California State Assembly

PUBLIC SAFETY

NICK SCHULTZ
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AGENDA

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

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

1.	AB 2796	Public Safety	Criminal history information: background checks.(Urgency)
2.	SB 498	Becker	Incarcerated persons: communications.
3.	SB 562	Ashby	Bail.
4.	SB 691	Wahab	Body-worn cameras: policies.
5.	SB 891	Cervantes	Missing and Murdered Indigenous Persons Justice Program.
6.	SB 941	Padilla	Private detention facilities: canteens.
7.	SB 953	Niello	Driving record: points: vehicular manslaughter.
8.	SB 1004	Wiener	Law enforcement: masks.
9.	SB 1012	Smallwood-Cuevas	Employment of inmates.
10.	SB 1143	Caballero	Children's advocacy centers: recordings.
11.	SB 1208	Grayson	Money laundering: digital financial assets.
12.	SB 1306	Cortese	Controlled substances: gamma-butyrolactone.
13.	SB 1338	Jones	Vehicles: repossession.
14.	SB 1401	Stern	Criminal procedure: competence to stand trial.

Date of Hearing: June 9, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2796 (Committee on Public Safety) – As Amended May 27, 2026

As Proposed to be Amended in Committee

SUMMARY: Makes various changes to existing laws authorizing federal-level background checks to be conducted in relation to employment, volunteering and licensing. Specifically, **this bill**:

1) Provides that notwithstanding any other law, any statutory requirement for an entity subject to any statutory requirement for an entity to conduct a federal criminal history information check for licensing, certification, or employment purposes does not apply if the Federal Bureau of Investigation (FBI) has not authorized the entity to conduct a federal criminal history information check under the applicable federal laws and regulations.

2) Authorizes an entity may make licensing, certification, or employment decisions based on the results of a state criminal history information check until the FBI has authorized them to conduct a federal criminal history information check.

3) States that if the FBI authorizes an entity to conduct the federal criminal history information check, the entity shall require an applicant, licensee, certified individual, and employee who did not previously undergo the federal criminal history information check to resubmit their fingerprints for that purpose.

4) Requires Department of Justice (DOJ), for purposes of implementing the provisions of the National Child Protection Act of 19993, as amended by the Volunteers for Children Act, to develop the California Volunteer and Employee Criminal History Service Program.

5) Specifies, notwithstanding any other law, qualified entity may require a covered individual to undergo a fingerprint-based state and national criminal history background check pursuant to the above provision.

6) Provides the following definitions for purposes of the California Volunteer and Employee Criminal History Service Program:

    a) "Care" means the provision of services, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or an individual with a disability.

    b) "Child" means a person under 18 years of age.

    c) "Covered individual" means a person who has or may have access to a person served by a qualified entity, and meets one of the following criteria:

i) Is a current or prospective employee or volunteer of a qualified entity, or,

ii) Is a current or prospective owner or operator of a qualified entity.

d) "Elderly" means a person 60 years of age or older.

e) "Employee" means every person in the service of a qualified entity under any appointment or contract of hire or apprenticeship, express or implied, oral or written.

f) "Individual with a disability" means a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of a physical or mental impairment, or a person who is perceived by others as having a physical or mental impairment.

g) "Qualified entity" means a business or organization, whether public, private, for profit, not for profit, or voluntary, that provides care or licenses, certifies, or places others to provide care.

h) "Volunteer" means an individual who performs work without promise, expectation, or receipt of any compensation for any work performed.

7) Deletes DOJ fitness determination provisions from various statutes.

8) Requires an applicant for a certificate of eligibility and a dangerous weapons license or permit issued by DOJ, including, among other weapons, an assault weapon or short-barreled shotgun, to submit to DOJ fingerprint images and related information for purposes of conducting a state and national criminal history background check, as specified, and for the purpose of determining if the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. Requires DOJ to retain the fingerprint impressions for subsequent arrest notification, as specified.

9) Revises the process to conduct a fingerprint background check on individuals seeking certification as a massage professional, licensing as a professional fiduciary, registering as a tax preparer, confirming the appointment of a humane officer, working for a bank or its affiliates, and licensing as an escrow agent, as specified.

10) Authorizes DOJ to share criminal history information with peace officers of tribes in other states.

11) Includes within the list of persons for whom Department of Social Services is required to obtain criminal background checks for purposes of licensing and regulation of a community care facility, child care facility, residential facilities, an administrator, supervisor, manager, or director of the facility, or an individual acting in those roles, an adult responsible for the operation of the facility, and a person with a 10% or greater financial interest in the applicant.

12) Includes limited liability companies within applicant types for which the above applies.

13) Revises the authority that exists for the Department of Health Care Services to require a Medi-Cal provider or applicant to undergo criminal background checks to additionally

authorize the Department of Public Health to require these background checks as an alternative.

14) Defines the following terms for purposes of the provision authorizing background checks for specified Medi-Cal providers and applicants:

   a) "Applicant" means an individual, including an ordering, referring, or prescribing individual, entity, or person with ownership or control interest in the applicant entity, managing employee, or agent that applies for enrollment as a provider in the Medi-Cal program that is subject to federal screening level requirements under Sections 424.518 and 455.450 of Title 42 of the Code of Federal Regulations.

   b) "Person with ownership or control interest," "managing employee," and "agent" have the same meanings as defined in Section 455.101 of Title 42 of the Code of Federal Regulations.

   c) "Provider" means an individual, entity, person with ownership or control interest in the entity, managing employee, or agent that is enrolled in the Medi-Cal program that furnishes, directly or indirectly, including all ordering, referring, and prescribing, any service, good, supply, or merchandise to a Medi-Cal beneficiary whose enrollment is subject to federal screening level requirements under Sections 424.518 and 455.450 of Title 42 of the Code of Federal Regulations.

15) Authorizes the Deputy Director of Boating and Waterways to extend the term of a temporary license or issue a new temporary license to provide an applicant for a broker or salesperson license time to comply with the criminal history background requirement, as specified.

16) States that the Board of Registered Nursing shall require an applicant for a registered nurse license, as defined, to undergo a fingerprint-based state and national criminal history background check.

17) Requires the Board of Registered Nursing to submit to DOJ fingerprint images and related information for individuals who are subject to a state and national criminal history background check, pursuant to existing provisions of law. Requires DOJ to provide a state and federal level response pursuant to existing provisions of law.

18) Contains an urgency clause in order for the bill to go into effect immediately.

19) Contains a savings clause so that any other bill that amends the same section amended by this bill shall prevail over this bill, whether it is chaptered before or after this bill.

EXISTING LAW:

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

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

3) Authorizes DOJ to furnish state summary criminal history information and, when specifically authorized by this subdivision, federal-level criminal history information upon a showing of a compelling need to specified entities including peace officers of the United States, other states, or territories or possessions of the United States. (Pen. Code, §11105, subd. (c).)

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

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

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

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

8) Requires an application used to determine the eligibility to own a firearm to include 2 copies of the applicant's fingerprints. (Pen. Code, § 23520.)

9) Requires employees of entities that have contracts with a private school or heritage school and provide services, including schoolsite administrative or grounds, landscape maintenance and instruction, to provide their fingerprints to DOJ, as specified. (Ed. Code, § 33192.)

10) Requires employees of an entity that contracts with a local educational agency to, if the employee interacts with pupils without the immediate supervision of, among others, a school employee, complete a criminal background check, as specified. (Ed. Code, § 45125.1.)

11) States that a county, city, city and county, or special district is required to have specified prospective employees or volunteers complete a background check that inquires as to whether the applicant has been convicted of certain offenses. (Pub. Res. Code, § 5164.)

12) Specifies that resource family home environment assessment standards shall include, but not be limited to, a criminal record clearance search of each applicant and all adults residing in, or regularly present in, the home, and not exempted from fingerprinting, as specified, utilizing a check of the Child Abuse Central Index, and receipt of a fingerprint-based state and federal criminal offender record information search response. The criminal history information shall include subsequent notification. (Welf. & Inst. Code, §16519.5, subd. (d)(2)(A)(i).)

13) Requires the State Department of Health Care Services to screen all providers and designate each provider as "limited," "moderate," or "high" categorical risk. For all providers designated as a "high" categorical risk, existing law requires the State Department of Health Care Services, or its designee, to conduct a criminal background check and require specified individuals to submit a set of fingerprints within 30 days of the State Department of Health Care Service's request in a manner specified by the State Department of Health Care Services. (Welf. & Inst. Code, § 14043.38.)

14) Requires the State Department of Health Care Services to require that specified applicants, providers, and individuals submit fingerprint images and related information for purposes of a state and federal criminal background check and prescribes a procedure for the State Department of Health Care Services and the Department of Justice to follow for these purposes. (Health & Saf. Code, § 1522.)

15) Requires the State Department of Social Services to license and regulate community care facilities, residential care facilities for persons with chronic, life-threatening illness, residential care facilities for the elderly, and childcare centers. Requires the department to obtain a criminal record for all applicants for licenses for these facilities and services and specified other employees and officers of these facilities, including, among others, adults responsible for the administration or direct supervision of staff, a staff person, volunteer, or employee who has contact with clients, and, if the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in a like capacity. (Health & Saf. Code, §§ 1568.09, 1569.17, 1596.871.)

16) Requires the submission of fingerprints to the department for certifying a massage professional, licensing a professional fiduciary, registering a tax preparer, confirming the appointment of a humane officer, working for a bank or its affiliates, and licensing an escrow agent, as specified. (Bus. & Prof. Code, §§ 4604, 6533.5, 22253.5; Corp. Code, § 14502; Fin. Code, §§ 1300, 17331.)

17) Prohibits a person from, among other things, acting as a broker or salesperson for the purchase or sale of a yacht without a license. Authorizes the issuance of a temporary license to a salesperson under specified conditions. The act requires an applicant for a broker or salesperson license to undergo a fingerprint-based state and national criminal history background check. (Harbors & Nav. Code, § 725.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "This is the committee bill to make technical or minorly substantive amendments to existing statutes that authorize federal-level background checks. These changes are needed because the Federal Bureau of Investigations (FBI) has flagged certain statutes to be out of compliance with PL 92-544 which generally prohibits access to federal criminal history information by a private entity. These amendments would bring these statutes back into compliance with federal law."

2) **Need for this Bill**: This bill updates several provisions of existing law that authorize access to federal criminal history information by various entities for purposes of licensing, employment, and volunteering. Placing these provisions within one omnibus bill will allow for the introduction of multiple bills addressing the same issue for separate entities.

   a) California Volunteer Employee Criminal History Service

   Existing law allows the DOJ to administer the California Volunteer and Employee Criminal History Service (CalVECHS) Program to perform and facilitate fingerprint-based state and national criminal history background checks for employees and volunteers of entities that serve children, the elderly, and individuals with disabilities. Existing state law restricts (1) the types of entities that can participate in CalVECHS, excluding entities that could qualify under federal law, and (2) the types of applicants that entities may submit for backgrounding, preventing entities that serve vulnerable populations from effectively screening all of their employees and volunteers (34 U.S.C. § 40102; Pen. Code, § 11105.3).

   Existing federal law generally prevents the DOJ from disseminating federal-level criminal offender record information (CORI) to private, non-governmental agencies. (Pub. L. No. 92-544.)

   Existing federal law, the National Child Protection Act of 1993, as amended by the Volunteers for Children Act (commonly referred to as the NCPA/VCA), allows states to establish, through state statute or regulation, the state's authority to perform and authorize fingerprint-based state and national criminal history background checks of employees and volunteers of entities that serve children, the elderly, or individuals with disabilities, regardless of the entity's organizational structure or tax status. (34 U.S.C. § 40102.)

   Existing state law establishes DOJ's authority to perform and authorize fingerprint-based criminal history background checks for select entities and applicant populations included under the NCPA/VCA, but not all employees and volunteers of all eligible organizations that serve children, the elderly, or individuals with disabilities that are included under 34 U.S.C. § 40102. (Pen. Code, § 11105.3.)

   DOJ has established the California Volunteer Employee Criminal History Service (CalVECHS) Program to administer the fingerprint-based state and national criminal history background checks that are authorized by existing state law, specifically for (1) employees and volunteers of certain entities that serve vulnerable populations ("human resource" agencies and "employers," as they are uniquely defined in Penal Code section 11105.3) who have supervisory or disciplinary power over individuals receiving services, (2) coaches of

community youth athletic programs, and (3) administrators, employees, and regular volunteers of youth service organizations. (Bus. & Prof. Code, § 18975, Pen. Code, § 11105.3.)

Existing federal law allows private entities that provide contract services to public and private schools to require employees to undergo fingerprint-based state and federal background checks and to receive federal CORI through participation in a program authorized under the NCPA/VCA. (34 U.S.C. § 40102.) Current state law requires DOJ to facilitate such state and federal background checks of school contracting entities, but to provide a sanitized federal response to those private entities that confirms the Federal Bureau of Investigation (FBI) has performed an applicant's federal background check without directly sharing out-of-state criminal history records, if any exist. (Ed. Code, §§ 33192, 33195.2, 45125.1.)

Further, existing state law unnecessarily restricts certain entities under CalVECHS from backgrounding individuals that do not have "supervisory or disciplinary power" over individuals receiving services, rather than empowering entities that serve vulnerable populations to screen any employee or volunteer who may interact with individuals receiving the entity's services, which is not a limitation imposed by federal law. (34 U.S.C. § 40102; Pen. Code, § 11105.3.)

Lack of clarity in the statute authorizing DOJ to conduct and authorize these background checks has resulted in confusion among DOJ client agencies, some of which could be utilizing this authority, others that would need Penal Code section 11105.3 amended to include individuals covered under the NCPA/VCA, but not currently authorized by state law, and still others that would need both Penal Code section 11105.3 and their governing code (e.g., the Education Code) amended to allow use of this authority.

This bill would require DOJ to develop and administer the CalVECHS program for the entities and individuals identified in the NCPA/VCA. Additionally, the bill would authorize these qualified entities to request of DOJ, and authorize DOJ to conduct, a fingerprint-based state and national criminal history record check of the entity's current and prospective employees and volunteers who have or may have access to children, the elderly, or individuals with disabilities. The bill would require qualified entities to subscribe to subsequent arrest and disposition notification. This bill would replace the current authorization statute for local government agencies to fingerprint employees and volunteers working with children in public parks and recreation centers (Pub. Resources Code, § 5164), which erroneously cites Penal Code section 11105.3, with a standalone authorizing statute that conforms to the requirements of Pub. L. No. 92-544 and ensures that criminal history records are disseminated to those local government agencies pursuant to subdivision (p) of 11105 of the Penal Code and not the more restrictive subdivision (n), as specified in Penal Code section 11105.3. Additionally, this bill would amend the fingerprinting authorization statutes for employees of school contracting entities (Ed. Code, §§ 33192, 33195.2, 45125.1) to cross-reference Penal Code section 11105.3 and strike language requiring DOJ to disseminate a sanitized federal response, allowing those entities to participate in CalVECHS and to directly receive federal CORI.

b) *DOJ Fitness Determination*

The FBI recently determined that the statute allowing the California Massage Therapy Council to conduct federal background checks (Business and Professions Code section 4606) improperly authorizes access to federal criminal history information by a private entity in violation of PL 92-544, thereby revoking its prior approval.

Business and Professions Code section 4606 is one of 12 statutes stating that a private entity shall submit an applicant's fingerprints for a federal criminal history background check, and that DOJ will then perform a fitness determination based on federal criminal history information. However, the revocation of approval for Business and Professions Code section 4606 suggests that the FBI might now revoke approval for the other eleven statutes allowing private entities to request a federal criminal history background check, with a fitness determination to be provided by DOJ.

In addition, the FBI has taken up to eighteen months to review and approve statutes. While FBI approval is pending, agencies are unable to comply with statutory requirements to obtain federal background check results before they can hire, license or certify an individual. For example, the FBI's immediate revocation of approval for Business and Professions Code section places the California Massage Therapy Council in the difficult position of either pausing the issuance of new massage certifications, or issuing certifications solely on the basis of the California background check, in violation of state law.

These proposed amends would remove the requirement that DOJ provide a fitness determination for the impacted applicant populations and either (a) authorize the impacted entity to conduct and receive only a state-level background check and response or (b) create or reference an alternative pathway to federal authorization. These alternative pathways are the NCPA/VCA, discussed above, or the Adam Walsh Child Protection and Safety Act of 2006 (Adam Walsh Act)[1] which authorizes the U.S. Attorney General to conduct fingerprint-based background checks of national crime information databases at the request of child welfare agencies for prospective foster or adoptive parents, and at the request of private[2] schools for prospective or current position holders who work around children.

This bill creates a new statute enabling entities to use state-only background checks pending FBI review of federal authority. This bill strikes the unnecessary fitness determination in various statutes, including Bus. & Prof. Code, § 4604 (massage therapist certification), Bus. & Prof. Code, § 6533.5 (professional fiduciaries), Bus. & Prof. Code, § 22253.5 (tax preparers), and Corp. Code, § 14502 (human officers). This bill would amend several Education Code, Family Code and Welf and Institutions Code sections to remove the unnecessary fitness determination as well as adding language to reference the Adam Walsh Act as the alternative pathway to accessing federal background check information.

Other changes would include Financial Code § 1300 related to bank employes to clarify that only state check and response is authorized. Changes to Financial Code § 17331 related to escrow agents would maintain federal service for Department of Financial Protection and

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[1] Codified at United States Code, title 34, section 20962.
[2] The Adam Walsh Act also allows public schools to conduct background checks, but California already has enacted the statutory authority for these purposes, and they are approved by the FBI under PL 92-544.

Innovation (DFPI), which is a public entity, and authorize state-only response for Escrow Agents' Fidelity Corporation (EAFC), which is a private entity.

c) Repealed Firearms Authority Replacement

In order to be eligible to receive either a one-time federal response or to participate in Federal Rap Back and receive ongoing notifications, an agency must have, for each applicant type, a current state statute authorizing fingerprint-based background checks that is approved by the FBI's Pub. L. 92-544 review unit.

To be approved for a federal response by the FBI's Pub. L. 92-544 review unit, a fingerprint-based criminal history background check authority must (1) exist as a result of a legislative enactment, (2) require the fingerprinting of applicants who are to be subjected to a national criminal history background check, (3) authorize the use of FBI records for the screening of applicants, (4) identify the specific category(ies) of applicants falling within its purview, (5) not be against public policy; and (6) not authorize receipt of CORI by a private entity (Pub. L. 92-544).

Existing law authorizes DOJ to conduct fingerprint-based background checks on applicants for (1) the firearms Certificate of Eligibility, a certification required for all firearms dealers and their employees statewide and (2) various dangerous weapons permits, required of individuals who are involved in the sale, manufacture, or use of assault weapons and explosives, among other dangerous weapons; however the law does not meet the requirements of Pub. L. 92-544. (Pen. Code, § 23520.)

The fingerprinting authorization statute(s) for the Certificate of Eligibility and dangerous weapons permits are currently not approved by the FBI for a federal response. Specifically, Penal Code section 12001, subdivision (m) was repealed under the Deadly Weapons Recodification Act of 2010 and renumbered to Penal Code section 23520, and DOJ is currently leveraging the repealed statute to submit fingerprints to the FBI for these applicant populations. DOJ must submit the renumbered statute, Penal Code section 23520, to the FBI for review, but that fingerprinting authorization statute in its current state would be rejected by the FBI's Pub. L. 92-544 review unit for overbreadth.

In the years since the original authorizing statute was approved by the FBI for a federal response, the requirement that a fingerprinting authorization statute "identify the specific category(ies) of applicants falling within its purview" has been interpreted by the FBI's Pub. L. 92-544 review unit more strictly. Because Penal Code section 23520 ostensibly authorizes fingerprinting for "the issuance of any license, permit, or certificate pursuant to [Part 6 of the Penal Code]," the statute does not conform to the requirement for applicant population specificity.

DOJ risks losing access to federal CORI for the applicant populations in question if it does not address the deficiencies in their associated fingerprinting authorization statutes. Without the amendment, the statutes authorizing fingerprint-based state and national background checks for the Certificate of Eligibility and dangerous weapons permits will be rejected for non-compliance with Pub. L. 92-544 and will not qualify for either a one-time federal response or for Federal Rap Back.

This bill would conform Penal Code section 23520 to meet the FBI's guidelines by specifying that applies to applicants for a COE or for a dangerous weapons license or permit and for the purposes of determining firearm eligibility, and providing a definition of a "dangerous weapons license or permit."

d) Out-of-State Tribal Law Enforcement Officers

Existing law authorizes DOJ to share criminal history information with non-California law enforcement officers. However, DOJ is authorized to share with non-California tribal law enforcement officers, even though federal law provides this authority.

This bill would add tribal law enforcement officers to existing Penal Code section 11105, subdivision (c), which gives DOJ authority to share criminal history information with law enforcement officers of the United States, other states, or territories in the possession of the United States.

e) Community Care Licensing

The California Department of Social Services (CDSS) receives state and federal-level criminal history responses as part of a background check for applicants seeking licensure, employment, or presence in a CDSS-licensed care facility. The FBI informed the California Department of Justice (CA DOJ) that specified language in California's statutory authority, used to process fingerprint-based background checks, no longer qualified for access to federal criminal history information pursuant to Public Law 92-544. In February 2024, an FBI audit found that CDSS's authorizing statutes do not meet the FBI's new standards because the current law does not identify the category of individual to be fingerprinted. The Department confirmed with the CA DOJ that amendments to regulations would not be sufficient in meeting new FBI standards and that amendments must be made to the Department's authorizing statutes to continue receiving federal criminal histories.

Ambiguous language in the Department's background check statutes that does not currently meet FBI standards for specificity, such as "any person similar to those described," would be removed and replaced with clear, specific references to the categories of individuals subject to the federal-level background checks. Revisions would align, to the extent possible, the statutes across programs to ensure consistent application and eliminate interpretive gaps that can lead to noncompliance.

If amendments are not made immediately, the Department may lose its ability to receive FBI federal-level criminal history for individuals who are not identified in statutes to the specificity required by the FBI. Failure to receive federal-level criminal history would significantly weaken existing background check standards and safeguards intended to protect vulnerable populations who reside or receive care in care facilities licensed by the CDSS, including but not limited to adult and senior care facilities, child day care facilities, and foster care facilities.

Without this clarification, CDSS risks ongoing noncompliance, which could result in future audit findings, potential federal penalties, and weakened safeguards for individuals receiving care in licensed facilities. The lack of specificity also creates legal ambiguity that hampers effective enforcement and oversight.

The proposed statutory changes will make targeted revisions to specific HSC sections to explicitly identify the individuals and circumstances requiring background checks. Prompt action is needed to respond to the federal audit and CA DOJ findings and bring CDSS into compliance, avoiding both immediate and long-term risks to public safety.

f) Medi-Cal Providers and Applicants

Federal Medicaid program integrity regulations require states to conduct national fingerprint-based criminal background checks for all Medicaid providers that are designated as high risk. The existing California statute that authorizes fingerprint-based background checks, was enacted prior to the reorganization of the former Department of Health Services into the Department of Health Care Services (DHCS) and the California Department of Public Health (CDPH) in 2007. Because the statute was enacted before this reorganization, the statute continues to assign fingerprinting authority only to the former Department of Health Services, or its designee. Consequently, the statute grants explicit authority solely to DHCS, as the legal successor to that department, and does not provide explicit authority for CDPH to conduct national fingerprint-based background checks for the provider types that CDPH enrolls, which does not meet federal requirements for fingerprinting authorization. This proposal would explicitly authorize CDPH to conduct background checks when performing Medi-Cal provider screening or certification functions for the high risk providers which they enroll in the Medi-Cal program, and would clearly align DHCS and CDPH processes with federal law governing FBI criminal history record checks.

g) Brokers and Salespersons of Yachts and Ships

This bill extends the term of a temporary license for brokers and salespersons of yachts and ships. SB 160 (Committee on Budget), Chapter 13, Statutes of 2025 provided the Department of Parks and Recreation with authority to conduct national background checks under Penal Code Section 11105.001, however this statute remains under federal review. Until the federal government approves this statute, the Department of Parks and Recreation is relying upon the temporary license authority in Harbors and Navigation Code. This proposal provides a stop-gap measure in the absence of federal review of Penal Code Section 11105.001.

h) *Board of Registered Nurses*

This bill codifies the Board of Registered Nursing's (BRN) current access to fingerprint data and authorizes access to the Federal Bureau of Investigation (FBI) Record of Arrest and Prosecution (RAP) Back program, which will strengthen the Board's enforcement process and promote greater patient safety. Specifically, participation in the FBI's Rap Back program provides the BRN with real-time, continuous monitoring by alerting the BRN immediately when an enrolled individual has a new criminal activity.

According to the 2022 Survey of Registered Nurses, nearly 17 percent of RNs with active California licenses lived in other states. As of May 1, 2026, there are 564,315 RNs with an active California license, 17 percent of which is over 95,000 licensees. For those licensees, if they commit a crime after obtaining their initial California license and the state where it occurs does not impose discipline or the disciplinary process takes a significant amount of

time, the BRN is either never informed of the offense or not informed in a timely manner. This impedes the Board's ability to fulfill its charge of public protection.

To participate in the federal fingerprinting system, state statutes authorizing fingerprint collection must satisfy several federal requirements. The statute must be enacted by the Legislature; require fingerprinting of applicants who will undergo a national criminal history background check; expressly or implicitly authorize submission of fingerprints to the FBI; clearly identify the specific categories of individuals subject to the requirement; align with public policy; and prohibit the release of criminal history information to any private entity.

Consequently, the BRN needs explicit statutory authority that fully complies with the provisions above.

3) **Argument in Support**: According to the *California Association of Private School Organizations*, "AB 2796 addresses a critical gap in the background check and fingerprinting system impacting private schools. Following the 2023 FBI audit and subsequent changes to access protocols, private schools have experienced limitations in receiving out-of-state criminal history information and subsequent arrest notifications. As a result, schools are often unable to make fully informed hiring decisions for out-of-state candidates and may not be notified of disqualifying conduct committed outside of California by current employees. AB 2796 provides a thoughtful and necessary legislative solution by aligning provisions in the Education Code and Penal Code to allow private schools access to the California Volunteer and Employee Criminal History System (CalVECHS). This alignment ensures that private schools can regain appropriate access to comprehensive background information and subsequent arrest notifications, strengthening student safety while maintaining a clear and consistent statutory framework."

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

5) **Related Legislation**: None

6) **Prior Legislation**: SB 160 (Committee on Budget), Chapter 13, Statutes of 2025, made statutory adjustments to continue enabling the University of California, the California State Summer School for the Arts, the State Department of Education, California State University, Exposition Park, the Department of Fiscal, the Secretary of State's Office, the California Department of Tax and Fee Administration, the Department of Veteran's Affairs, the Department of Parks and Recreation, and others, to conduct federal background checks and fingerprinting.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Private School Organizations (PORAC)
Peace Officers Research Association of California

Opposition

None received

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

AMENDMENTS TO ASSEMBLY BILL NO. 2796
AS AMENDED IN ASSEMBLY MAY 27, 2026

Amendment 1
In the title, in line 1, after "Sections" insert:

2736,

Amendment 2
On page 5, before line 1, insert:

SECTION 1. Section 2736 of the Business and Professions Code is amended to read:

2736. (a) An applicant for licensure as a registered nurse shall comply with each of the following:

(1) Have completed general preliminary education requirements as shall be determined by the board.

(2) Have successfully completed the courses of instruction prescribed by the board for licensure, in a program in this state approved by the board for training registered nurses, or have successfully completed courses of instruction in a school of nursing outside of this state that, in the opinion of the board at the time the application is filed with the board, are equivalent to the minimum requirements of the board for licensure established for an approved program in this state.

(3) Not be subject to denial of licensure under Section 480.

(4) (A) The board shall require an applicant for licensure as a registered nurse to undergo a fingerprint-based state and national criminal history background check.

(B) The board shall submit to the Department of Justice fingerprint images and related information for individuals specified in subparagraph (A) who are subject to a state and national criminal history background check, pursuant to subdivision (u) of Section 11105 of the Penal Code. The Department of Justice shall provide a state- and federal-level response pursuant to subdivision (p) of Section 11105.

(b) An applicant who has received their training from a school of nursing in a country outside the United States and who has complied with subdivision (a), or has completed training equivalent to that required by subdivision (a), shall qualify for licensure by successfully passing the examination prescribed by the board.

Amendment 3
On page 5, in line 1, strike out "SECTION 1." and insert:

SEC. 2.

Amendment 4
On page 6, in line 10, strike out "SEC. 2." and insert:

SEC. 3.

Amendment 5
On page 6, in line 26, strike out "SEC. 3." and insert:

SEC. 4.

Amendment 6
On page 7, in line 13, strike out "SEC. 4." and insert:

SEC. 5.

Amendment 7
On page 18, in line 1, strike out "SEC. 5." and insert:

SEC. 6.

Amendment 8
On page 20, in line 17, strike out "SEC. 6." and insert:

SEC. 7.

Amendment 9
On page 23, in line 3, strike out "SEC. 7." and insert:

SEC. 8.

Amendment 10
On page 25, in line 26, strike out "SEC. 8." and insert:

SEC. 9.

Amendment 11
On page 29, in line 1, strike out "SEC. 9." and insert:

SEC. 10.

Amendment 12
On page 30, in line 16, strike out "SEC. 10." and insert:

SEC. 11.

Amendment 13
On page 31, in line 7, strike out "SEC. 11." and insert:

SEC. 12.

Amendment 14
On page 34, in line 39, strike out "SEC. 12." and insert:

SEC. 13.

Amendment 15
On page 35, in line 28, strike out "SEC. 13." and insert:

SEC. 14.

Amendment 16
On page 55, in line 20, strike out "SEC. 14." and insert:

SEC. 15.

Amendment 17
On page 63, in line 35, strike out "SEC. 15." and insert:

SEC. 16.

Amendment 18
On page 73, in line 11, strike out "SEC. 16." and insert:

SEC. 17.

Amendment 19
On page 83, in line 12, strike out "SEC. 17." and insert:

SEC. 18.

Amendment 20
On page 97, in line 33, strike out "SEC. 18." and insert:

SEC. 19.

Amendment 21
On page 98, in line 15, strike out "SEC. 19." and insert:

SEC. 20.

Amendment 22
On page 101, in line 5, strike out "SEC. 20." and insert:

SEC. 21.

Amendment 23
On page 101, in line 7, strike out "SEC. 21." and insert:

SEC. 22.

Amendment 24
On page 101, in line 39, strike out "SEC. 22." and insert:

SEC. 23.

Amendment 25
On page 103, in line 15, strike out "SEC. 23." and insert:

SEC. 24.

Amendment 26
On page 106, in line 4, strike out "SEC. 24." and insert:

SEC. 25.

Amendment 27
On page 128, in line 37, strike out "SEC. 25." and insert:

SEC. 26.

Amendment 28
On page 129, in line 7, strike out "SEC. 26." and insert:

SEC. 27.

Amendment 29
On page 129, in line 17, strike out "SEC. 27." and insert:

SEC. 28.

- 0 -

Date of Hearing: June 9, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 498 (Becker) – As Amended April 6, 2026

SUMMARY: Expands the list of services a state prison or youth residential placement or detention center operated by the Department of Corrections and Rehabilitation (CDCR) is required to provide free of charge to include electronic messaging services; and provides that, if an incarcerated individual is authorized to possess and use a tablet or other device for voice communications, facility staff shall not disconnect any communications conducted by the individual on the device based solely on the duration of the call.

EXISTING LAW:

1) Provides that a state prison or youth residential placement or detention center operated by the CDCR shall provide persons in their custody and confined in a correctional or detention facility with accessible, functional voice communication services free of charge to the person initiating and the person receiving the communication. CDCR shall have operational discretion in implementing this subdivision such that free voice communication services do not interfere with necessary programming. (Pen. Code, § 2084.5, subd. (a).)

2) Provides that a state agency shall not receive revenue from the provision of voice communication services or any other communication services to a person confined in a state correctional or detention facility. (Pen. Code, § 2084.5, subd. (b).)

3) Requires CDCR facilities to provide incarcerated person telephone for use by an incarcerated persons consistent with their assigned privilege group. (Cal. Code Regs., tit. 15, § 3282, subd. (b).)

4) Authorizes incarcerated persons to place telephone calls or device calls to persons outside the facility at designated times and on designated telephones or on authorized wireless communication devices, as set forth in local procedures. (Cal. Code Regs., tit. 15, § 3282, subd. (b).)

5) Provides that limitations may be placed on the frequency and length of such calls based on the incarcerated person's privilege group, as specified, and to ensure equal access. (Cal. Code Regs., tit. 15, § 3282, subd. (b).)

6) Provides that, except as specified, no limitation shall be placed on the identities or relationships of persons to whom an incarcerated person may place a call, or with whom an incarcerated person conducts electronic communications. (Cal. Code Regs., tit. 15, § 3282, subd. (e).)

7) Provides that all incarcerated person calls placed on intrafacility and incarcerated person telephones, and electronic communications may be subject to monitoring and recording at any time. (Cal. Code Regs., tit. 15, § 3282, subd. (f).)

8) Provides that all calls made on incarcerated person telephones shall have an announcement before and at random intervals during the calls stating that the call is from an incarcerated person at a California state correctional facility and is being recorded. (Cal. Code Regs., tit. 15, § 3282, subd. (g).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: San Quentin Skunkworks, Bridges of Hope CA, Empowering Women Impacted by Incarceration, The Change Parallel Project, Restoring Hope CA, Jesse's Place Organization, Legal Services for Prisoners with Children/All of Us or None, Communities United for Restorative Youth Justice (CURYJ), and Western Center on Law and Poverty.

2) **Author's Statement**: According to the author, "The right of an incarcerated individual to communicate with loved ones is fundamental and protected by law. However, the current structure of telecommunications in state correctional facilities prioritizes profits over people despite communication being an essential part of creating an environment for successful reentry. Previous laws enabled money to act as a barrier to reentry services and limited supportive capacities for incarcerated people and their families. My previous legislation, SB 1008, removed the financial burden of traditional phone calls, but families continue to face high per-minute costs for digital communication platforms like video visits and electronic messaging, alongside arbitrary call time limits that disrupt meaningful connection.

   "SB 498 directly addresses these remaining gaps. By expanding the state's free communication mandate, this bill ensures that the California Department of Corrections and Rehabilitation provides both voice and electronic messaging services completely free of charge to both sender and receiver. This bill further changes an outdated regulation requiring facilities to disconnect tablet or voice communications based solely on the duration of the call, ending the practice of cutting off conversations every 15 minutes. By ensuring uninterrupted, cost-free phone and digital messaging, SB 498 enables incarcerated people to reliably connect with their support systems to plan for housing, employment, and successful reintegration without tech barriers punishing families for being poor."

3) **Phone Calls by Persons Incarcerated in State Prisons:** Pursuant to the Title 15 Regulations and CDCR's Operations Manual (DOM), inmates are provided with the means and the opportunity to make personal calls to persons outside the institutions. (Cal. Code Regs., tit. 15, § 3282; DOM, § 52060.1.) Each facility is required to provide public telephones for the use of general population inmates to make personal calls. (Cal. Code Regs., tit. 15, § 3282; DOM § 52060.4.) Incarcerated persons may make personal calls to persons outside the institution at designated times and on designated telephones according to their privilege group designation. (Cal. Code Regs., tit. 15, § 3282; DOM § 52060.5.) Although limitations are placed on the frequency of calls as to allow equal access to telephones, there are no limitations placed on the numbers, identity, or relationship of the person called, providing the person being called agrees to accept all charges for the call.

(*Ibid.*) Incarcerated persons can sign up to use the telephone in periods of 15-minute increments. (*Ibid.*)

The DOM sets forth eligibility requirements for phone calls based on privilege group as follows:

- Privilege Group A: Telephone calls during the inmate's non-work/training hours shall be limited only by institution/facility telephone capabilities, and hours of general population unlock.
- Privilege Group B: One personal telephone call period per month.
- Privilege Groups C, D, and U: Telephone calls on an emergency basis only as determined by institution/facility staff.
- Privilege Group DD: Phone privilege suspended during a period of DD. (DOM, § 52060.7.)

According to CDCR, most incarcerated persons have access to telephones and can initiate outgoing collect calls. Prior to January 1, 2023, the Department of General Services (DGS) Inmate/Ward Telephone System (IWTS) within CDCR provided phone calling services through a single state-wide contract held by Global Tel*Link (GTL), which provided collect-only domestic and international telephone services to incarcerated adults at CDCR facilities.[1] Incarcerated individuals had two options to pay for phone calls via GTL: either prefunded collect or collect. However, SB 1008 (Becker), Chapter827, Statutes of 2022, required state and local correctional facilities to provide voice communication services to incarcerated persons free of charge. Thus, individuals currently can provide a telephone number where an incarcerated person can call them, and it is up to the incarcerated person to initiate the call. Phone calls are limited to 15 minutes.[2]

This bill would provide that, if an incarcerated individual is authorized to possess and use a tablet or other device for voice communications, facility staff shall not disconnect any communications conducted by the individual on the device based solely on the duration of the call exceeding 15 minutes.

4) **Argument in Support**: According to *The Change Parallel Project*, a co-sponsor of the bill, "The 15-minute call limit — now applied even to personal tablets that are never shared and always in the possession of the incarcerated individual — is an outdated policy that disrupts meaningful conversation at the exact moments it matters most. A parent helping a child navigate a hard day. A spouse working through a crisis together. A person in the early, fragile stages of genuine self-reflection. These conversations cannot be sustained in 15-minute windows. When the line cuts off and must be redialed, the moment is lost — and with it, a piece of the relationship.

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[1] CDCR, Receiving Calls from Incarcerated People <https://www.cdcr.ca.gov/family-resources/receiving-calls-from-incarcerated-people/> [as of May 29, 2026].
[2] CDCR, How to Contact and Inmate <https://www.cdcr.ca.gov/family-resources/how-to-contact-an-inmate/> [as of May 29, 2026].

"The cost of electronic messaging compounds this harm. California took a landmark step with SB 1008 (2022) by making voice calls free. But electronic messaging — the primary mode of everyday communication for most families — still carries fees. These costs fall hardest on low-income families, and disproportionately on Black and Brown communities who are overrepresented among those with incarcerated loved ones. There is no defensible justification for charging families to maintain connection when the Legislature has already affirmed that connection itself should be free.

"Research is clear: incarcerated individuals who maintain strong family relationships are significantly more likely to succeed upon release and less likely to reoffend. The Change Parallel Project has seen this truth lived out in our programming. When someone inside knows they are still known, still loved, and still part of a family, they fight harder to change. SB 498 removes bureaucratic obstacles that stand in the way of that fight.

"SB 498 preserves CDCR's full operational discretion for safety and security — it simply prevents arbitrary time-based disconnection when no shared resource is being rationed, and prevents families from shouldering the cost of communicating with their incarcerated loved ones. This is sound policy, and it reflects the values California has already committed to."

5) **Argument in Opposition**: No longer applicable.

6) **Related Legislation**: AB 1645 (M. Gonzalez) would prohibit CDCR regulations from unreasonably restricting nonsexual physical contact between incarcerated persons and their visitors during contact visits. AB 1645 has been referred to the Senate Public Safety Committee.

7) **Prior Legislation**:

   a) SB 1008 (Becker), Chapter 827, Statutes of 2022, required state and local correctional facilities to provide voice communication services to incarcerated persons free of charge.

   b) AB 2023 (Bennett), Chapter 327, Statutes of 2022, entitled a person incarcerated in, or recently released from, a county jail to have access to up to three free telephone calls in the county jail to plan for a safe and successful release.

   c) SB 1139 (Kamlager), Chapter 837, Statutes of 2022, required CDCR to make emergency phone calls available to an incarcerated person and specified people outside of CDCR when the incarcerated person has been hospitalized for a serious medical reason.

   d) SB 555 (Mitchell), of the 2019-2020 Legislative Session, would have prohibited a county jail from collecting commission fees for providing telephone services to inmates, and would have imposed other restrictions on a county's ability to contract for commissary and communication services. SB 555 was vetoed by the governor.

   e) AB 1876 (Quirk), of the 2013-2014 Legislative Session, would have prohibited commissions in telephone service contracts for juvenile facilities and for county, municipal or privately-operated jails, and would have required such contracts to be negotiated and awarded to the lowest cost provider. AB 1876 was held in the Senate

Appropriations Committee.

f) SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007, among other provisions, directed a four-year phase out of concession fees in contracts that provide telephone services to persons incarcerated in state correctional facilities.

g) AB 230 (Leno), of the 2003-2004 Legislative Session, would have required any contracts to provide phone service to state prisoners and California Youth Authority (CYA) wards to be negotiated to provide the lowest possible costs. AB 230 was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support
Western Center on Law & Poverty, INC. (Co-Sponsor)
A New Way of Life Re-entry Project
ACLU California Action
All of US or None (HQ)
Asian Prisoner Support Committee
Bridges of Hope CA
California Coalition for Women Prisoners
California Innocence Coalition
California Public Defenders Association
Californians United for a Responsible Budget
Center for Restorative Justice Works
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Debt Free Justice California
Ella Baker Center for Human Rights
Empowering Women Impacted by Incarceration
Fair Chance Project
Felony Murder Elimination Project
Fresh Lifelines for Youth
Glide
Initiate Justice
Jesse's Place Organization
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Legal Services for Prisoners With Children / All of US or None
Peace and Justice Law Center
Restoring Hope California
San Quentin Skunkworks
Showing Up for Racial Justice San Francisco - Surj Sf
Smart Justice California, a Project of Beyond Impact
The Change Parallel Project
The Roots and Wings Project

Youth Leadership Institute
25 private individuals

Opposition

No longer applicable.

