs that have both improved public safety and given

people the flexibility to ensure the safe storage of their firearms during times of uncertainty. Finally, this bill ensures there are proper procedures to make sure any stored firearm is handled properly, with multiple checks in place so they don't end up in the wrong hands or are returned to someone who may no longer legally own a firearm."

2) **Effect of the Bill**: Named after a program developed by a nonprofit organization, Pierce's Pledge, this bill could provide an avenue for individuals to voluntarily surrender their firearms to a local LEA for safekeeping during a chaotic time in their lives.[1] There is an identifiable need for this type of bill, particularly for individuals experiencing certain crises where the presence of firearms can produce tragic outcomes. According to the Pew Research Center, "Nearly 47,000 people died of gun-related injuries in the United States in 2023. While the number of gun deaths in the U.S. fell for the second consecutive year, it remained among the highest annual totals on record."[2] The report went on to note, "Though they tend to get less public attention than gun-related murders, suicides have long accounted for the majority of U.S. gun deaths. In 2023, 58% of all gun-related deaths in the U.S. were suicides (27,300), while 38% were murders (17,927)."[3]

   Although there is no difference in the rate of mental illness or suicidal ideation in households with and without firearms, the risk of completed suicide is especially high for people in firearm-owning households.[4] As a result, helping people survive periods of suicidal ideation by reducing their access to a lethal weapon like a firearm likely can help some people survive bouts with suicidality.[5] AB 1974 establishes a process by which an individual who may be suicidal can turn in their firearm to an LEA for storage.

   AB 1974 states that "all of the following *may* be required as part of the program", which suggests the requirements are optional, rather than mandatory. The proceeding use of "shall" in provisions detailing the guidance expected for firearm surrenders and retrievals could create some confusion, but adding some parallel language should help establish that while the program is optional, should an LEA choose to implement the program it would be required to follow specific procedures. While AB 1974 states that LEA's must be able to store surrendered firearms for one year, it is likely this will serve as the maximum storage duration for participating agencies.

   AB 1974 also authorizes destruction of a firearm, or donation to a public or private nonprofit, where a person fails to retrieve their firearm at the end of the maximum surrender period. It is understandable that LEA's should not be necessarily required to store a voluntarily surrendered firearm indefinitely and that a person who becomes prohibited from possessing a firearm during the storage period should not be able to retrieve the firearm. Participating LEA's should make clear to the person surrendering custody of their firearm, however, exactly how the surrendered firearm would be treated in different circumstances.

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[1] *Firearm Storage Resources*. Pierce's Pledge <https://www.piercespledge.org/gun-storage> [as of Mar. 31, 2026].
[2] Gramlich, J. *What the data says about gun deaths in the U.S.* (Mar 5, 2025) Pew Research Center <https://www.pewresearch.org/short-reads/2025/03/05/what-the-data-says-about-gun-deaths-in-the-us/> [as of Mar. 31, 2026].
[3] *Ibid.*
[4] Gibbons et al. *Legal Liability for Returning Firearms to Suicidal Persons Who Voluntarily Surrender Them in 50 States* (May 2020) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7144456/> [as of Mar. 31, 2026].
[5] *Ibid.*

3) **Intersection with Existing Law:** AB 1974 permits LEA's to implement a voluntary safe storage program with specified requirements. Two provisions in the bill provide for either destruction of the surrendered firearm or donation of the surrendered firearm in cases where a person does not retrieve the firearm they surrendered before the end of the maximum storage period. The processes for surrender and retrieval in this bill are largely established in existing law. Defined procedures exist for retrieving a firearm required to be relinquished when a person becomes subject to a restraining order. (Pen. Code, § 13667.) Similarly, established processes exist for retrieval of a firearm once the person regains the right to possess their firearms. (Pen. Codes, §§ 33850-33865.)

   Current law additionally authorizes a person with rightful, lawful ownership of a firearm, who chooses to surrender ownership in addition to custody, the option of having the firearm transferred to a licensed firearms dealer for sale. (Pen. Code, § 33870, subd. (a).) While this option is not clearly defined in this bill, presumably existing law would permit a person, who chose to surrender ownership of their firearm under AB 1974 before the expiration of the maximum storage period, the ability to have their firearm sold through a licensed dealer. Otherwise, there would be some incongruence in the law, given that a person who is *mandated* to surrender their firearm under one provision of law could accrue some financial benefit by foregoing future ownership and having the firearm sold through a dealer, while a person voluntarily surrendering their firearm under AB 1974 who makes the same decision to surrender ownership could not get the benefit of selling the firearm to or through a licensed dealer.

4) **The *Bruen* Analysis:** AB 1974, in certain specific cases, may interfere with some protected Second Amendment conduct, though the current constitutional test suggests a Second Amendment violation is unlikely with this bill.

   To be subject to Second Amendment scrutiny, a law must first infringe on plain text Second Amendment conduct. (*New York State Rifle & Pistol Association, Inc. v. Bruen,* (2022) 597 U.S. 1, 17.) Justifying a law or regulation that purports to place restrictions on protected Second Amendment conduct requires the government to demonstrate the law is "consistent with the nation's historical tradition of firearms regulation." (*Id.* at p. 24.) A firearms regulation is constitutional if the government establishes the proposed law is "relevantly similar" to historical laws, regulations, and traditions. (*Id.* at p. 29.)

   AB 1974 arguably does not infringe on plain text Second Amendment conduct. Laws that mandate specific action or inaction relating to firearms generally burden plain text Second Amendment conduct, especially as those laws apply to individuals. This bill, however, establishes a voluntary program, so a person is not required under AB 1974 to do anything relating to their firearms. It is still important though to establish clear guidelines for efficient return and noticed destruction of firearms because concerns over constitutionality could develop in certain situations.

   Since the program under this bill would be implemented and operated by LEA's, AB 1974 could impact plain text Second Amendment conduct if a situation arises where a LEA refuses to return a surrendered firearm or where the surrendered firearm is destroyed with no lawful

justification. In these cases, government actors would be infringing on otherwise lawful, protected Second Amendment conduct.

The majority of cases where AB 1974 would be applied, however, are unlikely to invite Second Amendment scrutiny. In addition to Second Amendment scrutiny, this bill could face other constitutional concerns.

5) **The Fifth Amendment's Takings Clause**: Another constitutional concern that may develop under particular applications of AB 1974 could arise under the Fifth Amendment. The Fifth Amendment states, in part, that private property shall not "be taken for public use, without just compensation." (U.S. Const., 5th Amend.) This portion of the Fifth Amendment is commonly referred to as the "Takings Clause." The Court has found that protecting private property is indispensable to the promotion of individual freedom. (*Eastern Enterprises v. Apfel* (1998) 524 U.S. 498, 532.) A firearm is property for Fifth Amendment purposes.

   There are different ways in which a government can take property. A taking may occur where the government directly appropriates private property. (*Loretto v. Teleprompter Manhattan CATV Corp.* (1982) 458 U.S. 419.) When the law results in a physical appropriation of property, however, a per se (i.e., in itself) taking has occurred. (*Cedar Point v. Hassid* (2021) 594 U.S. 139.) The Court noted one example of a physical taking where the government required raising growers to physically set aside a portion of their crop, free of charge, so that the government could direct its use. (*Horne v. Dep't of Agriculture* (2015) 576 U.S. 351, 354.) The Court held this was a clear physical taking because people do not expect their property to be occupied or confiscated. (*Id.* at 361.)

   AB 1974 could constitute a taking in certain cases where a firearm is unlawfully donated or destroyed, or where return of a voluntarily surrendered firearm is refused. In this case, the Fifth Amendment may demand just compensation be made to the person who lost their firearm. Given that firearms ownership is a constitutional right, it is additionally possible that in a hypothetical case where a firearm is unlawfully appropriated by a LEA under this bill, the person who lost their firearm could bring a civil claim against the LEA for violations of federal and California civil rights laws. (42 U.S.C. § 1983, Civ. Code, § 52.1.) While constitutional issues with AB 1974 are unlikely, they are possible in certain situations.

6) **Committee Amendments**: The proposed amendments would establish parallel language in similar provisions for clarity, make technical changes, and directly address what happens if a person who surrenders a firearm pursuant to this program no longer wishes to own the firearm, and makes that clear to the LEA in custody of their firearm before the expiration of the maximum storage period.

   This amendment would make clear that in cases where a person voluntarily surrenders ownership of the firearm for which they already surrendered custody, that person could choose to have the firearm destroyed, or donated to a designated institution, which are consistent with the language in this bill, or alternatively, transferred to a licensed firearms for sale, which is consistent with existing law.

7) **Argument in Support**: According to the *California District Attorney's Association*, "On behalf of the California District Attorneys Association (CDAA), I write in support of your measure, AB 1974, which seeks to enhance public safety by reducing access to guns. This

bill authorized law enforcement agencies to create a voluntary firearm storage program to allow persons to transfer custody of their firearm(s) to these agencies to prevent firearm violence, suicide, and other injury. The records checks conducted upon receipt and return of firearms will ensure that firearms that are lost, stolen, or involved in crimes are identified and that persons to whom firearms are returned may safely and validly receive them. Since this bill will encourage participating law enforcement agencies to do outreach on this program with family advocates and veterans' programs, we support AB 1974."

8) **Argument in Opposition**: According to the *California Rifle and Pistol Association (CRPA)*, "While framed as a purely "voluntary" program allowing individuals to temporarily surrender firearms to local law enforcement agencies for safekeeping, AB 1974 creates a new statutory framework that raises serious practical, liability, and constitutional concerns. The bill authorizes law enforcement to establish procedures for accepting firearms, checking databases for lost/stolen status and possessor eligibility, providing instructions for return, and exempts these transfers from certain transfer and dealer regulations.

   "CRPA supports responsible firearm storage and suicide prevention efforts through education, secure storage solutions, and voluntary programs run by private retailers, ranges, and nonprofits. However, inserting government agencies—particularly law enforcement—into temporary firearm custody creates multiple risks:

   "Liability and due process issues: Law enforcement agencies already face backlogs with firearms in custody. Delays in return, lost or damaged firearms, or disputes over eligibility upon retrieval could lead to costly litigation and erode public trust.

   "Potential for abuse or 'soft confiscation': What begins as voluntary can quickly become pressured, especially during welfare checks, domestic disputes, or mental health crises. Once in government hands, firearms may face bureaucratic hurdles, administrative holds, or permanent loss if the owner encounters any legal complication.

   "Resource strain on law enforcement: In a time of strained budgets and staffing shortages, diverting officers and storage facilities to manage private property storage diverts resources from core public safety duties.

   "Chilling effect on Second Amendment rights: Even voluntary programs risk normalizing government custody of lawfully owned firearms and could discourage ownership or prompt unnecessary surrenders out of fear of complications in retrieval.

   "California already provides numerous tools for safe storage, temporary relinquishment during restraining orders, and mental health interventions. AB 1974 adds another layer of government involvement without addressing root causes of violence or suicide and without adequate safeguards against misuse."

9) **Related Legislation**:

   a) AB 1753 (Stefani) would, among other things, establish that courts shall issue an ex parte restraining order or temporary restraining order (TRO) even if the respondent was not provided notice, and that courts cannot require petitioners to establish exceptional

circumstances in order to grant the petitioner a temporary or ex parte restraining order. AB 1753 is pending hearing in the Assembly Public Safety Committee.

b) SB 1220 (Hurtado) would prohibit a person who is convicted on or after January 1, 2027, of defined laws, from owning, purchasing, receiving, or having in their possession or under their custody or control any firearm within 10 years of the conviction. SB 1220 is pending hearing in the Senate Public Safety Committee.

10) **Prior Legislation:**

a) AB 1127 (Gabriel), Chapter 572, Statutes of 2025, prohibited a licensed firearms dealer from selling, offering for sale, exchanging, giving, transferring, or delivering any semiautomatic convertible pistol, except as specified.

b) SB 53 (Portantino), Chapter 542, Statutes of 2024, required a person who possesses a firearm in a residence to keep the firearm securely stored when the firearm is not being carried or readily controlled by the person or another lawful authorized user.

c) AB 1047 (Maienschein), of the 2023-2024 Legislative Session, would have required DOJ to develop and maintain a website where California residents can place themselves on a registry to notify a licensed behavior health clinician if the person attempts to purchase a firearm. AB 1047 was held in suspense in the Assembly Appropriations Committee.

d) SB 368 (Portantino), Chapter 251, Statutes of 2023, required a licensed firearms dealer, as specified, to accept for storage a firearm transferred by an individual to prevent it from being accessed or used during periods of crisis or heightened risk to the owner of the firearm or members of their household.

e) AB 29 (Gabriel), of the 2023-2024 Legislative Session, would have required the DOJ to develop and launch an Internet-based platform to allow California residents to voluntarily add their own name to the California Do Not Sell List for firearms, which prohibits an individual from purchasing a firearm. AB 29 would have also authorized California residents to voluntarily list up to five electronic email addresses with the registry to be notified that the person has voluntarily added their name to the registry or that the person requested that their name be removed from the registry. AB 29 was held under submission in the Assembly Appropriations Committee.

f) AB 97 (Rodriguez), Chapter 233, Statutes of 2023, required the DOJ to collect and report specified information, including, among other things, the number and disposition of arrests made for violations of manufacturing a firearm or assembling a firearm from unserialized components.

g) AB 1621 (Gipson), Chapter 76, Statutes of 2022, redefined a firearm precursor part as any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.

h) AB 2156 (Wicks), Chapter 142, Statutes of 2022, expanded the firearms manufacturing prohibition to prohibit any person, regardless of federal licensure, from manufacturing firearms in the state without being licensed by the state.

i) AB 1927 (R. Bonta), of the 2017-2018 Legislative Session, would have required the DOJ to develop and launch an Internet-based platform to allow California residents to voluntarily add their name to the California Do Not Sell List for firearms, which would have prohibited an individual from purchasing a firearm. The governor vetoed a substantially amended version of the bill.

REGISTERED SUPPORT / OPPOSITION:

Support

Brady California
Brady United Against Gun Violence
California District Attorneys Association
City and County of San Francisco
Everytown for Gun Safety Action Fund
Giffords
Giffords Gun Owners for Safety, California
Moms Demand Action for Gun Sense in America
Peace Officers Research Association of California (PORAC)
San Francisco Board of Supervisors
Students Demand Action for Gun Sense in America

Opposition

California Rifle and Pistol Association, INC.

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

Amended Mock-up for 2025-2026 AB-1974 (Stefani (A))

Mock-up based on Version Number 98 - Amended Assembly 3/25/26
Submitted by: Staff Name, Office Name

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

SECTION 1. It is the intent of the Legislature to encourage law enforcement agencies to make family law advocates and veterans' outreach programs aware of programs created by the law enforcement agencies that allow a person to voluntarily transfer custody of their firearm to a law enforcement agency for temporary safekeeping purposes to prevent firearm violence, suicide, and other injury.

SEC. 2. Section 25010 is added to the Penal Code, to read:

25010. (a) A law enforcement agency may create a voluntary firearm storage program that allows a person to voluntarily transfer custody of their firearm to the local law enforcement agency for temporary safekeeping purposes to prevent firearm violence, suicide, and other injury.

(b) A law enforcement agency adopting a program pursuant to this section shall not be held liable for damage to the firearms while the firearms are in the temporary custody of the agency.

(c) All of the following ~~**may**~~ **shall** be required as part of the program:

(1) A law enforcement agency shall have the capability to store a firearm for a ~~**minimum**~~ duration of one year.

(2) A law enforcement agency ~~**may**~~ **shall** do all of the following **as part of the program**:

(A) Provide clear instructions on the procedure for a person to voluntarily transfer custody of their firearm to the law enforcement agency, and make the procedure available to the public on the agency's internet website in a manner that is consistent with the information that shall be posted in accordance with subdivision (h) of Section 13667.

(B) Provide ~~**explicit**~~ **clear** instructions on the process for requesting return of the firearms in accordance with Chapter 2 (commencing with Section 33850) of Division 11, including, but not limited to, by electronically submitting a Law Enforcement Release application for the return of a firearm via the California Firearms Application Reporting System. **Instructions on the process for requesting return of surrendered firearms shall be made available to the public on the agency's internet website.**

(C) Provide clear information on the maximum amount of time that the law enforcement agency may store a firearm and on the disposition of a firearm after the firearm has exceeded the maximum storage time allowed by the local law enforcement agency. This information shall notify the person that their firearm or firearms shall be destroyed, returned to the person, or ~~**transferred to a federal firearms licensee to be sold**~~ **donated to a public or private nonprofit historical society, museum, or institutional collection.**

(D) Provide clear information on how people using the safe storage program, if they decide they no longer want the firearms at any point during the firearm storage period, can elect to have their firearms destroyed, donated to a public or private nonprofit historical society, museum, or institutional collection, or pursuant to subdivision (b) of section 33850 of the Penal Code selling or transferring title of their firearm to a licensed dealer or a third party that is not prohibited from possessing that firearm. Instructions on the process for requesting destruction, donation, or transfer of surrendered firearms shall be made available to the public on the agency's internet website.

~~(D)~~ (E) Upon receipt of a firearm:

(i) Check the Automated Firearms System to ensure the firearm has not previously been reported as lost or stolen or otherwise involved in a crime pursuant to Section 33855.

(ii) Update the Automated Firearms System to record the current disposition of the firearm pursuant to Section 11108.2.

(iii) Prior to the return of a firearm to a person requesting its return, the law enforcement agency shall ensure that the requesting person is eligible to possess firearms when the firearm is returned to the person pursuant to Section 33855.

(iv) Upon return**, donation, transfer,** or destruction of the firearm, a law enforcement agency shall update the Automated Firearms System to reflect the change in disposition pursuant to the agency's policy under Section 18005.

(d) (1) Failure to retrieve the firearm at the end of a time period specified by the law enforcement agency shall result in the firearm being destroyed pursuant to the agency's policy under Section 18005. **Destruction of the firearm authorized by this paragraph shall not be executed if the person who surrendered the firearm has submitted a Law Enforcement Release application for the return of their firearm via the California Firearms Application Reporting System (CFARS) and the person is awaiting an eligibility determination.**

(2) A firearm subject to destruction pursuant to this section may, in lieu of destruction, be donated to a public or private nonprofit historical society, museum, or institutional collection, subject to the provisions of Section 27855, including, but not limited to, that the firearm be deactivated or rendered inoperable before delivery. **Donation of the firearm authorized by this paragraph shall not be executed if the person who surrendered the firearm has submitted a Law Enforcement Release application for the return of their firearm via the California Firearms**

Application Reporting System (CFARS) and the person is awaiting an eligibility determination.

(e) It is encouraged that a law enforcement agency makes family law advocates and veterans' outreach programs aware of the program.

(f) This section does not limit a law enforcement agency's ability to accept firearms for voluntary temporary firearm storage pursuant to any other authority, **program, or services the law enforcement agency offers.**

(g) For purposes of this section, a law enforcement agency means a police department or sheriff's department.

SEC. 3. Section 25570 of the Penal Code is amended to read:

25570. Section 25400 does not apply to, or affect, any of the following:

(a) The transportation of a firearm by a person who finds the firearm, if the person is transporting the firearm in order to comply with Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code as it pertains to that firearm, and, if the person is transporting the firearm to a law enforcement agency, the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency.

(b) The transportation of a firearm by a person who finds the firearm and is transporting it to a law enforcement agency for disposition according to law, if the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency for disposition according to law.

(c) The transportation of a firearm by a person who took the firearm from a person who was committing a crime against the person who took the firearm, and is transporting it to a law enforcement agency for disposition according to law, if the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency for disposition according to law.

(d) The transportation of a firearm by a person to a law enforcement agency pursuant to Section 25010, if the person gives prior notice to the law enforcement agency that they are transporting the firearm to the law enforcement agency.

SEC. 4. Section 26392 of the Penal Code is amended to read:

26392. Paragraph (1) of subdivision (a) of Section 26350 does not apply to, or affect, the open carrying of an unloaded handgun in any of the following circumstances:

(a) By a person who finds that handgun, if the person is transporting the handgun in order to comply with Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division

3 of the Civil Code as it pertains to that firearm, and, if the person is transporting the firearm to a law enforcement agency, the person gives prior notice to the law enforcement agency that the person is transporting the handgun to the law enforcement agency.

(b) By a person who finds that handgun and is transporting it to a law enforcement agency for disposition according to law, if the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency for disposition according to law.

(c) By a person who took the firearm from a person who was committing a crime against the person and is transporting it to a law enforcement agency for disposition according to law, if the person gives prior notice to the law enforcement agency that the person is transporting that handgun to the law enforcement agency for disposition according to law.

(d) By a person who is transporting it to a law enforcement agency pursuant to Section 25010, if the person gives prior notice to the law enforcement agency that they are transporting the firearm to the law enforcement agency.

SEC. 5. Section 26406 of the Penal Code is amended to read:

26406. Section 26400 does not apply to, or affect, the carrying of an unloaded firearm that is not a handgun in any of the following circumstances:

(a) By a person who finds that firearm, if the person is carrying the firearm in order to comply with Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code as it pertains to that firearm, and, if the person is transporting the firearm to a law enforcement agency, the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency.

(b) By a person who finds that firearm and is transporting it to a law enforcement agency for disposition according to law, if the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency for disposition according to law.

(c) By a person who took the firearm from a person who was committing a crime against the person and is transporting it to a law enforcement agency for disposition according to law, if the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency for disposition according to law.

(d) By a person who is transporting the firearm to a law enforcement agency pursuant to Section 25010, if the person gives prior notice to the law enforcement agency that they are transporting the firearm to the law enforcement agency.

SEC. 6. Section 26577 of the Penal Code is amended to read:

26577. (a) Section 26500 does not apply to a delivery or transfer of firearms made to a dealer pursuant to Section 26892 or 29830 for storage by that dealer.

(b) Section 26500 does not apply to a delivery or transfer of firearms made to a law enforcement agency pursuant to Section 25010.

SEC. 7. Section 27922 of the Penal Code is amended to read:

27922. (a) Section 27545 does not apply to a person who takes possession of a firearm and subsequently delivers that firearm to a law enforcement agency if all of the following requirements are met:

(1) The person found the firearm or took the firearm from a person who was committing a crime against the person who took the firearm.

(2) The person taking possession of that firearm subsequently delivers the firearm to a law enforcement agency.

(3) The person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency for disposition according to law.

(b) Except as provided in paragraph (4) of subdivision (a) of Section 27920, any firearms that are delivered to a law enforcement agency pursuant to this section that are not subject to the applicable provisions of Sections 18000, 18005, or 34000, shall, if the person has requested the firearm and is eligible to receive it, be returned to that person in accordance with Chapter 2 (commencing with Section 33850) of Division 11.

(c) Section 27545 does not apply to the delivery or transfer of a firearm to a law enforcement agency by a person pursuant to Section 25010, if the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency.

Date of Hearing: April 7, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1994 (Alvarez) – As Introduced February 17, 2026

As Proposed to be Amended in Committee

SUMMARY: Requires every law enforcement agency (LEA) investigating a criminal act and every agency prosecuting a criminal act to, at the time of initial contact with a crime victim, during follow-up investigation, or as soon thereafter, provide or make available to each victim an "Immigrant Victims Rights and Resources" card. Specifically, **this bill**:

1) Requires every LEA investigating a criminal act and every agency prosecuting a criminal act to, at the time of initial contact with a crime victim, during follow-up investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, inform each victim, the victim's next of kin if the victim is deceased, or the victim's parent or guardian if the victim is a minor, of the rights they may have under applicable laws relating to immigration relief.

2) Requires every LEA investigating a criminal act and every agency prosecuting a criminal act to, at the time of initial contact with a crime victim, during follow-up investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, provide or make available to each victim, the victim's next of kin if the victim is deceased, or the victim's parent or guardian if the victim is a minor, of the criminal act, without charge or cost, an "Immigrant Victims Rights and Resources" card.

3) Authorizes the Immigrant Victims Rights and Resources card to be designed as part of, and included with, the Marsy Rights card, as specified.

4) Requires, the Attorney General (AG), by June 1, 2027, to design and make available in both English and Spanish a PDF or other imaging format to every LEA investigating a criminal act and every agency prosecuting a criminal act an Immigrant Victims Rights and Resources card, which shall contain information in lay terms about immigrant victims rights and resources, including, but not limited to, all of the following:

   a) A statement about undocumented immigrants' potential eligibility for immigration relief options such as a U-visa, T-visa, relief under the Violence Against Women Act (VAWA), or other immigration relief as a potential victim of a qualifying crime.

   b) Notification that in order to remain eligible for a U-visa, qualifying victims must remain cooperative throughout the investigation or prosecution of the perpetrator.

   c) A statement about how they can consult an immigration attorney to help determine their eligibility for immigration relief.

d) A list of local organizations recognized by the U.S. Department of Justice Executive Office for Immigration Review as part of the Recognition and Accreditation program, along with the organization's contact information, as specified.

e) Notification that the list of organizations described above offers free or low-cost services.

f) A statement about undocumented immigrants' rights under the Fourth Amendment to the U.S. Constitution in the event of an encounter with immigration agents, including, but not limited to, the right to deny entry to their homes unless presented with a signed judicial warrant naming the individual or a person living at the same household, and the right to deny a search of their belongings unless presented with a signed judicial warrant.

g) A statement about undocumented immigrants' rights under the Fifth Amendment to the U.S. Constitution, including, but not limited to, the right to remain silent and the right to refuse to sign any documents in the event of an encounter with immigration agents.

h) A statement about undocumented immigrants' rights to speak to an attorney.

5) Removes the requirement that the AG provide information about federal immigration relief available to certain victims of crime from a provision of existing law, which is contingent on funding, which requires the AG to design and make available a "Victim Protections and Resources" card to specified LEAs that contains information about victim rights and resources.

EXISTING LAW:

1) Establishes the Victims' Bill of Rights in the California Constitution, which enumerates the rights of victims of crime, as specified. (Cal Const, Art. I § 28.)

2) Establishes specified statutory rights of victims and witnesses of crimes, including to be notified as soon as feasible that a court proceeding to which a victim or witness has been subpoenaed as a witness will not proceed as scheduled, as specified, and upon request, to be informed by the prosecutor of the final disposition of the case, as specified. (Pen. Code, § 679.02, subd. (a)(1)-(2).)

3) Provides that whenever an individual who is a victim of or witness to a crime, or who otherwise can give evidence in a criminal investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or turn the individual over to federal immigration authorities absent a judicial warrant. (Pen. Code, § 679.015, subd. (b).)

4) Gives every victim of crime the right to receive, without cost or charge, a list of the rights of victims of crime recognized in the California Constitution. (Pen. Code, § 679.026, subd. (b).)

5) Requires every LEA investigating a criminal act and every agency prosecuting a criminal act to, at the time of initial contact with a crime victim, during follow-up investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, provide or make available to each victim of the criminal act without charge or cost a "Marsy Rights" card. (Pen. Code, § 679.026, subd. (c)(1).)

6) Requires the AG to design and make available to an agency investigating or prosecuting a criminal act a Marsy Rights card, which shall contain the constitutional rights of crime victims, information on the means by which a crime victim can access Marsy's Page, and a toll-free telephone number to enable a crime victim to contact a local victim's assistance office. (Pen. Code, § 679.026, subd. (c)(3).)

7) Requires every LEA that investigates criminal activity to, if provided without cost to the agency by a specified non-profit organization, make available and provide to every crime victim a Victims' Survival and Resource Guide pamphlet and/or video that has been approved by the AG, and requires the Victims' Survival and Resource Guide and video to include an approved Marsy Rights card, a list of government agencies, nonprofit victims' rights groups, support groups, and local resources that assist crime victims, and any other information which the AG determines might be helpful to victims of crime. (Pen. Code, § 679.026, subd. (c)(4).)

8) Authorizes an LEA investigating a criminal act or an agency prosecuting a criminal act to, in its discretion, design and distribute to each victim of a criminal act its own Victims' Survival and Resource Guide and video, the contents of which have been approved by the AG, in addition to or in lieu of, the materials described above. (Pen. Code, § 679.026, subd. (c)(5).)

9) Requires, commencing July 1, 2024, LEAs to provide crime victims with information about immigration relief, among other information, as follows, contingent on the availability of general fund moneys and if an appropriation is made to backfill the Restitution Fund.

   a) Requires every LEA investigating a criminal act and every agency prosecuting a criminal act to, at the time of initial contact with a crime victim, during follow-up investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, inform each victim, or the victim's next of kin if the victim is deceased, of the rights they may have under applicable law relating to the victimization, including rights relating to housing, employment, compensation, and immigration relief. (Pen. Code, § 679.027, subd. (a).)

   b) Requires every LEA investigating a criminal act and every agency prosecuting a criminal act to, at the time of initial contact with a crime victim, during follow-up investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, provide or make available to each victim of the criminal act without charge or cost a "Victim Protections and Resources" card, as specified. (Pen. Code, § 679.027, subd. (b)(1).)

   c) Authorizes the Victim Protections and Resources card to be designed as part of and included with the Marsy Rights card, as specified. (Pen. Code, § 679.027, subd. (b)(2).)

   d) Requires, by June 1, 2025, the AG to design and make available to an agency investigating or prosecuting a criminal cat a Victim Protections and Resources card, which shall contain information in lay terms about victim rights and resources, including, but not limited to, the following:

i) Information about specified labor rights relating to employees and their family members who were victims of a crime. (Pen. Code, § 679.027, subd. (b)(3)(A).)

ii) Information about specified tenants' rights relating to tenants and their family members who were victims of certain crimes. (Pen. Code, § 679.027, subd. (b)(3)(B).)

iii) Information about specified tenants' rights relating to tenants and their family who experienced an act of abuse or violence, including information in lay terms about which crimes and tenants are eligible and under what circumstances. (Pen. Code, § 679.027, subd. (b)(3)(C).)

iv) Information about federal immigration relief available to certain victims of crime. (Pen. Code, § 679.027, subd. (b)(3)(D).)

v) Information about victim compensation, as specified, including information about the types of expenses the program may reimburse, eligibility, and how to apply. (Pen. Code, § 679.027, subd. (b)(3)(E).)

vi) Information about the program providing name and address confidentiality to victims of domestic violence, sexual assault, stalking, human trafficking, child abduction, or elder or dependent adult abuse, as specified. (Pen. Code, § 679.027, subd. (b)(3)(F).)

vii) Information about eligibility for filing a restraining or protective order.

viii) Contact information for the Victims' Legal Resource Center, as specified.

ix) A list of trauma recovery centers funded by the state, as specified, with their contact information, which shall be updated annually.

x) The availability of community-based restorative justice programs and processes available to them, including programs serving their community, county, county jails, juvenile detention facilities, and the Department of Corrections and Rehabilitation (CDCR).

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Victims of crime should never be afraid to contact law enforcement. This legislation encourages undocumented victims to report crimes and share information that supports law enforcement investigations, and ensures they receive guidance about the protections available through the U visa, T visa, or under VAWA."

2) **Immigration Relief Options For Crime Victims.** Under federal law, undocumented individuals who are victims of certain crimes may be eligible for specified visas. An undocumented individual who has been a victim of a severe form of human trafficking, is physically present in the U.S. on account of such trafficking, has complied with reasonable requests for assistance in investigating or prosecuting such acts of trafficking, and would

suffer extreme hardship involving unusual and severe harm upon removal, is generally eligible for a T-visa. (8 U.S.C. § 1101, subd. (a)(15)(T)(i).) A T-visa can also be provided to eligible family members of trafficking victims. (8 U.S.C. § 1101, subd. (a)(15)(T)(ii).) Among other benefits, a T-visa enables such persons to remain in the U.S. for an initial period of up to four years, as specified.[1] Similarly, an individual who has suffered substantial physical or mental abuse as a result of being a victim of certain crimes, including rape, trafficking, domestic violence, sexual assault, prostitution, murder, and manslaughter, possesses information concerning such criminal activity, has been helpful, is being helpful, or is likely to be helpful to the investigation and prosecution of the crime, and the criminal activity violated the laws of the U.S. or occurred in the U.S., is generally eligible for a U-visa. (8 U.S.C. § 1101, subd. (a)(15)(U).) Like the T-visa, this also encompasses certain eligible family members, such as the spouse and children of that person, as specified. (8 U.S.C. § 1101, subd. (a)(15)(U)(ii).) The Violence Against Women Act (VAWA) also provides a pathway to lawful immigration status for victims of domestic abuse, as specified. (8 U.S.C. § 1154.)

3) **Information For Crime Victims:** Existing law provides statutory rights to victims of crimes, including, among other things, the right to be informed of the final disposition; the right to be notified of any pretrial disposition in the case; the right to receive notice that the defendant has been convicted; and the right to receive information about civil recovery and the opportunity to be compensated from the Restitution Fund. (Pen. Code, § 679.02.) Every crime victim has the right to receive, without cost or charge, a list of the rights of victims of crime. (Pen. Code, § 679.026, subd. (b).) Further, every LEA investigating a criminal act and every agency prosecuting a criminal act must, at the time of initial contact with a crime victim, during follow-up investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, provide or make available to each victim of the criminal act without charge or cost a Marsy Rights card. (Pen. Code, § 679.026, subd. (c)(1).). The Marsy Rights Card enumerates the constitutional rights of crime victims, provides information to access Marsy's Page, and provides a toll-free telephone number to enable a crime victim to contact a local victim assistance office. (Pen. Code, § 679.026, subd. (c)(3).)

   In 2022, the Legislature enacted AB 160 (Committee on Budget), Chapter 771, Statutes of 2022, which, modeled after the Marsy Rights Card, similarly required an agency investigation or prosecuting a crime to give crime victims a Victim Protections and Resources card. (Pen. Code, § 679.027, subd. (b)(1).) This card is required to contain additional information about victim-related rights, including rights relating to housing, employment, compensation, as well as "information about federal immigration relief available to certain victims of crime." (Pen. Code, § 679.027, subd. (b)(3)(D).) The Victims and Protections Resources Card was permitted to be designed as part of, and included with, the Marsy Rights card. (Pen. Code, § 679.027, subd. (b)(2).) However, these provisions, to become operative on July 1, 2024, were made contingent on the availability of General Fund moneys and upon an appropriation to backfill the Restitution Fund. (Pen. Code, § 679.027,

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[1] U.S. Citizenship and Immigration Services, *Victims of Human Trafficking: T Nonimmigrant Status* (accessed March 29, 2026), available at: https://www.uscis.gov/humanitarian/victims-of-human-trafficking-t-nonimmigrant-status

subd. (c).) This Committee has been informed that the requirements of this statute have not been funded.

4) **Effect of this Bill:** This bill is modeled after the other types of victim-information cards that must be distributed to crime victims. It requires every LEA investigating a criminal act and every agency prosecuting a criminal act to, at the time of initial contact with a crime victim, during follow-up investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, provide or make available to each victim, the victim's next of kin if the victim is deceased, or the victim's parent or guardian if the victim is a minor, without charge or cost, an Immigrant Victims Rights and Resources card. Similar to the Victim Protections and Resources card created by AB 160 (Committee on Budget), Chapter 771, Statutes of 2022, this bill permits this card to be designed as part of, and included with, the Marsy Rights card. It requires the AG, by June 1, 2027, to design and make the card available in both English and Spanish for distribution to LEAs that investigate criminal acts or agencies that prosecute criminal acts.

   This card must contain the following information in lay terms: 1) a statement about undocumented immigrants' potential eligibility for immigration relief options such as a U-visa, T-visa, relief under VAWA, or other immigration relief as a potential victim of a qualifying crime; 2) notification that to remain eligible for a U visa, qualifying victims must remain cooperative throughout the investigation or prosecution; 3) a statement about how they can consult an immigration attorney to help determine their eligibility for immigration relief; 4) a list of local organizations recognized by the U.S. Department of Justice Executive Office for Immigration Review as part of the Recognition and Accreditation program, along with the organization's contact information; 5) notification that the list of organizations described above offers free or low-cost services; 6) a statement about undocumented immigrants' rights under the Fourth Amendment in the event of an encounter with immigration agents, as specified; 6) a statement about undocumented immigrants' rights under the Fifth Amendment, as specified; and 7) a statement about undocumented immigrants' rights to speak to an attorney.

   Additionally, this bill removes the requirement that the AG provide information about federal immigration relief available to certain victims of crime from the provision of law that requires the AG to design and make available a Victim Protections and Resources card to specified LEAs that contains information about victim rights and resources. As previously noted, this provision of law was conditioned on funding that was never appropriated. Removing this provision may help avoid duplicative provisions of law pertaining to providing victims with information relating to immigration relief.

   This bill may lead to improved awareness of the avenues to secure lawful status that are available to certain crime victims, which could increase the number of undocumented persons who successfully secure T and U visas. For example, the card required to be distributed by this bill could prompt a human trafficking victim, who may not be aware of the federal immigration relief options associated with being a victim of this type of crime, to pursue a T-visa.

   Notably, one of the categories of information that must be included in the Immigrant Victims Rights and Resources Card is "[n]otification that in order to remain eligible for a U visa, qualifying victims must remain cooperative throughout the investigation or prosecution of

the perpetrator." However, a certain degree of cooperation is also an eligibility element of the T-visa. T-visa eligibility generally requires that the individual comply with reasonable requests for assistance in investigating or prosecuting such acts of trafficking, unless they are otherwise exempt. (8 U.S.C. § 1101, subd. (a)(15)(T)(i).) The author may wish to clarify that this cooperation requirement is not entirely limited to U-visas.

5) **Argument in Support**: According to the *County of San Diego, District 1*, AB 1994 "seeks to require local law enforcement to provide an Immigrant Victims Rights and Resources card to crime victims, in addition to the Marsy Rights card. This would ensure that all victims receive information about relief options, such as the U Nonimmigrant Status (U Visa), T Nonimmigrant Status (T Visa), or under the federal Violence Against Women Act (VAWA), a list of local accredited immigration legal service providers, and Know Your Rights Information.

   "In 1982, California passed Proposition 8, known as the "Victims' Bill of Rights," to establish the right of victims to obtain restitution from any person who caused them to suffer a loss. It centered on the victims and ensured that their voices were heard as they made their path to recovery. Then, in 2008, California approved Proposition 9, the "Victims' Bill of Rights Act of 2008: Marsy's Law." This law requires local law enforcement to provide victims with a card that outlines information regarding their rights and helpful resources. Marsy's Law established a foundation for protections that are available to victims but currently does not include information about relief options. Many undocumented immigrant victims are unaware of the U Visa, T Visa, VAWA, and the protections that they provide.

   "Undocumented immigrants are often vulnerable to serious crimes that undermine public safety. The fear of not knowing who to trust leaves them unprotected and susceptible to crime. Perpetrators take advantage of undocumented immigrants and their instability to prevent them from reporting crimes to law enforcement. According to the Human Rights Watch, abusers threaten undocumented victims with deportation, taking children away, and murder, to silence them. Informing crime victims about immigration relief options and connecting them to legal service providers would help rebuild the trust between local law enforcement and the communities they serve.

   "AB 1994 would require local law enforcement to provide an Immigrant Victims Rights and Resources card to all crime victims. They would receive this card in addition to the Marsy Rights card at the time of initial contact, during a follow-up investigation, or within 14 days of a crime being reported. California would strengthen its commitment to protect all crime victims and support efforts to deter future criminal activity by informing victims of the U Visa, T Visa, and VAWA."

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

7) **Prior Legislation**:

   a) AB 60 (Bryan), Chapter 513, Statutes of 2023, adds the availability of community-based restorative justice programs and processes to the type of information that must be included in the Victim Protections and Resources card that LEAs must give to crime victims.

b) AB 160 (Committee on Budget), Chapter 771, Statutes of 2022, requires, contingent on funding, agencies investigating or prosecuting a criminal act to inform each victim, or the victim's next of kin if the victim is deceased, of the rights they may have under applicable law relating to the victimization, including rights relating to housing, employment, compensation, and immigration relief.

c) SB 141 (Committee on Budget), of the 2021-2022 Legislative Session, was substantially similar to AB 160. SB 141 was never heard in the Assembly.

d) SB 993 (Skinner), of the 2021-2022 Legislative Session, was substantially similar to AB 160. SB 993 was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
American Association of University Women - California
Chicano Federation of San Diego County
County of San Diego, Board of Supervisors - District 1
Immigrant Justice Law, Llp
Immigration Center for Women and Children
2 Private Individuals

Opposition

None submitted

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

Amended Mock-up for 2025-2026 AB-1994 (Alvarez (A))

Mock-up based on Version Number 99 - Introduced 2/17/26
Submitted by: Staff Name, Office Name

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

SECTION 1. This act shall be known, and may be cited, as the Defending Immigrant Victims Act.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) California is home to 10,600,000 immigrants.

(2) About 1,800,000 Californians are undocumented immigrants.

(3) The Victims of Trafficking and Violence Protection Act was enacted by Congress in 2000 (Public Law 106-386) to encourage immigrants to report crimes to law enforcement by offering them legal pathways to temporary and eventually permanent legal status in the United States for victims of certain crimes who cooperate with law enforcement.

(4) Since the first U nonimmigrant status (U visa) was issued in 2009, applications have steadily increased. In 2024, there were 246,137 pending U visa applications. U visas serve as an important immigration relief option for immigrant victims who have suffered substantial harm from serious crimes.

(5) Immigrant families are facing increasing threats of deportation.

(b) It is the intent of the Legislature to do all of the following:

(1) Ensure undocumented immigrant victims of serious crimes in California are informed of the U visa program established by the Victims of Trafficking and Violence Protection Act in addition to other potential immigration relief options.

(2) Reaffirm California's commitment to supporting immigrant victims on their journey to recovery.

(3) Improve public safety by rebuilding the relationship between local law enforcement and the public by clarifying to immigrant communities that local law enforcement does not enforce federal immigration laws in California.

(4) Encourage immigrant victims to report crimes to local law enforcement and aid law enforcement throughout their investigation to prosecute perpetrators and serve justice.

(5) Protect immigrant victims, who are seeking justice.

(6) Connect immigrant victims of crimes with low-cost, accredited, local immigration legal service providers.

SEC. 3. Section 679.027 of the Penal Code is amended to read:

679.027. (a) Every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act shall, as provided herein, at the time of initial contact with a crime victim, during followup investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, inform each victim, or the victim's next of kin if the victim is deceased, of the rights they may have under applicable law relating to the victimization, including rights relating to housing, employment, compensation, and immigration relief.

(b) (1) Every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act shall, as provided herein, at the time of initial contact with a crime victim, during followup investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, provide or make available to each victim of the criminal act without charge or cost a "Victim Protections and Resources" card described in paragraph (3).

(2) The Victim Protections and Resources card may be designed as part of and included with the "Marsy Rights" card described by Section 679.026.

(3) By June 1, 2025, the Attorney General shall design and make available in PDF or other imaging format to every agency listed in paragraph (1) a "Victim Protections and Resources" card, which shall contain information in lay terms about victim rights and resources, including, but not limited to, the following:

(A) Information about the rights provided by Section 12945.8 of the Government Code.

(B) Information about the rights provided by Section 1946.7 of the Civil Code.

(C) Information about the rights provided by Section 1161.3 of the Code of Civil Procedure, including information in lay terms about which crimes and tenants are eligible and under what circumstances.

(D) Information about the program established by Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code, including information about the types of expenses the program may reimburse, eligibility, and how to apply.

(E) Information about the program established by Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.

(F) Information about eligibility for filing a restraining or protective order.

(G) Contact information for the Victims' Legal Resource Center established by Chapter 11 (commencing with Section 13897) of Title 6 of Part 4.

(H) A list of trauma recovery centers funded by the state pursuant to Section 13963.1 of the Government Code, with their contact information, which shall be updated annually.

(I) The availability of community-based restorative justice programs and processes available to them, including programs serving their community, county, county jails, juvenile detention facilities, and the Department of Corrections and Rehabilitation.

(c) This section shall become operative on July 1, 2024, only if General Fund moneys over the multiyear forecasts beginning in the 2024–25 fiscal year are available to support ongoing augmentations and actions, and if an appropriation is made to backfill the Restitution Fund to support the actions in this section.

SEC. 4. Section 679.028 is added to the Penal Code, to read:

679.028. (a) Every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act shall, as provided in this section, at the time of initial contact with a crime victim, during followup investigation, or **as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys,** ~~**within 14 days of the crime being reported**~~, inform each victim, the victim's next of kin if the victim is deceased, **or** the victim's parent or guardian if the victim is a minor~~**, or any key witness**~~ of the rights they may have under applicable law relating to immigration relief. ~~**This information shall include, but is not limited to, all of the following:**~~

~~**(1) Verbal notification of potential eligibility for immigration relief options such as the U nonimmigrant status (U visa), T nonimmigrant status (T visa), options under the federal Violence Against Women Act (Title IV of Public Law 103-322 and any subsequent amendments thereto) (VAWA), or other immigration relief options as a potential victim of a qualifying crime.**~~

~~(2) Verbal notification that they may consult an immigration attorney to help them determine their eligibility.~~

~~(3) Verbal notification that in order to remain eligible for a U visa, qualifying victims must remain cooperative throughout the investigation or prosecution of the perpetrator.~~

~~(4) Verbal notification that the "Immigrant Victims Rights and Resources" card described in subdivision (d) includes a list of local nonprofit organizations that offer free or low-cost immigration legal services and information about immigrant victims rights and resources.~~

(b) Every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act shall, as provided in this section, at the time of initial contact with a crime victim, during followup investigation, or **as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys,** ~~within 14 days of the crime being reported,~~ provide or make available to each victim, the victim's next of kin if the victim is deceased, **or** the victim's parent or guardian if the victim is a minor, ~~or any key witness of the criminal act,~~ without charge or cost, an "Immigrant Victims Rights and Resources" card, as described in subdivision (d).

(c) The "Immigrant Victims Rights and Resources" card may be designed as part of, and included with, the "Marsy Rights" card described by Section 679.026.

(d) By June 1, 2027, the Attorney General shall design and make available in both English and Spanish a PDF or other imaging format to every agency described in subdivision (b) an "Immigrant Victims Rights and Resources" card, which shall contain information in lay terms about immigrant victims rights and resources, including, but not limited to, all of the following:

(1) A statement about undocumented immigrants' potential eligibility for immigration relief options such as a U visa, T visa, relief under VAWA, or other immigration relief as a potential victim of a qualifying crime.

(2) Notification that in order to remain eligible for a U visa, qualifying victims must remain cooperative throughout the investigation or prosecution of the perpetrator.