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

Date of Hearing: June 9, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 562 (Ashby) – As Amended July 8, 2025

SUMMARY: Requires a court to order a refund to an arrestee or defendant of any money paid to a licensed bail surety agent within 30 days in specific circumstances. Specifically, **this bill**:

1) Requires a court to order a refund of the bail premium paid to a bail bond company under any of the following circumstances:

    a) The prosecuting agency files a motion to dismiss a complaint or indictment within 21 days of the defendant's original arraignment, and the defendant's bond has been exonerated.

    b) The prosecuting agency fails to file charges within 21 days of the posting of the arrestee's bail surety bond and the arrestee has not missed any court appearances where the arrestee's presence is mandatory, and the arrestee's bond has been exonerated.

2) Provides that for an arrestee that is not charged within 21 days, the court shall order the licensed bail surety agent to provide a refund to the entities or persons who were billed the money or property of an amount equal to any bail premium paid, less an administrative reimbursement equal to two percent of the bond liability amount and the premium tax paid to the state by a licensed surety company in connection with the posting of the bond.

3) Provides that for a defendant who has their case dismissed within 21 days, the court shall order the licensed bail surety agent to provide a refund to the entities or persons who were billed the money or property of an amount equal to any bail premium paid, less an administrative reimbursement for an amount equal to two percent of the bond liability amount and the premium tax paid to the state by a licensed surety company in connection with the posting of the bond.

4) Specifies that a court shall order a return of money or property only for a bail surety bond entered into on or after January 1, 2026.

5) Contains a severability clause.

EXISTING LAW:

1) Prohibits excessive bail. (U.S. Const., 8th Amend. & Cal. Const., art. I, § 12.)

2) States that a person shall be granted release on bail except for the following crimes when the facts are evident or the presumption great:

a) Capital crimes;

b) Felonies involving violence or sexual assault if the court finds by clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or,

c) Felonies where the court finds by clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released. (Cal. Const., art. I, § 12.)

3) States that in setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of their appearing at the trial or hearing of the case; public safety and the safety of the victim shall be the primary considerations. (Cal. Const., art. I, § 28, subd. (f)(3).)

4) Requires the court to consider the safety of the victim and the victim's family in setting bail and release conditions for a defendant. (Cal. Const., art. I, § 28, subd. (b)(3).)

5) Provides that the Judicial Council shall adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute. (Cal. Const., art. VI, § 6, subd. (d).)

6) Requires the superior court judges in each county to prepare, adopt, and annually revise a uniform, countywide bail schedule. (Pen. Code, § 1269b, subd. (c).)

7) Specifies if a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the time of the appearance. If that appearance has not been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule of bail for the county in which the defendant is required to appear, previously fixed and approved. (Pen. Code, § 1269b, subd. (b).)

8) Provides that an arrested person must be taken before the magistrate with 48 hours of arrest, excluding Sundays and holidays. (Pen. Code, § 825, subd. (a).)

9) Authorizes the officer in charge of a jail, or the clerk of the superior court to approve and accept bail in the amount fixed by the arrest warrant, the bail schedule, or an order admitting to bail in case or surety bond, and to issue and sign an order for the release of the arrested person, and to set a time and place for the person's appearance in court. (Pen. Code, § 1269b, subd. (a).)

10) States that if a defendant is arrested without a warrant for a bailable felony offense or for the misdemeanor offense of violating a domestic violence restraining order, and a peace officer has reasonable cause to believe that the amount of bail set forth in the schedule of bail for that offense is insufficient to ensure the defendant's appearance or to ensure the protection of

a victim, or family member of a victim, of domestic violence, the officer shall file a declaration with the judge requesting an order setting a higher bail. (Pen. Code, § 1269c.)

11) Allows a defendant to ask the judge for release on bail lower than that provided in the schedule of bail or on his or her own recognizance and states that the judge is authorized to set bail in an amount that he or she deems sufficient to ensure the defendant's appearance or to ensure the protection of a victim, or family member of a victim, of domestic violence, and to set bail on the terms and conditions that he or she, in his or her discretion, deems appropriate, or he or she may authorize the defendant's release on his or her own recognizance. (Pen. Code, § 1269c.)

12) Provides that, after a defendant has been admitted to bail upon an indictment or information, the Court in which the charge is pending may, upon good cause shown, either increase or reduce the amount of bail. If the amount be increased, the Court may order the defendant to be committed to actual custody, unless he give bail in such increased amount. (Pen. Code, § 1289.)

13) States if money has been deposited instead of bail, and the defendant, at any time before the forfeiture thereof, surrenders [themselves] to the officer to whom the commitment was directed, as specified, the court shall order a return of the deposit to the defendant or to the person or persons found by the court to have deposited said money on behalf of the defendant, upon the production of the certificate of the officer showing the surrender, and upon a notice of five days to the district attorney, with a copy of the certificate. (Pen. Code, § 1302.)

14) States if an action or proceeding against a defendant who has been admitted to bail is dismissed, the bail shall not be exonerated until a period of 15 days has elapsed since the entry of the order of dismissal. If, within such period, the defendant is arrested and charged with a public offense arising out of the same act or omission upon which the action or proceeding was based, the bail shall be applied to that offense. If an undertaking of bail is on file, the clerk of the court shall promptly mail notice to the surety on the bond and the bail agent who posted the bond whenever the bail is applied to an offense, as specified. (Pen. Code, § 1303.)

15) Prohibits the release of a defendant on his or her own recognizance (OR) for any violent felony until a hearing is held in open court and the prosecuting attorney is given notice and an opportunity to be heard on the matter. (Pen. Code, § 1319.)

16) Specifies conditions for a defendant's release on OR. (Pen. Code, § 1318.)

17) Provides that a defendant released on bail for a felony who willfully fails to appear in court, as specified, is guilty of a crime. (Pen. Code, § 1320.5.)

18) Specifies that if an on-bail defendant fails to appear for any scheduled court appearance, the bail is forfeited unless the clerk of the court fails to give proper notice to the surety or depositor within 30 days, or the defendant is brought before the court within 180 days. (Pen. Code, § 1305, subds. (a) & (b).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Author-sponsored.

2) **Author's Statement**: According to the author, "SB 562 is a financial justice bill. This bill allows a person to receive a refund from a bail bond company if: 1) the person uses a bail bond agency to secure their release and 2) no charges are filed by the prosecuting agency within 21 days of the posting of the bond, or the charges are dismissed within 21 days of the arraignment hearing. "Under current law, when no charges are filed or charges are dismissed, the person who uses a bail bond company to secure their release does not get any of their money back. SB 562 simply seeks to remedy this very narrow and unjust circumstance by allowing the person to receive their bonded money back, excluding state tax and administration fees, equal to 2% of the surety bond paid, by the bail bond company."

3) **Bail Generally:** In California, bail is a constitutional right except when the defendant is charged with: (a) a capital crime; (b) a felony involving violence or sex and the court finds that the person's release would result in great bodily harm to another; or (c) when the defendant has threatened another and the court finds it likely that the defendant might carry out that threat. The constitution also allows for an arrestee to be released upon a written promise to appear, known as release on own recognizance. The constitution prohibits excessive bail. (Cal. Const. art. I, § 12.)

   Courts require many defendants to deposit monetary bail in order to be released from custody. Bail is intended to act as a financial guarantee to the court that the defendant will appear for all required court hearings. An arrestee may post bail with his or her own cash, or may post bail using a bail bond.

   Currently, each county sets a bail schedule based exclusively on the charged offense. The bail schedule is used by the arresting officer to allow an arrestee to post bail before their arraignment. Once a defendant is brought before the court, there must be an individualized determination of the appropriate amount of bail, or if a defendant is eligible for a recognizance release. The defendant, or someone acting on their behalf, may deposit cash with the court in lieu of obtaining a bail bond. The cash must be the sum fixed by the bail order or schedule. Jailers are also authorized to accept cash. However, the clerk of the court may not accept a general assistance check for any part of the deposit. (See Pen. Code, § 1295, subd. (c).)

   If a bail bond is posted by a surety (bail agency), it remains in effect until the completion of the pronouncement of judgment or grant of probation or until a new bond is required due to an increase or a forfeiture of bail. (See *People v. Allied Fidelity Ins. Co.* (1978) 82 Cal. App. 3d 242, 246–247.) A bail bond is commonly provided by a commercial bonder, acting as an agent for an insurer. (See Ins. Code, § 1800 et seq.)

   The professional surety charges the defendant a nonrefundable fee, usually ten percent of the face value of the bond, and usually requires the defendant to post security. If the defendant is unable or unwilling to obtain a commercial bond, he or she may seek the aid of a private surety (third party individual with money). Such a surety must be a resident, householder, or

freeholder within the state, and, at the court's discretion, within the county where the bail is offered. (Pen. Code, § 1279.)

Exoneration releasing the surety from obligations on the bail bond or deposit occurs after the defendant appears, as required. For example, if the defendant pleads guilty and is sentenced at a scheduled court state, the bond is exonerated. (See Pen. Code, § 1195.)

Bail is also exonerated when a case is dismissed unless the court orders the case re-submitted. A court must exonerate bail within 15 days after a court directs a complaint to be dismissed, unless the defendant is arrested and charged with a new offense arising out of the original act or omission. In such a case, the bail is applied against the new charge. (See Pen. Code, § 1302.)[1]

A bond may be forfeited if a defendant fails to appear without justification. Thereafter, the defendant or the bail agent has 180 days to bring the defendant before the court or the bail amount posted by the surety is forfeited. (Pen. Code, § 1305, subd. (a).)

4) **Regulation of Bail Rates:** The amount a surety may charge for bail is set by the California Insurance Commissioner (CIC). According to the CIC website:

> Bail bonds are negotiated in several ways. Bail agents usually charge ten percent of the bail amount as the fee. For example, on a $25,000 bail the ten percent fee is $2,500. However, to become more competitive, a bail agent may choose to negotiate a lower fee by rebating, as allowed by Proposition 103. This is accomplished by calculating a lower fee percentage as a 'rebate' back to the bailee. Prevailing market conditions often dictate how much a bail agent must rebate in order to remain competitive. Thus, the amount of the fee can be lowered anywhere from an eight percent fee to a two percent fee (i.e., 8% of $25,000 is $2,000 and 2% is $500.) Some bail bond companies also offer "credit bail," where a down payment is made and partial payments are accepted until fully paid.[2]

The Bail Bond Regulatory Act was first adopted in 1937 and provided the statutory framework to regulate the bail bond business under the California Department of Insurance (CDI). The law also provided CDI with the authority to adopt administrative regulations. CDI's Licensing Services Division is responsible for licensing bail agents.

In 1988, the voters approved Proposition 103, an initiative measure entitled the Insurance Rate Reduction and Reform Act. Among other provisions affecting certain types of insurance, Proposition 103 imposed a rate rollback and required that any subsequent rate increase, prior to its use, be approved by the CIC. Section 8, subdivision (b) of Proposition

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[1] See generally, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.insurance.ca.gov/0400-news/0100-press-releases/archives/upload/California-Department-of-Insurance-An-Exploration-of-California-s-Bail-System-Overview-1-31-17.pdf

[2] *Ibid.*

103 provides: "The provisions of this act shall not be amended by the Legislature except to further its purposes."

Proposition 103 also requires a system wherein the CIC must approve a rate applied for by an insurer, known as the "prior approval" system, before an insurer can implement property and casualty insurance rates. The following lines of insurance are regulated by Proposition 103: Personal automobile, dwelling fire, earthquake, homeowners, inland marine, and umbrella; Commercial aircraft, automobile, boiler and machinery, burglary and theft, business owners, earthquake, farm owners, some fidelity, fire, glass, inland marine, medical malpractice, miscellaneous, multi-peril, other liability, professional liability, special multi-peril, umbrella, and coverage under the United States Longshoremen's & Harbor Workers' Compensation Act.

In 1995, the California Supreme Court struck down a bill that would have exempted surety companies from the requirements of Proposition 103. (See *Amwest Sur. Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243, 1265.) Accordingly, surety companies, including bail sureties, are subject to CIC rate-setting.

This bill arguably changes the rate set by the CIC of 10% and allows the payee to receive all but 2% back in specific circumstances. While that may act as a ceiling, not a floor, this bill may be a mandatory rate change in any case in which a defendant is not charged in a timely fashion or the charges are dismissed. Accordingly, this bill may violate the requirements of Proposition 103. According to the author, the Insurance Commissioner suggested this does not violate Proposition 103.

5) **Bail Reform Efforts:** There are a number of challenges in the money bail system. A growing number of people acknowledge that the bail system has a negative impact on communities of color and those who come from the lower end of the socio-economic spectrum. In short, those who have money have the ability to confront their criminal charges while free from confinement in county jail.

Those who are too poor to post bail are forced to remain incarcerated, and are more likely to plead guilty in order to get out of custody. Prior to the initial court appearance, the determination as to who remains detained while awaiting resolution of criminal charges is made based on money, and not whether the person is a present danger to the community or whether the person will return to court. The ability to be out of custody while facing criminal charges carries a number of inherent advantages. A defendant who is released on bail is able to carry on with his or her life while awaiting the disposition of the criminal case. For instance, criminal defendants who are out on bail are not only able to maintain employment but are also encouraged to do so. According to a 2023 Report issued by the California Penal Code Revision Commission:

> (1) Pretrial detention is often the single best predictor of case outcomes. It increases the likelihood of a conviction and the severity of a conviction and sentence while reducing future employment and access to social safety nets.[3]

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[3] California Committee on Revision of the Penal Code, 2023 Annual Report and Recommendations, p. 55.

(2) Rates of pretrial detention are higher on average for people of color and bail amounts are also consistently higher for Black and Latino defendants.[4]

(3) The severity of pretrial detention and cascading negative consequences from being incarcerated can often exert undue pressure on people held in custody to plead guilty.[5]

(4) According to the Prison Policy Initiative, pretrial detention has negative consequences for public safety. Any time spent in pretrial detention beyond 23 hours is associated with a consistent and significant increase in the likelihood of future re-arrest.[6]

(5) According to Advancing Pretrial Policy and Research, excessive conditions of pretrial release do not appear to reduce re-arrest rates, but instead unnecessarily subject people to technical violations and revocation of bail.[7]

(6) A law requiring a 60-day automatic conditions review hearing for pretrial electronic monitoring was passed in Illinois in 2021.[8] Michigan has introduced comparable policy this session.[9]

The Budget Act of 2019 (AB 74 (Ting), Ch. 23, Stats. 2019) allocated $75 million to the Judicial Council to launch and evaluate two-year pretrial projects in local trial courts.[10] The projects sought to increase the release of arrestees before trial in a safe and efficient manner, use the least restrictive monitoring practices possible while protecting public safety and ensuring court appearances, validate and expand the use of risk assessment tools, and assess any bias. In August 2019, the Judicial Council approved and distributed funding to the 16 pilot projects selected for participation in the Pretrial Pilot Program. By the conclusion of the pilot program, 14 of 16 pilot projects had implemented a court date reminder system which provides text message and phone call notifications to all individuals as pretrial release. Initial data showed that court appearances after the implementation of a court date reminder system increased significantly.

The final report on the Pretrial Pilot Program issued in 2023 suggested an overall positive impact of the program including increased pretrial release and a decrease in re-arrest rates for

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[4] California Committee on Revision of the Penal Code, 2022 Annual Report and Recommendations, p. 66.
[5] California Committee on Revision of the Penal Code, 2023 Annual Report and Recommendations, p. 55.
[6] Prison Policy Initiative, "Releasing people pretrial doesn't harm public safety," July 6, 2023.
[7] Advancing Pretrial Policy and Research, Pretrial Research Summary: Pretrial Monitoring, p. 3.
[8] 2021 (Illinois State Legislature, HB 3653 (Public Act 101-0652), 101st General Assembly, 2021, ilga.gov/legislation/BillStatus.asp?DocNum=3653&GAID=15&DocTypeID=HB&LegId=120371&SessionID=108&GA=101).
[9] (Michigan State House of Representatives, House Bill 4656, 102nd Legislature, 2023, legislature.mi.gov/documents/2023-2024/billintroduced/House/pdf/2023-HIB-4656.pdf).
[10] https://courts.ca.gov/sites/default/files/courts/default/2024-12/pretrial-pilot-program_final-report.pdf

misdemeanors and felonies. The Budget Act of 2021 allocated ongoing funding to the Judicial Council for the implementation or expansion of pretrial programs in all California courts.

In 2021, the California Supreme Court also held that mere inability to afford bail is not a constitutional basis to hold a defendant pre-trial. The court in *In re Humphreys* held:

> The common practice of conditioning freedom solely on whether an arrestee can afford bail is unconstitutional. Other conditions of release—such as electronic monitoring, regular check-ins with a pretrial case manager, community housing or shelter, and drug and alcohol treatment—can in many cases protect public and victim safety as well as assure the arrestee's appearance at trial. What we hold is that where a financial condition is nonetheless necessary, the court must consider the arrestee's ability to pay the stated amount of bail—and may not effectively detain the arrestee "solely because" the arrestee "lacked the resources" to post bail. (*In re Humphrey* (2021) 11 Cal.5th 135, 143.)

While California continues to allow for money bail, it also has created alternate avenues for low-income defendants who do not pose a public safety risk to be released from custody without having to post any type of bail. Importantly, low income defendants often have no means to post bail at all. Low income defendants have to either remain in jail for the duration of their case or wait for arraignment and hope for an own recognizance release. This bill appears to more likely benefit arrestees that have the means to post bail before arraignment or who are able to post bail at all.

6) **SB 10 and 2020 Referendum:** SB 10 (Hertzberg), Chapter 244, Statutes of 2018 was signed into law on August 28, 2018. SB 10 eliminated cash bail in California. In its place, SB 10 created a risk-based non-monetary pre-arraignment and pretrial release system for people arrested for criminal offenses including preventative detention procedures for person's determined to be too high a risk to assure public safety if released.

A veto referendum to overturn the law was filed on August 29, 2018. On January 16, 2019, the California Secretary of State reported that the estimated number of valid signatures exceeded 110 percent of the 365,880 required signatures, putting the targeted law, SB 10, on hold until the November 2020 election. The referendum was identified as Proposition 25 on the ballot. A "Yes" vote indicated a preference to uphold the statutory changes made by SB 10 and end the use of cash bail in California.

Voters rejected SB 10 by a margin of 55% to 45%. The voters' veto of SB 10 maintained the existing structure of cash bail for criminal defendants in California. In the case of *Assembly v. Deukmajian*, the California Supreme Court provided the following guidance to the Legislature when it seeks to enact new legislation in an area where the voters have rejected an earlier legislative effort by means of a referendum:

> Unless the new measure is 'essentially different' from the rejected provision and is enacted 'not in bad faith, and not with

> intent to evade the effect of the referendum petition,' it is invalid.'[11]

In this case, this bill is likely substantially different than anything having to do with direct money bail. Rather, it just allows for the return of a bail surety if a defendant is not charged or charges are dismissed in a specific timeframe. However, despite admitted concerns with the discriminatory nature of money bail, the voters appear to approve of it.

In 2022, the Legislature again attempted to address bail. SB 262 (Hertzberg) would have proposed, in part, something similar to this bill but with a few important differences. First, SB 262 spent most of the Legislature year as requiring zero bail for all offenses except serious or violent felonies, violations of specified protective orders, stalking, looting, battery against a spouse, sex offenses and driving under the influence, among others. The proposed return of bail money language similar to this bill was just one part of that bill.

Additionally, SB 262 required a court to order a return of money or property paid to a bail bond company when an individual makes all court appearances in a criminal case charged in connection with the arrest or where no charges are filed within 60 days. However, it also stated that a bail bond licensee is entitled to retain a surcharge not to exceed 10 percent of the amount paid by the arrestee or on behalf of the arrestee. This bill is different in various ways including requiring return of all but a two percent administrative fee based on the bail liability.

This bill proposes to allow the surety to retain *"two percent of the bond liability amount."* The bond liability amount refers to the total coverage of the bond, the maximum amount payable by the surety if the principal defaults on their obligations. So, if the bail amount set by the court is $1,000 – a bond in California would likely be $100 (the amount the arrestee pays plus any needed collateral to make up the entire $1000). Under the terms of this bill, two percent of the bond liability amount would be two percent of $1000, or $20.

Therefore, this bill is quite a bit different than SB 262 (Hertzberg) which attempted to address the inequities and discrimination around bail generally in the criminal justice system.

7) **Marsy's Law:** In 2008, the voters passed Proposition 7, known as Marsy's Law, to enshrine victim rights into the California Constitution. Marsy's Law requires, among other things, that victims be consulted and have input in the criminal justice system. Section 28, subdivision (f) expressly deals with bail and pre-trial release and states:

> Public Safety Bail. **A person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great.** Excessive bail may not be required. In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the

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[11] *Assembly v. Deukmejian* (1982), 30 Cal.3d 638, 678 (citing *Reagan v. City of Sausalito* (1962), 210 Cal.App.2d 618, 629-631 and *Martin v. Smith* (1959), 176 Cal.App.2d 115, 118-119.

> probability of his or her appearing at the trial or hearing of the case. Public safety and the safety of the victim shall be the primary considerations.
>
> A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail.
>
> Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney and the victim shall be given notice and reasonable opportunity to be heard on the matter.
>
> When a judge or magistrate grants or denies bail or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes. (Emphasis added.) (Cal. Const., art. 1, § 28, subd. (f)(3).)

According to several bail surety groups, the exoneration of bail and the return of any premium necessarily means the defendant is released from the care and custody of the surety and either returned to custody or released on their own recognizance, regardless of any public safety considerations.

Accordingly, this bill may violate the constitutional requirements of Marsy's Law because it does not require any hearing on the record as to whether a person's risk to public safety counsels against an own recognizance release. This bill only requires, in relevant part, that a person who is arrested not been charged within 21 days and made all their appearances. In most cases, however, when a person is released on bail, their subsequent court dates may be delayed more than a month to accommodate in-custody arraignments. It is not clear whether a defendant who bails out before being charged will be returned to court in less than 21 days. According to the California District Attorneys Association:

> It is not uncommon for prosecutor's offices to delay filing charges to conduct additional investigation and properly determine whether charges are legally warranted. Law enforcement and district attorney resource issues may also delay charging beyond the 21-day period contemplated in [this] bill. When these delays occur, arrestees who have posted bond, are released from custody, and then receive a letter to appear in court. When this letter is issued, the bail company has a vested interest in securing the defendant's appearance and will make efforts to do so. Under this bill, since the bond is exonerated after 21 days, bail companies will no longer have any interest in the case, and defendants will more frequently fail to appear in court due to both inadvertence and willful absence. This in turn will increase in the issuance of warrants and only add to the already huge backlog of unserved arrest warrants. Inevitably, [this] bill will serve to increase public safety risks and create more delays in the justice system…

8) **In re Kowalczyk:** On April 30, 2026, the Supreme Court laid out the constitutional requirements of bail in relationship to Marsy's Law. As noted above, *In re Humphrey* held that the defendant's financial ability to pay must be a factor in setting bail. Mr. Kowalczyk, a homeless mentally ill person, was arrested for trying to use two lost credit cards at a fast food restaurant but was ultimately unsuccessful. The court initially set his bail at $75,000 and then denied bail based on the defendant's long criminal history of petty crimes. The Court considered to what extent, if at all, Article I, section 28, subdivision (f) change the requirements of bail in section 12. The court stated:

> In *Humphrey*, we held that the common practice of detaining criminal defendants based solely on their financial condition violated state and federal equal protection and due process principles. To protect against this violation, we held that courts may not condition release on posting bail unless they "consider an arrestee's ability to pay alongside the efficacy of less restrictive alternatives" to money bail. (*Humphrey* at p. 152.) We also held that while constitutional principles did not "categorically prohibit the government from ordering pretrial detention, … '[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.'" (*In re Kowalczyk*, 2026 Cal. LEXIS 2206, *5, citing *Humphrey* at p. 155.)

The Court determined that Article I, section 12, subdivision (a) and (b) are the stated grounds to deny bail or impose an unreachable bail. Article I, section 12 states:

> A person shall be released on bail by sufficient sureties, except for:
>
> (i) Capital crimes when the facts are evident or the presumption great;
>
> (ii) **offenses involving acts of violence on another person**, or **felony sexual assault offenses on another person**, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or
>
> (iii) felony offenses when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.
>
> (iv) Excessive bail may not be required. In fixing the amount of bail, the court shall take into consideration the seriousness of the offense charged, the previous criminal record of the defendant,

> and the probability of his or her appearing at the trial or hearing of the case.
>
> (v) A person may be released on his or her own recognizance in the court's discretion. (Cal. Const., art. I, § 12.)

The *Kowalczyk* court reconciled section 12 with section 28 explaining that the two sections are not mutually exclusive. Marsy's law, as noted, focuses on public safety in determining bail. The Court explained that section 28 did not expand the list of offenses for which a court may deny bail. Therefore, section 12 still controls the types of offenses for which the court may deny bail – either in fact or by imposing an excessive bail.

> We conclude that section 12, subdivisions (b) and (c) and section 28(f)(3) can be reconciled in the following manner: In noncapital cases, a trial court has the authority to deny bail only as to offenses specified in section 12, subdivisions (b) and (c). Section 28(f)(3) refers to the possibility that a defendant "may" be released on bail and mandates that a trial court place primary importance on public and victim safety in making bail determinations. However, section 28(f)(3) does not expand the list of offenses for which release on bail may be denied beyond those delineated in section 12, subdivisions (b) and (c). (*In re Kowalczyk*, 2026 Cal. LEXIS 2206, *6.)

9) **Possible Contracts Clause Issue:** The U.S. Constitution states that "no state shall . . . pass any . . . law impairing the obligation of contracts." (U.S. Const., art. I, Sec. 10, cl. 1.) Similarly, the California Constitution states that "A . . . law impairing the obligation of contracts may not be passed." (Cal. Const. art. I, § 9.) The U.S. Supreme Court held, "The laws which exist at the time and place of the making of a contract, and where it is to be performed, enter into and form a part of it." (*Wood v. Phillips* (1941) 313 U.S. 362, 370.) As Justice Holmes stated, however, "One whose rights . . . are subject to state restriction, cannot remove them from the power of the State by making a contract about them." *(Hudson County Water Co. v. McCarter* (1908) 209 U.S. 349, 357.) In a case where the Court found states have some power to pass laws that impact private contracts, the Court also wrote, "The obligations of a contract are impaired by a law **which renders them invalid**, **or releases or extinguishes them**." (*Home Building. & Loan Assn. v. Blaisdell* (1934) 290 U.S. 398, 431.)

The Court applies a two-part test to determine whether a law impairs a contract. (*Sveen v. Mellin* (2018) 584 U.S. 811.) The first part of the test asks whether state law must operate as a "substantial impairment" of a contractual relationship. (*Ibid.*) To determine whether a substantial impairment has occurred, the Court considers the extent to which the law undermines the contractual bargain, interferes with a party's reasonable expectations, and prevents the party from safeguarding or reinstating [their] rights. (*Ibid.*) The second part says if substantial impairment is present, then the means and ends of the legislation is analyzed to determine whether the impairment violates the Contracts Clause. (*Ibid.*) Here, courts evaluate whether the state law is an appropriate and reasonable means of advancing "a significant and legitimate public purpose." (*Energy Reserves Group, Ltd. v. Kansas Power and Light Co.* (1983) 459 U.S. 400, 411.)

In this case, if a prosecutor does not file charges against an arrestee within 21 days and the arrestee has made their court appearances, the court must order reimbursement of the bond amount.[12] The bail reimbursement appears to operate as a matter of law at 30 days. As noted above, there is no hearing in which a bail company may be heard as to the harm imposed if the contract is voided and the bond is reimbursed. Since California still has a money bail system, bail agencies are lawfully allowed to contract with arrestees for services at a fair price. Furthermore, bail companies are just sureties. Bail companies obtain funds from other financial institutions, such as banks and other insurance companies.

A contracts clause claim requires a law to substantially impair a contractual agreement. While this bill states it only applies to bail set on or after January 1, 2026, surety contracts with financial institutions may pre-date a change in the law. If a bail agency is required to reimburse the bond minus the 2% administrative fee, it may impair the bail agency's agreement with their financial lender and reduce their overall capitalization, resulting in their breach of an existing lending agreement.

10) **Argument in Support**: According to *Californians for Safety and Justice*, "When an individual is arrested and the court determines the bail amount, they typically have two options: pay the full bail amount directly to the court or use a bail bond agency to secure their release. Bail amounts vary greatly depending on the alleged crime, ranging from thousands to millions of dollars for more serious offenses.

"Many people from low-income and marginalized communities are much more likely to secure their release through a bail bond agency, because they do not have enough money to pay the court in full. The only alternative – staying in jail – can lead to losing jobs, missing rent payments, and facing other life-altering consequences.

"Californians for Safety and Justice has helped drive many of the policies that have made the state the nation's leader in ending the overuse of incarceration. We work to replace prison and justice system waste with common sense solutions that create safe neighborhoods through policy advocacy, grassroots organizing, public education, community-based partnerships and support for local best practices. We promote strategies to stop the cycle of crime, reduce reliance on incarceration, and build healthy communities.

"At the heart of it, SB 562 is a financial justice bill. SB 562 seeks to remedy the very narrow and unjust circumstance where someone is arrested, pays a fee to a bail bond agency to

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[12] In a misdemeanor case, even if a defendant is out on bail, the prosecutor must file charges within 25 days, or the defendant must be re-arrested again. (Pen. Code, § 853.6, subd. (e)(3).) The Sixth Amendment right to a speedy trial demands that those arrested must be charged within 72 hours if the person is in custody. (*People v. Buchanan* (2022) 85 Cal.App.5th 186, 193.) However, on a felony, a prosecutor may delay in charging the defendant assuming they are out of custody on bail and there is sufficient probable cause to support the arrest. (See *People v. Spicer* (2015) 235 Cal.App.4th 1359, 1373.)

secure their release but then no charges are filed against them, or charges are dismissed before trial. By allowing the person to receive their bonded money back, excluding administration fees to the bail bond agency, SB 562 seeks to ensure a narrowly tailored group of people are not burdened with a lifetime of debt."

11) **Argument in Opposition**: According to the *Riverside Sheriff's Association*, "SB 562 requires the court to order, in essence, a refund of 80% of the premium paid if the case is dismissed or charges are not filed within 21 days of the defendant's arraignment or the posting of the bail bond. As a result, bail companies are likely to restrict their issuance of bonds to those cases where the defendant is most likely to be charged.

"Such a decision would lead to the opposite result this bill seeks to obtain. Bail companies are likely to conclude that the financial risk of issuing bail bonds in these cases is not worth the 2% of the bail amount that they would receive. People who cannot afford to post the entire bail amount will be forced to remain in jail, even if their cases are either not filed or dismissed. This will exacerbate current jail overcrowding conditions. Conversely (and ironically), bail agents would be more likely to provide bail to those who will stand trial and, in many instances, be convicted of the crimes they are alleged to have committed.

"Additionally, SB 562 limits the way courts process matters through hearings, which improperly impacts victims by precluding their statutorily-authorized participation under "Marsy's Law," potentially denying them information in cases involving the release of the person who allegedly committed a crime against them, and not providing clarity for release conditions on those for whom charges may be fully filed after the bill's 21-day time period. While our organizations rarely weigh in on business-related issues, we cannot remain neutral concerning the impact SB 562 will have on our jails and the criminal justice system overall."

12) **Related Legislation**:

a) AB 1877 (Stefani) provides that if there is an allegation that the defendant violated a restraining order or protective order and it resulted in a physical injury to the victim, the court, in considering the seriousness of the offense charged and the protection of the public, shall include consideration of the violation of the protective order or stay-away order and alleged injury to the victim in setting, reducing or denying bail. AB 1877 has been referred to the Senate Public Safety Committee.

b) AB 1927 (Krell) creates the Bail Consumer Protection Act and prohibits a bail agent or someone impersonating a bail agent from engaging in authorized solicitation of bail to a family member or known contact of an arrested individual for purposes of bail bond services. AB 1927 has been referred to the Senate Public Safety Committee.

13) **Prior Legislation**:

a) AB 2391 (V. Fong), of the 2023-2024 Legislative Session, would have amended the definition of "public safety" to include protection from physical or economic injury for the purpose of the court determining whether a defendant should be released on their own recognizance in a misdemeanor case. AB 2391 was referred to, but never heard in the Assembly Committee on Public Safety.

b) SB 1133 (Becker), of the 2023-2024 Legislative Session, would have required, at an automatic bail review hearing, a court to determine whether there remains clear and convincing evidence of a risk to public safety or the victim, or a risk of flight, and that no less restrictive alternative can *reasonably* protect against that risk, and entitles a defendant who has nonmonetary conditions of release, other than those specified, to an automatic review of those conditions at the next regularly scheduled court date after the defendant has been in compliance with those conditions for 60 days. SB 1133 was vetoed.

c) AB 329 (Bonta), of the 2021-2022 Legislative Session, would have required bail to be set at $0 for all offenses except, among others, serious or violent felonies, violations of specified protective orders, battery against a spouse, sex offenses, and driving under the influence. AB 329 was never heard in the Assembly Appropriations Committee.

d) SB 262 (Hertzberg), of the 2021-2022 Legislative Session, would have required zero bail for all offenses except serious or violent felonies, violations of specified protective orders, stalking, looting, battery against a spouse, sex offenses and driving under the influence, among others. SB 262 failed passage on the Assembly floor.

REGISTERED SUPPORT / OPPOSITION:

Support

Anti-recidivism Coalition
California Attorneys for Criminal Justice
California Civil Liberties Advocacy
California Department of Justice
California Public Defenders Association
California Public Defenders Association (CPDA)
Californians for Safety and Justice (CSJ)
Courage California
Debt Free Justice California
Ella Baker Center for Human Rights
Greater Sacramento Urban League
Initiate Justice
Initiate Justice Action
Justice2jobs Coalition
LA Defensa
Local 148 Los Angeles County Public Defender's Union
Nasw California
Rubicon Programs
Smart Justice California, a Project of Beyond Impact
Vera Institute of Justice
Western Center on Law & Poverty, INC.

Opposition

A Bail Bond Agency
Afuera Bail Bonds
All American Bail Bonds
All Pro Bail Bonds
All-pro Bail Bonds, INC.
Alvarado Bail Bonds
American Bail Coalition
Angels Bail Bonds
Arcadia Police Officers' Association
Armando S. Espinoza Bail Bonds
Bad Boys Bail Bonds
Bail Bond Professionals
Bail Bond Woman
Bob Drake Bail Bonds
Brea Police Association
Burbank Police Officers' Association
California Bail Agent Association
California Bail Agents Association
California District Attorneys Association
California Narcotic Officers' Association
California Partnership to End Domestic Violence
California Reserve Peace Officers Association
Carson Bail Bonds
Claremont Police Officers Association
Corona Police Officers Association
Cow-boy Bail Bonds
Crime Survivors Resource Center
Crime Victims United of California
Culver City Police Officers' Association
Exit Bail Bonds
Fullerton Police Officers' Association
Gloria Mitchell Bail Bonds
Golden State Bail Agents Association, INC.
Holly Bail Bonds INC.
Homequest Bail Bonds
Intrastate Bail Bonds
Iron Bail Bonds
Kenny Ware Bail Bonds
Lexington National Insurance Corporation
Licensed Bail Agent
Lil' Zeke's Bail Bonds
Mcmains Bail Bonds
Murrieta Police Officers' Association
Newport Beach Police Association
Orange County Business Council
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association

Pomona Police Officers' Association
Redwood Bail Bonds INC.
Riverside Police Officers Association
Riverside Sheriffs' Association
Sacramento County Sheriff Jim Cooper
San Diego County Sheriff's Office
Smokin' Ace Bail Bonds
Superior Bail Bonds
T. Jennings Bail Bonds
Trinity Bail Bonds
Two Jinn INC.
Yusef Odeh Bail Bonds
Zenith Bail Bonds
5 private individuals

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

Date of Hearing: June 9, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 691 (Wahab) – As Amended May 26, 2026

SUMMARY: Requires a law enforcement agency that has a body-worn camera policy to update that policy to include a procedure for emergency service personnel to request the redaction of specified recordings of a patient receiving certain medical treatment from emergency service personnel. Specifically, **this bill**:

1) Requires each law enforcement agency that has a body-worn camera policy, on or before July 1, 2027, to update that policy to include a procedure for emergency service personnel to request, prior to any public release, the redaction of evidentiary and non-evidentiary recordings of a patient undergoing medical or psychological evaluation, procedure, or treatment (MPE) by emergency service personnel, and specifies that such redaction may include blurring patient care and muting audio.

2) Specifies that this bill shall not be construed to limit the protections of the Confidentiality of Medical Information Act, or the federal Health Insurance Portability and Accountability Act of 1996, or to create a new obligation on law enforcement personnel to render aid.

3) Requires an unredacted copy of redacted MPE body-worn camera recordings to be maintained consistent with the policies and procedures developed for the implementation and operation of body camera-worn systems by the law enforcement agency.

4) Establishes Legislative intent to support the protection of patient privacy while the patient is receiving MPE from emergency service personnel, and to support emergency service personnel in taking reasonable efforts to safeguard patients' protected health information.

5) Expands the Legislature's intent to establish policies and procedures related to the downloading and storage of data from body-worn cameras by peace officers to include recordings of such data.

EXISTING LAW:

1) Defines "emergency service personnel" to mean an employee of the state, local, or regional public fire agency who provides emergency response services, including a firefighter, paramedic, emergency medical technician, dispatcher, emergency response communication employee, rescue service personnel, emergency manager, or any other employee of a state, local, or regional public fire agency. (Gov. Code, § 8669.15, subd. (e).)

2) States that it is the intent of the Legislature to establish policies and procedures to address issues related to the downloading and storage of data recorded by a body-worn camera worn by a peace officer, and provides that these policies and procedures shall be based on best

practices. (Pen. Code, § 832.18, subd. (a).)

3) Requires law enforcement agencies to consider the best practices regarding the downloading and storage of body-worn camera data when establishing policies and procedures for the implementation and operation of a body-worn camera system, including:

   a) Designate the person responsible for downloading recorded data from the body-worn camera.

   b) Establish when data should be downloaded.

   c) Establish measures to prevent data tampering, deleting, and copying.

   d) Categorize and tag body camera video at the time the data is downloaded and classified according to the type of event or incident captured in the data. (Pen. Code, § 832.18, subd. (b)(1)-(4).)

   e) Specifically state the length of time the recorded data is to be stored, as follows:

      i) Except as specified, non-evidentiary data should be retained for at least 60 days.

      ii) Evidentiary data should be retained for at least two years if the recording is of a use of force incident by a peace officer or is of an officer-involved shooting; of an incident that leads to a person's detention or arrest; or is relevant to a complaint against a law enforcement.

      iii) If relevant to a criminal prosecution, the data should be retained for any time in addition to that specified above, and in the same manner as is required by law for other evidence.

      iv) Records or logs of access and deletion of data should be retained permanently. (Pen. Code, § 832.18, subd. (b)(5)(A), (B), (C) & (E).)

4) Defines "evidentiary data" as data of an incident or encounter that could prove useful for investigative purposes, including, but not limited to, a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. The retention period for evidentiary data is subject to state evidentiary laws. (Pen. Code, § 832.18, subd. (c)(1).)

5) Defines "non-evidentiary data" as data that does not necessarily have value to aid in an investigation or prosecution, such as data of an incident or encounter that does not lead to an arrest or citation, or data of general activities the officer might perform while on duty. (Pen. Code, § 832.18, subd. (c)(2).)

6) Generally provides that the personnel records of peace officers and custodial officers are confidential and cannot be disclosed, except as specified. (Pen. Code, § 832.7, subd. (a).)

7) States, notwithstanding exceptions in the California Public Records Act (CPRA), or any other law, the following peace officer or custodial officer personnel records and records

maintained by a state or local agency, including audio and video evidence, shall not be confidential and shall be made available for public inspection pursuant to the CPRA:

a) A record relating to the report, investigation, or findings of:

   i) Any incident involving the discharge of a firearm at a person by an officer;

   ii) Any incident involving the use of force by an officer that results in great bodily injury or death;

   iii) A sustained finding involving a complaint alleging excessive force; or

   iv) A sustained finding that an officer failed to intervene when another officer clearly used excessive or unreasonable force. (Pen. Code, § 832.7, subd. (b)(1)(A) & (3).)

b) Any record relating to a sustained finding: 1) that an officer sexually assaulted a member of the public; 2) involving dishonesty by an officer relating to the reporting, investigation, or prosecution of a crime; 3) that an officer engaged in prejudicial or discriminatory conduct; 4) that an officer made an unlawful arrest or conducted an unlawful search; and 5) a specified prohibited agreement between an employing agency and a peace officer. (Pen. Code, § 832.7, subd. (b)(1)(A)-(F).)

8) Provides that an agency shall redact a record that is subject to release as described above, only for the following purposes:

   a) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers;

   b) To preserve the anonymity of whistleblowers, complainants, victims, and witnesses;

   c) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force by peace officers and custodial officers; or

   d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person, as specified. (Pen. Code, § 832.7, subd. (b)(6).)

9) Provides that, notwithstanding other provisions of law relating to law enforcement records, a video or audio recording relating to a critical incident may be withheld only as follows:

   a) During an active criminal or administrative investigation, for no longer than 45 days after the date the agency knew or reasonably should have known about the incident, if disclosure would substantially interfere with the investigation. (Gov. Code, § 7923.625, subd. (a)(1).)

b) After 45 days from the date the agency knew or reasonably should have known about the incident, and up to one year from that date, if the agency demonstrates that disclosure would substantially interfere with the investigation. (Gov. Code, § 7923.625, subd. (a)(2).)

c) After one year from the date the agency knew or reasonably should have known about the incident, if the agency demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. (Gov. Code, § 7923.625, subd. (a)(2).)

d) If the agency demonstrates, on the facts of the particular case, that the public interest in withholding a recording clearly outweighs the public interest in disclosure because the release of the recording would violate the reasonable expectation of privacy of a subject depicted in the recording, the agency shall provide the basis for the expectation of privacy and the public interest served by withholding the recording and may use redaction technology. (Gov. Code, § 7923.625, subd. (b)(1).)

e) Prohibits the redaction described above from interfering with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording from otherwise being edited or altered. (Gov. Code, § 7923.625, subd. (b)(1).)

f) Except as specified, if the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction, as specified, and that interest outweighs the public interest in disclosure, the agency may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to specified persons including the subject of the recording whose privacy is to be protected. If disclosure would substantially interfere with an active criminal or administrative investigation, the agency shall provide the basis for that determination and an estimated disclosure date. (Gov. Code, § 7923.625, subd. (b)(2)-(3).)

10) Defines a recording as relating to a critical incident if it depicts an incident involving the discharge of a firearm at a person by a peace officer or custodial officer; or in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury. (Gov. Code, § 7923.625, subd. (e).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: California Professional Firefighters.

2) **Author's Statement**: According to the author, "Emergency Medical Technicians (EMTs) and paramedics are responsible for the total care of their patient until they are transferred to a higher level of care at a medical facility. When this care takes place in the presence of law enforcement officers, who are required to wear body-worn cameras that are actively recording, it can raise concerns about the Health Insurance Portability and Accountability Act (HIPAA) violations and general patient privacy.

"Knowing they are being recorded by law enforcement can impact patients' willingness to fully cooperate with medics, compromising the safety of the patient as well as first responders. SB 691 will require law enforcement agencies to update their body camera policies to include a process for emergency medical services professionals to request redaction of any video recorded of a patient undergoing a medical evaluation prior to the video being made public."

3) **Body-Worn Cameras:** Body-worn cameras, or "bodycams," are small recording devices that can be attached to an officer's uniform to capture audio and video of their interactions with the public. AB 69 (Rodriguez), Chapter 461, Statutes of 2015 required law enforcement entities to consider specified best practices regarding the downloading and storage of bodycam data when establishing agency-wide bodycam policies and procedures. (Pen. Code, § 832.18, subd. (b).) These best practices include establishing measures to prevent tampering and unauthorized use or distribution of data, establishing clear data retention requirements, stating where the data will physically be stored, ensuring that any third-party vendors used to manage data storage are secure and reliable, and preventing agency personnel from disclosing bodycam data to the public or uploading data onto social media, among others. (*Ibid.*) Though existing law does not expressly state when officers must activate or deactivate their bodycams, such guidance is typically included in a law enforcement agency's bodycam policy.[1]

4) **Relevant Medical Privacy Laws:** Several well-established federal and California laws work together to protect personal medical information and patient privacy. Perhaps the most well-known is the Health Insurance Portability and Accountability Act (HIPAA), which provides federal standards protecting sensitive health information from disclosure without the patient's consent. (45 C.F.R. § 160 et seq.) Most relevant here, HIPAA allows covered entities to disclose personal health information to law enforcement for law enforcement purposes under six circumstances: as required by law (such as subpoenas and court orders), to identify a suspect or other person of interest, in response to a law enforcement request for information about a victim, to alert law enforcement of a person's death, when a covered entity believes that the information is evidence of a crime, and in a medical emergency when necessary to inform law enforcement about the commission of a crime, the location of the crime or victims, and the perpetrator of the crime. (45 C.F.R. § 164.512(f).)

   California has its own set of laws regarding the protection of personal health information and its use and disclosure, known as the California Confidentiality of Medical Information Act (CMIA). Among other things, CMIA generally protects the confidentiality of individually identifiable medical information obtained by a health care provider and prohibits specified entities from disclosing such information without first obtaining authorization, among other things. (Civ. Code, § 56 et seq.) CMIA generally requires that healthcare providers, healthcare service plans, or contractors keep medical information confidential unless they obtain authorization to release the information, but requires these entities to disclose medical information if disclosure is compelled by a lawful search warrant issued by law enforcement. (Civ. Code, § 56.10, subd. (b)(6).) CMIA also prohibits providers from releasing medical information to requesting parties otherwise authorized to receive that information when the

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[1] S.F. Dept., Gen. Order 10.11 (June 1, 2016) Body Worn Cameras, pp. 2-3, <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/sanfranca-bwcpolicy.pdf> [as of June 3, 2026].

information relates to a patient's participation in outpatient treatment with a psychotherapist. (Civ. Code, § 56.104, subd. (a).) However, the law exempts from this prohibition the disclosure or use of medical information by a law enforcement agency when required for an investigation of unlawful activity. (Civ. Code, § 56.104, subd. (d).)

5) **Effect of this Bill:** This bill requires a law enforcement agency that has a body-worn camera policy to, by July 1, 2027, update that policy to include a procedure for emergency service personnel to request the redaction of evidentiary and non-evidentiary recordings of a patient undergoing MPE by emergency service personnel. Such redaction may include blurring patient care and muting audio. "Emergency service personnel," for purposes of this bill, means an employee of the state, local, or regional public fire agency who provides emergency response services, including a firefighter, paramedic, emergency medical technician, dispatcher, emergency response communication employee, rescue service personnel, emergency manager, or any other employee of a state, local, or regional public fire agency. This is a relatively narrow definition that encompasses specified public fire agency employees. This would not apply to other types of personnel, such as private ambulance or private medical services personnel.

   Under this bill, any unredacted copy of a redacted MPE body-worn camera recording must be maintained consistently with the policies and procedures developed for the implementation and operation of body camera-worn systems by the law enforcement agency. Such procedures, among other things, require specified evidentiary data recorded by a body-worn camera to be retained for a minimum of two years, and non-evidentiary data to be retained for a minimum of 60 days. (Pen. Code, § 832.18, subd. (b)(5)(A)-(B).)

   Finally, this bill provides that it shall not be construed to limit the protections of CMIA or HIPAA, or to create a new obligation on law enforcement personnel to render aid. It also establishes legislative intent to support the protection of patient privacy while the patient is receiving MPE from emergency service personnel, and to support emergency service personnel in taking reasonable efforts to safeguard patients' protected health information.

   This bill reasonably seeks to protect the privacy of individuals receiving medical treatment, who may be hesitant to share sensitive medical information while they are being recorded by a body camera. However, the impact of this bill may be limited. The primary provision of the bill requires law enforcement agencies to update their body-worn camera policies to include a procedure for emergency service personnel to request the redaction of recordings of a patient receiving MPE. This gives a certain amount of discretion to local law enforcement agencies to determine what this process looks like. Notably, there is no requirement that law enforcement respond or comply with such a request from emergency service personnel. Moreover, mandating strict compliance with such a request may not be prudent or necessary. Existing law already outlines the circumstances under which law enforcement may, or must, redact disclosable recordings, and the standards that govern such disclosure. This includes several statutory grounds to redact sensitive medical information.

   Penal Code 832.7 requires the public disclosure of certain types of law enforcement personnel records, and other records maintained by a state or local agency. (Pen. Code, § 832.7, subd. (b)(1).) Disclosable records include records relating to the report, investigation, or finding of an incident involving the discharge of a firearm at a person by a peace officer and an incident involving use of force against a person by a peace officer that resulted in

death or great bodily injury. (Pen. Code, § 832.7, subd. (b)(1)(A)(i)-(ii).) Other disclosable records include any record relating to a sustained finding: 1) that an officer sexually assaulted a member of the public; 2) involving dishonesty by an officer relating to the reporting, investigation, or prosecution of a crime; 3) that an officer engaged in prejudicial or discriminatory conduct; 4) that an officer made an unlawful arrest or conducted an unlawful search; and 5) a specified prohibited agreement between an employing agency and a peace officer. (Pen. Code, § 832.7, subd. (b)(1)(A)-(F).) Such disclosable records specifically include audio and video evidence. ((Pen. Code, § 832.7, subd. (b)(3).)

A law enforcement agency must redact such a record "[t]o preserve the anonymity of whistleblowers, complainants, victims, or witnesses." (Pen. Code, § 832.7, subd. (b)(6)(B).) Law enforcement agencies are also required to redact disclosable records to "[t]o protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force by peace officers…" (Pen. Code, § 832.7, subd. (b)(6)(C).) Such mandated redactions may already function to protect the privacy interests of certain victims receiving medical treatment that are depicted in video and audio recordings. For example, if there is a CPRA request for an otherwise disclosable body camera recording relating to a sustained finding of misconduct that depicts a victim or witness receiving medical treatment, the applicable law enforcement agency would be required to redact the record to preserve the anonymity of that person. In addition to these grounds to redact medical information, an agency may also, more generally, redact a disclosable record, including personal identifying information, where the public interest served by not disclosing clearly outweighs the public interest in disclosure. (Pen. Code, § 832.7, subd. (b)(7).)

Further, existing law specifically authorizes redaction and nondisclosure for specific audio and video recordings of critical incidents resulting in either the discharge of a firearm at a person by law enforcement or in death or great bodily injury to a person from the use of force by law enforcement. (Gov. Code, § 7923.625, subd. (b)(1).) For video and audio recordings related to critical incidents, a law enforcement agency may redact footage to protect the privacy of a person depicted in the recording, subject to specified requirements. (Gov. Code, § 7923.625, subd. (b)(1).) To redact the footage, the agency must demonstrate, on the facts of the particular case, that the public interest in withholding the recording clearly outweighs the interest in disclosure because the release would violate the reasonable expectation of privacy of a subject depicted in the recording. (*Ibid.*) The agency must also provide the basis for the expectation of privacy and the interest served by withholding the recording. (*Ibid.*) The agency may also withhold a recording from the public entirely, with limited exceptions, if the agency demonstrates that a subject's reasonable expectation of privacy cannot adequately be protected through redaction, and that interest outweighs the public's interest in disclosure. (Gov. Code, § 7923.625, subd. (b)(2).)

Given that existing law already outlines the types of law enforcement records that are subject to disclosure, when privacy-based redactions are required, and the standards governing such disclosure, the value of authorizing a single category of people (emergency personnel) to request medical treatment-based redactions may be limited.

6) **Argument in Support**: According to the *California Professional Firefighters*, the sponsor of this bill, "Due to the nature of emergency medical services, this care may take place in any location or scenario, both private and public, and may potentially have interaction with law enforcement officers. While EMS personnel are attending the scene of an automobile accident, assisting someone experiencing a medical emergency, or responding to transport a patient experiencing a behavioral health crisis, the presence of law enforcement personnel on those scenes means that body-worn cameras will often be recording the medical assessment and treatment interactions. These recordings raise serious privacy concerns for patients, potential impacts on patient willingness to fully cooperate with medics on scene, and may even complicate the working relationship between public safety officers.

"As a covered provider under HIPAA, EMTs and paramedics are responsible for taking reasonable action to protect their patients' private health information until the transfer of their care. The possibility of private medical information being recorded can potentially make it less likely that life-saving information is shared while in the presence of body-worn cameras. The confidential nature of the relationship between patient and medical provider allows for patients to feel comfortable divulging sensitive information with the knowledge that it will remain with their provider and be used only for their treatment. While the chaotic nature of an emergency medical scene may not be as strictly private as a medical examination room, that foundational trust of confidentiality remains, a confidentiality that is shattered by an ever-present recording device.

"Currently, local jurisdictions may have policies regarding the use of body-worn cameras, but they may not necessarily address the recording of a patient undergoing a medical or psychological evaluation or treatment. SB 691 will provide directions to local jurisdictions to update their policies to establish a procedure for emergency personnel to request the redaction of footage of medical and behavioral health treatment and evaluation before it is released to the public.

"Body-worn cameras provide protection for both civilians and law enforcement officers alike, creating a record of interactions and ensuring accountability and transparency on all sides. While these goals should be preserved, it is also true that video recordings may, in certain circumstances, present a violation of the privacy of individuals in distress. Patients in an emergency medical setting often have reduced or no capability to consent to such recordings, and once recordings have been received and stored by the law enforcement agency there is no recourse for preventing them from potentially being released to the public."

7) **Argument in Opposition**: According to the *Los Angeles County Professional Peace Officers Association,* SB 691 "sets a precedent that moves too far in restricting officer discretion over body-worn camera use in dynamic field settings. Body-worn cameras are a critical public safety and accountability tool. They protect the public, preserve evidence, document officer conduct, and often provide the most reliable record of rapidly unfolding incidents.

"Medical scenes are often unstable, emotionally charged, and closely tied to criminal investigations or use-of-force incidents. In those moments, officers must make quick decisions to protect life, preserve evidence, and maintain scene security. SB 691 would inject ambiguity into those situations by requiring additional policy constraints around when

recording should be limited, increasing the risk of second-guessing after the fact and undermining the value of body-worn camera footage as an objective record.

"While PPOA supports protecting patient dignity and privacy, existing law already allows agencies to adopt body-worn camera policies based on best practices. SB 691 unnecessarily mandates new restrictions instead of allowing local agencies to balance privacy, officer safety, evidentiary needs, and public accountability based on the realities their personnel face in the field."

8) **Prior Legislation**:

a) SB 337 (Menjivar), of the 2025-2026 Legislative Session, would have, among other things, required CDCR to establish policies and procedures relating to the implementation and operation of a body-worn camera system that include circumstances, including confidential medical treatment, under which a body-worn camera may be deactivated. SB 337 was held in suspense in the Assembly Appropriations Committee.

b) AB 60 (Salas), of the 2021-2022 Legislative Session, would have applied the best practices that must be considered for body camera systems to law enforcement agency policies and procedures regarding the retrieval and retention of data recorded by an unmanned aircraft system or drone operated by the agency, among other changes. AB 60 was never heard in this Committee.

c) SB 748 (Ting), Chapter 960, Statutes of 2018, established a standard for the release of body-worn camera footage by balancing privacy interests with the public's interest in the footage.

d) AB 69 (Rodriguez), Chapter 461, Statutes of 2015, required law enforcement agencies to consider specified best practices when establishing policies and procedures for downloading and storing data from body-worn cameras.

REGISTERED SUPPORT / OPPOSITION:

Support

California Professional Firefighters
California State Association of Psychiatrists (CSAP)
Mental Health America of California

Opposition

California District Attorneys Association
California State Sheriffs' Association
Disability Rights California
Initiate Justice
Justice2Jobs Coalition
La Defensa
Local 148 LA County Public Defenders Union
Los Angeles County Professional Peace Officers Association

Los Angeles Police Protective League
Riverside County District Attorney
Riverside County Sheriff's Office
San Francisco Public Defender

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

Date of Hearing: June 9, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 891 (Cervantes) – As Amended May 14, 2026

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

1) Establishes MMIPJP and states the program shall have all of the following responsibilities:

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

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

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

2) Publications of facts as required above shall include all of the following information, as applicable, about the missing or murdered indigenous person:

   a) General demographic information, including the age, gender, race, and ethnicity of the person;

   b) Any tribal affiliation; and,

   c) Any history in the foster care system.

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

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

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

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

4) Provides that the requirement for submitting a report is inoperative on and after January 1, 2029.

EXISTING FEDERAL LAW:

1) Provides concurrent California and Tribal jurisdiction over criminal offenses committed by or against Indians in the areas of Indian country, as specified. Provides that the Indian Country affected within California includes all Indian Country within the state. (18 U.S.C. § 1162.)

2) Defines "Indian country" as:

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

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

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

EXISTING LAW:

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

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

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

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

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

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

7) Requires the law enforcement agency to consider the following factors to make a Feather Alert determination:

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

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

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

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

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

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

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

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

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor:** Yurok Tribe.

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

to SBI, 91 percent of murdered and missing Indigenous children in Southern California are girls, and the lack of thematic issues among these cases suggests these girls are targeted because they are both Indigenous and girls."

"Senate Bill 891, a reintroduction of my Senate Bill 4 from 2025 and Assembly Bill 2279 from 2024, will continue this effort by establishing the Missing and Murdered Indigenous Persons Justice Program within the Department of Justice. The Program would be empowered to facilitate collaboration and act as a liaison between tribal victims' families; tribal governments; and state, federal, and out-of-state law enforcement agencies. The Program would also provide technical advice to law enforcement agencies investigating MMIP cases in California when appropriate. Finally, to further improve transparency regarding the ongoing MMIP crisis, the Program would be required to publish data on the number of MMIP cases and facts about those cases, as well as submit an annual report to the Legislature. This bill will help provide a coordinated state response to MMIP cases, as well as shine a light on a crisis affecting our Indigenous communities that has not received nearly the attention it deserves."

3) **Effect of the Bill:** This bill would establish the Missing and Murdered Indigenous Persons Justice Program "within and under the discretion" of DOJ. Assuming a fully operational program, this bill would also include additional responsibilities for DOJ to facilitate collaboration with law enforcement agencies and tribal entities regarding active and inactive cases of missing and murdered indigenous persons in California, provide technical assistance to law enforcement agencies already investigating cases of missing and murdered indigenous persons in California, publish data about missing and murdered indigenous persons in California, and submit an annual report to both houses of the California legislature.

   While the goals of SB 1208 appear to align with some of the gaps in justice for missing and murdered indigenous persons detailed in the Urban Indian Health Institute (UIHI) report (see below), due to the existence of state and federal programs already in this space there could be some risk of creating duplicative remedial efforts.

4) **Background**: In 2018, UIHI published a report "aimed at assessing the number and dynamics of cases of missing and murdered American Indian and Alaska Native women and girls in cities across the United States."[1] In its report, UIHI cited National Crime Information Center data that noted 5,712 reports of missing American Indian and Alaska Native women and girls made in 2016, although the United States Department of Justice's (U.S. DOJ) federal missing persons database only had 116 cases.[2] That discrepancy as well as the lack of research on rates of violence among American Indian and Alaska Native women living in urban areas—where nearly three quarters of the Indigenous population lives—led UIHI to conduct its study.[3]

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

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[1] Urban Indian Health Institute, Missing and Murdered Indigenous Women & Girls: A snapshot of date from 71 urban cities in the United States (2018) p. 2 <https://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf> [as of May 26, 2026].
[2] *Ibid.*
[3] *Ibid.*

> As demonstrated by the findings of this study, reasons for the lack of quality data include underreporting, racial misclassification, poor relationships between law enforcement and American Indian and Alaska Native communities, poor record-keeping protocols, institutional racism in the media, and a lack of substantive relationships between journalists and American Indian and Alaska Native communities. In an effort to collect as much case data as possible and to be able to compare the five data sources used, UIHI collected data from Freedom of Information Act (FOIA) requests to law enforcement agencies, state and national missing persons databases, searches of local and regional news media online archives, public social media posts, and direct contact with family and community members who volunteered information on missing or murdered loved ones.[4]

The report concluded:

> UIHI discovered a striking level of inconsistency between community, law enforcement, and media understandings of the magnitude of this violence. If this report demonstrates one powerful conclusion, it is that if we rely solely on law enforcement or media for an awareness or understanding of the issue, we will have a deeply inaccurate picture of the realities, minimizing the extent to which our urban American Indian and Alaska Native sisters experience this violence. This inaccurate picture limits our ability to address this issue at policy, programing, and advocacy levels.[5]

SB 1208 seeks to address some of the issues outlined in the report.

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

   Savanna's Law requires the U.S. DOJ to 1) provide training to law enforcement agencies on how to record tribal enrollment for victims in federal databases, 2) develop and implement a strategy to educate the public on the National Missing and Unidentified Persons System, 3) conduct specific outreach to tribes, tribal organizations, and urban Indian organizations regarding the ability to publicly enter information through the National Missing and Unidentified Persons System or other non-law enforcement sensitive portal, 4) develop regionally appropriate guidelines for response to cases of missing or murdered Native Americans, 5) provide training and technical assistance to tribes and law enforcement agencies for implementation of the developed guidelines, and 6) report statistics on missing or murdered Native Americans. (*Ibid.*)

   Tribes may submit their own guidelines to U.S. DOJ that respond to cases of missing or murdered Native Americans. (*Ibid.*) Additionally, the law authorizes U.S. DOJ to provide

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

grants for the purposes of developing and implementing policies and protocols for law enforcement regarding cases of missing or murdered Native Americans and annually reporting data relating to missing or murdered Native Americans. (*Ibid.*)

At the state level, the Missing and Murdered Indigenous Persons Grant Program provides funding through competitive grants to federally recognized tribes "to support efforts to identify, collect case-level data, publicize, and investigate and solve cases involving missing and murdered indigenous people.[6] Grants should focus on activities including, but not limited to, developing culturally based prevention strategies, strengthening responses to human trafficking, and improving cooperation and communication on jurisdictional issues between state, local, federal, and tribal law enforcement in order to investigate and solve cases involving missing and murdered indigenous people."[7]

SB 1208 is substantially similar to other bills, including AB 2279 (Cervantes) of the 2023-2024 Legislative Session and SB 4 (Cervantes) of the 2025-2026 Legislative Session. AB 2279 was vetoed. SB 4 was held in the Assembly Appropriations Committee. In addition to the requirements of this bill, AB 2279 would have required the program to provide grants to local and tribal law enforcement agencies to support investigatory activities.

In his AB 2279 veto message, Governor Newsom wrote:

> I appreciate the author's commitment to addressing the ongoing MMIP crisis. My administration continues to prioritize policies that increase collaboration between law enforcement and tribal communities to bring justice to those impacted. In partnership with the Legislature, we increased funding in this year's budget for the MMIP Grant Program, which has awarded millions of dollars to support tribes' efforts to identify, publicize, investigate, and solve MMIP cases.
>
> This measure is duplicative of those efforts and creates a new, unfunded grant program not included in the 2024 Budget Act. In partnership with the Legislature this year, my Administration has enacted a balanced budget that avoids deep program cuts to vital services and protected investments in education, health care, climate, public safety, housing, and social service programs that millions of Californians rely on. It is important to remain disciplined when considering bills with significant fiscal implications that are not included in the budget, such as this measure.[8]

The Cohort 3 cycle for this grant program is expected to commence on August 1, 2025, with funding in the amount of $12.9 million dollars to be distributed throughout the cycle.[9] With federal and state programs already in place, it is not clear to what extent this bill will provide additional, useful resources to further aid the problem of under-resourced cases involving missing and murdered indigenous persons. Given the Governor's previous veto message, and

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[6] Board of State and Community Corrections, Missing and Murdered Indigenous People Grant <https://www.bscc.ca.gov/missing-and-murdered-indigenous-people-grant-program/> [as of May 26, 2026].
[7] Ibid.
[8] Governor's veto message to Assem. on Assem. Bill No. 2279 (Sep. 28, 2024) <https://www.gov.ca.gov/wp-content/uploads/2024/09/AB-2279-Veto-Message.pdf> [as of May 26, 2026].
[9] *Ibid.*

the limited modifications to this bill relative to earlier iterations, SB 891 also may fail to be signed into law.

6) **Argument in Support**: According to the *Yurok Tribe*, "We wish to express our strong support and sponsorship for your Senate Bill 891. This important bill will establish a Missing and Murdered Indigenous Persons Justice Program within the Department of Justice. This bill is a necessary and overdue step toward addressing the persistent crisis of violence against Indigenous people and ensuring justice for missing and murdered Indigenous persons.

"Indigenous communities across California continue to face disproportionately high rates of violence. More than four in five American Indian and Alaska Native women have experienced violence in their lifetime, and California ranks fifth in the nation for MMIP cases. Systemic failures—ranging from chronic underfunding to gaps in jurisdictional coordination—have left too many cases unresolved and too many families without answers.

"Currently, California has the largest Native American population in the country with nearly 109 federally recognized tribes. Specifically, California is home to over 700,000 Native American and Alaska Native people. Unfortunately, among the states, California also ranks fifth in terms of the number of cases of missing and murdered Indigenous people (MMIP).

"SB 891 provides a critical framework for addressing these challenges. By creating a dedicated MMIP Justice Program, this bill will improve coordination between tribal, state, and federal law enforcement agencies; enhance data collection and case tracking; and serve as a crucial resource for victims' families. The Program would also assist in investigating MMIP cases in California when appropriate, including human trafficking cases. Finally, to further improve transparency regarding the ongoing MMIP crisis, the Program would be required to publish data on the number of MMIP cases and facts about those cases, as well as submit an annual report to the Legislature.

"SB 891 will help provide a coordinated state response to MMIP cases, as well as shine a light on a crisis affecting our Indigenous communities that has not received nearly the attention it deserves. For this reason, we stand in strong support and sponsorship of your Senate Bill 891. We thank you for working to further address the ongoing MMIP crisis affecting Indigenous communities across California."

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

8) **Prior Legislation**:

   a) AB 977 (Ramos), Chapter 131, Statues of 2025, would require, as part of the California Native American Graves Protection and Repatriation Act of 2001, the California State University, in consultation with tribes, to identify California State University-owned land for the burial of Native American human remains and designate three burial sites statewide.

   b) AB 1321 (Castillo), of the 2025-2026 Legislative Session, would have required the Attorney General to establish, in consultation with specified groups, agencies, and organizations, an electronic database and support system, as specified, for the public to report and search for missing children. AB 1321 died in the Assembly Public Safety

Committee.

c) SB 4 (Cervantes), of the 2025-2026 Legislative Session, was substantially similar to this bill. SB 4 was held on suspense in the Assembly Appropriations Committee.

d) AB 2279 (Cervantes), of the 2023-2024 Legislative Session, was substantially similar to this bill. The Governor vetoed AB 2279.

e) AB 2944 (Waldron), of the 2023-2024 Legislative Session, would have authorized the Governor to appoint a Red Ribbon Panel to address the murdered or missing indigenous persons crisis, consisting of specified members. AB 2944 was held in suspense in the Assembly Appropriations Committee.

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

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

REGISTERED SUPPORT / OPPOSITION:

Support
Yurok Tribe (Sponsor)
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
CA Commission on the Status of Women and Girls
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Narcotic Officers' Association
California Partnership to End Domestic Violence
California Reserve Peace Officers Association
California Tribal Business Alliance
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Ella Baker Center for Human Rights
Fullerton Police Officers' Association
Habematolel Pomo of Upper Lake
Los Angeles County District Attorney's Office
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 Police Officers Association
Riverside Sheriffs' Association
Santa Ynez Band of Chumash Indians
Scotts Valley Band of Pomo Indians
Yocha Dehe Wintun Nation

Opposition
None submitted.

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

Date of Hearing: June 9, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 941 (Padilla) – As Introduced January 29, 2026

SUMMARY: Prohibits the sale price of commissary items at a private detention facility from exceeding a 35-percent markup above the amount paid to a vendor for the item; and defines "commissary" as any onsite or online store, canteen, vendor-operated program, or retail service that sells goods, food, hygiene supplies, phone cards, or other items to people confined in a private detention facility, whether operated directly by the facility or through a third-party contractor.

EXISTING LAW:

1) Requires the California Department of Corrections and Rehabilitation (CDCR) to maintain a canteen at an active prison or institution under its jurisdiction for the sale to persons confined therein of toilet articles, candy, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. (Pen. Code, § 5005, subd. (a).)

2) Limits the sale prices of items offered in the state's prison canteens from exceeding a 35-percent markup above the amount paid to the vendors until January 1, 2028. (Pen. Code, § 5005, subd. (a).)

3) Provides that the canteen operations at specified prisons and institutions shall be audited biennially by the Department of Finance, and requires a copy of the audit report or CDCR's statement of operations to be posted at the canteen and in the prison or institution library. (Pen. Code, § 5005, subd. (c).)

4) Defines "private detention facility" as "a detention facility that is operated by a private, nongovernmental, for-profit entity, and operating pursuant to a contract or agreement with a governmental entity." (Gov. Code, § 9500, subd. (b).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: California Department of Justice (DOJ), California Collaborative for Immigrant Justice, and Immigrant Defense Advocates.

2) **Author's Statement**: According to the author, "In California, every individual detained by ICE is held in a private detention facility that is operated on private property by a private corporation under contract with the federal government. There are currently seven private detention facilities in the state, two of which are located within my district.

"California has already recognized that commissary access is a basic necessity in state-run prisons. Consumer protections exist to prevent the exploitation of incarcerated individuals and their families, but ICE detainees face exploitative prices in their private commissaries. These exploitive prices make it difficult for detainees to access essential goods such as food, drinking water, and soap. SB 941 will take California's existing commissary price protections and extend them to private detention facilities to protect detained individuals and their families, many of whom are already experiencing economic hardship, from price gouging by private companies operating in California. This extension will apply to private entities operating in these facilities and will not apply to the federal government.

"These unreasonable markups gouge immigrants in the hardest moments of their lives. Detainees are forced to make impossible decisions, such as choosing between obtaining clean drinking water or paying for the cost to call their families. This kind of opportunistic profiteering should not be allowed to continue unchecked."

3) **Private Detention Facilities**: The federal government contracts with private detention facilities across the country to house immigration detainees. There are currently seven private detention facilities operating in California in four counties—San Bernardino County, Kern County, San Diego County, and Imperial County. These facilities have been rife with issues, including poor medical care, substandard living conditions, sexual abuse and harassment, detainee deaths, and disproportionate use of force against individuals with mental health diagnoses.[1] As a result, several lawsuits have been filed against the operators of these private detention facilities.[2]

The Legislature has enacted several laws in recent years related to the conditions of private detention facilities. AB 3228 (Bonta), Chapter 190, Statutes of 2020, required any private detention facility operator to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility's contract for operations, and created a private right of action for individuals to sue if a private detention facility violated the requirement to comply with detention standards of care and confinement. AB 263 (Arambula), Chapter 294, Statutes of 2021, required a private detention facility operator to comply with, and adhere to, all local and state public health orders and occupational safety and health regulations. Finally, SB 1132 (Durazo), Chapter 183, Statutes of 2024, authorized a county or city health officer to investigate a private detention facility. SB 1132 was challenged by GEO Group, an

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[1] Disability Rights California, *Newly Opened California City ICE Detention Facility: Dangerous for Disabled People* (Nov. 3, 2025) <https://www.disabilityrightsca.org/reports/california-city-ice-processing-center-a-dangerous-expansion-of-immigration-detention-in> [hereafter Disability Rights California Report]; Department of Justice, *Immigration Detention in California: A Comprehensive Review with a Focus on Mental Health 2025* <https://oag.ca.gov/system/files/media/immigration-detention-2025.pdf>; Andrea Castillo, *Immigrant detainees say they were harassed, sexually assaulted by guard who got promoted*, Los Angeles Times (Nov. 12, 2025) <https://www.latimes.com/politics/story/2025-11-12/calif-immigrant-detainees-say-they-were-harassed-sexually-assaulted-by-guard-who-got-promoted>.

[2] See Rachel Uranga, *Why California's newest detention facility faces federal lawsuit over medical neglect and 'punitive' unsanitary conditions*, Los Angeles Times (Nov. 13, 2025) <https://www.latimes.com/california/story/2025-11-13/immigrants-held-in-inhumane-conditions-at-california-detention-facility-sue-ice-dhs>; Salvador Hernandez & Ruben Vives, *Adelanto ICE facility isn't meant to hold immigrants, it's meant to break them, lawsuit alleges*, Los Angeles Times (Jan. 26, 2026) <https://www.latimes.com/california/story/2026-01-26/lawsuit-alleges-inhumane-conditions-at-adelanto-ice-facility>.

operator of private detention facilities, which argued that the law was unconstitutional because it interfered with the federal government's authority to manage detention centers and GEO Group claimed it had intergovernmental immunity by extension as a contractor of the federal government. The lawsuit was dismissed in May of 2025.[3]

4) **Canteens**: A canteen is a store located in a detention facility where the incarcerated population can purchase toiletries, stationery, snacks, and other personal items. In 2023, the Legislature enacted SB 474 (Becker), Chapter 609, Statutes of 2023, to temporarily cap the markup of canteen items in the state's prisons to no more than 35% of the price CDCR paid to the vendor. At the time, advocates argued that canteen items had unreasonably high prices compared to the prices of the same or similar items available to the general public and cited a report that found that 60% of the formerly incarcerated individuals surveyed could not afford canteen purchases while incarcerated, which sometimes led individuals to resort to extreme measures to gain access to canteen items such as engaging in gang activity and sexual relationships.[4]

   The proponents of this bill contend that items sold in the canteens in private detention facilities have similarly inflated to unreasonable prices. They argue that the high prices are especially problematic when considering that some canteen items are necessary for survival. For example, an inspection last year of the California City Detention Facility revealed that the facility's water was arguably unsafe to drink—it was brown with an unpleasant taste.[5] As a result, detainees had to rely on bottled water sold at the canteen but due to its high price, detainees could not afford to purchase sufficient water and suffered from dehydration.[6] This bill prohibits the price of an item offered for sale in a commissary at a private detention facility from exceeding a 35-percent markup above the amount paid to a vendor for that item.

5) **Argument in Support**: According to *Immigrant Defense Advocates*, one of the bill's co-sponsors, "SB 941 is a straightforward consumer protection measure that would prevent detained people and their loved ones from being exploited as a captive market.

   "When a family's breadwinner is detained, households often experience an immediate financial shock: lost wages, rent and utility shortfalls, childcare disruptions, and increased legal expenses. Community reporting has documented that families frequently turn to mutual aid networks, schools, and churches just to stabilize after a household income is suddenly cut off.

   "In that context, commissary price gouging is not a minor inconvenience—it is a direct transfer of wealth from families in crisis to private detention vendors. People in detention rely on commissary systems for basic necessities (food supplements, hygiene items, OTC medicines, and other essentials). Their families—already in a vulnerable state—should not be forced to pay inflated prices simply to help their loved ones meet basic needs. As Senator Padilla's office has noted, SB 941 is designed to stop excessive markups on products sold at

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[3] Wendy Fry & Jeanne Kuang, *California gave counties power to inspect ICE detention centers. They're not using it*, Cal Matters (Oct. 2, 2025) <https://calmatters.org/justice/2025/10/ice-detention-center-inspections/>.
[4] Leslie Soble, Kathryn Stroud, and Marika Weinstein, *Eating Behind Bars: Ending the Hidden Punishment of Food in Prison* (2020), p. 11 available at <https://impactjustice.org/wp-content/uploads/IJ-Eating-Behind-Bars.pdf>.
[5] Disability Rights California Report, *supra*.
[6] *Ibid*.

private detention facilities.

"SB 941 would prohibit commissary items from being sold at prices exceeding a 35% markup above vendor cost, and it defines "commissary" broadly to include onsite or online stores and vendor-operated retail programs selling goods to detained people.

"This matters in California because, as Senator Padilla's office emphasizes, every individual in ICE detention in California is held in a private detention facility operated by private corporations under federal contract—which makes state-level consumer protections especially urgent.

"Commissary profiteering compounds harmful living conditions—especially when facilities fail to provide adequate basic necessities. Commissary systems often operate against a backdrop of broader conditions failures. Independent and governmental reporting has documented widespread complaints in immigration detention of people being denied adequate food or clean water—conditions that can lead to malnutrition, dehydration, and serious health consequences. For example, a U.S. Senate investigation released by Jon Ossoff reported dozens of credible reports involving denial of adequate food or water in immigration detention, including reports of spoiled/contaminated food and water and prolonged periods between meals.

"California advocates have also documented complaints from people detained in California facilities—ranging from lack of nutritious food to spoiled items and failures to accommodate special diets.

"When private operators fail to consistently provide adequate nutrition and safe living conditions, commissary becomes even more essential to basic wellbeing. That is precisely why it is unacceptable to allow profiteering: families should not be forced to "buy back" dignity and basic necessities through inflated commissary pricing. California should not allow detention to become a profit center built on family desperation.

"These are private facilities doing business in California. Private corporations and their vendors should not be permitted to exploit detention—an inherently coercive setting—by charging excessive prices to families already struggling with the loss of income, mounting bills, and legal costs. SB 941 sets a reasonable ceiling that protects families while preserving access to necessary goods."

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

7) **Related Legislation**:

   a) AB 1633 (Haney) would impose, beginning January 1, 2027, an annual tax upon all "private detention facility operators" equal to 50% of the operator's gross receipts derived from the operation of each "private detention facility" in California. AB 1633 is pending referral in the Senate Rules Committee.

   b) SB 942 (Caballero) would require civil confinement facilities in the state to register with the Department of Public Health, if not already licensed, certified, designated, or approved under state law or local ordinance, and requires enforcing agencies to conduct

regular inspections and enforcement of applicable health and safety laws and regulations, standards of care and confinement, and approved facility policies and procedures, as specified. SB 942 is pending referral in the Assembly Rules Committee.

8) **Prior Legislation**:

a) SB 1132 (Durazo), Chapter 183, Statutes of 2024, clarified that local county health officers are authorized to inspect health and sanitary conditions in private detention facilities.

b) SB 474 (Becker), Chapter 609, Statutes of 2023, required CDCR to maintain a canteen at active prisons or institutions under its jurisdiction and cap the markup of the items sold at a 35% markup above the amount paid to vendors.

c) AB 263 (Arambula), Chapter 294, Statutes of 2021, required a private detention facility operator to comply with, and adhere to, all local and state public health orders and occupational safety and health regulations.

d) AB 3228 (Bonta), Chapter 190, Statutes of 2020, required a private detention facility operator to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility's contract for operations; and provided a private right of action for an individual injured by noncompliance with the above standards, as specified.

e) AB 32 (Bonta), Chapter 739, Statutes of 2019, prohibited the CDCR from entering into, or renewing contracts with private for-profit prisons after January 1, 2020, and eliminates their use by January 1, 2028. Also prohibits the operation of a private detention facility within the state, except as specified.

f) AB 1320 (Bonta), of the 2017-2018 Legislative Session, would have prohibited CDCR from entering into, or renewing contracts with private prisons after January 1, 2018, and eliminates their use by January 1, 2028. AB 1320 was vetoed.

g) SB 1289 (Lara), of the 2015-2016 Legislative Session, would have prohibited local governments and law enforcement from contracting with companies that operate for-profit immigration detention facilities, starting January 1, 2018, and requires these facilities to uphold national standards for humane treatment of detainees. SB 1289 was vetoed.

REGISTERED SUPPORT / OPPOSITION:

Support

California Collaborative for Immigrant Justice (Co-Sponsor)
California Department of Justice (Co-Sponsor)
Immigrant Defense Advocates (Co-Sponsor)
Acacia Center for Justice
ACLU California Action
Asian Law Caucus

Avan Immigrant Services
California Community Foundation
California Immigrant Policy Center
California Public Defenders Association
Center for Gender & Refugee Studies
Center for Gender & Refugee Studies–California
Central American Resource Center (CARECEN)
Disability Rights California
Ella Baker Center for Human Rights
Hijas Del Campo
Immigrant Legal Defense
Indivisible Central Contra Costa County
Justice2jobs Coalition
LA Defensa
Los Angeles County District Attorney's Office
Oasis Legal Services
Public Counsel
Riverside Sheriffs' Association
San Francisco Public Defender's Office
San Quentin Skunkworks
Secure Justice
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
United Domestic Workers/afscme Local 3930

Opposition

None submitted.

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

Date of Hearing: June 9, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 953 (Niello) – As Amended April 6, 2026

SUMMARY: Requires two points to be assessed to the driving record of a person for a violation of gross vehicular manslaughter, vehicular manslaughter with ordinary negligence, and vehicular manslaughter for financial gain, even when the case was dismissed because the defendant completed court-initiated misdemeanor diversion.

EXISTING LAW:

1) Establishes three vehicular manslaughter crimes:

   a) Defines "gross vehicular manslaughter" as the driving of a vehicle in the commission of an unlawful act, not amounting to a felony, and with gross negligence, or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence, punishable as an alternate felony-misdemeanor (wobbler), by imprisonment for up to one year in county jail or by two, four, or six years in state prison. (Pen. Code, §§ 192, subd. (c)(1); 193, subd. (c)(1).)

   b) Defines "vehicular manslaughter with ordinance negligence" as the driving of a vehicle in the commission of an unlawful act, not amounting to a felony, but without gross negligence, or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence, punishable as a misdemeanor by up to one year in a county jail. (Pen. Code, §§ 192, subd. (c)(2); 193, subd. (c)(2).)

   c) Defines "vehicular manslaughter for financial gain" as the driving of a vehicle in connection with a violation of knowingly causing or participating in a vehicular collision for the purpose of presenting any false or fraudulent claim, where the collision was knowingly caused for financial gain and proximately resulted in the death of any person, punishable as a felony by four, six, or 10 years in state prison. (Pen. Code, §§ 192, subd. (c)(3); 193, subd. (c)(3).)

2) Authorizes the Department of Motor Vehicles (DMV) to suspend, revoke, or refuse to issue a driver's license if a person accumulates a certain number of points on their driving record, as follows:

   a) Provides that a person whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle, except as otherwise specified. (Veh. Code, § 12810.5, subds. (a) & (b).)

b) Authorizes the DMV to suspend or revoke the privilege of any person to operate a vehicle upon any grounds that authorizes the refusal to issue a license, including when a person is deemed a negligent operator. (Veh. Code, §§ 13359, 12809, subd. (e).)

c) Authorizes the DMV to refuse to issue or renew a driver's license if the DMV determines the applicant is a negligent operator of a vehicle. (Veh. Code, § 12809, subd. (e).)

d) Provides that the point count, for purposes of determining if a driver is a negligent operator, is determined as follows:

i) Violations that receive one point, including, among others, any traffic conviction involving the safe operation of a vehicle upon the highway, except as specified, and a traffic accident in which the DMV deems the operator responsible. (Veh. Code, § 12810, subds. (f) & (g).)

ii) Convictions that receive two points, including, among other convictions:

(1) Gross vehicular manslaughter, vehicular manslaughter with ordinary negligence, and vehicular manslaughter for financial gain. (Veh. Code, § 12810, subd. (d)(1).)

(2) A hit and run resulting in only property damage, or a hit and run resulting in injury or death to another person. (Veh. Code, § 12810, subd. (a).)