(3) A statement about how they can consult an immigration attorney to help determine their eligibility for immigration relief.

(4) A list of local organizations recognized by the United States Department of Justice Executive Office for Immigration Review as part of the Recognition and Accreditation program, along with the organization's contact information, including, but not limited to, the organization's address, main phone number, and contact email.

(5) Notification that the list of organizations described in paragraph (4) offer free or low-cost services.

(6) A statement about undocumented immigrants' rights under the Fourth Amendment to the United States Constitution in the event of an encounter with immigration agents, including, but not limited to, the right to deny entry to their homes unless presented with a signed judicial warrant naming the individual or a person living at the same household, and the right to deny a search of their belongings unless presented with a signed judicial warrant.

(7) A statement about undocumented immigrants' rights under the Fifth Amendment to the United States Constitution, including, but not limited to, the right to remain silent and the right to refuse signing any documents in the event of an encounter with immigration agents.

(8) A statement about undocumented immigrants' rights to speak to an attorney.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2001 (Stefani) – As Introduced February 17, 2026

SUMMARY: Requires the Department of Justice (DOJ) to furnish state summary criminal history information to a city attorney or county counsel pursuing a public nuisance action or red-light abatement action.

EXISTING LAW:

1) Defines a "nuisance" as anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is incident or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway. (Civ. Code, § 3479.)

2) States that a public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. (Civ. Code, § 3480.)

3) Specifies that every nuisance not included in the definition provided for a public nuisance is private. (Civ. Code, § 3481.)

4) States that the remedies against a public nuisance are: a) indictment or information; b) a civil action; or, c) abatement. (Civ. Code, § 3491.)

5) Specifies that a public nuisance may be abated by any public body or officer authorized by law. (Civ. Code, § 3494.)

6) Authorizes any person to abate a public nuisance which is specially injurious to the person by removing, or, if necessary, destroying the thing which constitutes the same, without committing a breach of the peace, or doing unnecessary injury. (Civ. Code § 3495.)

7) Specifies nuisance provisions related to illegal gambling, lewdness, prostitution, human trafficking, and bath houses that permit sexual conduct. (Pen. Code, § 11225.)

8) Authorizes a civil action brought in the name of the people of the State of California to abate a public nuisance by the district attorney or county counsel of any county in which the nuisance exists, or by the city attorney of any town or city in which the nuisance exists. (Code Civ. Proc., § 731.)

9) Makes any person who maintains or commits any public nuisance guilty of a misdemeanor. (Pen. Code, § 372.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 2001 gives City Attorneys and County Counsels a critical tool they've been missing: access to state criminal history records when pursuing public nuisance and Red-Light Abatement cases. Right now, civil prosecutors are going after repeat offenders and illegal operations without the full picture. They can't see prior convictions, outstanding warrants, or patterns of exploitation that cross jurisdictions. That means dangerous operators stay in business longer, and neighborhoods pay the price. This bill closes that gap, giving the attorneys fighting to shut down brothels, gambling dens, and other criminal enterprises the information they need to build stronger cases, move faster, and make smarter decisions that keep residents safe and put bad actors out of business for good."

2) **Public Nuisance Laws**: The "touchstone of the public nuisance doctrine" is the "notion of the community and its collective values." (*People ex. rel Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1109.) Under existing law, a nuisance is defined to mean anything which is injurious to health or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. (Civ. Code, § 3479.) A nuisance is also anything that obstructs the passage or use of any navigable waters, or any public place or highway. (*Ibid.*)

   Current law deems certain uses of buildings or places to be a public nuisance. Specifically, among other things, buildings or places used for the purposes of illegal gambling or prostitution, unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, unlawfully selling, serving, or giving away alcoholic liquor, and unlawfully conducting dogfighting or cockfighting. (Pen. Code, §§ 11200, 11225; Civ. Code, §§ 3486, 3482.8.)

   Maintaining a public nuisance is prosecutable as a misdemeanor. (Pen. Code, § 372.) Additionally, a district attorney, city attorney, county counsel or any citizen is authorized to bring a civil action to abate and prevent the nuisance. (Code Civ. Proc., § 731.) This bill would give access to criminal history information for an individual against whom the city attorney or county counsel is pursuing a public nuisance action or red-light abatement action pursuant to specified provisions of law.

   According to sponsors of this bill, having access to this information gives them the full picture of whether someone is a repeat offender and whether such cases need to be prioritized.

3) **Criminal History Information**: Access to a person's summary criminal history information is generally prohibited and only allowed to be disseminated if specifically authorized in statute. "The state constitutional right of privacy extends to protect defendants from unauthorized disclosure of criminal history records. [Citation.] These records are compiled without the consent of the subjects and disseminated without their knowledge. Therefore,

custodians of the records, have a duty to 'resist attempts at unauthorized disclosure and the person who is the subject of the record is entitled to expect that his right will be thus asserted.'" (*Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, 165-66.)

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

Unauthorized dissemination of state summary criminal history information by a person who is authorized to receive the information to another person or entity who is not authorized to receive such information is a misdemeanor. (Pen. Code, §11142.) Additionally, anyone who requests another person to furnish a copy of the record is punishable as a misdemeanor. (Pen. Code, § 11125.)

Existing law requires DOJ to furnish state summary criminal history information to city attorneys and county counsel pursuing gang injunctions or drug abatement injunctions. (Pen. Code, § 11105, subd. (b)(5).) This bill would expand the circumstances where DOJ is required to disseminate state summary criminal history information to city attorneys and county counsel to include when pursuing a public nuisance action or red-light abatement action pursuant to specified provisions of law.

4) **Argument in Support**: According to the *Civil Prosecutors Coalition*, the sponsor of this bill, "California law already permits civil prosecutors to review criminal history records in certain enforcement contexts, including gang injunctions, drug abatement actions, and gun violence restraining orders. City Attorneys and County Counsels are similarly authorized to pursue civil enforcement against properties used for illegal activities from unlicensed gambling and narcotics sales to prostitution and fencing operations. However, when building these nuisance abatement cases, civil prosecutors currently lack access to the very records that could make their enforcement efforts more effective and more secure, leaving them with an incomplete picture of the individuals and operations they are working to address.

   "The challenges of this incomplete information can be seen in cases involving organized prostitution and trafficking networks, which routinely operate across multiple jurisdictions. Without access to criminal history records, civil prosecutors cannot easily identify repeat offenders, connect patterns of conduct across incidents, or assess whether individuals associated with a property pose heightened risks due to prior offenses, active warrants, or weapons restrictions. This limits their ability to prioritize resources, protect victims, and craft enforcement strategies that reflect the full scope of the threat.

   "AB 2001 would resolve this by bringing public nuisance and Red Light Abatement cases in line with other civil enforcement contexts where criminal history access is already permitted, giving civil prosecutors the information they need to act decisively and effectively on behalf

of the communities they serve."

5) **Argument in Opposition**: None submitted

6) **Related Legislation**:

   a) AB 1989 (Tangipa) would authorize the Department of Social Services (DSS) to temporarily authorize a person to care for children prior to completion of the check of another state's abuse registry if all state background checks have been completed. AB 1989 is pending hearing in Assembly Human Services Committee.

   b) AB 2126 (Elhawary) would require DSS to issue an exemption from disqualification for current or former foster youth who have been convicted of certain offenses that occurred prior to the individual reaching 21 years of age and the youth will be employed in a peer support capacity and not a caregiving capacity and would not require any additional evidentiary showing. AB 2126 is pending hearing in this Committee.

7) **Prior Legislation**:

   a) AB 2917 (Zbur), Chapter 539, Statutes of 2024, relevant to this bill, required DOJ to furnish state summary criminal history information to city attorneys and county counsel pursuing gun violence restraining orders.

   b) AB 2195 (Jones-Sawyer), Chapter 487, Statutes of 2022, allowed a defendant to accept a plea agreement for committing a public nuisance, if the negotiated disposition includes the dismissal of one or more charges that allege unlawfully cultivating, manufacturing, transporting, giving away, selling, or possession or use of a drug, or possession or use of drug paraphernalia.

   c) AB 2133 (Weber), Chapter 965, Statutes of 2018, required DOJ to furnish state summary criminal history information to a public defender or attorney of record when representing a person in a criminal case or juvenile delinquency proceeding, including on appeal or during any postconviction motions, if the information is requested in the court of representation.

   d) AB 971 (Garcia), Chapter 458, Statutes of 2013, required DOJ to furnish, authorized a local criminal justice agency to furnish, summary criminal history information to a specified social services paratransit agency with respect to its contracted providers.

   e) AB 104 (Solorio), Chapter 104, Statutes of 2007, required DOJ to furnish state summary criminal history information to city attorneys pursuing civil gang injunctions or drug abatement actions.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Sheriffs' Association
City and County of San Francisco

Civil Prosecutors Coalition
David Chiu, San Francisco City Attorney

Opposition

None submitted

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

Date of Hearing: April 7, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2052 (Stefani) – As Introduced February 18, 2026

PULLED BY THE AUTHOR

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

Date of Hearing: April 7, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2073 (Johnson) – As Introduced February 18, 2026

PULLED BY THE AUTHOR

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

Date of Hearing: April 7, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2097 (Boerner) – As Introduced February 18, 2026

PULLED BY THE AUTHOR

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

Date of Hearing: April 7, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2104 (Carrillo) – As Amended March 9, 2026

SUMMARY: Requires a court presiding over a proceeding involving the commitment of a sexually violent predator (SVP) that is open to the public to provide the public with a remote access option that allows members of the public to remotely observe the proceeding.

EXISTING LAW:

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

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

3) Mandates that any of the following be considered a conviction for a sexually violent offense:

   a) A prior or current conviction that resulted in a determinate prison sentence for an offense, as specified.

   b) A conviction for a sexually violent offense that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence.

   c) A prior conviction in another jurisdiction for an offense that includes all of the elements of a sexually violent offense, as specified.

   d) A conviction for an offense under a predecessor statute that includes all of the elements of a sexually violent offense, as specified.

   e) A prior conviction for which the inmate received a grant of probation for a sexually violent offense, as specified.

   f) A prior finding of not guilty by reason of insanity for a sexually violent offense, as specified.

   g) A conviction resulting in a finding that the person was a mentally disordered sex offender.

h) A prior conviction for a sexually violent offense, as specified, which the person was committed to the *former* Division of Juvenile Facilities, Department of Corrections and Rehabilitation.

i) A prior conviction for a sexually violent offense, as specified, hat resulted in an indeterminate prison sentence. (Welf. & Inst. Code, § 6600, subd. (a)(2)(A)-(I).)

4) Defines "sexually violent offense" as the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person, or threatening to retaliate in the future against the victim or any other person, and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as defined in subdivision (a): a felony rape, *former* spousal rape, rape with a foreign object, aggravated sexual assault of a child, sodomy, forcible oral copulation, child molestation, continuous sexual abuse of a child, or sexual penetration, or former provision on child molest, or any felony violation of kidnapping, kidnapping for ransom, or assault with intent to committed rape, *former* spousal rape, rape with a foreign object, sodomy, forcible oral copulation, child molestation, or sexual penetration, or *former* child molest. (Welf. & Inst. Code, § 6600, subd. (b).)

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

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

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

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

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

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

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

10) States that the county of domicile shall designate a county agency or program that will provide assistance and consultation in the process of locating and securing housing within

the county for persons committed as SVPs who are about to be conditionally released. (Welf. & Inst. Code, § 6608.5, subd. (d).)

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

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

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

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

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

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

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 2104 improves access to justice by requiring that court hearings related to sexually violent predators (SVPs), that are already open to the public provide a remote access option. Court determinations regarding SVP placement directly affect the residents of the communities where placement may occur, and our constituents have a fundamental right to stay informed about the decision-making process.

   "For many Californians, and especially those living in rural areas like my district, lack of reliable transportation can create a significant barrier to attending court hearings in person. Additional challenges, such as financial hardship, the need for childcare, illness or disability, and the inability to miss work, can make traveling to a courthouse nearly impossible. By providing remote access, AB 2104 uses available technology to reduce these barriers and ensure that rural residents can stay informed and engaged when decisions are made that impact their communities."

2) **Sexually Violent Predator Act (SVPA):** Enacted in 1996, the SVPA authorizes an involuntary civil commitment of any person "who has been convicted of a sexually violent offense … and who has a diagnosed mental disorder that **makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior**." (Emphasis added.) (Welf. & Inst. Code, § 6601, subd. (a).) The SVPA was designed to accomplish the dual goals of protecting the public, by confining violent sexual predators likely to reoffend, and providing treatment to those offenders. "Those committed pursuant to the SVPA **are to be treated not as criminals, but as sick**

persons. They are to receive treatment for their disorders and must be released when they no longer constitute a threat to society." (Emphasis added.) (*People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774, 783, citing Welf. & Inst. Code, § 6250.)

Civil commitment is not a prison sentence. Once a person has been deemed no longer a threat to public safety, they must, as a matter of law, be released from custody. Involuntary commitment under the SVPA only begins after a person has completed their prison sentence. Originally, the SVP laws provided for an initial commitment of two years and then a review every two years thereafter. However, effective September 20, 2006, the law now provides for indeterminate commitments for persons found to be sexually violent predators. (Welf. & Inst. Code § 6604.) A SVP is a person convicted of specified sex offenses against at least one person and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. (Welf. & Inst. Code, § 6600, subd. (a)(1).)

a. Offenders that may be designated SVP:

A sexually violent predator is defined in Welfare & Institutions Code section 6600 as "a person who has been convicted of a **sexually violent offense against one or more victims** and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior." (Welf. & Inst. Code, § 6600, subd. (a).) (Emphasis added.) Welfare and Institutions Code, section 6600 further defines a sexually violent predator as someone who suffered the following:

i. A prior or current conviction that resulted in a determinate prison sentence for a sexually violent offense.

ii. A conviction for a sexually violent offense that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence.

iii. A prior conviction in another jurisdiction for an offense that includes all of the elements of a sexually violent offense.

iv. A conviction for an offense under a predecessor statute that includes all of the elements of a sexually violent offense.

v. A prior conviction for which the inmate received a grant of probation for a sexually violent offense.

vi. A prior finding of not guilty by reason of insanity for a sexually violent offense.

vii. A conviction resulting in a finding that the person was a mentally disordered sex offender.

viii. A prior conviction for a sexually violent offense for which the person was committed to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation, as specified.

ix. A prior conviction for a sexually violent offense that resulted in an indeterminate prison sentence. (Welf. & Inst. Code, § 6600, subd. (a)(1)(A-I).)

A sexually violent offense means any of the following crimes when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person, or threatening to retaliate in the future against the victim or any other person, and that are committed on, before, or after the effective date of the SVPA and resulted in a conviction or a finding of not guilty by reason of insanity: (i) a felony violation of rape, (ii) former provision of spousal rape, (iii) aiding abetting rape or sexual penetration, (iv) aggravated sexual assault of a child, (v) sodomy, (vi) forcible oral copulation, (vii) child molestation, (viii) continuous sexual abuse of a child, or (ix) sexual penetration, or (x) former provision on child molest, or any felony violation of (xi) kidnapping, (xii) kidnapping with intent to commit robbery or rape, or (xiii) assault with intent to commit rape, (xiv) former provision of spousal rape, (xv) aiding and abetting rape, (xvi) sodomy, (xvii) forcible oral copulation, (xviii) child molest, or (xix) sexual penetration. (Welf. & Inst. Code, § 6600, subd. (b).)

The SVPA was formally enacted in its current form after the U.S. Supreme Court approved SVP designations in *Kansas v. Hendricks* (1997) 521 U.S. 346. The SVPA was somewhat controversial at the time because offenders had already served their prison sentence and were being re-incarcerated in a mental health facility for the same crimes. As a general matter, that is, on its face, an unconstitutional violation of the Ex Post Facto clause, the double jeopardy clause, and the due process clause of the 5th Amendment. (*Kansas v. Hendricks*, 521 U.S. at 371.) However, in validating the involuntary commitment of sexually violent offenders who are compelled to commit sex offenses due to a "mental illness," the court explained that due process demands the individual have a mental illness and be provided a meaningful opportunity to be released when the mental illness is controlled. (*Ibid.*, 521 U.S. at 377, conc. Kennedy.)

In 1997, the SVPA required that an offender be committed for two or more sexually violent offenses that received a determinate sentence.[1] However, Proposition 83 and its mostly duplicative legislative companion, SB 1128 (Alquist), Chapter 337, Statutes of 2006 broadened the definition of a sexually violent predator and restricted the subsequent civil proceedings necessary to ensure the offender still constitutes a danger to society.

b. Process of SVP designation:

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

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[1] 1995 Cal ALS 763 | 1995 Cal AB 888 | 1995 Cal Stats. ch. 763.

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

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

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

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

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

c. Restrictions on Conditionally Released SVPs

A conditionally released SVP is deemed by DSH and a court to no longer pose a danger to the community and may be treated in the community rather than confinement in the state hospital. However, a conditionally released SVP is tightly monitored and supervised in the community. A person released as an SVP may not be released to any residence that is within one-quarter mile of any public or private school providing instruction in kindergarten or any grades 1 through 12, inclusive, if the person has been previously convicted of child molestation or continuous sexual abuse of a child or the court finds the person has a history

of improperly sexual conduct with children. (Welf. & Inst. Code, § 6608.5, subd. (f)(1)-(2).) Additionally, a conditionally released SVP must be monitored by a global positioning system ("GPS") until they are unconditionally released. (Welf. & Inst. Code, § 6608.1.)

3) **Confidentiality:** As explained above, SVP trials and hearings consider whether a defendant is mentally ill and poses a continuing danger to society. These hearings are ordinarily closed to the public because they involve mental health evaluations. The Confidentiality of Medical Information Act (CMIA) prohibits releasing mental health records to the public. (See Civ. Code, § 56.10, et seq.) Additionally, Welfare and Institutions Code section 5328 provides:

> "Information and records obtained in the course of providing services in accordance with statutes related to [legally required mental health evaluations], to either voluntary or involuntary recipients of services are confidential." (Welf. & Inst. Code, § 5328, subd. (a).)

This includes SVP evaluations. However, law enforcement and district attorneys may receive SVP or sex offender evaluations in accordance with Welfare and Institutions Code section 5328.01. (See also, *People v. Superior Court (Smith)* (2018) 6 Cal.5th 457, 463.) Courts are prohibited from making mental health records publicly available. (Cal. Rules Ct., 2.503, subd. (c)(4) ["A court that maintains the following records in electronic form must provide electronic access to them at the courthouse, to the extent it is feasible to do so, but may not provide public remote access to these records: ... Records in a mental health proceeding.")

This bill requires a court to provide remote access to any SVP hearing *that is open to the public*. The court in *People v. Dixon* (2007) 148 Cal.App.4th 414, 428-429 generally prohibited public access to SVP proceedings.

> While the psychological reports must be made available to the parties and the court (see Welf. & Inst. Code, §§ 5328, subd. (f), 6601, subd. (d); Albertson v. Superior Court (2001) 25 Cal.4th 796, 805; People v. Angulo (2005) 129 Cal.App.4th 1349, 1363, they remain confidential for all other purposes. Psychological evaluations obtained in the course of providing services under the SVPA are confidential. (Welf. & Inst. Code, § 5328; People v. Martinez (2001) 88 Cal.App.4th 465, 474–475.) While Welfare and Institutions Code section 6603 permits disclosure of defendant's psychological records to the district attorney for use in the civil commitment proceedings, the statute does not authorize their release to the general public. The Legislature's decision specifically to authorize disclosure to certain individuals, including the district attorney, implies that the documents should not be made available to just anyone. To allow open access to the public would make Welfare and Institutions section 6603 entirely unnecessary. ... There is, therefore, a compelling basis for arguing that involuntary civil commitment proceedings under the SVPA are not ordinary civil proceedings that must be open to the public. (*People v. Dixon, supra*, 148 Cal.App.4th 414, 428-29.)

Based on existing statute and case law, it appears that SVP proceedings are closed and, theoretically, no SVP hearing would be open to the public. Therefore, since the bill requires remote access for any SVP proceeding that is open to the public, it is unclear whether it requires anything at all.

As the court in *Dixon* noted, the SVPA is in the Welfare & Institutions Code rather than the Penal Code, and is expressly not punitive. (*Dixon, supra,* at 428.) In fact, as the U.S. Supreme Court made clear, the absence of a punitive purpose was critical to holding the SVPA constitutional. (See *Hendricks, supra,* at p. 363.) To open SVP proceedings to the public would likely further erode the constitutional underpinnings of the SVPA – putting the scheme entirely in jeopardy.

4) **Argument in Support**: According to the *California District Attorneys Association*: "AB 2104 increases access to the courts for the public and removes procedural and logistic barriers that prevent members of the public from participating in matters of great public interest. Remote access to the courts eliminates the need for gas, public transit fares and costly parking fees. Remote access also reduces the amount of time participants have to be away from their workplace. By allowing increased access to the courts through remote proceedings, the court provides greater institutional accountability and transparency. Strengthening access to the courts encourages members of the public to come forward and actively participate in the judicial process."

5) **Argument in Opposition**: According to the *California Public Defenders Association*: Sexually Violent Predator [SVP] proceedings are not properly open to the public. Second, this bill would strip the judiciary of properly vested discretion to formulate policies governing public access to remote proceedings.

   The constitutional right held by the public to access non-criminal and ordinary civil proceedings is not absolute, and access can be limited or denied to ensure a fair trial or the privacy of participants. (See, e.g. Branzburg v. Hayes (1972) 408 U.S. 665 (excluding press from grand jury proceedings); Gannett Co., Inc. v. DePasquale (1979) 443 U.S. 368 (excluding public from pretrial suppression hearing.) Although the public enjoys a qualified constitutional right to attend criminal and ordinary civil proceedings, SVP proceedings are neither criminal nor ordinary civil cases. Instead, they are "aimed at determining the status of a person's mental health" and "involve primarily personal and confidential matters." (People v. Dixon (2007) 148 Cal App 4th 414.) Because civil commitment proceedings are typically closed; because SVP proceedings are designed to ensure treatment, not punishment, of people with mental disorders; and because the psychological evaluations discussed during SVP proceedings must remain confidential, public access to SVP proceedings is properly limited.

   The constitutional right to access proceedings in criminal and ordinary civil cases does not entitle the public to remotely access those proceedings, and the extent to and manner in which members of the public may remotely access the criminal and ordinary civil proceedings they are entitled to personally, physically attend are administrative matters properly sorted out by the judiciary. The Judicial Council is constitutionally tasked with "adopt[ing] rules for court administration, practice, and procedure," (Cal. Const. Art. IV, § 6. and it has crafted detailed, robust rules regarding both remote **proceedings (Cal. Rule of**

Court 3.672) and the use of photography, recording, and broadcasting equipment in court. (Cal. Rule of Court 1.150.)

AB 2104 seeks to curtail and override judicial discretion. Local courts, applying those rules, have implemented county-specific practices for tailoring public access to remote proceedings in criminal and ordinary civil cases. For example, in Los Angeles County, the public may not remotely access criminal or ordinary civil proceedings while in Kern County, a member of the public wishing to access remote proceedings in a criminal or ordinary civil case must submit a form requesting access and explaining why physical, in-person attendance is impossible. Legislative intervention is neither necessary nor appropriate.

6) **Related Legislation**:

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

   b) AB 767 (Alanis) expands areas in which a SVP, as specified, may not reside to include within one-quarter mile of a child daycare facility and expands the definition of a private school. AB 767 is pending referral in the Senate Rules Committee.

   c) AB 1545 (Krell) requires the Executive Officer of the Board of Parole Hearings to make an SVP referral and additionally apply the SVPA to an offender serving a current indeterminate term. AB 1545 is pending hearing in this committee.

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

7) **Prior Legislation**:

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

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

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

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
Juniper Hills Town Council
Lake Los Angeles Town Council
1 Private Individual

Opposition

California Public Defenders Association

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

ASSEMBLY PUBLIC SAFETY COMMITTEE
APRIL 7th, 2026 Hearing

ANALYSES PACKET PART II

(AB 2122 (Kalra) – AB 2749 (Sharp-Collins))

Date of Hearing: April 7, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2122 (Kalra) – As Introduced February 18, 2026

SUMMARY: Eliminates certain processes and penalties if an individual is subject to an infraction, including: issuing a bench warrant for the person's arrest within 20 days of the failure to appear, a misdemeanor charge and conviction reported to the Department of Motor Vehicles (DMV), imposition of a civil fine for failing to appear or failing to make an installment payment on a bail contract, and authorizing the court to declare the bail forfeited and requiring the court to issue a bench warrant for the arrest of the person charged, as specified. Specifically, **this bill**:

1) Exempts the issuance of a bench warrant for an infraction from the general rule that all laws relating to misdemeanors apply to infractions.

2) Prohibits the issuance of a bench warrant for the failure to pay an infraction ticket.

3) Prohibits the issuance of a bench warrant for the failure to appear in court on a written promise to appear when the underlying charge is an infraction.

4) Removes the requirement that a court inform the DMV of a willful failure to pay bail in installments or pay the fine for a Vehicle Code infraction, as specified.

5) Eliminates the requirement that a misdemeanor shall be issued for failure to pay a bail installment.

6) Makes conforming changes to other provisions of law.

7) Includes legislative findings and declarations.

EXISTING LAW:

1) Establishes that it is the intent of the Legislature that the disposition of any criminal case use the least restrictive means available. (Pen. Code, § 17.2, subd. (a).)

2) States that specified wobblettes are infractions subject to defined procedures in the following cases:

   a) The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time they are arraigned, after being informed of their rights, elects to have the case proceed as a misdemeanor.

   b) The court, with the consent of the defendant, determines that the offense is an infraction, in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint. (Pen. Code, § 17, subd. (d).)

3) Provides that all provisions of law relating to misdemeanors shall apply to infractions, as specified. (Pen. Code, § 19.7.)

4) States that except where a lesser maximum fine is expressly provided, an infraction is punishable by a fine not exceeding two hundred fifty dollars ($250) (Pen. Code, § 19.8, subd. (a)(2).)

5) States that except for specified violations based upon failure to appear, a conviction for an offense made an infraction is not grounds for the suspension, revocation, or denial of a license or for the revocation of probation or parole of the person convicted. (Pen. Code, § 19.8, subd. (c).)

6) Establishes that except as otherwise provided by law, in any case in which a person is arrested for an offense declared to be an infraction, the person may be released according to procedures for a misdemeanor. (Pen. Code, § 853.5, subd. (a).)

7) Provides that any person who willfully violates his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court is guilty of a misdemeanor. (Pen. Code, § 853.7.)

8) Establishes that when a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail, the magistrate shall issue and have delivered for execution a warrant for their arrest within 20 days after their failure to appear as promised or within 20 days after their failure to appear after a lawfully granted continuance. (Pen. Code, § 853.8.)

9) States that a bench warrant of arrest may be issued when a defendant fails to appear in court. (Pen. Code, § 978.5, subd. (a).)

10) States that a trial of an infraction shall be by the court, but when a defendant has been charged with an infraction and with a public offense for which there is a right to jury trial and a jury trial is not waived, the court may order that the offenses be tried together by jury or that they be tried separately. (Pen. Code, § 1042.5.)

11) States that a person willfully failing to comply with a condition of a court order for a violation of this code, other than for failure to appear or failure to pay a fine, is guilty of a misdemeanor, regardless of their subsequent compliance with the order. (Veh. Code, § 40508, subd. (c).)

12) Provides that if any person has willfully failed to comply with a court order, except a failure to appear, to pay a fine, or to attend traffic violator school, which was issued for a specified violation, the magistrate or clerk of the court may give notice of the fact to the DMV. (Veh. Code, § 40509.1.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Infraction bench warrants have functioned as a debtor's prison, creating a system where people who have money for fines never have to appear in court, while those who cannot pay face potential for arrest for what are otherwise non-jailable, minor offenses. AB 2122 addresses the disparate punishment of low-income people that has done little to further public safety by prohibiting the issuance of a bench warrant if the underlying charge is an infraction. This bill will save millions of dollars annually from not having to execute bench warrants or detain people in county jails, and will remove an ineffective, overly punitive punishment for what is essentially a crime of poverty."

2) **Effect of the Bill:** AB 2122 would eliminate bench warrants for multiple violations when the underlying offense is an infraction.

   Among other things, this bill makes the law authorizing a misdemeanor for willfully failing to appear in court, as specified, inapplicable to infractions. Likewise, infractions would not apply to the requirement that when a person has failed to appear and has not posted bail, a magistrate issue a warrant for the person's arrest within 20 days of the failure to appear.

   This bill would prohibit the issuance of a bench warrant of arrest when the underlying crime is an infraction. While existing law requires the court to report a conviction of certain Vehicle Code provisions to the DMV, AB 2122 would eliminate that requirement. AB 2122 additionally would repeal issuance of a misdemeanor for failure to pay a bail installment or fine and the authorization to issue an arrest warrant for failure to pay a bail installment.

   An infraction is an offense that is not punishable with incarceration. (Pen. Code, § 19.6.) Because the punishment for an infraction does not implicate the same loss of liberty, the same constitutional rights that apply to other criminal offenses do not apply to infractions. (*Ibid.*; see also *People v. Prince* (1976) 55 Cal.App.3d 19.) All provisions of law applicable to misdemeanors, however, also largely apply to infractions. (Pen. Code, § 19.7.) Generally, a person arrested for an infraction must be released upon signing a written notice to appear. (Pen. Code, § 853.6, subd. (a).) After a person has been released on a promise to appear, a bench warrant for arrest can be issued if the person fails to appear in court or fails to deposit the bail. (Pen. Code §§ 853.6, subd. (f), 853.8; see also Veh. Code, § 40514.) A willful violation of a promise to appear is a misdemeanor, even if the original offense was an infraction. (Pen. Code, § 853.7.)

   The intent of AB 2122 appears laudable, but this bill may have unintended impacts on the enforcement of infractions. Restricting the ability to hold individuals to personally account who are subject to infraction penalties could lead to dismissive treatment of those subject to the penalties, in addition to the expected benefits gained by interrupting the cycle of poverty and contact with the criminal justice system. Other impacts are possible here, too, as individuals at higher risk for indiscriminate immigration enforcement may be less likely to encounter Immigration and Customs Enforcement (ICE) agents if they are able to limit contact with California's criminal justice system.

Additionally, by limiting enforcement of infractions there may be a perverse incentive created for prosecutors to charge woblettes almost or entirely exclusively as misdemeanors. Prosecutorial discretion could be consciously or unconsciously guided by frustration with the state of the law rather than an honest brokering of the charges warranted for the individual's conduct. Prosecutors overcharging woblettes as misdemeanors could create further public safety harm. The Sentencing Project found that declining to charge individuals for non-violent misdemeanors reduces their likelihood for future offending.[1] They further noted that research on "prosecutorial reforms seeking to decriminalize poverty through dismissing, declining to prosecute, or diverting people charged with nonviolent misdemeanors like disorderly conduct and shoplifting," has discovered a decline in subsequent arrests for those impacted by the reform and no increase in crime rates for nonviolent misdemeanor offenses.[2] Declining to pursue certain misdemeanor charges can prevent the stigma and lifelong effects associated with a criminal record.[3] The certainty of these unintended outcomes occurring following implementation of this bill, however, is unclear.

3) **The Impact of Infractions**: AB 2122 would create potentially significant impacts on infractions, which themselves seem to have outsized roles in our lives and the broader criminal justice system.

   The Judicial Council's 2021 Court Statistics Report notes that in FY 2019-20, out of all criminal case filings comprised of felonies, misdemeanors, and infractions, the overwhelming majority were infractions.[4] During this same time period, there were 174,553 felony cases filings, 636,112 misdemeanor filings, and a massive 3,243,819 infraction cases.[5] The majority of infractions were traffic infractions.[6] There were over 1,000,000 bail forfeitures for traffic infractions and over 19,000 bail forfeitures for non-traffic infractions.[7] Infractions require a huge investment of time and resources, not just for the system, but for system-impacted individuals and families.

   The Sentencing Project released a four-part report that undertook a comprehensive analysis of persisting racial and economic inequities in the American criminal justice system. The report found one driver of carceral disparity relates to the damaging consequences of criminal legal contact, which are disproportionately experienced by communities of color.[8] Fines, fees, and predatory practices are inequitably experienced by justice-involved Americans and families.[9] The Consumer Financial Protection Bureau (CFPB) found

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[1] Ghandnoosh, N. *One in Five: Disparities in Crime and Policing* (Nov. 2, 2023) The Sentencing Project <https://www.sentencingproject.org/reports/one-in-five-disparities-in-crime-and-policing/> [as of Mar. 18, 2026].
[2] *Ibid.*
[3] *Ibid.*
[4] 2021 Court Statistics Report: Statewide Caseload Trends, at pp. 3-4 (2021) Judicial Council of California <https://courts.ca.gov/sites/default/files/courts/default/2024-12/2021-court-statistics-report.pdf> [as of Mar. 18, 2026].
[5] *Ibid.*
[6] *Id.* at p. 55.
[7] *Id.* at p. 84.
[8] Ghandnoosh, N and Trinka, L. *One in Five: How Mass Incarceration Deepens Inequality and Harms Public Safety* (Nov. 2, 2023) The Sentencing Project <https://www.sentencingproject.org/reports/one-in-five-disparities-in-crime-and-policing/> [as of Mar. 18, 2026].
[9] *Ibid.*

predatory monetary practices exist in every phase of the criminal legal process.[10] By reducing criminal justice system contact for minor offenses, AB 2122 could have a positive socioeconomic impact on already overburdened and underresourced individuals.

Traffic stops are an extraordinarily common means of getting an infraction. Police officers undertake millions of minor traffic stops annually, with many used as a pretext to investigate drivers for criminal activity, which disproportionately impacts motorists of color.[11] Police officers initiated contact with nearly 29 million U.S. residents aged 16 and older in 2018.[12] Traffic stops account for a staggering four-fifths of police-initiated contact.[13] There are clear racial disparities in traffic law enforcement with the Stanford Open Policing Project finding Black drivers disproportionately stopped relative to Latino/a/x and White drivers.[14] Criminal convictions too often create lifelong disadvantage, particularly for African Americans.[15] Employers discriminate against job candidates who have criminal histories, especially against those who are Black, and application questions about criminal histories deter some people from applying to certain jobs and colleges altogether.[16] One study found discovered nearly half of unemployed men had a criminal conviction.[17]

Criminal justice involvement often begins with system contact stemming, at least initially, from an infraction. Under current law, infractions can produce unpayable fees for some that can then balloon into crippling, life-altering debt. Moreover, system contact can quickly turn into a misdemeanor if the charged individual is unable to comply with established legal processes. While some individuals may be negligent or unwilling to abide by these processes, far too often justice-involved individuals are simply faced with impossible choices, like complying with a legal order or risk losing their job(s) and being unable to provide for those counting on them. The provisions of AB 2122 could provide a meaningful step towards slowing the ongoing cycle of poverty, inequality, and criminal justice system contact.

4) **Argument in Support**: According to the *Felony Murder Elimination Project*, "This bill would amend the penal and vehicle code to eliminate bench warrants for minor infractions. Felony Murder Elimination Project is a national nonprofit organization working to end felony murder laws and extreme accomplice liability, and to create meaningful pathways for resentencing and release for people serving excessive sentences. We support AB 2122 because eliminating bench warrants for low-level infractions will help prevent avoidable entries and re-entries into the criminal legal system, reduce the risk of escalation into more serious charges and detention, and promote more proportional and effective responses to minor conduct.

"Under California law, an individual's failure to pay for an infraction or appear in traffic court can result in a bench warrant, or a judge-issued order that authorizes law enforcement

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[10] *Ibid.*
[11] *Ibid.*
[12] *Ibid.*
[13] *Ibid.*
[14] *Ibid.*
[15] *Ibid.*
[16] *Ibid.*
[17] *Ibid.*

to arrest an individual and bring them before the court.1 People who miss court dates may be jailed for an otherwise non-jailable offense.

"Infraction bench warrants are disproportionately issued to communities of color and low-income individuals. In San Francisco, Black people only make up 5.8% of the local population, but through systemic racism and targeted, unjust policing, they make up 48.7% of those arrested for "failure to appear or pay" traffic court warrants. Bench warrants have recently been used as a pretext for immigration enforcement, meaning that people may face ICE arrest and subsequent removal proceedings for a non-jailable offense.

"Research shows that punitive measures are ineffective in compelling people to pay or appear in court.4 Common sense, non-punitive practices like text message reminders and follow-ups help get people to appear in court. Furthermore, courts have other, less punitive means to address failure to pay an infraction, like bank levies, wage garnishment, and tax intercepts. Finally, the MyCitations tool allows individuals to pay their infractions online and permits those individuals to request an infraction reduction in cases of financial need from the safety of their home, substantially decreasing the need to resolve unpaid court debt in person.

"Eliminating bench warrants for infractions will help end an unnecessary pipeline to incarceration and allow families to focus on what matters—devoting their already limited time and resources to meeting their critical needs."

5) **Argument in Opposition**: According to the *California District Attorneys Association* (CDAA), "This bill would prohibit the issuance of an arrest warrant, bench warrant, or the filing of a new misdemeanor whenever the underlying offense is an infraction, and the offender violates a written promise to appear. This bill eliminates any consequence for the numerous offenders who simply ignore appearing in court and prevents their underlying infraction from being adjudicated.

"Requested Amendments**:** AB 2122 should either limit its application to the Vehicle Code (or any local ordinance adopted pursuant to the Vehicle Code) or propose an analogous provision to Vehicle Code § 40903 that is applicable to all California codes. If a mechanism were added to allow adjudication of the underlying infractions, AB 2122 could at least hold individuals accountable while, at the same time, doing so without the threat of incarceration or arrest.

"Although AB 2122 would apply to all California codes, only infractions currently identified in the Vehicle Code may be adjudicated by declaration and, in the event the offender fails to appear, in the offender's absence. Pursuant to Vehicle Code § 40903, "[a]ny person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration upon any alleged infraction, as charged by the citing officer, involving a violation of this code or any local ordinance adopted pursuant to this code." Therefore, the underlying vehicle code infraction may be adjudicated in the offender's absence and, if found guilty, any associated penalty could be sent to civil collections without the need for the court to issue a warrant or the prosecutor to file a misdemeanor charge for failing to appear. This is not the case, however, for the hundreds of infractions that are contained in other California codes.

"Because there is no analogous provision to Vehicle Code § 40903 in other California codes, eliminating the court's authority to bring persons to court ensures that numerous infractions will never be adjudicated, and offenders will not be held accountable. Oftentimes, these infractions directly impact public safety or public health.

"In addition, AB 2122 may result in several unintended consequences that run contrary to the purpose of the bill:

"Currently numerous violations provide prosecutors with the discretion to file misdemeanor charges instead of an infraction (commonly known as a "wobblette"). Without a mechanism to adjudicate underlying infractions, AB 2122 would incentivize the filing of misdemeanor charges over unenforceable infractions.

"Several infractions currently contain an escalating penalty structure in which multiple infraction violations will ultimately lead to a misdemeanor offense. AB 2122 would nullify any graduated penalty schemes.

"Certain infractions currently involve the imposition of community service hours or other probation obligations, such as restitution, if convicted. By prohibiting courts from issuing a warrant, AB 2122 would deprive courts of their ability to monitor and ensure that offenders are in compliance with their post-conviction obligations."

6) **Related Legislation**: SB 1218 (Arreguin) would require the DMV to refuse to renew the registration of a vehicle if the registered owner or lessee has been mailed a notice of delinquent illegal dumping violation. This bill is pending hearing in the Senate Transportation Committee.

7) **Prior Legislation**:

   a) SB 76 (Seyarto) would have required the DMV to waive delinquent registration fees and penalties when a transferee or purchaser of a vehicle applies for a transfer of registration if the DMV determines that the fees became due or the penalties accrued before the purchase of the vehicle. SB 76 would have required the DMV to create a system to collect these delinquent fees and penalties from the seller or transferor. SB 76 would have repealed the provision authorizing the DMV to collect the waived fees and penalties in a civil action. SB 76 was vetoed by the Governor and sustained by the Legislature.

   b) AB 632 (Hart) would have, for specified administrative fines or penalties, authorized a local agency to, subject to specified requirements, file a certified copy of a final administrative order or decision that directs payment of the administrative fine or penalty with the clerk of the superior court of any county, as specified, and require the clerk to enter judgment immediately in conformity with the decision or order. AB 632 would also authorize a local agency to, by ordinance, establish a procedure to collect administrative fines or penalties by lien upon the parcel of land on which the violation occurred if the ordinance meets specified requirements. AB 632 was vetoed by the Governor.

   c) AB 1125 (Hart), Chapter 356, Statutes of 2023, eliminates the court's authorization to impound a person's driver's license or limit the person's driving when the person fails to pay the bail in installments.

d) SB 932 (Seyarto), of the 2023-24 Legislative Session, would have required the DMV to waive delinquent registration fees and penalties when a transferee or purchaser of a vehicle applies for a transfer of registration if the DMV determines that the fees became due or the penalties accrued before the purchase of the vehicle. SB 932 would have required the DMV to create a system to collect these delinquent fees and penalties from the seller or transferor. SB 932 was held in the Senate Appropriations Committee.

e) AB 3243 (Ta), of the 2023-24 Legislative Session, would have, notwithstanding any law, prohibited a person who is subject to specified delinquency penalties and has been determined to have a current income level that meets the eligibility requirements for specified public social services programs, including, among others, the California Work Opportunity and Responsibility to Kids (CalWORKs) program, from being required to pay the delinquency penalty in order to renew the registration of their vehicle. AB 3243 would have instead authorized the person to delay payment of their penalty until after the vehicle is registered, but by no later than the expiration date of the vehicle's registration. AB 3243 was held in the Assembly Appropriations Committee.

f) AB 1266 (Kalra), of the 2023-24 Legislative Session, would have done what this bill, AB 2122, purports to do. AB 1266 was held in the Senate Appropriations Committee.

g) AB 491 (Wallis), of the 2023-24 Legislative Session, would have authorized for specified administrative fines or penalties, a local agency, after the exhaustion of the defined administrative and appeal procedures, to file with the clerk of the superior court of any county a certified copy of a final administrative order or decision of the local agency that directs the payment of an administrative fine or penalty and, if applicable, a copy of an order of the superior court rendered on an appeal from the local agency's decision. AB 491 was held in the Senate Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

All of US or None (HQ) (Co-Sponsor)
Communities United for Restorative Youth Justice (CURYJ) (Co-Sponsor)
Corporation for Supportive Housing (Co-Sponsor)
Legal Services for Prisoners With Children (Co-Sponsor)
San Francisco Public Defender (Co-Sponsor)
The Maven Collaborative (Co-Sponsor)
A New Path
A New Way of Life Reentry Project
ACLU California Action
Alliance for Boys and Men of Color
Anti Police-terror Project
Bridges of Hope CA
California Attorneys for Criminal Justice
California for Safety and Justice

California Immigrant Policy Center
California Public Defenders Association
Californians United for a Responsible Budget
Care First California
Center on Juvenile and Criminal Justice
Coalition of California State Tribes
Community Legal Services in East Palo Alto
Community Works West
Courage California
Debt Free Justice California
Destination: Home
Dignity and Power Now
Disability Rights California
Drug Policy Alliance 1
Ella Baker Center for Human Rights
Empowering Women Impacted by Incarceration
Felony Murder Elimination Project
Fresh Lifelines for Youth
Friends Committee on Legislation of California
Glide
Grace Institute - End Child Poverty in CA
Homeless United for Friendship and Freedom
Housing California
Indivisible CA Statestrong
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Aid of Marin
Local 148 Los Angeles County Public Defender's Union
Mill Valley Force for Racial Equity and Empowerment
National Alliance to End Homelessness
National Consumer Law Center, INC.
Pillars of the Community
Public Advocates
Reuniting Families Contra Costa
Rubicon Programs
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
Starting Over INC.
Surj Marin - Showing Up for Racial Justice
The People Concern
The W. Haywood Burns Institute
Transitions Clinic Network
University of the Pacific McGeorge School of Law Homeless Advocacy Clinic
Vera Institute of Justice
Viet Voices
Western Center on Law & Poverty, INC.
3 Private Individuals

Opposition

California District Attorneys Association
California State Sheriffs' Association
Child Support Directors Association of California

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

Date of Hearing: April 7, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2147 (Schiavo) – As Introduced February 18, 2026

SUMMARY: Authorizes multiple charges of sexual battery, indecent exposure, and annoying or molesting a child that occurs in more than one county to be prosecuted in the same case in any county where at least one of the offenses occurred.

EXISTING LAW:

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

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

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

4) Allows property crimes occurring in one jurisdictional territory if property is taken to another jurisdictional territory and an arrest is made there, to be prosecuted in either jurisdiction. (Pen. Code, § 786.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9) States any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. (Pen. Code, 243.4, subd. (a).)

10) Punishes sexual battery by a term of imprisonment in a county jail for not more than once year and a fine not exceeding $2,000 or by imprisonment in state prison for two, three, or four years and a fine not exceeding $10,000. (*Ibid.*)

11) Provides that any person who willfully and lewdly, either:

    a) Exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or,

    b) Procures, counsels, or assists any person so to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view, or the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts,

    Is guilty of a misdemeanor punishable by up to six months in the county jail. (Pen. Code, § 314.)

12) States that upon the second or subsequent conviction of indecent exposure, or upon a first conviction of the defendant was previously convicted of child molestation, as specified, a person is guilty of a felony, and is punishable by imprisonment in state prison for a period of 16 months, two, or three years. (*Ibid.*)

13) Mandates that any person who annoys or molests, as defined, any child under 18 years of age be punished by a fine not exceeding $5,000, by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment. (Pen. Code, § 647.6, subd. (a)(1).)

14) Provides that any person who, motivated by an unnatural or abnormal sexual interest in children, engages in conduct with an adult whom they believe to be a child under 18 years of age, which conduct, if directed toward a child under 18 years of age, would constitute annoying or molesting a child, shall be punished by a fine of $5,000, by imprisonment in a county jail for up to one year, or by both that fine and imprisonment. (Pen. Code, § 647.6, subd. (a)(2).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Today, jurisdiction for certain sex offenses is constricted by county, even when the same defendant commits the same type of offenses against multiple victims across county lines. Prosecutors must prosecute related cases into separate proceedings, forcing vulnerable victims and witnesses to appear multiple times, driving up costs, and most significantly, delaying justice.

   "Perpetrators of sexual battery (PC 243.4), indecent exposure (PC 314), and annoying/molesting a child (PC 647.6) often prey on multiple victims across county lines. In one case, a law enforcement defendant had a pattern of driving to various schools and masturbating to children in the parking lot. In all, he spent months victimizing unsuspecting students at over two-dozen schools across two counties. He was charged with multiple violations of indecent exposure and annoying/molesting a child for some of the conduct that occurred in one county; however, the other county would be responsible for prosecuting the offenses in their own county. Although the various offenses in both counties would generally be admissible in each county per Evidence Code section 1108, this would require young,

vulnerable victims to testify multiple times in each county and would not allow for protective orders to be ordered and enforced at schools in question.

"AB 2147 would remove these obstacles to justice, permitting trial in any county where at least one offense occurred. This change will streamline multi-jurisdiction prosecutions and minimize the number of times vulnerable victims must relive traumatic experiences in court."

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

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

   Several statutes allow for offenses involving one defendant, the same class of offenses, and multiple victims. (See Pen. Code, §§ 784.5, 784.7, 785, 786, 786.5, 789, 790, and 791.) There are also offenses that authorize consolidation of out-of-state crimes related to terrorism, receipt of stolen property, and treason. (See Pen. Code, §§ 787, 788, 789.) Offenses that may be consolidated in one county when there are multiple victims across multiple jurisdictions include sexual assault, kidnapping, burglary, and assault with intent to commit a specified sex offense, homicide, theft, including retail theft and shoplifting, robbery, identity theft, incest, and revenge porn, among others. Consolidation based on specified offenses against a single defendant across multiple jurisdictions require District Attorneys in each county to agree to try all counts in one identified county.

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

   This bill includes masturbating in public, annoying or molesting a child, and sexual battery to the crimes that may be consolidated in any county where one of the offenses occurred subject a joinder hearing. This bill appears to be premised on cases from 2024 and 2025 where multiple offenders were masturbating in front of schools and children and then fleeing the scene. The offenders allegedly hit multiple places in Los Angeles, Riverside Orange, and San Diego County.[1]

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[1] https://www.cbsnews.com/losangeles/news/orange-county-man-arrested-for-exposing-himself-to-students-as-they-walked-to-middle-school/ (as of Apr. 1, 2026); https://fox5sandiego.com/news/local-news/man-27-arrested-for-multiple-indecent-exposure-incidents-targeting-young-girls/ (as of Apr. 1, 2026); https://riversideca.gov/press/man-arrested-multiple-lewd-acts-near-local-school (as of Apr. 1, 2026).

Indecent exposure is often a crime committed by a person who is mentally ill, unhoused, under the influence of medication, drugs, or alcohol, or all of the above. It is a misdemeanor unless a person has a prior conviction for masturbating in public. While Penal Code section 784.7 requires a consolidation hearing before cases may be tried in another county, it may place an exceptionally punitive burden on mentally ill and unhoused defendants.

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

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

This bill is premised on Penal Code section 786.5, subdivision (b) which allows for consolidating multiple theft charges in any place where one offense was committed, any place where the stolen merchandise was recovered, or any place where the defendant instigated, procured, promoted, or aided the commission of a theft offense. Subdivision (b), which is the only section available to county district attorneys, requires demonstrating that a petty theft, retail theft, or receipt stolen property may be prosecuted where: (a) an offense involving the theft or receipt of the stolen merchandise occurred; (b) the county in which the merchandise was recovered; or (c) the county where any act was done by the defendant in instigating, procuring, promoting, or aiding in the commission of a petty theft, retail theft, or receipt of stolen property, or in abetting the parties concerned in the commission. (See Pen. Code, § 786.5, subd. (b).)

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

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

> The Legislature's power to designate the place for trial of a criminal offense is limited by the requirement that there be a reasonable relationship or nexus between the place designated for trial and the commission of the offense.

(*Price, supra,* at 1075, *citing Martin v. Beto* (5th Cir. 1968) 397 F.2d 741, 748.)

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

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

4) **Argument in Support**: According to the *California District Attorneys Office*: "Today, jurisdiction for certain sex offenses is constricted by county, even when the same defendant commits the same type of offenses against multiple victims across county lines. Prosecutors must prosecute related cases into separate proceedings, forcing vulnerable victims and witnesses to appear multiple times, driving up costs, and most significantly, delaying justice.

   "Perpetrators of sexual battery (PC 243.4), indecent exposure (PC 314), and annoying/molesting a child (PC 647.6) often prey on multiple victims across county lines. In one case, a law enforcement defendant had a pattern of driving to various schools and masturbating to children in the parking lot. In all, he spent months victimizing unsuspecting students at over two-dozen schools across two counties. He was charged with multiple violations of indecent exposure and annoying/molesting a child for some of the conduct that occurred in one county; however, the other county would be responsible for prosecuting the offenses in their own county. Although the various offenses in both counties would generally be admissible in each county per Evidence Code section 1108, this would require young, vulnerable victims to testify multiple times in each county and would not allow for protective orders to be ordered and enforced at schools in question.

   "AB 2147 would remove these obstacles to justice, permitting trial in any county where at least one offense occurred. This change will streamline multi-jurisdiction prosecutions and minimize the number of times vulnerable victims must relive traumatic experiences in court."

5) **Argument in Opposition**: None submitted

6) **Related Legislation**: AB 1583 (Rogers) authorizes multiple charges of wage theft or labor trafficking to be consolidated and prosecuted in any county in which the victim resided at the time of the wage theft or labor trafficking, any county in which the victim was present at the time the employment contract was entered into, any county in which any portion of the work was performed, or any county in which the business or any of its locations was situated at the time of the wage theft or labor trafficking. AB 1583 is pending referral in Senate Rules Committee.

7) **Prior Legislation**:

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

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

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 Crime Victims Assistance Association
California District Attorneys Association
California Narcotic Officers' 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
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside County District Attorney
Riverside Police Officers Association
Riverside Sheriffs' Association

Opposition

None submitted.

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

Date of Hearing: April 7, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2204 (Gabriel) – As Amended March 16, 2026

SUMMARY: Requires the Department of Corrections and Rehabilitation (CDCR) to establish a policy on organized sports programming at facilities operated by the department. Specifically, **this bill**:

1) Establishes a policy in California to recognize participation in organized sports programming in state prisons as a form of rehabilitation.

2) Requires CDCR to adopt a department-wide policy on organized sports programming to be applied to all CDCR facilities by July 1, 2027.

3) Requires CDCR to consult with a wide-range of stakeholders when creating the policy, including researchers and experts in sports and rehabilitation, criminal justice reform organizations, professional and semi-professional sports teams and leagues, CDCR staff, and organizations representing incarcerated persons and their families.

4) Requires CDCR to consider the following topics when adopting the policy:

    a) The safety of CDCR staff, incarcerated persons, and other participants;

    b) The appropriate use of CDCR resources and facilities by incarcerated persons;

    c) Eligibility requirements for participation; and,

    d) Broader impacts to public safety.

5) Permits CDCR to solicit proposals, accept unsolicited proposals, negotiate, and enter into agreements with public and private entities including, professional sports teams, the University of California, the California State University, the California Community Colleges, and private universities for the purpose of expanding access to organized sports programming at CDCR facilities.

6) Establishes the Second Chance Sports Fund within the State Treasury, and requires:

    a) Funds deposited into the fund to be available, upon appropriation and approval of the Government Operations Agency, to support the expansion of organized sports programming at facilities operated by CDCR;

    b) The Government Operations Agency must seek advisement from the Legislature and CDCR on how to prioritize the use of the funds, and shall approve the uses of the

moneys;

c) The fund to receive money from any source, including private donations;

d) The funds to supplement, not replace, existing funding for recreational sports programming at CDCR.

e) No more than 5 percent of the funds be used for administrative purposes.

7) Requires the State Treasurer to provide a report to the Legislature on the amounts deposited into the fund before January 1, 2028, and annually thereafter.

8) Includes legislative findings and declarations.

EXISTING LAW:

1) Establishes the Secretary of CDCR and vests responsibility for the care, custody, treatment, training, discipline, and employment of persons confined in state prisons. (Pen. Code, § 5054.)

2) Authorizes CDCR to adopt regulations as necessary to implement the department's administrative duties. (Pen. Code, § 5058.)

3) Provides that any amendments to existing regulations and any future regulations adopted by CDCR that may impact visitation of incarcerated persons shall do all of the following:

a) Recognize and consider the value of visiting as a means to improve the safety of prisons for both staff and incarcerated persons;

b) Recognize and consider the important role of incarcerated person visitation in establishing and maintaining a meaningful connection with family and community;

c) Recognize and consider the important role of incarcerated person visitation in preparing an incarcerated person for successful release and rehabilitation. (Pen. Code, § 6400, subds. (a)-(c).)

4) Provides that the essential purpose of incarceration is rehabilitation and successful community reintegration which should be achieved through education, treatment, and active participation in rehabilitative and restorative justice programs (Pen. Code, § 1170.)

5) Requires CDCR to develop and implement policies for contraband interdiction at institutional entry points, including standardized screening procedures applicable to all individuals entering facilities, such as visitors, staff, volunteers, and contract employees. (Pen. Code, § 6402.)

6) Establishes the Inmate Welfare Fund, which authorizes CDCR to fund programs for the benefit of incarcerated persons, including recreational and physical education activities, hobby programs, and other leisure-time services. (Pen. Code, § 5006.)

7) Requires CDCR to provide incarcerated persons with access to recreational and physical education programs under safe and secure conditions, consistent with custodial classification and institutional operations. (Cal. Code Regs., tit. 15, § 3220.)

8) Permits CDCR to allow competitions between outside public teams and teams of incarcerated individuals if competitions take place within the facility and under the direct supervision of staff. (Cal. Code Regs., tit. 15, § 3220, subd. (e).)

9) Provides that incarcerated persons may voluntarily participate in athletic activities, contests, and games only if those activities are specifically authorized by the institution head or their designee. (Cal. Code Regs., tit. 15, § 3220, subd. (f).)

10) Authorizes CDCR to regulate recreational programming, including restricting activities that present safety risks and requiring supervision and medical clearance for certain activities. (Cal. Code Regs., tit. 15, § 3220.1.)

11) Authorizes CDCR to regulate and control access to its institutions through a visitor approval process, including establishing conditions necessary to ensure institutional safety and security. (Cal. Code Regs., tit. 15, § 3170.)>

FISCAL EFFECT: Unknown

COMMENTS: >

1) **Author's Statement**: According to the author, "Structured sports programming is a powerful tool to promote rehabilitation and help individuals successfully reintegrate into their communities. Sports help build discipline, teamwork, and accountability. AB 2204 – The Second Chance Sports Act – seeks to harness this power by requiring the California Department of Corrections and Rehabilitation to adopt a policy to expand opportunities for organized sports for incarcerated persons and establishes a dedicated fund to support this effort. Through the transformative power of sports, The Second Chance Sports Act will make our prisons safer, support correctional staff, and help reduce crime when people return home, all while leveraging critical public-private partnerships to avoid burdening taxpayers."

2) **Effect of the Bill:** This bill seeks to expand access to organized sports programming in state prisons by directing CDCR to develop a department-wide policy, facilitate partnerships with outside organizations, and establish a fund to support such programming. The bill is intended to increase opportunities for incarcerated persons to participate in structured athletic activities through collaboration with public and private entities, including colleges, universities, and professional sports teams. Specifically, the bill is intended to create more opportunities for incarcerated individuals to participate in programs like the San Quentin Giants[1], where outside organizations visit inside the prisons for sports programming.

   However, the extent to which this bill would substantively change existing law may be limited. Existing regulations already provide for rehabilitative programming, including recreational and physical activities. (Cal. Code Regs., tit. 15, § 3220.) CDCR currently boasts

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[1] "The Best Baseball Team Behind Bars" (N.Y. Times, Nov. 24, 2025)

on its website that, "Physical Education and Recreation programs are provided at each institution."[2] Additionally, existing regulations provide that incarcerated persons may participate in athletic activities, contests, and games, even with outside organizations, so long as the program is authorized by institutional leadership. (Cal. Code Regs., tit. 15, § 3220, subd. (f).) CDCR also permits access to approved visitors and outside organizations, including for the provision of recreational programs and activities, subject to institutional security requirements. (Cal. Code Regs., tit. 15, § 3220, subd. (e).)

The primary effect of this bill is to require CDCR to formalize and standardize a policy on organized sports programming and to consult with specified stakeholders in doing so. While the bill encourages expanded collaboration with outside entities and establishes a funding mechanism to support such efforts, it does not mandate that CDCR enter into specific partnerships, implement particular programs, or ensure that organized sports involving outside participants are available at a specific number of facilities.

Therefore, while the bill may provide additional structure, guidance, and potential funding opportunities for organized sports programming, its practical impact will largely depend on how CDCR exercises its existing discretion to implement and expand existing recreational sports programs.

3) **Sports as Rehabilitation?:** Although there is limited research on the positive impact of sports programming, there are some studies that suggest structured sports programming in correctional settings may support improvements in institutional behavior, mental health, and post-release outcomes for incarcerated individuals. For example, the Twinning Project, a partnership between correctional systems and professional soccer clubs in England and Wales, was recently evaluated in collaboration with researchers at the University of Oxford. The evaluation found that participation in their soccer-based programming was associated with a significant reduction in disciplinary infractions, as well as increased social bonding and optimism regarding post-release outcomes.[3]

   Similarly, a study conducted by the University of Southampton examining intensive sports programs for young adult offenders found that participants had a lower reconviction rate compared to typical prison populations and other improvements in behavioral indicators such as aggression, impulsivity, and conflict resolution.[4]

   More broadly, a systematic review and meta-analysis of sports-based interventions found that participation in such programs was associated with moderate improvements across a range of outcomes, including recidivism, anger control, substance use, and attitudes toward offending.[5] Additional research suggests that sports participation may contribute to improved mental health outcomes among incarcerated individuals, including reduced stress, improved emotional regulation, and increased social connection.[6]

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[2] https://www.cdcr.ca.gov/rehabilitation/oce/physical-education/
[3] Football-based social intervention found to improve chances of rehabilitation for prisoners | University of Oxford
[4] Reducing Reoffending Rates | University of Southampton
[5] Do Sports Programs Prevent Crime and Reduce Reoffending? A Systematic Review and Meta-Analysis on the Effectiveness of Sports Programs | Journal of Quantitative Criminology
[6] Physical, Mental, and Social Health of Incarcerated Men: The Relevance of Organized and Informal Sports Activities | Journal of Correctional Health Care

However, the extent to which this limited data supports a finding that sports programming is correlated with long-term reductions in recidivism remains uncertain. Reported reductions in reoffending vary across studies and appear to depend significantly on various factors such as program design, duration and intensity of participation, and the availability of post-release support services. Additionally, much of the existing research has been conducted in international settings, including the United Kingdom and other jurisdictions, raising questions about how these findings would apply within CDCR's institutional structure, population, and resource constraints. As a result, while the research on positive impacts of sports programming may be promising, it remains unclear how recreational sports programming would impact important public safety concerns like recidivism.

4) **Argument in Support**: According to According to the *California Correctional Peace Officers Association (CCPOA)*, "Correctional peace officers see firsthand the importance of effective rehabilitation programs in improving institutional safety and supporting successful reentry. AB 2204 takes a thoughtful step in that direction by expanding access to organized sports programming, which has been shown to improve physical and mental health, build discipline, and support positive behavioral outcomes.

   "By directing CDCR to establish a structured policy and encouraging partnerships with colleges, universities, and professional organizations, this bill helps bring consistency and broader access to programs that are currently limited and uneven across facilities. The creation of a fund to support public-private partnerships will further strengthen these efforts without placing undue pressure on state resources."

5) **Related Legislation**:

   a) AB 1759 (Elhawary) would require CDCR to complete a study to reassess its security classification system. AB 1759 is set to be heard today in this committee.

   b) AB 2499 (Gipson) would enact the Climate Justice in Prisons Act to address conditions of confinement within state correctional facilities. AB 2499 is pending a hearing in the Assembly Labor and Employment Committee.

   c) AB 1645 (M. Gonzalez) would expand access to physical contact visits for incarcerated individuals. AB 1645 is pending a hearing in the Assembly Appropriations Committee.

6) **Prior Legislation**:

   a) SB 551 (Cortese), Chapter 225, Statutes of 2025, codified the Legislature's intent that the California Department of Corrections and Rehabilitation (CDCR) integrate the principles of normalization and dynamic security to create safer conditions for incarcerated people and correctional staff.

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

c) AB 292 (Stone), Chapter 579, Statutes of 2021…

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

REGISTERED SUPPORT / OPPOSITION:

Support

All of US or None Orange County
California Correctional Peace Officers Association (CCPOA)
California Police Chiefs Association
California Public Defenders Association
Californians for Safety and Justice (CSJ)
Courage California
Ella Baker Center for Human Rights
Families Inspiring Reentry & Reunification 4 Everyone (FIR4E)
Felony Murder Elimination Project
Jesse's Place Org
Rubicon Programs
Smart Justice California, a Project of Beyond Impact
Transformative Programming Works

Opposition

None submitted

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

Date of Hearing: April 7, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2232 (Patterson) – As Introduced February 19, 2026

PULLED BY THE AUTHOR

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

Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2273 (Bains) – As Introduced February 19, 2026

PULLED BY THE AUTHOR

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

Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2274 (Bains) – As Introduced February 19, 2026

PULLED BY THE AUTHOR

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

Date of Hearing: April 7, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2276 (Soria) – As Introduced February 19, 2026

SUMMARY: Requires the Department of Motor Vehicles (DMV) to establish a statewide pilot program, commencing January 1, 2027, and ending on January 1, 2033, that requires a person convicted of specified speeding offenses to install a functioning, certified active intelligent speed assistance (ISA) device on any vehicle that person operates. Specifically, **this bill**:

1) Requires the DMV to establish a pilot program to reduce the number of violations for the following offenses (hereafter specified speeding offenses) by requiring the installation and use of an ISA device, as required by this bill:

   a) Reckless driving;

   b) A speed contest or aiding or abetting a speed contest;

   c) An exhibition of speed or aiding or abetting an exhibition of speed;

   d) Placing a barricade to facilitate a speed contest or exhibition, as specified;

   e) Driving a vehicle on a highway at a speed greater than 100 miles per hour (mph);

   f) Driving a vehicle on a highway with a speed greater than 65 mph, 55 mph (for a two-lane undivided highway), or 70 mph, as specified;

   g) Driving 30 mph over the speed limit on a freeway, or 20 mph over the speed limit on any other street or highway while driving recklessly in violation of specified driving under the influence (DUI) laws (DUI while speeding and driving recklessly).

2) Requires a court to notify a person convicted of a specified speeding offense that they must install an ISA device on any vehicle they operate and that they are prohibited from operating a vehicle unless it is equipped with an ISA device pursuant to this bill.

3) Requires the DMV, upon receipt of the court's abstract of conviction for a specified speeding offense, to inform the person of the ISA requirements, including the term for which the device must be installed, and requires DMV records to reflect the mandatory use of the device for the term required and the date the device is required to be installed.

4) Requires the DMV to advise the person that installation of an ISA device does not authorize the person to drive without a valid driver's license.

5) Requires the DMV to place a restriction on the driver's license record that states the driver is restricted to driving only vehicles equipped with an ISA device for the applicable term.

6) Requires a person notified by the DMV pursuant to the above to do all of the following:

   a) Arrange for each vehicle operated by the person to be equipped with an ISA device.

   b) Provide proof to the DMV of installation by submitting a specified form.

   c) Pay a fee, to be determined by the DMV, that is sufficient to cover the costs of administering the requirements of this ISA program.

7) Exempts a person from the above requirements if, within 30 days of being notified by the DMV, the person certifies all of the following: 1) the person does not own a vehicle; 2) the person does not have access to a vehicle at their residence; 3) the person no longer has access to the vehicle that was operated at the time of the arrest for the underlying offense; 4) the person acknowledges they must hold a valid driver's license before they can drive; and 5) the person acknowledges that they are subject to the ISA requirements when they purchase or obtain access to a vehicle.

8) Prohibits a person subject to an ISA device from doing any of the following:

   a) Tampering with the device or any components of the device, or otherwise interfering with the proper functionality of the device, by modifying, detaching, disconnecting, or otherwise disabling it to allow the restricted driver to operate the vehicle.

   b) Directing, authorizing, or requesting that another person tamper with the device or any components of the device, or otherwise interfering with the proper functionality of the device, by modifying, detaching, disconnecting, or otherwise disabling it to allow the restricted driver to operate the vehicle.

   c) Operating a motor vehicle without a required device.

   d) Failing to return the device to the vendor upon program completion.

9) Makes a violation of the above a misdemeanor, subjects a violation to an extension of the term the device needs to be installed by an additional 120 days, and provides that any period of time a person was in violation shall not be credited toward completion of the required term.

10) Requires all data collected pursuant to the below to be securely maintained by the provider, subject to the following:

    a) Data related to violations involving tampering with, circumventing, or removing the device may be shared with the DMV or the court that ordered the device, as specified.

    b) Depersonalized and aggregated data may be shared with third parties for research or evaluation purposes, as specified.

c) Data collected under this section may only be shared as required by a court order, as directed by state statute or regulation, with the DMV or the ordering court in connection with a program violation.

d) All documents, records, identifying information, monitoring data or results, and other information recorded, collected, maintained, transmitted, or stored by an ISA device provider about or concerning a speeding offender is confidential and not available for public inspection.

e) All information shall remain confidential when it is transmitted, electronically or otherwise, maintained and stored, or examined or used by a monitoring authority.

f) Only authorized employees of an ISA device provider or monitoring authority may view any document made confidential pursuant to the above.

11) Provides that only devices and providers certified by the DMV may be used to satisfy the requirements of this bill.

12) Requires, in order to be eligible to install, repair, maintain, monitor, or remove a device, a company to apply to the DMV for certification in a form and manner approved by the DMV.

13) Provides that a manufacturer, distributor, or retailer of a motor vehicle is not liable for any loss, injury, or damages caused by the design, manufacture, installation, improper installation, use, or misuse of an aftermarket ISA device.

14) Provides that liability does exist if the manufacturer, distributor, or retailer of a motor vehicle knowingly engages in a repair or update to the aftermarket ISA device and the repair or update proximately causes loss, injury, or damage.

15) Provides that nothing in this bill requires a manufacturer, distributor, or retailer of a motor vehicle to manufacture, distribute, or offer for sale a motor vehicle that includes or is compatible with an aftermarket ISA device.

16) Provides that nothing in this bill prohibits a lessor or lienholder from requiring that a motor vehicle lessee or owner notify the lessor or lienholder that an aftermarket ISA device has been installed on a motor vehicle that is subject to a lease or finance agreement.

17) Requires a person to install and use an ISA device pursuant to this bill for the applicable term, as follows:

a) A person convicted of a violation of reckless driving on a highway, engaging in a speed contest on a highway or off-street parking facility, or driving a vehicle upon a highway at a speed greater than 100 mph shall be required to do the following:

i) Upon a conviction with no prior offenses punishable as reckless driving, a speed contest, aiding or abetting a speed contest, an exhibition of speed, aiding or abetting an exhibition of speed, obstructing or placing a barricade for the purpose of facilitating a speed contest or exhibition, driving a vehicle on a highway at a speed greater than 100 mph, driving a vehicle on a highway with a speed greater than 65, 55

mph (for a two-lane undivided highway), or 70 mph, as specified, the court may order installation of an ISA device on any vehicle the person operates and prohibit them from operating a vehicle unless it is equipped with an ISA device, as follows:

(1) If the court orders the ISA restriction described above, the term shall be determined by the court for a period not to exceed six months.

(2) The court must notify the DMV of the conviction and specify the terms of the ISA device restriction, and the DMV must place the restriction on the driver's license record of the person that states the driver is restricted to driving only vehicles equipped with an ISA device for the applicable term.

ii) Upon a conviction with one prior, as specified above, the person shall install an ISA device in any vehicle operated by that person for a mandatory term of 12 months.

iii) Upon a conviction with two priors as specified above, the person shall install an ISA device in any vehicle operated by that person for a mandatory term of 24 months.

iv) Upon a conviction with three or more specified priors, as specified above, the person shall install an ISA device in any vehicle operated by that person for a mandatory term of 36 months.

b) A person convicted of reckless driving proximately causing bodily injury, reckless driving proximately causing great bodily injury (GBI) as specified, a speed contest that proximately causes bodily injury, or of a DUI while speeding and driving recklessly, shall install an ISA device, as follows:

i) Upon a conviction with no prior offenses punishable as a speed contest, an exhibition of speed, placing a barricade for the purpose of facilitating a speed contest or exhibition, or a DUI while speeding and driving recklessly, the person shall install an ISA device in the vehicle, as ordered by the court, that is operated by that person for a mandatory term of 12 months.

ii) Upon a conviction with one prior, as described above, the person shall install an ISA in the vehicle operated by that person for a mandatory term of 24 months.

iii) Upon a conviction with two priors, as described above, the person shall install an ISA device in the vehicle operated by that person for a mandatory term of 36 months.

iv) Upon a conviction with three or more priors, as described above, the person shall install an ISA device in the vehicle operated by that person for a mandatory term of 48 months.

c) Provides that if a person fails to comply with any of the requirements regarding ISA devices, the period in which the person was not in compliance shall not be credited toward the mandatory term for which the ISA device is required to be installed.

18) Every manufacturer and manufacturer's agent certified by the DMV to provide ISA devices, as specified, shall adopt the following fee schedule that provides for the payment of the costs

of the ISA device by persons subject to this bill in amounts commensurate with that person's income relative to the federal poverty level, as follows:

a) A person with an income at 100 percent of the federal poverty level or below and who provides income verification, as specified, is responsible for 10 percent of the cost of the provider's standard ISA device, all device program costs, and any additional costs accrued by the person for noncompliance with program requirements.

b) A person with an income at 101 to 200 percent of the federal poverty level and who provides income verification, as specified, is responsible for 20 percent of the cost of the provider's standard ISA device, all device program costs, and any additional costs accrued by the person for noncompliance with program requirements.

c) A person with an income at 201 to 300 percent of the federal poverty level and who provides income verification, as specified, is responsible for 40 percent of the cost of the provider's standard ISA device, all device program costs, and any additional costs accrued by the person for noncompliance with program requirements.

d) A person who is receiving CalFresh benefits and who provides proof of those benefits, as specified, is responsible for 50 percent of the provider's standard active ISA device, all device program costs, and any additional costs accrued by the person for noncompliance with program requirements.

e) A person with an income at 301 to 400 percent of the federal poverty level and who provides income verification, as specified, is responsible for 90 percent of the cost of the provider's standard ISA device, all device program costs, and any additional costs accrued by the person for noncompliance with program requirements.

f) All other offenders are responsible for 100 percent of the provider's standard ISA device, all device program costs, and any additional costs accrued by the person for noncompliance with program requirements

19) Makes the provider responsible for the costs described above that the offender is not responsible for pursuant to the above fee scale.

20) Requires the active ISA device provider to verify the offender's income to determine their share of cost for the ISA device, as specified, by verifying one of the following documents:

a) The previous year's federal income tax return.

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

c) Employment Development Department verification of unemployment benefits.

21) Requires an ISA device provider to do all of the following:

a) Conspicuously post the fee scale information described above on its internet website, in its contracts, and at every installation, service, and repair location.

   b) Give verbal notification of the fee schedule and how to apply for reduced costs prior to the execution of a contract for, and installation or repair of, an ISA device.

22) Requires the DMV to post the fee schedule information on its internet website, and to also include the fee schedule information in any mailed notice of revocation or suspension that notifies an individual of the requirement to install an ISA device.

23) Requires the DMV, on or before July 1, 2031, to report data to the California Transportation Agency (CalSTA) regarding the implementation and efficacy of the ISA program established by this bill for the period covering January 1, 2027, to January 1, 2031, inclusive.

24) Requires this report to include, at a minimum, all of the following:

   a) The number of individuals who killed or injured any person in a crash relating to violations of specified speeding offenses while required to have an ISA device installed.

   b) The number of individuals who were convicted of specified speeding offenses while required to have an ISA device installed.

   c) The number of injuries and deaths resulting from vehicle crashes relating to violations of specified speeding offenses during the reporting period and during periods of similar duration prior to the implementation of the ISA program established by this bill.

   d) The number of individuals who have been convicted more than one time for violations of specified speeding offenses during the reporting period and during periods of similar duration prior to the implementation of the ISA program established by this bill.

   e) Any other information requested by CalSTA to assess the continued effectiveness of the ISA device program in reducing recidivism for violations of specified speeding offenses.

25) Authorizes CalSTA to contract with educational institutions to obtain and analyze this data.

26) Requires CalSTA to conduct an assessment of the program based on the data described above and report to the Legislature on the outcomes of the program by July 1, 2032.

27) Requires the assessment to include recommendations on how to further reduce violations of specified speeding offenses.

28) Requires the report to be submitted in compliance with specified procedures.

29) Provides that the requirements of this bill shall only apply to a person convicted of reckless driving, reckless driving that proximately causes bodily injury, reckless driving that proximately causes GBI, as specified, a speed contest, aiding or abetting a speed contest, an exhibition of speed, aiding or abetting an exhibition of speed, obstructing or placing a barricade for the purpose of facilitating a speed contest or exhibition, as specified, driving a vehicle on a highway at a speed greater than 100 mph, driving a vehicle on a highway with a speed greater than 65 mph, 55 mph (for a two-lane undivided highway), or 75 mph, as specified, and a DUI while speeding and driving recklessly, that occurred on or after January 1, 2027.

30) Provides that the requirements of this bill shall remain in effect only until January 1, 2033, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2033, deletes or extends that date.

31) Defines "active intelligent speed assistance device" to mean an aftermarket device that uses location-based technology to actively limit a motor vehicle's speed to posted or preset speed limits, is tamper-resistant, and is capable of reporting attempts to disable or circumvent functionality. This does not include technology provided by a motor vehicle manufacturer as a component of a new motor vehicle that controls or affects the speed of a motor vehicle.

32) Defines "provider" to mean a person or entity certified by the DMV to install, service, monitor, repair, or remove an ISA device.

33) Makes specified findings and declarations.

EXISTING LAW:

1) Provides that a person who drives a vehicle on a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving, punishable in county jail for five days to 90 days, or a fine of $145 to $1,000. (Veh. Code, § 23103, subd. (a).)

2) Punishes reckless driving that proximately causes bodily injury to a person other than the driver by imprisonment in county jail for 30 days to six months or by a fine of $220 to $1,000, or by both that fine and imprisonment. (Veh. Code, § 23104.)

3) Prohibits a person from engaging in a motor vehicle speed contest on a highway or in an off-street parking facility, and from aiding or abetting a speed contest. (Veh. Code, § 23109, subds. (a) & (b).

4) Punishes a person convicted of engaging in a speed contest by imprisonment in a county jail for 24 hours to 90 days or by a fine of $355 to $1,000, or by both. (Veh. Code, § 23109, subd. (e)(1).)

5) Prohibits a person from engaging in a motor vehicle exhibition of speed on a highway or in an off-street parking facility and from aiding and abetting an exhibition of speed. (Veh. Code, § 23109, subd. (c).)

6) Prohibits a person from driving a vehicle upon a highway at a speed greater than 100 mph, and makes this punishable as an infraction, by a fine of up to $500, and an up to 30 day license suspension at the court's discretion. (Veh. Code, § 22348 (b).)

7) Prohibits, generally, a person from driving a vehicle on a highway with a speed limit of 65 mph, a two-lane undivided highway with a speed limit of 55 mph, or a highway with a speed limit of 70 mph, as specified, at a speed greater than that speed limit. (Veh. Code, §§ 22348 (a); 22349; 22356.)

8) Provides that any person who drives 30 or more mph over the speed limit on a freeway, or 20 or more mph over the speed limit on any other street or highway, and with willful or wanton

disregard for the safety of persons or property, and during the commission of a DUI or DUI causing bodily injury, shall, in addition to the punishment for the DUI, be punished by an additional and consecutive term of 60 days in county jail. (Veh. Code, § 23582 (a.)

9) Establishes an ignition interlock device (IID) pilot program until January 1, 2033, as follows:

   a) Authorizes a court to order a person convicted of their first DUI offense to install a functioning, certified IID on any vehicle that the person operates and prohibit that person from operating a motor vehicle for up to six months unless that vehicle is equipped with a functioning, certified IID. (Veh. Code, § 23575.3, subd. (h)(1)(A)(i).)

   b) Requires a court to order the installation of an IID for repeat DUI offenders and DUIs causing bodily injury to another person, as specified (Veh. Code, §§ 23575.3, subd. (h); 13352; 13352.4; 13353.3; 13353.6; & 13353.75.)

   c) Requires IID manufacturers to adopt a fee schedule under which the manufacturer will absorb a varying amount of an offender's cost for the IID based on the offender's income, relative to the federal poverty level. (Veh. Code, §§ 23575.3, subd. (r).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "California is facing a growing traffic safety crisis. Every day, approximately 12 people are killed on our roads, and speeding is a leading factor in roughly one-third of those fatalities. Thousands more suffer serious, life-altering injuries each year. While traffic fines influence the behavior of many drivers, they have proven insufficient to deter super speeders. License suspension is likewise ineffective, as the American Association of Motor Vehicle Administrators estimates that 75% of those suspended continue to drive during their suspension period. These are not just statistics—they represent families, communities, and lives forever changed.

   "AB 2276, the Stop Super Speeders Act, takes a targeted, evidence-based approach to directly address the harm caused by the most dangerous drivers by requiring individuals convicted of egregious speeding offenses, such as reckless driving or speeding over 100 mph, to install an active Intelligent Speed Assistance (ISA) device in their vehicles before returning to the road. Active ISA devices are designed to prevent dangerous speeding behavior by limiting a vehicle's ability to exceed posted speed limits. AB 2276 uses cutting-edge technology to save lives in a way that is fair, targeted, and focused on the drivers who pose the greatest risk to public safety, without inconveniencing most everyday Californians."

2) **ISA Technology:** ISA technologies use sensors such as GPS or cameras to monitor a vehicle's speed and provide real-time feedback or intervention to ensure adherence to speed limits. According to the National Highway Traffic Safety Administration (NHTSA), "[I]ntelligent speed assistance or intelligent speed adaptation (ISA) involves in-vehicle technologies that use GPS data interacting with accurate, digitally mapped speed limit data for the entire network or vehicle-based speed limit sign recognition. ISA systems can vary

from minimal systems that provide information to active speed limit control that could be mandatory or voluntary (i.e., with on/off activation switches).[1] Systems may:

- Provide information only (display the speed limit and changes);
- Provide visual or audible alerts when the speed limit is exceeded, but the driver can decide how to react (termed open system);
- Provide accelerator resistance to make speeding more difficult, but still possible (termed half-open). This system is like cruise control, except the speed limit (not the driver) determines when to engage speed resistance. Drivers may be able to turn off the system with a switch; and
- Automatically prevent speeding above the speed limit (mandatory speed compliance).[2]

ISA technology is distinct from other forms of speed limitation technology that simply limit the maximum speed. As stated by NHTSA, "Compared to speed governors, which can only limit the maximum speed of vehicles, ISA has the potential to help control speed of all motor vehicle types according to the prevailing limit at a location."[3]

ISA technology is typically classified as either passive or active. "Passive ISA allows drivers to override the system and drive in excess of the local speed limit, but drivers are alerted as they exceed the local speed limit by a certain amount, for example between 0 and 10 mph above. Active ISA cannot be overridden except in limited cases, such as with the press of an override button or with kickdown of the accelerator pedal, which removes the ISA limitations for a defined period."[4]

ISA technology has been explored in various forms for over two decades, although it has received limited trials in the U.S.[5] Research suggests that ISA technology may be effective at reducing speeding and associated speeding-related fatalities and injuries.[6] In 1999, the Swedish National Road Administration conducted a three-year trial of ISA technologies in urban areas.[7] Thousands of vehicles were equipped with different ISA systems, some active and some passive. Participants used these devices for over a year, and researchers observed reductions in speeding violations for all participants and no change in travel times in urban

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[1] NHTSA, *Intelligent Speed Assistance* (accessed April 17, 2025), available at: https://www.nhtsa.gov/book/countermeasures-that-work/speeding-and-speed-management/countermeasures/other-strategies-1#:~:text=This%20system%20is%20like%20cruise,limit%20(mandatory%20speed%20compliance.
[2] *Ibid.*
[3] *Ibid.*
[4] NYC Department of Citywide Administrative Services, New York City Intelligent Speed Assistance Pilot Evaluation (Oct. 2024), at p. 7, available at: https://www.nyc.gov/assets/dcas/downloads/pdf/fleet/nyc-intelligent-speed-assistance-pilot-evaluation-2024-oct.pdf
[5] NHTSA, *Intelligent Speed Assistance, supra* note 1.
[6] *Ibid.*
[7] Swedish National Road Administration, *Intelligent Speed Adaption (ISA)* (2002), at p. iv, available at: https://www.diva-portal.org/smash/get/diva2:1363740/FULLTEXT01.pdf

areas.[8] The researchers estimated that if all drivers had ISA systems, road injuries in urban areas could be reduced by as much as 20%.[9]

A 2010 study by the Dutch Ministry of Infrastructure found that ISAs have "the potential to improve road safety by reducing the level of speeding, mean speed, as well as the standard deviation of speed."[10] In 2022, New York initiated a pilot program to equip their city fleet vehicles with ISA technology.[11] Specifically, they equipped approximately 500 vehicles with a device that prevents acceleration beyond a set parameter over the speed limit.[12] The findings of the pilot program were as follows:

> In an analysis of 270 vehicles equipped with ISA, there was a 64.18% relative decrease in the time driven [greater than] 11 mph over the posted speed limit following ISA activation compared to before activation, and a similar decrease was observed in the ISA-equipped vehicles compared to non-equipped control vehicles. Speeding drive time reduction ranged from ~50% on 25 mph local roads, which have speed safety cameras set to the same enforced speed threshold, to 82% reduction on 50 mph roads. In addition, the impact of ISA on speeding behavior of habitual speeders in 130 vehicles was similar to that on the primary cohort, indicating ISA is effective at significantly reducing severe speeding across a wide range of drivers and fleet.[13]

According to NHTSA, the largest safety benefits will likely be provided by systems requiring mandatory speed limit compliance that cannot be overridden and requiring ISA for higher risk groups, such as younger drivers, professional drivers, and drivers convicted of serious speeding offenses, may be the most cost-effective approach.[14]

That said, ISA technology has its limitations. The Dutch Ministry of Infrastructure study found that users show few signs of learning after the systems are turned off, and serious offenders frequently used the option to override the system, which may seriously impact the efficacy of these systems.[15] "Like other speed control measures, there seems to be little potential for a lasting educational benefit or 'training' of drivers to control their speed once the systems are deactivated."[16]

Further, access to accurate speed limit information is critical to the functioning of the device. According to NHTSA, "there is a need to provide current and accurate maps of speed limits (Carsten, 2012), and to have reliable speed limit sign-reading camera and related technologies… as well as to have the technologies installed in new vehicles or retrofitted to older vehicles."[17] Updated maps may not be regularly purchased by owners, and may only be

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[8] *Ibid.*
[9] *Ibid.*
[10] van der Pas, et. al., *Intelligent speed assistance for serious speeders: The results of the Dutch Speedlock trial* (Nov. 2014), 72, 78-94, available at: https://www.sciencedirect.com/science/article/abs/pii/S0001457514001742?via%3Dihub
[11] NYC Department of Citywide Administrative Services, *supra* note 4.
[12] *Ibid.*
[13] *Ibid.*
[14] NHTSA, *Intelligent Speed Assistance, supra* note 1.
[15] van der Pas, et. al., *supra* note 10.
[16] NHTSA, *Intelligent Speed Assistance, supra* note 1.
[17] *Ibid.*

updated once a year.[18] As a result of such outdated speed limit information, some ISA systems may present false warnings.[19] Alternatively, camera-based systems, which detect the limit by reading posted signage, may be limited by visibility, such as when traffic signs are covered.[20]

Further, ISA technology may have challenges determining specialized speed limits in school zones, as well as other areas with temporarily reduced speed limits, such as construction zones. Additionally, preventing vehicles from exceeding the speed limit could contribute to unintended consequences. For example, if a person is driving a vehicle on the freeway at 65 mph, with an ISA device that prevents them from exceeding 65 mph, and another driver swerves into their lane, they may need to temporarily exceed the 65 mph limit to avoid a collision. Some ISA technology permits temporary overrides; however, this may require that a person separately identify and push the override button, which they may not have the time to do in emergencies. Finally, active ISA technology may be difficult to install on older vehicles.

On the NHTSA scale of the effectiveness of speeding countermeasures, which ranges from one to five stars, ISA technology receives three stars.[21] This suggests the countermeasure is "likely to be effective based on the balance of evidence from high-quality evaluations."[22] This can be compared with other speeding countermeasures, such as speed safety camera enforcement or lower speed limits, which receive five stars.[23]

3) **Increased Use of ISA Technology:** Use of ISA technology has expanded in recent years. Most notably, in 2019, the European Union required all new vehicles sold, beginning in 2024, to be fitted with ISA technology.[24] Specifically, the ISA required to be adopted by the European Union will function similarly to a cruise control, by preventing vehicles from travelling in excess of the posted speed limit by limiting engine power, but not utilizing automatic braking. Such systems will include off switches and can be overridden by the driver at any time.[25] Just in the last year, several states, including Virginia, Washington, and Washington DC, enacted laws establishing various forms of ISA device programs for specified speeding offenses.[26]

4) **Effect of this Bill:** This bill creates a statewide pilot program, commencing January 1, 2027, and until January 1, 2033, requiring an individual convicted of specified speeding and reckless driving offenses to install an ISA device on any vehicle that person operates. This

[18] *Ibid.*
[19] ACEA, *Intelligent Speed Assistance: why ISA cannot become mandatory today* (Nov. 2018), available at: https://www.acea.auto/news/intelligent-speed-assistance-why-isa-cannot-become-mandatory-today/
[20] *Ibid.*
[21] NHTSA, *Countermeasures* (accessed April 2, 2026), available at: https://www.nhtsa.gov/book/countermeasures-that-work/speeding-and-speed-management/countermeasures
[22] *Ibid.*
[23] *Ibid.*
[24] NHTSA, *Intelligent Speed Assistance*, *supra* note 1.
[25] *Ibid.*
[26] Ashley Knight, *Va.'s speed-limiting legislation to take effect July 1*, Wavy News Stream (March 20, 2026), available at: https://www.wavy.com/news/local-news/va-s-speed-limiting-legislation-to-take-effect-july-1/; Jake Goldstein-Street, *Washington to rein in fast drivers with speed limiters,* Washington State Standard (May 12, 2025), available at: https://washingtonstatestandard.com/2025/05/12/washington-to-rein-in-fast-drivers-with-speed-limiters/; Jake

bill pertains to active, rather than passive, ISA technology. It defines "active intelligent speed assistance device" to mean an aftermarket device that uses location-based technology to actively limit a motor vehicle's speed to posted or preset speed limits, is tamper-resistant, and is capable of reporting attempts to disable or circumvent functionality. This does not include technology provided by a motor vehicle manufacturer as a component of a new motor vehicle that controls or affects the speed of a motor vehicle. This definition may broadly cover a wide range of ISA devices, including those with or without override options. This pilot program is substantially similar to the IID pilot program currently in place in California. (Veh. Code, §§ 23575.3, subd. (h); 13352; 13352.4; 13353.3; 13353.6; & 13353.75.)

The bill generally requires a court to notify a person convicted of reckless driving, a speed contests, an exhibition of speed, placing a barricade for the purpose of facilitating a speed contest or exhibition, as specified, driving a vehicle on a highway at a speed greater than 100 mph, driving a vehicle on a highway with a speed greater than 65 mph, 55 mph (for a two-lane undivided highway), or 75 mph, as specified, and a DUI while speeding and driving recklessly, that they are required to install an ISA device on any vehicle they operate. This provision applies not only to serious speeding crimes, but also to low-level speeding violations, such as driving in excess of 55 mph, 65 mph, and 70 mph, as specified. The author may wish to remove this bill's application to low-level speeding violations.

Additionally, it specifically authorizes a court to order a person, with no priors, who is convicted of reckless driving, engaging in a speed contest, or driving a vehicle at a speed greater than 100 mph, to install an ISA device for up to six months from the date of conviction. If a person has one, two, or three or more priors, that person would be required to install an ISA device for a mandatory 12 months, 24 months, or 36 months, respectively. This bill defines "prior" to include a broad category of driving offenses, including low-level speeding violations such as driving on a highway in excess of the 55, 65, or 70 mph speed limit. Unlike the IID framework, which contains a 10-year washout period for prior offenses, this bill does not provide for a washout period. (Veh. Code, § 23575.3, subd. (h)(3).) This means that a "prior" offense includes any eligible offense, even if it occurred decades ago. Under this bill, a person convicted of driving over 100 mph at age 60, who previously received two speeding tickets for driving over a 55 or 65 mph speed limit during their lifetime, could be required to install an ISA device for two years. The author may wish to establish a 10-year washout period, consistent with the IID framework, and remove low-level speeding violations from the list of eligible priors.

This bill also requires ISA installations for a more serious class of speeding offenses that result in injury or involve impaired driving. It requires a court, for a person convicted of reckless driving proximately causing bodily injury, reckless driving causing GBI with certain priors, a speed contest that proximately causes bodily injury, or a DUI while speeding and driving recklessly, who has no prior convictions, to install an ISA device for 12 months. If a person has one, two, or three or more priors, they would be required to install an ISA device for 24 months, 36 months, and 48 months, respectively. Eligible priors for purposes of this requirement include a speed contest, an exhibition of speed, placing a barricade for the purpose of facilitating a speed contest or exhibition, or a DUI while speeding and driving recklessly. As stated above, there is no washout period for eligible priors.

In terms of the procedures contemplated by this bill, it requires a court to notify a person convicted of a specified speeding offense that they must install an ISA device and that they

are prohibited from operating a vehicle without an ISA device. The DMV is then required to inform the person of the ISA requirements and restrict the person's license to state that the driver is restricted to only driving vehicles equipped with an ISA device for the applicable term. An individual required to install an ISA device is required to: 1) arrange for each vehicle operated by the person to be equipped with an ISA device; 2) provide to the DMV proof of installation; and 3) pay a fee, determined by the DMV, that is sufficient to cover the costs of administration of this section. Like the IID statute, certain individuals, such as those who do not own a vehicle, among other conditions, are exempt from these requirements.