(3) Driving under the influence (DUI), DUI causing bodily injury to another, or driving a vehicle with a blood alcohol content (BAC) of .05 or more, for a person under the age of 21, as specified. (Veh. Code, § 12810, subds. (b) & (d)(2).)

(4) Reckless driving. (Veh. Code, § 12810, subd. (c).)

(5) Intoxicated vehicular manslaughter, without gross negligence. (Veh. Code, § 12810, subd. (d)(1).)

(6) Driving a vehicle on a highway at a speed greater than 100 miles per hour. (Veh. Code, § 12810, subd. (d)(1).)

(7) Driving on a suspended or revoked license, as specified. (Veh. Code, § 12810, subd. (e).)

3) Establishes Court-Initiated Misdemeanor Diversion, as follows:

a) Authorizes a judge in the superior court in which a misdemeanor is being prosecuted to, at the judge's discretion, and over the objection of a prosecuting attorney, offer diversion to a defendant. (Pen. Code, § 1001.95, subd. (a).)

b) Authorizes a judge to continue a diverted case for a period not to exceed 24 months and to order the defendant to comply with terms, conditions, or programs that the judge deems appropriate based on the defendant's situation. (Pen. Code, § 1001.95, subd. (b).)

c) Requires the judge, if the defendant has complied with the imposed terms and conditions, to dismiss the action against the defendant at the end of the period of diversion. (Pen. Code, § 1001.95, subd. (c).)

d) Authorizes the court, if it finds that the defendant has not complied with the terms and conditions of diversion, to end the diversion and order resumption of the criminal proceedings. (Pen. Code, § 1001.95, subd. (d).)

e) Provides that upon successful completion of the terms, conditions, or programs ordered by the court pursuant to court-initiated misdemeanor diversion, the arrest upon which diversion was imposed shall be deemed to have never occurred, and the defendant may indicate, in response to any question concerning their prior criminal record, that they were not arrested. (Pen. Code, § 1001.97, subds. (a).)

f) Prohibits a record pertaining to an arrest resulting in successful completion of the terms, conditions, or programs ordered by the court from, without the defendant's consent, being used in any way that could result in the denial of any employment, benefit, license, or certificate. (Pen. Code, § 1001.97, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Author sponsored.

2) **Author's Statement**: According to the author, "SB 953 is a narrowly tailored bill that requires all vehicular manslaughter convictions to be reported to the Department of Motor Vehicles (DMV). This requirement applies even when a defendant is granted Misdemeanor Diversion. In such cases, the conviction would still be reported to the DMV and reflected on the individual's driving record as a two-point violation. Misdemeanor Diversion programs are intended to provide rehabilitation for individuals. However, under current law, when a driver receives Misdemeanor Diversion for a vehicular manslaughter conviction, the offense is effectively removed from both their criminal record ***and*** their driving record. As a result, serious offenses like vehicular manslaughter may never appear on a driver's record, while comparatively minor infractions, such as speeding tickets, do. This creates a significant public safety gap: drivers can commit multiple high-risk or fatal driving offenses without the DMV ever receiving notice, preventing appropriate license suspension or revocation. A speeding ticket should not carry more visible consequences on a driving record than vehicular manslaughter. Two points added to the driving record ensures that drivers are held accountable for dangerous conduct on the road."

3) **Court-Initiated Diversion:** Existing law authorizes a judge to divert a misdemeanor defendant, over the objection of the prosecution, except in cases of stalking, domestic violence, and any offense requiring sex offender registration. (Pen. Code, §§ 1001.95, subds. (a) & (e).) Unlike other existing pre-plea diversion programs, court-initiated diversion contains no statutory requirements for the defendant to satisfy in order to be eligible, except that the defendant cannot have committed one of the crimes that are specifically excluded. (Pen. Code, §§ 1001.95; 1001.96; 1001.97.) The judge has broad authority to order the defendant to comply with terms, conditions, or programs that the judge deems appropriate

based on the specific situation; however, the case may not be diverted for a period exceeding 24 months. (Pen. Code, § 1001.95, subd. (b).) Similar to other diversion programs, if the defendant has complied with the imposed terms and conditions, the judge is required to dismiss the action against the defendant at the end of the period of diversion. (Pen. Code, § 1001.95, subd. (c).) If it appears to the court that the defendant is not complying with the terms and conditions of diversion, after notice to the defendant, the court must hold a hearing to determine whether the criminal proceedings should be reinstituted. (Pen. Code, § 1001.95, subd. (d).) If the court finds that the defendant has not complied with the applicable terms and conditions, it may end the diversion and order resumption of the criminal proceedings. (Pen. Code, § 1001.95, subd. (d).)

Whether or not to divert a misdemeanor defendant is in the trial court's discretion. However, judicial discretion is not without limits. "[A]ll exercises of legal discretion must be grounded in reasoned judgment and guided by legal principles and policies appropriate to the particular matter at issue." (*People v. Russel* (1968) 69 Cal.2d 187, 195 (superseded by statute on other grounds).) A court abuses its discretion when it "exceeds the bounds of reason, all of the circumstances before it being considered." (*Id.* at p. 194) (quoting *State Farm Mut. Auto. Ins. Co. v. Superior Court of San Francisco* (1956) 47 Cal.2d 428, 432.)

4) **Driving Record Points and Related Sanctions:** If a driver accumulates four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months, they shall be prima facie presumed to be a negligent operator (Veh. Code, § 12810.5, subds. (a) & (b).) This authorizes the DMV to suspend or revoke the negligent operator's driving privilege or refuse to issue or renew their driver's license. (Veh. Code, §§ 12809, subd. (e), 13359). The DMV may, instead of suspension or revocation, place the person on probation and issue a restricted driver's license. (Veh. Code, §§ 14250, 12812.) Whether a negligent operator's license will be suspended, and for how long, is primarily determined by the DMV, not by statute. In practice, a driver who accumulates the point levels described above will typically be subject to a one-year probationary period that includes a six-month suspension.[1]

If a person is deemed a negligent operator, there are four levels of Negligent Operator Treatment System (NOTS) actions.[2] Level I – if a person receives two points within 12 months, four within 24 months, or six within 36 months, they will receive a warning letter.[3] Level II – if a person receives three or more points within 12 months, five or more within 24 months, or seven or more within 36 months, they will receive a notice of intent to suspend their license.[4] Level III is the point total that establishes a person as a prima facie negligent operator pursuant to Vehicle Code 12810.5. Here, if a person receives four points within 12 months, six within 24 months, or eight within 36 months, that person will receive a one-year probation that includes a six-month license suspension.[5] The action is effective 34 days from the date the order is mailed.[6] Additionally, under Level IV, if a person who is on NOTS probation receives a violation while operating a vehicle or is involved in a collision,

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[1] DMV, Negligent Operator Actions <https://www.dmv.ca.gov/portal/driver-education-and-safety/dmv-safety-guidelines-actions/negligence/negligent-operator-actions/> [as of Feb. 19, 2026].
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*

regardless of fault, then an additional six-month suspension shall be imposed, and the probation will be extended for one year from the violation of probation.[7]

Certain traffic violations and crimes add points to a person's driving record, which can lead to that person being deemed a negligent operator. More minor offenses, such as a traffic conviction involving the safe operation of a vehicle, a traffic accident in which the DMV deems that person responsible, or failing to properly secure a child in a restraint system, receive one point. (Veh. Code, § 12810, subds. (f), (g) & (h).) More serious traffic offenses, such as convictions for vehicular manslaughter, a hit and run, DUI, reckless driving, intoxicated vehicular manslaughter without gross negligence, and engaging in a speed contest, among others, result in two points. (Veh. Code, § 12810, subds. (a)-(d).)

Negligent operator-based suspensions are administrative in nature, are imposed at the discretion of the DMV, and are distinct from the criminal license suspensions or revocations that can result from a vehicle-related conviction. In practice, many of the offenses that add points to a person's driving record carry separate, and lengthier, criminal license revocation mandates. This is true for the crimes impacted by this bill. Gross vehicular manslaughter and vehicular manslaughter for financial gain each add two points to a person's driving record. (Veh. Code, § 12810, subd. (d)(1).) They also result in a three-year criminal license revocation, irrespective of the number of points on the defendant's record. (Veh. Code, § 13351, subd. (a).) Vehicular manslaughter with ordinary negligence, a misdemeanor, similarly results in two points being added to the defendant's driving record. (Veh. Code, § 12810, subd. (d)(1).) But instead of a three-year license revocation, it receives up to a six- or 12-month license suspension, as specified, at the discretion of the DMV. (Veh. Code, §§ 13361, subd. (c); 13556, subd. (a).)

5) **Effect of this Bill:** Almost all of the offenses that add points to a person's record, including the vehicular manslaughter crimes at issue in this bill, require a criminal conviction. (Veh. Code, § 12810, subds. (a), (b), (c), (d), (e), (f), & (h).) Accordingly, a person who is arrested and charged for an offense that would ordinarily add points to their driving record, if convicted, but who avoids a conviction for the offense by completing court-initiated diversion, typically will not receive those points on their driving record.

This bill requires, where a person is charged with the specific crimes of gross vehicular manslaughter, vehicular manslaughter with ordinary negligence, or vehicular manslaughter for financial gain, and that person's case is subsequently dismissed because the defendant completed court-initiated misdemeanor diversion, the DMV to nonetheless assess two points to their driving record. This is the same number of points that the person would receive if they had been convicted of those crimes. (Veh. Code, § 12810, subd. (d)(1).) Under this bill, if a person is arrested and charged for vehicular manslaughter with ordinary negligence, a misdemeanor, and completes diversion 12 months later, this bill would require the DMV to add two points to that person's driving record in the same manner as if they had been convicted. (Veh. Code, § 12810, subd. (d)(1).)

The scope of this bill may be limited. Some of the vehicular manslaughter charges this bill applies to are not eligible for court-initiated diversion. Court-initiated diversion is confined to

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[7] *Ibid.*

misdemeanors. (Pen. Code, § 1001.95, subd. (a).) Vehicular manslaughter for financial gain is a felony and therefore not eligible for court-initiated misdemeanor diversion. (Pen. Code, § 193, subd. (c)(3).) Gross vehicular manslaughter is a wobbler, meaning it can be charged as a felony or a misdemeanor. (Pen. Code, § 193, subd. (c)(1).) A felony gross vehicular manslaughter case will not receive misdemeanor diversion. In practice, this bill will largely only affect individuals who complete court-initiated diversion for the crime of vehicular manslaughter with ordinary negligence, a misdemeanor, and the crime of gross vehicular manslaughter if that offense is charged as, or reduced to, a misdemeanor.

Notably, this bill requires points to be assessed to a person's driving record even if the person was not adjudicated guilty of vehicular manslaughter before being granted diversion; court-initiated diversion does not require that the defendant enter a guilty plea. (Pen. Code, §§ 1001.95; 1001.96; 1001.97.) This is largely inconsistent with the existing basis for the DMV to add points to a person's record, which generally requires a determination of culpability. The primary way this is established is through a *conviction*. (Veh. Code, § 12810, subds. (a), (b), (c), (d), (e), (f), & (h).) Almost every offense triggering driving record points requires a criminal conviction. (*Ibid.*) The primary exception to this is for "a traffic accident in which the operator is deemed by the [DMV] to be responsible," which results in one point. (Veh. Code, § 12810, subd. (g). But even this requires a determination that the person was responsible for the accident. Moreover, this bill requires the same number of driving record points for a person found to be guilty of vehicular manslaughter beyond a reasonable doubt, as for a person charged with vehicular manslaughter, who is never adjudicated guilty and whose case is ultimately dismissed. The Legislature may wish to consider whether it is appropriate to assess the same number of points for defendants with different levels of culpability.

6) **Practical Concerns:** This bill contains a single provision requiring two driving points to be assessed to a person for a violation of vehicular manslaughter, in which the case was dismissed through court-initiated misdemeanor diversion. However, this bill contains no mechanism for the DMV to receive successful diversion outcome information. It is unclear how such points would ultimately be assessed. Negligent operator points are assessed by the DMV.[8] If a person is charged with misdemeanor vehicular manslaughter, and that charge is dismissed one year later after they complete court-initiated diversion, it is unclear how the DMV will be made aware of this outcome for purposes of assessing points to that person's driving record. As previously noted, most offenses that require points to be assessed to a person's driving record require a conviction, and for such convictions, the Vehicle Code already establishes a process whereby courts send conviction-related information to the DMV. (Veh. Code, § 12810, subds. (a), (b), (c), (d), (e), (f), & (h).) Specifically, upon conviction for a violation of the Vehicle Code or a violation of any other statute relating to the safe operation of vehicles, among others, judicial clerks are required to send an abstract of the record of the court covering the case in which the person was convicted to the DMV within five days after conviction. (Veh. Code, § 1803, subd. (a)(1).) Requiring points to be assessed to a person's driving record upon the completion of court-initiated diversion may require additional judicial and DMV procedures in order to be effective in practice.

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[8] State of California DMV, *Negligence* <https://www.dmv.ca.gov/portal/driver-education-and-safety/dmv-safety-guidelines-actions/negligence/> [As of June 2, 2026].

This bill's lack of information surrounding how the DMV would be notified of diversion outcomes and how the person's culpability for the offense would be determined in the absence of a conviction may also raise due process issues. The addition of two driving record points can establish a driver as a prima facie negligent operator, which can result in a license suspension.[9] (Veh. Code, § 12810.5, subds. (a) & (b).) However, "[a] driver's license cannot be suspended without due process of law." (*Cinquegrani v. Department of Motor Vehicles* (2008) 163 Cal.App.4th 741, 750.) A person whose license was suspended without a hearing based on the mandated addition of two points pursuant to this bill, where the person's culpability for the alleged crime for which they were granted diversion was never determined, could seek to challenge the legality of that suspension.

7) **Inconsistency With the Benefits of Diversion:** This bill may be inconsistent with the function and purpose of completing court-initiated diversion; that "the arrest…shall be deemed *to have never occurred*." (Pen. Code, § 1001.97, subds. (a) (emphasis added).) Upon successful completion of court-initiated diversion, the defendant may indicate, in response to any question concerning their prior criminal record, that they were not arrested. (*Ibid.*)

   Further, existing law prohibits a record pertaining to an arrest resulting in successful completion of court-initiated misdemeanor diversion from, without the defendant's consent, being used in any way that could result in the denial of any employment, benefit, license, or certificate. (Pen. Code, § 1001.97, subd. (a).) The only exemption to this prohibition is for peace officer applications. (Pen. Code, § 1001.97, subds. (a) & (b).) The term "license" as used in Penal Code section 1001.97 is not defined. This was likely intended to extend the record-clearing benefits of diversion to employment-related licenses, such as professional licenses.[10] However, a plain reading of the statute broadly prohibits, where a person successfully completes diversion, the underlying arrest from being used in *any way* that could result in the denial of a license. Adding points to a person's driving record after they complete diversion, which could contribute to that person receiving a DMV-imposed license suspension, could reasonably be interpreted to be using that underlying arrest in a way that results in a denial of a license.

   Requiring points to be added to a person's driving record, even after completing diversion, creates another exemption to the strict record-clearing benefits associated with court-initiated diversion.

8) **Argument in Support**: According to the *California District Attorneys Association,* "SB 953… would amend Section 12810 of the California Vehicle Code to ensure that drivers who commit vehicular manslaughter suffer a two-point penalty on their license, even if they participate in a misdemeanor diversion program.

   "According to an ongoing CalMatters investigation, over the past decade nearly 40,000 people have died and more than 2 million have been injured on California roads. Since 2010,

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[9] DMV, *Negligent Operator Actions* <https://www.dmv.ca.gov/portal/driver-education-and-safety/dmv-safety-guidelines-actions/negligence/negligent-operator-actions/> [as of Feb. 19, 2026].

[10] The author's statement of the enacting statute emphasizes that diversion "allow[s] a person to avoid the lifelong collateral consequences associated with a criminal record when they are seeking employment or housing." *See* AB 3234 (Ting), Senate Floor Analysis <https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB3234#> [As of Feb. 19, 2025].

California has seen more than a 60% increase in traffic fatalities. Impaired driving, distracted driving, chronic speeders, and overall recklessness behind the wheel have all contributed to this disturbing increase in traffic fatalities and accidents. SB 953 helps reverse this trend by ensuring that violators who kill behind the wheel do not have their driving slate wiped clean.

"SB 953 rightly recognizes that the devastation of a fatal accident warrants increased vigilance by the DMV for those convicted of vehicular manslaughter. By ensuring that violators cannot simply have their driving record wiped clean, SB 953 better reflects the severity of the crime, will help accelerate license suspensions for those who pose a real and present danger on the road, and will make our roads safer."

9) **Argument in Opposition**: According to *ACLU California Action*, "Current law allows a judge to offer a defendant diversion in misdemeanor vehicular manslaughter cases when the judge determines that diversion is appropriate. If the bill is passed, people who complete a diversion program would, nonetheless, be assessed points on their license. The Legislature should not increase DMV costs, increase court costs, and burden families to pursue an approach that undermines a proven way to improve public safety outcomes.

"Diversion is an "exit ramp" to the criminal legal system – which "minimize[s] people's exposure to the criminal legal system." Pretrial diversion programs allow people charged with crimes to complete a rehabilitation program in lieu of prosecution. Upon successful completion of the program, the judge dismisses their case. Under California Penal Code section 1001.95, judges have the discretion to offer diversion to people charged with most misdemeanors. Diversion is a crucial criminal justice tool: it can clear court calendars and reduce jail and prison overcrowding. Diversion also advances public safety – research shows that diversion programs cut recidivism by half. SB 953 will require funding for increased crosstalk between DMV and courts while undermining these benefits, straining an already overburdened criminal legal system and diminishing public safety.

"Moreover, receiving points on a driving record can have devastating consequences for Californians and their families. Numerous studies have found a direct correlation between driving and employment. A task force report to the Governor of New Jersey cited research finding that following a license suspension, 42% of people lost their jobs as a result of the suspension. Of those who lost their jobs, 45% could not find another job, and this effect was most pronounced for seniors and low-income people..."

10) **Related Legislation**:

a) AB 1662 (Wilson) would provide that if a defendant's case is dismissed because they completed misdemeanor diversion and the case involved a violation that ordinarily requires points to be added to the defendant's driving record, the DMV must assess points on the defendant's driving record. AB 1662 has been referred to the Senate Public Safety Committee.

b) AB 1685 (Lackey) would increase the number of points that must be added to a person's driving record, from one to three, for the crime of gross vehicular manslaughter while intoxicated, as specified. AB 1685 has been referred to the Senate Public Safety

Committee.

11) **Prior Legislation**:

a) SB 1282 (Smallwood-Cuevas), of the 2023-2024 Legislative Session, would have authorized a county that opts to create a diversion or deferred entry of judgment program for theft offenses to have their program conducted by a county department providing pretrial or health care services or a nonprofit contract agency, and expanded the court-initiated misdemeanor diversion program to felonies, except those specified. SB 1282 failed passage on the Senate Floor.

b) AB 74 (Muratsuchi), of the 2023-2024 Legislative Session, would have added the proposed crime of knowingly attending, participating, or aiding and abetting the commission of a vehicle sideshow or street takeover to the list of convictions that require two points to be added to the defendant's driving record. The hearing on AB 74 in the Assembly Transportation Committee was canceled at the request of the author.

c) AB 282 (Lackey), of the 2021-2022 Legislative Session, would have excluded DUI and other offenses relating to reckless operation of a vehicle from court-initiated misdemeanor diversion. AB 282 failed passage in the Senate Public Safety Committee.

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

e) AB 3234 (Ting), Chapter 334, Statutes of 2020, created a court-initiated misdemeanor diversion program.

REGISTERED SUPPORT / OPPOSITION:

Support

American Automobile Association of Northern California, Nevada & Utah
Arcadia Police Officers' Association
Auto Club of Southern California (AAA)
Brea Police Association
Burbank Police Officers' Association
California Association of Highway Patrolmen
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California 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
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Safety and Advocacy for Empowerment (SAFE)
San Francisco Bay Area Families for Safe Streets
Streets are for Everyone (SAFE) (ORG)
Streets for All (UNREG)
Walk San Francisco Foundation

Opposition

ACLU California Action
Friends Committee on Legislation of California
Justice2jobs Coalition
LA Defensa
Western Center on Law & Poverty, INC.

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

Date of Hearing: June 9, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1004 (Wiener) – As Amended May 14, 2026

SUMMARY: Expands the list of law enforcement agencies that are required to maintain a written policy regarding the use of facial coverings to include a state entity that employs peace officers, and expands the list of law enforcement officers that are prohibited from wearing certain facial coverings to include a peace officer employed by a state agency, among other changes. Specifically, **this bill**:

1) Modifies the requirement that a law enforcement agency operating in California maintain and publicly post a written policy regarding the use of facial coverings, as follows:

    a) Extends the deadline for a law enforcement agency to maintain and post this policy from July 1, 2026, to January 1, 2027;

    b) Expands the list of narrowly tailored exemptions that the policy must contain to include surveillance operations related to enforcement of the Fish and Game Code or regulations adopted pursuant to the Fish and Game Code, or a federal agency or officer conducting surveillance operations pursuant to similar federal law; and,

    c) Expands the definition of a "law enforcement agency," for purposes of which agencies must maintain and post this policy, to include a state entity that employs a peace officer, as defined.

2) Modifies the prohibition against a law enforcement officer wearing a facial covering that conceals or obscures their facial identity in the performance of their duties, as follows:

    a) Specifies that certain items that are exempt from the definition of a "facial covering" can constitute a facial covering if they are combined in a manner that results in, or is intended to result in, concealing or obscuring an officer's identity;

    b) Adds the following items to the list of equipment that is exempt from the definition of a "facial covering":

        i) A helmet with a clear face shield or visor that does not conceal the officer's face, if the equipment is worn solely for safety purposes and not for the purpose of concealing an officer's identity;

        ii) Sunglasses; and,

        iii) A helmet, protective mask, or other head or face protection required during academy or in-service training activities, only for the duration of the training activity, and

provided the equipment is worn solely for safety purposes and not for the purpose of concealing identity.

c) Specifies that the exemption from the definition of a "facial covering" for a helmet worn by an officer utilizing a motorcycle includes the wearing of such a helmet after the officer has dismounted the motorcycle or other vehicle, if they reasonably intend to utilize the motorcycle or other vehicle again imminently;

d) Defines "opaque," for purposes of what constitutes an opaque mask to include, but not be limited to, dark-tinted, mirrored, smoked, or reflective materials that substantially obscure or distort facial visibility; and,

e) Expands the definition of "law enforcement officer," for purposes of which officers are subject to this facial covering prohibition, to include a peace officer, as defined, that is employed by a state agency.

3) Makes technical and conforming changes.

EXISTING LAW:

1) Requires, by July 1, 2026, a law enforcement agency operating in California to maintain and publicly post a written policy regarding the use of facial coverings, as follows:

a) Requires the policy to include, but not be limited to, each of the following:

i) A purpose statement affirming the agency's commitment to all of the following:

(1) Transparency, accountability, and public trust.

(2) Restricting facial coverings to specific, defined, and limited circumstances.

(3) The principle that generalized and undifferentiated fear and apprehension about officer safety shall not be sufficient to justify the use of facial coverings. (Gov. Code, § 7289, subds. (a)-(b).)

ii) A requirement that all sworn personnel not use a facial covering when performing their duties. (Gov. Code, § 7289, subd. (b)(2).)

iii) A list of narrowly tailored exemptions for the following:

(1) Active undercover operations or assignments authorized by supervising personnel or court order.

(2) Tactical operations where protective gear is required for physical safety.

(3) Applicable law governing occupational health and safety.

(4) Protection of identity during prosecution.

(5) Applicable law governing reasonable accommodations. (Gov. Code, § 7289, subd. (b)(3).)

iv) Opaque facial coverings shall only be used when no other reasonable alternative exists, and the necessity is documented. (Gov. Code, § 7289, subd. (b)(4).)

v) Pursuant to the policy, a supervisor shall not knowingly allow a peace officer under their supervision to violate state law or agency policy limiting the use of a facial covering. (Gov. Code, § 7289, subd. (b)(5).)

b) Specifies that the policy shall be deemed consistent with the prohibition against a law enforcement officer wearing facial coverings that conceal or obscure their facial identity, as specified, unless a verified written challenge to its legality is submitted to the head of the agency by a member of the public, an oversight body, or a local governing authority, at which time the agency shall be afforded 90 days to correct any deficiencies in the policy. (Gov. Code, § 7289, subd. (c).)

c) Specifies that if, after 90 days, the agency has failed to adequately address the complaint, the complaining party may proceed to a court of competent jurisdiction for a judicial determination of the agency's exemption, pursuant to the provision of law exempting officers from the criminal penalties associated with wearing a prohibited facial covering if the officer was acting in their official capacity and their employing agency maintained the above written policy. (Gov. Code, § 7289, subd. (c).)

d) Requires the agency's policy and its employees' exemptions to remain in effect unless a court rules the agency's policy is not in compliance with the provision of law exempting officers from the criminal penalties associated with wearing a prohibited facial covering if the officer was acting in their official capacity and their employing agency maintained the above written policy, and all potential appeals to higher courts have been exhausted by the agency. (Gov. Code, § 7289, subd. (c).)

e) Defines the following terms, for purposes of the above:

i) "Facial covering" has the same meaning as described in the below prohibition against law enforcement officers wearing facial coverings. (Gov. Code, § 7289, subd. (d)(1); Pen. Code, § 185.5, subd. (b)(1).)

ii) "Law enforcement agency" means any of the following:

(1) Any entity of a city, county, or other local agency that employs a peace officer.

(2) Any law enforcement agency of another state.

(3) Any federal law enforcement agency. (Gov. Code, § 7289, subd. (d)(2).)

2) Prohibits a law enforcement officer from wearing a facial covering that conceals or obscures their facial identity in the performance of their duties, except as authorized, as follows:

a) Specifies that a "facial covering" means any opaque mask, garment, helmet, headgear, or other item that conceals or obscures the facial identity of an individual, including, but not limited to, a balaclava, tactical mask, gator, ski mask, and any similar type of facial covering or face-shielding item. (Pen. Code, § 185.5, subd. (b)(1).) This does not include any of the following:

   i) A translucent face shield or clear mask that does not conceal the wearer's facial identity and is used in compliance with the agency's policy and procedures.

   ii) A N95 medical mask or surgical mask to protect against transmission of disease or infection or any other mask, helmet, or device, including, but not limited to, air-purifying respirators, full or half masks, or self-contained breathing apparatus necessary to protect against exposure to any toxin, gas, smoke, inclement weather, or any other hazardous or harmful environmental condition.

   iii) A mask, helmet, or device, including, but not limited to, a self-contained breathing apparatus, necessary for underwater use.

   iv) A motorcycle helmet when worn by an officer utilizing a motorcycle or other vehicle that requires a helmet for safe operations while in the performance of their duties.

   v) Eyewear necessary to protect from the use of retinal weapons, including, but not limited to, lasers. (Pen. Code, § 185.5, subd. (b)(2).)

b) Provides that this prohibition does not apply to the following:

   i) Active undercover operations or assignments authorized by supervising personnel or court order.

   ii) Tactical operations where protective gear is required for physical safety.

   iii) Applicable law governing occupational health and safety.

   iv) Protection of identity during prosecution.

   v) Applicable law governing reasonable accommodations. (Pen. Code, § 185.5, subd. (c)(1); Gov. Code, § 7289, subd. (b)(3).)

   vi) An officer assigned to Special Weapons and Tactics (SWAT) team units while actively performing their SWAT responsibilities. (Pen. Code, § 185.5, subd. (c)(2).)

c) Makes a willful and knowing violation of this prohibition punishable as an infraction or a misdemeanor; however, this penalty shall not apply to a law enforcement officer acting in their capacity as an employee of the agency and the agency maintains and publicly posts, no later than July 1, 2026, a written policy regarding the use of facial coverings. (Pen. Code, § 185.5, subds. (d) & (f).)

d) Defines a "law enforcement officer" to mean a peace officer, as defined, employed by a city, county, or other local agency as well as any officer or agent of a federal law

enforcement agency or any law enforcement agency of another state or any person acting on behalf of a federal law enforcement agency or law enforcement agency of another state. (Pen. Code, § 185.5, subd. (e).)

e) Provides that notwithstanding any other law, any person who is found to have committed an assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution, while wearing a facial covering in a knowing and willful violation of this prohibition shall not be entitled to assert any privilege or immunity for their tortious conduct against a claim of civil liability, and shall be liable to that individual for the greater of actual damages or statutory damages of not less than $10,000, whichever is greater. (Pen. Code, § 185.5, subd. (e).)

3) Requires, by January 1, 2026, a law enforcement agency operating in California to maintain and publicly post a written policy on the identification of sworn personnel, and applicable to any law enforcement agency, department, or other entity of the state or any political subdivision thereof that employs any peace officer, any law enforcement agency of another state, and any federal law enforcement agency. (Gov. Code, § 7288, subds. (a) & (c).)

4) Requires a law enforcement officer operating in California that is not uniformed, as specified, to visibly display identification when performing their enforcement duties, unless expressly exempt, applicable to a peace officer, as defined, and any federal law enforcement officer. (Pen. Code, § 13654, subds. (a) & (d)(2).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: Prosecutors Alliance Action, Mexican American Legal Defense and Education Fund, Inland Coalition for Immigrant Justice, and SEIU California.

2) **Author's Statement**: According to the author, "SB 1004 simply applies existing law – our "No Secret Police Act" (SB 627, 2025) – to state law enforcement. Under SB 627, existing law prohibits local and federal law enforcement officers from covering their faces while performing their duties, with limited exceptions.

"On February 9th, 2026, the United States District Court for the Central District Court of California ruled that California has the power to ban federal agents from covering their faces. The Court's ruling is a huge win – stating that California has the power to protect our community by banning officers, including federal agents, from wearing masks and thus inflicting terror and shielding themselves from accountability.

"The Court also ruled that the facial covering ban **must** include state officers to be enforceable. As a result, the Court put a hold on the enforcement of the mask prohibition in SB 627. I introduced SB 1004 to fill in this gap and ensure the prohibition on face masks is enforced on law enforcement at all levels – local, state, and federal – in California."

3) **Masked Federal Immigration Officers:** The increasing immigration raids under the Trump Administration have been associated with incidents of non-citizens being arrested by masked, non-uniformed plain-clothed immigration officers.[1] Proponents of these tactics claim that shielding the identity of such agents is necessary to protect their safety, and to prevent their identities from being documented and shared online.[2] Others contend this is an intimidation tactic contributing to mass fear and panic in immigrant communities.[3] Regardless, this practice creates confusion for persons subjected to masked arrests, who have no way of knowing whether the person seeking to detain them is operating under a legitimate authority or is a person seeking to harm them.[4] A person subject to such an arrest by an unidentified federal agent may reasonably seek to defend themselves, which may increase the likelihood of violent encounters or potential legal consequences for resisting arrest.[5]

   This has also led to numerous incidents whereby federal immigration enforcement actions were mistaken for kidnappings.[6] This also creates confusion for local law enforcement who may have difficulty discerning between lawful immigration enforcement actions and criminal conduct by non-law enforcement persons. This is particularly true where local law enforcement is not aware of when immigration enforcement actions are taking place.[7]

   Moreover, the prevalence of masked or otherwise unidentified immigration agents enables individuals to impersonate ICE officers for the purposes of harassing, intimidating, or otherwise committing violence against members of the immigrant community.[8] The debate over the use of masks by federal immigration authorities intensified again in January of this year when masked federal agents killed two Minneapolis residents, Renee Good and Alex Pretti, during immigration enforcement operations in that city.[9]

4) **SB 627 (Wiener), Chapter 125, Statutes of 2025**: Last year, in response to increased immigration raids in Los Angeles and the rising prevalence of unidentified and masked federal immigration officers, the Legislature gut and amended two bills in June 2025: SB 627 (Wiener) and SB 805 (Pérez). Each of these bills were signed into law on September 20, 2025.

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[1] Jarvie, *ICE agents wearing masks add new levels of intimidation, confusion during L.A. raids* (July 7, 2025), <https://www.latimes.com/california/story/2025-07-07/masking-of-federal-agents-very-dangerous-and-perfectly-legal> [as of June 2, 2026].
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] See FOX 11 Digital Team, *Narciso Barranco: DHS Says OC Gardener Detained by Ice Swung Weed Whacker at Agent*, FOX 11 Los Angeles (June 23, 2025) <www.foxla.com/news/narciso-barranco-oc-gardener-arrested-ice> [as of June 2, 2026].
[6] Jany, *Kidnappers or ICE agents? LAPD grapples with surge in calls from concerned citizens*, L.A. Times (July 3, 2025) <https://www.latimes.com/california/story/2025-07-03/los-angeles-police-immigration-kidnappings> [as of June 2, 2026].
[7] Solis et al., *'Who are these people?' Masked immigration agents challenge local police, sow fear in L.A.*, L.A. Times (June 24, 2025) <https://www.latimes.com/california/story/2025-06-24/masked-immigration-agents-local-law-enforcement-tension> [as of June 2, 2026].
[8] Medina et al., *Ice Impersonators Target Lausd Community, Sparking Fear and Protests*, NBC Los Angeles (Feb. 7, 2025) <www.nbclosangeles.com/news/local/ice-impersonators-target-lausd-community/3626973/> [as of June 2, 2026]. See also, Jarvie, *supra*; Olivares, *US sees spate of arrests of civilians impersonating ICE officers*, The Guardian (June 28, 2025) <https://www.theguardian.com/us-news/2025/jun/28/civilians-impersonating-ice-officers> [as of June 2, 2026]; Moshtaghian, et. al., *Multiple ICE impersonation arrests made during nationwide immigration crackdown*, CNN (Feb. 5, 2025), <https://www.cnn.com/2025/02/04/us/ice-impersonators-on-the-rise-arrests-made-as-authorities-issue-national-warning> [as of June 2, 2026].
[9] Talabi, *In ICE masking debate, these former officers say take them off*, The Hill (Mar. 11, 2026) <https://thehill.com/homenews/state-watch/5774858-ice-masking-law-enforcement-identity-debate/> [as of June 2, 2026].

SB 805 (Pérez), Chapter 126, Statutes of 2025, sought to regulate when law enforcement must display identification. Among other changes, it required local, state, out-of-state, and federal law enforcement agencies operating in California to adopt policies on the visible identification of sworn personnel, and required officers from such agencies to visibly display identification when performing their enforcement duties. (Gov. Code, § 7288, subds. (a) & (c)(2); Pen. Code, § 13654, subds. (a) & (d)(2).)

Most relevant here, SB 627 (Wiener), Chapter 125, Statutes of 2025, sought to regulate the use of masks by law enforcement officers. SB 627 required any local, out-of-state, or federal law enforcement agency operating in California to maintain and publicly post a written policy on the use of facial coverings by July 1, 2026. (Gov. Code, § 7289, subds. (a).) This policy must include a specified purpose statement, a prohibition against personnel using a facial covering when performing their duties, and a list of narrowly tailored exemptions. (Gov. Code, § 7289, subds. (b)(1)-(3).) The policy must also state that opaque facial coverings can only be used when no other reasonable alternative exists, and that a supervisor must not knowingly allow an officer to violate the policy or other state law regarding facial coverings. (Gov. Code, § 7289, subd. (b)(4)-(5).) SB 627 included a complaint process whereby any party can challenge a law enforcement agency facial covering policy as non-compliant with the requirements of state law. (Gov. Code, § 7289, subd. (c).) Any policy deemed non-compliant at the end of this process nullifies the agency's exemption to the criminal prohibition against the use of facial coverings, described below. (*Ibid.*)

Additionally, SB 627 prohibited local, federal, and out-of-state law enforcement officers from wearing facial coverings that conceal their facial identity in the performance of their duties, except as authorized. It defined "facial covering" to mean an opaque mask, garment, helmet, headgear, or other item that conceals or obscures the facial identity of an individual, including, but not limited to, a balaclava, tactical mask, gator, ski mask, and any similar type of facial covering or face-shielding item. (Pen. Code, § 185.5, subd. (b)(1).) The bill specified that certain types of translucent shields, medical masks, helmets, and eyewear do not constitute facial coverings. (Pen. Code, § 185.5, subd. (b)(2).) SB 627 made a willful and knowing violation of this prohibition punishable as an infraction or a misdemeanor, although this does not apply to an officer acting in accordance with their agency's facial coverings policy. It also imposed civil liability on any person found to have engaged in specified conduct while wearing a facial covering in violation of this provision. Notably, unlike SB 805 (Pérez), SB 627 exempted state agencies and state law enforcement officers from its requirements.

The Governor's signing statement on SB 627 affirmed the importance of addressing the issue of masked law enforcement officers while also emphasizing the need for follow-up legislation to address certain gaps in the bill. As stated by the Governor:

> This bill establishes important transparency and public accountability measures to protect public safety, but it requires follow-up legislation when the Legislature returns in January. Given the importance of this issue, the Legislature must craft a bill that prevents unnecessary masking without compromising law enforcement operations. That means providing additional exemptions for legitimate law enforcement activities and removing unnecessary liability for officers who carry out their duties in good faith. In its

> current form, I read this bill as permitting the use of motorcycle or other safety helmets, sunglasses, or other standard law enforcement gear not designed or used for the purpose of hiding anyone's identity, but the follow-up legislation must also remove any uncertainty or ambiguities around its scope.[10]

Shortly after the bill was signed, the U.S. Attorney for the Central District of California issued a memorandum ordering federal officials to disregard SB 627 and stating that any officials or individuals who attempt to impede or interfere with federal operations will be subject to prosecution.[11]

5) **United States v. California (C.D.Cal. 2026) 819 F. Supp. 3d 1109**: The Supremacy Clause of the U.S. Constitution provides that federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." (U.S. Const., art. VI, cl. 2.)

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

On November 17, 2025, in the case of *United States v. California* (C.D.Cal. 2026) 819 F.Supp. 3d 1109, the Trump Administration filed a lawsuit in federal court seeking to enjoin the State of California from enforcing SB 627 (Wiener), Chapter 125, Statutes of 2025 and SB 805 (Pérez), Chapter 126, Statutes of 2025. The complaint alleged that provisions of these bills that apply to federal law enforcement agencies violate the Supremacy Clause of the United States Constitution – and in particular, the intergovernmental immunity doctrine – by impermissibly regulating the federal government. (*United States v. California*, *supra*, 819 F.Supp.3d at p. 7). Alternatively, the complaint alleged that SB 627 (Wiener), Chapter 125, Statutes of 2025 violated the Supremacy Clause by discriminating against the federal government. (*Ibid.*) The Trump Administration did not challenge SB 805 (Perez) as

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[10] Governor's signing message on Sen. Bill No. 627 (Sept. 20, 2025) <https://www.gov.ca.gov/wp-content/uploads/2025/09/SB-627-Signing-Message.pdf> [as of June 2, 2026].

[11] Ayoubgoulan, *Trump Administration tells federal officers to ignore California's mask ban SB 627* (Sept. 2025) <https://www.msn.com/en-us/politics/government/trump-administration-tells-federal-officers-to-ignore-california-s-mask-ban-sb-627/ar-AA1NtGyi> [as of June 2, 2026].

discriminating against the federal government, since the provisions of that bill apply equally to local, state, and federal law enforcement officers. (*Id.* at p. 35, fn. 9).

Regarding the discrimination-based intergovernmental immunity claim against SB 627, the United States District Court granted the Trump Administration's motion for a preliminary injunction as to the enforcement of SB 627's facial covering prohibition against federal law enforcement officers. The court cited that the federal government was likely to succeed on its claim that this provision unlawfully discriminates against the federal government in violation of the intergovernmental immunity doctrine. (*Id.* at p. 41). The court reasoned that because SB 627's facial covering prohibition applied to local, out-of-state, and federal law enforcement officers, but not to state law enforcement officers, it therefore "treats federal law enforcement officers differently than similarly situated state law enforcement officers." (*Ibid.*) The court stated that while the challenged provisions of SB 627 did not interfere with federal functions, there is no de minimis exception to a discriminatory burden, and the intergovernmental immunity doctrine prohibits *any* discriminatory burden. (*Id.* at p. 38.) Notably, the decision includes a footnote noting that "counsel for the United States acknowledged that the No Secret Police Act would not be unlawfully discriminatory if it was amended to apply to all law enforcement officers." (*Id.* at p. 54, fn. 15.) This bill seeks to do just that.

Regarding the direct regulation-based intergovernmental immunity claim against both SB 627 (Wiener) and SB 805 (Pérez), the court found that the United States was not likely to succeed on its claim that both bills directly regulated the federal government in violation of the intergovernmental immunity doctrine. (*Id.* at p. 35). The court held that determining if a state law directly regulates the federal government "demands a functional inquiry into whether the regulations at issue 'interfer[e] with or control[] the operation of the federal government." (*Id.* at p. 26 [quoting *United States v. Washington*, *supra,* 596 U.S. at p. 838].) As stated by the court, "[t]he critical question is whether the state laws 'affect incidentally the mode of carrying out [federal] employment,' or rather seek to 'control' federal functions." (*Id.* at pp. 26-27 [quoting *Johnson v. Maryland*, *supra*, 254 U.S. at pp. 56-57].) Under this standard, the court found that the Trump Administration failed to show that the challenged provisions of SB 627 (Wiener) and SB 805 (Perez) would interfere with or take control of federal law enforcement operations. Rather, the court found that such provisions "only 'affect the federal government incidentally as the consequence of a broad, neutrally applicable rule' for law enforcement officers in California." (*Id.* at p. 35 [quoting *United States v. City of Arcata*, *supra*, 629 F.3d at p. 991].)