This bill makes tampering or interfering with the ISA device, directing another to tamper or interfere with the device, operating a vehicle without a required ISA device, and failing to return the device to the vendor upon program completion a misdemeanor. These provisions are largely consistent with the misdemeanors that exist for non-compliance or tampering with an IID. (Veh. Code, §§ 23573, subd. (i), 23247, subds. (a)-(g).) The only exception is the misdemeanor for failing to return the device. There is no similar provision in the IID statute, and establishing a misdemeanor for this conduct as applied to ISAs creates a certain degree of inconsistency in the law. Further, the point in time at which a person is required to return the device is unclear. This could authorize misdemeanor charges against a person subject to an ISA, who unintentionally forgets to return the device or who returns the device months after the term is completed. The author may wish to remove this provision or consider alternative non-criminal penalties.

This bill also subjects a violation of any of the above to an extension of the required term the device needs to be installed by an additional 120 days. The need for a mandatory four-month extension for non-compliance is unclear. There is no comparable provision in the IID statute. Further, the bill already separately states that any period of non-compliance cannot be credited towards the mandatory term, and establishes certain misdemeanors for non-compliance. Establishing a mandatory four-month extension for noncompliance creates inconsistency in the law and appears unnecessary given the existing penalties for noncompliance. The author may wish to remove this provision.

In terms of the costs of the device, an individual subject to an ISA is required to pay for the costs of the provider's standard ISA device, all device program costs, and any additional costs accrued by the person for noncompliance with program requirements in amounts commensurate with that person's income relative to the federal poverty level, upon income verification. For example, an individual with an income at 100 percent of the federal poverty level or below is responsible for 10 percent of all ISA costs. The ISA device manufacturer is responsible for any remaining costs.

This bill also establishes procedures governing the collection of data pertaining to ISA devices. Among other provisions, it requires collected data to be securely maintained by the provider, permits data related to be shared with the DMV or court that ordered the device, and permits depersonalized and aggregated data to be shared with third parties for research or evaluation purposes. Such data may only be shared pursuant to a court order, state statute, or regulation, or with the DMV or ordering court. The bill also prohibits manufacturers and retailers of vehicles from being liable for any loss, injury, or damage caused by the design, installation, improper installation, use, or misuse of an ISA, except as specified.

Finally, this bill requires CalSTA to analyze the effectiveness of this pilot program and submit a report to the Legislature containing its assessment by July 1, 2032. The provisions of this bill will sunset on January 1, 2033.

5) **History of IID Pilot Programs in California:** Given the novel nature of this type of active intelligent ISA technology that can accurately track and enforce speed limits across a given region, its lack of widespread use in California, and the Legislature's history of collecting data on comparable vehicle safety technology through county-wide pilot programs, the author may wish to consider limiting this bill to a multi-county pilot program. The Legislature has enacted numerous IID pilot programs that have generated associated statistical studies analyzing the effectiveness of that technology. For example, in 1986, the Legislature established a temporary four-county pilot program authorizing judges to order DUI offenders to install IIDs as a condition of probation, and required the evaluation of this program to determine its effectiveness.[27] This was the first use of IIDs in California.[28] AB 91, Chapter 217, Statutes of 2009, established another four-county pilot program, which required first-time and repeat DUI offenders to install IIDs to obtain a restricted driver's license from 2010-2016. Other pilot programs were later enacted to create the state-wide pilot program that exists today. Given the relatively novel nature of this type of ISA technology, the limitations of the technology, and to maintain consistency with the data-driven approach the Legislature has taken with IID technology, the author may wish to consider limiting this bill to a multi-county, rather than a statewide, pilot program.

6) **Argument in Support**: According to *Steersafe Partnership*, "Active ISA devices are vehicle-based technologies that use location-based systems to identify posted speed limits and actively limit a vehicle's speed to those limits. Once the preset threshold is reached, the vehicle cannot accelerate further, directly preventing dangerous speeding behavior before it results in tragedy. This preventive approach aligns squarely with public health principles: identify the highest-risk behaviors, intervene early, and reduce harm at the population level.

   "ISA technology has been used for more than 30 years on commercial fleets and is emerging as an innovative countermeasure for super speeders. This technology is a proven effective countermeasure to prevent speeding. In New York City, early results from a pilot program with 300 municipal vehicles saw 99 percent compliance with speed limits over 1 million miles, a 37 percent drop in hard braking. The most recent report on the program found a 64 percent reduction in overall time spent speeding (more than 11mph over the limit), including an 82 percent decrease in time spent speeding on higher-speed roads (50 mpg).

   "National organizations, including the American Association of Motor Vehicle Administrators (AAMVA), have developed model legislation supporting technology-based interventions for high-risk drivers. Other states have begun implementing similar measures to reduce recidivism among dangerous speeders. California should lead, not lag, in deploying innovative safety tools that save lives.

   "For families across California, this issue is deeply personal. Advocates with Families for Safe Streets have shared heartbreaking stories of loved ones killed by speeding drivers,

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[27] California Department of Motor Vehicles, *An Evaluation of the Effectiveness of Ignition Interlock in California* (Sept. 2005), p. 4, available at: https://www.dmv.ca.gov/portal/file/an-evaluation-of-the-effectiveness-of-ignition-interlock-in-california/
[28] *Ibid.*

tragedies that were entirely preventable. As they have emphasized, speeding is not an accident, it is a choice. When drivers repeatedly choose to engage in extreme speeding, the state has a responsibility to intervene before another family's life is permanently altered.

"License suspension alone has proven insufficient. National data indicates that 75 percent of suspended drivers continue to drive. AB 2276 offers a more effective alternative: maintaining mobility only when lifesaving safeguards are in place.

"AB 2276 treats reckless speeding with the seriousness it deserves - as a preventable public health emergency - and provides a focused, evidence-based strategy to reduce fatalities, protect vulnerable road users, and promote long-term behavior change."

7) **Argument in Opposition**: According to *Initiate Justice*, "If AB 2276 is passed, drivers convicted of certain traffic offenses would be required to install a certified active intelligent speed assist (ISA) device in their vehicles—initially at the court's discretion, and then mandatorily for repeat offenses. More specifically, AB 2276 requires those individuals to install costly monitoring technology in their vehicles and maintain regular servicing and recalibration, or face further legal consequences. While we applaud the effort to address excessive speeding, Initiate Justice opposes AB 2276 because the devices are unreliable and do not get at the root causes of unsafe driving in California.

"We understand and support efforts to improve road safety. However, this bill, in its current form, imposes punitive and unnecessary financial burdens on low-income individuals, many of whom already struggle to make ends meet. Even with the proposed sliding scale, individuals would still be responsible for a portion of these fees, as well as any charges for noncompliance or missed maintenance. These proposed statutory obligations could significantly impact their ability to meet their basic needs.

"California's traffic fines and fees are among the highest in the nation, disproportionately impacting low-income individuals. The Lawyers' Committee for Civil Rights of the San Francisco Bay Area found that a $100 base fine can increase to $490 after additional fees, and up to $815 if deadlines are missed. These escalating costs can lead to license suspensions, job loss, and further entrenchment in poverty.

"Furthermore, the California State Auditor has found that penalties and fees added to traffic fines have mainly gone unpaid because they pose a significant financial burden to the driving public, particularly low-income individuals. Traffic infractions that carry a base fine of $35 can cost an individual $237 after penalties and fees are included.

"These financial penalties do not just punish people for their mistakes—they also perpetuate cycles of poverty and criminalization. AB 2276 fails to consider the economic realities of many Californians and risks disproportionately harming communities of color and marginalized populations who are more likely to be policed for traffic violations in the first place.

"The socioeconomic effects of policies like this one could pose challenges for families struggling to meet their basic needs, limiting their mobility and access to essential services. We should be investing the state's time and money in education, public transportation

alternatives, and restorative justice measures that promote safety without deepening inequality, rather than creating new barriers and expenses."

8) **Prior Legislation**:

a) AB 981 (Gipson) would have created a five-county pilot program that requires an individual convicted of specified reckless driving and speed offenses to install an ISA device on their vehicle. AB 981 was held in the Assembly Appropriations Committee.

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

c) SB 961 (Wiener), of the 2023-2024 Legislative Session, would have required, beginning with the 2030 model year, every passenger vehicle, motor truck, and bus manufactured, sold as new, or leased as new in the state to be equipped with a passive ISA system that provides a brief one-time signal to alert a drive each time they exceed the speed limit by more than ten miles per hour. SB 961 was vetoed by the Governor.

d) AB 2210 (Petrie-Norris) of the 2023-2024 Legislative Session would have required the DMV to operate a five-county pilot project for installation of an IID in the vehicle of a first-time DUI offender. AB 211 was held in Assembly Appropriations.

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

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

g) AB 91 (Feuer), Chapter 217, Statutes of 2009, established a pilot program in Alameda, Los Angeles, Sacramento, and Tulare Counties, administered by DMV to require the installation of IIDs on the vehicles of all persons convicted of a DUI, as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

AAA Northern California, Nevada & Utah
Aaa, Automobile Club of Southern California
Aaa, Mountain West Group
Advocates for Highway and Auto Safety
Alliance for Automotive Innovation
America Walks
Auto Club of Southern California (AAA)
Beautiful Pacific Beach
Bike East Bay
Bike LA
California Association of Highway Patrolmen
California Bicycle Coalition
California Walks

Circulate San Diego
City of Kerman, CA
City of Mendota
Coalinga Police Department
Families for Safe Streets San Diego
Families for Safe Streets USA
Fccla
Fia Foundation
Los Angeles Walks
MADD California
Mendota Police Department
Mothers Against Drunk Driving
National Alliance to Stop Impaired Driving
National Safety Council
National Transportation Safety Board
Responsibility.org
Ride of Silence
Riverside County District Attorney
Safe Streets Encinitas
San Diego County Bicycle Coalition
San Francisco Bicycle Coalition
Sonoma County Bicycle Coalition
Steersafe Partnership
Streets are for Everyone (SAFE)
Streets are for Everyone (SAFE) (ORG)
Streets for All
Sylvia Bingham Fund
Vision Zero Network
Walk San Francisco

Opposition

ACLU California Action
California Public Defenders Association
Communities United for Restorative Youth Justice (CURYJ)
Debt Free Justice California
Ella Baker Center for Human Rights
Initiate Justice
Justice2jobs Coalition
LA Defensa
San Francisco Public Defender

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

Date of Hearing: April 7, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2286 (Bryan) – As Introduced February 19, 2026

SUMMARY: Clarifies that the misdemeanor for willfully refusing or neglecting to allow an attorney to visit a prisoner when a proper application is made applies to an officer having charge of a prisoner when the prisoner is in jail, prison, medical setting, or hospital.

EXISTING LAW:

1) States that a defendant shall be taken before a magistrate without unnecessary delay, and, in any event, within 48 hours after his or her arrest, except as provided. (Pen. Code, § 825, subd. (a)(1).)

2) Establishes that after the arrest, any attorney may, at the request of the prisoner or any relative of the prisoner, visit the prisoner. Any officer having charge of the prisoner who willfully refuses or neglects to allow that attorney to visit a prisoner is guilty of a misdemeanor. Any officer having a prisoner in charge, who refuses to allow the attorney to visit the prisoner when proper application is made, shall forfeit and pay to the party aggrieved the sum of $500, to be recovered by action in any court of competent jurisdiction. (Pen. Code, § 825, subd. (b).)

3) Provides that any physician and surgeon, including a psychiatrist, licensed to practice in this state, or any psychologist licensed to practice in this state who holds a doctoral degree and has at least two years of experience in the diagnosis and treatment of emotional and mental disorders, who is employed by the prisoner or his or her attorney to assist in the preparation of the defense, shall be permitted to visit the prisoner while he or she is in custody. (Pen. Code, § 825.5.)

4) Specifies that prosecution for an offense is commenced when any of the following occurs:

   a) An indictment or information is filed.

   b) A complaint is filed charging a misdemeanor or infraction.

   c) The defendant is arraigned on a complaint that charges the defendant with a felony.

   d) An arrest warrant or bench warrant is issued, provided the warrant names or describes the defendant with the same degree of particularity required for an indictment, information, or complaint. (CITATION)

5) States that a proceeding for the examination before a magistrate of a person on a charge of a felony must be commenced by written complaint under oath subscribed by the complainant

and filed with the magistrate. Such complaint may be verified on information and belief. (Pen. Code, § 806.)

6) States that a person who is specified or designated in a warrant of arrest for a misdemeanor offense may be released upon the issuance of a citation, in lieu of physical arrest, unless the person requires medical examination or medical care or was otherwise unable to care for his or her own safety. (Pen. Code, § 827.1, subd. (f).)

7) Establishes that when the defendant first appears for arraignment on a charge of having committed a public offense, the magistrate shall immediately inform the defendant of the charge against him or her, and of his or her right to the aid of counsel in every stage of the proceedings. (Pen. Code, § 858, subd. (a).)

8) States 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, as specified, the magistrate, immediately upon the appearance of counsel, or if none appears, after waiting a reasonable time therefor, shall set a time for the examination of the case and shall allow not less than two days, excluding Sundays and holidays, for the district attorney and the defendant to prepare for the examination. (Pen. Code, § 859b.)

9) Defines the following persons as magistrates:

    a) The judges of the Supreme Court.

    b) The judges of the courts of appeal.

    c) The judges of the superior courts. (Pen. Code, § 808.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "No incarcerated person should lose their constitutional right to meet with their attorney because they are receiving medical care. AB 2286 clarifies that when someone in custody is being held in a medical setting, their attorney must still be allowed to meet with them so they can meaningfully participate in their defense. Ensuring consistent access to counsel protects due process, strengthens the integrity of our justice system, and helps ensure that people facing serious medical issues are not further disadvantaged in their legal proceedings."

2) **Effect of the Bill**: AB 2286 clarifies additional situations where willful or neglectful denial of access to counsel could be punished as a misdemeanor and with a fine.

   The author notes, "defense attorneys and public defenders have [experienced] refusal from sheriffs to see their clients while they were hospitalized." They additionally cite the importance of clarifying in statute that the sheriffs or other personnel looking after incarcerated people should not be authorized to block a person's access to counsel in a hospital or medical setting.

This bill would modify Section 825(b) of the Penal Code to clarify that a law enforcement officer with charge over a prisoner in a hospital or medical setting is subject to a misdemeanor penalty and $500 fine should the officer willfully refuse or neglect access to an attorney to visit the prisoner following proper application. The bill eliminates parts of the first sentence of Section 825(b) that state an attorney requesting a visit with a prisoner must be an attorney of record authorized to practice in California, a relative of the prisoner can make the request for the attorney visit, and that the authorization to visit the prisoner begins after the arrest.

Eliminating the "after the arrest" language is unlikely to create any differences on the ground as someone being a "prisoner" essentially presupposes the person already has been "arrest[ed]." The removal of the language permitting a relative to request an attorney visit the prisoner is probably also unlikely to change much in practice, given California regulations already authorize relatives to make these requests. (Cal. Code Regs., tit. 15, § 3178, subd. (d)(5).) The elimination of the Section 825(b) language also suggests that any licensed attorney, regardless of the jurisdiction where the attorney is licensed, would be permitted to request a visit with a prisoner in a hospital or medical setting.

It is unclear how much impact this bill will have because there appears to be no statewide reliable data tracking incidents where a prisoner is denied access to counsel in a hospital or medical setting. By establishing clear punishment in statute for denying access to counsel in hospitals and medical settings, however, this bill could help reduce or eliminate even anecdotal reports of officers denying a prisoner's access to counsel under these conditions.

3) **The Right to Counsel**: The accused's constitutional right to a speedy and public trial includes the right of a person in police custody to be promptly brought before a magistrate and formally charged. (U.S. Const., 6th Amend.; Cal. Const., art. I, § 15; *Youngblood v. Gates* (1988) 200 Cal.App.3d 1302, 1308-1309.) An accused's right to a speedy appearance before a magistrate is implemented by Section 825 of the Penal Code. (*Ibid*; Pen. Code, § 825, subd. (a).) The primary reasons for the requirement of prompt arraignment are to "prevent secret police interrogation, to place the issue of probable cause for the arrest before a judicial officer, to provide the defendant with full advice as to his rights and an opportunity to have counsel appointed, and to enable him to apply for bail or for habeas corpus when necessary." (*People v. Pettingill* (1978) 21 Cal.3d 231, 244.)

   The right of an accused, confined in *any* place of detention, to have an opportunity to consult freely with his counsel is "one of the fundamental rights guaranteed by the American criminal law – a right that no legislature or court can ignore or violate." (*In re Application of Rider* (1920) 50 Cal.App. 797, 799 [italics added].) In California, the right of the accused to consult with counsel is guaranteed by our Constitution. (*Ibid.*)

   While hospitals and their staff may restrict access to counsel in particular cases, like where such a meeting would interfere with hospital operations or compromise the person's medical care, no attorney should be required to give the officer in charge of the prisoner the reason why he desired a private consultation with his client. (*In re Application of Snyder* (1923) 62 Cal.App. 697, 701.) Requiring an attorney to give the officer in charge the reason why he desires a private interview with his client could give such officer the power to determine whether such reasons were sufficient or not to grant such an interview. (*Ibid.*) To give the officer the right to demand the reason for a private interview with counsel in these situations,

and to adopt such a rule, would improperly substitute the judgment of the officer for the judgment of the prisoner and his counsel. (*Ibid.*)

Our Supreme Court found that a delay in being taken before a magistrate was valid where that delay only lasted seven days and appearance before a magistrate before the accused was medically cleared would have jeopardized his health. (*People v. Lane* (1961) 56 Cal.2d 773, 780-781.) Importantly, however, the court noted in this case that the delay was not the product of police indifference nor any attempt to prevent the defendant from communicating with loved ones or counsel. (*Id.* at p. 781.) In another case, a court observed that the law did not require booking of the accused to be completed being the accused is given access to counsel, and the accused is not required to state they want to see a specific attorney. (*Beltram v. Appellate Department* (1977) 66 Cal.App.3d 711, 716-718.) Regarding whom qualifies as the "aggrieved" party, the court noted that because the statute clearly is intended to protect the right of the accused to confer with counsel, the accused is the aggrieved party. (*Beltram, supra,* at p. 717-18.)

Writing in dissent in a case involving the constitutional rights of criminal defendants, the estimable Justice Thurgood Marshall noted that where "a practical advantage is achieved only at the cost of permitting the police to disregard the limitations that the Constitution places on their behavior, [this is] a cost that a constitutional democracy cannot long absorb." (*Schneckloth v. Bustamonte* (1973) 412 U.S. 218, 288 [Marshall, J. dissenting].) The right to counsel is foundational to our criminal justice system and this system is currently reeling, particularly from myriad federal attacks. Insofar as the right to counsel is not already secured under California and federal law, in the context of a prisoner requesting consultation with an attorney in a hospital or medical setting, AB 2286 could help fortify that right.

4) **Argument in Support**: According to *La Defensa*, "I write to express our strong support for AB 2286 (Bryan), which ensures access to counsel for incarcerated people who are hospitalized.

   "AB 2286 (Bryan) clarifies that when an incarcerated person is transferred to a hospital and that attorneys must be allowed to meet with their clients regardless of whether the client is held in a jail, prison, or hospital setting.

   "California law guarantees that people in custody have the right to consult with their attorney. In practice, however, this right is often denied when a person is transferred to a hospital. Defense attorneys across the state report that sheriffs frequently refuse attorney visits, decline to share basic information about a client's status, and at times ignore court orders authorizing access.

   "When attorneys cannot meet with hospitalized clients, cases stall and courts are left without critical information needed to move proceedings forward. Attorneys must be able to assess a client's wellbeing, make informed litigation decisions, obtain necessary waivers, and advise courts on whether proceedings can continue. Denying access undermines due process and wastes judicial resources.

   "AB 2286 (Bryan) provides a clear and practical solution. For these reasons, we support AB 2286."

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

6) **Related Legislation**:

   a) AB 1905 (Schultz) would prohibit a law enforcement officer from seeking statements or information while working undercover, or by individuals working in collaboration with, or acting as agents of, law enforcement, from a person who was 17 years of age or younger during the commission of crime and who is in custody. AB 1905 is pending a vote on the Assembly floor.

   b) SB 1401 (Stern) would authorize, among other things, a county behavioral health agency and jail medical provider to share confidential medical records and other relevant information with the court for the purpose of determining likelihood of eligibility for behavioral health services and programs pursuant to the above provisions. SB 1401 is pending hearing in the Senate Public Safety Committee.

7) **Prior Legislation**:

   a) SB 821 (Arreguin), of the 2025-26 Legislative Session, would have required the court to promptly, but no later than 48 hours after a warrantless arrest, review the basis for the arrest and make an initial determination whether probable cause exists that an offense has been committed and that the arrested person committed it if the defendant remains in custody. SB 821 was held in the Senate Appropriations Committee.

   b) AB 2215 (Bryan), Chapter 954, Statutes of 2024, authorized an arresting officer to release an arrested person from custody without bringing the person before a magistrate if the person is, subsequent to being arrested, delivered or referred to a public health or social service organization that provides specified services and no further proceedings are desirable.

   c) AB 61 (Bryan), of the 2023-24 Legislative Session, would have required a person to be taken before the magistrate within 48 hours of their arrest, and would have required that the court make an initial determination of probable cause, as specified, no more than 48 hours after the warrantless arrest. AB 61 died on the inactive file on the Assembly floor.

   d) AB 1209 (Jones Sawyer), of the 2023-24 Legislative Session, would have required representation by counsel to commence as soon as feasible after being notified of a person's arrest, but always within 24 hours after booking or sufficiently before the arraignment to allow the provision of meaningful representation. AB 1209 was held in suspense in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support
ACLU California Action
All of US or None (HQ)
All of US or None Orange County
California Attorneys for Criminal Justice
California Coalition for Women's Prisoners
California Public Defenders Association
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Ella Baker Center for Human Rights
Families Inspiring Reentry & Reunification 4 Everyone (FIR4E)
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union
Rubicon Programs
San Francisco Public Defender
San Quentin Skunkworks
Smart Justice California, a Project of Beyond Impact
The W. Haywood Burns Institute
2 Private Individuals

Opposition

None submitted.

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

Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2297 (Stefani) – As Amended March 26, 2026

SUMMARY: Applies the general restitution statute to defendants who enter a diversion program. Specifically, **this bill**:

1) States that a court shall order restitution to the victim or victims, if any, which shall be enforceable as if the order were a civil judgment, and paid in the order required under existing law, when a defendant participates in a diversion program.

2) Requires a defendant to be informed of their right to have a judicial determination of the amount and is provided with a hearing, or they may waive the hearing or stipulate to the amount ordered.

3) Provides that if the court finds that restitution is owed to any victim as a result of the diverted offense, the court shall order its payment during the period of diversion.

4) Prohibits a defendant's inability to pay restitution due to indigence or mental disorder from being used as grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

5) Specifies that if the defendant withdraws from diversion or fails to complete the terms of diversion, a restitution order shall be suspended until criminal proceedings are resolved.

6) States that if the defendant completes diversion, a restitution order may be enforced in the same manner as a civil judgment pursuant to existing provisions of law.

7) States that it is the intent of the Legislature that a victim of a crime who incurs an economic loss as a result of the commission of a crime shall receive restitution directly from a defendant who enters a diversion program resulting from that crime.

8) Makes conforming changes.

EXISTING LAW:

1) Provides that, in order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled specified rights, including among others, restitution. (Cal. Const., art. I, § 28, subd. (b)(13).)

2) States that it is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.

(Cal. Const., art. I, § 28, subd. (b)(13)(A).)

3) Provides that restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss. (Cal. Const., art. I, § 28, subd. (b)(13)(B).)

4) Mandates that in every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. (Pen. Code, § 1202.4, subd. (b).)

5) Requires a restitution fine be set at the discretion of the court and commensurate with the seriousness of the offense. If the person is convicted of a felony, the fine shall not be less than $300 and not more than $10,000. If the person is convicted of a misdemeanor, the fine shall not be less than $150 and not more than $1,000. (Pen. Code, § 1202.4, subd. (b)(1).)

6) States that, in setting a felony restitution fine, the court may determine the amount of the fine as the product of the minimum fine, as specified above, multiplied by the number of years of imprisonment the defendant is ordered to serve, multiplied by the number of felony counts of which the defendant is convicted. (Pen. Code, § 1202.4, subd. (b)(2).)

7) Provides that to the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:

   a) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

   b) Medical expenses.

   c) Mental health counseling expenses.

   d) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

   e) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

f) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of child sexual assault, as specified.

g) Interest, at the rate of 10 percent per year that accrues as of the date of sentencing or loss, as determined by the court.

h) Actual and reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim.

i) Expenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

j) Expenses to install or increase residential security incurred related to domestic violence, as specified, or a violent felony, as specified, including, but not limited to, a home security device or system, or replacing or increasing the number of locks.

k) Expenses to retrofit a residence or vehicle, or both, to make the residence accessible to or the vehicle operational by the victim, if the victim is permanently disabled, whether the disability is partial or total, as a direct result of the crime.

l) Expenses for a period of time reasonably necessary to make the victim whole, for the costs to monitor the credit report of, and for the costs to repair the credit of, a victim of identity theft, as specified. (Pen. Code, § 1202.4, subd. (f)(3)(A-L).)

8) States if a defendant is currently incarcerated in a state prison with two-way audio-video communication capability, the Department of Corrections and Rehabilitation (CDCR), at the request of the California Victim Compensation Board (Cal VCB), may collaborate with a court in any county to arrange for a hearing to impose or amend a restitution order, if the victim has received victim compensation assistance, to be conducted by two-way electronic audio-video communication between the defendant and the courtroom in lieu of the defendant's physical presence in the courtroom, provided the county has agreed to make the necessary equipment available. (Pen. Code, § 1202.41, subd. (a)(1).)

9) Specifies that a restitution order is enforceable by the victim as a civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order and a copy of the defendant's financial disclosure. (Pen. Code, §§ 1202.4, subd. (i), & 1214, subd. (b).)

10) States that any portion of a restitution fine or restitution fee that remains unsatisfied after a defendant is no longer on probation, parole, postrelease community supervision or mandatory supervision, after a term in custody, or after completing diversion is enforceable by Cal VCB. (Pen. Code, § 1214, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Since its creation following the 1982 Victims' Bill of Rights, restitution has always been tied to a formal conviction. As diversion programs have expanded in use as rehabilitative tools, more cases resolve without convictions. Of the 14 diversion programs currently in law, 10 are silent regarding a defendant's responsibility to pay restitution to their victim while others create a patchwork of partial or limited restitution depending on whether and which diversion was applied. The inconsistencies in diversion statutes often leave courts without jurisdiction to order a victim's losses to be repaid or result in unequal treatment for comparable offenses. AB 2297 seeks to balance the interests of victims—ensuring they are made whole—while also maintaining equitable access to diversion as an alternative to incarceration or formal conviction, particularly for first-time or low-level offenders. AB 2297 reduces disparities in the legal process, creates reasonable and consistent expectations for defendants and victims alike, and ensures that as newer forms of diversion are contemplated, they will never be created at the expense of a victim's right to restitution."

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

   Diversion programs may be pre-plea or post-plea (often called deferred entry of judgement). Pre-plea programs allow a defendant to participate in the program without admitting guilt. In post-plea programs, the defendant must first admit guilt before participating in the program. The main difference between the two types of diversion is that in a pre-plea program, if the defendant does not successfully complete the program, criminal proceedings resume and the defendant has the option to plead guilty or pursue a defense against their case. In a post-plea diversion program, if a defendant does not successfully complete the program, the defendant having already plead guilty, would be sentenced.

   In recent years, the Legislature has enacted several pre-plea diversion programs such as military diversion (SB 1227 (Hancock), chapter 658, statutes of 2013), mental health diversion (SB 215 (Beall), chapter 1005, statutes of 2017), diversion for primary caretakers (SB 394 (Skinner), chapter 593, statutes of 2019), and court-initiated misdemeanor diversion (AB 3234 (Ting), chapter 334, statutes of 2020). Drug diversion was enacted as a pre-plea program and changed to a post-plea program in 1997 (SB 1369 (Kopp), chapter 1132, statutes of 1996), then in 2017 changed back to a pre-plea program (AB 208 (Eggman), chapter 778, statutes of 2017).

   Existing law also authorizes a city or county prosecuting attorney or county probation department, until January 1, 2031, to create a diversion or deferred entry of judgment program for persons who commit a theft offense or repeat theft offenses and specifies that the prosecuting attorney is to determine who to refer to the program and who is appropriate for placement in the program. For purposes of the program, "repeat theft offenses" means being

cited or convicted for misdemeanor or felony theft from a store or vehicle two or more times in the previous 12 months and failing to appear in court when cited for these crimes or continuing to engage in these crimes after release or after conviction. (Pen. Code, § 1001.81.)

3) **Constitutional Right to Victim Restitution**: The California Constitution guarantees victims the right to restitution. Specifically, Article I, Section 28 of the California Constitution provides that, in order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled specified rights, including among others, restitution. (Cal. Const., art. I, § 28, subd. (b)(13); added by Proposition 8, approved by California voters in the general election on November 8, 1982.) It also states that "[i]t is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to restitution from the persons convicted of the crimes for losses they suffer. Restitution shall be ordered from the convicted persons in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss, unless compelling and extraordinary reasons exist to the contrary." (Cal. Const., art. I, sec. 28, subd. (b).) "A victim's right to restitution is, therefore, a constitutional one; it cannot be bargained away or limited, nor can the prosecution waive the victim's right to receive restitution." (*People v. Gross* (2015) 238 Cal.App.4th 1313, 1317-1318.)

   As directed by the voters, the Legislature enacted Penal Code section 1202.4 to implement the Victims' Bill of Rights. (*Gross, supra*, 238 Cal.App.4th at p. 1318; *People v. Seymour* (2015) 239 Cal.App.4th 1418, 1435.) This statute provides that "in every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order." (Pen. Code, § 1202.4, subd. (f).) The statute further provides that a "defendant's inability to pay shall not be consideration in determining the amount of a restitution order." (Pen. Code, § 1202.4, subd. (g).) Rather, victim restitution orders must be of a dollar amount that is sufficient to fully reimburse the victim, which can include an assortment of expenses such as medical expenses, mental health counseling expenses, wages or lost profits, noneconomic losses like psychological harm, actual and reasonable attorney's fees, and relocation fees. The victim restitution order must also include interest at the rate of 10% per annum. (Pen. Code, § 1204.5, subd. (f)(3).)

   If the amount of restitution cannot be ascertained at the time of sentencing, the court shall include a provision in the restitution order that the restitution amount shall be determined at a future time. (*Ibid.*) The trial court must incorporate the restitution order in the defendant's conditions of probation. (Pen. Code, § 1202.4, subd. (m).) If part of a restitution order has not been paid after a defendant is no longer on probation, it remains enforceable by the victim as though it were a civil judgment. (Pen. Code, 1202.4, subd. (m); Pen. Code, § 1214.) Additionally, if the defendant is unable to pay full restitution within the initial term of probation, the court can modify and extend the period of probation to allow the defendant to pay off all restitution within the probation term. (Pen. Code, §1203.3, subd. (b)(4); *People v. Cookson* (1991) 54 Cal.3d 1091, 1097.) Generally, the probation term may be extended up to, but not beyond, the maximum probation period allowed for the offense. (*People v Medeiros* (1994) 25 Cal.App.4th 1260, 1267–1268.)

   Payment of victim restitution goes directly to the victim and compensates them for economic losses they have suffered because of the defendant's crime, i.e., to make the victim reasonably whole. (*People v. Guillen* (2013) 218 Cal.App.4th 975, 984.) A victim restitution

order is an enforceable civil money judgment, and typical post-judgment enforcement tools are available to the victim. (Pen. Code, § 1202.4, subd. (i).) Victims have access to all available resources to enforce the order, including wage garnishment and lien procedures, even if the defendant is no longer in custody or on supervision. (*Ibid.*)

Last year, the Legislature passed legislation to clarify that restitution orders take priority over all other fines and fees that may be levied against a defendant based on their conviction. (AB 1213 (Stefani), Ch. 184, Stats. 2025.)

This bill would include within Penal Code section 1202.4 a right to restitution for victims of crimes where the defendant participates in a diversion program. Existing law requires victim compensation after a conviction, however a defendant who participates successfully in a diversion program would not receive a conviction for the underlying offense. Thus, courts may only order restitution if the individual diversion statute authorizes it.

4) **Restitution in the Various Diversion Statutes**: Restitution is specifically authorized in several existing diversion statutes. For example, the mental health diversion law provides that "[u]pon request, the court shall conduct a hearing to determine whether restitution, as defined in subdivision (f) of Section 1202.4, is owed to any victim as a result of the diverted offense and, if owed, order its payment during the period of diversion." (Pen. Code, § 1001.36, subd. (f)(1)(D).) The court-initiated misdemeanor diversion program requires a defendant to "[m]ake full restitution." (Pen. Code, § 1001.96, subd. (b).) Both statutes provide that a defendant's inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion. (Pen. Code, §§ 1001.36, subd. (f)(1)(D), 1001.96, subd. (b).)

The theft diversion states that a condition of diversion may include "[m]aking adequate restitution or an appropriate substitute for restitution to the establishment or person from which property was stolen at the face value of the stolen property, if required by the program." (Pen. Code, § 1001.81, subd. (e)(2).)

Comparatively, the military diversion, caregiver diversion, and drug diversion programs are silent on victim restitution. (Pen. Code, §§ 1001.80; 1001.83; 1000.3.)

According to the sponsor of this bill, individual diversion statutes are inconsistent in its applicability to victim restitution which results in courts often not ordering victim restitution. Placing the authority to order diversion within the general restitution statute will ensure more even application and an avenue for enforcement after the period of diversion has ended. This bill will also apply the same rights to a hearing to determine the amount of restitution, if any, as exists for defendants who have been convicted. Consistent with diversion statutes, this bill would provide that a defendant's inability to pay restitution due to indigence or mental disorder from being used as grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

Lastly, the bill contains language to ensure that the restitution order is made while the court has jurisdiction over the matter during the period of diversion, and specifies that if a defendant withdraws from diversion or fails to complete the terms of diversion, the order for restitution shall be suspended until the resolution of the criminal proceedings.

5) **Argument in Support**: According to the *San Diego District Attorney's Office*, the sponsor of this bill, "Only four out of the fourteen statutory forms of diversion mention restitution at all, and even these four are widely inconsistent in scope and procedure, and none of them offer victims the same strong, enforceable protections or expectations as traditional restitution under 1202.4. As stated, the remaining ten diversion statutes are completely silent on restitution, meaning a defendant who has harmed a victim can also enjoy the ability to leave that victim uncompensated and without a remedy in the criminal case.

   "For example, a defendant with PTSD, charged with VC23153 after driving under the influence and injuring the victim, might be eligible for diversion under PC 1001.80(n)(1). Because military diversion is silent on restitution, the court would lack any statutory authority to order the defendant to pay restitution to cover the victim's medical bills or car repair bills. Similarly, a person who gets frustrated and breaks his neighbor's lawn ornaments might earn a dismissal of the vandalism charge under PC 1001.83 simply due to the fact that he cares for a child. Because primary caretaker diversion does not independently confer restitution authority, the court would lack statutory jurisdiction to order compensation for the neighbor's broken property.

   "AB 2297 expands Penal Code section 1202.4 to keep up with the increase in diversion opportunities for defendants. It provides for uniformity in cases by placing all restitution expectations in one place, and it ensures that as newer opportunities for diversion are created in the future, victims will never be forgotten. Rehabilitation and accountability need not conflict, and by allowing restitution in diversion cases, the Legislature can reaffirm its commitment to both."

6) **Argument in Opposition**: According to *Justice2Jobs Coalition*, "Under current California law, courts already have the authority to order restitution in many diversion contexts. For example, under mental health diversion, courts must determine whether restitution is owed and order its payment during the diversion period. Similarly, misdemeanor diversion requires people to pay restitution in full as a condition of dismissal, while explicitly recognizing that inability to pay due to indigence cannot be grounds for denial of diversion or failure to comply. AB 2297 is largely duplicative of existing statutory authority.

   "To the extent the bill seeks to expand restitution to diversion programs that do not currently include such provisions such as drug diversion, military diversion, etc. or to mandate restitution across local diversion programs, it raises significant concerns. Local jurisdictions have developed diversion programs, including Behavioral Health Courts, Veterans Justice Courts, and reentry-focused programs, that are designed to promote stability, treatment, and long-term accountability. Imposing restitution in all diversion cases would impose a one-size-fits-all mandate that may undermine the effectiveness of these programs.

   "State law also already requires the imposition of an up to $1,000 'diversion restitution fee' on anyone charged with a felony or misdemeanor whose case is diverted. Revenue from this fee is deposited into the state Restitution Fund which provides compensation to people who experience loss or injury. More fundamentally, requiring restitution from people in diversion runs counter to the purpose of diversion itself. Diversion is premised on the understanding that individuals have not been convicted of a crime and, in many cases, may have their charges dismissed upon successful completion. The right to restitution only applies to 'all persons who suffer losses as a result of criminal activity shall have the right to seek and

secure restitution from the persons convicted of the crimes causing the losses they suffer.' Treating diverted individuals as if they have been adjudicated guilty—by imposing financial liability tied to an alleged offense—blurs this distinction and risks imposing consequences without conviction."

7) **Related Legislation**: AB 46 (Nguyen) makes various changes to the mental health diversion law, including changing the public safety standard for finding a particular defendant suitable for diversion. AB 46 is pending hearing in the Senate Appropriations Committee.

8) **Prior Legislation**:

   a) AB 1213 (Stefani), Chapter 184, Statutes of 2025, clarifies that a restitution order be paid before all fines, restitution fines, penalty assessments, and other fees, as specified.

   b) AB 1803 (Jones-Sawyer), Chapter 494, Statutes of 2022, prohibited a court from denying expungement relief to an otherwise qualified person, and who meets the criteria, as specified, for a waiver of court fees and costs, solely on the basis that the person has not yet satisfied their restitution obligations.

   c) SB 1106 (Wiener), Chapter 734, Statutes of 2022, prohibited the denial of a petition for expungement relief, the denial of release on parole to another state, and the denial of a petition for reduction of a conviction, solely on the basis that the person has not yet satisfied their restitution obligations.

   d) SB 651 (Leyva), Chapter 131, Statutes of 2015, expanded the definition of "victim" in juvenile proceedings to include a corporation, estate, or other legal or commercial entity when that entity is a direct victim of a crime and a person who has sustained economic loss because of a crime and who satisfies specified conditions.

   e) AB 576 (Torres), Chapter 454, Statutes of 2009, expanded the definition of a "victim" for the purposes of restitution to include any governmental entity responsible for repairing, replacing or restoring public and privately owned property defaced with graffiti or other inscribed material, as specified, and has sustained economic loss as a result.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
California Police Chiefs Association
League of California Cities
Riverside County District Attorney
San Diego County District Attorney's Office

Opposition

ACLU California Action
California Public Defenders Association
Debt Free Justice California

Initiate Justice
Justice2jobs Coalition
LA Defensa

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

Date of Hearing: April 7, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2310 (Carrillo) – As Introduced February 19, 2026

As Proposed to be Amended in Committee

SUMMARY: Increases penalties for a fourth or subsequent illegal dumping offense from an infraction to a misdemeanor, with a fine of up to $5,000, and increases penalties for commercial quantities of illegal dumping with fines of up to $50,000. Specifically, **this bill**:

1) Increases the penalty for an fourth or subsequent offense of illegal dumping to a misdemeanor, punishable by imprisonment in the county jail for no more than six months and by a mandatory fine of not less than $3,000 nor more than $5,000. If the court finds that the waste matter, rocks, concrete, asphalt, dirt, or other construction debris placed, deposited, dumped, or transported was used tires, the fine shall be doubled.

2) Provides that a person who places, deposits, or dumps, causes to be placed, deposited, or dumped, or transports for the purpose of placing, depositing, or dumping waste matter, concrete, asphalt, dirt, or other construction debris in commercial quantities in excess of 25 cubic yards shall be punished by imprisonment in a county jail for not more than one year and by a fine. The fine is mandatory and shall amount to $25,000 for each conviction.

3) States that if the commercial quantity is in excess of 50 cubic yards, the person may be punished by imprisonment in county jail for up to one year or by imprisonment in state prison for 16 months, two years, or three years. The fine is mandatory and shall amount to fifty thousand dollars ($50,000) for each conviction.

4) Clarifies that multiple violations of illegal dumping arising from a continuing violation, where each day that illegally dumped waste remains is a separate violation, can be included in a single charging document.

5) Prohibits a private owner, including any person with the private owner's permission, from placing, depositing, dumping or transporting waste matter, rocks, concrete, asphalt, dirt, or construction debris on their property if the placing, depositing, dumping, or transporting of those materials requires a permit or license from a state or local agency and one was not obtained.

6) Expands the entities that can declare placed, deposited, dumped, or transported materials on private property a public health and safety hazard, a public nuisance, or a fire hazard, to include the state or local agency with jurisdiction over the property.

7) Provides that the court shall require a person convicted of illegal dumping to remove, or pay the cost of removing, waste matter, rocks, concrete, asphalt, dirt, or other construction debris that the convicted person placed, deposited, or dumped, caused to be placed, deposited, or

dumped, or transported for these purposes if both of the following circumstances are met:

a) The person convicted is the owner of the property where the placing, depositing, dumping, or transporting of waste matter, rocks, concrete, asphalt, dirt, or other construction debris occurred.

b) The placing, depositing, dumping, or transporting of waste matter, rocks, concrete, asphalt, dirt, or other construction debris requires a permit or license from a state or local agency and one was not obtained, or creates a public health and safety hazard, a public nuisance, or a fire hazard, as defined.

8) Expands the illegal dumping prohibitions to include the dumping of construction debris, and to include the transport for the purpose of dumping specified materials.

9) Expands the definition of illegal dumping in commercial quantities to include dumping rocks, concrete, asphalt, dirt, or other construction debris, and to include the transport of those materials for the purpose of dumping them.

10) Makes conforming changes.

EXISTING LAW:

1) States that it is unlawful to dump or cause to be dumped waste matter in or upon a public or private highway or road, including any portion of the right-of-way thereof, or in or upon private property into or upon which the public is admitted by easement or license, or upon private property without the consent of the owner, or in or upon a public park or other public property other than property designated for that purpose. (Pen. Code, § 374.3, subd. (a).)

2) Provides it is unlawful to place, deposit, or dump, or cause to be placed, deposited, or dumped, rocks, concrete, asphalt, or dirt in or upon a private highway or road, including any portion of the right-of-way of the private highway or road, or private property, without the consent of the owner or a contractor under contract with the owner for the materials, or in or upon a public park or other public property, without the consent of the state or local agency having jurisdiction over the highway, road, or property. (Pen. Code, § 374.3, subd. (b).)

3) States that a person violating dumping provisions is guilty of an infraction. Each day that waste is placed, deposited, or dumped in violation the law is a separate violation. (Pen. Code, § 374.3, subd. (c).)

4) Provides that illegal dumping prohibitions do not restrict a private owner in the use of his or her own private property, unless the placing, depositing, or dumping of the waste matter on the property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or district providing fire protection services, or the Department of Forestry and Fire Protection, in which case this section applies. (Pen. Code, § 374.3, subd. (d).)

5) Punishes a person convicted of dumping shall by a mandatory fine of not less than $250 nor more than $1,000 upon a first conviction, by a mandatory fine of not less than $500 nor more than $1,500 upon a second conviction, and by a mandatory fine of not less than $750 nor

more than $3,000 upon a third or subsequent conviction. If the court finds that the waste matter placed, deposited, or dumped was used tires, the fine prescribed in this subdivision shall be doubled. (Pen. Code, § 374.3, subd. (e).)

6) Provides that the court may require, in addition to any fine imposed upon a conviction, that, as a condition of probation the probationer remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped upon public or private property. (Pen. Code, § 374.3, subd. (f).)

7) States that except when the court requires the convicted person to remove waste matter for which he or she is responsible for dumping as a condition of probation, the court may require the probationer to pick up waste matter at a time and place within the jurisdiction of the court for not less than 12 hours. (Pen. Code, § 374.3, subd. (g).)

8) States that a person who illegally dumps waste matter in commercial quantities is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than six months and by a fine. The fine is mandatory and shall amount to not less than $1,000 nor more than $3,000 upon a first conviction, not less than $3,000 nor more than $6,000 upon a second conviction, and not less than $6,000 nor more than $10,000 upon a third or subsequent conviction. (Pen. Code, § 374.3, subd. (h)(1).)

9) Provides that if the person is the owner or operator of a business involved in the illegal dumping and the business employs more than 10 full-time employees, higher fine ranges apply, increasing to up to $5,000 for a first conviction, $10,000 for a second conviction, and $20,000 for a third or subsequent conviction. (Pen. Code, § 374.3, subd. (h)(2).)

10) Defines "commercial quantities" as an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. (Pen. Code, § 374.3, subd. (h)(5).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Illegal dumping has become an increasingly serious issue across the Antelope Valley, including Lancaster, Palmdale, and neighboring communities in Los Angeles County. These operations endanger public health, increase fire risk, and damage the quality of life in our neighborhoods while forcing local governments and residents to shoulder expensive cleanup efforts. AB 2310 strengthens California's ability to address these illegal activities by equipping law enforcement and local agencies with stronger enforcement tools and the authority to intervene sooner. By targeting large-scale commercial dumping operations, this bill responds directly to the concerns raised by High Desert communities and helps safeguard our environment and public safety.">

2) **Effect of the Bill:** This bill would increase criminal penalties for illegal dumping. Currently, individual acts of illegal dumping are treated as infractions with maximum fines of $3,000. (Pen. Code, § 374.3, subd. (e).) This bill escalates penalties by making a fourth or subsequent violation a misdemeanor punishable by up to six months in county jail, with a maximum fine of $5,000.

Additionally, the bill substantially increases penalties for commercial dumping. While existing law treats illegal dumping acts in commercial quantities as misdemeanors, subject also to fines of up to $10,000 (Pen. Code, § 374.3, subds. (h)(1)-(2)), this bill creates new penalty tiers based on volume, including mandatory fines of $25,000 for dumping in excess of 25 cubic yards and $50,000 for dumping in excess of 50 cubic yards. This bill also authorizes felony sentences for large-scale commercial dumping.

California communities have experienced an increase in illegal dumping activity. The Los Angeles Controller recently stated, "businesses and individuals are illegally dumping garbage and debris…with increasing frequency."[1] The Controller observed that "[t]he proliferation of illegal dumping in Los Angeles has a direct negative impact on public health conditions, public safety, and the environment."[2] The Controller made numerous recommendations for addressing the problem, including increasing the number of permanent illegal dumping cleanup crews, increasing the number of surveillance cameras to monitor hotspots, creating a public awareness campaign about illegal dumping and the availability of free or low-cost trash disposal services, and exploring ways to make it easier for residents to legally dispose of excess waste.[3] Notably, the Controller also recommended "increasing administrative fine amounts in order to deter would-be violators and assess a fine that reflects the seriousness of the violation."[4]

AB 2310 represents a significant escalation in both the severity and structure of penalties, authorizing certain illegal dumping offenses to be charged as misdemeanors and, in the case of large-scale commercial dumping, felony offenses with considerably higher mandatory fines.

3) **Deterrence:** It is unclear whether increasing penalties has a deterrent effect. There is reliable evidence showing increased penalties generally fails to deter criminal behavior.[5] Data shows greater deterrent effects as the likelihood of being caught and the perception that one will get caught rises.[6] In contrast, the act of punishment and the length of punishment largely do not increase deterrence.[7]

   A standard misdemeanor in California is punishable by imprisonment in county jail for up to six months and a fine of up to $1,000. (Pen. Code, § 19.) Criminal fines and the collection of those fines is commonly misunderstood—the actual cost to a criminal defendant can be much higher than the base fine amount. The breakdown and supporting information below can be illustrative.

   Example: Penalty assessments and fees on a base fine of $1,000:

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[1] *Piling Up: Addressing L.A.'s Illegal Dumping Problem* (Mar. 24, 2021) L.A. Controller <https://lacontroller.org/audits-and-reports/illegaldumping/> [as of Apr. 2, 2026].
[2] *Ibid.*
[3] *Id.*, at p. 2.
[4] *Id.*, at p. 20.
[5] *Five Things About Deterrence* (May 2016) National Institute of Justice <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [as of Apr. 2, 2026].
[6] *Ibid.*
[7] *Ibid.*

Pen. Code, § 1464 state penalty on fines:	1,000 ($10 for every $10)
Pen. Code, § 1465.7 state surcharge:	200 (20% surcharge)
Pen. Code, § 1465.8 court operation assessment:	40 ($40 fee per criminal offense)
Gov. Code, § 70372 court construction penalty:	500 ($5 for every $10)
Gov. Code, § 70373 assessment:	30 ($30 for felony or misdemeanor)
Gov. Code, § 76000 penalty:	700 ($7 for every $10)
Gov. Code, § 76000.5 EMS penalty:	200 ($2 for every $10)
Gov. Code, § 76104.6 DNA fund penalty:	100 ($1 for every $10)
Gov. Code, § 76104.7 additional DNA fund penalty:	400 ($4 for every $10)
Total Fine with Assessments:	**$4,170**

Criminal fines can rapidly balloon into unpayable amounts for most of the population, which create downstream economic consequences for impacted individuals and society. Unsurprisingly, the judicial branch reported that $8.6 billion in fines and fees remained unpaid at the end of 2019-20.[8]

With evidence also showing that growing criminal fines increases felony recidivism, specifically among a population that historically has faced disproportionate punishment in the criminal justice system,[9] it remains questionable whether increasing criminal punishment and fines, as this bill does, would produce the desired impact.

4) **Intersection with Existing Law:** Combining the provision of existing law that establishes continuing violations of the law based on the days the waste remains illegally dumped, with the provision of AB 2310 that would authorize a misdemeanor for a fourth and subsequent dumping violation, leads to the potential for relatively severe penalties. The combination of existing law and AB 2310 in this case means a person theoretically could be charged with a misdemeanor for a single discrete act of illegal dumping simply because the dumped material was not identified by authorities for four days.

   This intersection of existing law and AB 2310 raises practical and legal concerns regarding fairness. This combination of provisions also could subject a person to exorbitant fines. For example, if one act of illegally dumped waste goes undiscovered for an extended period of time, like 20 days, then existing law provisions combined with AB 2310 provisions could produce a fine of up to $100,000. Given the data on the effectiveness of increased punishment, it is unclear whether such penalties would produce the desired deterrent effect.

5) **Committee Amendments:** AB 2310 as introduced produces specific concerns in addition to the fairness issue discussed above, such as creating a potential permission structure to increase pretextual traffic stops, limiting property owners' use of their property, and subjecting individuals to commercial dumping penalties who are acting at the behest of their employer because they fear losing their livelihoods.

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[8] *Overview of Criminal Fine and Fee System* (May 13, 2021) Legislative Analyst's Office <https://lao.ca.gov/Publications/Detail/4427> [as of Apr. 2, 2026].

[9] *The Government Revenue, Recidivism, and Financial Health Effects of Criminal Fines and Fees* (Sept. 9, 2023) Wellesley College <http://dx.doi.org/10.2139/ssrn.4568724> [as of Apr. 2, 2026].

The proposed amendments do the following in an effort to address those concerns: 1) notes that the presence of debris or construction materials in a vehicle does not, by itself, constitute reasonable suspicion or probable cause for a stop, detention, or arrest; 2) incorporates language that a solid waste facility permit would be required in a private homeowner setting, which should avoid unintended application to lawful activities by contractors, builders, and homeowners; 3) eliminates the continuing violation provision to require discrete acts of dumping are individually charged; 4) reduces penalties for non-commercial illegal dumping by making a fourth or subsequent violation punishable as a wobbler, rather than a straight misdemeanor; and 5) specifies that commercial dumping penalties do not apply to employees who lack ownership or decision-making authority and are acting within the scope of their employment or under the direction of an employer.

6) **Argument in Support**: According to the *Los Angeles County District Attorney's Office*, "Illegal dumping causes widespread environmental harm to the soil, water and air. It also disproportionately impacts low income, unincorporated, and/or minority communities, creating significant environmental injustice and inequity. Waste debris dumped indiscriminately on farmland and on pristine wildland creates a blight that significantly damages that land for future use by the public and creates an immediate health and enjoyment risk for people visiting and living in those communities. The residents of these remote areas are often disenfranchised and marginalized populations. The damage has the potential to reach communities of differing income levels including lower income communities.

   "Governmental agencies at the state, county, and local level often bear the financial burden of cleaning up dump sites which diverts funds that could be used elsewhere to clean up sites in other marginalized communities. This creates an imbalance in services to communities. If significant resources must be put into one area (such as an area with a large amount of open space that is commonly used for illegal dumping) then resources cannot be put into lower income communities which may have smaller, but equally hazardous sites needing clean up. In a congested, urban area, these smaller sites can have a significant impact, especially where lower income communities are overlooked when it comes to services. AB 2310 will help control dumping, especially the large-scale dumping currently at issue, and it will allow resources to be spent across many more communities."

7) **Argument in Opposition**: According to *ACLU Cal Action*, "[T]his proposal undermines a great amount of study and evidence surrounding the efficacy behind longer criminal sentencing and its impact on crime deterrence. Evidence indicates that applying longer criminal sentences has failed to deter crime. The federal Department of Justice shared a paper discouraging increasing existing punishments. Other studies support this evidence, finding that the severity of punishment does not generally have an increased effect on deterrence. Rather, studies have concluded that certainty of punishment — that someone will be punished for a particular crime — has a greater deterrence effect than the severity of the punishment itself. Increasing criminal penalties of existing crimes will incur an additional $133,100 cost per person incarcerated each additional year they are sentenced.

   "Criminalizing both the property owner and the person who deposited the materials, when it is likely that neither was responsible for obtaining the permit or license and may not know whether a permit or license was properly obtained, will not actually address or deter the behavior contemplated by this bill. Instead, criminal convictions and mandatory fines may

needlessly fall on well-intentioned property owners, and innocent low-wage workers who cannot afford the fines and whose inability to pay the fines will have lasting consequences for them and their families."

8) **Related Legislation**: AB 1941 (M. Gonzalez) increased penalties for organized metal theft by making the offense punishable as a wobbler when committed on two or more separate occasions within a 12-month period and the value of the stolen metal exceeds $950; otherwise, the offense remains a misdemeanor. AB 1941 is pending a hearing in the Assembly Appropriations Committee.

9) **Prior Legislation**:

    a) AB 2374 (Bauer-Kahan), Chapter 784, Statutes of 2022, increased the maximum fine for the dumping of commercial quantities of waste by a business that employs more than 10 employees from $3,000 to $5,000 for the first conviction, from $6,000 to $10,000 for the second conviction, and from $10,000 to $20,000 for the third and any subsequent convictions.

    b) AB 215 (Mathis), 2019-2020 Legislative Session, would have made a fourth violation of illegal dumping on private property a misdemeanor punishable by up to 30 days in the county jail created a fine of not less than $750 nor more than $3,000. AB 215 was held in the Assembly Appropriations Committee.

    c) AB 1216 (Bauer-Kahan), 2019-2020 Legislative Session, would have created a pilot program to employ a single law enforcement officer in both Alameda and Contra Costa counties to enforce laws prohibiting dumping. AB 1216 was held in the Assembly Appropriations Committee.

    d) SB 409 (Wilk), 2019-2020 Legislative Session, would have increased the fines for dumping of waste in non-commercial quantities and made it a crime to transport and dump waste. SB 409 was held in the Assembly Appropriations Committee.

    e) AB 144 (Mathis), 2015-2016 Legislative Session, would have made a fourth violation of illegal dumping on private property a misdemeanor punishable by up to 30 days in the county jail. AB 144 was vetoed by the Governor.

    f) AB 1992 (Canciamilla), Chapter 416, Statutes of 2006, imposed graduated penalties and increased fines for second and third violations of illegal dumping offenses.>

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County District Attorney's Office (Sponsor)
Buena Park; City of
California Association of Highway Patrolmen
California Chapters of the Solid Waste Association of North America's Legislative Task Force

California District Attorneys Association
Californians Against Waste
City of Buena Park
Placentia; City of
Riverside County District Attorney
Rural County Representatives of California (RCRC)
Stanton; City of
Westminster; City of

Opposition

ACLU California Action
California Public Defenders Association
Californians United for a Responsible Budget
Initiate Justice
San Francisco Public Defender

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

Amended Mock-up for 2025-2026 AB-2310 (Carrillo (A) , Irwin (A))

Mock-up based on Version Number 99 - Introduced 2/19/26
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 374.3 of the Penal Code is amended to read:

374.3. (a) It is unlawful to dump, cause to be dumped, or transport for the purpose of dumping waste matter in or upon a public or private highway or road, including any portion of the right-of-way thereof, or in or upon private property into or upon which the public is admitted by easement or license, or upon private property without the consent of the owner, or in or upon a public park or other public property other than property designated or set aside for that purpose by the governing board or body having charge of that property.

(b) It is unlawful to place, deposit, or dump, cause to be placed, deposited, or dumped, or transport for the purpose of placing, depositing, or dumping rocks, concrete, asphalt, dirt, or other construction debris in or upon a private highway or road, including any portion of the right-of-way of the private highway or road, or private property, without the consent of the owner or a contractor under contract with the owner for the materials, or in or upon a public park or other public property, without the consent of the state or local agency having jurisdiction over the highway, road, or property.

(c)**(1)** Except as otherwise provided in subdivision (h), a person violating this section is guilty of an infraction. ~~Each day that waste placed, deposited, dumped, or transported in violation of subdivision (a) or (b) remains is a separate violation.~~ After three violations, ~~which can be contained within the same charging document,~~ a person violating this section for a fourth or more time ~~is guilty of a misdemeanor.~~ **shall be punished by a fine of not exceeding five thousand dollars ($5,000) or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.**

(2) The fact a person is operating a vehicle with actual or apparent rocks, concrete, asphalt, dirt, or other construction debris in their vehicle does not itself constitute reasonable suspicion to stop the person or detain the person, or probable cause to arrest the person.

(d) (1) Except as provided in paragraph (2), this section does not restrict a private owner in the use of their own private property.

(2) A private owner, including any person with the private owner's permission, shall not place, deposit, dump, or transport waste matter, rocks, concrete, asphalt, dirt, or construction debris on their property if the placing, depositing, dumping or transporting of waste matter, rocks concrete, asphalt, dirt or construction debris does either of the following:

(A) Requires a **Solid Waste Facility** permit or license from a state or local agency and one was not obtained.

(B) Creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or district providing fire protection services, the Department of Forestry and Fire Protection, or the state or local agency with jurisdiction over the property.

(e) (1) Except as otherwise provided in subdivision (h) and paragraph (2), a person convicted of a violation of this section shall be punished by a mandatory fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1,500) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars ($750) nor more than three thousand dollars ($3,000) upon a third conviction. If the court finds that the waste matter placed, deposited, or dumped was used tires, the fine prescribed in this paragraph shall be doubled.

(2) ~~A person convicted of a fourth or subsequent violation of this section is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for no more than six months and by a mandatory fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000).~~ **After three violations, a person violating this section for a fourth or more time shall be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.** If the court finds that the waste matter, rocks, concrete, asphalt, dirt, or other construction debris placed, deposited, dumped, or transported was used tires, the fine prescribed in this paragraph shall be doubled.

(f) (1) The court may require, in addition to any fine imposed upon a conviction, that a person convicted under this section remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped upon public or private property.

(2) The court shall require, in addition to any fine imposed upon a conviction, that a person convicted under this section remove, or pay the cost of removing, waste matter, rocks, concrete, asphalt, dirt, or other construction debris that the convicted person placed, deposited, or dumped, caused to be placed, deposited, or dumped, or transported for these purposes if both of the following circumstances are met:

(A) The person convicted is the owner of the property described in subdivision (a) or (b) where the placing, depositing, dumping, or transporting of waste matter, rocks, concrete, asphalt, dirt, or other construction debris occurred.

(B) The placing, depositing, dumping, or transporting of waste matter, rocks, concrete, asphalt, dirt, or other construction debris requires a permit or license from a state or local agency and one was not obtained, or creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or district providing fire protection services, the Department of Forestry and Fire Protection, or the state or local agency with jurisdiction over the property.

(g) The court may, in addition to the fine imposed upon a conviction, require that a person convicted of a violation of this section pick up waste matter at a time and place within the jurisdiction of the court for not less than 12 hours.

(h) (1) Except as otherwise provided in paragraph (2), a person who places, deposits, or dumps, causes to be placed, deposited, or dumped, or transports for the purpose of placing, depositing, or dumping waste matter, rocks, concrete, asphalt, dirt or other construction debris in violation of this section in commercial quantities shall be guilty of a misdemeanor punishable by imprisonment in a county jail for not more than six months and by a fine. The fine is mandatory and shall amount to not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000) upon a first conviction, not less than three thousand dollars ($3,000) nor more than six thousand dollars ($6,000) upon a second conviction, and not less than six thousand dollars ($6,000) nor more than ten thousand dollars ($10,000) upon a third or subsequent conviction.

(2) If a person convicted under paragraph (1) is the owner or operator of the business involved in the illegal dumping, and that business employs more than 10 full-time employees, the fine shall amount to not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) upon a first conviction, not less than three thousand dollars ($3,000) nor more than ten thousand dollars ($10,000) upon a second conviction, and not less than six thousand dollars ($6,000) nor more than twenty thousand dollars ($20,000) upon a third or subsequent conviction.

(3) The court shall require, in addition to the fine imposed upon a conviction, that a person convicted under this subdivision remove, or pay the cost of removing, any waste matter, concrete, asphalt, dirt, or other construction debris which the convicted person placed, deposited, or dumped, caused to be placed, deposited, or dumped, or transported for these purposes upon public or private property.

(4) (A) If a person convicted under this subdivision holds a license or permit to conduct business that is substantially related to the illegal dumping for which the person was convicted, the court shall notify the applicable licensing or permitting entity subject to the jurisdiction of the Department of Consumer Affairs as set forth in Section 101 of the Business and Professions Code, if any, of the conviction.

(B) The licensing or permitting entity shall record and post the offense on the public profile of the license or permitholder on the internet website of the entity.

(5) "Commercial quantities" means an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. This subdivision does not apply to the dumping of household waste at a person's own residence.

(i) A person who places, deposits, or dumps, causes to be placed, deposited, or dumped, or transports for the purpose of placing, depositing, or dumping waste matter, concrete, asphalt, dirt, or other construction debris in violation of this section in commercial quantities in excess of 25 cubic yards shall be punished by imprisonment in a county jail for not more than one year and by a fine. The fine is mandatory and shall amount to twenty-five thousand dollars ($25,000) for each conviction. If the commercial quantity is in excess of 50 cubic yards, the person may be punished by imprisonment in a county jail for not more than one year or by imprisonment in state prison for a term of 16 months, 2 years, or 3 years and by a fine. The fine is mandatory and shall amount to fifty thousand dollars ($50,000) for each conviction.

(j) Any person who completed an illegal act of dumping during the course of the person's employment that was done at the direction of their employer, if the person did not have ownership, managerial, or decision-making authority over the business responsible for the illegal dumping, shall not be charged with dumping commercial quantities under subdivision (i) of this section.

~~(j)~~**(k)** For purposes of this section, "person" means an individual, trust, firm, partnership, joint stock company, joint venture, or corporation.

~~(k)~~**(l)** When setting fines pursuant to this section, the court shall consider the defendant's ability to pay, including consideration of, without limitation, all of the following:

(1) The defendant's present financial position.

(2) The defendant's reasonably discernible future financial position, provided that the court shall not consider a period of more than one year from the date of the hearing for purposes of determining the reasonably discernible future financial position of the defendant.

(3) The likelihood that the defendant will be able to obtain employment within one year from the date of the hearing.

(4) Any other factor that may bear upon the defendant's financial capability to pay the 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: April 7, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2318 (Elhawary) – As Introduced February 19, 2026

PULLED BY THE AUTHOR

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

Date of Hearing: April 7, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2347 (Ahrens) – As Introduced February 19, 2026

SUMMARY: Requires the Peace Officer Standards and Training Commission (POST) to conduct a comprehensive review of hate crimes training programs and adopt evidence-based training requirements to fill any gaps in the handling of hate crimes, as specified. Specifically, **this bill**:

1) States that beginning January 1, 2027, the POST shall conduct a comprehensive review of existing hate crimes training programs offered to law enforcement officers (LEO's) who are employed as peace officers, or who are enrolled in the basic course. The review shall be completed by January 1, 2029.

2) Requires the review shall do all the following:

    a) Evaluate disparities in hate crime data collection.

    b) Evaluate the effectiveness of law enforcement's response to hate crimes.

    c) Evaluate the efficacy of existing POST trainings on hate crimes.

3) Provides that by July 1, 2029, POST shall adopt evidence-based training requirements to address the gaps identified in the report regarding the prevention, identification, and investigation of hate crimes.

4) Defines "hate crime" as have the same meaning as in Section 422.55 of the Penal Code.

EXISTING LAW:

1) States that POST shall develop rules establishing and upholding minimum standards relating to physical, mental, and moral fitness that shall govern defined peace officers. (Pen. Code, § 13510, subd. (a)(1).)

2) States that POST also shall adopt minimum standards for training of defined peace officers. (Pen. Code, § 13510, subd. (a)(2).)

3) Requires POST to establish a certification program for peace officers, as defined. (Pen. Code, § 13510.1, subd. (a).)

4) States that POST shall develop guidelines and a course of instruction and training for law enforcement officers addressing hate crimes. (Pen. Code, § 13519.6, subd. (a)(1).)

5) States that POST shall determine whether every city, county, city and county, and district is adhering to the standards for recruitment, training, certification, and reporting. (Pen. Code, § 13512, subd. (a).)

6) Requires POST to develop an updated continuing education classroom training course relating to law enforcement interaction with persons with mental disabilities. (Pen. Code, § 13515.25, subd. (a).)

7) States that POST shall develop and disseminate guidelines and training for all peace officers in California on the racial and cultural differences among the residents of this state. (Pen. Code, § 13519.4, subd. (a).)

8) Establishes that POST shall develop and implement a course of training regarding sexual orientation and gender identity minority groups. (Pen. Code, § 13519.41, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "As a member of the Jewish community, I often find myself defending against hate crimes, as anti-Jewish sentiment persists today. This experience drives my desire to advocate for marginalized groups and confront prejudice.

   "I believe in the importance of allyship and empathy for all facing discrimination. Law enforcement must receive evidence-based training to prevent hate crimes. Every individual deserves respect and dignity from law enforcement, regardless of their background. This legislation strengthens our criminal justice system and benefits the community by emphasizing data collection and proper officer training, promoting safer interactions.

   "While we have made progress in addressing hate-related issues between law enforcement and civilians, more work remains. By continuing to collaborate, we can create lasting change."

2) **Effect of the Bill**: AB 2347 would require POST to complete a comprehensive review of hate crimes training for law enforcement officers. Any gaps identified in the review must be addressed through the development of evidence-based training programs.

   California has a robust set of training requirements for peace officers. As of a 2021 report, there were approximately 4,600 law enforcement training courses certified by POST.[1] This report sought to provide recommendations for improving elements of law enforcement training.[2] At least eleven separate recommendations were made in the report, including those involving incorporating more academic research into training programs, assessing training academies, rightsizing entry level officer training, developing robust continuing education opportunities, and creating a more representative POST.[3]

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[1] *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) Little Hoover Commission <https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf> [as of Mar. 27, 2026].
[2] *Ibid.*
[3] *Id.* at pp. 3-4.

More than half of the roughly 65 bills introduced by the California Legislature in the decade preceding the report became law, which cumulatively required, among other things, "pre-employment training in principled policing, mental health, domestic violence, and gun violence restraining orders; added hours to on the-job training for current officers; and mandated specialized training for maritime, campus, or tribal officers."[4] The report notes the legislature consistently set required topics for training and a required number of instructional hours but did not assess how the training received impacted on the job conduct by peace officers.[5] Various stakeholders, including peace officers themselves, offered relatively broad support for incorporating additional academic research into officer training and improvement in monitoring of training outcomes.[6]

AB 2347 would not put a new, discrete training requirement for peace officers into statute. POST already provides training to officers on handling hate crimes. (Pen. Code, § 13519.6, subd. (a)(1).) A Hate Crimes Model Policy has been developed by POST that is available for review online.[7] Included within the updated hate crimes training for officers is a Supplemental Hate Crimes Report that captures data specific to a potential hate crime.[8] The policy notes, among other things, that agencies "will employ necessary resources and vigorous law enforcement action to identify and arrest hate crime perpetrators."[9] Also, in acknowledgement of the "particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of [hate] crimes on the community, agencies are expected to attend to the security and other concerns of the immediate victims and their families.[10]

Rather than a new training requirement, AB 2347 largely reflects some of the recommended approaches, like evaluation of existing programs to officer training, from the 2021 Little Hoover Commission (LHC) report. Specifically, AB 2347's reporting requirement includes evaluating disparities in hate crime data collection, the effectiveness of law enforcement's response to hate crimes, and the efficacy of existing POST trainings on hate crimes. Following compilation of the report, POST would be required to adopt evidence-based approaches to address the gaps found in the report to improve prevention, identification, and investigation of hate crimes. While AB 2347 tracks some of the recommendations of the LHC report, it is unclear at this time whether this bill will create improvements in the prevention, identification, and investigation of hate crimes.

3) **Argument in Support**: According to the *California School Employees Association*, "Although law enforcement officers do receive hate crime training, this bill will help identify gaps in existing practices and respond with new evidence-based training. This bill would also require POST to consult with subject-matter experts to ensure that they are meeting the needs

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[4] *Id.* at p. 6.
[5] *Ibid.*
[6] *Id.* at p. 10. (finding 70% support for incorporating more academic research into training and 80% support for improving the monitoring of training outcomes, among peace officers.)
[7] *POST Hate Crimes Model Policy* (2025) Commission on Peace Officer Standards and Training <https://post.ca.gov/Portals/0/post_docs/publications/Hate_Crimes.pdf> [as of Apr. 1, 2026].
[8] *Ibid.*
[9] *Ibid.*
[10] *Ibid.*

of California's diverse communities. Hate crime is on the rise, and existing training guidelines may not adequately address the evolving problem of hate crime.

"This bill will help strengthen hate crime prevention and response tactics, which will strengthen community trust in law enforcement professionals. This is particularly important at a time when many Californians feel afraid of law enforcement. Peace officers in sensitive areas like school sites should have the most up-to-date training so they can identify and prevent hate crime in their communities.

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

5) **Related Legislation**: AB 1535 (Davies) would provide that, in the case of any felony conviction, the fact that the defendant's conduct was motivated, in whole or in part, by the victim's actual or perceived political affiliation may be considered as a circumstance in aggravation in sentence. AB 1535 is pending a hearing in the Assembly Appropriations Committee.

6) **Prior Legislation**:

   a) AB 822 (Elhawary), Chapter 714, Statutes of 2025, extended the sunset of the Commission on the State of Hate to January 1, 2031, and extended the final Annual State Hate Commission Report due date to July 1, 2030.

   b) AB 2621 (Gabriel), Chapter 532, Statutes of 2024, required POST to develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers addressing hate crimes.

   c) AB 390 (Haney), of the 2023-2024 Legislative Session, would have required POST to partner with academic researchers to conduct an assessment of existing officer training requirements and determining how well the existing officer training requirements are working for officers in the field. AB 390 was held in the Assembly Appropriations Committee.

   d) AB 449 (Ting), Chapter 524, Statutes of 2023, required POST to update its model hate crimes policy framework.

   e) AB 1158 (Ting), of the 2023-2024 Legislative Session, would have required when training was available and how frequently the training was offered as part of the annual report to the Legislature on the overall effectiveness of any additional funding appropriated by the Legislature in improving peace officer training. AB 1158 was held in the Assembly Public Safety Committee.

   f) AB 2429 (Quirk), of the 2021-2022 Legislative Session, was substantially similar to AB 390. AB 2429 was held in the Senate Appropriations Committee.

   g) AB 1947 (Ting), of the 2021-2022 Legislative Session, would have required each local law enforcement agency to adopt a hate crimes policy with specific parameters and requires POST to develop a model hate crimes policy. AB 1947 was held on the Senate inactive file.

REGISTERED SUPPORT / OPPOSITION:

Support

California School Employees Association
The Arc and United Cerebral Palsy California Collaboration
2 Private Individuals

Opposition

None submitted.

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

Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2438 (Johnson) – As Introduced February 20, 2026

SUMMARY: Requires a county jail eligible felony sentence to be served in state prison if the total term of imprisonment exceeds 6 years.

EXISTING LAW:

1) Defines a "felony" as "a crime that is punishable with death, by imprisonment in the state prison, or notwithstanding any other provision of law, by imprisonment in a county jail under [criminal justice realignment]." (Pen. Code, § 17, subd. (a).)

2) States that the punishment for a felony not otherwise prescribed is 16 months, or two or three years in state prison, unless the offense is punishable in the county jail pursuant to realignment. (Pen. Code, § 18, subd. (a).)

3) Prohibits a term of more than one year in the county jail except for executed felony sentences under realignment. (Pen. Code, §19.2.)

4) Specifies where the defendant has a prior or current felony conviction for a serious felony, or a prior or current conviction for a violent felony, has a prior felony conviction in another jurisdiction for an offense that has all the elements of a serious felony or a violent felony, or is required to register as a sex offender, or is convicted of a crime and as part of the sentence a specified enhancement is imposed, an executed sentence for a felony shall be served in state prison. (Pen. Code, § 1170, subd. (h)(3).)

5) Provides that a felony not specified in the above provision shall be punishable by a term of imprisonment in the county jail. (Pen. Code, § 1170, subd. (h)(1) & (2).)

6) Provides that for purposes of county-jail eligibility, any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because the defendant is required to register as a sex offender, is not subject to dismissal under Penal Code section 1385. (Pen. Code, § 1170, subd. (f).)

7) Designates about 70 felonies as state-prison offenses. (See e.g., Pen. Code, §§ 86 [bribes involving member of the Legislature], 92 [bribes involving judicial officer or juror], 191.5, subd. (c)(1) [gross vehicular manslaughter while intoxicated], 266i [pandering].)

8) Requires the court to suspend execution of a concluding portion of the term of a county-jail-eligible felony sentence for a period selected at the court's discretion, unless the court finds that in the interests of justice it is not appropriate in a particular case. The suspended part of

the sentence is known as mandatory supervision. (Pen. Code, § 1170, subd. (h)(5).)

9) Requires the following persons released from prison prior to, or on or after July 1, 2013, be subject to parole under the supervision of the California Department of Corrections and Rehabilitation (CDCR):

   a) A person who committed a serious felony listed in Penal Code section 1192.7, subdivision (c);

   b) A person who committed a violent felony listed in Penal Code section 667.5, subdivision (c);

   c) A person serving a Three-Strikes sentence;

   d) A high risk sex offender;

   e) A mentally disordered offender;

   f) A person required to register as a sex offender and subject to a parole term exceeding three years at the time of the commission of the offense for which he or she is being released; and,

   g) A person subject to lifetime parole at the time of the commission of the offense for which he or she is being released. (Pen. Code, § 3000.08, subds. (a) & (i).)

10) Requires all other offenders released from prison to be placed on post-release community supervision (PRCS) under the supervision of a county agency, such as a probation department. (Pen. Code, §§ 3000.08, subd. (b), & 3451.)

11) Requires all persons paroled before October 1, 2011 to remain under the supervision of the CDCR until jurisdiction is terminated by operation of law or until parole is discharged. (Pen. Code, § 3000.09.)

12) States that the parole period for most offenders is three years, except as specified. (Pen. Code, § 3000, subd. (b).)

13) Limits the term for PRCS to three years. (Pen. Code, § 3451, subd. (a).)

14) Provides for intermediate sanctions for violating the terms of parole or PRCS, including "flash incarceration" for up to 10 days. (Pen. Code, §§ 3000.08, subd. (d) & 3454.)

15) Specifies that if parole or PRCS is revoked, the offender may be incarcerated in the county jail for a period not to exceed 180 days for each custodial sanction. (Pen. Code, §§ 3000.08, subd. (g) & 3455, subd. (d).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "As a freshman elected official, public safety is a top priority. For too long, our state's criminal justice realignment policies have led to overcrowded county jails and underleveraged state prisons. AB 2438 will finally address this problem by requiring individuals convicted of felony sentences greater than six years to be sent to state prison, rather than county jail. Jail was never meant to be a place to hold individuals for more than a few years. Now, with declining state prison populations, AB 2438 provides a solution to ensure our resources are properly leveraged and county jail overcrowding is decreased."

2) **Criminal Justice Realignment Act of 2011 and Prison Overcrowding:** Effective until October 1, 2011, a felony was a crime punishable by death or imprisonment in state prison. (Pen. Code, § 17.) AB 109 (Committee on Budget), Chapter 15, Statutes of 2011, enacted Criminal Justice Realignment which, among other things, limited which persons could be sent to state prison, required that more persons serve their sentences in county jails, and affected parole supervision after release from custody. The changes under criminal justice realignment apply to persons sentenced on or after October 1, 2011—these changes are not retroactive. (Pen. Code, § 1170, subd. (h).)

   Criminal justice realignment provides that numerous felonies are punishable by a term of imprisonment in county jail – *not prison* – unless the crime or a defendant's criminal history makes the defendant ineligible for serving their felony sentence in jail. (*Id.*)

   The following persons are statutorily ineligible to serve any executed felony sentence in county jail:

   - Has a *prior or current* felony conviction for a serious felony or a violent felony;
   - Has a prior felony conviction in another jurisdiction for an offense that has all the elements of a serious or violent felony in California, as specified;
   - Is required to register as a sex offender; or
   - Is convicted of a crime and as part of the sentence receives an aggravated white collar crime enhancement, as specified. (*Id.)*

   In addition to the serious, violent, or registerable offenses mandated for state prison incarceration, there are approximately 70 felonies which have been specifically excluded from eligibility for local custody.

3) **Prison Overcrowding Litigation**: The purposes of criminal justice realignment include reducing recidivism by facilitating the reintegration of low-level offenders into society, and managing incarcerated person more cost-effectively. (See Pen. Code, § 17.5, subd. (a)(5).) However, although not stated in the legislation, one of the main underlying reasons for realignment was concerns for prison overcrowding. In November 2006, plaintiffs in two class action lawsuits— *Plata v. Brown* (involving CDCR medical care) and *Coleman v. Brown* (involving CDCR mental health care)— filed motions for the courts to convene a three-judge panel pursuant to the federal Prison Litigation Reform Act. The plaintiffs argued that persistent overcrowding in the state's prison system was preventing CDCR from delivering constitutionally adequate health care to incarcerated persons. The three-judge panel declared that overcrowding in the state's prison system was the primary reason that CDCR was unable to provide incarcerated persons with constitutionally adequate health care. In January 2010, the three-judge panel issued its final ruling ordering the State of California

to reduce its prison population by approximately 50,000 individuals in the next two years. (*Coleman/Plata vs. Schwarzenegger* (2010) No. Civ S-90-0520 LKK JFM P/NO. C01-1351 THE.)

The United States Supreme Court upheld the decision of the three-judge panel, declaring that "without a reduction in overcrowding, there will be no efficacious remedy for the unconstitutional care of the sick and mentally ill" persons in California's prisons. (*Brown v. Plata* (2011) 131 S.Ct. 1910, 1939.) Without changes to how the prison population was managed, the court decisions could have led to arbitrary release of tens of thousands of people in prison.

After continued litigation, on February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows: 143% of design bed capacity by June 30, 2014; 141.5% of design bed capacity by February 28, 2015; and, 137.5% of design bed capacity by February 28, 2016. The court also ordered California to implement the following population reduction measures in its prisons:

a) Increase prospective credit earnings for non-violent second-strike inmates as well as minimum custody inmates.
b) Allow non-violent second-strike inmates who have reached 50 percent of their total sentence to be referred to the Board of Parole Hearings (BPH) for parole consideration.
c) Release inmates who have been granted parole by BPH but have future parole dates.
d) Expand the California Department of Corrections and Rehabilitation's (CDCR) medical parole program.
e) Allow inmates age 60 and over who have served at least 25 years of incarceration to be considered for parole.
f) Increase its use of reentry services and alternative custody programs.

(Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown*, *Plata v. Brown* (2-10-14).) Following the implementation of these measures along with the passage of Proposition 47 (approved by California voters in November 2014), California met the federal court's population cap in December 2015. (Defendants' December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown*, *Plata v. Brown*.)

According to the Legislative Analyst's Office (LAO): "While the state has undergone various changes to reduce overcrowding prior to the passage of the realignment legislation-including transferring inmates to out-of-state contract facilities, construction of new facilities, and various statutory changes to reduce the prison population-- the realignment of adult offenders is the most significant change undertaken to reduce overcrowding."[1]

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[1] See LAO report: *Refocusing CDCR After the 2011 Realignment* (Feb. 23, 2012), p.3, The 2012-13 Budget: Refocusing CDCR After The 2011 Realignment (ca.gov).)

This bill would alter how felony sentencing is handled under realignment by providing that any felony sentence exceeding 6 years must be served in state prison. As discussed above, existing law states that a person may be ineligible to serve their sentence in county jail based on the current charge or prior charge or if they are required to register as a sex offender. Under existing law, there is no term-based threshold for which felonies must be served in prison or jail.

While CDCR is currently in compliance with the three-judge panel's order on the prison population,[2] the state needs to maintain a "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown*, *Plata v. Brown* (2-10-14).) Adding circumstances that require additional sentences to served in state prison rather than county jail is contrary to the original intent of 2011 criminal justice realignment act and reverses the progress made in reducing prison overcrowding.

4) **Realignment Funding and Data**: As part of criminal justice realignment, the state shifted certain revenues to local governments. As explained by the LAO: "(T)he 2011–12 budget package included statutory changes to realign several criminal justice and other programs from state responsibility to local governments, primarily counties. Along with the shift, or realignment, of programs, state law realigned revenues to locals. Specifically, current law shifts a share of the state sales tax, as well as Vehicle License Fee revenue, to local governments. The passage of Proposition 30 by voters in November 2012, among other changes, guaranteed these revenues to local governments in the future. The Governor's budget includes an estimate of revenues projected to go to local governments over the next few years. These estimates are generally in line with prior estimates. (T)otal funding for the criminal justice programs realigned is expected to increase from $1.4 billion in 2011–12 to $2.2 billion in 2013–14."[3]

   Proposition 30 gave counties broad authority on how to spend funds allocated for public safety services, including:

   - Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.
   - Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.
   - Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.
   - Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.

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[2] As of December 10, 2025, CDCR's institutional design capacity was 71,656 and the adult institutional population occupied 122 percent of design capacity. (*Three-Judge Court Quarterly Update*, CDCR (Dec. 2025).)
[3] *The 2013-14 Budget: Governor's Criminal Justice Proposals*, LAO (Feb. 15, 2013), pp. 8-9.

- Preventing, treating, and providing recovery services for substance abuse. (See Cal. Const., art. XIII, § 36.)

This bill requires any felony sentence exceeding 6 years to be served in state prison rather than in county jail regardless of the offense committed or the criminal history of the defendant. It is unclear how many offenders would have to serve their sentences in state prison under this bill, but it would likely be significant. Because realignment funding to the counties through Proposition 30 is constitutionally protected, does shifting offenders back to state prison without a readjustment of funds provide a windfall to the counties?

Recently, the Legislature enacted AB 1080 (Ta), Chapter 96, Statutes of 2023, to require the LAO to prepare and submit a report to the Legislature evaluating the results of criminal justice realignment over the previous 10 years. The law requires LAO to provide data on specified aspects of realignment including sentencing practices, jail population, supervision practices and recidivism outcomes. Additionally, the law requires LAO to provide information on the amount of funding received per county and how that funding was allocated, including but not limited to: funding received by department or agency, all types of facilities construction, the number and type of additional personnel, rehabilitative programming, and any other services. (Pen. Code, § 13400, subd. (a).) This report is due to the Legislature by June 30, 2026.

While there have been several reports published by the Public Policy Institute of California studying the impacts of criminal justice realignment, this report is the first to be required by the Legislature. Should any proposed changes impacting realignment be stayed until the report has been completed?

5) **Argument in Support**: According to the *California Police Chiefs Association*, "AB 2348 addresses a critical and ongoing concern facing law enforcement across California: the continued strain on local systems caused by reduced state correctional capacity. Over the past decade, California has significantly reduced its prison population through a combination of sentencing changes, expanded credits, and realignment policies. While these changes have achieved population reduction goals, they have also created substantial downstream impacts that continue to challenge local law enforcement and correctional systems.

   "As a result of these policies, county jails—originally designed for shorter-term detention—are now housing individuals for extended periods, in some cases for multiple years. This shift has placed unsustainable pressure on local systems and has required difficult decisions regarding who can be safely detained. In many cases, lower-level and repeat offenders are released to preserve capacity for more serious individuals, contributing to cycles of reoffending and ongoing public safety concerns."

6) **Argument in Opposition**: According to *Smart Justice California*, "In 2011 Governor Jerry Brown signed AB 109, commonly referred to as 'prison realignment,' which shifted from the state to counties the responsibility for incarcerating most people convicted of crimes and sentenced to incarceration. This reform advanced public safety in several critical ways: First, it reduced the state's dangerous prison overcrowding, which had resulted in countless lives lost, immeasurable harm to incarcerated people and correctional staff, and extraordinary litigation costs to the state. Second, it tracked the research that shows that incarcerating people closer to their communities is better not only for the incarcerated and their families,

but also for community safety. Lastly, the reform recognized that the state could safely reduce its prison population while saving on incarceration costs. AB 2438 threatens to reverse this progress without any measurable benefit."

7) **Related Legislation**: None

8) **Prior Legislation**:

   a) AB 1080 (Ta), Chapter 96, Statutes of 2023, requires the Legislative Analyst's Office to prepare a report, to be submitted to the Legislature on June 30, 2026, evaluating the results of the 2011 Criminal Justice Realignment Act over the previous 10 years and requires the report to contain specified data, including the amount of funding received per county and how that funding was allocated, information on sentencing practices, the impact on the county jail population, information on PRCS practices, and recidivism outcomes.

   b) AB 222 (Cooley), of the 2013-2014 Legislative Session, would have required the sentence for specified drug convictions be served in state prison, instead of county jail, if the weight/volume enhancement in Health and Safety Code section 11370.4 is imposed. AB 22 failed passage in this Committee.

   c) AB 1905 (Logue), of the 2013-2014 Legislative Session, would have required imprisonment in the state prison for a violation of specified provisions relating to controlled substances. AB 1905 was pulled at the request of the author.

   d) SB 957 (Vidak), of the 2013-2014 Legislative Session, would have defendants convicted of a crime or crimes, and sentenced to an aggregate term of more than ten years shall serve that sentence in prison, instead of county jail. SB 957 failed passage in the Senate Public Safety Committee.

   e) SB 708 (Nielsen), of the 2013-2014 Legislative Session, would have required any defendant who is convicted of a felony and who has been previously been convicted of three or more felonies shall serve his or sentence in state prison. SB 708 failed passage in the Senate Public Safety Committee.

   f) AB 2 (Morrell), of the 2013-2014 Legislative Session, would have required a person who violates the conditions of parole or of postrelease community supervision (PRCS) by failing to fulfill sex-offender registration requirements to serve time for the violation in prison rather than in the county jail. The hearing on AB 2 was canceled at the request of the author.

   g) AB 109 (Committee on Budget), Chapter 15, Statutes of 2011, enacted criminal justice realignment which responsibility of non-violent, non-serious, non-sex offender felonies to county facilities and created the Postrelease Community Supervision Act, which provides, among other things, that inmates released from prison who are not required to be on parole are subject to up to three years of local supervision.

REGISTERED SUPPORT / OPPOSITION:

Support

California Police Chiefs Association
Riverside County Sheriff's Office

Opposition

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

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

Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2450 (Johnson) – As Introduced February 20, 2026

SUMMARY: Revises the court's authority to dismiss specified enhancements related to drug possession and trafficking under existing provisions of law that state that a court *shall* dismiss an enhancement if, in the court's discretion, it finds that it is in the furtherance of justice to do so unless dismissal would endanger public safety, and instead specifies that the court *may* dismiss these specified enhancements in the furtherance of justice. Specifically, **this bill**:

1) States that a court is not required to, but may, in its discretion, dismiss an enhancement described below if it is in the furtherance of justice to do so:

   a) Specified enhancements applicable upon a conviction for soliciting, inducing, encouraging, or intimidating a minor to violate laws on possession or sale of heroin, cocaine, cocaine base, or any analog of these substances if the offense occurred on the grounds of or within 1,000 feet of a school or other locations or if the minor was four years younger than the defendant.

   b) Specified enhancements applicable for persons convicted of possession for sale, transportation, or manufacturing specified controlled substances if the offense occurred on the grounds of or within 1,000 feet of a school or other locations or if the minor was four years younger than the defendant.

   c) Specified enhancements depending on weight of substances containing heroin, cocaine base or cocaine involved.

   d) Specified enhancements applicable to manufacture or possession with intent to manufacture methamphetamine or phencyclidine (PCP) where a child is present or where the crime causes great bodily injury to a child.

   e) Specified enhancements depending on the volume of the specified controlled substances involved.

   f) Specified enhancements applicable for a person who solicits or furnishes controlled substances to a minor if the offense involved PCP, methamphetamine, lysergic acid diethylamide (LSD), or any analog of these substances and the offense occurred on the grounds of or within 1,000 feet of a school or other locations or if the minor was four years younger than the defendant.

2) Recasts existing law that states that a court shall not dismiss an enhancement if dismissal of that enhancement is prohibited by any initiative statute.

EXISTING LAW:

1) States that every person 18 years of age or older who commits any of the following shall be punished by imprisonment in the state prison for a period of three, six or nine years:

   a) Solicits, induces, encourages or intimidates any minor with the intent that the minor shall violate existing provisions of law that prohibit use, or being under the influence of specified controlled substances;

   b) Hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such controlled substance; or,

   c) Unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor. (Health & Saf. Code, § 11353.)

2) States that a person who is convicted of a violation of the above statute in addition to the punishment imposed for that conviction, shall receive an additional punishment as follows:

   a) One year if the offense involved heroin, cocaine, cocaine base, or any analog of these substances and occurred upon the grounds of, or within, a church or synagogue, a playground, a public or private youth center, a child day care facility, or a public swimming pool, during hours in which the facility is open for business, classes, or school-related programs, or at any time when minors are using the facility;

   b) Two years If the offense involved heroin, cocaine, cocaine base, or any analog of these substances and occurred upon, or within 1,000 feet of, the grounds of any public or private elementary, vocational, junior high, or high school, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility where the offense occurs; or,

   c) One, two, or three years at the discretion of the court if the offense involved a minor who is at least four years younger than the defendant. (Health & Saf. Code, § 11353.1.)

3) States that a person 18 years of age or older shall receive an additional punishment of three, four, or five years at the court's discretion if convicted of possession for sale or purchase for purposes of sale cocaine base, transports or sells specified controlled substances, or manufactures specified controlled substances where the violation takes place upon the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility where the offense occurs, or the violation involves a minor who is at least four years younger than the defendant. (Health & Saf. Code, § 11353.6.)

4) Provides that a person convicted of a violation of, or of a conspiracy to violate laws on possession for sale or transportation of controlled substances with respect to a substance containing heroin, cocaine base as specified, or cocaine, shall receive an additional state prison term of three to 25 years depending on the weight. (Health & Saf. Code, § 11370.4, subd. (a).)

5) Provides that a person convicted of a violation of, or of conspiracy to violate laws on possession for sale or transportation of controlled substances with respect to a substance containing methamphetamine, amphetamine, phencyclidine (PCP) and its analogs shall receive an additional state prison term three to 15 years depending on weight or liquid volume. (Health & Saf. Code, § 11370.4, subd. (b).)

6) States that a person convicted of a violation of, or conspiracy to violate laws on possession for sale or transportation of controlled substances with respect to a substance containing fentanyl shall receive an additional state prison term of three to 25 years depending on weight. (Health & Saf. Code, § 11370.4, subd. (c).)