6) **Effect of this Bill:** This bill seeks to remedy the legal defect – the exemption for state law enforcement officers – that resulted in the facial covering provision of SB 627 being enjoined because it discriminated against the federal government. Accordingly, this bill: 1) expands the definition of "law enforcement officer," for purposes of which officers are subject to SB 627's facial covering prohibition, to include a peace officer employed by a state agency; and 2) expands the definition of a "law enforcement agency," for purposes of which agencies must maintain a facial covering policy, to include a state entity that employs a peace officer. Given that the *United States v. California* district court primarily relied on SB 627's exemption for state officers in its determination that SB 627 discriminated against the federal government, this may remedy the discrimination-based intergovernmental immunity concern at issue in that case. SB 805 (Pérez), which was substantially similar to SB 627 in its application to the federal government but did not contain such an exemption for state law

enforcement officers, was not challenged by the Trump Administration as unlawful discrimination against the federal government. (*United States v. California*, *supra*, 819 F. Supp. 3d at p. 35, fn. 9).

In addition, this bill seeks to address some of the concerns included in the Governor's signing message, such as the need for additional exemptions. Specifically, the bill expands the list of equipment that is not considered a "facial covering" to include specified helmets with a clear face shield or visor that does not conceal the officer's face, sunglasses, a helmet, protective mask, or other head or face protection required during academy training. Further, it clarifies that the exemption for a helmet worn by an officer on a motorcycle includes the wearing of such a helmet after the officer has dismounted, if the officer reasonably intends to utilize the motorcycle imminently. It also expands the list of narrowly tailored exemptions that must be included within the facial covering policy to include surveillance operations related to enforcement of the Fish and Game Code, similar operations by the federal government. It additionally clarifies the meaning of an "opaque mask," a type of prohibited facial covering, by defining this term to mean dark-tinted, mirrored, smoked, or reflective materials that substantially obscure or distort facial visibility.

7) **Remaining Constitutional Concerns:** As previously discussed, on February 9, 2026, the district court in *United States v. California* found that the United States was not likely to succeed on its claim that SB 627 and SB 805 unlawfully directly regulated the federal. (*United States v. California*, *supra*, 819 F.Supp.3d at p. 35). As a result, the court denied the United States' motion for preliminary injunction based on the federal government's direct regulation claim. (*Id.* at p. 54). As of April 22, 2026, California has not appealed this partial grant of preliminary injunctive relief. (*United States v. California* (9th Cir. 2026) 173 F.4th 1060, 7, fn. 4.) However, following this ruling, the United States moved for an injunction pending appeal to enjoin SB 805's provision requiring non-law enforcement officers, including federal law enforcement officers, to visibly display identification when performing their duties. (*United States v. California*, *supra,* 173 F.4th at p. 8.) On April 22, 2026, the Ninth Circuit Court of Appeals granted the federal government's injunction, finding that the United States was likely to succeed on its claim that the provision of SB 805 requiring federal officers to visibly display identification when performing their duties was an unlawful direct regulation of the federal government in violation of the intergovernmental immunity doctrine. (*Id.* at pp. 3, 16). While this ruling pertains to a separate law, the Ninth Circuit's discussion of what constitutes a direct regulation under governmental immunity questions the underlying legality of the provisions of law enacted by SB 627 that this bill seeks to amend.

As previously discussed, the *United States v. California* district court rejected the United States' claim that SB 627 and SB 805 directly regulated the federal government, citing that direct regulation of the federal government demands a functional inquiry into whether the regulation interferes with or controls the operation of the federal government. (*United States v. California*, *supra*, 819 F.Supp.3d at p. 36). The Ninth Circuit largely rejected this line of reasoning. (*United States v. California*, *supra,* 173 F.4th at pp. 11-12.) The panel stated that the district court asked the wrong question and that this particular standard pertains to the regulation of federal contractors and third-party employers, but is not the standard that governs direct regulation of United States governmental activities. (*Ibid.*) Instead, the Ninth Circuit articulated a far more stringent standard for what constitutes a direct regulation under intergovernmental immunity, stating that intergovernmental immunity "forbids States from regulating the federal government *qua* government and from controlling federal

governmental functions in any manner and to any degree." (*Id.* at pp. 13-14) As stated by the panel in more detail:

> A direct regulation is one that "lays hold of" federal officers "in their specific attempt to obey orders and requires qualifications in addition to those that the [federal] Government has pronounced sufficient." [citation omitted]. It imposes conditions upon "a function of government," and regulates "the right to carry on the business" of the federal government. [citation omitted] In other words, a direct regulation regulates the government *qua* government; it controls how the government conducts specifically governmental functions....
>
> [I]f a state law directly regulates the conduct of the United States, it is void irrespective of whether the regulated activities are essential to federal functions or operations, and irrespective of the degree to which the state law interferes with federal functions or operations. *(Id.* at pp. 10, 12.)

Citing this standard, the panel found that the provision of SB 805 (Perez) requiring federal officers to visibly display identification when performing their duties was likely an unconstitutional direct regulation of the United States. (*Id.* at p. 14.) Specifically, it noted that this provision expressly applies to federal officers, seeks to control their conduct in performing law enforcement functions, and purports to override the federal government's power to determine whether, how, and when to publicly identify its officers. *(Id.* at p. 11.) The Ninth Circuit emphasized that the identification provision did not merely apply to individuals acting for themselves, but rather specifically laid hold of federal agencies and officers in their attempts to obey orders, and required qualifications in addition to those pronounced sufficient by the federal government. (*Ibid.*)

Given that SB 627's provision prohibiting federal law enforcement officers from wearing facial coverings had already been enjoined by the U.S. District Court, this Ninth Circuit decision only enjoined the enforcement of SB 805's identification requirement. However, the substantial similarities between SB 805 and SB 627 suggest that even if this bill remedies the SB 627's discrimination-based intergovernmental legal defect, SB 627's underlying application to the federal government may ultimately be struck down under the direct regulation standard articulated by the Ninth Circuit.

8) **Arguments in Support:** According to the *Inland Coalition for Immigrant Justice (IC4IJ), Mexican American Legal Defense and Educational Fund (MALDEF), Prosecutors Alliance Action, and SEIU California*, the co-sponsors of the bill, "SB 1004 applies existing law (SB 627 (Wiener, 2025) to state law enforcement, and requires them – in addition to local and federal law enforcement – to adopt policies restricting the use of facial coverings by January 1, 2027...

"On February 9, 2026, the United States District Court for the Central District Court of California ruled that California has the power to limit federal agents from wearing masks and that the ban must include state officers, in addition to local and federal officers. As a result, the court put a hold on enforcement of SB 627. Senator Wiener introduced SB 1004 to fill in this gap and allow SB 627's prohibition on face masks to be enforced on all law enforcement in California, including state and local law enforcement officers, and ICE, CBP, and other federal officers.

"Law enforcement officers masking their faces while conducting routine operations undermines the public's trust in them, allows them to escape accountability for misconduct, and runs counter to the basic principles of democracy. This practice also creates an environment of fear among the general public, who don't know if the masked individuals are actual law enforcement or impostors."

9) **Argument in Opposition**: According to the *Peace Officers' Research Association of California*, "While we understand the intent of promoting transparency, SB 1004 raises significant concerns as it expands facial covering restrictions to California peace officers. This proposal builds on SB 627, which PORAC opposed last year, and continues to present many of the same legal, operational, and policy challenges—now applied more broadly to California law enforcement.

"Peace officers are often required to operate in dynamic and potentially dangerous environments where the use of facial coverings may be necessary to protect officer safety, prevent retaliation, or carry out sensitive assignments. Limiting that discretion through statute, particularly with potential criminal and civil implications, creates unnecessary risk and fails to reflect the realities of law enforcement operations.

"PORAC also remains concerned with the broader legal and policy implications raised in SB 627, including questions related to liability exposure, disciplinary authority, and the appropriate balance between legislative mandates and local agency control. These concerns are not resolved in SB 1004 and are further amplified by its expanded application to California peace officers.

"Given the ongoing legal uncertainty surrounding SB 627 and related litigation, PORAC respectfully requests that SB 1004 be amended to include a severability clause that would exclude California peace officers from the statute should any portion of the law be invalidated by the courts. This amendment would help ensure that California peace officers are not swept into unintended consequences of this policy and would provide important clarity moving forward."

10) **Prior Legislation**:

a) SB 627 (Wiener), Chapter 125, Statutes of 2025, made it a crime for a law enforcement officer, as defined, to wear a facial covering in the performance of the duties, except as specified, and required any law enforcement agency operating in California to maintain and publicly post a written policy limiting the use of facial coverings, as specified.

b) SB 805 (Pérez), Chapter 126, Statutes of 2025, required law enforcement agencies to adopt policies on visible display of identification, required specified law enforcement officers operating in California who are not uniformed to visibly display identification that includes either a name or badge number to the public when performing their duties; and expanded the crime of false personation of a peace officer.

c) SB 480 (Archuleta), Chapter 336, Statutes of 2020, prohibited law enforcement agencies from authorizing employees to wear a uniform that is made from camouflage material or

a uniform that is substantially similar to a uniform of the U.S. Armed Forces or state active militia.

d) SB 54 (De Leon), Chapter 495, Statutes of 2017, limited the involvement of state and local law enforcement agencies in federal immigration enforcement.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
Alameda County Office of Education
Alliance for Boys and Men of Color
American Federation of State, County and Municipal Employees, Afl-cio
Asian Americans Advancing Justice Southern California
Bend the Arc: Jewish Action California
California Academy of Child and Adolescent Psychiatry
California Attorneys for Criminal Justice
California Community Foundation
California Faculty Association
California Public Defenders Association
California Rural Legal Assistance Foundation, INC.
California School Employees Association
California Teachers Association
Californians for Safety and Justice
Central American Resource Center of California
Cft–aft, Afl-cio
City of Alameda
City of Pasadena
City of West Hollywood
Council on American-islamic Relations, California
Courage California
Drug Policy Alliance 1
Electronic Frontier Foundation
Ella Baker Center for Human Rights
Equality California
Felony Murder Elimination Project
Friends Committee on Legislation of California
Gente Organizada
Ikar
Inland Coalition for Immigrant Justice
Inland Empire Immigrant Youth Collective
Inland Empire Labor Council, Afl-cio
Inland Empire United
Justice2jobs Coalition
LA Defensa
Latino Community Foundtion
Los Angeles County
Los Angeles County Democratic Party

Mexican-american Legal Defense and Ed Fund [maldef]
Peace and Freedom Party of California
Pomona Economic Opportunity Center
Prosecutors Alliance Action
Public Counsel
Rubicon Programs
San Bernardino Community Service Center
San Francisco Public Defender
Santa Monica Democratic Club
Seiu California
Smart Justice California, a Project of Beyond Impact
Unidosus
United Domestic Workers/afscme Local 3930
Vision Y Compromiso
Western Center on Law & Poverty

Opposition
Arcadia Police Officers' Association
Association for Los Angeles Deputy Sheriffs
Association of Orange County Deputy Sheriffs
Brea Police Association
Burbank Police Officers' Association
California Association of Highway Patrolmen
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Fraternal Order of Police
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California Statewide Law Enforcement Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fraternal Order of Police
Fullerton Police Officers' Association
Long Beach Police Officers Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Sacramento County Deputy Sheriffs Association
San Bernardino County Sheriff's Employees' Benefit Association
Santa Ana Police Officers Association

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

Date of Hearing: June 9, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1012 (Smallwood-Cuevas) – As Amended May 14, 2026

SUMMARY: Requires the Pre-Release Construction Trades Certificate Program's joint advisory committee, in consultation with the California Department of Corrections and Rehabilitation (CDCR), the Department of Forestry and Fire Protection (CAL FIRE), the Department of Industrial Relations (DIR), and the fire camp program, to facilitate the post-release admission of program graduates into any relevant state-approved apprenticeship and require state-approved apprenticeship programs to evaluate these individuals for admission with advanced standing. Specifically, **this bill**:

1) Amends the joint advisory committee's responsibility to facilitate the post-release admission of graduates of preapprenticeship programs for incarcerated individuals into state-approved apprenticeship programs to include graduates of the fire camp program.

2) Requires the joint advisory committee, in consultation with CDCR, CAL FIRE, DIR, and the fire camp program, to facilitate the admission of graduates of the program, after release, into any relevant state-approved apprenticeship and for state-approved apprenticeship programs, including those in general construction and heavy equipment operations, to evaluate such individuals for admission with advanced standing based on prior coursework and work experience.

3) Provides that successful completion of fire camp programs, including, but not limited to, wildland firefighter training, such as environmental remediation and forestry management, emergency response, and hazardous waste cleanup, shall constitute qualifying experience for a state-approved apprenticeship under the Division of Apprenticeship Standards.

4) Requires CDCR, in partnership with CAL FIRE and the fire camp program, to ensure that all individuals who complete the program receive a certification acknowledging their fire camp training and work experience to ensure eligibility for state-approved apprenticeship programs.

EXISTING LAW:

1) Establishes the California Workforce Development Board (CWDB), under the Labor and Workforce Development Agency, as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce system, including its alignment to the needs of the economy and the workforce. (Unemp. Ins. Code, § 14010 et seq.)

2) Establishes the Prison to Employment program, administered by CWDB, to coordinate reentry and workforce services in each of the state's 14 workforce regions so that the

formerly incarcerated and other justice-involved individuals in these regions can find and retain employment. (Unemp. Ins. Code, §§ 14040-14042.)

3) Requires the Secretary of CDCR to appoint a Superintendent of Correctional Education, who oversees and administers all prison education programs. Requires the Superintendent to set both short- and long-term goals for literacy and testing and career technical education programs, and to establish priorities for prison academic and career technical education programs. (Pen. Code § 2053.4.)

4) Requires a career technical education program consider all of the following factors, consistent with the goals and priorities of CDCR:

   a) Whether the program aligns with the workforce needs of high-demand sectors of the state and regional economies;

   b) Whether there is an active job market for the skills being developed where the incarcerated person will likely be released;

   c) Whether the program increases the number of incarcerated individuals who obtain a marketable and industry or apprenticeship board-recognized certification, credential, or degree;

   d) Whether there are formal or informal networks in the field that support finding employment upon release from prison; and,

   e) Whether the program will lead to employment in occupations with a livable wage. (Pen. Code § 2053.5.)

5) Establishes the Pre-Release Construction Trades Certificate Program (PRCTCP) administered by CDCR to increase employment opportunities in the construction trades for incarcerated individuals upon release. (Pen. Code, § 2716.5, subd. (a).)

6) Requires CDCR to establish a joint advisory committee for the purpose of implementation of the PRCTCP. Requires the committee to be composed of representatives from building and construction trades employee organizations, the State Building and Construction Trades Council of California, joint apprenticeship training programs, the California Correctional Training and Rehabilitation Authority, the Division of Apprenticeship Standards (DAS), the Labor and Workforce Development Agency, and any other representatives the department determines appropriate. (Pen. Code, § 2716.5, subd. (b).)

7) Provides that the committee has the following responsibilities:

   a) Develop guidelines for the participation of inmates in preapprenticeship training programs. Requires the guidelines to provide for the integration, for all preapprenticeship training programs in the building and construction trades, of the multicraft core curriculum (MC3) implemented by the State Department of Education (CDE) for its California Partnership Academies pilot project and by the CWDB and local boards.

b) Develop and implement a prerelease construction trades certification that validates that an incarcerated person completed instruction, skills, and competencies required by and recognized by the participating building and construction trades.

c) Ensure compliance with any applicable requirements and regulations DAS.

d) Evaluate prerelease on-the-job training opportunities to compare and match competencies with those of registered apprentices in the building and construction trades.

e) Explore the feasibility of the electronic tracking of each participating person's relevant activities to efficiently capture competencies related to the certification.

f) Explore the prerelease awarding of formal credit for apprenticeship hours recognized by joint apprenticeship training programs and the DAS.

g) Facilitate the admission of graduates of preapprenticeship programs for incarcerated individuals, after release, into state-approved apprenticeship programs and for apprenticeship programs to evaluate such individuals for admission with advanced standing based on prior coursework and work experience. (Pen. Code, § 2716.5, subd. (b).)

8) Requires CWDB and each local workforce development board to ensure, to the maximum extent feasible, that federal respectively awarded by them for purposes of preapprenticeship training in the building and construction trades fund programs and services follow the MC3 implemented by CDE for its pilot project with California Partnership Academies. (Umemp. Ins. Code, § 14230, subd. (e)(2).)

9) Establishes the California Correctional Training and Rehabilitation Authority (CALCTRA), formally known as the Prison Industry Authority (Cal PIA), within CDCR, and describes Cal PIA's purposes as:

a) Developing and operating industrial, agricultural, and service enterprises employing individuals incarcerated in the state's prisons.

b) Creating and maintaining working conditions within the enterprises as much like those which prevail in private industry as possible, to ensure incarcerated individuals the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills.

c) Operating a work program for incarcerated individuals that will be self-supporting by generating sufficient funds from the sale of products and services to pay all the expenses of the program, and one that will provide goods and services that are or will be used by CDCR. (Pen. Code, §§ 2800, 2801.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: NextGen California and the California State Council of Laborers.

2) **Author's Statement**: According to the author, "SB 1012 recognizes the tremendous skill and sacrifice of incarcerated individuals who serve in the California Conservation Fire Camp program by ensuring they have access to equitable pathways that lead to real opportunities upon release. For too long, the state has relied on incarcerated fire camp participants while offering limited opportunities for stable employment once they return home.

   "SB 1012 expands the state's commitment to fire camp participants by ensuring they receive the support needed to continue serving California after their time has been served. In doing so, this bill helps address critical public safety workforce needs, reduces recidivism, and creates pathways to meaningful careers."

3) **Pre-Apprenticeships**: The Division of Apprenticeship Standards (DAS) within the Department of Industrial Relations (DIR) administers the state's apprenticeship laws and enforces apprenticeship standards for wages, hours, working conditions, and the specific skills required for state certification as a journey person in an apprenticeable occupation. In general, apprenticeship programs provide instruction that combines a formal course of in-class instruction with practical "on-the-job" training.

   Pre-apprenticeship programs are designed to prepare individuals to enter and succeed in registered apprenticeship programs. These programs have a documented partnership with at least one registered apprenticeship program sponsor and together, they expand the participant's career pathway opportunities with industry-based training coupled with classroom instruction.

   MC3 is a pre-apprenticeship training program that was developed in 2007 by North America's Building Trades Union. It was designed to identify common elements in all building and construction trades' apprenticeship programs and combine them into one curriculum encompassing 120 hours of training. Among other things, the curriculum includes general orientation to apprenticeships, an introduction to the construction industry, cardiopulmonary resuscitation and first aid, an Occupational Safety and Health Administration 10-hour certification course, applied mathematics for construction, and blueprint reading.

4) **In-Prison Job Training Programs**: Many studies have examined the relationship between employment and recidivism. Although formerly incarcerated individuals face many barriers to obtaining employment, good quality employment is correlated with lower rates of recidivism.[1] Given this correlation, California has invested in various types of in-prison job training programs in order to improve job prospects for the incarcerated population upon release.

   In 2018, the Legislature established the Pre-Release Construction Trades Certification

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[1] Connell, C., et al. *Effectiveness of interventions to improve employment for people released from prison: systematic review and meta-analysis*, Health Justice 11, 17 (2023) <https://www.healthandjusticejournal.biomedcentral.com/articles/10.1186/s40352-023-00217-w#:~:text=Employment%20is%20associated%20with%20a,Sampson%20%26%20Laub%2C%201993> [as of May 28, 2026].

Program, administered by CDCR to increase employment opportunities in the construction trades for incarcerated individuals after release. The program is overseen by a joint advisory committee composed of representatives from building and construction trades employee organizations, the State Building and Construction Trades Council of California, joint apprenticeship training programs, CALCTRA, DAS, the Labor and Workforce Development Agency, and any other representatives CDCR determines appropriate. The joint advisory committee's responsibilities include:

- Developing guidelines for the participation of incarcerated individuals in preapprenticeship training programs.

- Developing and implementing a pre-release construction trades certification that validates that an incarcerated person completed instruction, skills, and competencies required by and recognized by the participating building and construction trades.

- Ensuring compliance with any applicable requirements and regulations of the DAS.

- Evaluating pre-release on-the-job training opportunities to compare and match competencies with those of registered apprentices in the building and construction trades.

- Exploring the feasibility of the electronic tracking of each participating incarcerated individual's relevant activities to efficiently capture competencies related to the certification.

- Exploring the pre-release awarding of formal credit for apprenticeship hours recognized by joint apprenticeship training programs and the DAS.

- Facilitating the admission of graduates of preapprenticeship programs for incarcerated individuals, after release, into state-approved apprenticeship programs and for apprenticeship programs to evaluate such individuals for admission with advanced standing based on prior coursework and work experience.

5) **Conservation (Fire) Camp Program**: According to CDCR:

> CDCR initiated the Conservation (Fire) Camp Program to provide able-bodied incarcerated people the opportunity to work on meaningful projects throughout the state. The CDCR road camps were established in 1915. During World War II, much of the work force that was used by the Division of Forestry (now known as CAL FIRE), was depleted.
>
> CDCR provided the needed work force by having incarcerated people occupy "temporary camps" to augment the regular firefighting forces. During WWII, were 41 "interim camps," which would become the foundation for the network of camps in operation today. In 1946, the Rainbow Conservation Camp opened as the first permanent male conservation camp. Rainbow made history again when it converted to a female

camp in 1983. The Los Angeles County Fire Department (LAC), in contract with the CDCR, opened five camps in Los Angeles County in the 1980's.[2]

Today, CDCR, in cooperation with CAL FIRE and the Los Angeles County Fire Department, jointly operate 35 conservation camps in 25 counties across the state. Fire camp participants support state, local, and federal government agencies as they respond to emergencies such as fires, floods, and other natural or manmade disasters, and complete community service projects when not assigned to an emergency. All fire camps are minimum-security facilities which are overseen by CDCR employees.[3]

When responding to a wildfire or working on conservation projects, a CAL FIRE captain is responsible for the incarcerated inmates' custody. The fire captain acts as the supervisor for the hand crew, which can include up to 17 people. Custody transfers back to correctional staff when the hand crews end their shift and return to either the fire location camp or a base camp. CAL FIRE assigns conservation projects for the crews. Prior to the start of a project, CDCR and CAL FIRE staff members evaluate the project site to ensure there are no security issues.[4]

Incarcerated individuals participating in fire camps receive the same entry-level training as CAL FIRE's seasonal firefighters as well as ongoing training from CAL FIRE throughout their time in the program. An incarcerated person must volunteer for the fire camp program, and some individuals are ineligible for fire camp assignment based on their convictions, including convictions for sex offenses, arson, and escape with force or violence.[5] Individuals who volunteer for fire camp must complete CAL FIRE's Firefighting Training Program, and program participants become certified wildland firefighters after completing this training.[6]

California Conservation Camp participants make up 27% of the state's firefighting force. The demographics are similar to the demographics of California's general incarcerated population: while most people involved are adult males, women and juveniles may also participate in fire camps.

6) **Ventura Training Center (VTC):** The VTC began training participants in October 2018.[7] It accepts trainees who have recently been part of a trained firefighting workforce housed in fire camps or institutional firehouses operated by CAL FIRE and CDCR.[8] To offer formerly-incarcerated firefighters an opportunity to continue using the skills and knowledge they worked to achieve while participating in the Conservation Camp Program, CALFIRE, CCC, and CDCR, in partnership with the Anti-Recidivism Coalition (ARC), developed an

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[2] See https://www.cdcr.ca.gov/facility-locator/conservation-camps/faq-conservation-fire-camp-program/, last visited March 14, 2025.
[3] See https://www.cdcr.ca.gov/facility-locator/conservation-camps/faq-conservation-fire-camp-program/ [as of May 29, 2026].
[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*
[7] *Ventura Training Center,* California Department of Corrections and Rehabilitation (CDCR) <https://www.cdcr.ca.gov/facility-locator/conservation-camps/ventura/> [as of May 29, 2026].
[8] *Ibid.*

enhanced firefighter training and certification program at the VTC in Ventura County.[9] Participants in the 18-month certification program are provided with additional rehabilitation and job training skills to help them be more successful after completion of the program.[10] Cadets who complete the program will be qualified to apply for entry-level firefighting jobs with local, state, and federal firefighting agencies.[11]

CDCR parole agents are on duty at VTC on a daily basis. Through a contract with CDCR's Division of Rehabilitative Programs (DRP), ARC provides life skills training and resources, including education and employment assistance, and community service referrals. VTC has enrolled 432 cadets to date, and only 272 currently have jobs – 78 of which are not employed in a fire related role.[12] That results in a 63% employment rate. Requiring an evaluation of VTC could identify obstacles that prevent more VTC graduates from securing full-time employment, which could facilitate the reintegration of trained individuals into the workforce and augment the state's firefighting capacity.

7) **Reentry Programs**: The State has also invested in reentry work training programs. As part of California's efforts to increase rehabilitative opportunities and reduce recidivism, CWDB, CDCR, CALCTRA, and California Workforce Association created the Corrections-Workforce Partnership in 2017. This partnership links education, job training, and work experience in prison to post-release jobs by fostering a system of coordinated service delivery to a population that faces a variety of barriers.

In 2018, the Legislature appropriated $37 million for the Prison to Employment Initiative (P2E), which is administered by the CWDB. The mission of P2E is to create a pathway toward employment and away from recidivism for formerly incarcerated and justice-involved individuals.[13] P2E funds the integration of workforce and reentry services through grants to workforce service providers across California, including both "direct services" and "supportive services," paving a pathway towards employment and away from recidivism for the formerly incarcerated and justice-involved population.[14]

CDWB's interim report evaluating the P2E program outlines the types of direct services participants receive such as interview coaching and tuition for MC3 training in the construction trades.[15] Additionally, supportive services help participants meet their basic needs, including stipends to cover participants' transportation, clothing, and food costs.[16] As of June 2021, P2E funds have been used to serve over 3,190 formerly-incarcerated and

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[9] *Ibid.*
[10] *Ibid.*
[11] *Ventura Training Center,* Anti-Recidivism Coalition (ARC) <https://antirecidivism.org/our-programs/vtc/> [as of May 29, 2026].
[12] *Ibid.*
[13] CWDB, *Interim Report for Evaluation of Workforce Development Programs submitted pursuant to Supplemental Report of the 2018-19 Budget Act, Item 7120-101-000* (Oct. 2021), p. 1 <https://cwdb.ca.gov/wp-content/uploads/sites/43/2021/10/P2E-Interim-Report_ACCESSIBLE.pdf#:~:text=P2E%20funds%20the%20integration%20of%20workforce%20and%20reentry,recidivism%20for%20the%20formerly%20incarcerated%20and%20justice-involved%20population> [as of May 29, 2026].
[14] *Id.* at p. 2.
[15] *Id.* at p. 2.
[16] *Ibid.*

justice-involved individuals statewide.[17] In January 2023, CWDB announced $19 million in awards to new projects (P2E 2.0).[18] The grant term for P2E 2.0 runs from January 2023 through December 2025.

8) **Effect of This Bill**: This bill seeks to build upon prior efforts to provide career options to fire camp participants following their release from incarceration. Specifically, this bill amends the joint advisory committee's responsibility to facilitate the post-release admission of graduates of pre-apprenticeship programs for incarcerated individuals into state-approved apprenticeship programs so that graduates of the fire camp program are included.

   This bill also requires the joint advisory committee to facilitate the admission of graduates of the existing Pre-Release Construction Trades Certificate Program into any relevant state-approved apprenticeship after they are released from prison. In addition, this bill requires state-approved apprenticeship programs to consider these individuals for admission with advanced standing based on their prior coursework and work experience.

   This bill additionally requires that successful completion of the fire camp program, including, but not limited to, wildland firefighter training, such as environmental remediation and forestry management, emergency response, and hazardous waste cleanup, constitute qualifying experience for a state-approved apprenticeship under the DAS.

   Finally, this bill requires CDCR, in partnership with CAL FIRE and the fire camp program, to ensure that all individuals who complete the fire camp program receive a certification acknowledging their fire camp training and work experience to ensure eligibility for state-approved apprenticeship programs.

9) **Argument in Support**: According to the *NextGen California*, one of the bill's sponsors, "Successful reentry into society after incarceration remains a significant challenge for far too many justice-involved individuals facing systemic barriers to sustainable, long-term careers. Despite past investments in programs that support successful reentry for those formerly incarcerated, the state has taken advantage of incarcerated fire camp participants – training them and then placing them in dangerous conditions fighting fires only to provide them with little in the way of employment opportunities upon release.

   "SB 1012 tackles this issue by requiring the existing joint advisory committee under the Prerelease Construction Trades Certificate Program, in consultation with relevant state agencies, to help facilitate admission of fire camp graduates into relevant state-approved apprenticeship programs, including evaluation for advanced standing based on prior coursework and work experience. The bill also specifies that successful completion of conservation camp programs constitutes qualifying experience for state-approved apprenticeships in the building and construction trades and requires that participants receive a certification acknowledging their training and work experience.

   "California continues to face growing wildfire risk and an urgent need for a trained

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[17] *Id.* at p. 4.
[18] CWDB, *Prison to Employment (P2E 2.0) Award Announcements* available at <https://cwdb.ca.gov/wp-content/uploads/sites/43/2023/01/P2E-2.0-Award-Announcement-Jan-2023_ACCESSIBLE.pdf>.

workforce capable of supporting vegetation management, fuel reduction, and defensible space efforts. SB 1012 aligns workforce development, public safety, and successful reentry in a way that benefits workers, communities, and the state as a whole."

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

11) **Related Legislation**: AB 2483 (Elhawary) would require the Department of Forestry and Fire Protection (CAL FIRE) to implement a standardized process to ensure any individual who successfully completes training in a CAL FIRE firefighting training camp while incarcerated receives official written certification before their release from prison and requires CAL FIRE to award hiring preferences to certain qualified formerly incarcerated individuals. AB 2483 has been referred to the Senate Natural Resources and Water Committee.

12) **Prior Legislation**:

a) AB 1380 (Elhawary), of the 2025-2026 Legislative Session, would have required the CAL FIRE, in partnership with CDCR and the California Conservation Camp program (CCC), to provide for official certification for all individuals who complete CAL FIRE's firefighting training (FFT) program while incarcerated. AB 1380 was held in suspense in the Senate Appropriations Committee.

b) SB 245 (Reyes), Chapter 746, Statutes of 2025, required CDCR or a county authority, upon the release of a defendant, to certify to the court in the county where the defendant was sentenced, if the individual successfully participated in an inmate fire crew, as specified, and to provide a copy of that certification to the defendant

c) SB 75 (Smallwood-Cuevas), would have required, no later than January 1, 2028, the CDCR, in partnership with DIR and recognized building and construction trades councils, to establish the Preapprenticeship Pathways to Employment Pilot Program (program) to provide incarcerated individuals nearing release with access to high-quality preapprenticeship training aligned with state-registered apprenticeships in the building and construction trades. The Governor vetoed SB 75.

d) AB 409 (Weber), of the 2023-2024 Legislative Session, would have required CDCR to modify its training program for inmate firefighters serving as hand crew members through the CC Camp Program to provide participants the opportunity to earn a specified list of certifications related to firefighting, among other provisions. AB 409 did not receive a hearing in the Assembly Committee on Natural Resources.

e) AB 1908 (Maienschein), of the 2021-2022 Legislative Session, would have allowed an incarcerated individual who successfully participated and completed training in a program, as specified, as an incarcerated hand crewmember, to be eligible for a firefighter certificate provided by the CDCR, among other provisions. The hearing on AB 1908 in the Assembly Committee on Natural Resources was canceled at the request of the author.

f) AB 2147 (Reyes), Chapter 60, Statutes of 2020, provides an expedited expungement pathway for formerly incarcerated people who have successfully participated as

incarcerated firefighters in the state's Conservation Camp Program. Many former incarcerated firefighters from fire camps go on to gain employment with CAL FIRE, the USFS and interagency hotshot crews.

g) SB 866 (Com. on Budget & Fiscal Review), Chapter 53, Statutes of 2018, among other things, established the Pre-Release Construction Trades Certificate Program in CDCR to increase employment opportunities in the construction trades for incarcerated persons upon release.

h) SB 825 (Beall), of the 2017-2018 Legislative Session, would have required CDCR to develop guidelines for inmate preapprenticeship training programs. SB 825 failed passage in this committee.

i) AB 2129 (Jones-Sawyer), of the 2013-2014 Legislative Session, would have required CDCR to implement a voluntary prerelease reentry program for all inmates to begin no later than six months prior to release from prison. AB 2129 was held in suspense in the Assembly Appropriations Committee.

j) AB 2060 (V. Manuel Perez), Chapter 383, Statutes of 2014, established the Supervised Population Workforce Training Grant Program.

REGISTERED SUPPORT / OPPOSITION:

Support

Nextgen California (Sponsor)
ACLU California Action
Associated General Contractors, California Chapters
California Federation of Labor Unions, Afl-cio
California Forestry Association
California Public Defenders Association
California State Council of Laborers
Grip Training Institute
San Quentin Skunkworks

Opposition

None submitted.

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

Date of Hearing: June 9, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1143 (Caballero) – As Amended April 14, 2026

SUMMARY: Authorizes the members of a multidisciplinary team associated with a children's advocacy center to share any information or records, as defined, including video recordings of the forensic interview, with child welfare agencies authorized to investigate child abuse and neglect for specified purposes.

EXISTING LAW:

1) Makes specified persons mandated reporters who shall make reports of suspected child abuse or neglect to any police department or sheriff, designated county probation departments, or a county welfare department. (Pen. Code, §§ 11165.7, 11165.9.)

2) Authorizes each county to use a children's advocacy center to implement a coordinated multidisciplinary response to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment and sets forth standards that a children's advocacy center must meet. (Pen. Code, § 11166.4.)

3) Provides that the multidisciplinary team at a children's advocacy center shall include one representative from law enforcement, child protective services, the district attorney's office, a medical provider, a mental health provider, a victim advocate, and in the case of an Indian child, a representative from the child's tribe. (Pen. Code, § 11166.4, subd. (b)(1).)

4) Provides that the files, reports, records, communications, and working papers used or developed in providing services through a children's advocacy center are confidential and not public records. (Pen. Code, § 11166.4, subd. (d).)

5) States that notwithstanding any other law providing for the confidentiality of information or records relating to the investigation of suspected child abuse or neglect, the members of a multidisciplinary team associated with a children's advocacy center, including agency representatives, child forensic interviewers, and other providers at the children's advocacy center, are authorized to share with other multidisciplinary team members any information or records concerning the child and family for the sole purpose of facilitating a forensic interview or case discussion or providing services to the child or family. (Pen. Code, § 11166.4, subd. (e).)

6) Requires that the shared information or records shall be treated as confidential to the extent required by law by the receiving multidisciplinary team members. (Pen. Code, § 11166.4, subd. (e).)

7) Establishes that, among the standards that a children's advocacy center must meet, the children's advocacy center shall verify that interviews conducted in the course of investigations are conducted in a forensically sound manner and occur in a child-focused setting designed to provide a safe, comfortable, and dedicated place for children and families. (Pen. Code, § 11166.4, subd. (b)(8).)

8) Requires that a children's advocacy center or other identified multidisciplinary team member custodian ensure that all recordings of child forensic interviews be released only in response to a court order; and requires the court to issue a protective order as part of the release of such recordings, unless the court finds good cause that the disclosure of the recording shall not be subject to such an order. (Pen. Code, § 11166.4, subd. (b)(9)(A)(i)-(vi).)

9) States that notwithstanding the requirements for release of recordings of child forensic interviews, the children's advocacy center or other identified multidisciplinary team member custodian shall release or consent to the release or use of any recording, upon request, to any of the following:

   a) Law enforcement agencies authorized to investigate child abuse, or agencies authorized to prosecute juvenile or criminal conduct described in the forensic interview. (Pen. Code, § 11166.4, subd. (b)(9)(B)(i).)

   b) County counsel evaluating an allegation of child abuse. (Pen. Code, § 11166.4, subd. (b)(9)(B)(ii).)

10) Establishes the inherent privacy interest that a child has with respect to the child's recorded voice and image when describing highly sensitive details of abuse or neglect and provides that any and all recordings of child forensic interviews are not subject to a Public Records Act Request and are exempt from any such request. (Pen. Code, § 11166.4, subd. (b)(9)(E)(i).)

11) States that a child forensic interview recording shall not become a public record in any legal proceeding. (Pen. Code, § 11166.4, subd. (b)(9)(E)(ii).)

12) Requires a court to order the recording be sealed and preserved at the conclusion of a criminal proceeding. (Pen. Code, § 11166.4, subd. (b)(9)(E)(iii).)

13) Defines "recording" as including audio, video, digital, or any other manner in which the child's voice or likeness is memorialized. (Pen. Code, § 11166.4, subd. (g).)

14) Defines "child abuse or neglect" to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse, neglect, the willful harming or injuring of a child, or the endangering of the person or health of a child, and unlawful corporal punishment or injury against a child. Specifies that "child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer. (Pen. Code, §11165.6.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: County Welfare Directors Association (CWDA).

2) **Author's Statement**: According to the author, "SB 1208 is an important bill in California's fight against consumer fraud and scams. Criminal organizations, especially transnational organizations, use digital financial assets in their complex schemes to defraud Californians and to launder the proceeds from their criminal activities. Using blockchain analysis, law enforcement agencies can track the movement of digital financial assets and work with digital asset custodians to freeze funds. Existing state law, however, requires a criminal conviction to effect forfeiture of fraud proceeds, a hurdle that is nearly impossible to clear when the alleged criminal is located overseas in a jurisdiction that does not cooperate with U.S. law enforcement agencies.

   "This bill helps to remedy the challenges posed by existing law in returning assets to scam victims. The bill establishes a process whereby California law enforcement agencies can issue a warrant to seize funds when they have reasonable cause and administer a fair process for the owner of the funds to show that the assets were not related to criminal activities. While more needs to be done from stopping these criminals from reaching Californians in the first place, this is a critical bill to improve the outcomes for victims of fraud and scams."

3) **Effect of the Bill:** SB 1143 would authorize defined child welfare agencies to receive certain records relating to child abuse and neglect, including video recordings of the forensic interview. Existing law allows each county to use children's advocacy centers to coordinate a multidisciplinary response to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment. (Pen. Code, § 11166.4.) The multidisciplinary team at a children's advocacy center must include one representative from law enforcement, child protective services, the district attorney's office, a medical provider, a mental health provider, a victim advocate, and in the case of an Indian child, a representative from the child's tribe. (Pen. Code, § 11166.4, subd. (b)(1).)

   Children's advocacy center teams may conduct forensic interviews during their investigations. (Pen. Code, § 11166.4 (b)(8).) These interviews can be recorded for investigative and referential purposes. Because interviews are recorded, the child victim generally only needs to be interviewed once about their abuse. These recordings are generally confidential and may only be shared pursuant to a court order. (Pen. Code, § 11166.4, subd. (b)(9)(A).) Children's advocacy centers or its members, however, may share any information or records concerning the child and family with members of the center's multidisciplinary team, but only for the purposes of facilitating a forensic interview, case discussion, or providing services to the child or family. (Pen. Code, § 11166.4, subd. (e).) Centers or their team member custodian additionally must release or consent to the release or use of any recording, upon request, to law enforcement agencies authorized to investigate child abuse, agencies authorized to prosecute juvenile or criminal conduct described in the forensic interview, or county counsel evaluating an allegation of child abuse. (Pen. Code, § 11166.4, subd. (b)(9)(B)(i)-(ii).)

   Existing law contains some ambiguity regarding whether these recordings can be shared. The current lack of clarity is, in part, caused by uncertainty over whether "county counsel

evaluating an allegation of child abuse" covers child welfare agencies. (Pen. Code, § 11166.4, subd. (b)(9)(B)(ii).) It is additionally unclear whether the recordings qualify as "information or records" that may be shared with all members of the multidisciplinary team. (Pen. Code, § 11166.4, subd. (e).)

Notably, there is no specified limitation on the uses of these recordings by enumerated agencies. Under the current scheme, children's advocacy centers may share "any information or records" with any member of the multidisciplinary team, but only for the purpose of conducting a forensic interview, staff discussion, or providing services to the child and their family. SB 1143, however, would allow child welfare agency staff, in addition to law enforcement and county counsel, to use the interview recordings for other purposes. Such purposes may include, for example, conducting dependency investigations and making recommendations regarding visitation.

This bill appears to address the ambiguity over whether recordings of forensic interviews may be shared with child welfare agencies.

4) **Argument in Support**: According to the bill's sponsor, the County Welfare Directors Association, "The County Welfare Directors Association of California (CWDA) is pleased to be a CO-SPONSOR of SB 1143 by Senator Caballero. The bill makes statutory changes to Penal Code 11166.4 to allow Children's Advocacy Centers (CACs) to release recordings of child forensic interviews to child welfare agencies authorized to investigate child abuse and neglect, upon request.

"California established the framework for coordinated child abuse investigations through AB 2741 (2020), which authorized counties to utilize CACs to coordinate multidisciplinary responses to cases involving child abuse, exploitation, or maltreatment. These centers bring together professionals from law enforcement, child protective services, prosecutors, medical providers, mental health professionals, and victim advocates to ensure investigations are conducted in a trauma-informed, child-focused environment. Later, legislation, including AB 477 (2021) and SB 603 (2023), further strengthened the role of CACs and established detailed protocols governing the release and protection of forensic interview recordings.

"Under existing law, child welfare agencies are not explicitly listed among the entities authorized to receive recordings of child forensic interviews. In practice, this omission means that county social workers responsible for investigating allegations of abuse or neglect may have access only to written summaries or notes rather than the recordings themselves. For counties tasked with assessing child safety and determining appropriate interventions, this limitation can reduce investigators' ability to fully assess a child's statements, including tone, emotional cues, and other non-verbal indicators that are often critical to understanding the context of abuse.

"This statutory gap directly affects the effectiveness of child welfare investigations and the ability of agencies to protect children. Social workers play a central role in assessing risk, determining whether intervention is necessary, and coordinating services for affected families. Without direct access to recorded interviews, investigators lack important context that informs safety decisions or case outcomes. In some cases, this constraint can prolong investigations or require additional follow-up interviews, potentially increasing trauma for the child involved.

"SB 1143 would address this issue by explicating allowing CACs or other designated custodians to release forensic interview recordings to child welfare agencies authorized to investigate child abuse and neglect. The bill preserves all existing confidentiality safeguards, including protective order requirements and prohibitions against public release or duplication.

"By clarifying that child welfare agencies can access these recordings, SB 1143 advances the collaborative, multidisciplinary approach California has built to respond to child abuse. This bill ensures that all appropriate investigative partners have the tools necessary to fully evaluate allegations while maintaining strong privacy protections for child victims. This change will support more informed investigations, improve coordination among agencies, and reduce the likelihood that children must repeat traumatic experiences during the investigative process."

5) **Argument in Opposition**: No longer relevant.

6) **Related Legislation**:

   a) SB 557 (Hurtado) would define "family resource center" to mean a family-friendly entity serving as a hub for multigenerational, family-centered, and family-strengthening support services that, among other things, are provided at no cost or low cost to participants, and are reflective of, and responsive to, community needs and interests, with the goal of preventing child abuse and neglect and strengthening children and families. SB 557 has been referred to the Assembly Human Services Committee.

   b) AB 1566 (Jackson) would update the definition of severe neglect for purposes of the Child Abuse Neglect and Reporting Act (CANRA). AB 1566 was ordered to the inactive file on the Assembly Floor.

   c) AB 1688 (Carrillo) would require notice of a mandated report to be sent to an attorney representing the child in a dependency proceeding and prohibit the notice from disclosing the substance of the report. AB 1688 has been referred to the Senate Public Safety Committee.

7) **Prior Legislation**:

   a) SB 603 (Rubio), Chapter 717, Statutes of 2023, required a children's advocacy center or other identified multidisciplinary team member custodian to ensure that all recordings of child forensic interviews be released only in response to a court order.

   b) AB 477 (Rubio), Chapter 93, Statutes of 2021, clarified that, if a county uses a child advocacy center to implement that multidisciplinary response, the team may include the child advocacy center.

   c) AB 2741 (Garcia), Chapter 353, Statutes of 2020, authorized counties to implement a multidisciplinary response to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment, using a children's advocacy center; and authorized

members of a multidisciplinary team to share with each other information concerning the child, the family of the child, and the person who is the subject of the investigation, as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

County Welfare Directors Association of California (Co-Sponsor)
Legislative Action Committee - Santa Clara County School Boards Association

Opposition

None submitted.

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

Date of Hearing: June 9, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1208 (Grayson) – As Amended May 14, 2026

SUMMARY: Authorizes a law enforcement officer or prosecuting agency to obtain a search warrant to seize digital financial assets upon a showing of probable cause that the digital financial assets contain proceeds of a crime or proceeds traceable to a crime or have been used to facilitate a crime. Specifically, **this bill**:

1) Expands the crime of money laundering to include the use of digital financial assets, as defined.

2) Authorizes a law enforcement officer or public prosecutor to obtain a search warrant to seize digital financial assets or wallets, accounts, or similar things containing digital financial assets (collectively "digital financial assets") upon a showing of probable cause that the assets meet either of the following:

   a) Contain or have contained the proceeds of a crime or proceeds traceable to a crime.

   b) Have been used to facilitate a crime.

3) States that the warrant application shall specify any centralized exchanges, addresses, or other locations assets from which digital financial assets will be seized. The affidavit shall describe how the warrant will be served, such as delivery to a known law enforcement portal of a centralized exchange, digital financial assets issuer, or via some other method.

4) Provides that the search warrant shall specify the amount of digital financial assets to be seized from each location, subject to the following:

   a) The search warrant may authorize seizure of either:

      i) All digital financial assets where money laundering can be shown or digital financial assets up to the amount of proceeds received, the amount of digital financial assets used to facilitate crime, or

      ii) The amount of digital financial assets traceable to crime in other cases.

   b) The search warrant may authorize seizure of digital financial assets related to crimes and victims in other jurisdictions so long as jurisdiction relating to a California crime is established.

   c) The search warrant may authorize seizure of substitute assets if the target disposed of the relevant digital financial assets.

5) Authorizes a law enforcement officer to send a written request to freeze digital financial assets to allow time to pursue a search warrant pursuant to this bill, and requires a centralized exchange, digital financial assets issuer, or other party receiving such a request to freeze the relevant digital financial assets for ten calendar days from receipt of the request.

6) Authorizes the centralized exchange, digital financial assets issuer, or other party to notify the possessor of the digital financial assets that they have been frozen at the request of a California law enforcement agency.

7) Provides that the court shall issue a warrant where jurisdiction is established and probable cause appears in the affidavit.

8) Requires law enforcement, upon issuance of the warrant, to execute the warrant by taking the digital financial assets into law enforcement custody for safekeeping or taking such other actions as are necessary to prevent the property from being transferred or dissipated.

9) States that within 180 days of any seizure of digital assets conducted pursuant to a warrant, a public prosecutor may initiate a special proceeding of a criminal nature by applying to the court on behalf of the People of the State of California to forfeit the seized digital financial assets, but if no such proceeding is initiated, and no other law prohibits the return, the seized digital financial assets may be returned to the party from whom it was seized, unless the period is extended by the court upon a showing of good cause.

10) Provides that if a special proceeding is initiated, the public prosecutor must make efforts reasonably calculated to provide notice to all readily ascertainable potential owners of such property, and anyone with a known security interest. Each person noticed has thirty days to file a verified claim. The thirty-day period begins on the date of service. The court shall not extend the time for filing a claim without good cause.

11) States that a verified claim must be filed under penalty of perjury and supported by admissible evidence, and that the claimant bears the burden by a preponderance of the evidence to show that the seized digital financial assets belong to the claimant and were obtained by legitimate means.

12) Establishes that the claim must include specified identifying information regarding the claimant, including a photograph of the claimant and of an identity document, as specified, and must respond to all allegations in the petition for forfeiture and be supported by the evidence upon which the claimant intends to rely.

13) Provides that all evidence and arguments not included in the initial claim are forfeited, absent a finding of good cause by the court.

14) Specifies that upon filing of a claim, unless it is denied as plainly without merit, the court shall give the prosecuting agency time to file a response with any additional evidence and argument related to the claim, and considering all relevant evidence, shall decide the claim and file an order resolving the claim or setting a hearing.

15) States that any resolution of disputed issues related to a claim shall be at a court hearing, and that the court may halt proceedings at any time if it determines that it has sufficient information to resolve the claim and issue an ordering resolving the validity of the claim, as specified.

16) Provides after all claims are resolved, the court shall issue a final, unappealable judgement forfeiting the remaining digital financial assets, ownership of which shall immediately transfer to the prosecuting agency for distribution to the victims, as specified.

17) Specifies that the government's interest in distribution to victims shall take precedence over individual claims based on constructive trust or other civil claims that individual victims may assert.

18) Requires the seized funds to be used to compensate victims of the crimes or fraud schemes underlying an action pursuant to this bill, up to the value of their actual loss, and authorizes the prosecuting agency to establish a claims procedure to include victims whose cases were not used to establish the underlying crimes or fraud schemes, subject to the following requirements:

    a) The agency shall make efforts reasonably calculated to identify and provide notice to additional victims of the crimes or fraud schemes underlying the action and inform them of the procedure to file a claim.

    b) After the expiration of the claims period, the prosecuting agency shall grant or deny each claim and determine the amount of each victim's loss for approved claims. Determinations are not subject to appeal or judicial review.

    c) Once all additional claims are adjudicated, the prosecuting agency must distribute the seized digital financial assets to those victims whose cases were used as part of the action and those additional victims whose claims are approved on a pro rata basis up to the amount of their actual loss.

19) States that if a prosecuting agency determines that a claims procedure to identify additional victims is inappropriate or impractical, the agency shall still be required to return funds to all victims whose cases were used as part of this action on a pro rata basis up to the amount of the actual loss.

20) Establishes that any digital financial assets not distributed to victims as set forth above shall be kept in the custody of the law enforcement or prosecuting agency for a maximum of three years.

21) States that jurisdiction extends to digital financial assets in any country when either of the following have been established:

    a) The possessor received a digital financial asset traceable to a crime perpetrated against a victim who was residing in California or was defrauded in this state.

b) The possessor is a member of a conspiracy to commit money laundering and any member of the conspiracy received a digital financial asset traceable to a crime perpetrated against a victim who was residing in California or defrauded while in this state.

22) Provides that a special proceeding to recover digital financial assets may be filed in any county where any victim of the underlying crimes or fraud schemes resides or in any county where any portion of the crimes or underlying fraud schemes occurred, and may be prosecuted by a City Attorney, District Attorney, or the Attorney General.

23) Specifies that service of process may be made using one or more of the following methods:

a) If funds are seized from an account at a centralized exchange, notice by one of the following methods shall be deemed to be sufficient notice: email, mail, or telephone, as specified.

b) If funds are seized from a blockchain address, blockchain service may be made by sending a link to the documents using the blockchain involved in the seizure.

c) Upon a showing that none of the listed methods of service are possible or practical, the court shall permit service by publication, or in any other means provided by law.

24) Includes legislative findings and declarations.

EXISTING LAW:

1) Governs the digital financial asset business activity of a person doing business in California or, wherever located, who engages in or holds itself out as engaging in the activity with, or on behalf of a resident, except for activity by several specified entities, and known as the Digital Financial Assets Law (DFAL). (Fin. Code, § 3101 et. seq.)

2) Provides that, as of July 1, 2026, a person shall not engage in digital financial asset business activity, or hold itself out as being able to engage in digital financial asset business activity, with or on behalf of a resident of the state unless any of the following is true:

a) The person is licensed in this state by the Department of Financial Protection and Innovation (DFPI).

b) The person has submitted a timely application for a license and is awaiting a decision.

c) The person is exempt from licensure, as provided. (Fin. Code, § 3201.)

3) Authorizes the DFPI to take an enforcement measure, as defined, against a licensee or person that is not a licensee but has engaged, is engaging, or is about to engage in digital financial asset business activity with, or on behalf of, a resident, as specified. (Fin. Code, § 3403.)

4) Authorizes the DFPI to assess civil penalties for digital financial asset business activity in violation of the DFAL, as provided. (Fin. Code, § 3407.)

5) Authorizes a search warrant to be issued on specified grounds. (Pen. Code, § 1524.)

6) States that in any case in which a person is alleged to have been engaged in a pattern of criminal profiteering activity, as defined, upon a conviction of the underlying offense, specified assets shall be subject to forfeiture upon proof of the profiteering activity. (Pen. Code, § 186.3, subd. (a).)

7) Sets forth requirements and procedures regarding a forfeiture action filed by the prosecution resulting from criminal profiteering crimes. (Pen. Code, §§ 186.4-186.8.)

8) Provides that any person who conducts or attempts to conduct a transaction or more than one transaction within a seven-day period involving a monetary instrument or instruments of a total value exceeding $5,000, or a total value exceeding $25,000 within a 30-day period, through one or more financial institutions (1) with the specific intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal activity, or (2) knowing that the monetary instrument represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity, is guilty of the crime of money laundering. (Pen. Code, § 186.10, subd. (a).)

9) States that in consideration of the constitutional right to counsel afforded by the Sixth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, when a case involves an attorney who accepts a fee for representing a client in a criminal investigation or proceeding, the prosecution shall additionally be required to prove that the monetary instrument was accepted by the attorney with the intent to disguise or aid in disguising the source of the funds or the nature of the criminal activity. (Pen. Code, § 186.10, subd. (a).)

10) Punishes violations of the money laundering statute by imprisonment in a county jail for not more than one year or as a realigned felony punishable by imprisonment for 16 months, two years, or three years, by a fine of not more than $ 250,000 or twice the value of the property transacted, whichever is greater, or by both that imprisonment and fine. However, for a second or subsequent conviction for a violation of this section, the maximum fine that may be imposed is $500,000 or five times the value of the property transacted, whichever is greater. (Pen. Code, § 186.10, subd. (a).)

11) Provides that, for the purposes of this statute, each individual transaction conducted in excess of $5,000, each series of transactions conducted within a seven-day period that total in excess of $5,000, or each series of transactions conducted within a 30-day period that total in excess of $25,000, shall constitute a separate, punishable offense. (Pen. Code, § 186.10, subd. (b).)

12) States that in any instance where money laundering is punished as a felony, the defendant shall be subject to additional terms of imprisonment depending on the value of the transaction or transactions. (Pen. Code, § 186.10, subd. (c)(1).)

13) Specifies that any additional term of imprisonment shall not be imposed unless the facts of a transaction or transactions, or attempted transaction or transactions, of the alleged value, are charged in the accusatory pleading, and are either admitted to by the defendant or are found to be true by the trier of fact. (Pen. Code, § 186.10, subd. (c)(2).

14) Defines "blockchain technology" as a decentralized data system, in which the data stored is mathematically verifiable, that uses distributed ledgers or databases to store specialized data in the permanent order of transactions recorded. (Health & Saf. Code, § 103526.5.)

15) Defines "digital financial asset" as a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not legal tender, whether or not denominated in legal tender, but does not include any of the following:

    a) A transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank or credit union credit, or a digital financial asset.

    b) A digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.

    c) A security registered with or exempt from registration with the United States Securities and Exchange Commission or a security qualified with or exempt from qualifications with the department. (Fin. Code, § 3102, subd. (g).)

16) Defines "digital financial asset business activity" as any of the following:

    a) Exchanging, transferring, or storing a digital financial asset or engaging in digital financial asset administration, whether directly or through an agreement with a digital financial asset control services vendor.

    b) Holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals.

    c) Exchanging one or more digital representations of value used within one or more online games, game platforms, or family of games for either of the following:

        i) A digital financial asset offered by or on behalf of the same publisher from which the original digital representation of value was received.

        ii) Legal tender or bank or credit union credit outside the online game, game platform, or family of games offered by or on behalf of the same publisher from which the original digital representation of value was received. (Fin. Code, § 3102, subd. (i).)

17) Defines a "search warrant" as a written order in the name of the people, signed by a magistrate, directed to a peace officer, commanding him or her to search for a person or persons, a thing or things, or personal property, and, in the case of a thing or things or personal property, bring the same before the magistrate. (Pen. Code, § 1523.)

18) Defines "criminal profiteering" as an act committed or attempted or a threat made for financial gain or advantage, which act or threat may be charged as a crime under several specified criminal statutes, including as embezzlement, extortion, receiving stolen property, violation of laws governing corporate securities, money laundering, offenses relating to

unauthorized access to computers, computers systems, or computer data, and several others. (Pen. Code, § 186.2)

19) Defines "conduct" as including, but not being limited to, initiating, concluding, or participating in conducting, initiating, or concluding a transaction. (Pen. Code, § 186.9, subd. (a).)

20) Defines "financial institution" to include, when located or doing business in this state, a national bank, state bank, savings and loan association, foreign bank, brokers or dealers in registerable securities, businesses dealing with money orders, investment bankers, insurers, gold or other specified mineral dealers, pawnbrokers, persons involved in transferring titles of real estate and certain other properties, and specified gambling establishments, among other things. (Pen. Code, § 186.9, subd. (b).)

21) Defines "transaction" to include the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of currency, or a monetary instrument, or the electronic, wire, magnetic, or manual transfer of funds between accounts by, through, or to, a financial institution. (Pen. Code, § 186.9, subd. (c).)

22) Defines "monetary instrument" to include, among other things, United States currency or coin, bank check, cashier's check, money order, stock, investment security, gold and other specified minerals. This definition does not include specified personal checks. (Pen. Code, § 186.9, subd. (d).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: California Department of Justice.

2) **Author's Statement**: According to the author, "SB 1208 is an important bill in California's fight against consumer fraud and scams. Criminal organizations, especially transnational organizations, use digital financial assets in their complex schemes to defraud Californians and to launder the proceeds from their criminal activities. Using blockchain analysis, law enforcement agencies can track the movement of digital financial assets and work with digital asset custodians to freeze funds. Existing state law, however, requires a criminal conviction to effect forfeiture of fraud proceeds, a hurdle that is nearly impossible to clear when the alleged criminal is located overseas in a jurisdiction that does not cooperate with U.S. law enforcement agencies.

   "This bill helps to remedy the challenges posed by existing law in returning assets to scam victims. The bill establishes a process whereby California law enforcement agencies can issue a warrant to seize funds when they have reasonable cause and administer a fair process for the owner of the funds to show that the assets were not related to criminal activities. While more needs to be done from stopping these criminals from reaching Californians in the first place, this is a critical bill to improve the outcomes for victims of fraud and scams."

3) **Effect of the Bill:** SB 1208 would update the money laundering statute to include digital financial assets. It would additionally create a statutory framework to seize and force forfeiture of digital financial assets under specified conditions.

Between 2023 and 2024, the Legislature passed a trio of bills that together comprise California's DFAL, which creates a robust licensing and enforcement framework for certain cryptocurrency activities. (AB 39 (Grayson), Ch. 792, Stats. 2023, SB 401 (Limon), Ch. 871, Stats. 2023, and AB 1934 (Grayson), Ch. 945, Stats. 2024, codified at Fin. Code, § 3101 et. seq.) A "digital financial asset" is generally a digital representation of value that is not issued or backed by a government or central bank, of which cryptocurrencies are a primary subset. (Fin. Code, § 3102, subd. (g).)[1] These assets are often stored in a digital ledger known as the "blockchain," which California law defines as "a decentralized data system, in which the data stored is mathematically verifiable, that uses distributed ledgers or databases to store specialized data in the permanent order of transactions recorded." (Health & Saf. Code, § 103526.5.)

Beginning July 1, 2026, the DFAL requires companies to be licensed by the DFPI or have applied for a license to engage in digital financial asset business activity, which refers to providing services that involve the exchange, transfer, storage or issuance of digital financial assets on behalf of others. (Fin. Code, §§ 3102, subd. (i), 3201, et. seq.) The DFAL imposes extensive obligations on licensees regarding consumer disclosures, cybersecurity and data protection requirements, and minimum capital and liquidity requirements to mitigate financial risk. (Fin. Code, § 3401 et. seq.) The law also contains specific consumer protection provisions for cryptocurrency kiosk operators, including transaction limits designed to deter money laundering. (Fin. Code, § 3901 et. seq.) "Crypto kiosks" are effectively ATMs that accept or dispense cash in exchange for cryptocurrency.[2]

Layered atop this background is SB 1208, which establishes a relatively comprehensive asset forfeiture process for digital financial assets. Under this process, a law enforcement or prosecuting agency may obtain a search warrant to seize digital financial assets. The scope of the warrant may include all digital assets where money laundering can be shown, assets up to the amount of proceeds received, the amount used to facilitate crime, or the amount traceable to a crime, or assets related to crimes and victims in other jurisdictions as long as jurisdiction related to California is established. Law enforcement or prosecuting agencies may send a request to have digital assets frozen pending the issuance of the search warrant permitting seizure, at which point the agency must execute the warrant and seize the assets. Within 180 days of this seizure, the prosecutor may initiate a forfeiture action regarding the seized assets, and the bill establishes a claim process whereby claimants may appeal to the court that the seized assets belong to the claimant and were obtained by legitimate means. After these claims are resolved at a court hearing, ownership of the forfeited assets transfers to the prosecuting agency, which is required to distribute the assets to victims of the crimes underlying the forfeiture action or other victims it identifies.

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[1] See also *Cryptocurrency, Digital or Virtual Currency and Digital Assets 2025 Legislation* (Sept. 11, 2025) National Conference of State Legislatures <https://www.ncsl.org/financial-services/cryptocurrency-digital-or-virtual-currency-and-digital-assets-2025-legislation> [as of June 3, 2026].

[2] *Your Bitcoin on Every Block: An Introduction to Cryptocurrency Kiosks* (May 4, 2022) National Association of Attorneys General <https://www.naag.org/attorney-general-journal/your-bitcoin-on-every-block-an-introduction-to-cryptocurrency-kiosks/> [as of June 3, 2026].

Because the forfeiture process proposed by this bill happens without a criminal conviction and permits the seizure of digital financial assets upon a showing of probable cause, as opposed to the higher burden of beyond a reasonable doubt, it is functionally a civil asset forfeiture scheme. Various policy and legal concerns have been levied against civil asset forfeiture schemes. This is discussed in more detail below.

The author contends that more tools are needed to combat the increasing prevalence of crypto-related frauds, scams, and other similar financial crimes. Data suggests continued challenges exist to address digital financial crime. The Federal Bureau of Investigation's (FBI) annual internet crimes report for 2024 states, "cryptocurrency has become an enticing means to cheat investors, launder proceeds, and engage in other illicit schemes."[3] The FBI received nearly 150,000 crypto-related complaints that year, with total crypto-related losses totaling roughly $9.3 billion.[4] California ranked at the top of the list for most crypto-related complaints and financial losses of any state with 19,508 complaints and $1.4 billion in losses.[5] One scam, known as "pig butchering," where scammers gain the trust of victims to induce them to transfer crypto funds into fake projects, resulted in over $75 billion in crypto assets stolen and laundered between 2021 and 2024, much of it flowing to criminal enterprises.[6]

SB 1208 adds digital financial assets to the statute prohibiting money laundering. This would seem to suggest the bill's intent is geared towards addressing criminal activity, so it would seem natural for a criminal asset forfeiture framework to be part of the bill. Instead, SB 1208 creates what looks like a civil asset forfeiture scheme alongside a new criminal penalty. This hybrid of ideas finds some explanation in bill's findings and declarations:

> Transnational criminal organizations are targeting California residents with sophisticated internet scams using cryptocurrency to steal and launder the fraud proceeds [and] often operate from countries with limited diplomatic cooperation and are protected by government corruption. Given all of these challenges, California state and local law enforcement have limited ability to identify the individual perpetrator, extradite them, and obtain a criminal conviction. However, these organizations can be disrupted by seizing traceable proceeds of fraud and other funds they use in laundering the proceeds of fraud.

The findings and declarations section suggests there is little expectation that adding digital financial assets to the money laundering statute will lead to convictions of criminal enterprises, but that a new civil forfeiture framework is needed to disrupt these same criminal enterprises. The Court has expressed concern where fines are employed "in a measure out of accord with the penal goals of retribution and deterrence." (*Harmelin* v. *Michigan* (1991) 501 U.S. 957, at fn. 9.) The ability to permanently dispossess unlimited values of digital financial assets with no serious effort made at securing a criminal conviction could invite judicial scrutiny.

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[3] Federal Bureau of Investigation: Internet Crime Report (2024) Federal Bureau of Investigation, Internet Crime Complaint Center, at p. 3 <https://www.ic3.gov/AnnualReport/Reports/2024_IC3Report.pdf> [as of June 1, 2026].
[4] *Id.*, at 35.
[5] *Id.*, at pp. 39-40.
[6] Griffin et al., *How Do Crypto Flows Finance Slavery? The Economics of Pig Butchering* (Feb. 29, 2024) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4742235> [as of June 1, 2026].

While the forfeiture framework proposed in SB 1208 appears decidedly civil in nature, and apparently not explicitly intending for forfeitures under the bill to have a retributive or deterrent effect, the pairing of a new criminal penalty and a civil asset forfeiture scheme in the same bill could create interpretive uncertainty.

4) **Practical Concerns:** Given the challenges associated with prosecuting entities engaged in cryptocurrency scams, a civil forfeiture approach may be the only viable method of providing restitution to the victims of fraudulent schemes. Yet, even if this approach is a realistic one, there remain numerous practical and legal concerns.

The author seems to acknowledge the difficulty of securing a criminal conviction in cases involving digital financial assets due to the complex and transnational components common to these crimes. Similar difficulties almost assuredly will arise during the process of attempting to force forfeiture of digital assets. While certain exchanges and the tracking of assets will be relatively straightforward, like working with Binance or tracking certain activity on the blockchain, investigators nevertheless may face great difficulty in trying to access data on crypto exchanges. Even in the case of a cooperative exchange, out-of-state companies ultimately may prove obstinate or inaccessible. Counsel for these companies may caution against involvement. Internationally based companies could be entirely untouchable, particularly without cooperation or intervention from the federal government and California's current relationship with the federal government remains understandably strained. If the primary purpose of the bill is to return assets to those from whom they have been stolen, then the volatility of digital financial assets may render many investigations unprofitable as certain assets may have significant value one day and no value the next. The ability to turn digital assets into hard currency and/or precious metals may create difficulties fully tracing the assets from victim to recovery. The complexity of certain investigations may create outsized financial and resource burdens, particularly on local agencies.

Given the practical challenges with recovering these assets, in combination with California's jurisdictional limitations, an unusually great number of things may have to go right to achieve the bill's desired outcomes. The question of jurisdiction is foundational to a sovereign's exercise of legal power or authority over a person or property.[7] The power of our courts to decide cases and issue orders, like warrants, is an essential element of jurisdiction.[8] Without clear jurisdiction California cannot properly exercise its authority to issue warrants to seize digital financial assets. SB 1208 at least seems to acknowledge these challenges in the findings and declarations and by stating an intent to "permit jurisdiction to the maximum extent permissible under the United States Constitution and Section 40.010 of the Code of Civil Procedure." The potentially sprawling nature of these investigations means jurisdictional issues may provide another relatively burdensome hurdle to seizure and forfeiture of fraudulently acquired digital assets.

SB 1208 raises other questions. The bill provides that a warrant for digital financial assets may authorize seizure of "substitute assets," but does not define this term or impose any requirement that there be some nexus between the substitute assets and the original target

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[7] *Jurisdiction*, Cornell Law School Legal Information Institute <https://www.law.cornell.edu/wex/jurisdiction> [as of June 3, 2026].
[8] *Ibid.*

assets. Authorization to seize and disgorge substitute assets appears at least somewhat common in other forfeiture contexts like prosecuting drug rings, but forfeiture under state law in those cases generally requires an underlying conviction. SB 1208 does not require an underlying conviction. Furthermore, in the context of drug prosecutions a boat used in the illegal smuggling of drugs may be logically substituted by an asset like a car. Substitute assets in the context of digital financial assets may not be so clear. Delineating the outer bounds of substitute assets in this context may be beneficial to ensure that only assets related to criminal activity are seized.

5) **Money Laundering:** Money laundering describes the process of concealing the origin of money obtained from illicit activities to make the source of such funds appear legitimate.[9] California's anti-money laundering statute, however, prohibits more than simply attempting to conceal the nature of ill-gotten assets. Our laws criminalize the act of conducting or attempting to conduct one or more financial transaction through a financial institution involving one or more monetary instruments with a value of at least $5,000 within a seven-day period (or $25,000 within a 30-day period) when the defendant either 1) has the specific intent to promote criminal activity or 2) knows that the funds are the proceeds of criminal activity. (Pen. Code, § 186.10.) Existing law defines "monetary instrument" as United States and foreign currency, checks, money orders, gold, silver, platinum, specified gemstones, stocks, bearer bonds, investment securities, and other types of financial assets. (Pen. Code, § 186.9, subd. (d).) The crime of money laundering is punishable as an alternate misdemeanor/felony, and the statute provides for several sentencing enhancements when the underlying crime is punished as a felony, and where the value of the transactions meets specified thresholds. (Pen. Code, § 186.10, subd. (c).)

   SB 1208 expands section 186.10 of the Penal Code to include transactions or attempted transactions involving digital financial assets, as defined in the DFAL. Cryptocurrency transactions largely occur outside the traditional banking system and are traded on "cryptocurrency exchanges," which act as a marketplace for digital assets similar to a stock exchange.[10] The bill's inclusion of digital financial asset transactions into the money laundering statute, in conjunction with the noted volatility of digital financial assets, may raise concerns over the application and effectiveness of the statute's tiered enhancement scheme. (Pen. Code, § 186.10., subd. (c).) Also, given the apparent focus on victim restitution in this bill, having a clear understanding of the precise values of these volatile assets at specific points in time could be important.

6) **Asset Forfeiture:** Forfeiture is a legal process that government can use to seize and dispossess property connected with criminal activity.[11] Depending on certain factors, like the legal nature of the proceeding providing for forfeiture, the process is considered either civil forfeiture or criminal forfeiture.[12] Civil forfeiture proceedings are *in rem*, which means they

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[9] *What is money laundering?* United States Treasury Financial Crimes Enforcement Network <https://www.fincen.gov/what-money-laundering> [as of June 3, 2026].
[10] Maheshwari, R. *What are crypto exchanges and how do they work?* (Nov. 5, 2024) *Forbes* <https://www.forbes.com/advisor/in/investing/cryptocurrency/what-is-a-crypto-exchange/> [as of June 1, 2026].
[11] *Civil forfeiture*, Cornell Law School Legal Information Institute <https://www.law.cornell.edu/wex/civil_forfeiture> [as of June 3, 2026].
[12] *Ibid.*

are brought against the property, not a person.[13] Cash proceeds from a drug deal, for example, may be seized and forfeited in civil forfeiture proceedings if the government can show by the defined evidentiary standard that the property was involved in illicit activity. This makes sense in the context of drugs as property interests cannot be established in contraband. Supporters of asset forfeiture argue that this process allows law enforcement to disrupt criminal activity by restricting access to assets that may otherwise be used in crime.[14] Civil asset forfeiture has allowed the government to seize and keep cash, cars, real estate, and any other property suspected of being connected to criminal activity even if the owner is never convicted of a crime.[15] For this reason, civil forfeiture schemes have drawn sharp criticism, with critics arguing that these schemes incentivize policing for profit.[16]

Criminal asset forfeiture proceedings, however, are *in personam*, which means they are brought against people.[17] They generally require an underlying criminal conviction, which requires meeting the beyond a reasonable doubt evidentiary standard before government can force forfeiture of property.[18] The property forfeited is generally limited to those assets that can be shown to have a connection to the underlying crime(s).[19] Here, the proceeding to force dispossession of property generally occurs only after a criminal conviction has been established.[20]

As mentioned, asset forfeiture is not without its critics not just due to the potentially perverse incentives created by civil asset forfeiture, but also due to the myriad constitutional concerns that intersect this process. While SB 1208 does attempt to legislate out the risk of creating perverse incentives by limiting where forfeited assets can be sent (e.g., General Funds, victims, but not law enforcement agencies) certain legal and practical concerns remain.

7) **Inconsistency with State Asset Forfeiture Frameworks:** The California Control of Profits of Organized Crime Act (hereinafter CPOC) sets forth the asset forfeiture procedure for property and proceeds acquired through a pattern of criminal profiteering activity. (Pen. Code, §§ 186-186.8.) Under CPOC, the prosecuting agency can seek forfeiture of any property interest whether tangible (such as buildings, real property, and vehicles) or intangible (such as life insurance policies and shares of a company) acquired directly or indirectly through a pattern of criminal profiteering activity and all of the proceeds of a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity. (Pen. Code, § 186.3.) The forfeited assets are typically distributed to the State's General Fund, and/or the local governmental entity, whichever prosecutes, and existing law provides little to no direction for the use of such funds. (*Ibid.*) In any CPOC case in which a person is alleged to have been engaged in a pattern of criminal profiteering activity, assets are subject to forfeiture when the defendant has been convicted of at least two offenses from a list of more than thirty that qualify for prosecution under the statute. (Pen.

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[13] *Ibid.*
[14] *Ibid.*
[15] *Ibid.*
[16] *Ibid.*
[17] *Ibid.*
[18] *Ibid.*
[19] *Ibid.*
[20] *Ibid.*

Code, § 186.3, subd. (a).) Thus, the forfeiture process under CPOC clearly represents a criminal asset forfeiture scheme.

Changes to asset forfeiture in drug crimes were also made by SB 443 (Mitchell), Chapter 831, Statutes of 2016. SB 443 generally requires a prosecuting agency to seek or obtain a criminal conviction for defined drug crimes to secure forfeiture of related assets. (Health & Saf. Code, § 11471.2, subd. (b); *cf.* Health & Saf. Code, § 11471.2, subd. (c).) Additionally, SB 443 increased the burden of proof in forfeiture proceedings from a clear and convincing evidence standard to beyond a reasonable doubt standard. (Health & Saf. Code, § 11488.4, subd. (i)(1).) Like asset forfeiture in the context of certain crimes involving controlled substances, asset forfeiture in the context of criminal profiteering requires an underlying conviction to dispossess assets from individuals. (Pen. Code, § 186.3, subd. (a).)

Given the statutory requirements for underlying convictions required for asset forfeiture in other parts of California law like criminal profiteering activities and specified drug crimes, SB 1208 stands out as inconsistent with California's approach to asset forfeiture. Furthermore, because criminal profiteering is defined to cover so many acts, including receiving stolen property (Pen. Code, § 186.2, subd. (a)(13)), false or fraudulent activities (Pen. Code, § 186.2, subd. (a)(21)), and notably, money laundering (Pen. Code, § 186.2, subd. (a)(22)), SB 1208 would effectively rescind the requirements for securing criminal convictions to dispossess someone of assets for numerous criminal profiteering crimes beyond just money laundering.

8) **Constitutional Concerns**: SB 1208 presents several constitutional concerns. This is due in part to the potential consequences arising from the bill, the lack of relative clarity in the law that guides the constitutional bounds of the issues stemming from this bill, and the existence of both standing alone and intersecting constitutional issues.

a) The Fourth Amendment: The Fourth Amendment of the United States Constitution provides that "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath of affirmation, and particularly describing the place to be searched, and the persons or things to be seized." (U.S. Const., 4th Amend.) The Fourth Amendment protects people and extends to areas where an individual has a reasonable expectation of privacy. (*Carpenter v. United States* (2018) 585 U.S. 296.) States are required to comply with the Fourth Amendment because the Fourteenth Amendment's Due Process Clause incorporates to the States the protections afforded by the Fourth Amendment. (*Wolf v. Colorado* (1949) 338 U.S. 25 [recognizing the rights against unreasonable search and seizure are implicit to our concept of liberty], *Mapp v. Ohio* (1961) 367 U.S. 643 [incorporating the Fourth Amendment to States.].) Pursuant to the Fourth Amendment's protections against unreasonable searches and seizures, law enforcement generally must secure a warrant before conducting a search of private property. A seizure of property occurs whenever "there is some meaningful interference with an individual's possessory interests in that property." (*United States v. Jacobsen* (1984) 466 U.S. 109, 113.)

California law states that when property is alleged to have been stolen or embezzled, law enforcement must retain custody of that property pending the disposition of any court proceedings. (Pen. Code, § 1407.)

A search warrant requires probable cause that identifies or describes the person to be searched or property to be seized, and the particular facts *supporting an underlying crime*. (Pen. Code, § 1525.) SB 1208 tactically attempts to legislate around California state law in this space by, among other things, setting up its civil forfeiture framework notwithstanding California's search warrant statute. SB 1208 offers a metaphorical head nod at some intent to prosecute crime by including digital financial assets in the money laundering statute, but the civil forfeiture framework created by this bill requires no direct connection to a money laundering investigation or prosecution to secure a warrant to search, seize, and dispossess a person of digital property. Rather, simply establishing a probable nexus to "a crime" is sufficient to seize and dispossess someone of digital property. In fact, because this bill's forfeiture framework is effectively civil, a person really need not be involved in a crime at all. Just demonstrating that *the property* was likely involved in "a crime" is likely sufficient to dispossess a person of digital assets under this framework.

SB 1208 at least does appear to create an opportunity for an innocent owner to recover their property. This is certainly an important guardrail, but individual rights in the Constitution, including those rights contained in the Fourth Amendment, limit the powers of government and expressly protect individuals from government interference.[21] SB 1208 may offer an essential backstop to ensure lawful property owners are not ultimately dispossessed of their property, but this backstop is triggered only because government power will have been expanded and interference will have already occurred. Whether that interference is constitutionally justifiable is unclear.

b) The Fifth Amendment: The Fifth Amendment generally states that government may not take private property without just compensation. (U.S. Const., 5th Amend.) Known as the Takings Clause, States are required to compensate a property owner if property is taken. (*Chicago, Burlington & Quincy Railroad Co. v. City of Chicago* (1897) 166 U.S. 226.) The Takings Clause is implicated by SB 1208 because digital financial assets are property and the dispossession of this property authorized by the bill would be done by governmental agencies.

The Court has ruled that the Fifth Amendment generally does not require governments to compensate property owners for that property taken via asset forfeiture. (See *Bennis v. Michigan* (1996) 516 U.S. 442.) As noted by our Ninth Circuit Court of Appeals, however, this ruling was effectively overturned by the Civil Asset Forfeiture Reform Act (CAFRA), passed by Congress in 2000. (See 18 U.S.C. § 983(d)(1), *United States v. Ferro* (9th Cir. 2012) 681 F.3d 1105, 1112.) The court in *Ferro* wrote that "with this [law], Congress ensured that modern-day forfeiture differs from historical forfeiture, since the Supreme Court earlier noted a 'long and unbroken line of cases' which had previously held that, under certain historical forfeiture provisions, 'an owner's interest in property may be forfeited by reason of the use to which the property is put even though the owner did not know that it was to be put to such use.'" (*Ferro, supra*, at p. 1112.) It is unlikely, though ultimately unclear, whether SB 1208 will encounter Fifth Amendment scrutiny.

Importantly, CAFRA appears to govern only federal forfeiture actions and does not preempt states from also regulating in this area. The federal Bank Secrecy Act (BSA), however, does preempt state regulation in certain areas. (See 12 U.S.C. §§ 1829b, 1951-1960, 31 U.S.C. §§

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[21] Laurence H. Tribe. *American Constitutional Law*, 3rd ed., at p. 10 (2000).

5311-5314, 5316-5336.) Article VI of the Constitution states that federal law is the supreme law of the land and it is this provision that precludes state regulation in areas where preemption is clearly established. (U.S. Const., art. VI, cl. 2.) Congressional intent is the touchstone of a preemption analysis. (*Wyeth v. Levine* (2009) 555 U.S. 555, 565.) It is unlikely that statutory preemption would be an issue with SB 1208 as the BSA is generally focused on reporting requirements to identify money laundering, while SB 1208 is focused on expanding the assets subject to the money laundering statute and how those assets can be forfeited.

c) The Fourteenth Amendment: The Fourteenth Amendment prohibits States from depriving individuals of life, liberty, or property without due process of law. (U.S. Const., 14th Amend.) Under the Due Process Clause of the Fourteenth Amendment, States ordinarily may not seize real property before providing procedural due process protections like notice and a hearing. (*United States* v. *James Daniel Good Real Property* (1993) 510 U.S. 43, 62.) States, however, are generally permitted to seize property subject to civil forfeiture when the property "could be removed, destroyed, or concealed before a forfeiture hearing." (*Calero-Toledo* v. *Pearson Yacht Leasing Co.* (1974) 416 U. S. 663, 679-680.)

California law provides additional restrictions on how government can treat seized or forfeited property. When property is not alleged to have been stolen or embezzled by a person, but rather is just "property stolen or embezzled," and the property is in the possession of law enforcement or the court, Penal Code sections 1409-1411 provide that the magistrate who has custody of the property "shall order it delivered to the owner upon satisfactory proof of ownership, and when reasonable notice and an opportunity to be heard have been given to the person from whom the property was taken." (*People v. Superior Court (McGraw)* (1979) 100 Cal.App.3d 154, 156.))

SB 1208 undoubtedly establishes due process mechanisms, but the bill arguably creates a constitutionally suspect inversion of seizure and dispossession authority. In other words, requiring a person in possession of digital financial assets to prove they are the rightful and innocent owner of such assets before ever being convicted or even accused of a crime could invite constitutional scrutiny.

d) The Sixth Amendment: The Sixth Amendment, among other things, guarantees the right to competent, effective counsel. (U.S. Const., 6th Amend.) The Sixth Amendment usually grants defendants a fair opportunity to acquire their counsel of choice. (*Powell v. Alabama* (1932) 285 U.S. 29, 53.) Securing the assistance of counsel often requires fungible resources like money and assets. Thus, "the Sixth Amendment guarantees a defendant the right to be represented by an otherwise qualified attorney whom that defendant can afford to hire." (*Luis v. United States* (2016) 586 U.S. 5, 12.) To this end, the Court held that the pretrial restraint of legitimate, untainted assets needed to retain counsel of choice violates the Sixth Amendment. (*Ibid.*)

Certain investigations that lead to seizures and dispossessions authorized under SB 1208 could create conflict with this holding. Should the property acquired by the government under this bill lead to criminal charges that property may be required to be held if that property is needed by the criminal defendant to retain counsel of their choice for their defense. This hurdle could slow or halt what appears to be the primary intent of the bill—the return of lost assets to victims. Of course, this issue can be sidestepped by simply not ever

prosecuting those involved with the scams, even if all relevant laws and the facts of the investigation permit such a prosecution. If that is always to be the outcome though, why bother including digital financial assets in the money laundering statute?