7) States, except as provided, any person convicted of manufacturing methamphetamine or PCP or possession of any compound or mixture with the intent to manufacture PCP, or attempt of those crimes, when the commission or attempted commission of the crime occurs in a structure where any child under 16 years of age is present, shall be punished by an additional term of two years in state prison. (Health & Saf. Code, § 11379.7, subd. (a).)

8) Specifies that where the commission of the crime described above causes any child under 16 years of age to suffer great bodily injury, the person convicted shall be punished by an additional term of five years in state prison. (Health & Saf. Code, § 11379.7, subd. (b).)

9) States that any person convicted of a violation of manufacturing specified controlled substances shall receive an additional term of three to 15 years depending on volume of the substance. (Health & Saf. Code, § 11379.8.)

10) States that every person 18 years of age or older who commits any of the following shall be punished by imprisonment in the state prison for a period of three, six or nine years:

    a) Solicits, induces, encourages or intimidates any minor with the intent that the minor shall violate existing provisions of law that prohibit use, or being under the influence of specified non-narcotic drugs;

    b) Hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such non-narcotic drug; or,

    c) Unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such non-narcotic drug to a minor. (Health & Saf. Code, § 11380.)

11) Provides that any person who is convicted of a violation of the above provision, in addition to the punishment imposed for that conviction, shall receive an additional punishment as follows:

    a) One year if the offense involved PCP, methamphetamine, LSD, or any analog of these substances and occurred upon the grounds of, or within, a church or synagogue, a playground, a public or private youth center, a child day care facility, or a public swimming pool, during hours in which the facility is open for business, classes, or school-related programs, or at any time when minors are using the facility;

b) Two years if the offense involved PCP, methamphetamine, LSD, or any analog of these substances and occurred upon, or within 1,000 feet of, the grounds of any public or private elementary, vocational, junior high school, or high school, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility where the offense occurs; or,

c) One, two or three years at the discretion of the court if the offense involved a minor who is at least four years younger than the defendant. (Health & Saf. Code, § 11380.1.)

12) Authorizes the court, either on its own motion or upon motion of the district attorney, and in furtherance of justice, to order an action to be dismissed. The reasons for the dismissal must be stated orally on the record, and entered in the minutes, if requested by either party. (Pen. Code, § 1385, subd. (a).)

13) Provides that if the court has the authority to strike or dismiss an enhancement, the court may instead strike the additional punishment for that enhancement in the furtherance of justice. (Pen. Code, § 1385, subd. (b)(1).)

14) States that, notwithstanding any other law, the sentencing court "shall dismiss" an enhancement "if it is in the furtherance of justice to do so" except if dismissal of that enhancement is prohibited by any initiative statute. (Pen. Code, § 1385, subd. (c)(1).)

15) Instructs the court to consider the following factors in determining whether it is in the interests of justice to dismiss an enhancement:

a) Application of the enhancement would result in a discriminatory racial impact, as specified;

b) Multiple enhancements are alleged in a single case, in which case all enhancements but one shall be dismissed;

c) Application of the enhancement could result in a sentence of over 20 years, in which case the enhancement shall be dismissed;

d) The current offense is connected to mental illness, as specified;

e) The current offense is connected to prior victimization or childhood trauma, as specified;

f) The current offense is not a violent felony, as specified;

g) The defendant was a juvenile when they committed the current offense or any prior juvenile adjudication that triggers the enhancement or enhancements applied in this case;

h) The enhancement is based on a prior conviction that is over five years old;

i) Though a firearm was used in the current offense, it was inoperable or unloaded. (Pen. Code, § 1385, subd. (c)(3)(A)-(I).)

16) Requires the court to consider and afford great weight to evidence offered by the defendant to prove that any of the aforementioned mitigating circumstances are present. (Pen. Code, § 1385, subd. (c)(2).)

17) States that proof of the presence of one or more of these mitigating circumstances weighs greatly in favor of dismissing the enhancement, unless the court finds that dismissal of the enhancement would "endanger public safety," meaning that there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others. (Pen. Code, § 1385, subd. (c)(2).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "As a former mayor and city council member, I saw firsthand the devastation caused by drugs in our communities. Dealers who put children in danger should face harsh consequences, and AB 2450 restores true judicial discretion to the application of six different drug-related sentencing enhancements. By giving the power back to judges to impose appropriate penalties, we protect our neighborhoods and communities and keep dangerous criminals behind bars."

2) **Sentence Enhancements Generally:** Existing law contains a multitude of enhancements that can be used to increase the term of imprisonment a defendant will serve. All enhancements must be specifically alleged in the accusatory pleading and proved or admitted by the defendant. Enhancements add time to a person's sentence for factors relevant to the defendant such as prior criminal history or for specific facts related to the crime. Multiple enhancements can be imposed in a single case and can range from adding a specified number of years to a person's sentence, or doubling a person's sentence or even converting a determinate sentence into a life sentence.

   A recent study on California's use of its over 100 separate code sections containing enhancements reported that, of people incarcerated as of July 2022, 68% (66,550 people) have at least one sentence enhancement on their current sentence and 41% of people have sentences with two or more enhancements.[1] Four enhancement types were identified as accounting for roughly 80% of sentence years added since 2015, including: the Three-Strikes law, firearm enhancements, one and five-year prior enhancements, and gang enhancements.[2]

   While deterrence is often the justification for increasing sentences, research shows that increased penalties generally fail to deter criminal behavior.[3] Instead, data shows a rise in deterrence linked with the likelihood of being caught and the perception of being caught.[4] In

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[1] Bird, et al., *Sentence Enhancements in California*, California Policy Lab (Mar. 2023) https://capolicylab.org/sentence-enhancements-in-california/ [accessed Mar. 28, 2025].
[2] *Ibid.*
[3] *Five Things About Deterrence* (May 2016) National Institute of Justice https://www.ojp.gov/pdffiles1/nij/247350.pdf [accessed Mar. 28, 2025].
[4] *Ibid.*

contrast, the act of punishment and the length of punishment largely do not increase deterrence.[5]

In recent years, California has passed laws to reduce the severity of enhancements. SB 180 (Mitchell), Chapter 677, Statutes of 2017, limited the application of the three-year enhancement for a prior conviction related to the sale or possession for sale of specified controlled substances. SB 620 (Bradford), Chapter 682, Statutes of 2017, allowed a court, in the interest of justice, to strike or dismiss a firearm enhancement which otherwise adds a state prison term of three, four, or 10 years, or five, six, or 10 years, depending on the firearm, or a state prison term of 10 years, 20 years, or 25-years-to-life depending on the underlying offense and manner of use. SB 136 (Wiener), Chapter 590, Statutes of 2019, repealed the one-year sentence enhancement for each prior prison or county jail felony term that applied to a defendant sentenced on a new felony. SB 81 (Skinner), Chapter 721, Statutes of 2021, gave guidance to courts on when enhancements should be dismissed while retaining the court's discretion to apply enhancements when the court deems it to be appropriate.

3) **Dismissal of Enhancements and Application of SB 81**: Subdivision (a) of Penal Code section 1385 states that a judge may, in furtherance of justice, order an action to be dismissed. That provision has been interpreted to allow courts broad discretion to strike prior convictions and enhancements in order to provide individualized sentencing to a defendant. "Section 1385 has long been recognized as an essential tool to enable a trial court 'to properly individualize the treatment of the offender.'" (*People v. Tanner* (1979), 24 Cal.3d 514, 530.) "It was designed to alleviate 'mandatory, arbitrary or rigid sentencing procedures [which] invariably lead to unjust results.'" (*People v. Dorsey* (1972), 28 Cal.App.3d 15, 18.) "Society receives maximum protection when the penalty, treatment or disposition of the offender is tailored to the individual case. Only the trial judge has the knowledge, ability and tools at hand to properly individualize the treatment of the offender." (*People v. Williams* (1970) 30 Cal.3d 470, 482, citation and internal quotation marks omitted.) One of the purposes of Section 1385 is to ensure that sentences are proportional to a defendant's conduct.

   SB 81 (Skinner), Chapter 721, Statutes of 2021, expanded upon existing law that provided judges with discretion to dismiss an enhancement pursuant to Penal Code 1385. SB 81 stated that if the court finds that dismissing an enhancement is in the furtherance of justice, the court shall do so unless the court finds that dismissing the enhancement would endanger public safety. "Endanger public safety" means there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others. SB 81 provided guidance to judges on how to make the determination of when to dismiss an enhancement by listing non-exclusive circumstances for the court to consider. These circumstances are as follows:

   (A) Application of the enhancement would result in a discriminatory racial impact as described in paragraph (4) of subdivision (a) of Section 745.

   (B) Multiple enhancements are alleged in a single case. In this instance, all enhancements beyond a single enhancement shall be dismissed.

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[5] *Ibid.*

(C) The application of an enhancement could result in a sentence of over 20 years. In this instance, the enhancement shall be dismissed.

(D) The current offense is connected to mental illness.

(E) The current offense is connected to prior victimization or childhood trauma.

(F) The current offense is not a violent felony as defined in subdivision (c) of Section 667.5.

(G) The defendant was a juvenile when they committed the current offense or any prior juvenile adjudication that triggers the enhancement or enhancements applied in this case.

(H) The enhancement is based on a prior conviction that is over five years old.

(I) Though a firearm was used in the current offense, it was inoperable or unloaded.

After SB 81 was signed into law, the Judicial Council amended and adopted Rules of Court on the application of the new law. Rule of Court 4.428 governs imposition of enhancements. In providing guidance on the application of SB 81, the court amended existing Rule 4.428 to include the following language:

(c) Dismissing enhancements under section 1385(c)

(1) The court shall exercise the discretion to dismiss an enhancement if it is in the furtherance of justice to do so, unless the dismissal is prohibited by initiative statute.

(2) In exercising its discretion under section 1385(c), the court must consider and afford great weight to evidence offered by the defendant to prove that any of the mitigating circumstances in section 1385(c) are present.

(A) In exercising its discretion under section 1385(c), the court must consider and afford great weight to evidence offered by the defendant to prove that any of the mitigating circumstances in section 1385(c) are present.

(B) The circumstances listed in 1385(c) are not exclusive.

(C) "Endanger public safety" means there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others.

(3) If the court dismisses the enhancement pursuant to 1385(c), then both the enhancement and its punishment must be dismissed. (Cal. Rules of Court, rule 4.428(c), adopted effective March 14, 2022.)

The Advisory Committee included the following comments on determining "furtherance of justice" and "afford great weight" for purposes of the new law:

> Case law suggests that in determining the "furtherance of justice" the court should consider the constitutional rights of the defendant and the interests of society represented by the people; the defendant's background and prospects, including the presence or absence of a record; the nature and circumstances of the crime and the defendant's level of involvement; the factors in aggravation and mitigation including the specific factors in mitigation of section 1385(c); and the factors that would motivate a "reasonable judge" in the exercise of their discretion. (Citing *People v. Romero* (1996) 13 Cal.4th 947; *People v. Dent* (1995) 38 Cal.App.4th 1726; *People v. Kessel* (1976) 61 Cal.App.3d 322; *People v. Orin* (1975) 13 Cal.3d 937.)
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> . . . .
>
> The court is not directed to give *conclusive weight* to the mitigating factors, and must still engage in a weighing of both mitigating and aggravating factors. A review of case law suggests that the court can find great weight when there is an absence of "substantial evidence of countervailing considerations of sufficient weight to overcome" the presumption of dismissal when the mitigating factors are present. (*People v. Martin* (1996) 42 Cal.3d 437.) In exercising this discretion, the court may rely on aggravating factors that have not been stipulated to by the defendant or proven beyond a reasonable doubt at trial by a jury or a judge in a court trial. (*People v. Black* (2007) 41 Cal.4th 799.) (Advisory Com. com, Cal. Rules of Court, rule 4.428(c).)

As made clear by the statutory language enacted by SB 81 ("In exercising its discretion under this subdivision . . . ." Pen. Code, § 1385, subd. (c)(2); see also Judicial Council's neutral position letter for SB 81 dated Aug. 24, 2021, "These amendments support the exercise of judicial discretion and also permit a court to consider public safety, as defined, when making its determination."), as well as the Rules of Court and related Advisory Committee comment, the listed circumstances provided by SB 81 do not *require* the court to dismiss any enhancement. Rather, the court is directed to consider the weight of both mitigating and aggravating circumstances and make a determination of whether to dismiss the applicable enhancement or enhancements. While the proof of the presence of one or more specified mitigating circumstances weighs greatly in favor of dismissing the enhancement, endangerment of public safety would outweigh those mitigating circumstances. The court also retains the discretion to find that dismissal would not be in the interests of justice without a finding that public safety would be endangered.

Recently, the California Supreme Court granted review of a case to determine whether "the amendment to Penal Code section 1385, subdivision (c) that requires trial courts to 'afford great weight' to enumerated mitigating circumstances (Stats. 2021, ch. 721) create a rebuttable presumption in favor of dismissing an enhancement unless the trial court finds dismissal would endanger public safety?" (*People v. Walker* (2024) 16 Cal.5th 1024.) The Court, after examining both the plain language of the statute and legislative history of SB 81 held that the court retains discretion:

> [I]t is clear that the structure does not "presume" an enhancement should be dismissed whenever an enumerated mitigating circumstance is present, but instead "the ultimate question before the trial court remains whether it is in the furtherance of justice to dismiss

> an enhancement" and this "furtherance of justice" inquiry requires a trial court's ongoing exercise of "discretion." Thus, notwithstanding the presence of a mitigating circumstance, trial courts retain their discretion to impose an enhancement based on circumstances "long deemed essential to the 'furtherance of justice' inquiry."

(*Id.* at p. 1033, quoting *People v. Ortiz* (2023) 87 Cal.App.5th 1087, 1098-1099.) Thus, while the language in subdivision (c) of Penal Code section 1385 states that the court "shall" dismiss an enhancement if certain findings are met, the court retains discretion not to dismiss the enhancement in the interests of justice, without finding that dismissal endangers public safety. (*Ibid.*)

This bill excludes specified enhancements related to controlled substances from subdivision (c) of Penal Code section 1385's provisions on dismissal of enhancements and instead provides that the court *may* dismiss such an enhancement if it is in the furtherance of justice. As discussed above, courts already have discretion to deny dismissal without relying on a finding that dismissal endangers public safety.

4) **Existing Laws on Selling, Furnishing, Manufacturing, Transporting Controlled Substances with Enhanced Penalties to Minors or in a School Zone**: Existing law prohibits selling, furnishing, administering, giving away specified controlled substances, or offering to commit those acts, to a minor. (Health & Saf. Code, §§ 11353, 11380.) The punishment for a violation of such an offense is 3, 6, or 9 years in state prison. Sentence enhancements of 1 to 3 years are available to add on to a person's sentence for the underlying crime when the defendant is 4 years older than the minor, or if the offense occurred at specified locations such as a school, church or community centers. (Health & Saf. Code, §§ 11353.1, 11380.1.) A sentence enhancement of 3 years may also be added if the person to whom the substance was sold, furnished, administered or given suffers a significant or substantial physical injury from using the substance, such as an overdose. (Pen. Code, § 12022.7, subd. (f)(2).) Various sentence enhancements are also available depending on the weight or volume of the controlled substances. (Health & Saf. Code, §§ 11370.4, 11379.8) When those controlled substances include heroin, cocaine, PCP, or methamphetamine, the conviction qualifies as a strike for purposes of the Three Strikes Law. (Pen. Code, § 1192.7.) Enhanced sentencing including a life sentence may also apply to a person with prior convictions involving controlled substances. (Pen. Code, § 667.75.)

5) **Harsher Sentences Unlikely to Reduce Drug Use or Deter Criminal Conduct:** Ample research on the impact of increasing penalties for drug offenses on criminal behavior has called into question the effectiveness such measures. In a report examining the relationship between prison terms and drug misuse, PEW Charitable Trusts found "[n]o relationship between drug imprisonment rates and states' drug problems," finding that "higher rates of drug imprisonment did not translate into lower rates of drug use, arrests, or overdose deaths."[6]

   This may be because of the limited deterrent effect of harsher sentences generally.

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[6] https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/03/more-imprisonment-does-not-reduce-state-drug-problems; see also https://www.ccjrc.org/wp-content/uploads/2016/02/Correctional_and_Sentencing_Reform_for_Drug_Offenders.pdf

According the National Institute 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."[7]

Harsher sentences for drug trafficking offenses specifically may be particularly ineffective, in part because of the nature of illicit drug markets.[8] The Council on Criminal Justice reviewed the evidence on the effect of harsher punishments on criminal behavior, finding:

> The empirical evidence on selective incapacitation suggests that long sentences may produce short- and long-term public safety benefits for individuals engaged in violent offending, but may produce *the opposite effect* for those engaged in drug-related offending…where an incarcerated individual is quickly replaced by a new recruit. This "replacement effect" occurs—and undermines the overall crime-reducing effects of incapacitation—when there is "demand" for a particular criminal activity. The illicit drug business offers the most obvious example: when someone who plays a role in a drug trafficking organization is incarcerated, someone else must take his or her place.[9]

According to PEW, "[A] large body of prior research…cast[s] doubt on the theory that stiffer prison terms deter drug misuse, distribution, and other drug-law violations."[10] PEW concludes:

> Putting more drug-law violators behind bars for longer periods of time has generated enormous costs for taxpayers, but it has not yielded a convincing public safety return on those investments. Instead, more imprisonment for drug offenders has meant limited funds are siphoned away from programs, practices, and policies that have been proved to reduce drug use and crime.[11]

6) **Argument in Support**: According to *Peace Officers Research Association of California* (PORAC), "AB 2450 restores important judicial discretion in sentencing by allowing courts to determine whether dismissal of certain drug-related enhancements is appropriate, rather than requiring their dismissal in all cases. This change ensures that judges can consider the totality of the circumstances and make decisions that reflect the seriousness of the offense and the individual facts of each case.

   "By preserving the court's ability to impose or dismiss enhancements when warranted, this bill supports accountability while maintaining flexibility within the justice system. AB 2450 strikes a reasonable balance by allowing thoughtful, case-by-case decision-making without eliminating the option for dismissal when it is truly in the interest of justice."

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[7] https://nij.ojp.gov/topics/articles/five-things-about-deterrence
[8] Cmte. On Causes and Consequence of High Rates of Incarceration, National Research Council, The Growth of Incarceration in the United States: Exploring Causes and Consequences (2014) p. 146. <https://nap.nationalacademies.org/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes> [last visited Mar. 5, 2026].)
[9] Long Sentences Task Force, Council on Criminal Justice, *The Impact of Long Sentences on Public Safety: A Complex Relationship* (Nov. 2022) p. 8 https://counciloncj.org/wp-content/uploads/2022/11/Impact-of-Long-Sentences-on-Public-Safety.pdf [last visited Mar. 5, 2026] [internal citations omitted] [emphasis added].
[10] PEW, *supra.*
[11] *Ibid.*

7) **Argument in Opposition**: According to the *California Public Defenders Association*, "In other words, new paragraph would provide, that for those six enhancements, the general rule, that the court *shall* dismiss an enhancement if it is in furtherance of justice, does not apply; instead, the court would have the "discretion" to dismiss one of those six enhancements if it is in furtherance of justice to do so. Instead of being required ("shall") to dismiss the enhancement if the court determines it is in furtherance of justice to do so, the court would have "discretion" to dismiss an enhancement if the court determines it is in furtherance of justice to do so.

   "This reasoning would undermine the very perception of judicial fairness and enacts arbitrariness and capriciousness into the process. The sentencing court determines it is in furtherance of justice to dismiss an enhancement in furtherance of justice but exercises its discretion to go against that determination; to, instead, *not* dismiss it even though dismissal is in furtherance of justice.

   "Moreover, that absurd result is not necessary. Under existing law, determination of whether or not dismissal of an enhancement is in furtherance of justice is a *holistic* determination, under which the totality of circumstances is taken into account. Under this holistic approach, the court may determine that in some respects dismissal of an enhancement is in furtherance of justice but that other respects are overriding and overcome the first set of respects, so that holistically, that is, in the totality of circumstances, dismissal is not in furtherance of justice.

   "This holistic approach of interpreting section 1385, subdivision (c) has been endorsed by the California Supreme Court in *People v. Walker* (2024) 16 Cal.5th 1024, 1034-1036, quoting *People v. Ortiz* (2023) 87 Cal.App.5th 1087, 1096.
   "While the rest of section 1385, subdivision (c), particularly subdivision (c)(2) describes several circumstances, such as past childhood trauma (subd. (c)(2)(E)) that should be given weight, they do not change the basic holistic process by which the court decides whether the totality of circumstances do or do not show that dismissal of the enhancement is in furtherance of justice."

8) **Related Legislation**: AB 1667 (Boerner) would include furnishing fentanyl and fentanyl analogs to a minor within the definition of a serious felony. AB 1667 is pending hearing in the Assembly Appropriations Committee.

9) **Prior Legislation**:

   a) AB 991 (Essayli), of the 2025-2026 Legislative Session, was substantially similar to this bill but applied to the 10-20-life firearm enhancement. AB 991 was never heard by this committee.

   b) AB 3037 (Essayli), of the 2023-2024 Legislative Session, was substantially similar to AB 991. AB 3037 failed passage in this committee.

   c) AB 3077 (Hart), of the 2023-2024 Legislative Session, would have removed exclusions in existing law that prevent a criminal defendant with a diagnosis of borderline personality disorder (BPD) from participating in a county mental health diversion program after they are deemed incompetent to stand trial (IST), and from having their

mental illness considered for purposes of dismissing a sentencing enhancement in the furtherance of justice. AB 3077 was vetoed.

d) AB 328 (Essayli), of the 2023-2024 Legislative Session, would have eliminated judicial discretion to dismiss or strike an allegation under the 10-20-life law except as specified. AB 328 failed passage in this committee.

e) AB 27 (Ta), of the 2023-2024 Legislative Session, would have exempted specified firearm enhancements from a court's discretion to dismiss an enhancement if it is in the furtherance of justice to do so and does not endanger public safety. AB 27 failed passage in this committee.

f) AB 931 (Villapudua), of the 2021-2022 Legislative Session, would have replaced the word "shall" with "may" in the law enacted by SB 81, Chapter 721, Statutes of 2021 giving courts additional guidance on striking enhancements. AB 931 failed passage in Senate Public Safety.

g) SB 81 (Skinner), Chapter 721, Statutes of 2021, gave guidance to courts by specifying a non-exclusive list of circumstances for a court to consider when determining whether to dismiss an enhancement in the interests of justice.

REGISTERED SUPPORT / OPPOSITION:

Support

California Civil Liberties Advocacy
California State Sheriffs' Association
Peace Officers Research Association of California (PORAC)
Riverside County District Attorney
Riverside County Sheriff's Office

Opposition

ACLU California Action
All of US or None (HQ)
California Public Defenders Association
Californians for Safety and Justice (CSJ)
Californians United for a Responsible Budget
Care First California
Coalition for Humane Immigrant Rights (CHIRLA)
Community Works West
Dignity and Power Now
Drug Policy Alliance 1
Ella Baker Center for Human Rights
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union

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

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

Date of Hearing: April 7, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2556 (Boerner) – As Introduced February 20, 2026

SUMMARY: Eliminates exceptions related to sex offenses occurring in state prison or local detention facilities from the rape shield law.

EXISTING LAW:

1) Mandates that for specified sex offenses, if evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness, the following procedures be followed:

   a) A written motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevance of evidence of the sexual conduct of the complaining witness that is proposed to be presented and of its relevance in attacking the credibility of the complaining witness.

   b) The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated. The affidavit shall be filed under seal and only unsealed by the court to determine if the offer of proof is sufficient to order a hearing, as specified. After that determination, the affidavit shall be resealed by the court.

   c) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the complaining witness regarding the offer of proof made by the defendant.

   d) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the complaining witness is relevant, and is not inadmissible, as specified, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

   e) An affidavit resealed by the court shall remain sealed, unless the defendant raises an issue on appeal or collateral review relating to the offer of proof contained in the sealed document. If the defendant raises that issue on appeal, the court shall allow the Attorney General and appellate counsel for the defendant access to the sealed affidavit. If the issue is raised on collateral review, the court shall allow the district attorney and defendant's counsel access to the sealed affidavit. The use of the information contained in the affidavit shall be limited solely to the pending proceeding. (Evid. Code, § 782, subd. (a)(1)-(5).)

2) Defines "complaining witness" as:

   a) The alleged victim of the crime charged the prosecution of which is subject to this law.

   b) An alleged victim offering testimony of a sex offense, as specified. (Evid. Code, § 782, subd. (b)(1)(A)-(B).)

3) Defines "evidence of sexual conduct" as portions of a social media account about the complaining witness, including any text, image, video, or picture, which depict sexual content, sexual history, nudity or partial nudity, intimate sexual activity, communications about sex, sexual fantasies, and other information that appeals to a prurient interest, unless it is related to the alleged offense. (Evid. Code, § 782, subd. (b)(2).)

4) States the rape shield hearing procedure is required in prosecutions for rape, aiding and abetting rape, sodomy, oral copulation, child molestation, continuous sexual abuse of children, and sexual penetration except if the alleged crime occurs in a state prison or county jail. (Evid. Code, § 782, subd. (c)(1).)

5) Requires the rape shield hearing process when presenting uncharged misconduct evidence and an alleged victim testifies as a victim of a crime listed in Section sexual battery, rape, unlawful sexual intercourse, aggravated sexual abuse of a child, incest, sodomy, oral copulation, child molestation, continuous sexual abuse of a child, sexual penetration, masturbation in public, or annoying or molesting a child, except if the crime is alleged to have occurred in a local detention facility or state prison. (Evid. Code, § 782, subd. (c)(2).)

6) States sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy. (Pen. Code, § 286, subd. (a).)

7) Provides that any person who participates in an act of sodomy with any person of any age while confined in any state prison or in any local detention facility shall be punished by imprisonment in the state prison, or in a county jail for not more than one year. (Pen. Code, § 286, subd. (e).)

8) States that in a criminal action, evidence of the character or a trait of character (in the form of an opinion, evidence of reputation, or evidence of specific instances of conduct) of the victim of the crime for which the defendant is being prosecuted is not made inadmissible by other restrictions if:

   a) Offered by the defendant to prove conduct of the victim in conformity with the character or trait of character.

   b) Offered by the prosecution to rebut evidence adduced by the defendant. (Evid. Code, § 1103, subd. (a).)

9) Provides that in any prosecution for rape, aiding and abetting rape, sodomy, oral copulation, or sexual penetration, or for assault with intent to commit, attempt to commit, or conspiracy to commit a crime defined in any of those provisions, except where the crime is alleged to have occurred in a local detention facility or in a state prison, opinion evidence, reputation

evidence, and evidence of specific instances of the complaining witness' sexual conduct, or any of that evidence, is not admissible by the defendant in order to prove consent by the complaining witness. (Evid. Code, § 1103, subd. (c)(1).)

10) States any officer, agent of a private person or entity, volunteer, or law enforcement officer who engages in sexual activity with a consenting adult who is confined in a detention facility is guilty of a misdemeanor. (Pen. Code, § 289.6, subd. (a)(2).)

11) States any officer under the authority of the California Department Corrections and Rehabilitation or facility under contract with CDCR, who, during the course of his or her employment directly provides treatment, care, control, or supervision of inmates, wards, or parolees, and who engages in sexual activity with a consenting adult who is an inmate, ward, or parolee, is guilty of a misdemeanor. (Pen. Code, § 289.6, subd. (a)(3).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 2556 would eliminate the current exemptions regarding the use of a victim's sexual history as evidence during sexual assault trials for crimes that take place in custodial settings. By removing the exclusionary language from Evidence Code Sections 782 and 1103, it ensures that a victim's sexual history cannot be used against them without Due Process of the law, regardless of where the assault occurred. This issue was exemplified by a 2023 case in which an inmate attempted to sexually assault a female chaplain in a prison chapel, however, the protections traditionally afforded under these laws did not apply because they occurred within a prison setting. All Californians should have Equal Protection under the law, and AB 2556 would help bridge this gap."

2) **Rape Shield Law**: Between 1974 and 1981, following enactment of federal rape shield laws, the Legislature passed amendments to Evidence Code section 782 and 1103 to restrict the ability of a criminal defendant to present evidence of a sexual assault victim's past sexual conduct. (See SB 23 (Watson), Chapter 726, Statutes of 1981; see generally *People v. Fontana* (2010) 49 Cal.4th 351, 362.)

   Evidence of the sexual conduct of a complaining witness is admissible in a prosecution for a sex-related offense only under very strict conditions. A defendant may not introduce evidence of specific instances of the complaining witness's sexual conduct, for example, simply to prove, without other evidence, consent by the complaining witness. (Evid. Code, § 1103, subd. (c)(1).)

   > Under California's rape shield law, specific instances of a complaining witness's sexual conduct are **not admissible** to prove consent by the complaining witness in a prosecution for specified sex offenses. (Evid. Code, § 1103, subd. (c)(1).) **Such evidence may be admissible, though, when offered to attack the credibility of the complaining witness, provided that its probative value outweighs the danger of undue prejudice and the defendant otherwise complies with the procedures**

> **set forth in Evidence Code section 782.** First, the defendant must file a written motion and an offer of proof detailing the relevancy of the evidence. (Id., § 782, subd. (a)(1), (2).) If the court finds the offer sufficient, it shall order a hearing out of the presence of the jury to allow questioning of the complaining witness regarding the offer of proof. (Id., § 782, subd. (a)(3).) If the court finds the evidence relevant [citation omitted] and admissible under section 352, the court may make an order stating what evidence may be introduced by the defendant and what questions are permitted. (Id., § 782, subd. (a)(4).) (*People v. Fontana, supra,* 49 Cal.4th at p. 354.) (Emphasis added.)

If evidence of prior sexual conduct is conceivably relevant to credibility, rape shield, in accordance with, Evidence Code section 782 requires that: (a) the defendant submit a written motion "stating that the defense has an offer of proof of the relevancy of evidence of the sexual conduct of the complaining witness proposed to be presented and its relevancy in attacking the credibility of the complaining witness"; (b) the motion be accompanied by an affidavit, filed under seal, that contains the offer of proof.

If, after that, the court finds the offer of proof is sufficient, it holds a hearing out of the presence of the jury, and at the hearing, allow the questioning of the complaining witness regarding the offer of proof made by the defendant. If the court, following the hearing, finds that the evidence is relevant, as specified, and is not inadmissible as more prejudicial than probative, then it may make an order stating what evidence may be introduced by the defendant and the nature of the questions to be permitted. (See Evid. Code, § 782, subd. (a)(1)-(4); *People v. Fontana* (2010) 49 Cal.4th 351, 362.)

The Legislature's purpose in crafting these limitations represents a valid determination that victims of sex-related offenses deserve heightened protection against surprise, harassment, and unnecessary invasions of privacy.

> By affording victims protection in most instances, these provisions also encourage victims of sex-related offenses to participate in legal proceedings against alleged offenders. (Letwin). Accordingly, our courts have properly exercised the discretion afforded by Evidence Code section 782 narrowly and we emphasize that "great care must be taken to ensure that this exception to the general rule barring evidence of a complaining witness' prior sexual conduct … does not impermissibly encroach upon the rule itself and become a 'back door' for admitting otherwise inadmissible evidence" (*People v. Rioz* (1984) 161 Cal. App. 3d 905, 916–919; accord, *Michigan v. Lucas* (1991) 500 U.S. 145, 149–150; Letwin, *Unchaste Character": Ideology, and the California Rape Evidence Laws* (1980–1981) 54 So.Cal. L.Rev. 35, 40; accord, rule 412, 28 U.S.C.) Advisory Com. Note to Fed. Rules Evid.

Most evidence of alleged sexual misconduct by a victim is not admissible. Even if it is proper impeachment evidence, courts usually find that it is more prejudicial than probative.[1]
One exception in the Rape Shield law pertains to alleged conduct that occurs in-custody (also known as the "detention" exception.) (Evid. Code, § 782, subd. (c)(1)-(3).) Evidence Code section 782, subdivision (c)(1) states the rape shield requirements apply:

> "In a prosecution under Section 261, 262, 264.1, 286, 287, 288, 288.5, or 289 of, or former Section 288a of, the Penal Code, or for assault with intent to commit, attempt to commit, or conspiracy to commit any crime defined in any of those sections, **except if the crime is alleged to have occurred in a local detention facility**, as defined in Section 6031.4 of the Penal Code, or in **the state prison**, as defined in Section 4504."

Evidence Code section 1103, subdivision (c)(1) similarly states that character evidence is inadmissible except as provided in this section:

> Notwithstanding any other provision of this code to the contrary, and except as provided in this subdivision, in any prosecution under Section 261 or 264.1 of the Penal Code, or under Section 286, 287, or 289 of, or former Section 262 or 288a of, the Penal Code, or for assault with intent to commit, attempt to commit, or conspiracy to commit a crime defined in any of those sections, **except where the crime is alleged to have occurred in a local detention facility**, as defined in Section 6031.4, **or in a state prison**, as defined in Section 4504, opinion evidence, reputation evidence, and evidence of specific instances of the complaining witness' sexual conduct, or any of that evidence, is not admissible by the defendant in order to prove consent by the complaining witness.

The detention exception was added by SB 23 (Watson), Chapter 726, Statutes of 1981. When the bill was in the Senate Judiciary Committee, ACLU and others pointed out that sodomy was a criminal offense in and of itself at that time – meaning homosexual relationships were *per se* criminal. Moreover, any consensual sexual relations **between inmates** in state prison were, and still are, *per se* illegal.[2] Accordingly, ACLU asked Senator Watson to except out sodomy to account for statutory bigotry against the gay community. However, in an effort to

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[1] The court made clear that the legislative intent of avoiding invasion of privacy is mostly paramount to any relevance claim. "By narrowly exercising the discretion conferred upon the trial court in this screening process, California courts have not allowed the credibility exception in the rape shield statutes to result in an undermining of the legislative intent to limit public exposure of the victim's prior sexual history. (See, e.g., *People v. Blackburn, supra,* 56 Cal. App. 3d at pp. 692-693; *In re Wright* (1978) 78 Cal. App. 3d 788, 805-806; *People v. Guthreau* (1980) 102 Cal. App. 3d 436, 444.) Thus, the credibility exception has been utilized sparingly, most often in cases where the victim's prior sexual history is one of prostitution." (*People v. Chandler* (1997) 56 Cal.App.4th 703, 708.)

[2] See Pen. Code, § 286, subd. (e)[" Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility, as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

compromise, Watson agreed to except out what may be consensual sex between inmates in custody. However, despite the detention exception, the rape shield law still applies even in cases where the victim is incarcerated and the victim of sexual assault. The rape shield law is aimed at limiting attacks on a victim's credibility based on evidence of prior sexual conduct in order to show a person would have consented to sex.

Even without the application of the rape shield law, evidence of consent would be irrelevant for a person in a custodial setting because, as stated above, a person in a custodial setting cannot legally consent. However, if defendant alleges the sexual act was, in fact, consensual, the alleged victim must be capable of consent, and the proffered evidence is relevant to actual consent. This was not intended, and does not, in its application, eliminate any protections for victims of sexual assault in custody. The basic rules in Evidence Code section 780 pertaining to witness credibility, and Evidence Code section 352 relating to the prejudicial effect of even relevant evidence, still apply.

3) **Sexual Assault of a Person in Custody:** Incarcerated people and staff do experience sexual assault in custody. According to the Rape, Abuse, and Incest National Network (RAINN):

> In 2020 alone, U.S. correctional institutions reported over 36,000 allegations of sexual victimization. Of these, 8,628 involved staff sexual misconduct, and 7,449 involved staff sexual harassment.[3]

Penal Code section 261, which defines rape, includes rape where the act was accomplished against the victim's will by threatening them with the use of public authority. (Pen. Code, § 261, subd. (a)(7).) Penal Code section 289.6 expressly criminalizes even apparent consensual conduct between staff and incarcerated people. However, from a sentencing perspective, violations of the general prohibition against sex in prison are much different than an intentional sex crime.

The Office of the Inspector General (OIG) currently reviews allegations of staff misconduct in order to ensure CDCR is properly responding to allegations of sexual assault against correction officers and staff.

Current law requires the OIG to determine the adequacy of each investigation and whether discipline is warranted. The OIG is statutorily required to issue regular reports, no less than annually, to the Governor and the Legislature summarizing its recommendations concerning its oversight of CDCR allegations of internal misconduct and use of force, and regular reports, no less than semiannually, summarizing its oversight of OIA investigations. All reports are required to be posted on the IG's website and otherwise made publicly available. California's prisons—and the women's prisons especially —have been plagued with allegations of staff sexual assault and sexual misconduct for years.

In 2024, 130 individuals formerly incarcerated at the California Institution for Women (CIW) and Central California Women's Facility (CCWF) filed a lawsuit against CDCR and 30

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[3] https://rainn.org/get-the-facts-about-sexual-violence/get-the-facts-about-sexual-violence-in-law-enforcement-custody/

current and former correctional officers alleging that they were sexually abused while in prison. The lawsuit alleges the sexual abuse occurred throughout the prisons, including in cells, closets, and storage rooms, and alleges a variety of sexual abuse, including groping, forced oral copulation, and rape. In 2023, a former correctional officer at CCWF was arrested for sexually assaulting 13 incarcerated individuals over nine years and was charged with 60 counts of rape, sodomy, sexual battery, and rape under color of authority. The offender was sentenced to 200 plus years in prison.[4]

The CIW and CCWF cases were sexual assault in violation of Penal Code section 261, subd. (a)(2) (rape by force, threat, or fear of force or threat) and Penal Code section 261, subdivision (a)(7) (rape under color of authority), forcible sodomy, forcible oral copulation, and a litany of other sex crimes. The correctional officer was sentenced to 224 years in prison.[5] It did not matter for purposes of charging the correctional officer that the women were in a carceral setting. It was just assault because it lacked both actual and constructive consent. There was no need to rely solely on the lesser included offense of sexual misconduct of a person in custody and it is likely that the requirements of rape shield would still apply.[6]

4) **Sodomy**: The act of sodomy is still criminalized in the Penal Code. Penal Code section 286, subdivision (a) states,

> "Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy."

Additionally, case law from the 1970s, which has never been overruled or abrogated by legislation states, "consent is not a defense to a sodomy prosecution. (*People v. Brown* (1970) 6 Cal.App.3d 619, 624.) While *Lawrence v. Texas* (2003) 539 U.S. 558, held that laws criminalizing consensual sexual conduct between individuals of the same sex violates the Due Process Clause of the Fourteenth Amendment, the carceral setting is the only place where sexual contact between inmates, even if consensual, is prohibited. (See fn. 1, *supra.*; *People v. Frazier* (1967) 256 Cal.App.2d 630; *People v. Santibanez* (1979) 91 Cal.App.3d 287, 289-290 ["However, it is clear that prisoners have no cognizable right to sexual privacy in a jail cell.")

In *People v. Frazier, supra*, the court held that inmates had no right of privacy in their sexual choices and prohibitions against even consensual sex between inmates was not unconstitutional.

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[4] https://abc30.com/post/former-correctional-officer-sentenced-224-years-prison-sexually-assaulting-female-inmates/17542123/

[5] https://www.kqed.org/news/12022075/former-guard-california-womens-prison-found-guilty-59-counts-sexual-abuse

[6] The examples provided by the author were all sexual assault cases and it does not appear from available records that the alleged rape shield evidence was admitted. Defendants are entitled to make whatever arguments they want to a judge, but at the end of the day, the court must find the evidence relevant and credible. That does not appear to be the case in any of these instances, nor would the proposed change prevent defendants from asking a to admit attacks on the victim's credibility.

> A correctional officer conducting a search of cells for contraband entered the apparently unoccupied cell assigned to Frazier. A blanket was draped over the end and side of the bed. The officer lifted it, and beneath the bed saw the two defendants, nude, engaged in an act of sodomy. No evidence was introduced by the defense. Appellant argued that his conduct is constitutionally protected under the doctrine of a recent decision (*Griswold v. Connecticut*, 381 U.S. 479). Although seven justices concurred in the judgment of reversal in *Griswold*, there are three concurring opinions and two dissents. Thus, the precise ground of decision is not clear.
>
> The majority opinion turns on the right of privacy in the marriage relation, 'an association for as noble a purpose as any involved in our prior decisions' (p. 486). The concurring opinion of Justice Goldberg, joined by two other justices, emphasizes the Ninth Amendment, but also turns upon protection of 'the right of marital privacy' (p. 486) which 'is fundamental and basic.' (p.499) Appellant wholly fails to bring himself within the ambit of Griswold. His relationship with his fellow prisoner can hardly, under the most advanced views of those who decry the current rigidity of moral judgments, be deemed 'noble' or 'basic.' Even if the homosexual relationship of consenting adults were deemed entitled to the cloak of privacy in life outside prison walls, appellant cannot don that cloak. (*Frazier, supra*, 256 Cal.App.2d at p. 630-631.)

While *Frazier* and *Santibanez* are cases from the 1970s, they have never been overruled, and *Lawrence* has never applied to the carceral setting. Additionally, *Lawrence* is premised on the penumbra of privacy rights abrogated by *Dobbs v. Jackson Women's Health Organization* (2022) 597 U.S. 215.[7] Therefore, inmates may be engaging in consensual sex and theoretically, should be allowed to explain that their relationship was consensual.

5) **Prison Rape Elimination Act (PREA)**: PREA was passed by Congress in 2003. It applies to all correctional facilities, including prisons, jails, and juvenile facilities. Among the many stated purposes for PREA are: to establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States; to develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape; to increase the available data and information on the incidence of prison rape to improve the management and administration of correctional facilities; and to increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape.[8] PREA also created the National Prison Rape Elimination Commission and charged it with developing standards for the elimination of prison rape.

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[7] Schroeder, *Rethinking Rights in a Disappearing Penumbra: How to Expand Upon Reproductive Rights in Court After Dobbs*, New Mexico L. Rev., p. 2 ("For nearly a century the U.S. Supreme Court attempted to fit reproductive rights into the ever-shrinking penumbra left to it by *Buck v. Bell*, and now after *Dobbs* that penumbra seemed to disappear altogether.)

[8] 34 U.S.C. § 30301 et seq. (previously classified as 42 U.S.C. § 15601 et seq.)

The PREA standards developed by the National Prison Rape Elimination Commission were issued as a final rule by the U.S. Department of Justice in 2012. (77 F.R.D. 37106.) Among other things, the standards require each agency and facility to: designate a PREA point person to coordinate compliance efforts; develop and document a staffing plan, taking into account a set of specified factors, that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse; and train staff on key topics related to preventing, detecting, and responding to sexual abuse. In addition, the standards provide requirements regarding the avenues for reporting sexual abuse, investigation of sexual abuse, and access to medical and mental health care for inmate victims of sexual abuse.

The PREA standards contemplate ways for particularly vulnerable inmates who identify as LGBTIA+ or whose appearance or manner does not conform to traditional gender expectations. (*Id.* at pp. 37149-37154.) The standards require training in effective and professional communication with LGBTIA and gender nonconforming inmates and require the screening process to consider whether the inmate is, or is perceived to be, LGBTIA or gender nonconforming. The standards also require that post-incident reviews consider whether the incident was motivated by the inmate's LGBTIA+ identification, status, or perceived status.

CDCR PREA Policy: AB 550 (Goldberg, Chapter 303, Statutes of 2005) established the Sexual Abuse in Detention Elimination Act. The Act requires CDCR to adopt specified policies, practices, and protocols related to the placement of inmates, physical and mental health care of inmate victims, and investigation of sexual abuse. CDCR's PREA policy provides guidelines for the prevention, detection, response, investigation, and tracking of sexual violence, staff sexual misconduct, and sexual harassment against CDCR inmates. (DOM §§ 54040.1-5404.22.)

The policy applies to all offenders and persons employed by CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole. With respect to inmates who are at a high risk for sexual victimization, CDCR's PREA policy provides:

> Offenders at high risk for sexual victimization, as identified on the electronic Initial Housing Review, shall not be placed in segregated housing unless an assessment of all available alternatives has been completed, and a determination has been made that there is no available alternative means of separation from likely abusers.

Offenders at high risk for sexual victimization shall have a housing assessment completed immediately or within 24 hours of placement into segregated housing. . .. If a determination is made at the conclusion of the assessment that there are no available alternative means of separation from likely abusers, the inmate will be retained in segregated housing…The offender's retention in segregation should not ordinarily exceed 30 days. (Italics added) (DOM § 54040.6.)

The policy further provides:

> Based on information that the offender has been a victim of sexual violence or victimization, the custody supervisor conducting the initial screening shall discuss housing alternatives with the offender in a private location. *The custody supervisor shall not automatically place the offender into administrative segregation.* Consideration shall be given to housing this offender with another offender who has compatible housing needs. . ..

An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. (DOM § 54040.7.) PREA is not expressly aimed at consensual relationships between inmates, but since any sexual contact in a custodial setting is illegal, it is considered rape as a matter of both law and policy.

At its core, the detention exception may be less relevant today than in the latter part of the 20th Century, but it does serve a purpose to prevent actual evidence of consent from being excluded simply because the sexual conduct at issue constitutes sodomy. The Evidence Code are the "rules" of the road that ensures fair trials. Changes to the Evidence Code should be carefully considered so as not to allow for unfair advantage.

> Effective trial advocacy requires storytelling. In many ways, criminal defense attorneys and prosecutors are professional storytellers. They must weave facts and evidence into stories that resonate with the judges' and juries' common sense and ultimately persuade the decisionmaker in the case. In the context of a criminal trial, the defendant's ability to engage in meaningful storytelling arguably takes on constitutional status, enshrined in the right to present a complete defense. That right protects not just the ability to scrutinize the state's proof and offer one's own witnesses, but also the choice of how to tell a compelling story of innocence.
>
> At a criminal trial, evidence rules shape and restrict what stories can be told and how they are told. A judge decides what testimony and physical evidence is and is not admissible, how parties question their witnesses and present evidence, how witnesses can be "impeached" by the other side with evidence that attacks their credibility, and how to instruct juries to use that evidence in deciding the defendant's guilt or innocence.[9]

6) **Argument in Support**: According to *San Diego District Attorneys Association*: "Traditionally, the defense relied on challenging the credibility of the rape survivor as a key strategy during a criminal trial. However, in the 1960's and 1970's feminists rights

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[9] Willmott, *"Protecting the Right to a Meaningful Defense: Criminal Trial Storytelling,"* 111 Cal. L. Rev. June 2023, p. 1.)

movements started to redefine the patriarchal dynamics of the crime. It became apparent that rape survivors needed to be able to testify in court with dignity without being afraid that their past could be used as a weapon by the defense to humiliate them, thus inflicting a metaphorical "second rape." Survivors of rape and their advocates began to force change by passing laws that limited the admission of the survivor's sexual history in court as a means to encourage women to report the crime. (According to the National Sexual Violence Resource Center 63% of sexual assaults are not reported; rape is the most under-reported crime.) California's legislature recognized that the character, morality, and sexual history of a victim were largely irrelevant to a sex crime trial and, in 1974, passed the state's Rape Shield Law.