An argument could be made that the framework established in SB 1208 obviates the need to consider the *Luis* Court's decision because it is the guilty property that is seized and dispossessed, not property belonging to a guilty person. The *Luis* Court, however, engages in an illuminating discussion regarding how "tainted" property impacts ownership, and comparing their holding in this case to previous cases. (*Luis, supra*, at pp. 11-14.) The Court notes that tainted property, like a robber's loot, creates an imperfect property interest in the defendant but that the loot ultimately belongs to the victim. (*Id.* at p. 13.) Untainted property rightfully belongs to the defendant. (*Id.* at p. 12.) The Court further writes that "title to property used to commit a crime (or otherwise 'traceable' to a crime) often passes to the Government at the instant the crime is planned or committed." (*Id.* at p. 13.) It is important to acknowledge the underlying assumptions in the Court's analysis. Regardless of whether assets subject to forfeiture are tainted by some connection to crime, or are untainted, there seems to be an assumption in the Court's analysis that forfeited assets belong to *someone*. This is another reason the slender reed upon which civil asset forfeiture rests is problematic. Given these concerns, it is worth considering whether it is wise to continue employing a legal process that may be constitutionally dubious and is too often inherently inconsistent.

e) The Eighth Amendment: The Eighth Amendment protects individuals against excessive fines, and cruel and unusual punishment. (U.S. Const., 8th Amend.) The Court incorporated the Excessive Fines Clause to the States in a case where the State of Indiana sought civil forfeiture of an individual's SUV on the ground it had been used to transport contraband. (*Timbs v. Indiana* (2019) 586 U.S. 146.) While the Court remanded on the question of whether a vehicle valued at $42,000 was excessive relative to a criminal penalty with a maximum fine of $10,000, the Court reaffirmed that the Eighth Amendment limits the government's power to extract payments, whether in cash or in kind, as punishment for some offense. (*Id.* at p. 151.) The Court also restated that in situations where governments stand to benefit "it makes sense to scrutinize governmental action more closely." (*Id.* at p. 154.)

As previously mentioned, Congress passed CAFRA not just to abrogate the Court's decision in *Bennis*, but to incorporate guidelines to review forfeitures for proportionality, which largely tracks Eighth Amendment Supreme Court precedent. (*Ferro, supra*, at p. 1112.) Under the law, "a court should compare the forfeiture to the 'gravity of the offense,' and the claimant then has the burden of establishing the forfeiture is 'grossly disproportional' to the offense." (18 U.S.C. § 983(g)(2)-(3); see also *Ferro, supra.*) If the court establishes that the forfeiture is grossly disproportional to the offense, it must "reduce or eliminate the forfeiture as necessary to avoid a violation of the Excessive Fines Clause of the Eighth Amendment of the Constitution." *(Ibid.)*

The asset forfeiture scheme authorized by SB 1208 thus could run into Eighth Amendment problems if the forfeitures result in a value grossly disproportionate to the penalties of an offense that ends up being prosecuted following the forfeiture.

9) **Argument in Support**: According to the bill's sponsor, *California Department of Justice*, "Attorney General Bonta . . . urges your support for this legislation to enhance the ability of state and local law enforcement to combat the rapidly expanding scourge of cryptocurrency

scams and, just as importantly, help return cryptocurrency (also known as "digital financial assets") to the victims of such fraud.

"'Pig butchering,' a cryptocurrency scam wherein scammers manipulate and gain the trust of potential victims to induce them to transfer funds into fake cryptocurrency projects, has been estimated to result in over $75 billion dollars stolen and laundered via cryptocurrency from 2021 to 2024 nationwide.0F1 In 2025, 116,414 California victims reported over $3.67 billion lost to scams, ranking first among states for both number of victims and overall loss amount in the FBI's annual Internet Crime Report.1F2 In short, cryptocurrency fraud is a serious threat to public safety that is only growing worse, and victims of crypto scams are far too often unable to recover their losses and be made whole again.

"Existing seizure laws require a criminal conviction for the forfeiture of fraud proceeds. When it comes to cryptocurrency scams, however, prosecutors are limited in their ability to identify individual perpetrators, extradite them, and obtain a criminal conviction because these scammers are often part of transnational criminal organizations located overseas, protected by government corruption, or both. In such cases when the perpetrators are effectively beyond the reach of state and local law enforcement, it is much more difficult to effectuate the legal seizure and remission of stolen assets back to the victims of the fraud if a criminal conviction is a precondition.

"To modernize the law for the cryptocurrency age, SB 1208 will provide statutory authority to CA prosecutors to initiate a special proceeding of a criminal nature to seize cryptocurrency wallets and exchange accounts being used to launder fraud proceeds. This provides prosecutors with a much-needed tool to seize and return digital financial assets to victims of cryptocurrency fraud that does not require a criminal conviction, which is difficult for the reasons previously described. At the same time, SB 1208 provides robust due process protections, including specific criteria for obtaining a search warrant and due process for claimants to file a verified claim for the return of the seized property.

"Existing law also needs to be updated to make it easier to facilitate the return of digital financial assets to victims of cryptocurrency fraud. To the extent that current law provides for the return of stolen cryptocurrency, prosecutors must do so by proving that one victim is the true owner of the specific cryptocurrency that was seized. However, commingling and money laundering can make it difficult to prove which specific victim is the owner of the cryptocurrency, particularly when investigating multi-victim fraud schemes and organized money laundering.

"To address this, SB 1208 provides a mechanism to return seized cryptocurrency to identifiable victims of crime based on proof of the crime and the loss to the victims, rather than requiring proof of ownership through commingling. The bill requires digital assets recovered from seized cryptocurrency accounts to be used to compensate victims of the crimes or fraud, on a pro rata basis, up to the amount of their actual loss, and victims of similar or related crimes or frauds.

"SB 1208 is urgently needed legislation that will help law enforcement to disrupt the operations of criminal groups and scammers committing crypto fraud and better enable prosecutors to legally seize and return digital financial assets to Californian victims. For these reasons, Attorney General Bonta requests your support for SB 1208 to strengthen

protections against cryptocurrency fraud and help make victims of such fraud whole again."

10) **Argument in Opposition**: According to the *California Public Defenders Association*, "The California Public Defenders Association (CPDA), a statewide organization of public defenders, private defense counsel, and investigators, regrets to inform you that we oppose Senate Bill 1208 ("SB 1208") by Senator Grayson unless it is amended to provide guardrails to prevent the abuse of the money laundering statute against unbanked indigent individuals.

"Although the goal of combating transnational fraud and cryptocurrency-based money laundering is well intentioned, SB 1208 inadvertently creates a tool that will be misused against drug users and low level drug dealers and others who are unbanked and use cryptocurrency in place of cash resulting in more pretrial detention, greater disparity in plea bargaining and longer sentences.

I. The Amended Bill and Its Stated Purpose

"As amended, SB 1208 does two things: it expands the crime of money laundering under Penal Code section 186.10 to cover transactions in digital financial assets, and it creates a new civil forfeiture mechanism in section 186.13 aimed at transnational criminal organizations. Our objection is solely to the section 186.10 amendment.

"The legislative findings state that the bill's target is sophisticated transnational fraud – organized networks operating from countries beyond the reach of California courts, using cryptocurrency to launder proceeds of internet scams and human trafficking. That is a legitimate and serious problem. The problem is that the statutory mechanism chosen to address it reaches conduct far removed from that target and will disproportionately impact economically disadvantaged individuals who do not have access to the banking system and are increasingly using cryptocurrency instead of cash.

II. The Practical Problem: Section 186.10(b) as a Charging Leverage Tool

"The amended section 186.10(b) provides that each series of digital asset transactions within a seven-day period totaling over $5,000 – or over $25,000 within thirty days – constitutes a separate, punishable felony offense. For the transnational fraud operator this bill targets, that provision is appropriate and workable. For the street-level defendant who uses cryptocurrency as a payment substitute, it creates an additional felony charge that has nothing to do with concealment, layering, or the evasion of financial oversight.

"As public defenders, we represent individuals who are low-level drug dealers who may have made six cryptocurrency payments to a supplier over five days totaling $5,400. They are using cryptocurrency in place of cash. The cryptocurrency was transferred directly from them to their dealer. No financial institution was used. No concealment structure was employed. "There was no layering, no smurfing, no attempt to disguise the origin of funds. Under existing law, they would be charged with sales or possession for sales and face up to 5 years imprisonment. Under SB 1208, the prosecution could also charge them with money laundering and they would face an additional 4 years incarceration.

"This is not a theoretical concern. The separate-offense aggregation mechanism in section 186.10(b) functions in practice as a charging multiplier. A district attorney who can stack a

money laundering count onto an existing drug charge has substantially increased bargaining leverage in plea negotiations, regardless of whether the facts would ever support a money laundering conviction at trial. Individuals facing additional felony exposure – particularly those with prior strikes or facing immigration consequences – resolve cases differently than individuals facing the underlying charge alone. The result is that marginal crypto use in an otherwise ordinary drug case becomes a vehicle for increased sentences.

"A parallel concern arises in cases involving sex work, particularly online platforms where digital payments are used for discretion or accessibility rather than concealment. The "knowing" prong of section 186.10(a) – which reaches conduct where the actor knows the funds represent the proceeds of criminal activity – can plausibly reach the ordinary receipt of payment for already-criminalized conduct, effectively layering a separate money laundering felony onto prosecuted conduct without any showing of the sophistication or concealment intent the statute was designed to reach.

III. The Proposed Amendment Addresses This Problem Without Undermining the Bill's Purpose

Proposed SB 1208 Amendment – PC § 186.10, Subdivision (f)

Section 186.10 of the Penal Code is amended to add subdivision (f), to read:

186.10.

(f)(1) Notwithstanding subdivision (a), no person shall be prosecuted under this section solely on the basis of conducting or attempting to conduct a digital financial asset transaction, as defined in Section 3102 of the Financial Code, where all of the following conditions are met:

(A) The transaction or transactions were conducted by the person solely on their own behalf and not as a business, service, or intermediary for any third party; and

(B) The person did not receive direct financial compensation, fee, or other remuneration in exchange for conducting the transaction on behalf of another.

(2) This subdivision shall not apply where the prosecution establishes, by evidence independent of the transaction itself, that the person acted with the specific intent described in subdivision (a) or had actual knowledge that the digital financial asset directly and specifically represented the proceeds of criminal activity.

(3) For purposes of this subdivision, the aggregation of digital financial asset transactions to meet the threshold values set forth in subdivision (f)(1)(B) shall not be permitted unless the prosecution establishes by independent evidence that the transactions were conducted pursuant to a common scheme or plan to evade the thresholds of this section.

(4) Nothing in this subdivision shall be construed to:

(A) Provide a defense to any other criminal offense for which the underlying conduct may otherwise qualify;

(B) Immunize any person from civil forfeiture proceedings conducted pursuant to Chapter 8 (commencing with Section 186.2) where independent probable cause exists; or

(C) Limit the authority of any state or local agency to investigate suspected violations of this section or to seek records pursuant to lawful process.

"CPDA's proposed amendment addresses this concern by adding subdivision (f) to section 186.10, establishing guardrails to prevent the unintended further criminalization of individuals making digital asset transactions solely on their own behalf and without intermediary compensation. The proposed amendment contains two essential limiting conditions: (A) the transactions must be conducted solely for the person's own account and not as part of a business or intermediary service; and (B) the person must not have received compensation for conducting the transaction on behalf of another. In other words, the individual is using the cryptocurrency in place of cash or a credit card.

"Critically, these guardrails would not be available where the prosecution establishes by independent evidence that the person acted with the specific intent described in subdivision (a) or had actual knowledge that the digital assets directly and specifically represented criminal proceeds. Moreover, the proposed guardrails do not apply where aggregation is supported by independent evidence of a common scheme or plan to evade reporting thresholds. Finally, these guardrails do not provide a defense to any other criminal offense, immunize any person from civil forfeiture, or limit any agency's investigative authority.

"The guardrails thus directly align the statute's reach with its purpose. A transnational fraud operator moving hundreds of thousands of dollars in cryptocurrency through layered accounts does not benefit from the guardrails. A street-level drug user or dealer who used Bitcoin as a cash substitute in six small drug transactions over one week does. That distinction is exactly the one the Legislature should want to preserve with the purpose of the money laundering statute.

"For these reasons, on behalf of CPDA, we respectfully urge your "NO" vote when SB 1208 comes before you in the Assembly Public Safety Committee unless it is amended to address these issues."

11) **Related Legislation**:

a) AB 2285 (Valencia) would regulate a bank or a credit union under the examination authority of the Department of Financial Protection and Innovation (DFPI) with respect to its provision of digital asset custody services, staking services, and digital asset transaction services, as those terms are defined, including by requiring certain disclosures to customers and requiring certain financial safety measures. AB 2285 is pending hearing in the Assembly Banking & Finance Committee.

b) AB 2409 (Valencia) would prohibit a public officer and specified public employees, as those terms are defined, from issuing a meme coin, among other things. AB 2409 is pending referral in the Senate Rules Committee.

12) **Prior Legislation**:

a) SB 97 (Grayson), of the 2025-2026 Legislative Session, would have revised certain criteria of the DFAL to specify that a person who has submitted an application to engage in the business of digital financial assets is prohibited from engaging in that business until the person is licensed, among other things. SB 97 was ordered to the inactive file on the Assembly floor.

b) AB 1029 (Valencia), Chapter 85, Statutes of 2025, expand the definition of "investment" for purposes of the Political Reform Act of 1974 to include a digital financial asset, and would specifically require public officials to disclose interests in their digital financial assets, as specified.

c) AB 236 (Chen), of the 2025-2026 Legislative Session, would have prohibited the fee attached to an application to engage in digital financial asset business activities from exceeding $5,000. AB 236 was held in the Assembly Appropriations Committee.

d) AB 1118 (Chen), of the 2025-2026 Legislative Session, would have would have allowed a search warrant for stolen or embezzled currency, as specified, to include an order for such currency to be returned to a lawful owner identified in the warrant pursuant to specified procedures including a hearing, if requested, to determine that the currency was stolen or embezzled, before it is returned to its owner.

e) AB 1934 (Grayson), Chapter 945, Statutes of 2024, required a licensee to also maintain, if applicable, a report maintained at least monthly that demonstrates compliance with conditions that authorize the licensee to exchange, transfer, or store a digital financial asset or engage in digital financial asset administration, as specified.

f) SB 401 (Limon), Chapter 871, Statutes of 2023, provided for the regulation of digital financial asset transaction kiosks, as defined, by DFPI and would, among other things, prohibit an operator from accepting or dispensing more than $1,000 in a day from or to a customer via a digital financial asset transaction kiosk.

g) AB 39 (Grayson), Chapter 792, Statutes of 2023, prohibited a person from engaging in digital financial asset business activity, or holding itself out as being able to engage in digital financial asset business activity, with or on behalf of a resident unless certain criteria are met, including the person is licensed with DFPI, as prescribed.

h) AB 76 (Davies), of the 2023-2024 Legislative Session, would have modified the definition of "monetary instrument" to include "digital assets that use blockchain technology," as specified. AB 76 was held in the Senate Appropriations Committee.

i) AB 2269 (Grayson), of the 2021-2022 Legislative Session, would have created the DFAL, which would have prohibited a person from engaging in digital financial asset business activity, or holding itself out as being able to engage in digital financial asset business activity, with or on behalf of a resident unless any of certain criteria are met, including the person is licensed with the DFPI, as prescribed. AB 2269 was vetoed by the Governor.

j) SB 443 (Mitchell), Chapter 831, Statutes of 2016, required, among other things, a prosecuting agency to seek or obtain a criminal conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors prior to an entry of judgment for recovery of expenses of seizing, eradicating, destroying, or taking remedial action with respect to any controlled substance.

REGISTERED SUPPORT / OPPOSITION:

Support

California Department of Justice (Sponsor)
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Bankers Association
California Coalition of School Safety Professionals
California Community Banking Network
California Credit Union League
California District Attorneys Association
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Little Hoover Commission
Los Angeles County District Attorney's Office
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

Opposition

California Public Defenders Association

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

Date of Hearing: June 9, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1306 (Cortese) – As Introduced February 20, 2026

SUMMARY: Exempts chemical mixtures containing 70 percent or less of gamma-butyrolactone (GBL) from specified requirements of the Uniform Controlled Substances Act. Specifically, **this bill**:

1) Exempts chemical mixtures containing GBL from the provisions of the Uniform Controlled Substance Act that impose the reporting, permitting, and specified regulatory requirements.

2) Defines "chemical mixtures containing GBL" to mean two or more chemical substances, one of which is GBL (CAS no. 96-48-0) in a concentration of 70 percent or less by weight or volume, and at least one other substance that is not solely an inert carrier or an impurity.

3) Defines "inert carrier" to mean a chemical that does not interfere with the function of gamma-butyrolactone (CAS no. 96-48-0) in the mixture but is present to aid in its delivery so it can be used in a chemical process.

EXISTING FEDERAL LAW:

1) Defines gamma-butyrolactone as a List I Chemical of the Controlled Substances Act. (21 U.S.C., § 802(34)(X).)

2) Exempts chemical mixtures containing gamma-butyrolactone at concentrations of 70 percent or less by weight or volume from specified Controlled Substances Act requirements. (21 C.F.R., § 1310.12 (2010).)

EXISTING LAW:

1) Regulates the manufacture, sale, and distribution of specified chemical substances. (Health & Saf. Code, § 11000, et seq.)

2) Requires that any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes specified controlled substances, including gamma-butyrolactone, to any person or entity in California or any other state shall submit a report to the Department of Justice (DOJ) of all of those transactions. (Health & Saf. Code, § 11100, subd. (a).)

3) Requires that any manufacturer, wholesaler, retailer, or other person or entity in this state, prior to selling, transferring, or otherwise furnishing specified controlled substances, including gamma-butyrolactone, to any person or business entity in this state or any other state, shall require (i) a letter of authorization from that person or business entity that

includes the currently valid business license number or federal Drug Enforcement Administration (DEA) registration number, the address of the business, and a full description of how the substance is to be used, and (ii) proper identification from the purchaser. Provides that the wholesaler, retailer, or other person or entity in this state shall retain this information in a readily available manner for three years. (Health & Saf. Code, § 11100, subd. (c)(1)(a).)

4) Requires that any manufacturer, wholesaler, retailer, or other person or entity in this state that exports specified controlled substances, including gamma-butyrolactone, to any person or business entity located in a foreign country shall, on or before the date of exportation, submit to the DOJ a notification of that transaction, which notification shall include the name and quantity of the substance to be exported and the name, address, and, if assigned by the foreign country or subdivision thereof, business identification number of the person or business entity located in a foreign country importing the substance. (Health & Saf. Code, § 11100, subd. (c)(2)(A).)

5) Permits that the DOJ may authorize the submission of the notification on a monthly basis with respect to repeated, regular transactions between an exporter and an importer involving specified controlled substances, including gamma-butyrolactone, if the DOJ determines that a pattern of regular supply of the substance exists between the exporter and importer and that the importer has established a record of utilization of the substance for lawful purposes. (Health & Saf. Code, § 11100, subd. (c)(2)(B).)

6) Requires any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes specified controlled substances, including gamma-butyrolactone, to a person or business entity in this state or any other state shall, not less than 21 days prior to delivery of the substance, submit a report of the transaction to the DOJ. Allows that the DOJ may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the substance if the DOJ determines that a pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person or entity that sells, transfers, or otherwise furnishes the substance and the recipient of the substance, and the recipient has established a record of utilization of the substance for lawful purposes. (Health & Saf. Code, § 11100, subd. (d)(1).)

7) Provides that any person specified above who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding $5,000, or by both the fine and imprisonment. Provides that any person specified above who has previously been convicted of a violation of the above offense shall, upon a subsequent conviction thereof, be punished by imprisonment in the county jail for a realigned felony, or by imprisonment in a county jail not exceeding one year, by a fine not exceeding $100,000, or by both the fine and imprisonment. (Health & Saf. Code, § 11100, subds. (f)(1)-(2).)

8) Requires that any manufacturer, wholesaler, retailer, or other person or entity in California that obtains specified controlled substances, including gamma-butyrolactone, from a source outside of this state shall submit a report of that transaction to the DOJ 21 days in advance of obtaining the substance. Allows that the DOJ may authorize the submission of reports within 72 hours, or within a timeframe and in a manner acceptable to the DOJ, after the actual physical obtaining of the substance, with respect to repeated transactions between a furnisher

and an obtainer of the substance if the DOJ determines that the obtainer has established a record of utilization of the substance for lawful purposes. Exempts from these requirements any person whose prescribing or dispensing activities are subject to the reporting requirements set forth in Section 11164; any manufacturer or wholesaler who is licensed by the California State Board of Pharmacy and also registered with the federal DEA of the U.S. DOJ; any analytical research facility that is registered with the federal DEA of the U.S. DOJ; or any state-licensed health care facility. (Health & Saf. Code, § 11100.1, subd. (a).)

9) Provides that any person who does not submit a report as required by the above paragraph shall be punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding $5,000, or by both that fine and imprisonment. Provides that any person specified in the above paragraph who has been previously convicted of a violation of the above paragraph subsequently does not submit a report as required by the above paragraph shall be punished by imprisonment in the county jail for a realigned felony, or by imprisonment in a county jail not exceeding one year, by a fine not exceeding 100,000, or by both that fine and imprisonment. (Health & Saf. Code, § 11100.1, subds. (b)(1)-(2).)

10) Requires that the theft or loss of any substance regulated by the provisions above discovered by any permittee or any person regulated by the provisions of this chapter shall be reported in writing to the DOJ within three days after the discovery. Requires that any difference between the quantity of the substance received and the quantity shipped shall be reported in writing to the DOJ within three days of the receipt of actual knowledge of the discrepancy. Requires that any report made pursuant to this section shall also include the name of the common carrier or person who transports the substance and date of shipment of the substance. (Health & Saf. Code, § 11103.)

11) Requires that any manufacturer, wholesaler, retailer, or any other person or entity in California that sells, transfers, or otherwise furnishes specified controlled substances, including gamma-butyrolactone, to a person or business entity in this state or any other state or who obtains the substance from a source outside of the state shall submit an application to, and obtain a permit for the conduct of that business from, the DOJ. Provides that an intracompany transfer does not require a permit if the transferor is a permittee. Provides that transfers between company partners or between a company and an analytical laboratory do not require a permit if the transferor is a permittee and a report as to the nature and extent of the transfer is made to the DOJ pursuant to the provisions above. (Health & Saf. Code, § 11106, subds. (a)(1)(A)-(B).)

12) Exempts from the above requirements any manufacturer, wholesaler, or wholesale distributor who is licensed by the California State Board of Pharmacy and also registered with the federal DEA of the U.S. DOJ; any pharmacist or other authorized person who sells or furnishes specified controlled substances, including gamma-butyrolactone, upon the prescription of a physician, dentist, podiatrist, or veterinarian; any state-licensed health care facility, physician, dentist, podiatrist, veterinarian, or veterinary food-animal drug retailer licensed by the California State Board of Pharmacy that administers or furnishes the substance to a patient; or any analytical research facility that is registered with the federal DEA of the U.S. DOJ. (Health & Saf. Code, § 11106, subd. (a)(1)(C).)

13) Requires that the DOJ provide application forms, which are to be completed under penalty of perjury, in order to obtain information relating to the identity of any applicant applying for a

permit, including, but not limited to, the business name of the applicant or the individual name, and if a corporate entity, the names of its board of directors, the business in which the applicant is engaged, the business address of the applicant, a full description of any specified controlled substances to be sold, transferred, or otherwise furnished or to be obtained, the specific purpose for the use, sale, or transfer of the substance, the training, experience, or education relating to this use, and any additional information requested by the DOJ relating to possible grounds for denial as set forth in this section, or by applicable regulations adopted by the DOJ. (Health & Saf. Code, § 11106, subds. (b)(1)-(2).)

14) Requires that applicants and permittees authorize the DOJ, or any of its duly authorized representatives, as a condition of being permitted, to make any examination of the books and records of any applicant, permittee, or other person, or visit and inspect the business premises of any applicant or permittee during normal business hours, as deemed necessary to enforce these provisions. (Health & Saf. Code, § 11106, subd. (c).)

15) Allows that an application may be denied, or a permit may be revoked or suspended, for reasons that include, but are not limited to, the following:

a) Materially falsifying an application for a permit or an application for the renewal of a permit.

b) If any individual owner, manager, agent, representative, or employee for the applicant who has direct access, management, or control of specified controlled substances, including gamma-butyrolactone, is or has been convicted of a misdemeanor or felony relating to a specified controlled substance, any misdemeanor drug-related offense, or any felony under the laws of this state or the U.S..

c) Failure to maintain effective controls against the diversion of precursors to unauthorized persons or entities.

d) Failure to comply with this article or any regulations of the DOJ adopted thereunder.

e) Failure to provide the DOJ, or any duly authorized federal or state official, with access to any place for which a permit has been issued, or for which an application for a permit has been submitted, in the course of conducting a site investigation, inspection, or audit; or failure to promptly produce for the official conducting the site investigation, inspection, or audit any book, record, or document requested by the official.

f) Failure to provide adequate documentation of a legitimate business purpose involving the applicant's or permittee's use of the specified controlled substances.

g) Commission of any act which would demonstrate actual or potential unfitness to hold a permit in light of the public safety and welfare, which act is substantially related to the qualifications, functions, or duties of a permitholder.

h) If any individual owner, manager, agent, representative, or employee for the applicant who has direct access, management, or control for the specified controlled substance violates or has been convicted of violating, any federal, state, or local criminal statute, rule, or ordinance regulating the manufacture, maintenance, disposal, sale, transfer, or

furnishing of any of the substance. (Health & Saf. Code, § 11106, subd. (d).)

16) Requires that an applicant pay at the time of filing an application for a permit a fee determined by the DOJ which shall not exceed the application processing costs of the Department. (Health & Saf. Code, § 11106, subd. (h).

17) Provides that a permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, following the timely filing of a complete renewal application with all supporting documents, the payment of a permit renewal fee not to exceed the application processing costs of the DOJ, and a review of the application by the Department. (Health & Saf. Code, § 11106, subd. (i).)

18) Provides that selling, transferring, or otherwise furnishing or obtaining specified controlled substances, including gamma-butyrolactone, without a permit is a misdemeanor or a felony. (Health & Saf. Code, § 11106, subd. (j).)

19) Provides that an applicant, or an applicant's employees who have direct access, management, or control of specified controlled substances, including gamma-butyrolactone, for an initial permit shall submit with the application one set of 10-print fingerprints for each individual acting in the capacity of an owner, manager, agent, or representative for the applicant, unless the applicant's employees are exempted from this requirement by the DOJ. Provides that these exemptions may be obtained only upon the written request of the applicant. (Health & Saf. Code, § 11106, subd. (l)(1).)

20) Requires that any manufacturer, wholesaler, retailer, or other person or entity in this state that sells to any person or entity in this state or any other state, any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, where the value of the goods sold in the transaction exceeds one hundred dollars ($100) must prepare a bill of sale which identifies the date of sale, cost of product, method of payment, specific items and quantities purchased, and the proper purchaser identification information, all of which shall be entered onto the bill of sale or a legible copy of the bill of sale, and shall also affix on the bill of sale his or her signature as witness to the purchase and identification of the purchaser. Requires that the seller retain the original bill of sale containing the purchaser identification information for five years in a readily presentable manner, and present the bill of sale containing the purchaser identification information upon demand by any law enforcement officer or authorized representative of the Attorney General. (Health & Saf. Code, § 11106, subd. (a)(1)-(2).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: SEMI.

2) **Author's Statement**: According to the author, "SB 1306 brings California into alignment with federal law by exempting chemical mixtures containing 70 percent or less GBL when regulatory requirements would apply solely due to the presence of GBL. This bill does not change existing requirements related to the purchase, storage, or use of pure GBL. In 2010, under the Obama Administration, the United States Drug Enforcement Administration

(DEA) adopted regulations exempting chemical mixtures containing GBL at concentrations of 70 percent or less by weight or volume from Controlled Substances Act requirements. Through that rulemaking, the DEA determined that the 70 percent threshold was an appropriate level because such mixtures did not present a significant risk of diversion. Mirroring that policy on the state level will help reduce operational disruptions, support in-state R&D, and strengthen California's role as a global leader in high-technology innovation."

3) **Gamma-butyrolactone (GBL) Regulation**: Gamma-butyrolactone (GBL) is an industrial solvent that also can be used to manufacture gamma hydroxybutyric acid (GHB), a central nervous system depressant. GBL is regulated under California's Uniform Controlled Substance Act (UCSA), meaning that manufacturers of GBL must comply with various reporting and regulatory requirements.[1] These requirements include permitting, reporting, recordkeeping, and 21-day transaction holds; the violation of which constitutes a misdemeanor.[2]

   GBL can dissolve substances that otherwise are difficult to dissolve and can maintain those substances in a dissolved state. Proponents of the bill contend this solvent is uniquely useful for formulations known as "photoresists." Photoresists are chemical mixtures used in photolithography, a critical step in the manufacture of semiconductor chips. These photoresists contain other substances that are key to the functionality of the overall mixtures but that in the absence of GBL are virtually impossible to maintain in the dissolved state necessary for that functionality. Accordingly, proponents say there is no feasible alternative to GBL in these photoresists.

   GBL is also regulated as a List I chemical under the federal Controlled Substances Act, which is administered and enforced by the DEA.[3] However, in 2010, under the Obama Administration, the U.S. DEA adopted regulations exempting chemical mixtures containing GBL at concentrations of 70 percent or less by weight or volume from specified Controlled Substances Act requirements.[4] Based on the extremely low risk of diversion into GHB, in 2010 the DEA exempted the following two categories of GBL mixtures from the federal law's requirements: (1) mixtures containing 70% or less GBL; and (2) completely formulated coatings.

   Because California has not adopted the same exemption as the federal DEA, it has left suppliers serving the semiconductor industry subject to the significant regulatory requirements described above, despite the low risk of diversion into GHB. Proponents of the bill claim these requirements create substantial operational delays for materials providers and semiconductor customers.

4) **Effect of This Bill**: This bill exempts certain chemical mixtures containing GBL from the regulatory requirements of the UCSA, such as the permitting, reporting, recordkeeping, and 21-day transaction holds described above. In particular, the bill exempts chemical mixtures

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[1] Health and Saf. Code, § 11100 (a)(34).
[2] Health and Saf. Code, §§ 11100, subds. (f)(1)-(2), 11100.1, subds. (b)(1)-(2). See the existing law section of this analysis, above, for details regarding these requirements.
[3] 21 U.S.C. § 802, subd. (34)(X).
[4] 21 C.F.R. § 1310.12 (2010).

that are "two or more chemical substances, one of which is gamma-butyrolactone in a concentration of 70 percent or less by weight or volume, and at least one other substance that is not solely an inert carrier or an impurity." The bill defines "inert carrier" to mean "a chemical that does not interfere with the function of gamma-butyrolactone in the mixture but is present to aid in its delivery so it can be used in a chemical process." This language regarding inert carriers was added at the request of the DOJ to ensure that any mixture of GBL covered by this bill has a sufficiently low risk of diversion into GHB.

This bill would align California policy with that of federal policy.

5) **Argument in Support**: According to *SEMI*, the bill's sponsor, "The California Uniform Controlled Substances Act regulates pure gamma-butyrolactone (GBL), as well as chemical mixtures containing GBL, the latter of which are used in semiconductor photoresists. In 2010, the U.S. Drug Enforcement Administration determined that chemical mixtures containing 70 percent or less GBL do not present a significant risk of diversion (specifically, as a precursor of GHB, a nervous system depressant) and thus exempted those mixtures from specified federal Controlled Substances Act requirements. California has not adopted a comparable exemption, leaving semiconductor materials suppliers subject to burdensome and costly permitting, extensive reporting and recordkeeping requirements, and 21-day transaction holds that create unnecessary operational delays.

"This regulatory misalignment directly impacts California's semiconductor ecosystem, including research, design, and specialty materials manufacturing concentrated in Silicon Valley and supporting chip production nationwide. Semiconductor chips power essential technologies across healthcare, transportation, energy infrastructure, and communications. California leads the nation in semiconductor R&D, and the sector contributes more than $100 billion annually to the state's economy. Ensuring reliable access to critical manufacturing inputs is essential to maintaining this leadership.

"SB 1306 narrowly exempts chemical mixtures containing 70 percent or less GBL when regulatory requirements would apply solely due to the presence of GBL, while preserving existing controls on pure GBL. By aligning state policy with federal standards, this bill reduces unnecessary disruptions without compromising public safety."

6) **Argument in Opposition**: According to the *California Narcotics Officers' Association*, "GBL is a widely recognized industrial solvent that is rapidly converted in the human body into gamma-hydroxybutyrate (GHB), a powerful central nervous system depressant, frequently referred to as a 'date-rape drug.' GHB is a controlled substance under both federal and California law due to its well-documented association with overdose deaths, drug-facilitated sexual assaults, and significant public health risks. GBL functions as a direct precursor and surrogate for GHB, and its availability has historically been exploited to circumvent drug control laws.

"From a narcotics enforcement perspective, maintaining regulatory oversight of GBL is critical. Law enforcement agencies have repeatedly encountered GBL in clandestine settings where it is possessed, distributed, or marketed for human consumption. Its deregulation would create a substantial loophole, allowing individuals to lawfully obtain a substance that can be easily converted into a dangerous intoxicant with minimal technical knowledge.

"SB 1306 would significantly hinder our ability to intervene in cases involving GHB analogs before harm occurs. Currently, regulatory controls provide an essential legal tool that allows officers to disrupt distribution networks, seize hazardous materials, and prevent downstream criminal activity. Removing these safeguards would force law enforcement to wait until after conversion, possession, or harm occurs —undermining proactive policing and increasing risks to the public.

"GBL has been linked to cases of drug-facilitated sexual assault due to its rapid onset, sedative effects, and difficulty of detection. Weakening controls over a known GHB 'date-rape' drug precursor would likely increase availability in illicit markets and exacerbate these already serious concerns.

"California has taken a leadership role in addressing emerging synthetic drug threats and precursor chemicals. SB 1306 moves in the opposite direction by eliminating a critical layer of oversight on a substance with a clear and well-established abuse pathway.

"Preserving the current regulatory framework for GBL is essential to protecting public safety, supporting effective narcotics enforcement, and preventing avoidable harm in our communities."

7) **Related Legislation**: AB 1778 (Patterson), would require testosterone's classification under California's Uniform Controlled Substances Act (UCSA) to conform to its classification under the federal Controlled Substances Act, including any future rescheduling or exemption. AB 1778 has been referred to the Senate Public Safety Committee.

8) **Prior Legislation**:

   a) AB 2018 (Rodriguez), Chapter 98, Statutes of 2024, removed fenfluramine as a controlled substance under the UCSA following its descheduling under the federal Controlled Substances Act.

   b) AB 1021 (Wicks), Chapter 274, Statutes of 2023, provided that if any Schedule I controlled substance is federally rescheduled or exempted from the Controlled Substances Act, it will automatically become lawful for health professionals to prescribe, furnish, or dispense the substance under California law.

   c) AB 527 (Wood), Chapter 618, Statutes of 2021, provided, among other things, that if any cannabinoids are federally rescheduled or otherwise made legally prescribable, they shall also be legal to prescribe under state law, and would reconcile conflicts between state and federal controlled substance schedules.

   d) AB 710 (Wood), Chapter 62, Statutes of 2018, provided that if cannabidiol (CBD) is federally rescheduled or otherwise made a legally prescribable controlled substance, it shall also be legal to prescribe under state law.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
Semi
Silicon Valley Leadership Group
Society of Women Engineers At Ucla
Technet

Opposition

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

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

Date of Hearing: June 9, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1338 (Jones) – As Amended May 14, 2026

SUMMARY: Increases fines for interfering with the transport of a vehicle to a storage facility, auction, or dealer by an individual who is employed by a repossession agency. Specifically, **this bill**:

1) Punishes with an infraction and increases the fine from $100-$200 a person who interferes with the transport of a vehicle to a storage facility, auction, or dealer by an individual who is employed by a repossession agency.

2) Punishes with an infraction and increases the fine from $200-$400 a person who, for a second time within one year, interferes with the transport of a vehicle to a storage facility, auction, or dealer by an individual who is employed by a repossession agency.

3) Punishes with an infraction and increases the fine from $250-$500 a person who, for a third or subsequent time within one year, interferes with the transport of a vehicle to a storage facility, auction, or dealer by an individual who is employed by a repossession agency.

4) Defines "interfere" as to physically impede by obstructing, hindering, or preventing movement, including removing or disabling equipment used for transporting the vehicle.

EXISTING LAW:

1) Prohibits a person from interfering with the transport of a vehicle to a storage facility, auction, or dealer by an individual who is employed by a repossession agency or who is licensed as a repossessor, once repossession is complete, as specified. This prohibition does not apply to a peace officer while acting in an official capacity. This offense is punishable as an infraction. (Veh. Code, § 10856, subd. (a).)

2) States that any tow yard, impounding agency, or governmental agency, or any person acting on behalf of a person employed by a repossession agency or who is licensed as a repossessor, to release a vehicle or other collateral to anyone that is legally entitled to that vehicle or other collateral shall not refuse release of the vehicle or collateral. This subdivision does not apply to a vehicle being held for evidence by law enforcement or a prosecuting attorney. (Veh. Code, § 10856, subd. (b).)

3) Requires that a person convicted of an infraction for defined violations of the Vehicle Code be punished as follows:

   a) By a fine not exceeding $100.

b) For a second infraction occurring within one year of a prior infraction that resulted in a conviction, a fine not exceeding $200.

c) For a third or subsequent infraction occurring within one year of two or more prior infractions that resulted in convictions, a fine not exceeding $250. (Veh. Code, § 42001, subd. (a).)

4) Defines "repossession" as any of the following:

a) The repossessor gains entry to the collateral.

b) The collateral becomes connected to a tow truck or the repossessor's tow vehicle.

c) The repossessor moves the entire collateral present.

d) The repossessor gains control of the collateral.

e) The repossessor disconnects any part of the collateral from any surface where it is mounted or attached. (Bus. & Prof. Code, § 7500.2.)

5) Defines "repossession agency" as any person who, for any consideration whatsoever, engages in business or accepts employment to locate or recover collateral, whether voluntarily or involuntarily, including, but not limited to, collateral registered under the provisions of the Vehicle Code that is subject to a security agreement. (Bus. & Prof. Code, § 7500.2, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: California Association of Licensed Repossessors.

2) **Author's Statement**: According to the author, "Repossessions often occur in unpredictable and dynamic environments, where interactions between agents and debtors can escalate quickly. While current law prohibits interference with the transportation of a repossessed vehicle after the repossession is complete, existing provisions do not sufficiently ensure orderly completion of these activities. SB 1338 reinforces these protections by increasing the penalty for intentional interference, establishing clearer consequences for interference and defining what constitutes this interference."

3) **Effect of the Bill:** SB 1338 would double the fines available generally for interfering with the repossession of a vehicle. It is unclear whether increasing penalties has a deterrent effect. There is reliable evidence showing increased penalties generally fails to deter criminal behavior.[1] Data shows greater deterrent effects as the likelihood of being caught and the

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[1] National Institute of Justice, *Five Things About Deterrence* (May 2016) <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [as of May 29, 2026].

perception that one will get caught rises.[2] In contrast, the act of punishment and the length of punishment largely do not increase deterrence.[3]
Fines and the collection of those fines are commonly misunderstood. The actual cost to a 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:

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**

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.[4]

With evidence also showing that growing fines increases felony recidivism, specifically among a population that historically has faced disproportionate punishment in the criminal justice system,[5] it remains questionable whether increasing fines, as this bill does, would produce the desired impact.

4) **Need for the Bill:** One of the justifications for the penalty increases in this bill includes the occasionally chaotic examples of repossession. For example, in February 2026, a repossession agent in Apple Valley towed a vehicle when a suspect approached and threatened him with a firearm. The person put the firearm away when he was informed the tow truck driver was a repossession agent.[6] In 2025, a Huntington Beach man assaulted a repossession agent who was attempting to recover a towed boat, causing significant injuries.[7] In 2023, repossession agent Blaine LaPrairie responded to a call to repossess a vehicle when

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[2] *Ibid.*
[3] *Ibid.*
[4] Legis. Analyst, Overview of Criminal Fine and Fee System (May 13, 2021) <https://lao.ca.gov/Publications/Detail/4427> [as of May 29, 2026].
[5] Giles, *The Government Revenue, Recidivism, and Financial Health Effects of Criminal Fines and Fees* (Feb. 19, 2025) Wellesley College <http://dx.doi.org/10.2139/ssrn.4568724> [as of May 29, 2026].
[6] *20-Year-Old Apple Valley Resident Arrested After Allegedly Pointing Gun at Repo Driver In Victorville* (Feb. 14, 2026) Victor Valley News Group <https://www.vvng.com/20-year-old-apple-valley-resident-arrested-after-allegedly-pointing-gun-at-repo-driver-in-victorville/> [as of May 29, 2026].
[7] Dallow, *Huntington Beach man arrested after assault, SWAT standoff over towed boat*, KTLA 5 (Dec. 19, 2025) <https://ktla.com/news/local-news/huntington-beach-man-arrested-after-assault-swat-standoff-over-towed-boat/> [as of May 29, 2026].

he was shot in the upper body.[8] He was transported to a nearby hospital, where he later died from his injuries.[9] While these incidents are certainly troubling, they represent a few incidents across a few years. Because there does not appear to be reliable, contemporary data tracking violence against repossessors, it is difficult to know whether these incidents are outliers or representative of an emerging or existing trend. Given the data on the unlikelihood of deterrence being effective with increased fines proposed by SB 1338, it is important to consider whether this bill will produce the author's desired impact.
The intent of the bill, at least in part, is to deter people from engaging in violence with repossessors while they are in the process of repossessing or transporting a vehicle. Yet, as noted in the previous section of the analysis, it is unclear whether the expanded penalties proposed in SB 1338 will have a deterrent effect.

5) **Punishing Poverty:** SB 1338 would double the fines associated generally with interfering with a repossessor. Vehicle repossession generally arises out of an inability to make payments on a vehicle you have purchased and financed. An inability to make these payments is often connected to a person's economic wellbeing. In 2026, the economic health of Californians and Americans at large, under many measures, is historically bad. These punishing economic headwinds facing everyday Californians are falling most heavily on those with the least.