"Since then, California's Rape Shield Law has been amended several times as awareness increased and the need for further protection for survivors was recognized. The defense has challenged these laws on a variety of grounds including that the evidentiary rules violate the right to confront one's accuser and the right against self-incrimination, and that these laws are too vague. However, the courts have overwhelmingly rejected these challenges. Evidence Code section 782 currently protects sexual assault victims from being discredited due to their sexual history. The section further provides a procedure for the defense to make an offer of proof of the relevancy of evidence of the sexual conduct of the complaining witness proposed to be presented and its relevancy in attacking the credibility of that complaining witness. As an additional safe-guard for survivors, this motion shall be made under seal, with the court having the final say as to whether the evidence is admissible. These protections are deemed critical to protecting the survivor's reputation and credibility.

"In 1981, California inexplicably placed an exception into the Rape Shield Law that still exists today. The Legislature carved out an exception that prevents the Rape Shield Law from applying when the sexual offenses are committed in prison or jail. This exception is not based upon the status of the victim, but rather solely on the geographic location where the victim was assaulted.

"All fifty states, the Federal Rules of Evidence, the District of Columbia, and the United States territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the US Virgin Islands have some iteration of a Rape Shield Law. Only California includes a Prison/Jail exception. The "jail house exception" is an anachronism that must be eliminated from California's Rape Shield Law.

"Most sexual assault victims in the prison or jail setting are inmates. The Prison/Jail exception applies to sentenced inmates as well as detainees who are presumed innocent and awaiting trial. The fact that one has been accused or convicted of a crime does not make them less worthy of the protection of the law. There is no compelling reason to deny inmates the basic protections offered to all other sexual assault victims.

"The "jail house exception" is not limited only to prison inmates or jail inmates who are victims of sexual assault. The "jail house exception" also applies to sexual assault victims such as correctional officers, detentions deputies, non-law enforcement employees, staff, visitors, family members, attorneys, medical personnel, members of the clergy. All denied the protection of the Rape Shield Law if they are unfortunate enough to be sexually assaulted on prison or jail property. There are several recent California cases which illustrate this inequity:

- San Diego County (2023): An inmate at the Richard J. Donovan Correctional Facility sexually assaulted a chaplain in the prison chapel. The defense attempted to introduce evidence of the chaplain's prior sexual history to show that she was not a credible witness. When the chaplain learned her sexual history could potentially be brought out in open court and be used against her, she was extremely traumatized and reluctant to testify, even though she had been violently attacked.

- Madera County (2024): An inmate at Central California Women's Facility sexually assaulted multiple inmates. The defense has indicated that they intend to introduce evidence that the inmate victims had been "slutty" (in the words of defense counsel) and use their sexual history with other inmates to show consent and to attack their credibility. This case is pending trial.

- Tuolumne County (2024): An inmate at the Sierra Conservation Center trapped a correctional officer in a control booth and violently raped her over a four-hour period. The defense has indicated that they intend to introduce evidence of the correctional officer victim's sexual history to show consent and to attack their credibility. This case is pending trial.

"AB 2556 is about fairness, equality, and treating sexual assault victims with dignity. It is a simple fix to a misguided and long-outdated legal exclusion. By placing California sexual assault victims on equal footing with sexual assault victims across all other jurisdictions in the United States, it reaffirms California's commitment to the equal protection of ALL citizens. It is the right thing to do."

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

8) **Related Legislation**: AB 2014 (Elhawary) requires the court, in a criminal proceeding where a party seeks to admit evidence or make an argument that is likely to trigger gender-based stereotypes, to also consider specified factors when balancing the probative value of that evidence against the substantial danger of undue prejudice. AB 2014 is pending hearing in this committee.

9) **Prior Legislation**: SB 836 (Weiner), Chapter 168, Statutes of 2022, prohibited the disclosure of a person's immigration status in open court by a party or their attorney in a civil action other than a personal injury or wrongful death action (where evidence of immigration status is never admissible) unless the judge presiding over the matter first determines that the evidence is admissible at an in camera hearing.

REGISTERED SUPPORT / OPPOSITION:

Support

California Correctional Peace Officers Association (CCPOA)
California District Attorneys Association
Riverside County District Attorney
San Diego County District Attorney's Office

Opposition

None submitted.

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

Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2698 (Ellis) – As Amended March 17, 2026

SUMMARY: Authorizes the Office of Youth and Community Restoration (OYCR) to establish a grant program to create a youth court diversion pilot program. Specifically, **this bill**:

1) States that OYCR shall, upon appropriation by the Legislature, provide six one-time grants to two counties in northern California, two counties in central California, and two counties in southern California to create a youth court diversion pilot program.

2) Requires grant moneys to be used by counties to establish a three-year pilot program in which local police departments partner with district attorney offices, courts, and local school districts to enact a youth diversion program for first-time misdemeanor juvenile offenders.

3) Makes juvenile offenders who meet all of the following requirements eligible for the program:

   a) The offense is the juvenile's first offense;

   b) The juvenile is 17 or younger; and,

   c) The juvenile committed any of the following offenses:

      i) Petty theft.

      ii) Vandalism.

      iii) Battery, if the victim of the offense agrees to the juvenile's participation in the diversion program.

      iv) Possession of drug paraphernalia.

      v) Possession of marijuana.

      vi) Possession of a controlled substance.

4) States that juveniles participating in the program shall appear before a jury of their peers that is composed of volunteers from their local high school and that the court shall oversee the proceedings.

5) Requires student volunteers to participate as the prosecutor and defense attorney and to be trained and mentored by an attorney from the district attorney's office and public defender's office.

6) Requires a county electing to participate in the program to impose, at a minimum, all of the following requirements for youth diversion proceedings:

    a) No cellular phones are permitted in the courtroom;

    b) The last name of the juvenile shall not be disclosed;

    c) A student volunteer who knows the juvenile shall be removed from the diversion proceedings;

    d) The student jury shall only determine a disposition and shall not make a determination of guilt or innocence;

    e) The student jury shall select one of the following dispositions: community service with a minimum of 10 hours and a maximum of 40 hours, or youth court jury duty, with a minimum of one time and a maximum of three times.

7) Additionally authorizes the student jury to impose any of the following in addition to the disposition:

    a) A curfew of 7 p.m., 8 p.m., or 9 p.m.;

    b) Grand or attendance monitoring by the probation department;

    c) Counseling or management services offered through school, health, or other community-based services;

    d) Completion of a life plan essay; or,

    e) Completion of an apology letter ranging from one to three pages in length.

8) States that participating counties shall annually report the number of juveniles who have completed the diversion program and the recidivism rate of juveniles who participated in the program. In determining the recidivism rate, the participating county shall complete a check for recidivism for each participating juvenile at six months after their completion of the diversion program.

9) Contains a sunset date of January 1, 2030.

EXISTING LAW:

1) Provides that in any case in which a probation officer, after investigation, concludes that a minor is within the jurisdiction of the juvenile court or would come within the jurisdiction of the court if a petition were filed to declare a minor a ward of the court, the probation officer may, in lieu of a petition and with consent of the minor and the minor's parent or guardian, refer the minor to services provided by a health agency, community based organization, local educational agency, an appropriate non-law-enforcement agency, or the probation department. (Welf. & Inst. Code, § 654, subd. (a).)

2) Specifies that if the services are provided by the probation department, the probation officer may delineate specific programs of supervision for the minor, not to exceed six months, and attempt thereby to adjust the situation that brings the minor within the jurisdiction of the court. This section does not prevent the probation officer from requesting the prosecuting attorney to file a petition at any time within the six-month period or a 90-day period thereafter. (*Ibid.*)

3) Requires the program of supervision to encourage the parents or guardians of the minor to participate with the minor in counseling or education programs, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court, as described. (Welf. & Inst. Code, § 654, subd. (c).)

4) States that a probation officer with consent of the minor and the minor's parent or guardian may provide the following services in lieu of filing a petition:

   a) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide these services. The placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and the minor's family during this period of diversion services. Referrals for sheltered-care diversion may be made by the minor, the minor's family, schools, any law enforcement agency, or any other private or public social service agency.

   b) Maintain and operate crisis resolution homes, or contract with private or public agencies offering these services. The placement should be limited to 20 days during which period individual and family counseling shall be extended to the minor and the minor's family. Failure to resolve the crisis within the 20-day period may result in the minor's referral to a sheltered-care facility for a period not to exceed 90 days. Referrals shall be accepted from the minor, the minor's family, schools, law enforcement, or any other private or public social service agency.

   c) Maintain and operate counseling and educational centers, or contract with community-based organizations or public agencies to provide vocational training or skills, counseling and mental health resources, educational supports, and arts, recreation, and other youth development services. These services may be provided separately or in conjunction with crisis resolution homes to be operated by the probation officer. The probation officer shall be authorized to make referrals to those organizations when available.

   d) Refer an offense to a youth, peer, or teen court established and maintained by the probation officer or by a community-based organization, Indian tribe, tribal court, or private or public agency, to implement restorative justice practices designed to enable peer youth jurors to hear cases and make dispositions for offenses committed by youths. Such referral offenses may include, but are not limited to, infractions or misdemeanors specified in Education Code section 48900, or for any other violation the probation officer may determine appropriate for referral. (Welf. & Inst. Code, § 654, subd. (d).)

5) States that at the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and maintain a follow up report of the actual program measures taken. (Welf. & Inst. Code, § 654.)

6) Prohibits a student from being suspended from school or recommended for expulsion, unless the superintendent of the school district, or the principal of the school, determines that the student has committed any of the following offenses:

   a) Causing, attempting to cause, or threatening to cause physical injury to another person, or willfully using force or violence upon another person, except in self-defense;

   b) Possessing, selling, or otherwise furnishing a firearm, knife, explosive, or other dangerous object, unless the student had obtained prior written permission to possess the item;

   c) Unlawfully possessing, using, selling, or otherwise furnishing a controlled substance;

   d) Unlawfully offering, arranging, or negotiating to sell a controlled substance, alcoholic beverage, or an intoxicant of any kind;

   e) Committing or attempting to commit robbery or extortion;

   f) Causing or attempting to cause damage to school property or private property;

   g) Stealing or attempting to steal school property or private property;

   h) Possessing or using tobacco, or products containing tobacco or nicotine products;

   i) Committing an obscene act or engaging in habitual profanity or vulgarity;

   j) Unlawfully possessing or unlawfully offering, arranging or negotiating to sell drug paraphernalia;

   k) Disrupting school activities or otherwise willfully defying the authority of supervisors, teachers, administrators, school officials or other school personnel engaged in the performance of their duties. This subdivision does not apply to a student enrolled in kindergarten through grade 5; or to a student enrolled in grades 6 to 8 until July 1, 2025; and does not allow a student enrolled in grades kindergarten through 12th grade to be recommended for expulsion on this basis.

   l) Knowingly receiving stolen school property or private property;

   m) Possessing an imitation firearm;

   n) Committing or attempting to commit a sexual assault or sexual battery;

   o) Harassing, threatening, or intimidating a student who is a complaining witness or a witness in a school disciplinary proceeding in order to prevent the student from being a witness or retaliating against that student for being a witness, or both;

p) Unlawfully offering, arranging to sell, or negotiating to sell the prescription drug Soma;

q) Engaging in or attempting to engage in hazing;

r) Engaging in the act of bullying, including bullying committed by means of an electronic act;

s) Committing sexual harassment (grades 4 through 12 only);

t) Causing or attempting to cause, threatening to cause, or participating in, an act of hate violence (grades 4 through 12 only);

u) Engaging in harassment, threats, or intimidation against school district personnel or students that have the effect of disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or students by creating an intimidating or hostile educational environment (grades 4 through 12 only); and,

v) Making a terroristic threat against school officials, school property, or both. (Ed. Code, § 48900.)

7) Provides that it is the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and school wide positive behavior interventions and support, be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community. (Ed. Code, § 48900, subd. (w)(2).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Youth court diversion programs have been a proven alternative to the traditional court proceedings for first-time juvenile offenders. These programs see police departments partner with local high schools, district attorney offices, and courts to create a system for juveniles to go before a jury of their peers, holding first-time offenders accountable while also giving them opportunities for rehabilitation. While these programs have been proven successes, many counties and cities lack adequate funding to enact their own program. AB 2698 would authorize the Office of Youth and Community Restoration to establish a grant program for six counties in California to create a youth court diversion pilot program. This bill would ensure that first-time juvenile offenders are held accountable, while also fostering rehabilitation and civic engagement."

2) **Youth Peer Courts**: Youth courts, also known as peer courts, teen courts, and student courts, were first established in the state in the 1980s. According to the Judicial Branch of California's website, "Youth court, also known as peer court or teen court, is an alternative to the traditional juvenile justice system for young, nonviolent, first-time offenders. While youth court is under the supervision of a judge, it is youth-focused and youth-driven. The juvenile offender is given the option to waive any court hearings and to voluntarily

participate in youth court in place of more formal handling of their case by a traditional juvenile court. In most youth courts, the youth must admit wrongdoing or plead guilty or no contest to be eligible."[1]

Youth courts are not available in every county and existing youth courts operate using different models and requirements. Generally, youth court participants are referred by their school, probation, or law enforcement. The youth and their parent or guardian are given detailed information of what to expect from the process. The youth attends their court hearing and after the case is heard the youth is given a sentence or disposition by a jury of their peers. Once the youth completes their sanctions within the applicable time, the case would be closed and stay off their record. If they do not complete the sentence, the case may be sent back to the entity that referred the case.

This bill would require OYCR, upon appropriation by the Legislature, to provide one-time grants to six counties to create a youth court diversion program in their county. It is unclear from the bill's language which county agency or entity is responsible for opting into the program or whether a vote is needed by the board of supervisors in order to participate. The program is to sunset on January 1, 2030. The counties are to provide information on youths' successful participation and recidivism rates to OYCR. The bill is silent on whether OYCR is to publish a report containing this data or otherwise provide this data to the Legislature.

3) **Implementation Questions**: According to background information provided by the author's office, the pilot program created by this bill is modeled after a youth peer court program operated by the Bakersfield Police Department. The goal of this bill is not necessarily to create new youth peer court programs but to fund the programs that may already be in existence.

Because the bill is modeled after an existing program, the specificity that is provided in the language may not work for other counties that use different models. For example, some other youth peer court programs may wish to use a wider range of dispositions than is specified in this bill. Or some may wish to include other crimes or apply to any person who is still in high school even if they are older than 17 years. The other programs may also believe that having access to a cell phone during the proceedings, even if only by the student volunteers acting as prosecutor and defense attorney, would be a useful tool.

While the bill is very specific on certain aspects of the program, it is silent on several logistical issues such as how a case would be referred to the program, whether criminal proceedings are pending during the youth court proceedings, the level of the court's oversight over the proceedings, probation's role in monitoring the youth, among other implementation questions.

The author may wish to remove some of the more specific program requirements to allow for more variance in programs that would qualify for funding and may additionally need to provide more details on the role of county agencies in its implementation, if any. Opponents of the bill express concerns that diversion programs led by law enforcement, prosecutors, and

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[1] https://courts.ca.gov/programs-initiatives/collaborative-justice-courts/juvenile-collaborative-courts/peeryouth-courts-overview

probation partners risk further criminalization and would rather shift decision-making authority to trusted community-based providers and restorative processes that are better aligned with trauma-informed practice. They also argue that individualized, culturally responsive sanctions produce better results than standardized sanctions such as the ones specified by this bill.

4) **Argument in Support**: None submitted

5) **Argument in Opposition**: According to the *Center on Juvenile and Criminal Justice*, who is opposed unless amended, "Our concern with AB 2698, as currently structured, is that it centers diversion within court-supervised programs led by law enforcement, prosecutors, and probation partners, which risks reproducing adversarial system dynamics rather than shifting decision-making authority to trusted community-based providers and restorative processes that are better aligned with trauma-informed practice. It also relies on standardized sanctions (e.g., curfews, monitoring, essays, and service hours) instead of individualized, culturally responsive healing-centered supports and voluntary restorative engagement with harmed parties and community members—approaches that California has increasingly prioritized as best practice in youth diversion This framework reinforces system-centric approaches that are not aligned with current research on positive youth development. Evidence suggests that system-centered models are less effective—in terms of youth outcomes, public safety, and cost—than pre-arrest diversion programs that are community-based, trauma-informed, and culturally responsive.

   "Notably, the offenses covered by the bill are low-level. Routing these cases through formal court processes and introducing probation oversight risks unnecessary system involvement and net-widening— drawing more youth into the justice system rather than diverting them from it. The inappropriate expansion of probation supervision for low-level behaviors has, in some instances, been the subject of litigation. Moreover, the utilization of youth court models has been reported to be counterproductive and harmful to youth who are subjected to those proceedings, as they reinforce stigma and are not equipped to address the root of any maladaptive behavior. Additionally, the bill does not sufficiently center community-based providers or incorporate the full range of restorative, healing-centered diversion models that have demonstrated effectiveness in supporting youth and families.

   "Community-based alternatives not only improve youth outcomes and public safety, but are also more cost-effective than formal system involvement. Diversion reduces the need for prosecutors, judges, and probation resources, resulting in meaningful cost savings to the state. A meta-analysis by the Washington State Institute for Public Policy found that simple "warn and release" diversion approaches can yield net benefits of up to $10,000 per participant. These benefits reflect savings to taxpayers, reduced recidivism, and improved long-term economic outcomes for youth due to fewer disruptions in youth development, education, and employment pathways. This evidence underscores that diversion is a sound investment for jurisdictions with limited resources.

   "Moreover, trauma-informed and healing-centered practices help prevent further harm to youth who have already experienced adversity. Investments in front-end services—such as education, employment, and mental health support—reduce the likelihood of system involvement. Policies should prioritize closing service gaps and strengthening community capacity to address the underlying stressors that contribute to youth behavior. Stronger, more

resilient communities not only keep youth out of the justice system but also promote healthier and more productive futures."

6) **Related Legislation**:

   a) AB 2582 (Schultz) would require a person who commits prostitution with intent to receive compensation, money, or anything of value from another person to, for a first or second violation of those provisions, be offered a diversion program, if a program for which the defendant is eligible is available. AB 2582 is pending a hearing in the Assembly Appropriations Committee.

   b) AB 2217 (Zbur) would reauthorize, upon appropriation by the Legislature, law enforcement assisted prebooking diversion for specified offenses. AB 2217 is pending a hearing in the Assembly Appropriations Committee.

   c) AB 1231 (Elhawary) would authorize a court to exercise its discretion to grant pretrial diversion for felony offenses, except as specified. AB 1231 is pending vote on the Assembly Floor.

7) **Prior Legislation**:

   a) AB 1005 (Ashby), Chapter 179, Statutes of 2024, authorized a probation officer, with the consent of the minor and the minor's parent, to refer an offense to youth court for certain offenses.

   b) AB 2267 (Jones-Sawyer), of the 2023-2024 Legislative Session, would have reestablished the Youth Reinvestment Grant Program, to be administered by OYCR, for the purpose of implementing a mixed-delivery system of trauma-informed health and development diversion programs for youth, as specified. The bill would have created the Youth Reinvestment Fund to be used, upon appropriation by the Legislature, by the office for the purposes of the program and would have required applicants for the program to be nongovernmental agencies or tribal governments, as specified. AB 2267 was held in the Assembly Appropriations Suspense File.

   c) SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020, among other things created OYCR within the California Health and Human Services Agency and tasked OYCR with responsibility for (1) developing a report on youth outcomes; (2) identifying policy recommendations for improved outcomes and integrated programs and services to best support delinquent youth; (3) identifying and disseminating best practices to help inform rehabilitative and restorative youth practices, including education, diversion, re-entry, religious and victims' services; and (4) providing technical assistance as requested to develop and expand local youth diversion opportunities to meet the varied needs of the delinquent youth population, including but not limited to sex offender, substance abuse, and mental health treatment.

REGISTERED SUPPORT / OPPOSITION:

Support

None submitted

Opposition

ACLU California Action
All of US or None (HQ)
Alliance for Boys and Men of Color
California Alliance for Youth and Community Justice
California Coalition for Women Prisoners
California Public Defenders Association
California United for a Responsible Budget (CURB)
Californians for Safety and Justice (CSJ)
Center on Juvenile and Criminal Justice
Centinela Youth Services
Communities United for Restorative Youth Justice (CURYJ)
Community Agency for Resources Advocacy and Services
Ella Baker Center for Human Rights
Fresh Lifelines for Youth (FLY)
Haywood Burns Institute
Hoops 4 Justice
Initiate Justice
Justice2jobs Coalition Sacramento
LA Defensa
Legal Services for Prisoners With Children
Live Free USA
Loyola Law School's Youth Justice Education Clinic
Milpa (motivating Individual Leadership for Public Advancement)
Santa Cruz Barrios Unidos
Sister Warriors Freedom Coalition
The California Youth Justice Project
The Collective for Liberatory Lawyering
The Collective Healing and Transformation Project
Underground Grit
Urban Peace Movement
Youngsters for Change
Youth Forward

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Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2701 (Jeff Gonzalez) – As Amended March 25, 2026

SUMMARY: Establishes the Domestic Violence Offender Registration Act. Specifically, **this bill**:

1) States that the Department of Justice (DOJ), subject to an appropriation from the Legislature, shall create and maintain a domestic violence offender registration database, and develop regulations, forms, and protocols necessary to implement the provisions of this bill.

2) Defines "registerable offense" to mean a conviction, for an offense committed on or after January 1, 2027, of any of the following:

    a) Willful infliction of corporal injury, as specified;

    b) Murder, attempted murder, or voluntary manslaughter, if the conviction involves domestic violence;

    c) A crime involving domestic violence, in conjunction with a conviction of any of the following:

        i) Enhancement for personal use of a firearm, machine gun, or assault weapon during the commission of a felony;

        ii) 10-20-life firearm enhancement;

        iii) Enhancement for causing great bodily injury (GBI);

        iv) Enhancement for personal use of a firearm during the commission of a felony;

        v) Willful harm or injury to a child under circumstances or conditions likely to produce GBI or death;

        vi) Threatening a witness;

        vii) Mayhem;

        viii) Kidnapping;

        ix) Robbery;

        x) Assault with intent to commit mayhem;

xi) Human trafficking;

xii) Assault and battery as specified;

xiii) Felony criminal threats;

xiv) Arson;

xv) Burglary;

xvi) Extortion;

xvii) Possession of substances or materials with intent to make a destructive device;

xviii) Conspiracy to commit any of the offenses listed above; or,

xix) Attempt to commit any of the offenses listed above.

3) Requires an offender convicted of a registerable offense to register with the law enforcement agency having jurisdiction over the residence where they reside within 10 days of each of the following:

   a) Release from custody;

   b) Change in residence;

   c) Establishing residence;

   d) Change of employment; or,

   e) Change in legal name.

4) Requires the registration to include the following information:

   a) Full legal name, including any aliases;

   b) Current address;

   c) Telephone number;

   d) Data of birth;

   e) Place of birth;

   f) Photograph;

   g) Fingerprints;

   h) Summary of qualifying offense;

i) Employment or school information, if applicable;

j) Physical description that includes gender and race;

k) Criminal history;

l) Community of residence;

m) ZIP code of the county where the person is registered as transient; or,

n) Any other information that DOJ deems relevant.

5) Requires DOJ to make available information concerning persons required to register to the public on an internet website, update the website on an ongoing basis, and have the website translated into languages other than English.

6) States that all information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the website.

7) States that the name or address of the person's employer and the listed person's criminal history other than the specific crimes for which the person is required to register shall not be included on the website.

8) Makes a person who uses information disclosed pursuant to the requirements of this bill to commit a misdemeanor, in addition to any other penalty or fine imposed, subject to a fine of not less than $10,000 and not more than $50,000; for a felony a person would be subject to an additional and consecutive term of 5 years imprisonment.

9) Authorizes a person to use information disclosed for purposes of the registry only to protect a person at risk.

10) Prohibits the use of the information disclosed for purposes of the registry for any of the following:

a) Health insurance;

b) Insurance;

c) Loans;

d) Credit;

e) Employment;

f) Education, scholarships, or fellowships;

g) Housing or accommodations; or,

h) Benefits, privileges, or services provided by any business establishment.

11) States that any use of information disclosed in the registry for purposes other than those allowed in the bill, shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than $250, attorney's fees, exemplary damages, or a civil penalty not exceeding $25,000.

12) Authorizes a civil action to be brought against any person or group of persons if there is reasonable cause to believe they have engaged in a pattern or practice of misuse of the information available in the registry.

13) Provides that a designated law enforcement entity and its employees are immune from liability for good faith conduct.

14) Requires the Attorney General, in collaboration local law enforcement and others knowledgeable about domestic offenders, to develop strategies to assist members of the public in understanding and using publicly available information about domestic violence offenders to further public safety. These strategies may include, but are not limited to, a hotline for community inquiries, neighborhood and business guidelines for how to respond to information posted on its internet website, and any other resource that promotes public education about these offenders.

15) Specifies that the duration of registration is as follows:

   a) 10 years for an offense that does not result in a prison sentence. Any additional qualifying registerable offense, either during or after the preceding term, will result in a new 10-year term to be imposed.

   b) 20 years for an offense resulting in a state prison sentence, or an offense involving a deadly weapon, great bodily injury, or a child victim. Any additional qualifying registerable offense, either during or after the preceding term, will result in a new 20-year term to be imposed.

16) Authorizes an offender to petition for removal from the registry before serving the requisite terms if they demonstrate rehabilitation and no new qualifying offenses or if they are exonerated.

17) States that a removal from the registry is at the court's discretion and requires notice of the petition to be served on the registering law enforcement agency and the district attorney in the county where the petition is filed and on the law enforcement agency and the district attorney of the county of conviction of a registrable offense if different than the county where the petition is filed.

18) Requires the registering law enforcement agency and the law enforcement agency of the county of conviction of a registerable offense if different than the county where the petition is filed, within 60 days of receipt, report to the district attorney and the superior or juvenile court in which the petition is filed whether the person has met the requirements for termination.

19) Provides that if the district attorney requests a hearing, the district attorney shall be entitled to present evidence regarding whether community safety would be significantly enhanced by requiring continued registration.

20) States that in determining whether to order continued registration, the court shall consider all of the following:

    a) The nature and facts of the registerable offense;

    b) The age and number of victims;

    c) The person's criminal and relevant noncriminal behavior before and after conviction for the registerable offense;

    d) The time period that the person has not reoffended; and,

    e) The person's current risk of domestic violence reoffense.

21) States that a judicial determination made pursuant to this subdivision may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties that is reliable, material, and relevant.

22) States that if termination from the registry is denied, the court shall set the time period after which the person can repetition for termination. That time period shall be at least one year from the date of the denial, but shall not exceed five years, based on facts presented at the hearing. The court shall state on the record the reason for its determination setting the time period after which the person may re-petition.

23) Requires the court to notify DOJ when a petition for termination from the registry is granted, denied, summarily denied, in a manner prescribed by DOJ. If the petition is denied, the court shall also notify the department of the time period after which the person can file a new petition for termination.

24) Requires local agencies and the court to create a database to maintain registration requirement required by this bill.

25) Requires DOJ to notify law enforcement agencies, courts and state and local agencies responsible for victim services when the database required by this bill is operable. Following this notification, entities shall have six months from the date of the notification to provide the registration information required by this bill. After six months from the date of the notification, information collected and stored by local agencies or the court shall be transmitted to DOJ within three working days of receipt.

26) Provides that an offender who knowingly fails to register, update, or provide accurate information shall be guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed one year.

27) Specifies that each failure to register or update shall constitute a separate offense.

28) Contains a severability clause.

EXISTING LAW:

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

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

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

4) Requires a sex offender to register for ten years, 20 years, or for a lifetime, depending on the offense. (Pen. Code, § 290, subd. (c)(1)-(2), (d).)

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

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

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

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

9) States that DOJ shall be immediately notified of the contents of protective orders including temporary, criminal court, domestic violence protective orders, and injunctions relating to

harassment, unlawful violence, or threat of violence, immediately upon issuance. (Fam. Code, § 6380, subd. (b).)

10) Requires each county to develop a procedure using existing systems for electronic data transmission to the DOJ. Law enforcement, court, or other appropriate agency personnel shall enter the data electronically and transmit the data to the California Law Enforcement Telecommunications System (CLETS). The court or its designee must transmit all data filed, with respect to protective orders, to law enforcement personnel within one business day by one of the following methods:

    a) Transmitting a physical copy of the order to a local law enforcement agency authorized to enter orders into CLETS; or,

    b) With the approval to DOJ, entering the order into CLETS directly. (Fam. Code, § 6380, subd. (a).)

11) Requires all available information be included; however, the inability to provide all categories of information shall not delay the entry of information available:

    a) Names of the protected persons;

    b) Date of issuance of the order;

    c) Duration or expiration date of the order;

    d) Terms and conditions of the protective order, including stay-away, no-contact, residency exclusion, custody, and visitation provisions of the order;

    e) Department or division number and the address of the court;

    f) Whether or not the order was served upon the respondent; and,

    g) Terms and conditions of any restrictions on the ownership or possession of firearms. (Fam. Code, § 6380, subd. (b)(1)-(8).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Domestic violence remains one of the most pervasive and devastating forms of violence in our communities. Those who repeatedly commit severe acts of abuse and pose an ongoing threat to public safety. This bill seeks to address that issue by establishing a Domestic Violence Registry limited to the most serious offenders. AB 2701 is a narrowly tailored approach that ensures victims are protected and registrants are not subject to prejudicial practices. Domestic violence prevention is focused on education and awareness and therefore, a tool that provides real-time information is needed. Survivors of domestic violence often live with the constant fear of re-victimization. This bill aims to reduce that fear by ensuring that high-risk offenders are more closely monitored and that systems are in place to respond proactively."

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

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

   Generally, punishment for domestic violence is a wobbler. A "wobbler" is a crime that can charged as, and result in a conviction for, a felony or a misdemeanor. Wobblers give prosecutors and judges a measure of discretion in case dispositions. A district attorney has the discretion to charge a "wobbler" as a felony or a misdemeanor. If a defendant is charged with a felony for a crime that is a "wobbler," a judge can, under certain circumstances, reduce the charge to a misdemeanor or sentence the defendant to a misdemeanor.

   A person who is granted probation for a crime against a domestic violence victim is subject to specified mandated probation terms including a minimum term of 3 years' probation, the issuance of a criminal protective order protecting the victim, notice to the victim of the disposition of the case, booking the defendant within one week of sentencing if they have not already been booked, specified fees, and successful treatment of a batterer's program. (Pen. Code, § 1203.097.)

   Generally, a restraining order is public record and is searchable through the county court. Additionally, courts and law enforcement are able to see restraining orders either through the California Courts Protective Order Registry (CCPOR) or CLETS. Additionally, conviction information is also accessible by the public through a number of ways including a private background check.

3) **Effect of this Legislation: Sex Offender Registry Compared**: This bill would create a new publicly available registry for offenders who have committed domestic violence offenses or other specified offenses "involving domestic violence." California law establishes several

other registries based on a person's conviction for specified offenses. The only one that is available to the public is the sex offender registry.

California's sex offender registry was established in 1947 and started as a tool for law enforcement. In 1996, California enacted "Megan's Law" allowing the public to access an address list of registered sex offenders. Before 2003, members of the public could only obtain the information on the Megan's Law list by calling a "900" number or visiting certain designated law enforcement agencies and reviewing a CD-ROM. However, in 2003, California required the DOJ to put the Megan's Law list of offenders on a public access website with the offender's address, photo and list of offenses. (See Pen. Code, § 290.46, subd. (a).) For some offenders with less serious offenses, only their ZIP code is listed.

Historically, the sex offender registry required lifetime registration for persons convicted of specified sex crimes. In 2017, California modified its sex registry to a three-tiered registration system based on seriousness of the crime, risk of sexual reoffending, and criminal history. (SB 384 (Wiener), Ch. 541, Stats. 2017.) The recommendation to move to a tiered system came from the California Sex Offender Management Board's 2010 recommendations report.[1] According to the committee's analysis for the bill which started off as SB 421 (Wiener) of that same year:

> Based on a survey of several municipal law enforcement agencies in California, it is estimated that local law enforcement agencies spend between 60-66% of their resources dedicated for sex offender supervision on monthly or annual registration paperwork because of the large numbers of registered sex offenders on our registry. If we can remove low risk offenders from the registry it will free up law enforcement officers to monitor the high risk offenders living in our communities. Law enforcement cannot protect the community effectively when they are in the office doing monthly or annual paperwork for low risk offenders, when they could be out in the community monitoring high risk offenders. Furthermore, the public is overwhelmed by the number of offenders displayed online in each neighborhood and do not know which offenders are considered low risk and which offenders are considered high risk and therefore truly dangerous.

(Sen. Com. on Public Safety, Analysis of Senate Bill No. 421 (2017-18 Reg. Sess.) as amended Apr. 17, 2017, p. 9.) A tier one offender is someone who is required to register for a misdemeanor sex offense or a felony conviction that is not a serious or violent felony. Tier one requires a person to register for a minimum of 10 years. (Pen. Code, § 290, subd. (d)(1).) A tier two offender is a person who is required to register for a felony that is defined as a serious or violent felony or other specified sex offenses, unless the person is otherwise required to register under tier three. Tier two requires a person to register for a minimum of 20 years. (Pen. Code, § 290, subd. (d)(2).) A tier three offender is a person who is convicted of a specified offense or under the One-Strike Sex Law, or is designated as a sexually violent predator or habitual sex offender, in addition to other qualifying offenses and circumstances. (Pen. Code, § 290, subd. (d)(3).)

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

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

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

This bill would create a new publicly available domestic violence registry. Similar to the sex offender registry, persons required to register would have to register with local law enforcement on a yearly basis, with additional reporting required upon changing residence or employment. A failure to register would be a new crime. Unlike the sex offender registry where the listed convictions requiring registration are sex crimes in and of themselves, this new registry would include persons who have been convicted of specified offenses as well as persons who are convicted of a large list of offenses that "involve domestic violence." The bill does not define what the term means for purposes of requiring registration or whether there would be a notation in the person's record of conviction or criminal history indicating that this is a conviction for which registration is required. Further, the bill does not specify that the domestic violence involved crime must be pled and proved, thus it is unclear how the local law enforcement agency would have notice that this person is required to register.

Generally, a person who is required to register as a sex offender is given notice of their duty to register during court proceedings and prior to release from custody by law enforcement. This bill does not provide whether the court would have to order the defendant to register at the time of sentencing, or if they would receive notice from a law enforcement agency upon release.

Existing law also places limits on where a registered sex offender may live and work, with particular focus on limiting access to children or other vulnerable people. Having registrants report such information to the local law enforcement agency helps to ensure these limitations are being complied with. Comparatively, persons convicted of domestic violence offenses do not have general residence or employment restrictions. If they are subject to probation or parole supervision, they would already have to report their residence and any employment to the supervising agency.

The bill also creates a termination of registration process similar to sex offender registration termination. The bill would allow a person to petition for early removal from the registry and allows a prosecutor to request a hearing to ask for registration continue. This bill lists some of the same factors that is used to determine whether sex offenders should continue to

register beyond the minimum statutory timeframe, such as the facts of the underlying offense and the age of the victim and any relevant behavior after the conviction – but does not include other factors such as any risk assessments or consideration of whether the person completed any treatment. Because the factors listed in this bill are less comprehensive than what is required under the sex offender registration law, judges may have less guidance on when to extend registration and lead to wide inconsistencies.

As discussed above, the sex offender registry was overloaded with registrants which resulted in law enforcement spending a disproportionate amount of time on registration paperwork and supervision of a large group of people without any focus on who actually posed a threat to public safety.[2] This bill would require, in addition to DOJ creating and maintaining a domestic violence offender database, local agencies and the court to create and maintain a domestic violence offender database and to take on duties that are incumbent on the registering agency. Due to the expansive list of convictions and related domestic violence conduct this bill would cover, the list of persons required to register on the registry would likely be expansive and pose the same resource issues and dilution of useful data that led to the need to reform the sex offender registry law.

4) **What Makes Survivors Feel Safe:** From a domestic violence survivor's perspective, increased interaction with law enforcement is often not the preferred response or support most often needed. A 2025 statewide survey conducted by Blue Shield of California Foundation revealed that 63 percent reported having a personal connection to domestic violence, either directly or through friends and family and 31 percent identified as a survivor of domestic violence.[3] Among survivors, the survey indicated that the top priorities for making survivors feel safe include the freedom to make decisions that are best for them and their families, being financially stable or having financial support while the survivor is stabilized, and having an affordable, safe place to live.[4] Comparatively, the survey indicated that the lowest priorities included having support from local police and having their partner go to jail.[5]

   The National Network to End Domestic Violence published an article discussing domestic violence offender registries noting the unintended and harmful consequences of such public registries.[6] These include creating a chilling effect on involving law enforcement due to being concerned for their own privacy as well as not wanting a public wall of shame as an accountability option. Additionally, safety risks for the survivor are particularly likely to escalate when the abuser loses employment or opportunities for treatment.

5) **Domestic Violence Registry in Other States**: Tennessee became the first state to establish a domestic violence offender registry, which went into effect January 1, 2026.[7] The law

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[2] In 2017 when SB 421 was being considered, approximately 100,000 people were required to register as sex offenders.
[3] Californians' Needs and Experiences with Domestic Violence, Equity, and Safety, Results from a Statewide Survey, Blue Shield California Foundation (Oct. 2025) available at Californians-Needs-Experiences-DV-Equity-Safety-PerryUndum-2025.pdf.
[4] *Id.* at p. 24.
[5] *Ibid.*
[6] Safety Net Project, National Network to End Domestic Violence, Thinking Critically About Domestic Violence Offender Registries — Safety Net Project (May 2016).
[7] See https://www.billtrack50.com/billdetail/1822523

requires the registration of a "persistent domestic violence offender" which is defined as someone who has been convicted of at least two offenses committed against a domestic violence victim. The court is required to determine whether a person meets the requirements to require registration. The duration of registration depends on the number of convictions: 5 years for one prior conviction, 7 years for two prior convictions, 10 years for three prior convictions, and 20 for four or more prior convictions. The person is automatically removed after the specified period.

This bill would require a 10- or 20- year registration period based on a single conviction. Unlike the Tennessee law, this bill does not require the court to make specified findings to ensure a person should be required to register. Additionally, the person would not be automatically removed from the registry at the end of the statutory period – the registration term may be extended for another 10- or 20-year term for a new qualifying offense.

6) **Argument in Support**: According to the *Riverside County District Attorney's Office*, the sponsor of this bill: "This legislative measure would establish a new registry similar to PC 290 (sex registrants) to track and monitor persons convicted of certain domestic violence offenses.

"Domestic violence remains a widespread public safety issue. According to the Federal Bureau of Investigation's 'Domestic Relationships and Violent Crimes, 2020-2024' report, from 2020 through 2024, the national percentage of violent crimes involving domestic relationships increased every year. While California has experienced a decrease in reported domestic violence incidents, the Public Policy Institute of California reported an upward trend of these incidents involving aggravated assault and weapons, such as knives and firearms.

"By providing real-time access to registrant data, to include physical descriptors, criminal history, and location, this legislative measure gives responding officers critical context when approaching potentially volatile domestic violence calls. This enhanced awareness improves risk assessments and can help prevent officer injury or death.

"To be clear, AB 2701 does not intend to illuminate low-level domestic violence offenders. This measure seeks to target serious and aggravated offenders only. Assembly Bill 2701's focus on felony domestic violence with serious aggravators (e.g., weapon use, great bodily injury) ensures that registry requirements are proportionate to public safety risk, not universal for all offenders."

7) **Argument in Opposition**: According to the *California Partnership to End Domestic Violence*: "While we recognize that this bill is well-intentioned, we believe it will harm survivors and that it does not, in any way, accomplish its stated goal of preventing domestic violence. Rather, as an expensive and ineffective distraction from the things we know prevent domestic violence and improve survivor well-being, this bill would be a step in the wrong direction for this state with regard to how it approaches the critical problem of domestic violence.

"This bill is not reflective of the interests of survivors across California, would list many survivors who have been criminalized as a result of the violence they have experienced, and would decrease reporting of domestic violence by exacerbating the fears that keep many

domestic violence survivors from leaving their abusive situations. It would also be duplicative and not comprehensive, and would promote a false sense of security for those who use it. For these reasons, we strongly oppose this legislation.

"Domestic violence is preventable, multifaceted, and widespread. More than 30% of Californians identify as survivors. This public health crisis can be prevented by teaching safe and healthy relationship skills; engaging influential adults and peers; disrupting developmental pathways towards violence; creating protective environments, strengthening economic supports for families, and supporting survivors to increase safety and lessen harms. Despite what we know about how to reduce domestic violence, the state of California does not allocate any funding for domestic violence prevention. The financial resources required for the state to build and maintain a database would be far better spent by addressing root causes of violence and supporting community and statewide prevention work.

. . . .

"While the intention of a domestic violence registry is to list domestic violence offenders, unfortunately, we know that many survivors of domestic violence would be listed in such a registry. Studies show that most women in detention centers have experienced intimate partner violence, and their abuse is often related to why they were incarcerated. Survivors are frequently arrested for defending themselves from their abusive partners or for reasons related to their coercion. We frequently hear of cases where survivors are not believed over their abusive partners, especially when the survivor does not speak fluent English and the abusive partner does. In a 2015 survey conducted by the National Domestic Violence Hotline, 2 in 5 survivor respondents who had called the police after experiencing domestic violence reported that they felt that police had discriminated against them, and 1 in 4 reported being arrested or threatened with arrest by police responding to their reports. We fear that a domestic violence registry would list many of these survivors, severely impairing their road to healing.

. . . .

"We also fear that a registry might also chill reporting by exacerbating the existing fear of financial consequences that survivors experience when considering reaching out for help. Survivors are often dependent on their abusive partners for financial support, both before and after they leave. Child and spousal support are often key elements in how survivors begin to cover and support themselves and their children. Even so, we know that 74,000 survivors of domestic violence and 24,000 children of survivors were homeless in 2024. The fear of homelessness and poverty keeps survivors trapped, and evidence from the sex offender registry shows that being listed on such registries causes significant barriers to securing housing and employment; a significant percentage of those listed on California's sex offender registry are homeless. We can assume, based upon this data, that many survivors would be aware of the risk of their partners being listed on the registry and would hesitate even more to report to law enforcement and others."

8) **Related Legislation**: AB 2344 (Haney) would create an animal abuse registry requiring persons convicted of felony animal abuse to register for a period of 10 years from the date of conviction. AB 2344 is pending hearing in this Committee.

9) **Prior Legislation**: AB 488 (Parra), Chapter 745, Statutes of 2004, required DOJ to make specified information about sex offenders available to the public on its internet website.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
Peace Officers Research Association of California (PORAC)
Riverside County District Attorney

Opposition

ACLU California Action
All of US or None (HQ)
Alliance for Boys and Men of Color
American Nurses Association/california
Asian Women's Shelter
California Coalition for Women's Prisoners
California Partnership to End Domestic Violence
California Public Defenders Association
Californians for Safety and Justice (CSJ)
Californians United for a Responsible Budget
Courage California
Ella Baker Center for Human Rights
Futures Without Violence
Glide
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Los Angeles Dependency Lawyers, INC.
Los Angeles Lgbt Center
Loyola Law School, the Sunita Jain Anti-trafficking Initiative
Public Counsel
Rubicon Programs
San Francisco Public Defender
San Quentin Skunkworks
Shelter From the Storm, INC.
Smart Justice California, a Project of Beyond Impact
Strong Hearted Native Women's Coalition, INC.
The Collective Healing and Transformation Project
The W. Haywood Burns Institute
Western Center on Law & Poverty
Woman INC
Youth Leadership Institute

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Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2727 (Nguyen) – As Amended March 9, 2026

As Proposed to be Amended in Committee

SUMMARY: Changes the threshold eligibility for the Elderly Parole Program for specified sex crimes. Specifically, **this bill**:

1) Provides that a person sentenced for a one-strike sex offense, as a habitual sex offender, for aggravated sexual assault of a child, or for specified sex acts on a child 10 years of age or younger, is ineligible for elderly parole until the person is 65 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence.

2) Extends to the Executive Officer of the Board of Parole Hearings (BPH) the authority to refer an individual, at least six months prior to that individual's scheduled release date, for an evaluation to determine if the person has a diagnosed mental health disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody.

3) Adds that the referral by the Secretary of the Department of Corrections and Rehabilitation (CDCR) or the Executive Officer of BPH for the evaluation may be made less than six months prior to the person's scheduled release date if the scheduled release date is less than four months after the decision to grant parole is made or if the incarcerated person will be scheduled for a parole hearing in the next six months.

4) Eliminates the limitation that a referral for a sexually violent predator (SVP) evaluation for an individual in CDCR custody be for an individual serving a determinate term.

5) Provides that the provisions of this bill granting the Executive Officer of BPH referral authority, and adding additional grounds for referring an incarcerated person for an evaluation less than six months prior to their scheduled release date, apply retroactively to any individual in CDCR's custody on or after the effective date of the bill, regardless of the date the individual's sentence was imposed or the date the underlying offense was committed.

6) Makes conforming changes.

EXISTING LAW:

1) Establishes the Elderly Parole Program, to be administered by BPH, for purposes of reviewing the parole suitability of any inmate who is 50 years of age or older and has served a minimum of 20 years of continuous incarceration on the inmate's current sentence, serving either a determinate or indeterminate sentence. (Pen. Code, § 3055, subd. (a).)

2) Requires BPH, when considering the release of an inmate, as specified, to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence. (Pen. Code, § 3055, subd. (c).)