California has the highest poverty rate in the country.[10] California's poverty rate rose from 11.7% in 2021 to 13.2% in 2023, and nearly a third of Californians are living in or near poverty.[11] This rising poverty rate, as well as increased costs of living, has coincided with a significant increase in California's homelessness population—increasing by as much as 7.5% between 2022 and 2023.[12] Recent data suggests that more than 180,000 persons were experiencing homelessness in California in 2024.[13] Racial disparities among the homeless population is well documented. The share of Black, American Indian, Alaska Native, or Indigenous people experiencing homelessness is five times greater than their share of the total population.[14]

Other economic data paints a sobering picture, particularly among those living at or near the margins. In a report released by the Urban Institute, which is an organization founded by President Lyndon B. Johnson in 1968 to provide knowledge to help solve the problems that weighed heavily on the nation's hearts and minds, they found Americans struggling to afford necessities like "food, child care, housing, and energy."[15] They found roughly half of American families cannot afford the true cost of living, which generally measures whether

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[8] Chow, *Southern California repo man killed on the job, suspect at large* (Dec. 15, 2023) KTLA 5 <https://ktla.com/news/local-news/socal-repo-man-killed-on-the-job-suspect-at-large/> [as of May 29, 2026].
[9] *Ibid.*
[10] Dan Walters, *Once again, California beats every other state when it comes to poverty* (Sept. 11, 2024) CalMatters <https://calmatters.org/commentary/2024/09/california-again-top-state-poverty/> [as of June 5, 2026].
[11] Bohn et. al., *Poverty in California* (Oct. 2023) Public Policy Institute of California <https://www.ppic.org/publication/poverty-in-california/> [as of June 5, 2026].
[12] Cuellar and Perez, *An Update on Homelessness in California* (March 21, 2024) <https://www.ppic.org/blog/an-update-on-homelessness-in-california/> [as of June 5, 2026].
[13] *Ibid.*
[14] *Acting to Prevent, Reduce, and End Homelessness* (2026) Business, Consumer Services and Housing Agency <https://bcsh.ca.gov/calich/hdis.html> [as of June 5, 2026].
[15] *The American Affordability Tracker* (Apr. 2, 2026) Urban Institute <https://www.urban.org/data-tools/american-affordability-tracker> [as of June 5, 2026].

they have the resources to "live securely in their community."[16] Nearly every essential need for American families is rising much faster than earnings, including home and rental costs, health care plans, electricity cost, costs of groceries, and notably, gas prices.[17] In the past three months alone, gas prices have gone up an average of $1.00 per gallon.[18] California is home to unreachable housing prices for much of its population. The available jobs, too, are rapidly deteriorating as the labor market continues to constrict with employers making callous, painful and broad cuts to their workforce in favor of the comparatively minimal costs of using artificial-intelligence programs.[19] As a result, credit card delinquency rates, student loan rates, and most relevantly here, auto delinquency rates appear to be relentlessly growing in 2026.[20]

The rise of homelessness additionally has led to an increasing number of persons living in their vehicles.[21] In San Jose, an estimated 17% of people experiencing homelessness live in their vehicles, while in Sonoma County the estimate is 29%.[22] Notably, in Los Angeles, *almost half of the unsheltered population are estimated to live in their vehicles*.[23] Vehicles represent a critical last-resort for persons on the verge of losing shelter. As stated by Transfer Magazine, a publication of the Pacific Southwest Region University Transportation Center:

> A car is often shelter of last resort for housing-insecure people. If a person loses their housing and has a vehicle, that vehicle can prevent them from living on sidewalks and other public places. Tents and other makeshift shelters can offer protection from the elements, but cars tend to offer more safety and stability, and more mobility. A car can be locked to secure one's belongings, blends into the neighborhood in ways a sidewalk tent doesn't, and offers a way to reach jobs, schools, and services.[24]

For an unhoused person who utilizes their car not only as shelter, but as a means to get to their job, services, or medical needs, losing their car to impoundment is a tipping point that can lead to unsheltered homelessness.[25] This is particularly true, given that once a vehicle is towed, the person living in it often are unable to afford to recover their cars.[26]

Furthermore, the Sentencing Project released a four-part report that undertook a comprehensive analysis of persisting racial and economic inequities in the American criminal

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[16] *Ibid.*
[17] *Ibid.*
[18] *Ibid.*
[19] Wong, Q. *AI boom fuels California growth but leaves more workers jobless* (June 5, 2026) Los Angeles Times <https://www.latimes.com/business/story/2026-06-05/californian-conundrum-high-growth-but-high-unemployment> [as of June 5, 2026].
[20] *Supra,* at note 15.
[21] Giamarino, et. al., *Geographic and Regulatory Impacts on Vehicle Homelessness in Los Angeles* (June 28, 2022) <https://www.its.ucla.edu/publication/geographic-regulatory-impacts-vehicular-homelessness-los-angeles/> [as of June 5, 2026].
[22] Madeline Brozen, *Where you Go When Your Car is Home* (Jan. 2023), *Transfer Magazine* <https://transfersmagazine.org/magazine-article/issue-10/where-you-go-when-your-car-is-home/> [as of June 5, 2026].
[23] Giamarino, et. al., *Geographic and Regulatory Impacts on Vehicle Homelessness in Los Angeles* (June 28, 2022) <https://www.its.ucla.edu/publication/geographic-regulatory-impacts-vehicular-homelessness-los-angeles/> [as of June 5, 2026].
[24] Madeline Brozen, *Where you Go When Your Car is Home* (Jan. 2023), Transfer Magazine <https://transfersmagazine.org/magazine-article/issue-10/where-you-go-when-your-car-is-home/> [as of June 5, 2026].
[25] *Gorn, with thousands of Californians living in vehicles, lawsuit aims to stop cities from towing their homes* (June 23, 2020) <https://calmatters.org/economy/2018/09/lawsuit-homeless-vehicle-tow-california-impound/> [as of June 5, 2026].
[26] *Ibid.*

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.[27] Fines, fees, and predatory practices are inequitably experienced by justice-involved Americans and families.[28]

Criminal justice involvement often begins with system contact that stems, 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. Criminal convictions too often create lifelong disadvantage, particularly for African Americans.[29] 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.[30] One study found discovered nearly half of unemployed men had a criminal conviction.[31]

Given the painful economic headwinds facing Californians and the likelihood that increased fines arising from this bill would disproportionately impact those already living on the margins, the timing and impact of this bill may be worth further evaluation.

6) **Argument in Support**: According to the bill's sponsor, the *California Association of Licensed Repossessors*, "we respectfully urge your support on Senate Bill 1338 by Senator Brian Jones, which would increase the fines for the infraction.

"Unfortunately, a violent and dangerous trend has emerged in the repossession industry. After a vehicle has been repossessed and is in transit, individuals-including the registered owner- follow and attempt to stop the repossessor's tow vehicle by using other vehicles to block exits, by boxing in the tow truck on residential streets or at intersections, or by otherwise obstructing the roadway. Once the repossessor's vehicle has been stopped, individuals attempt to unhook the repossessed vehicle from the tow truck, enter or sit inside the repossessed vehicle, sit on the tow vehicle, or stand in front of the tow truck to prevent it from leaving. In some cases, when they are unable to regain possession of the vehicle, individuals damage the repossessor's tow vehicle. This conduct creates serious public safety risks not only to the repossessor and the involved individuals, but also to law enforcement officers and passing motorists.

"SB 1338 does not expand repossession authority nor alter the breach-of-peace doctrine, nor change the definition of when a repossession must cease. It is a narrowly tailored public safety enforcement adjustment addressing post-repossession completion transport

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[27] 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 June 5, 2026].
[28] *Ibid.*
[29] *Ibid.*
[30] *Ibid.*
[31] *Ibid.*

interference. This proposal amends Vehicle Code Section 10856 to reclassify interference with a repossessed vehicle after repossession has been lawfully completed

"Reclassifying this violation provides law enforcement with meaningful enforcement authority.

"It allows us to raise the penalties for interference.

"This will help avoid dangerous roadway obstruction and interference, to protect involved individuals and the general public, and preserve California's breach-of-peace doctrine.

"As licensed reposessor's we hold our profession to the highest integrity and believe SB 1338 will increase both public safety and safety of our repossessor colleagues. It is for these reasons that we seek your support of SB 1338 (Jones) when it comes before your committee."

7) **Argument in Opposition**: According to the *American Civil Liberties Union*, "The American Civil Liberties Union California Action must respectfully oppose SB 1338, which would increase the criminal penalties for interfering with the transportation of a vehicle by a repossession agency.

"SB 1338 will not improve public safety and may exacerbate the issue the bill aims to address. While we appreciate the latest amendments, SB 1338's approach of increased fines goes against extensive public safety research which demonstrates that increased sentences do not deter or prevent crime.1 In addition to failing to deter the behavior at issue, extracting increased fines from individuals only drives them further into economic desperation, making them less likely to be able to pay down their debts and more likely to have negative interactions with repossession agency employees.

"For these reasons, we must respectfully oppose SB 1338."

8) **Related Legislation**: AB 2437 (Chen) would make it a violation of the Vehicle Code to require a vehicle's legal owner or a legal owner's agent to present any documentation other than the documents specified to secure release of the vehicle or collateral to which the person is legally entitled. AB 2437 has been referred to the Senate Transportation Committee.

9) **Prior Legislation**: AB 2503 (Hagman), Chapter 390, Statutes of 2014, requires, among other things, a repossession agency to only transact business with a person or entity as an independent contractor, and prohibits a licensed repossession agency from allowing a person or entity, other than the qualified certificate holder or the owner or officer of the repossession agency, to manage the day-to-day operations, operate, control, or transact business under the license of the repossession agency, except as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Licensed Repossessors (Sponsor)
Daybreak Metro, INC

Opposition

ACLU California Action
All of Us or None
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Smart Justice California

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

Date of Hearing: June 9, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1401 (Stern) – As Introduced February 20, 2026

SUMMARY: Changes the timeframe for the dismissal of felony charges for a defendant who is incompetent to stand trial (IST) and referred to one of the specified programs after being found ineligible or unsuitable for mental health diversion; and makes other changes to the IST statutes. Specifically, **this bill**:

1) Delays dismissal of felony charges for an IST defendant who is referred to the specified programs after being found ineligible or unsuitable for mental health diversion as follows:

   a) If a defendant is accepted into assisted outpatient treatment (AOT), the court shall dismiss the charges six months after the date of referral to AOT, unless the defendant's case is referred back to court before the expiration of that time period.

   b) If the defendant is referred to the county conservatorship and the conservatorship proceedings result in the filing of a petition for the establishment of a temporary or permanent conservatorship, the charges shall be dismissed 90 days after the date of the filing of the petition, unless the case is referred back to the court before the expiration of that time period or the basis for the petition is that the defendant is gravely disabled, as defined.

   c) If the defendant is referred and accepted into the Community Assistance, Recovery and Empowerment (CARE) Court program, the charges shall be dismissed six months after the date of the referral to the CARE program, unless the case is referred back to the court before the expiration of that time period.

2) States that these provisions do not alter the confidential nature of AOT, conservatorship or CARE program proceedings.

3) Authorizes 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 the likelihood of eligibility for behavioral health services and programs.

4) Allows a referral for county conservatorship for a misdemeanor IST defendant if, in the opinion of the court, the defendant appears to be gravely disabled, as defined.

EXISTING LAW:

1) States that a person cannot be tried or adjudged to punishment or have his or her probation, mandatory supervision, postrelease community supervision, or parole revoked while that person is mentally incompetent. (Pen. Code, § 1367, subd. (a).)

2) Requires, when counsel has declared a doubt as to the defendant's competence, the court to hold a hearing to determine whether the defendant is IST. (Pen. Code, § 1368, subd. (b).)

3) Provides that, except as provided, when an order for a hearing into the present mental competence of the defendant has been issued, all proceedings in the criminal prosecution shall be suspended until the question of whether the defendant is IST is determined. (Pen. Code, § 1368, subd. (c).)

4) Specifies how the trial on the issue of mental competency shall proceed. (Pen. Code, § 1369.)

5) Requires the court to suspend criminal proceedings and appoint a psychiatrist or licensed psychologist to examine the defendant. (Pen. Code, § 1369, subd. (a)(1).)

6) Provides that if the defendant or defendant's counsel informs the court that the defendant is not seeking a finding of mental incompetence, the court shall, upon request of defense counsel, appoint two licensed psychologists or psychiatrists, one to be named by the defense and one to be named by the prosecution. (Pen. Code, § 1369, subd. (a)(1).)

7) Requires a licensed psychologist or psychiatrist to evaluate the defendant and submit a written report to the court. The report shall include the opinion of the expert regarding all of the following matters:

   a) A diagnosis of the defendant's mental condition, if any.

   b) Whether the defendant, as a result of a mental disorder or developmental disability, is able to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a rational manner.

   c) Whether there is a substantial likelihood that the defendant will attain competency in the foreseeable future, with consideration as to whether the defendant would attain competency in response to treatment with antipsychotic medication.

   d) If requested by the defense, an opinion as to whether the defendant is eligible for mental health diversion. (Pen. Code, §1369, subd. (b)(1).)

8) Provides that if neither party objects to any competency report submitted pursuant to subdivision (b), the court may determine the competency of the defendant based on any such competency report. The court shall also determine whether the defendant lacks the capacity to make decisions regarding the administration of antipsychotic medication. (Pen. Code, § 1369, subd. (c)(1).)

9) States that if either party objects to any competency report and requests a hearing, the court shall hold a hearing to determine competence and to determine whether the defendant lacks the capacity to make decisions regarding the administration of antipsychotic medication. In a hearing to determine competence, the defendant shall be presumed competent to stand trial unless it is proved by a preponderance of the evidence that the defendant is mentally incompetent. (Pen. Code, § 1369, subd. (c)(2)-(3).)

10) Requires generally a defendant's competency to stand trial to be decided by jury trial. The verdict of the jury shall be unanimous. (Pen. Code, §1369, subd. (c)(4).)

11) States that only a court trial is required to determine competency in a proceeding for a violation of probation, mandatory supervision, postrelease community supervision, or parole. (Pen Code, § 1369, subd. (c)(5).)

12) Provides that if a defendant is found mentally competent, the criminal process shall resume and the trial on the offense charged or the hearing on the alleged violation shall proceed. (Pen. Code, § 1370, subd. (a)(1)(A).)

13) States that if the defendant is found mentally incompetent and is not charged with a statutorily ineligible offense for mental health diversion, the trial, or judgement, or hearing on the alleged violation shall be suspended and the court shall do all of the following:

    a) Determine whether restoring the person to mental competence is in the interests of justice, as provided. If restoring the person to mental competence is in the interests of justice, the court shall state its reasons orally on the record. If it is not in the interests of justice, the court shall hold a hearing to determine whether to grant mental health diversion. If the court deems the defendant eligible, grant diversion pursuant to that section for a period not to exceed two years from the date the individual is accepted into diversion or the maximum term of imprisonment provided by law for the most serious offense charged in the complaint, whichever is shorter.

    b) If the court finds the defendant ineligible or unsuitable for diversion, the court may, after notice to the defendant, defense counsel, and the prosecution, hold a hearing to determine whether to do any of the following:

        i) Order modification of the treatment plan in accordance with a recommendation from the treatment provider.

        ii) Refer the defendant to AOT, as provided. A hearing to determine eligibility for assisted outpatient treatment shall be held within 45 days after the finding of incompetence. If the hearing is delayed beyond 45 days, the court shall order the defendant, if confined in county jail, to be released on their own recognizance pending that hearing. If the defendant is accepted into assisted outpatient treatment, the charges shall be dismissed in the interests of justice.

        iii) Refer the defendant to the county conservatorship investigator in the county of commitment for possible conservatorship proceedings for the defendant, as provided. A defendant shall only be referred to the conservatorship investigator if it appears to the court or a qualified mental health expert that the defendant appears to be gravely disabled, as defined. The charges shall be dismissed in the interests of justice upon the filing of either a temporary or permanent conservatorship petition, except as specified.

        iv) Refer the defendant to the CARE program as provided. If the defendant is accepted into the CARE program, the charges shall be dismissed in the interests of justice.

v) Reinstate competency proceedings, in which case the court shall credit any time spent in mental health diversion against the maximum term of commitment. (Pen. Code, §1370, subd. (a)(1)(B).)

14) States that if the court finds that restoring the defendant to competence is in the interests of justice or the defendant is not eligible for mental health diversion, the court shall order the defendant be delivered by the sheriff to a State Department of Hospitals (DSH) facility or other approved facility that will promote the defendant's speedy restoration to mental competence. (Pen. Code, §1370, subd. (a)(1)(B).)

15) Requires within 90 days after a commitment made pursuant to subdivision (a), the medical director of the DSH facility or other treatment facility to which the defendant is confined shall make a written report to the court and the community program director for the county or region of commitment, or a designee, concerning the defendant's progress toward recovery of mental competence and whether the administration of antipsychotic medication remains necessary. (Pen. Code, § 1370, subd. (b)(1).)

16) Provides that if the report indicates that there is no substantial likelihood that the defendant will attain mental competence in the foreseeable future, custody of the defendant shall be transferred without delay to the committing county and shall remain with the county until further order of the court. (Pen. Code, § 1370, subd. (b)(1)(A).)

17) States that at the end of two years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or complaint, or the maximum term of imprisonment provided by law for a violation of probation or mandatory supervision, whichever is shorter, but no later than 90 days prior to the expiration of the defendant's term of commitment, a defendant who has not recovered mental competence shall be returned to the committing court, and custody of the defendant shall be transferred without delay to the committing county and shall remain with the county until further order of the court. (Pen. Code, §1370, subd. (c)(1).)

18) Provides that whenever a defendant is returned to the court pursuant to the above, and it appears to the court that the defendant is gravely disabled, as defined, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for the defendant. (Pen. Code, § 1370, subd. (c)(3).

19) Defines "gravely disabled" to mean any of the following:

a) A condition in which a person, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.

b) A condition in which a person has been found IST under Penal Code section 1370 and all of the following facts exist: the complaint, indictment, or information pending against the person at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person; there has been a finding of probable cause on a complaint, a preliminary examination, or a grand jury indictment,

and the complaint, indictment, or information has not been dismissed; as a result of a mental health disorder, the person is unable to understand the nature and purpose of the proceedings taken against them and to assist counsel in the conduct of their defense in a rational manner; and the person represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder. (Welf. & Inst. Code, § 5008, subd. (h)(1).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: California District Attorneys Association (CDAA) and Family Advocates for Individuals With Serious Mental Illness (FAISMI) of Sacramento.

2) **Author's Statement**: According to the author, "SB 1401 seeks to align the time frames for dismissal and sharing of information in IST (incompetent to stand trial) cases to allow the court "in addition to a mental health expert" to find that a defendant appears to be gravely disabled in order to facilitate a referral for conservatorship investigation.

   "This bill would, consistent with similar provisions in Section 1370.01, provide that for felonies under Section 1370, if the defendant is accepted into Assisted Outpatient treatment, has a petition for the establishment of a conservatorship filed, or is accepted into CARE Court, require the court dismiss the charges at specified timeframes.

   "SB 1401 would also amend Section 1370 to authorize, similar to that in Section 1370.01, the county behavioral health agency and jail medical providers to share confidential medical records and other relevant information with the court for the purpose of determining likelihood of eligibility and suitability for behavioral health services and programs including Assisted Outpatient, CARE, and conservatorship.

   "Lastly, this bill would amend Section 1370.01 consistent with the nearly identical provision in Section 1370 to authorize the court in a misdemeanor case, in addition to a qualified mental health expert, to make a finding that defendant appears to be gravely disabled to facilitate the referral of a defendant, found to be IST, to the county conservatorship investigator."

3) **Mental Competency in Criminal Proceedings:** The Due Process Clause of the United States Constitution prohibits the criminal prosecution of a defendant who is not mentally competent to stand trial. Existing law provides that if a person has been charged with a crime and is not able to understand the nature of the criminal proceedings and/or is not able to assist counsel in his or her defense, the court may determine that the offender is IST. (Pen. Code, § 1367.) When the court issues an order for a hearing into the present mental competence of the defendant, all proceedings in the criminal prosecution are suspended until the question of present mental competence has been determined. (Pen. Code, §1368, subd. (c).)

   In order to determine mental competence, the court must appoint a psychiatrist or licensed psychologist to examine the defendant. If defense counsel opposes a finding on

incompetence, the court must appoint two experts: one chosen by the defense, one by the prosecution. (Pen. Code, § 11369, subd. (a).) The examining expert(s) must evaluate the defendant's alleged mental disorder and the defendant's ability to understand the proceedings and assist counsel, as well as address whether antipsychotic medication is medically appropriate. (Pen. Code, § 1369, subd. (a).)

Both parties have a right to a jury trial to decide competency. (Pen. Code, § 1369.) A formal trial is not required when jury trial has been waived. (*People v. Harris* (1993) 14 Cal.App.4th 984.) The burden of proof is on the party seeking a finding of incompetence. (*People v. Skeirik* (1991) 229 Cal.App.3d 444, 459-460.) Because a defendant is initially considered competent to stand trial (*Medina v. California* (1992) 505 U.S. 437), usually this means that the defense bears the burden of proof to establish incompetence. Therefore, defense counsel must first present evidence to support mental incompetence. However, if defense counsel does not want to offer evidence to have the defendant declared incompetent, the prosecution may. Each party may offer rebuttal evidence. Final arguments are presented to the court or jury, with the prosecution going first, followed by defense counsel. (Pen. Code, § 1369, subds. (b)-(e).)

For defendants charged with a felony, if after an examination and hearing the defendant is found IST, the criminal proceedings are suspended and the court shall order the defendant to be referred to DSH, or to any other available public or private treatment facility, including a community-based residential treatment system if the facility has a secured perimeter or a locked and controlled treatment facility, approved by the community program director that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status, except as specified. (Pen. Code, §§ 1368, subd. (c) and 1370, subd. (a)(1)(B).) The court may also make a determination as to whether the defendant is an appropriate candidate for mental health diversion pursuant to Penal Code section 1001.36.

The maximum term of commitment for an IST defendant charged with a felony is two years, however, no later than 90 days prior to the expiration of the defendant's term of commitment, if the defendant has not regained mental competence shall be returned to the committing court and the court shall not order the defendant returned to the custody of DSH. (Pen. Code, § 1370, subd. (c)(1).) With the exception of proceedings alleging a violation of mandatory supervision, the criminal action may be dismissed in the interests of justice. (Pen. Code, § 1370, subd. (d).)

For defendants charged with a misdemeanor, if the defendant is found IST, the proceedings shall be suspended and the court shall hold a hearing to determine whether to do one or more of the following: 1) conduct a hearing to determine whether the defendant is eligible for mental health diversion; or 2) refer the defendant to the CARE Act court if the defendant or defense counsel agrees to the referral and the court has reason to believe the defendant is eligible for the CARE program. (Pen. Code, § 1370.01, subd. (b)(1)-(2).)

If a misdemeanor defendant is found eligible for diversion, the court may grant diversion for a period not to exceed one year from the date the individual is accepted into diversion or the maximum term of imprisonment provided by law for the most serious offense charged in the complaint, whichever is shorter. (Pen. Code, § 1370.01, subd. (b)(1)(A)(i).) If the defendant is accepted into the CARE program, the CARE Act court shall notify the criminal court of the acceptance, and the charges shall be dismissed in the interests of justice six months after

the date of the referral to the CARE program, unless the defendant's case has been referred back to the court prior to the expiration of that six-month time period. If the defendant is not accepted into the CARE program or if the CARE Act court refers the defendant back to criminal court before the expiration of the six-month time period, the court shall consider the defendant for mental health diversion. (Pen. Code, § 1370.01, subd. (b)(2).)

If the court finds the misdemeanor IST defendant ineligible or unsuitable for diversion, the court shall do one of the following: 1) order modification of the treatment plan in accordance with a recommendation from the treatment provider; 2) refer the defendant to assisted outpatient treatment (AOT); 3) refer the defendant to the county conservatorship investigator for possible conservatorship if the defendant appears to be gravely disabled, as defined; or 4) refer the defendant to the CARE program. (Pen. Code, § 1370.01, subd. (c).)

The acceptance of the defendant into one of these programs or upon filing a petition for conservatorship results in the dismissal of the person's criminal charges, similar to the felony IST statute. (Pen. Code, § 1370, subd. (a)(1)(B)(iii).) Recently, the misdemeanor IST statute was amended to delay dismissal of the underlying criminal offense. Instead of dismissal upon acceptance into AOT or a CARE program or upon filing of a petition for conservatorship, the statute now requires dismissal six months after referral to AOT or CARE, and 90 days after the filing of the petition for conservatorship, unless the defendant's case has been referred back to the criminal court within that specified timeframe. (SB 1400 (Stern), Ch. 647, Stats. 2024.) Additionally, prior to SB 1400, the misdemeanor IST statute expressly authorized the court to dismiss the charges in the interests of justice in lieu of referral to AOT, CARE court or conservatorship. SB 1400 changed the law to instead authorize dismissal if the defendant does not qualify for one of those specified services. (Pen. Code, § 1370.01, subd. (c)(5).)

This bill amends the felony IST statute with the same delayed dismissal timeframes that were enacted by SB 1400. However, the same rationale for its need does not apply here. According to this committee's analysis of SB 1400, the proponents of the bill argued that an earlier change in the law enacted by SB 317 (Stern), Chapter 599, Statutes of 2021, which among other things removed the option to send a misdemeanor IST defendant to DSH for restoration and expressly authorized the court to dismiss these cases, led to an increase of misdemeanor dismissals without a referral to treatment.[1] Restoration of competency for felony IST defendants remains an option in existing law and the committee has not seen any data to suggest that felony IST charges are being dismissed without a referral to treatment.

4) **Dismissals in the Interests of Justice:** Penal Code section 1385 gives discretion to judges to strike or dismiss a prior conviction or added punishment in the interests of justice. The California Supreme Court has ruled that even if a statute prescribing a particular sentence uses the term "shall," this is insufficient to evidence an intent that the trial court was precluded from exercising such discretionary powers. (See *People v. Williams* (1981) 30

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[1] The analysis cites information provided by the author that since July 2022, approximately 80 individuals per month were found IST on a misdemeanor charge in Los Angeles County and assessed by the Office of Diversion and Reentry team. Of those assessed, about 75% were found to be suitable and released to the misdemeanor IST diversion program. While 25% of those assessed may have been found to be unsuitable for diversion, it is unclear how many of those cases were dismissed outright versus dismissed after first being referred to other treatment options such as AOT, CARE court or conservatorship. (Assem. Com. on Public Safety, Analysis of Sen. Bill No. 1400 (2023-24 Reg. Sess) as amended Apr. 11, 2024.)

Cal.3d 470.) In *Williams*, the Court reviewed the history and purpose of Penal Code section 1385:

> The trial court's power to dismiss an action has been recognized by statute since the first session of the Legislature in 1850. The rules of criminal procedure enacted in that session included the provision that "[the] Court may, either of its own motion, or upon the application of the District Attorney, and in furtherance of justice, order any action, after indictment, to be dismissed; but in such case the reasons of the dismissal shall be set forth in the order, which must be entered on the minutes." (Stats. 1850, ch. 119, § 629, p. 323.) With slight changes, this provision became section 1385 when the Penal Code was enacted in 1872.
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> . . . .
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> "A determination whether to dismiss in the interests of justice after a verdict involves a balancing of many factors, including the weighing of the evidence indicative of guilt or innocence, the nature of the crime involved, the fact that the defendant has or has not been incarcerated in prison awaiting trial and the length of such incarceration, the possible harassment and burdens imposed upon the defendant by a retrial, and the likelihood, if any, that additional evidence will be presented upon a retrial. When the balance falls clearly in favor of the defendant, a trial court not only may but should exercise the powers granted to him by the Legislature and grant a dismissal in the interests of justice." (*People v. Superior Court of Marin County (Howard)* (1968) 69 Cal. 2d 491, 505.)
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> The court also discussed the policy served by [the section at issue in the case]. "Mandatory, arbitrary or rigid sentencing procedures invariably lead to unjust results. 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. Subject always to legislative control and appellate review, trial courts should be afforded maximum leeway in fitting the punishment to the offender." (*People v. Dorsey* (1972) 28 Cal.App3d 15, 18.)
>
> The Court then looked to the legislative intent and found that there was no indication of contrary legislative intent and thus held that absent a clear expression of legislative intent in this regard, a sentencing statute will not be construed to abrogate a trial court's general section 1385 power to strike. (*Id.* at p. 482.)
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> (*People v. Williams*, *supra*, 30 Cal.3d at 479-482.)

In the context of dismissals in the interests of justice after a person has been found IST, existing law currently requires a court to dismiss felony charges upon the referral of the defendant to AOT, CARE Court, or conservatorship. (Pen. Code, § 1370, subd. (c).)

This bill delays dismissal of the charges until six months after referral to AOT or CARE Court and 90 days after a petition is filed for conservatorship. This bill prohibits dismissal if the defendant's case is referred back to the criminal court within the six-month or 90-day

window. This delayed dismissal timeframe is found in the existing misdemeanor IST statute which was recently amended to specify this timeframe.[2] The felony IST statute was also recently amended to include these specified programs in lieu of diversion or restoration, which seems to have been pulled directly from the language as it existed in the misdemeanor statute.[3] Both bills moved forward in 2024 and was signed into law with these differences in these provisions.

According to proponents of this bill, the language aligns the different IST statutes.

5) **Expansion of Court Authority to Refer a Misdemeanor IST Defendant to Conservatorship Proceedings**: Existing law authorizes a misdemeanor IST defendant to be referred to the county conservatorship investigator for possible conservatorship proceedings if, based on the opinion of a qualified mental health expert, the defendants appears to be gravely disabled, as defined. This bill would additionally authorize a misdemeanor IST defendant to be referred to the county conservatorship investigator if, in the opinion of the court, the defendant appears to be gravely disabled.

   It appears that the court has similar authority to refer an IST defendant for possible conservatorship proceedings in the felony IST statute "if it appears to the court or a qualified mental health expert that the defendant appears to be gravely disabled." (Pen. Code, § 1370, subd. (a)(1)(B)(iii)(III)(ic).)

   Opponents of this bill argue that mental health experts are the appropriate persons to make this referral decision not the court and that increasing the types of persons who may initiate conservatorship investigations will result in increasing the volume and risk of inappropriate conservatorships.

6) **Sharing of Confidential Medical Records**: Generally, a person's medical records include psychotherapy and treatment records and are confidential. This bill authorizes a county behavioral health agency and jail medical provider to share confidential medical records and other relevant information with the court, including, but not limited to, prior interactions with and treatment of the defendant, for the purpose of determining the likelihood of eligibility for behavioral health services and programs.

   While the bill states that disclosure of information is subject to applicable state and federal privacy laws which likely means the court cannot share with third parties, it is unclear why the court would need to see confidential treatment notes and whether the court is the appropriate evaluator of detailed medical information. According to opponents of the bill, county behavioral health and jail medical providers already routinely share topline recommendations regarding eligibility for behavioral health services and programs. Opening up the disclosure of additional details – including confidential medical records and therapy notes – is not necessary, and may create additional barriers to receiving treatment or being honest during treatment.

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[2] SB 1400 (Stern), Ch. 647, Stats. 2024.
[3] SB 1323 (Menjivar), Ch, 646, Stats. 2024.

A similar provision appears to exist in the misdemeanor IST statute authorizing the county behavioral health agency and jail medical providers to share confidential medical records and other relevant information with the court, including, but not limited to, prior interactions with and treatment of the defendant, for the purpose of determining likelihood of eligibility for behavioral health services and programs. This was added to the misdemeanor IST statute last year as part of a larger reform to CARE Act court proceedings and referrals.[4] That bill started off in the Senate making minor changes to the CARE Act but was greatly expanded once it got to the Assembly triggering referral to three committees – Health, Judiciary, and Public Safety. According to the author's statement in this Committee's analysis, the bill authorizes sharing of data between CARE partners and allowing additional licensed medical professionals to participate. As discussed above, it is unclear what additional benefit is had by sharing confidential treatment information with the court when they already receive topline recommendations from treatment providers.

7) **IST Treatment Delays and Recent Litigation:** Over the last decade, the number of people in California charged with a felony offense and found IST has increased significantly, far outpacing the state's ability to provide timely services in response. Following litigation, the state was placed under a court order to reduce the time it takes to admit someone to the state hospital to restore them to competency. (See *Stiavetti v. Clendenin* (2021) 65 Cal.App.5th 691.) In *Stiavetti*, the appellate court held that the long waitlist for competency restoration treatment violates the due process rights of people found to be IST. (*Id.* at p. 737.) The Court ordered that DSH must begin substantive restoration services within 28 days of being placed on the list. (*Id.* at p. 730.) The court's order is being implemented in phases, with the original target date set on February 27, 2024, to meet the 28-day standard.

   To comply with the order, implemented new programs with an emphasis on community-based treatment to meet the growing need and reduce the waitlist for treatment.[5]

   On October 6, 2023, the court modified the interim benchmarks and final target date for compliance with the 28 day standard as follows: March 1, 2024 – provide substantive treatment services within 60 days; July 1, 2024 – within 45 days; November 1, 2024 – within 33 days; and March 1, 2025 – within 28 days.[6] DSH filed a report to the court on March 28, 2025, demonstrating substantial compliance with the court's order. As of March 2026, the court is reviewing the matter to determine whether DSH is in substantial compliance.[7]

   This bill delays dismissal of a person's criminal charges when a petition for conservatorship is filed for the defendant, or they've been accepted into AOT or CARE Act court and if the defendant is returned to the court within the delayed timeframe, the charges would not be dismissed. As discussed above, this same timeline for delayed dismissal exists in the misdemeanor IST statute. However, unlike misdemeanor IST defendants who are not authorized to be sent to DSH for restoration, delaying dismissal of these felony cases may increase the number of people who end up on the DSH waitlist.

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[4] SB 27 (Umberg), Chapter 528, Statutes of 2025.
[5] DSH 2026-27 May Revision Highlights, https://www.dsh.ca.gov/About_Us/docs/DSH_2026-27_May_Revision_Highlights.pdf.
[6] DSH, 2026-27 Governor's Budget Estimate, https://www.dsh.ca.gov/About_Us/docs/DSH_2025-26_Governor's_Budget_Highlights.pdf.
[7] Id. at footnote 3.

8) **Argument in Support**:

a) According to *California District Attorneys Association*, "This bill would align the time frames for dismissal in Section 1370 with that of similar provisions in Section 1370.01, if a defendant is accepted into Assisted Outpatient treatment, has a petition for the establishment of a conservatorship filed, or is accepted into CARE Court. It also facilitates the sharing of confidential information in felony cases under Section 1370, as 1370.01 provides, to assist with the determination of eligibility and suitability for behavioral health services and programs. Lastly, it aligns Section 1370.01 with that of 1370 which allows a court in addition to a mental health expert to make a finding as to grave disability to facilitate a referral for conservatorship."

b) According to *California State Association of Psychiatrists (CSAP)*, "Under current law, key procedural elements—such as timelines for dismissal, the ability to share relevant information with the court, and standards for determining grave disability—are not aligned between misdemeanor and felony IST cases. These inconsistencies can delay referrals to appropriate treatment options, including conservatorship, CARE Court, and Assisted Outpatient Treatment, and can limit the court's ability to make timely and informed decisions about patient care.

"SB 1401 addresses these gaps by aligning timeframes for dismissal and authorizing appropriate information sharing between behavioral health providers and the court to support determinations of eligibility for treatment programs. The bill also allows courts, in addition to mental health experts, to determine when a defendant appears to be gravely disabled in order to facilitate referral for conservatorship investigation. By creating greater consistency across case types, SB 1401 improves coordination between the courts and behavioral health systems and helps ensure individuals are connected to appropriate care in a timely manner."

9) **Argument in Opposition**:

a) According to *California Public Defenders Association*, who is opposed unless amended, "SB 1401 would authorize medical providers to share "confidential medical records" and other information "including, but not limited to, prior interactions with and treatment of the defendant" with courts. As currently drafted, this provision raises serious due process and public policy concerns, particularly where such sensitive and private information may be disclosed in criminal proceedings and ultimately provided to the parties, including the prosecution.

"The disclosure provisions in SB 1401 would erode trust in the mental health system. If individuals believe that sensitive disclosures made in the course of treatment may later be shared in a criminal proceeding, and potentially accessed by the District Attorney, they may be far less likely to seek voluntary mental health care. California has made substantial efforts to expand access to behavioral health services and to encourage early, voluntary engagement in treatment. This proposal moves in the opposite direction by creating a strong disincentive to seek care.

"Even for those who continue to access services, SB 1401 would chill candid communication between patients and providers. Effective mental health treatment

depends on a foundation of trust and openness. Patients must feel secure in disclosing deeply personal and often stigmatizing information. The prospect that such disclosures could later be used in an adversarial criminal process will predictably result in less complete and accurate reporting. This, in turn, undermines diagnosis, treatment planning, medication adherence, and overall outcomes.

"The bill also creates significant due process and confidentiality concerns. Permitting broad disclosure of treatment history to the court, without clear and enforceable limits on redisclosure, creates a substantial likelihood that confidential medical information will be accessed and used by the prosecution. This expands the use of therapeutic records beyond their intended clinical purpose and into the adversarial process, where they may be relied upon to support arguments regarding dangerousness, credibility, or punishment. Such uses are inconsistent with longstanding protections for medical privacy and compromise the integrity of the therapeutic relationship."

b) According to *Disability Rights California*, "SB 1401 would authorize medical providers to share "confidential medical records" and other information "including, but not limited to, prior interactions with and treatment of the defendant" with courts. As currently drafted, this provision raises serious due process and public policy concerns, particularly where such sensitive and private information may be disclosed in criminal proceedings and ultimately provided to the parties, including the prosecution.

"The disclosure provisions in SB 1401 would erode trust in the mental health system. If individuals believe that sensitive disclosures made in the course of treatment may later be shared in a criminal proceeding, and potentially accessed by the District Attorney, they may be far less likely to seek voluntary mental health care. California has made substantial efforts to expand access to behavioral health services and to encourage early, voluntary engagement in treatment. This proposal moves in the opposite direction by creating a strong disincentive to seek care.

"Even for those who continue to access services, SB 1401 would chill candid communication between patients and providers. Effective mental health treatment depends on a foundation of trust and openness. Patients must feel secure in disclosing deeply personal and often stigmatizing information. The prospect that such disclosures could later be used in an adversarial criminal process will predictably result in less complete and accurate reporting. This, in turn, undermines diagnosis, treatment planning, medication adherence, and overall outcomes.

"The bill also creates significant due process and confidentiality concerns. Permitting broad disclosure of treatment history to the court, without clear and enforceable limits on redisclosure, creates a substantial likelihood that confidential medical information will be accessed and used by the prosecution. This expands the use of therapeutic records beyond their intended clinical purpose and into the adversarial process, where they may be relied upon to support arguments regarding dangerousness, credibility, or punishment. Such uses are inconsistent with longstanding protections for medical privacy and compromise the integrity of the therapeutic relationship."

10) **Related Legislation**: None

11) **Prior Legislation**:

a) SB 27 (Umberg), Chapter 528, Statutes of 2025, among other things changes to CARE Court processes and referral, authorized a county behavioral health agency and jail medical providers to share confidential medical records and other relevant information with the court, including, but not limited to, prior interactions with and treatment of a misdemeanor IST defendant, for the purpose of determining likelihood of eligibility for behavioral health services and programs.

b) SB 1400 (Stern), Chapter 647, Statutes of 2024, among other things, required a court to wait a specified period of time after a misdemeanor IST defendant is placed in a conservatorship, AOT, or CARE court, before dismissing the case and added provisions relating to CARE Act reporting.

c) SB 1323 (Menjivar), Chapter 646, Statutes of 2024, requires the court, upon a finding a defendant charged with a felony IST, to determine if it is in the interests of justice to restore the defendant to competence, and if the restoration of the defendant's mental competence is not in the interests of justice, to hold a hearing to consider granting mental health diversion or other programs to the defendant, as specified, and, if none of those solutions are appropriate, to dismiss the charges against the defendant.

d) AB 2692 (Papan), of the 2023-2024 Legislative Session, would have specified that the diversion period for an IST defendant commences when the defendant is admitted to receive treatment, as specified, and authorize the court, in its discretion, to extend the duration of diversion for a period not to exceed four months based on the recommendation of the defendant's mental health treatment provider in order to continue the defendant's progress in treatment. AB 2692 was held in Senate Appropriations' suspense file.

e) SB 317 (Stern), Chapter 599, Statutes of 2021, revised the procedures when a defendant is found mentally incompetent to stand trial (IST) on misdemeanor charges. Allowed a defendant to earn conduct credits when he or she is committed to a state hospital or other mental health treatment facility as IST in the same manner as if they were held in county jail.

f) SB 1187 (Beall), Chapter 1008, Statutes of 2018, reduced the maximum term for commitment to a treatment facility when a defendant has been found incompetent to stand trial (IST) on a felony from three years to two years. Specified that when a defendant has been found IST and is held in a county jail treatment center while undergoing treatment for restoration to competency, that person is entitled to custody credits in the same manner as any other inmate confined to a county jail.

g) AB 1810 (Committee on Budget), Chapter 34, Statutes of 2018, specified that when a defendant is determined to be IST, the court can find that they are an appropriate candidate for mental health diversion.

h) SB 1412 (Nielsen), Chapter 759, Statutes of 2014, applied procedures relative to persons who are IST to persons who may be mentally incompetent and face revocation of probation, mandatory supervision, postrelease community supervision (PRCS), or parole.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
California State Association of Psychiatrists
Los Angeles County District Attorney
National Alliance on Mental Illness – California
Riverside County District Attorney

Opposition

ACLU California Action
California Public Defenders Association
Disability Rights California
Local 148 Los Angeles County Public Defender's Union

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