3) States that an individual who is subject to this section shall meet with BPH pursuant to subdivision (a) of Section 3041. (Pen. Code, § 3055, subd. (e).)

4) Requires BPH, if an inmate is found suitable for parole under the Elderly Parole Program, to release the individual on parole, as specified. (Pen. Code, § 3055, subd. (e).)

5) Requires BPH, if parole is not granted, to set the time for a subsequent elderly parole hearing, as specified, and provides that no subsequent elderly parole hearing shall be necessary if the offender is released pursuant to other statutory provisions prior to the date of the subsequent hearing. (Pen. Code, § 3055, subd. (f).)

6) Provides the following exceptions to the Elderly Parole Program:

   a) Persons who had a prior conviction for a serious or violent felony;

   b) Persons who were sentenced to life in prison without the possibility of parole or death; or,

   c) Persons convicted of first-degree murder of a peace officer, as defined, who was killed while engaged in the performance of their duties, and the individual knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of their duties, or the victim was a peace officer or a former peace officer and was intentionally killed in retaliation for the performance of their official duties. (Pen. Code, § 3055, subd. (g) & (h).)

7) Provides that the provisions of the Elderly Parole Program do not alter the rights of victims at parole hearings. (Pen. Code, § 3055, subd. (i).)

8) Provides that one year before the inmate's minimum eligible parole date a panel of two or more commissioners or deputy commissioners shall again meet with the inmate and shall normally grant parole, as specified. (Pen. Code, § 3041, subd. (a)(2).)

9) Provides that, upon a grant of parole, the inmate shall be released subject to all applicable review periods, except an inmate shall not be released before reaching his or her minimum eligible parole date, as specified, unless the inmate is eligible for earlier release under their youth offender parole eligibility date or elderly parole eligibility date. (Pen. Code, § 3041, subd. (a)(4).)

10) Requires BPH to grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)

11) Provides for, under the One Strike Sex Offense statute, a mandatory sentence of 15-years-to-life or 25-years-to-life if a person is convicted of one of the several specified felony sex

offenses under one or more circumstances, as provided. (Pen. Code, § 667.61, subds. (b)-(e).)

12) Provides for a sentence of 25-years-to-life for any person who has previously been convicted of one or more of the following offenses and who is convicted in the present proceeding of one of these offenses:

a) Rape by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury, or threat to retaliate in the future;

b) Rape of a spouse by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury, or threat to retaliate in the future;

c) Rape or sexual penetration, in concert;

d) Lewd or lascivious act on a child under 14, and lewd or lascivious act on a child under 14 by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury;

e) Sexual penetration, by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury or sexual penetration of a person who is under 14 years of age and who is more than 10 years younger;

f) Continuous sexual abuse of a child;

g) Sodomy of a person who is under 14 years of age and more than 10 years younger, or in concert;

h) Oral copulation of a person who is under 14 years of age and more than 10 years younger, or in concert;

i) Kidnapping with intent to commit a lewd and lascivious act on a child under 14;

j) Kidnapping to commit specified sex offenses;

k) Kidnapping with intent to commit rape, oral copulation, sodomy, or other specified sex offense;

l) Aggravated sexual assault of a child; or,

m) An offense committed in another jurisdiction that includes all of the elements of one of the above offenses. (Pen. Code, § 667.71, subds. (a)-(c).)

13) Provides that any person who commits any of the following acts upon a child who is under 14 years of age and seven or more years younger than the person is guilty of aggravated sexual assault of a child and shall be sentenced to state prison for a term of 15 years to life:

a) Rape, as specified;

b) Rape or sexual penetration, in concert, as specified;

c) Sodomy, as specified;

d) Oral copulation, as specified;

e) Sexual penetration, as specified. (Pen. Code, § 269, subds. (a) & (b).)

14) Provides that any person 18 years of age or older who engages in sexual intercourse or sodomy with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for a term of 25 years to life. (Pen. Code, § 288.7, subd. (a).)

15) Provides that any person 18 years of age or older who engages in oral copulation or sexual penetration, as defined, with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for a term of 15 years to life. (Pen. Code, § 288.7, subd. (b).)

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

17) Provides that, if the victim of an underlying specified offense is a child under the age of 14, the offense shall constitute a "sexually violent offense." (Welf. & Inst., § 6600.1.)

18) When the Secretary of CDCR determines that an individual who is in custody under CDCR's jurisdiction, who is either serving a determinate prison sentence or whose parole has been revoked, and who is not in custody for the commission of a new offense committed while the individual was serving an indeterminate term in a state hospital as a sexually violent predator, may be a sexually violent predator, the secretary shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of their sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the secretary may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date. (Welf. & Inst., § 6601, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "When someone preys on children, the impact is devastating and it stays with victims for life. Recent cases, including the David Funston case, have raised serious concerns about how California's elderly parole program is being applied, especially when it comes to individuals convicted of violent sexual offenses against children.

   "That's why I introduced AB 2727. It takes a more targeted approach and draws a clear line

for the most serious sexual offenses, including cases involving multiple victims, while raising the bar for others before they can even be considered for release. It also strengthens the process by requiring referral for a sexually violent predator evaluation prior to release consideration. At the end of the day, this is about protecting our communities and making sure the most serious crimes are treated with the seriousness they deserve."

2) **Elderly Parole Program:** As the result of severe prison overcrowding, the Three-Judge Court ordered CDCR to implement several population reduction measures, including to "[f]inalize and implement a new parole process whereby inmates who are 60 years of age or older and have served a minimum of twenty-five years of their sentence will be referred to the Board of Parole Hearings to determine suitability for parole." (February 10, 2014 Order, 2:90-cv-0520 LKK DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown.*) In response to the order, BPH created the Elderly Parole Program and began holding elderly parole hearings on October 1, 2014. Inmates with determinate terms as well as those sentenced to life with the possibility of parole are eligible for the program.[1] Inmates who are sentenced to life without the possibility of parole, or who are sentenced to death, are not eligible for the program.[2]

   AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program. However, AB 1448 narrowed the eligibility criteria by excluding individuals who were sentenced pursuant to "Three Strikes" or who were convicted of first-degree murder of a peace officer from the Elderly Parole Program. (Pen. Code, § 3055, subds. (g) & (h).) AB 3234 (Ting), Chapter 334, Statutes of 2020, expanded the eligibility criteria for elderly parole. Specifically, AB 3234 lowered the minimum age at which an incarcerated individual is eligible for elderly parole from 60- to 50-years-old and the amount of time that must be served from 25 years to 20 years. Incarcerated individuals who meet the eligibility criteria of the court-ordered Elderly Parole Program but who are excluded from the statutory Elderly Parole Program are eligible for elderly parole consideration under the court-ordered program.[3]

3) **Effect of this Bill:** This bill provides that person sentenced for a one-strike sex offense, as a habitual sex offender, for aggravated sexual assault of a child, or for specified sex acts on a child 10 years of age or younger, is ineligible for elderly parole until the person is 65 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence.

   It is worth noting that some incarcerated individuals who are currently eligible for elderly parole were already in the parole suitability hearing cycle based on their original minimum eligible parole date (MEPD). The parole eligibility of these individuals is not based on their inclusion in the Elderly Parole Program as their sentences have always permitted an opportunity for parole. Similarly, there are incarcerated individuals who are eligible for parole but not yet in the parole suitability hearing cycle because they have not reached their MEPD. Irrespective of inclusion in the Elderly Parole Program, these individuals will have an opportunity for parole once they have reached their MEPD. This means that even if

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[1] https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview/
[2] *Ibid.*
[3] BPH, *Elderly Parole Fact Sheet* (Mar. 2022), p. 1 <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2022/03/Elderly-Parole-Fact-Sheet3_18-1.pdf> [as of Mar. 30, 2026].

certain categories of offenders are excluded from the Elderly Parole Program, the incarcerated individual will have parole hearings upon reaching their MEPD if the person otherwise has a sentence that permits parole (i.e., a sentence other than life without the possibility of parole or death).

Inclusion in the Elderly Parole Program may affect when an incarcerated individual has their initial parole hearing. However, inclusion in the Elderly Parole Program does not mean that an incarcerated individual will automatically be released from prison solely because the person meets the eligibility criteria for the program.

4) **General Overview of the Parole Process:** This bill would delay the time persons convicted of specified sex crimes are eligible for elderly parole. Notably, a person eligible for elderly parole does not mean they are suitable for parole, but rather that they are eligible for a hearing to determine their suitability.

BPH is required to hold a hearing on a person's suitability for parole one year before the person's MEPD to determine if the person should be released from prison. (Pen. Code, § 3041, subd. (a)(2).) Existing law requires BPH to grant parole unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)

The Elderly Parole Program requires BPH "to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence, when considering the release of an inmate." (Pen. Code, § 3055, subd. (c).) BPH can consider all relevant, reliable information available. (Cal. Code Regs., tit. 15, § 2281, subd. (b).) Factors showing unsuitability include, among others, whether the person abused their victim during the offense or the offense was exceptionally cruel or callous; and, whether the person has an unstable social history, committed a sadistic sexual offense, demonstrates a lack of remorse, or has engaged in serious misconduct while incarcerated. (Cal. Code Regs., tit. 15, § 2281, subd. (c).) Circumstances tending to show suitability include, among others, a stable social history, signs of remorse, age, understanding and future plans, and positive institutional behavior. (Cal. Code Regs., tit. 15, § 2281, subd. (d).) Regardless of the length of time served, a person must be found unsuitable for and denied parole if BPH determines that the person poses an unreasonable risk of danger to society if released from prison. (Cal. Code Regs., tit. 15, § 2281, subd. (a).)

Existing law also requires a person convicted of sexually violent offense and up for parole to undergo a comprehensive risk assessment for sexual offenders. (Pen. Code, § 3053.9.) The risk assessment is conducted by licensed psychologist employed by BPH who consider factors impacting the person's risk of violence. (*Ibid.*)

If found suitable for parole, a person released from custody is subject to supervision. Persons who are eligible for release under this bill are subject to parole supervision for at least 10 years, and could even receive lifetime parole under certain circumstances. (Pen. Code, §§ 3000, subd. (b)(3); 3001.01, subd. (d)(1); 3000.1, subd. (a)(2).) Existing law requires BPH, within 10 days following any decision granting parole, to send the incarcerated person a written statement setting forth the reason or reasons for granting parole, the conditions the person must meet in order to be released, and the consequences of failure to meet those

conditions. (Pen. Code, § 3041.5, subd. (b)(1).) Existing law provides that the parole agency can impose additional and appropriate conditions of supervision if the person violated a parole condition. (Pen. Code, § 3000.08, subd. (d).) Failure to comply with the conditions of parole could result in parole revocation and return to custody. (Pen. Code, § 3000.08, subd. (f)(1).)

5) **Sexually Violent Predator Act (SVPA):** Enacted in 1996, the SVPA authorizes an involuntary civil commitment of any person "who has been convicted of a sexually violent offense … and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior." (Welf. & Inst. Code, § 6601, subd. (a).) The SVPA was designed to accomplish the dual goals of protecting the public, by confining violent sexual predators likely to reoffend, and providing treatment to those offenders. "Those committed pursuant to the SVPA are to be treated not as criminals, but as sick persons. They are to receive treatment for their disorders and must be released when they no longer constitute a threat to society." (*People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774, 783, citing Welf. & Inst. Code, § 6250.)

   Civil commitment is not a prison sentence. Once a person has been deemed no longer a threat to public safety, they must, as a matter of law, be released from custody. Involuntary commitment under the SVPA only begins after a person has completed their prison sentence. Originally, the SVP laws provided for an initial commitment of two years and then a review every two years thereafter. However, effective September 20, 2006, the law now provides for indeterminate commitments for persons found to be sexually violent predators. (Welf. & Inst. Code § 6604.)

   A SVP is a person convicted of specified sex offenses against at least one person and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. (Welf. & Inst. Code, § 6600, subd. (a)(1).) Welfare and Institutions Code, section 6600 further defines a sexually violent predator as someone who suffered the following: aprior or current conviction that resulted in a determinate prison sentence for a sexually violent offense; conviction for a sexually violent offense that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence; a prior conviction in another jurisdiction for an offense that includes all of the elements of a sexually violent offense; a conviction for an offense under a predecessor statute that includes all of the elements of a sexually violent offense; a prior conviction for which the inmate received a grant of probation for a sexually violent offense; a prior finding of not guilty by reason of insanity for a sexually violent offense; a conviction resulting in a finding that the person was a mentally disordered sex offender; a prior conviction for a sexually violent offense for which the person was committed to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation, as specified; or, a prior conviction for a sexually violent offense that resulted in an indeterminate prison sentence. (Welf. & Inst. Code, § 6600, subd. (a)(1)(A-I).)

   A sexually violent offense means any of the following crimes when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person, or threatening to retaliate in the future against the victim or any other person, and that are committed on, before, or after the effective date of the SVPA and resulted in a conviction or a finding of not guilty by reason of insanity: (i) a felony violation of rape, (ii)

former provision of spousal rape, (iii) aiding abetting rape or sexual penetration, (iv) aggravated sexual assault of a child, (v) sodomy, (vi) forcible oral copulation, (vii) child molestation, (viii) continuous sexual abuse of a child, or (ix) sexual penetration, or (x) former provision on child molest, or any felony violation of (xi) kidnapping, (xii) kidnapping with intent to commit robbery or rape, or (xiii) assault with intent to commit rape, (xiv) former provision of spousal rape, (xv) aiding and abetting rape, (xvi) sodomy, (xvii) forcible oral copulation, (xviii) child molest, or (xix) sexual penetration. (Welf. & Inst. Code, § 6600, subd. (b).)

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

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

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

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

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

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

This bill would extend to the Executive Officer of the BPH the authority to refer an individual for an evaluation to determine if the person has a diagnosed mental health disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody. It also adds that the referral by the Secretary of CDCR or the Executive Officer of BPH for the evaluation may be made less than six months prior to the person's scheduled release date if the scheduled release date is less than four months after the decision to grant parole is made, or if the incarcerated person will be scheduled for a parole hearing in the next six months. It also eliminates the limitation that a referral for an SVP evaluation for individual in CDCR custody be for an individual serving a determinate term.

6) **Retroactivity:** Retroactivity 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*").) *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 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.

   The proposed legislation explicitly provides that the provisions of this bill granting the Executive Officer of BPH referral authority, and adding additional grounds for referring an incarcerated person for an evaluation less than six months prior to their scheduled release date, apply retroactively to any individual in CDCR's custody on or after the effective date of the bill, regardless of the date the individual's sentence was imposed or the date the underlying offense was committed.

7) **Argument in Support**: According to the *Sacramento County District Attorney's Office*, "After victims are attacked, they are forced to undergo a series of invasive and at times offensive events to secure a conviction. There is a forensic medical exam, a forensic interview, direct and cross examination which can last hours, if not days. After a defendant is convicted, the presiding judge, who heard the facts and has full knowledge of the defendant's history, hands down the appropriate sentence. Only the worst sexual offenders receive a life sentence. At the time of sentencing victims are told they are safe, and their attackers will not be able to assault any other victim.

"Elder parole changed that. It broke that promise. It has allowed for dangerous sexual violent predators to be released early. Many of these offenders released into the community, sometimes decades early, never complete programs that reduce their risk of reoffending. Frankly, that's because no such program exists.

"AB 2727 would have prevented the recent Elder Parole of serial and violent child sex predators—David Funston and Gregory Vogelsang. That's because AB 2727 also closes the loophole that precluded them from being considered sexually violent predators (SVPs) which could have kept them in indefinitely.

"I have heard the community's outrage and concern over the granting of Elder Parole for both of these child sex offenders. Hundreds of people voiced their objection to Vogelsang's early parole at an En Banc parole hearing – they showed up in person, called or emailed objecting to his early parole. I ask you to honor their voices by supporting this bill."

8) **Argument in Opposition**: According to the *Prison Policy Initiative*, "Our work has shown that elderly parole is a vital mechanism of release for people in prisons that poses minimal risk to public safety and should not be bound by offense restrictions, particularly as research has shown time and time again that people with sexually-based convictions have among the lowest risk of re-offense of anyone released from prison, as do those who are released from prison after the age of 55.

"AB 2727 represents a dramatic and unwarranted rollback of a program that over a decade has effectively protected public safety while saving critical state resources. Despite its stated intent, AB 2727 does not advance public safety. Indeed, **there has never been a documented case of sexual re-offense by someone released through the Elderly Parole program**. Instead, AB 2727 promotes fear-based policymaking that is inconsistent with empirical criminal justice research, locking California into decades of wasteful prison spending without any tangible public safety benefit.

"**The Elderly Parole Process is Already Rigorous, Especially for People with Sex Offenses**

"Since its implementation, California's Elderly Parole program has proven to be extraordinarily effective at protecting public safety. The three-year recidivism rate for people released through California's elderly parole hearing process is remarkably low — among the lowest in the nation — at 1.8%, or just 0.6% when accounting for crimes against another person. This is even lower than the low recidivism rate for California's general parole hearing process, which is consistently about 2 to 3% — nearly 20 times lower than the roughly 40% recidivism rate for all people released from CDCR custody — or less than 1%

for violent re-offense. Furthermore, **there has never been a documented case of sexual re-offense by someone released through the Elderly Parole program**, further undermining the premise of this bill.

"These positive outcomes are consistent with a substantial body of research demonstrating that people age out of crime, with recidivism rates dropping sharply after age 50 and approaching *zero* by age 65. Notably, this pattern holds true across crime types, including for sexual offenses. In fact, contrary to common misconception, most people convicted of sexual offenses do not reoffend sexually, and the likelihood of sexual re-offense declines significantly with age.

"**Nonetheless, this is a conservative release program with very low grant rates**; between 2022 and 2024, only 16% of elderly parole hearings resulted in a parole grant, with just 9% of first-time elderly parole hearings leading to a grant. These numbers decline dramatically for people with sexual offenses. Even in elderly parole hearings held for people *already* assessed as a low risk by the parole board's Forensic Assessment Division, the parole board denies parole roughly 40% of the time. Rather than guaranteeing release, Elderly Parole affords candidates an opportunity to undergo a rigorous parole suitability evaluation by the parole board, including extensive evaluation of rehabilitation informed by forensic psychological assessments and actuarial risk tools.

"**People with Sex Offenses Who Are Paroled Are Subject to Highly Restrictive Supervision**

"On top of standard sex registry requirements, the victim-centered "Containment Model" California employs requires highly coordinated supervision among teams composed of a parole officer, sex offense treatment provider, and polygraph examiner; GPS ankle monitoring, mandatory participation in both individual and group sex offense-specific treatment tailored to risk level, continuous risk assessment administration, and regular polygraph testing. Furthermore, sex registrants in the highest risk tier are placed on lifetime intensive parole supervision. This intensive supervision framework already empowers law enforcement with ample tools for monitoring people paroled for sex offenses, rendering expanded civil commitment for this population unnecessary

"**Expanding the SVP Program for People with Indeterminate Sentences is Duplicative, Costly, and Will Not Improve Public Safety**

"AB 2727's expansion of the Sexually Violent Predator (SVP) program is unnecessary and counterproductive. The parole board already conducts thorough, structured assessments of risk before granting parole, rendering parallel SVP referrals duplicative. For people with sexual convictions, both the parole suitability and supervision processes additionally require the administration of research-validated, actuarial risk instruments specifically for assessing sexual re-offense risk, Including the Static-99R and the STABLE 2007. It would waste critical state resources to also conduct SVP proceedings duplicating a public safety inquiry the parole board has already completed.

"Furthermore, applying SVP proceedings to individuals already deemed suitable for parole invites the use of civil commitment as a back-end mechanism to override release decisions, particularly in cases that attract public scrutiny. AB 2727 also expands one of the most

inefficient and costly public safety systems in the state, as SVP proceedings are notoriously resource-intensive, often involving years of litigation, multiple expert evaluations, and extended detention, placing substantial strain on courts, prosecutors, public defenders, and the Department of State Hospitals. The costs are unjustifiable without any demonstrated public safety benefit, and divert limited resources from more effective strategies.

"**AB 2727 Imposes Excessive Fiscal and Human Costs California Cannot Bear**

"At the same time, AB 2727 would impose major fiscal costs on the state by keeping aging people incarcerated far beyond the point of any meaningful public safety benefit. Older incarcerated people are the most expensive to imprison because of age-related medical needs. Delaying or eliminating parole eligibility for this population will increase correctional and healthcare spending while producing no public safety return. On top of the yearly per capita incarceration cost of $138,000, average annual healthcare costs for an individual who is 80 or older is $240,000, climbing to upwards of $450,000 for certain individuals. In other words, this bill will cost billions in taxpayer dollars over the next decade.

"The bill also raises serious humanitarian and legal concerns. In practice, delaying Elderly Parole eligibility until age 75 for some people will function as a death-in-prison sentence for individuals who were not sentenced to die in prison, especially given the reduced life span of incarcerated people. The creation of the Elderly Parole program was to address a constitutional overcrowding crisis in California's state prisons. Release of elderly people was the safest and most fiscally sound option to reduce the prison population. AB 2727 threatens to undo that progress and open the door to more litigation. The court order that initially created the Elderly Parole program is still in effect, and this bill contradicts its requirements. AB 2727 creates legal exposure for California, imposing even further fiscal and human costs that the state is in no position to bear."

9) **Related Legislation**:

a) AB 2232 (Patterson) would eliminate the BPH's authority to advance, and an incarcerated person's ability to request an advance of, a parole suitability hearing when, after considering the views and interests of the victim, there has a been a change in circumstances or new information that establishes a reasonable likelihood that consideration of public safety does not require the additional period of incarceration of the individual. AB 2232 is pending a hearing in this committee.

b) AB 2342 (Hoover) would authorize the Governor, subject to a constitutional amendment approved by the voters, to reverse or modify a BPH decision to grant parole to an incarcerated person convicted of a violent felony, as specified, if the inmate is serving an indeterminate term for an offense other than murder or the inmate is serving a determinate term and has not completed that term, but only if the board's decision was the result of Youth Offender Parole or Elderly Parole Program proceedings. AB 2342 is pending a hearing in this committee.

c) AB 2570 (Lackey) would increase the age at which an incarcerated person becomes eligible for the Elderly Parole Program from 50- to 65-years-old. AB 2570 is pending a hearing in this committee.

d) SB 356 (Jones) would increase the minimum age limitation for the Elderly Parole Program to inmates who are 60 years of age and who have served a minimum of 25 years. SB 356 is pending hearing in this committee.

e) SB 1278 (Niello) would exclude persons sentenced for a one-strike sex offense, as a habitual sex offender, or for specified sex offenses classified as a "violent" and/or "serious" felony. SB 1278 is pending referral in the Senate Rules Committee.

10) **Prior Legislation**:

a) AB 47 (Nguyen) would have provided that a person sentenced for a one-strike sex offense or as a habitual sex offender is ineligible for elderly parole until the person is 60 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence. AB 47 was held in suspense in the Assembly Appropriations Committee.

b) SB 286 would have exclude from Elderly Parole eligibility individuals convicted of murder or specified felony sex offenses, or sentenced as a habitual sex offender or under the One Strike Sex Offense statute. SB 286 was held in suspense in the Senate Appropriations Committee.

c) SB 445 (Jones), of the 2021-2022 Legislative Session, would have excluded "One Strike" sex offenses from the Elderly Parole Program. SB 445 failed passage in the Senate Public Safety Committee.

d) AB 3234 (Ting), Chapter 334, Statutes of 2020, lowered the minimum age limitation for the Elderly Parole Program to inmates who are 50 years of age and who have served a minimum of 20 years.

e) SB 411 (Jones), of the 2019-2020 Legislative Session, was nearly identical to SB 445 above. SB 411 did not receive a hearing in the Senate Public Safety Committee.

f) AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program, to be administered by the Board of Parole Hearings.

g) SB 224 (Liu), of the 2015-2016 Legislative Session, was substantially similar to AB 1448 above. SB 224 was ordered to the Inactive File on the Senate Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
California Police Chiefs Association
California State Sheriffs' Association
Chief Probation Officers' of California (CPOC)
County of Orange, Through its Office of the District Attorney/public Administrator
Peace Officers Research Association of California (PORAC)

Riverside County District Attorney
Sacramento County District Attorney

Opposition

A New Path
ACLU California Action
Alliance for Constitutional Sex Offense Laws
Bend the Arc: Jewish Action, California
California Coalition for Women Prisoners
California Coalition for Women's Prisoners
California Public Defenders Association
Californians United for a Responsible Budget
Care First California
Courage California
Cure California
Dignity and Power Now
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Friends Committee on Legislation of California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Prison Law Office
Prison Policy Initiative
Rubicon Programs
San Quentin Skunkworks
Saving Lives in Custody California
Smart Justice California, a Project of Beyond Impact
The W. Haywood Burns Institute
Uncommon Law
Universidad Popular
4 Private Individuals

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

Amended Mock-up for 2025-2026 AB-2727 (Nguyen (A))

Mock-up based on Version Number 98 - Amended Assembly 3/9/26
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 3055 of the Penal Code is amended to read:

3055. (a) The Elderly Parole Program is hereby established, to be administered by the Board of Parole Hearings, for purposes of reviewing the parole suitability of any inmate who is 50 years of age or older and has served a minimum of 20 years of continuous incarceration on the inmate's current sentence, serving either a determinate or indeterminate sentence.

(b) (1) For purposes of this code, the term "elderly parole eligible date" means the date on which an inmate who qualifies as an elderly offender is eligible for release from prison.

(2) For purposes of this section, "incarceration" means detention in a city or county jail, local juvenile facility, a mental health facility, a Division of Juvenile Justice facility, or a Department of Corrections and Rehabilitation facility.

(c) When considering the release of an inmate specified by subdivision (a) pursuant to Section 3041, the board shall give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence.

(d) When scheduling a parole consideration hearing date pursuant to subdivision (b) of Section 3041.5 or when considering a request for an advance hearing pursuant to subdivision (d) of Section 3041.5, the board shall consider whether the inmate meets or will meet the criteria specified in subdivision (a).

(e) An individual who is subject to this section shall meet with the board pursuant to subdivision (a) of Section 3041. If an inmate is found suitable for parole under the Elderly Parole Program, the board shall release the individual on parole as provided in Section 3041.

(f) If parole is not granted, the board shall set the time for a subsequent elderly parole hearing in accordance with paragraph (3) of subdivision (b) of Section 3041.5. No subsequent elderly parole hearing shall be necessary if the offender is released pursuant to other statutory provisions prior to the date of the subsequent hearing.

(g) This section does not apply to cases in which sentencing occurs pursuant to Section 1170.12, subdivisions (b) to (i), inclusive, of Section 667, or in cases which an individual was sentenced to life in prison without the possibility of parole or death.

~~(h) Notwithstanding subdivision (a), this section does not apply to any of the following persons:~~

~~(1) A person convicted pursuant to Section 269.~~

~~(2) A person convicted pursuant to subdivision (b) of Section 288.~~

~~(3) A person convicted pursuant to Section 288.7.~~

~~(4) A person sentenced pursuant to paragraph (4) of subdivision (e) of Section 667.61.~~

~~(5) Except as otherwise provided in paragraphs (2) and (4), a person sentenced pursuant to Section 667.61, unless the person is 75 years of age or older and has served a minimum of 30 years of continuous incarceration on their current sentence.~~

~~(6) Except as otherwise provided in paragraphs (1) and (2), a person sentenced pursuant to Section 667.71, unless the person is 75 years of age or older and has served a minimum of 30 years of continuous incarceration on their current sentence.~~

(h) Notwithstanding subdivision (a), a person sentenced pursuant to Sections 269, 288.7, 667.61, 667.71 shall not be suitable pursuant to this section unless the person is 65 years of age or older and has served a minimum of 25 years of continuous incarceration on their current sentence.

(i) This section does not apply if the person was convicted of first-degree murder if the victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who was killed while engaged in the performance of their duties, and the individual knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of their duties, or the victim was a peace officer or a former peace officer under any of the above-enumerated sections, and was intentionally killed in retaliation for the performance of their official duties.

(j) This section does not alter the rights of victims at parole hearings.

(k) By December 31, 2022, the board shall complete all elderly parole hearings for individuals who were sentenced to determinate or indeterminate terms and who, on the effective date of the bill that added this subdivision, are or will be entitled to have their parole suitability considered at an elderly parole hearing before January 1, 2023.

SEC. 2. Section 6601 of the Welfare and Institutions Code is amended to read:

6601. (a) (1) When the Secretary of the Department of Corrections and Rehabilitation **or the Executive Officer of the Board of Parole Hearings** determines that an individual who is in custody under the jurisdiction of the Department of Corrections and Rehabilitation, who is either serving a prison sentence or whose parole has been revoked, and who is not in custody for the

commission of a new offense committed while the individual was serving an indeterminate term in a state hospital as a sexually violent predator, may be a sexually violent predator, the secretary **or the Executive Officer of the Board** shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of their sentence to serve, if the inmate's release date is modified by judicial or administrative action, ~~or~~ if the inmate's scheduled release date is less than four months after the decision to grant parole is made, **or if the incarcerated person will be scheduled for a parole hearing in the next six months**, the secretary **or the Executive Officer of the Board of Parole Hearings** may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date.

(2) When an individual is in custody under the jurisdiction of the Department of Corrections and Rehabilitation for the commission of a new offense committed while the individual was serving an indeterminate term in a state hospital as a sexually violent predator, the Secretary of the Department of Corrections and Rehabilitation shall, at least six months prior to the individual's scheduled date for release from prison, refer the person directly to the State Department of State Hospitals for a full evaluation of whether the person still meets the criteria in Section 6600. However, if the inmate was received by the department with less than nine months of their sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the secretary may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date. The evaluation shall be conducted in accordance with subdivisions (c) to (g), inclusive. If both evaluators concur that the person has a diagnosed mental disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of State Hospitals shall forward a request for a court order no less than 20 calendar days prior to the scheduled release date of the person to the county designated in subdivision (i) authorizing a transfer of the individual from the Department of Corrections and Rehabilitation to the State Department of State Hospitals to continue serving the remainder of the individual's original indeterminate commitment as a sexually violent predator if the original petition has not been dismissed. If the petition has previously been dismissed, the Director of State Hospitals shall forward a request for a new petition to be filed for commitment to the county designated in subdivision (i) no less than 20 calendar days prior to the scheduled release date of the person consistent with subdivision (d).

(3) A petition may be filed under this section if the individual was in custody pursuant to a prison term, parole revocation term, or a hold placed pursuant to Section 6601.3, at the time the petition is filed. A petition shall not be dismissed on the basis of a later judicial or administrative determination that the individual's custody was unlawful, if the unlawful custody was the result of a good faith mistake of fact or law. This paragraph applies to any petition filed on or after January 1, 1996.

(4) Paragraphs (1) and (3) of this subdivision shall apply retroactively to any individual in the custody of the Department of Corrections and Rehabilitation on or after January 1, 2027, regardless of the date the individual's sentence was imposed or the date the underlying offense was committed.

(b) The person shall be screened by the Department of Corrections and Rehabilitation and the Board of Parole Hearings based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of State Hospitals in consultation with the Department of Corrections and Rehabilitation. If as a result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections and Rehabilitation shall refer the person to the State Department of State Hospitals for a full evaluation of whether the person meets the criteria in Section 6600.

(c) The State Department of State Hospitals shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of State Hospitals, to determine whether the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

(d) Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of State Hospitals. If both evaluators concur that the person has a diagnosed mental disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of State Hospitals shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

(e) If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person meets those criteria, the Director of State Hospitals shall arrange for further examination of the person by two independent professionals selected in accordance with subdivision (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) An independent professional who is designated by the Secretary of the Department of Corrections and Rehabilitation or the Director of State Hospitals for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who

have a doctoral degree in psychology. The requirements set forth in this section also shall apply to professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) (1) If the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i) no less than 20 calendar days prior to the release of the person. Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(2) If a hold is placed pursuant to Section 6601.3 and the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i) no less than 20 calendar days prior to the end of the hold.

(3) The person shall have no right to enforce the time limit set forth in this subdivision and shall have no remedy for its violation.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted of the offense for which the person was committed to the jurisdiction of the Department of Corrections and Rehabilitation. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. A person's subsequent conviction for an offense that is not a sexually violent offense committed while in the custody of the Department of Corrections and Rehabilitation or the State Department of State Hospitals that occurs prior to the resolution of a petition filed pursuant to this section shall not change jurisdiction for the petition from the county in which the person was convicted of the offense for which the person was committed to the jurisdiction of the Department of Corrections and Rehabilitation. If a person is convicted of a subsequent sexually violent offense committed while in the custody of the Department of Corrections and Rehabilitation or the State Department of State Hospitals that occurs prior to the resolution of a petition filed pursuant to this section a subsequent petition for commitment as a sexually violent predator pursuant to this section shall be filed in the superior court of the county in which the person was convicted of the subsequent sexually violent offense. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) An order issued by a judge pursuant to Section 6601.5, finding that the petition, on its face, supports a finding of probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon release, shall toll that person's parole pursuant to paragraph (4) of subdivision (a) of Section 3000 of the Penal Code, if that individual is determined to be a sexually violent predator.

(k) The attorney designated by the county pursuant to subdivision (i) shall notify the State Department of State Hospitals of its decision regarding the filing of a petition for commitment pursuant to subdivision (d) within 15 days of making that decision.

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

Date of Hearing: April 7, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2749 (Sharp-Collins) – As Introduced February 20, 2026

SUMMARY: Revises the crime of loitering in a public place with the intent to purchase commercial sex. Specifically, **this bill**:

1) States that a person is only guilty of the offense of loitering in a public place with the intent to purchase commercial sex if the person takes a direct but ineffectual act done towards its commission that indicates a definite and unambiguous intent to purchase commercial sex.

2) Requires the act to go beyond planning and preparation.

3) Specifies that a completed communication is not required.

4) Deletes from existing law that intent to commit the existing crime may be evidenced by acting in a manner and under circumstances that openly demonstrate the purpose of inducing, enticing, or soliciting prostitution, or procuring another to commit prostitution, as specified.

EXISTING LAW:

1) Makes it a misdemeanor to solicit anyone to engage in, or engage in, lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view. (Pen. Code, § 647, subd. (a).)

2) Makes it a misdemeanor to solicit, agree to engage in, or engage in any act of prostitution with the intent to receive compensation, money, or anything of value from another person. (Pen. Code, § 647, subd. (b)(1).)

3) Makes it a misdemeanor to solicit, agree to engage in, or engage in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. (Pen. Code, § 647, subd. (b)(2).)

4) States it is unlawful for any person to direct, supervise, recruit, or otherwise aid another person in the commission of prostitution or collect or receive proceeds earned from prostitution. (Pen. Code, § 653.23, subd. (a)(1) & (2).)

5) Makes it a misdemeanor for a person to loiter in a public place with intent to purchase commercial sex. This intent is evidenced by acting in a manner and under circumstances that openly demonstrate the purpose of inducing, enticing, or soliciting prostitution, or procuring another to commit prostitution such as circling an area in a motor vehicle and repeatedly beckoning to, contacting, or attempting to contact or stop pedestrians or other motorists,

making unauthorized stops along known prostitution tracks, or engaging in other conduct indicative of soliciting to procure another to engage in commercial sex. (Pen. Code, § 653.25, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "I have concerns about the vagueness in criminalizing something like loitering. History has shown that these types of crimes are disproportionately used against people of color and those experiencing poverty. This bill allows for the crime of loitering to target purchasers of sex but instills guardrails to help law enforcement focus on those violating the law without the unintended consequences of targeting people of color or the LGBTQIA+ community."

2) **History of Loitering with Intent to Solicit a Commercial Sex Act:** Until 2022, it was a misdemeanor offense to loiter in a public place with intent to participate in a commercial sex transaction as a sex buyer or sex worker. In 2022, the Legislature enacted legislation to repeal provisions of law criminalizing loitering with intent to commit prostitution. The repealed law made it a misdemeanor to loiter in a public place with the intent to commit prostitution. (Former Pen. Code, § 653.22 and 653.26.) The repealed law specified non-exclusive circumstances that could be considered in determining whether a person was loitering with intent to commit prostitution (former Pen. Code, § 653.22, subd. (b)):

   a) Repeatedly beckons to, stops, engages in conversations with, or attempts to stop or engage in conversations with passersby, indicative of soliciting for prostitution;

   b) Repeatedly stops or attempts to stop motor vehicles by hailing the drivers, waving arms, or making any other bodily gestures, or engages or attempts to engage the drivers or passengers of the motor vehicles in conversation, indicative of soliciting for prostitution;

   c) Has been convicted of violating this section, or other offenses related to or involving prostitution, within five years of the arrest under this section;

   d) Circles an area in a motor vehicle and repeatedly beckons to, contacts, or attempts to contact or stop pedestrians or other motorists, indicative of soliciting for prostitution;

   e) Has engaged, within six months prior to the arrest under this section, in any behavior described in this subdivision or any other behavior indicative of prostitution activity.

   The repealed law defined "loiter" to mean delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered. (Former Pen. Code, § 653.20.)

   The author of the legislation that repealed loitering with intent to commit prostitution[1] stated the need for the bill[2]:

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[1] SB 357 (Wiener), Ch. 86, Stats. 2022

> This bill does not decriminalize soliciting or engaging in sex work. SB 357 simply eliminates an anti-loitering offense that results in the legal harassment of LGTBQ+, Black, and Brown communities for simply existing and looking like a 'sex worker' to law enforcement. Due to the broad subjective nature of the language that criminalizes loitering for the intent to engage in sex work, this offense permits law enforcement to stop and arrest people for discriminatory reasons, such as wearing revealing clothing while walking in an area where sex work has occurred before. The creation and enactment of this offense began to cause more harm than help, because of the power it gave law enforcement to profile, target, harass, and criminalize without accountability, and the consequences of criminalization on the livelihood and safety of specifically targeted communities.

The Senate Committee on Public Safety's analysis of the bill referenced a study conducted in 2019 through the Los Angeles County Public Defender's office that compiled data from all of the charges of violations of Penal Code section 653.22 reported from the Compton Branch of the Public Defender's office. During a one-week period of time, a total of 48 cases were reported.[3]

The study found that the majority of arrests were made up of young Black women. 42.6 percent of arrests were for people aged 21-24 with the next highest rate being 23.4 percent for people aged 18-20.[4] As for race, 72.3 percent were Black with the next highest rate being 17 percent for Hispanic.[5]

The study shows that probable cause was most commonly established by the arrestee's presence in an area known for sex work, their clothing, and motioning in a flirtatious manner to vehicles.[6] Twenty-five percent (25%) of people arrested for loitering with intent had no prior sex work-related convictions. In 76.7 percent of cases, alleged suspects were characterized as wearing revealing clothing as evidence in support of intent to solicit a sex act.[7] Finally, in 45 out of 46 cases, the suspect's state of dress was the stated basis for probable cause to arrest.[8] Other stated reasons for establishing probable cause for the arrest include possession of a cellphone, possession of cash, reacting to presence of police, giving conflicting information about activities, among many other stated reasons.[9]

According to the Yale Global Health Partnership in June 2020, arrest and conviction records for prostitution-related crimes make it harder for sex workers, and those cited for unlawful sex work, to find alternative employment – holding them in street economies and economic hardships – "exacerbating ongoing race and gender discrimination."[10] Criminalization

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[2] Sen. Com. on Public Safety, Analysis of Sen. Bill No. 357 (2021-2022 Reg. Sess.) as amended Apr. 5, 2021.)
[3] Demeri, *Policing of People in the Sex Trades in Compton: Analysis of Section 653.22 Clients*, Law Offices of the Los Angeles County Public Defender (2019).
[4] *Id.* at p. 2.
[5] *Id.* at p. 4.
[6] *Id.* at p. 14.
[7] *Id.* at p. 12.
[8] *Ibid.*
[9] *Ibid.*
[10] Yale Global Health Justice Partnership, Sex Workers and Allies Network, *"The Harmful Consequences of Sex Work Criminalization on Health and Rights"* (June 2020) https://law.yale.edu/center.ghip.docoments.)

exacerbates the barriers to housing, public benefits, and other social supports especially needed by street-based sex workers. These harms most often fall on People of Color and members of the LGBTQ+ community because there are higher rates of arrest and conviction for those groups.

The University of Southern California, Gould School of Law, International Human Rights Clinic's November 15, 2021 report, "*Over-Policing Sex Trafficking: How U.S. Law Enforcement Should Reform Operations,*" also noted many sex workers reported abusive and even violent and dehumanizing encounters with law enforcement.

Last year, the Legislature passed legislation to add a new crime for loitering with intent to purchase commercial sex. (AB 379 (Schultz), Ch. 82, Stats. 2025.) The law largely reenacted the circumstances that can be used to prove a person's intent, including being in a public place known for prostitution (former Pen. Code, § 653.22, subd. (c)), circling an area in a motor vehicle (former Pen. Code, § 653.22, subd. (b)(4)) and repeatedly beckoning to, contacting, or attempting to contact or stop pedestrians or other motorists or making unauthorized stops (former Pen. Code, § 653.22, subd. (b)(1)-(2)). The crime would be punishable as a misdemeanor with up to 6-month imprisonment and a fine of up to $1,000. (Pen. Code, §§ 19, 653.26.)

According to supporters of AB 379, the repeal of the loitering law has resulted in an increase in solicitation of commercial sex in public areas and that youth were disproportionately exploited by traffickers. Opponents of the bill raised concerns that reenacting criminal liability for loitering with intent to purchase commercial sex will also increase negative interactions with law enforcement for both sex workers and trafficking victims. Additionally, opponents argued that the language in AB 379 that defines the types of behavior evidencing intent – which are largely based on repealed Penal Code section 653.22—are unconstitutionally vague and would permit broad discretion and subjective interpretation on the part of law enforcement which will result in disproportionate enforcement just like the original loitering law.

3) **Attempt:** This bill would revise the misdemeanor offense of loitering in a public place with intent to purchase a commercial sex act in several ways, including deletion of the non-exhaustive list of circumstances that could evidence such intent. As discussed above, these circumstances have been argued as being vague and overbroad. This bill would instead provide that a person is only guilty of the offense if the person takes a direct but ineffectual act done towards its commission that indicates a definite and unambiguous intent to purchase commercial sex. The bill would further specify that the act must go beyond planning or preparations and does not require a completed communication.

   Th revised language appears to mirror the elements of attempt to commit a crime which requires a specific intent to commit the crime and a direct but ineffectual act done toward its commission. (Pen. Code, § 21a.) The jury instructions for attempt (for a crime other than attempted murder) provide that a direct step requires more than merely planning or preparation and shows that a person is putting their plan into action. A direct step indicates a definite and unambiguous intent to commit the target offense. (CALCRIM No. 460.)

   In essence, the crime of loitering in a public place with intent to purchase a commercial sex act is an attempt to purchase a commercial sex act. This bill would align the elements more

closely to attempt of the offense rather than using the potentially vague circumstances currently specified in existing law.

4) **Argument in Support**: According to *Ella Baker Center for Human Rights*, "Historically, anti-loitering and solicitation statutes have disproportionately been used against communities of color, LGBTQ+ individuals, and people with low and no income. Current law allows for arrests based on loosely defined identifications of intent and includes a wide scope of otherwise lawful behaviors, such as circling an area in a car or waiving at pedestrians. The current law facilitates arrests based on subjective perceptions and implicit bias, rather than clearly defined actions.

   "AB 2749 will reduce the disparity in enforcement by providing a clearer standard. With more specific statutory language, there should be a reduction in harassment of low-income people of color, and members of our LGBTQ communities. Ending disparities is not only just and moral, but it also strengthens relationships between law enforcement organizations, and vulnerable communities. Relationships between communities and law enforcement organizations are key to effective crime prevention, investigation and public safety."

5) **Argument in Opposition**: According to the *California State Sheriffs' Association*, "Existing law provides that it is unlawful for any person to loiter in any public place with the intent to purchase commercial sex. This intent is evidenced by acting in a manner and under circumstances that openly demonstrate the purpose of inducing, enticing, or soliciting prostitution, or procuring another to commit prostitution such as circling an area in a motor vehicle and repeatedly beckoning to, contacting, or attempting to contact or stop pedestrians or other motorists, making unauthorized stops along known prostitution tracks, or engaging in other conduct indicative of soliciting to procure another to engage in commercial sex.

   "AB 2749 provides that a person is guilty of this offense only if the person takes a direct but ineffectual act done towards its commission that indicates a definite and unambiguous intent to purchase commercial sex and that the act must go beyond planning or preparation.

   "Not only does this more rigorous definition of the crime of loitering with the intent to purchase sex make it more difficult to prove, it also does so only months after this updated statute took effect. Changing the law now provides no opportunity to understand the outcomes of language that was adopted as part of a bill that was approved just last year with wide bipartisan majorities."

6) **Related Legislation**: AB 2582 (Schultz) would require a person who commits prostitution with intent to receive compensation, money, or anything of value from another person to, for a first or second violation of those provisions, be offered a diversion program, if a program for which the defendant is eligible is available. AB 2582 is pending a hearing in the Assembly Appropriations Committee.

7) **Prior Legislation**:

   a) AB 63 (Rodriguez), of the 2025-2026 Legislative Session, would have reenacted the crime of loitering in a public place with intent to commit prostitution. The hearing on AB 63 was canceled at the request of the author.

b) AB 379 (Schultz), Chapter 82, Statutes 2025, relevant to this bill, made it a misdemeanor for any person to loiter in any public place with the intent to purchase commercial sex, as specified.

c) SB 1219 (Seyarto), of the 2023-2024 Legislative Session, would have made it a misdemeanor for an individual to operate a motor vehicle in any public place and repeatedly beckon to, contact, or attempt to contact or stop pedestrians or other motorists, or impede traffic, with the intent to solicit prostitution. SB 1219 failed passage in the Senate Public Safety Committee.

d) SB 357 (Wiener), Chapter 86, Statutes of 2022, repealed provisions of law related to loitering with the intent to commit prostitution and authorized a person convicted of a violation of repealed law to petition the court for dismissal and sealing of their case.

REGISTERED SUPPORT / OPPOSITION:

Support

Ella Baker Center for Human Rights
Local 148 Los Angeles County Public Defender's Union
Smart Justice California, a Project of Beyond Impact
West Oakland Punks With Lunch

Oppose

City of Stanton
California District Attorneys Association
California State Sheriffs' Association
California Survivor Coalition
Peace Officers Research Association of California (PORAC)

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